

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

Pursuant to s. 112.7 of the  
*Ontario Energy Board Act, 1998*

**ONIT ENERGY LTD.**

Licence No. ER-2020-0083

OEB File No. EB-2020-0205

September 22, 2020

## I. INTRODUCTION AND SUMMARY

Ontario Energy Board (OEB) staff conducted an inspection of ONIT Energy Ltd., a licensed electricity retailer, under the authority of Part VII of *Ontario Energy Board Act, 1998* (OEB Act). The inspection determined that ONIT Energy Ltd. entered into electricity retail contracts with four condominium corporations during the period from August 2018 to March 2019 without valid customer authorization. As well, the inspection identified that, during the same period, ONIT Energy Ltd. had also been supplying gas to three condominium corporations without the customers' authorization.

In response to the inspection, ONIT Energy Ltd. has provided this Assurance of Voluntary Compliance to the OEB, under section 112.7 of the OEB Act. Through this Assurance, ONIT Energy Ltd. acknowledges that two independent sales brokers acting on its behalf failed to obtain valid customer authorization to enrol and charge the affected customers for electricity, which is deemed to be a failure by ONIT Energy Ltd. to comply with certain enforceable provisions under the Electricity Retailer Code of Conduct and the Retail Settlement Code. ONIT Energy Ltd. confirms its understanding of, and commitment to comply with, its legal and regulatory obligations, including its responsibility for actions of those acting on its behalf, and agrees to provide a refund (or credit) to those customers impacted by the contracts. For the same reasons, ONIT Energy Ltd. also acknowledges that it supplied gas without valid customer authorization and has agreed to provide a refund (or credit) to the affected customers.

## II. STATEMENT OF FACTS

ONIT Energy Ltd. is an electricity retailer that operates in Ontario under OEB licence ER-2020-0083, under the trade name Ontario Wholesale Energy. ONIT Energy Ltd. provides electricity retailer services for low volume consumers and

large volume consumers. ONIT Energy Ltd. is also licensed as a gas marketer for low volume consumers.

During the period between August 2018 and July 2019, ONIT Energy Ltd. retailed electricity to four condominium corporations (the Electricity Contracts). It also supplied gas under contracts with three condominium corporations (the Gas Contracts). The Electricity Contracts and Gas Contracts involved six condominium corporations in total. For the purposes of this Assurance, the six condominium corporations are collectively referred to as the “Customers”, and the seven subject energy contracts as the “Contracts”.

Each of the Contracts was signed on ONIT Energy Ltd.’s behalf by one of two sales brokers, identified as “M.P.” and “P.K.”.

In May 2019, one of the Customers (through their property management company), contacted ONIT Energy Ltd. to advise that the customer’s contract had been entered into without their valid customer authorization. ONIT Energy Ltd. cancelled that contract 6 days later. In July, a second of the Customers (through the same property management company) contacted ONIT Energy Ltd. with a similar complaint in regards to a contract entered into by the same sales brokers. ONIT Energy Ltd. cancelled the remaining Contracts with the Customers submitted by these two sales brokers 6 days later.

Until it had been contacted by the property management company on behalf of the Customers, ONIT Energy Ltd. believed that the Contracts were validly entered into. Accordingly, ONIT Energy Ltd. proceeded to conduct its own review of the validity of the Contracts.

On July 25, 2019, the Customers (through their property management company) filed six separate complaints to the OEB against ONIT Energy Ltd. with respect to the Contracts.

OEB staff commenced an inspection in August 2019 to determine whether ONIT Energy Ltd.'s actions in regards to the Contracts were compliant with its regulatory requirements under its licences, the applicable Codes, Rules and legislation.

### **III. ASSURANCE OF VOLUNTARY COMPLIANCE**

#### ***i. Electricity***

ONIT Energy Ltd. understands that in retailing electricity to a consumer who is not a low volume consumer (i.e. a large volume consumer):

- i. ONIT Energy Ltd. must comply with its licence, the Electricity Retailer Code of Conduct, and the Retail Settlement Code;
- ii. in accordance with section 1.7 of the Electricity Retailer Code of Conduct, any acts of a salesperson acting on behalf of ONIT Energy Ltd. shall be deemed to be the acts of the retailer;
- iii. in accordance with section 3.4 of the Electricity Retailer Code of Conduct, ONIT Energy Ltd. must ensure that it has obtained the consumer's written permission prior to submitting a request to the consumer's electricity distributor for a change in electricity supply to competitive retail service; and,

iv. in accordance with section 10.2 of the Retail Settlement Code, ONIT Energy Ltd. has an obligation to obtain the consumer's written authorization prior to submitting a service transaction request to the distributor to change the consumer's electricity supply to its competitive retail service.

ONIT Energy Ltd. acknowledges that it is responsible for the failure of the two independent sales brokers M.P and P.K. to obtain valid authorization from the Customers to effect service transaction requests with their distributors and that, therefore, the Electricity Contracts represent four instances of non-compliance with section 3.4 of the Electricity Retailer Code of Conduct and section 10.2 of the Retail Settlement Code.

***ii. Gas***

The Service Agreement that ONIT Energy Ltd. has with Enbridge Gas Inc. (EGI) pursuant to section 7.1 of the Gas Distribution Access Rule provides that when ONIT Energy Ltd. requests that EGI convert consumers from system supply to marketer supply, ONIT Energy Ltd. must represent to EGI that it is the duly appointed agent of each of those consumers and is entitled to act on their behalves. ONIT Energy Ltd. accepts responsibility for the failure of the two independent sales brokers M.P. and P.K. to obtain valid customer authorization to act as the duly appointed agent for the Customers under the Gas Contracts.

***iii. Assurance***

Within two weeks of receiving notice of the acceptance of this Assurance by the OEB, ONIT Energy Ltd. will provide evidence to the OEB confirming that the Electricity Customers have been refunded (or credited) in the amounts agreed to by OEB Staff and ONIT Energy Ltd. that represent the difference between the

price charged to each Electricity Customer under the Contract, and the applicable distributor's standard supply price that would have been charged had there been no service transaction from system supply to retailer supply, plus interest at 5% per annum, together with a copy of the correspondence provided to those customers setting out the refund amounts and explaining the non-compliance.

Within two weeks of receiving notice of the acceptance of this Assurance by the OEB, ONIT Energy Ltd. will provide evidence to the OEB confirming that the Gas Customers have also been refunded (or credited), in the amounts agreed to by OEB Staff and ONIT Energy Ltd. that represent the difference between the price charged to each Gas Customer under the Contract, and the applicable distributor's standard system supply price that would have been charged had there been no service transaction from system supply to marketer supply, plus interest at 5% per annum, together with a copy of the correspondence provided to those customers setting out the refund amounts and explaining the non-compliance.

ONIT Energy Ltd. understands that it has ultimate responsibility for the actions of its representatives. ONIT Energy Ltd. assures the OEB that it has taken all appropriate measures to ensure that its processes for enrolling customers, and in remedying unauthorized enrollments, are in compliance with all of its statutory and regulatory obligations.

#### **IV. ADMINISTRATIVE MONETARY PENALTY**

ONIT Energy Ltd. agrees to pay an administrative monetary penalty to the OEB in the amount of \$15,000.00. Payment will be made by cheque or electronically with notice sent to the Registrar and Board Secretary, within two weeks of ONIT

Energy Ltd. having received notice of the acceptance of this assurance by the OEB.

## V. CONSUMER RIGHTS

Nothing in the Assurance of Voluntary Compliance affects any rights a consumer or ONIT Energy Ltd. may have under any applicable laws.

## VI. FAILURE TO COMPLY

This Assurance of Voluntary Compliance has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act and any failure to comply with its terms shall be deemed to be a breach of an order of the OEB.

## VII. EXECUTION OF ASSURANCE

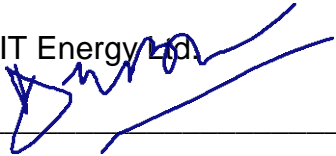
I have the authority to bind ONIT Energy Ltd. to the terms set out in this Assurance of Voluntary Compliance.

Name: David Balaban

Title: President & COO

Company: ONIT Energy Ltd.

Signature: \_\_\_\_\_



Dated this 22nd day of September 2020.