

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

## **FESTIVAL HYDRO INC.**

**Licence No. ED-2002-0513**

**August 19, 2019**

On August 19, 2019, the Ontario Energy Board (OEB) issued this Assurance of Voluntary Compliance (AVC) to Festival Hydro Inc. (Festival Hydro) pursuant to section 112.7 of the Ontario Energy Board Act, 1998 (OEB Act). This AVC is issued in recognition of Festival Hydro's commitment to comply with the OEB Act and its regulations, and to provide accurate and complete information to the OEB in its reporting and compliance activities.

1. Festival Hydro has agreed to provide the OEB with accurate and complete information in its reporting and compliance activities.
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## I. BACKGROUND

Subsequent to an inspection by the Ontario Energy Board (OEB) of Festival Hydro Inc.'s processes related to RPP Settlement and the review of reported information, OEB staff identified that Festival Hydro Inc. incorrectly settled embedded generation costs and, as a result, contravened its licence (ED-2002-0513). This contravention resulted in an over-collection by Festival Hydro Inc. from its customers.

## II. STATEMENT OF FACTS

On May 18, 2018, OEB staff notified Festival Hydro Inc. of a suspected error in the manner by which the utility had settled its embedded generation costs for the nine-month period ending September 30, 2016. Festival Hydro Inc. undertook to review the issue and to provide the OEB with further analysis.

On April 23, 2019, Festival Hydro Inc. confirmed that it had incorrectly settled its embedded generation costs and that the duration of this error extended from 2014 to 2017. During this period, Festival Hydro Inc. failed to comply with the following enforceable provisions relating to settlements for embedded generation costs:

- i. Section 25.33(2) of the *Electricity Act, 1998*
- ii. Section 1.1(1) of Ontario Regulation 429/04, Adjustments Under Section 25.33 of the Act, made under the *Electricity Act, 1998*
- iii. Section 3.2 of the *Retail Settlement Code* and Appendix A of the Code

Festival Hydro Inc. further advised OEB staff that, as a result of the contravention, the utility over-collected approximately \$808,809 from its customers during the period of 2014 to 2017. During the same period, Festival Hydro Inc.'s settlement with the Independent Electricity System Operator, with respect to embedded generation, was understated by an equal dollar amount.

From an accounting perspective, Festival Hydro Inc. received no benefit from the error. The understated embedded generation settlement amount resulted in an overstated amount in the commodity pass-through account, Account 1588 – RSVA Power which led to the over-collection.

### **III. ASSURANCE**

Festival Hydro Inc. understands that while commodity and global adjustment costs are 'flow-through' costs for an electricity distributor, and given that these costs have a direct impact on customers, distributors have a responsibility to ensure these costs are properly settled in accordance with their statutory and regulatory obligations.

Festival Hydro Inc. hereby assures the OEB that it has taken all appropriate measures to ensure that it settles amounts related to embedded generation in compliance with all of its statutory and regulatory obligations.

Festival Hydro Inc. hereby assures the OEB that, within two weeks of receiving notice of the acceptance of this assurance by the OEB, Festival Hydro Inc. will record the amount of \$808,809 in Account 1588 and provide OEB staff with documentation evidencing the applicable accounting entries.

Festival Hydro Inc. hereby assures the OEB that it will request that Account 1588 be disposed in a future rates proceeding and that such request include the

\$808,809 in determining the net balance to be refunded to customers. Festival Hydro Inc. will make such request for disposition to the OEB in a rates application to be filed by no later than for 2021 rates.

#### IV. ADMINISTRATIVE MONETARY PENALTY

Festival Hydro Inc. agrees to pay an administrative monetary penalty to the OEB in the amount of \$8,000. Payment will be made by cheque or electronically with notice sent to the Board Secretary, within two weeks of Festival Hydro Inc. having received notice of the acceptance of this assurance by the OEB.

#### V. 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 *Ontario Energy Board Act, 1998* and any failure to comply with its terms shall be deemed to be a breach of an order of the OEB.

#### VII. EXECUTION

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

Name: Kelly McCann  
Title: CFO  
Company: Festival Hydro Inc.  
Signature: K. McCann

Dated this 19 day of August 2019.

