

Assurance of Voluntary Compliance

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

Champagne Centre Ltd.

OEB File No. EB-2023-0154

August 17, 2023

1 INTRODUCTION AND SUMMARY

Ontario Energy Board (OEB) staff conducted an inspection to evaluate whether Champagne Centre Ltd. (CCL) has been acting as a unit sub-meter provider (USMP) in respect of 2 Champagne Drive, Toronto (the CCL Property), without a licence required pursuant to section 57 of the *Ontario Energy Board Act, 1998* (OEB Act).

In response to the inspection, CCL has provided this Assurance of Voluntary Compliance to the OEB under section 112.7 of the OEB Act.

2 STATEMENT OF FACTS

CCL leases units at the CCL Property to commercial tenants.

On November 4, 2021, OEB staff gave CCL notice that it was commencing an inspection to assess CCL's compliance with section 57 of the OEB Act in response to a complaint from one of CCL's tenants at the CCL Property about that tenant's electricity invoice.

OEB staff advised CCL that under the OEB Act, section 57(c.1), entities that undertake unit sub-metering are required to obtain a licence from the OEB. Unit sub-metering includes providing and maintaining unit sub-meters in a multi-unit complex and includes billing and collecting payment in respect of electricity consumed by tenants in a multi-unit complex.

By engaging in meter reading and billing tenants for electricity consumption without a USMP licence from the OEB, CCL unknowingly and unintentionally contravened the OEB Act, section 57(c.1). CCL conducted meter reading and billing activities for electricity consumption by its tenants from 2014 to 2021.

OEB staff also identified billing discrepancies in CCL's electricity invoices to its tenants related to the unauthorized application of regulatory charges, specifically the debt retirement charge (DRC) and line loss charge, through the billing platform used by CCL.

Under O. Reg. 161/99 (Definitions and Exemptions), made under the OEB Act, distributors that distribute electricity for a price no greater than that required to recover all reasonable costs are exempt from the requirement for a distribution licence under the OEB Act, section 57(a).

As a result of the unauthorized charging of the DRC and overcharging of the line loss charges to its tenants, CCL charged tenants more than required to recover CCL's reasonable costs, therefore CCL did not meet the definition of an exempt distributor and contravened section 57(a) of the OEB Act.

CCL submitted that, at no material time did it understand that, by billing and collecting payment in respect of the individual consumption of the tenants in its multi-unit complex, it was required to be licensed as a USMP. CCL further submitted that it relied on a billing platform provided to CCL by a sub-metering industry participant. Through the course of the inspection in communications with OEB staff, CCL explained that the failure to be licensed was an unintentional oversight. CCL confirmed that it took steps to come into compliance with the OEB Act immediately after discovering the oversight and

has updated its internal procedures to ensure that a similar situation will not occur in the future.

CCL cooperated fully with the OEB throughout the OEB's inspection process.

As a result of a review of the complaint and following discussions with OEB staff that commenced in July 2021 about the licensing and billing issues, CCL took immediate steps to restore compliance with the OEB Act including:

- retaining a licensed USMP to administer sub-metering including invoicing and collection at the CCL Property.
- retaining a second expert, an energy consultant, at CCL's sole cost, to undertake an audit of all amounts charged to tenants through the licensed USMP's billing platform. CCL's expert assisted with transparent reporting to the OEB, and quantification of any billing errors to ensure accurate and timely reimbursement to tenants.
- reimbursing tenants for overcharges related to the DRC from April 2018 to June 2021 with an explanation of the error. CCL charged the tenants the DRC even though it was eliminated effective April 1, 2018 with amendments made to the *Electricity Act, 1998*. The overcharges amounted to a total of \$38,460.33 distributed between CCL's eight (8) commercial tenants over a period of three (3) years.
- reimbursing tenants for overcharges related to the line loss charge based on an incorrect factor of 1.0376 instead of (the OEB-approved) 1.0295 from January 2020 to June 2021 (which was part of a Toronto Hydro-Electric System Limited rate order dated January 1, 2020 and reflected on the utility bulk bill after this date). These overcharges amounted to a total of \$ 2,102.31.

3 ASSURANCE

CCL admits that it failed to comply with sections 57(a) and (c.1) of the OEB Act, and in resolution of the contravention, CCL has provided this Assurance of Voluntary Compliance to the OEB, pursuant to section 112.7 of the OEB Act.

CCL hereby assures the OEB that it has taken all appropriate measures to comply with OEB Act, section 57, as expeditiously as possible, including retaining a licensed USMP to administer sub-metering at the CCL Property and engaging an energy consultant to conduct an audit of CCL's invoices to tenants.

CCL further warrants that it ceased electricity billing to tenants in July 2021 upon receipt of OEB staff's letter. CCL voluntarily reimbursed tenants fully for any and all overcharges as of April 2022 upon the completion of CCL's energy consultant's invoice audit, and prior to any direction by the OEB.

CCL also assures the OEB that it will not seek to recover any costs related to this Assurance of Voluntary Compliance, or OEB inspection, from its tenants.

4 ADMINISTRATIVE MONETARY PENALTY

CCL agrees to pay an administrative monetary penalty to the OEB in the amount of \$5000.00.

Payment will be made electronically with notice sent to the Registrar, within two weeks of CCL having received notice of the acceptance of this assurance by the OEB.

5 CONSUMER RIGHTS

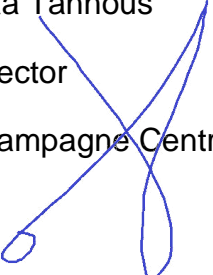
Nothing in the Assurance of Voluntary Compliance affects any rights a consumer may have under applicable laws.

6 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.

7 EXECUTION OF ASSURANCE

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

Name: Alaa Tannous
Title: Director
Company: Champagne Centre Ltd.
Signature: 

Name: Lew Pliamm
Title: Director
Company: Champagne Centre Ltd.
Signature:

Dated this 17th day of August, 2023

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