



# Ontario Energy Board Commission de l'énergie de l'Ontario

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## INTERIM DECISION AND ORDER

**EB-2016-0380**

### Ensqr Corporation

**Notice of Intention to Make an Order for Revocation of a Licence against Ensqr Corporation (Licence Number ES-2012-0461)**

**BEFORE: Ken Quesnelle**  
Vice-Chair and Presiding Member

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**August 17, 2017**

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# 1 INTRODUCTION AND PROCESS

On February 1, 2017, the Ontario Energy Board (OEB), on its own motion under section 112.2 of the *Ontario Energy Board Act, 1998* (the Act), issued a Notice of Intention to make an Order under section 112.4 of the Act to revoke electricity Unit Sub-Metering Licence ES-2012-0461 issued to Ensqr Corporation (Ensqr).

## 1.1 Background

On June 28, 2016, the OEB, on its own motion under section 112.2 of the Act, issued a Notice of Intention to make an Order under section 112.3 and 112.5 of the Act against Ensqr for compliance, including requiring Ensqr to comply with its licence conditions and obligations under the Unit Sub-Metering Code and to pay an administrative penalty in the amount of \$10,000. Previous allegations of non-compliance are provided in Section 1.2 below.

On August 2, 2016, Ensqr provided the OEB with an Assurance of Voluntary Compliance (Assurance), in which Ensqr assured the OEB it would take certain steps to remedy its admitted non-compliance with sections 5 and 6 of the Licence in respect of ensuring that its eligible customers could enroll in the OESP. The OEB accepted the Assurance on August 3, 2016. Details on the Assurance are provided in Section 1.3 below.

Pursuant to section 3 of the Act, an Assurance is an “enforceable provision”. Under section 112.4 of the Act, the OEB may suspend or revoke a licence if it is satisfied that the licensee has contravened an enforceable provision.

Ensqr has not complied with all conditions outlined in the Assurance provided to the OEB. Due to non-compliance, the OEB has initiated this revocation proceeding.

## 1.2 Notice of Intention (EB-2016-0200)

The Notice of Intention set out the following allegations of non-compliance:

1. Ensqr has failed to comply with section 6 of its licence by failing to file certain information with the OEB, in this case its Self-Certification Report, to demonstrate its readiness to implement the Ontario Electricity Support Program (OESP).

2. Ensqr has failed to comply with section 5 of its licence by failing to comply with section 5.3.1 of the Unit Sub-Metering Code which requires Ensqr to apply rate assistance to a consumer's bill when it receives notice that a consumer is eligible for rate assistance under the OESP.

That Notice of Intention also set out the following particulars in support of the allegations of non-compliance:

On August 10, 2015, the OEB issued a notice to all licensed electricity distributors and unit sub-meter providers (Utilities) outlining self-certification requirements to ensure Utilities were undertaking appropriate measures to prepare for the OESP. The OESP, which came into effect on January 1, 2016, requires licensed Utilities to deliver the OESP through the invoices to eligible low-income electricity consumers.

In order to implement the program as of January 1, 2016 the OEB required Ensqr to file a self-certification report on three milestone dates: August 26, 2015, October 9, 2015 and November 30, 2015. Ensqr failed to meet any of the required deadlines.

The impact of failing to self-certify has resulted in the failure to process any applications from consumers for OESP.

### **1.3 Assurance of Voluntary Compliance**

To date, Ensqr has complied with only one of the ten items set out in the Assurance: it paid an administrative monetary penalty of \$5,000.00 on August 19, 2016. Ensqr has not complied with the remaining nine items, namely:

- To submit Self-Certification Reports to demonstrate its readiness to implement the OESP
- To immediately apply rate assistance to a customer's bill when it receives notice that the customer is eligible for rate assistance under the OESP
- To complete the "Self-Validation Portal" demonstrating that it has completed all the technical milestones associated with OESP implementation

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- To immediately process the applications for eligible customers waiting for OESP, including a one-time adjustment to account for the time they would have been deemed eligible
  - To provide a report to the OEB that includes a list of those customers who are entitled to a credit along with their particulars
  - To send a letter to all eligible customers waiting for rate assistance, in the form specified in the Assurance
  - To process new applications in a timely manner according to the established and mandated OESP process, and provide OEB staff with a monthly report for August 2016 through to and including February 2017
  - To ensure all necessary steps are taken to ensure its website is active with its conditions of service and a link to the OEB's OESP portal
  - To take all necessary steps to ensure compliance with the OEB's complaint process

In order to address this matter, the OEB, on its own motion, issued a Notice of Intention on February 1, 2017 to make an Order to revoke the electricity Unit Sub-Metering Licence issued to Ensqr.

## **1.4 The Process**

By way of a letter dated February 14, 2017, Ensqr requested that the OEB hold a hearing in this matter.

The parties to the proceeding are Ensqr and the members of OEB staff assigned to bring these matters forward (the OEB Enforcement Team).

The OEB held an oral hearing on July 13, 2017.

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## 2 INTERIM DECISION

The OEB has determined that it would not be in the best interests of the customers currently residing at the location identified by the OEB Enforcement Staff to revoke or suspend Ensqr's licence at this time.

Ensqr has not complied with the Assurance it provided to the OEB on August 2, 2016. Ensqr does not refute the OEB Enforcement Team's assertions regarding the non-compliance. However, during the hearing, Ensqr's Director provided Ensqr's explanation as to why it has not complied with the Assurance.

Ensqr provides unit sub-metering services at one location. Ensqr submitted that the primary reason for its non-compliance with the Assurance was that its business relationship with the new building owner at that location was uncertain and for a period of time and thought to have been terminated. Ensqr argued that it did not know for certain that it had a client who needed sub-metering services and that it was required to assemble in accordance with the OEB Assurance<sup>1</sup>.

A licensed unit sub-meterer's capacity to administer requests for the OESP is of utmost importance in that it directly affects vulnerable consumers. It became evident in this proceeding that the residents at this location have not been billed for electricity since October 26, 2016<sup>2</sup>. It also became evident that the residents that have applied for the OESP have been notified that they will receive any benefits due to them once the billing capacity is in place.

The OEB does not consider the current situation to be acceptable. Ensqr does not have a contract to provide unit sub-metering services to the building owner, and customers are not being invoiced for the electricity they are consuming. There are significant issues that arise in this scenario and none of them would be mitigated with the revocation or suspension of Ensqr's licence at this time. A contractual relationship between the building owner and Ensqr should be forged as soon as administratively possible.

Ensqr appears to have been able to overcome the technical barriers to providing full OESP administration, but the OEB will require Ensqr's confirmation in this regard.

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<sup>1</sup> Mr. Gunde Letter – June 8, 2017

<sup>2</sup> Hearing Transcript – July 13, 2017, page 20, line 13

The OEB is reserving its final decision in this proceeding until it has more information on the contractual relationship between Ensqr and the building owner.

The OEB will require Ensqr to provide an update on the contractual relationship and an update on its technical ability to comply with sections 5 and 6 of the Licence, and particularly as those sections relate to ensuring that eligible customers served by Ensqr can be enrolled in the OESP.

Failure to provide these updates may result in the OEB suspending or revoking Ensqr's unit sub-metering licence.

### 3 ORDER

#### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Ensqr shall file with the OEB an update on contractual discussions with the building owner by September 15, 2017.
2. Ensqr shall file with the OEB, by September 15, 2017, an update on its technical ability to comply with sections 5 and 6 of its Unit Sub-Metering Licence (ES-2012-0461), and specifically with regard to its ability to ensure that eligible customers served by Ensqr can be enrolled in the OESP.
3. Ensqr Corporation must provide the building owner with a copy of this Decision and Order immediately upon receipt of it.

Any filings may be made by e-mail to the Board Secretary at [Boardsec@oeb.ca](mailto:Boardsec@oeb.ca) rather than through the OEB's web portal.

**DATED** at Toronto August 17, 2017

#### ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli  
Board Secretary