

Assurance of Voluntary Compliance

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

**WYSE METER SOLUTIONS INC.
(Licence No. ES-2014-0214)**

EB-2019-0177

September 4, 2019

I. **Statement of Facts**

Wyse Meter Solutions Inc. (Wyse) is a licensed unit sub-meter provider (USMP).

On December 19, 2018, in response to a customer complaint, the Ontario Energy Board (OEB) commenced an inspection of Wyse's processes and practices related to various aspects of account opening, billing and metering. As a result of that inspection, OEB staff raised the following concerns:

Disclosure of Fees and Charges on First Bill

Section 41(2) of O. Reg. 389/10 (General) under the *Energy Consumer Protection Act, 2010* (ECPA) requires certain information about fees and charges to be disclosed on the first bill issued by a USMP to a consumer:

- (2) A unit sub-meter provider shall include with its first invoice to a consumer, in a clearly legible typeface having a font size of at least 12,
 - (a) detailed information about all applicable fees and charges imposed by the unit sub-meter provider; or
 - (b) information that there are regular recurring fees and charges imposed by the unit sub-meter provider and the address of the website on which detailed information about the fees and charges may be obtained.

OEB staff's review of the first bill received by several consumers living in a building served by Wyse determined that Wyse has not been complying with this requirement.

Following staff's review, Wyse implemented changes to its bills. As of June 4, 2019, all Wyse bills (first bills and all subsequent bills) to Ontario electricity consumers contain a statement that there are regular recurring fees and charges imposed by Wyse and provide the address of the online customer portal through which detailed information about these fees and charges can be obtained.

Disclosure of Charges and Fees in Contract

Section 3.1.3 of the Unit Sub-Metering Code states that "Every contract a unit sub-meter provider has with a consumer or master consumer shall include the following information: ... (c) a description of, and whenever possible, the actual amount for, all fees and charges related to the provision of the unit sub-metering service...."

OEB staff reviewed two versions of the contract Wyse has entered into with consumers in Ontario. One version referred to some fees, including the account set-up fee and late payment fee, but did not describe other monthly fees that are applied, namely the "administrative fee", the "meter fee", and the "conservation fee". The other version did not describe those monthly fees either, but referred the consumer to the Conditions of

Service “for all other fees charged”, however the Conditions of Service did not disclose the administrative fee, the meter fee or the conservation fee.

Following staff’s review, Wyse posted a list of all charges applicable to a particular property to its customer web portal. During the online contract enrollment process, new customers are taken to the list of charges. For paper enrollments, a hard copy of the list of applicable charges is now provided.

Prescribed Disclosure on Bills to Low-Volume Consumers

OEB staff’s review of a number of bills sent to consumers determined that they did not include all of the information prescribed by O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumers of Electricity) under the *Ontario Energy Board Act, 1998*. In particular:

- The bills did not include historical consumption information, as required by section 6
- The bills did not include the phrase “For a detailed explanation of electricity terms, please visit”, followed by the OEB’s website address, as required by section 9(1)
- The bills did not include the heading “Electricity” before the “Delivery” line, as required by section 1(2) – instead of “Electricity”, the bills used “Energy charge”.
- The bills also continued to use the heading “Debt Retirement Charge” even after that heading was removed from section 1(2) effective April 1, 2018.

Following staff’s review, Wyse adjusted its billing template to reflect these requirements.

Billing Arrangement in Student Housing

Wyse provides unit sub-metering services at several student housing buildings in Ontario. In these buildings, several students (typically four) share a suite with only one electricity meter. Each student has his or her own bedroom, and they share a kitchen and living area. Typically each student has a lease with the landlord and an account with Wyse. On each student’s invoice, Wyse prorates the electricity consumption as measured by the suite’s sole unit meter. The amount of consumption shown on each student tenant’s bill is not the amount that the tenant actually used in the period. The consumption for the entire suite, as measured by the meter, is divided equally amongst the students (unless one or more of the students resided in the suite for less than the entire billing period, in which case a further calculation is done).

OEB staff expressed the view that this billing arrangement, which has been in place since 2018, is prohibited by section 34(2) of the ECPA, which requires USMPs to “bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit as measured by the suite meter”. Staff’s view is that this provision does not

permit any sort of behind-the-meter allocation of metered consumption amongst consumers, and that showing a consumption amount on the invoice that does not reflect that student's actual consumption for the period would be misleading.

In response to staff's concerns, Wyse proposed revisions to its billing model for student housing. Under the revised billing model, pursuant to the agreement with each student tenant Wyse will bill each student tenant an equal share of the total monthly electricity charges as shown on the bill (rather than the consumption) for the suite. Each month Wyse will deliver to each student tenant a copy of a bill for the shared suite which would reflect the metered consumption and associated electricity charges for the suite as a whole. The bill would show the account number for the suite. Wyse will also prepare an individual statement for each student tenant of the shared unit which will reflect each student's pro-rata share of the suite's electricity bill plus Wyse's account-specific charges as agreed to with the student tenant. Staff confirmed that the revised billing model addresses the concerns it had raised.

II. Assurance

To address staff's concerns related to both the disclosure issues and the student residence billing model, Wyse has agreed to provide the following assurance.

Wyse hereby assures the OEB that it will take the following measures:

1. Wyse will ensure its invoices and contracts comply with all applicable disclosure requirements and in particular will continue to use invoices and contracts that reflect the recent changes implemented by Wyse in response to the OEB inspection, as described above.
2. Commencing with the billing cycle that begins on September 1, 2019, Wyse will bill customers living in a shared suite with a single meter but separate tenancies on the basis of the revised billing model described above.
3. By October 20, 2019, Wyse will notify all current customers (other than those customers who entered into a contract with Wyse after the changes to the disclosure on invoices and contracts described in Item 1 were implemented), in a form to be approved by OEB staff, of all applicable service charges.

III. Administrative Penalty

Wyse agrees to pay an administrative penalty to the OEB in the amount of \$65,000. Payment will be made by cheque or electronically with notice sent to the

Board Secretary, within two weeks of having received notice of the acceptance of this assurance by the OEB.

IV. Consumer Rights

Nothing in this Assurance affects any rights a consumer may have under his or her contract, or under any applicable laws.

V. Failure to Comply

Wyse acknowledges that this Assurance 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 Wyse to the terms set out in this Assurance.

Name: Malvina Sternak

Title: Senior Counsel, Wyse Meter Solutions Inc.

Signature: 

Dated this 4th day of September, 2019