

**Assurance of Voluntary Compliance**

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

**Essex Powerlines Corporation**

**EB-2022-0271**

**December 21, 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 May 2, 2022, Essex Powerlines Corporation ("Essex"), a distributor serving approximately 31,000 customers, responded to the OEB's letter and self-reported that it had been incorrectly prorating its fixed monthly charges in the same manner. Essex determined that the issue persisted for approximately three and a half years and applied to all rate classes, and implemented appropriate system changes to correct the billing calculations.

Essex instituted these changes effective for the 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**

Essex 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, Essex assures the OEB that it will take the following measures:

1. Essex will credit current customers a total of \$453,181.23 which is equivalent to three years of overcharges (May 1, 2019 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 Essex pursuant to the Retail Settlement Code, including but not limited to section 7.7.7, or Essex'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 three-year credit period. At the time of the credit, Essex 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 \$453,181.23 and will be split across Essex's current customer base at the time of credit.

**III. ADMINISTRATIVE PENALTY**

Essex agrees to pay an administrative penalty to the OEB in the amount of \$5,000. 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**

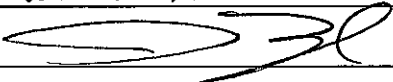
Essex acknowledges that this AVC has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act.

**VI. EXECUTION OF ASSURANCE**

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

Name: JOE BARILE

Title: V.P. REGULATORY AND CORPORATE AFFAIRS

Signature: 

Dated this 21 day of December, 2022

**APPENDIX**

**Credit Owed per Customer**

Customer Class	Customer Count (Sept.30, 2022)	Connections	Credit /Class	Credit/Customer
Residential	28505		\$ 379,812.37	\$ 13.32
GS<50	2080		\$ 37,055.67	\$ 17.82
GS>50	228		\$ 29,072.90	\$ 127.51
Street Lights/connection	5	2789	\$ 4,668.42	\$ 1.67
Unmetered/connection	125	125	\$ 574.20	\$ 4.59
Sentinel Lights/connection	27	223	\$ 370.05	\$ 1.66
Microfit	193		\$ 495.84	\$ 2.57
Embedded Dist.	4		\$ 1,131.79	\$ 282.95