

Assurance of Voluntary Compliance

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

ERTH Power Corporation

EB-2022-0259

November 14th, 2022

I. STATEMENT OF FACTS

On April 14, 2022 the Ontario Energy Board (OEB) sent a letter to all licensed electricity distributors in the province advising them that the OEB had recently accepted an Assurance of Voluntary Compliance (AVC) from a distributor that had overcharged customers as a result of incorrectly prorating the fixed monthly charges approved by the OEB under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act). The letter explained:

The AVC arose after a distributor identified that it was overcharging customers due to applying a daily charge that had been incorrectly calculated. While the distributor used the approved fixed monthly charges from its OEB-approved Rate Order, its billing system translated these monthly charges into a daily charge for application to customers' bills. In the translation from monthly to daily charge, the daily charge was calculated on the basis of there being 30 days in every month (or 360 days in a year) but billed customers 365 days a year, leading to an overcharge of each customer.

The letter asked all distributors to review their billing systems and to advise the OEB if they discovered the same proration issue. On April 20, 2022, ERTH Power Corporation ("ERTH"), a distributor serving approximately 24,400 customers, responded to the OEB's letter and self-reported that it had been incorrectly prorating its fixed monthly charges in the same manner. ERTH determined that the issue persisted for several years and applied to all rate classes, and implemented appropriate system changes to correct the billing calculations.

ERTH instituted these changes effective May 1, 2022 consumption period to its customer billing system to ensure customers would not be overcharged due to the incorrect proration of fixed monthly charges.

II. ASSURANCE

ERTH acknowledges that, as a result of its billing system configuration, it was over-billing customers more than the OEB-approved fixed charges. To remedy the contravention of the rate orders, ERTH assures the OEB that it will take the following measures:

1. ERTH will credit current customers a total of \$553,051.58 which is equivalent to four years of overcharges (May 1, 2018 to April 30, 2022), calculated in the manner set out in the Appendix to this AVC. The credit includes both (a) the amount that would be required to be reimbursed to customers under section 7.7.7 of the Retail Settlement Code (that is, two years' worth of overcharges plus interest in accordance with section 7.7.9 of the Retail Settlement Code); and (b) without waiving or in any way limiting the rights of ERTH pursuant to the Retail Settlement Code, including but not limited to section 7.7.7, or ERTH's Conditions of Service, or otherwise, a voluntary additional amount.

The credit will be paid through a lump sum bill credit which will appear on a customer's bill within 90 days of the acceptance of this AVC by the OEB. Every customer in a rate class will receive the same credit amount, as shown in the Appendix, regardless of whether the customer was actually

a customer for the entire four-year credit period. At the time of the credit, ERTH will provide an explanation to customers in a form to be approved by the OEB. The total amount of all credits to be provided is \$553,051.58, and will be split across ERTH's current customer base at the time of credit.

III. ADMINISTRATIVE PENALTY

ERTH agrees to pay an administrative penalty to the OEB in the amount of \$7,000. Payment will be made electronically with notice sent to the Registrar, within four weeks of the acceptance of this AVC by the OEB.

IV. CONSUMER RIGHTS

Nothing in this AVC affects any rights a consumer may have under any applicable law.

V. FAILURE TO COMPLY

ERTH acknowledges that this AVC has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act.

VI. EXECUTION OF ASSURANCE

I have the authority to bind ERTH to the terms set out in this AVC.

Name: Graig Pettit

Title: Vice President & General Manager

Signature: 

Dated this 14th day of November, 2022

APPENDIX

ERTH Main (Excluding Goderich)	May 1st 2018 to April 30th 2022	Customer Count as at Sept 30, 2022	Credit per Customer / Connection
RESIDENTIAL SERVICE CLASSIFICATION	\$ 350,348.95	18,334	\$ 19.11
GENERAL SERVICE LESS THAN 50 KW SERVICE CLASSIFICATION	\$ 28,032.18	1,898	\$ 14.77
GENERAL SERVICE 50 TO 999 KW SERVICE CLASSIFICATION	\$ 13,931.82	139	\$ 100.23
GENERAL SERVICE 1,000 TO 4,999 KW SERVICE CLASSIFICATION	\$ 14,651.34	12	\$ 1,220.95
LARGE USE SERVICE CLASSIFICATION	\$ 13,099.66	2	\$ 6,549.83
UNMETERED SCATTERED LOAD SERVICE CLASSIFICATION	\$ 167.57	94	\$ 1.78
SENTINEL LIGHTING SERVICE CLASSIFICATION	\$ 1,857.32	283	\$ 6.56
STREET LIGHTING SERVICE CLASSIFICATION	\$ 16,494.45	6,238	\$ 2.64
EMBEDDED DISTRIBUTOR SERVICE CLASSIFICATION	\$ 5,099.41	4	\$ 1,274.85
microFIT SERVICE CLASSIFICATION	\$ 309.05	91	\$ 3.40
ERTH Main (Excluding Goderich) Total	\$ 443,991.75		

Goderich Rate Zone	May 1st 2018 to April 30th 2022	Customer Count as at Sept 30, 2022	Credit per Customer / Connection
RESIDENTIAL SERVICE CLASSIFICATION	\$ 75,855.01	3,416	\$ 22.21
GENERAL SERVICE LESS THAN 50 KW SERVICE CLASSIFICATION	\$ 10,936.95	488	\$ 22.41
GENERAL SERVICE 50 TO 499 KW SERVICE CLASSIFICATION	\$ 4,286.83	42	\$ 102.07
GENERAL SERVICE 500 TO 4,999 KW SERVICE CLASSIFICATION	\$ 6,066.10	5	\$ 1,213.22
LARGE USE SERVICE CLASSIFICATION	\$ 7,029.36	1	\$ 7,029.36
UNMETERED SCATTERED LOAD SERVICE CLASSIFICATION	\$ 161.34	3	\$ 53.78
SENTINEL LIGHTING SERVICE CLASSIFICATION	\$ 52.73	2	\$ 26.37
STREET LIGHTING SERVICE CLASSIFICATION	\$ 4,667.90	1,641	\$ 2.84
microFIT SERVICE CLASSIFICATION	\$ 3.61	1	\$ 3.61
Goderich Rate Zone Total	\$ 109,059.83		
Grand Total	\$ 553,051.58		