

Assurance of Voluntary Compliance

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

ENWIN Utilities Ltd.

EB-2024-0087

March 13, 2024

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 October 18, 2023, the OEB sent another letter requiring that all licensed, rate-regulated distributors that have not already come forward confirm that any OEB-approved fixed monthly charges are being applied correctly.

On November 6, 2023, ENWIN Utilities Ltd. (ENWIN) responded to the OEB's October letter. In its response, ENWIN outlined the steps it had taken to investigate this issue, including two separate meetings with OEB staff to seek further understanding and clarification about what proration approaches may be deemed acceptable. ENWIN explained that after further clarification, it had reviewed its billing system and that it had determined that its billing system had been prorating fixed monthly charges for first / final bills in a similar manner as described in a Kingston Hydro Corporation Assurance of Voluntary Compliance issued in February 2023. Specifically, the non-standard proration issue related to bills for partial months, where the customer moved in or out in the middle of the regular billing period. In this circumstance, the billing system prorated the monthly service charge rate to a daily charge using a set value of 30 days to calculate the daily rate, regardless of the default length of the billing period.

In its subsequent November 30, 2023, letter to the OEB, ENWIN advised that: (i) the non-standard proration issue had been in place for several years; (ii) the total amount that ENWIN over-collected over the period of November 19, 2019 to November 19, 2023 was \$27,813.08 affecting 83,307 accounts; and (iii) corrective actions to fix the technical issues affecting non-standard proration billing came into effect November 10, 2023.

Considering that a four-year customer credit would be small (around 33 cents per account), and that many customers who received impacted bills are no longer customers of ENWIN and therefore difficult to track down, ENWIN has proposed instead to make a contribution to the Low-income Energy Assistance Program (LEAP), to help customers in need.

II. ASSURANCE

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

1. ENWIN will make a payment of \$27,813.08 to the LEAP agency serving customers in the ENWIN service territory, which is equivalent to four years of overcharges (November 19, 2019 and November 19, 2023). The LEAP payment will be paid as a lump sum within 90 days of the acceptance of this AVC by the OEB.
2. At the time of the contribution to LEAP, ENWIN will notify customers of the contribution and this AVC, in a form and manner to be approved by the OEB.

III. ADMINISTRATIVE PENALTY

ENWIN agrees to pay an administrative penalty to the OEB in the amount of \$10,000. 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


ENWIN 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 ENWIN to the terms set out in this AVC.

Name: Garry Rossi

Title: President & CEO

Signature:  _____

Dated this 13 day of March, 2024