

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

**Air Products Canada Ltd.**

**Licence No. EW-2020-0257**

**OEB File No. EB-2021-0193**

**July 1<sup>st</sup> , 2021**

## **I. BACKGROUND**

Ontario Energy Board (OEB) staff conducted an inspection of Air Products Canada Ltd. (Air Products) pursuant to the OEB's finding, in proceeding EB-2020-0257, that Air Products continued to operate as an electricity wholesaler in Ontario after its licence had expired in September 2020.<sup>1</sup> Following the inspection, and in resolution of the contravention, Air Products provided this Assurance of Voluntary Compliance to the OEB under section 112.7 of the *Ontario Energy Board Act, 1998* (OEB Act).

## **II. STATEMENT OF FACTS**

On October 29, 2020, Air Products filed an application with the OEB for an electricity wholesaler licence, pursuant to section 60 of the OEB Act. Together with the application, Air Products confirmed that it had been operating as an electricity wholesaler without a license since its previous wholesaler licence expired on September 2, 2020.

The OEB reviewed the application and, on January 25, 2021, issued a Decision and Order granting Air Products a new electricity wholesaler licence (EW-2020-0257).<sup>2</sup> In the Decision and Order, the OEB noted that Air Products had operated without a licence for a period of nearly five months and that, in so doing, it had contravened section 57 of the OEB Act. The OEB also stated that Air Products may be subject to a potential OEB compliance proceeding with respect to the contravention and that the licence was being granted without prejudice with regard to any future compliance actions.

Operating in the IESO-administered markets without a licence is a contravention of section 57 (e) of the OEB Act, which provides as follows:

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<sup>1</sup> Decision and Order, EB-2020-0257, issued January 25, 2021

<sup>2</sup> *Ibid.*

**Requirement to hold licence**

57 Neither the IESO nor the Smart Metering Entity shall exercise their powers or perform their duties under the *Electricity Act, 1998* unless licensed to do so under this Part and no other person shall, unless licensed to do so under this Part, ...

(e) purchase electricity or ancillary services in the IESO-administered markets or directly from a generator

Through the filing of its October 29, 2020 application, and subsequent discussions with OEB staff, Air Products explained that the failure to secure a licence was an unintentional oversight due to a change in personnel. Air Products confirmed that it took steps to obtain the licence immediately after discovering the oversight, and has since updated its internal procedures in order to ensure that this type of contravention does not occur in the future. Air Products confirmed that it has put in place new system controls to ensure the continuity of its licence requirements. Air Products further explained that these changes will make sure that multiple individuals will be notified when licence renewal is required thus eliminating the risk of missing a renewal, or other correspondence from the OEB, if an individual responsible for licencing moves on from their role.

**III. ASSURANCE**

Air Products hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57 (e) of the OEB Act that it has a licence for the purpose of purchasing electricity or ancillary services in the IESO-administered markets or directly from a generator.

Air Products also hereby assures the OEB that it will comply with the terms of its electricity wholesaler licence EW-2020-0257, including the obligation under

section 8.1 therein to designate a person to act as a primary contact with the OEB on matters related to the licence, and to promptly notify the OEB should the contact details change.

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

Air Products agrees to pay an administrative monetary penalty to the OEB in the amount of \$3,000. Payment will be made electronically, together with notice sent to the Registrar, within two weeks of Air Products 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 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**

I have the authority to bind Air Products Canada Ltd. to the terms set out in this Assurance of Voluntary Compliance.

Name:        \_\_\_ Benjamin S Heller \_\_\_\_\_

Title:         \_\_\_ Director, Strategic Sourcing \_\_\_\_\_

Company:    \_\_\_ Air Products Canada Ltd. \_\_\_

Signature:    \_\_\_  \_\_\_\_\_

Dated this \_\_\_1<sup>st</sup>\_\_\_ day of July, 2021.