

**Assurance of Voluntary Compliance**

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

**Newmarket-Tay Power Distribution Ltd.**

**EB-2023-0064**

**February 2, 2023**

## 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 September 12, 2022, Newmarket-Tay Power Distribution Ltd. ("**NT Power**"), a distributor serving approximately 45,000 customers, responded to the OEB's letter and self-reported that Midland Power Utility Corporation, which was acquired by NT Power in 2018, had historically prorated its fixed monthly charges in the same manner. NT Power determined that the issue persisted for several years and applied to all rate classes in the Midland service territory. The issue was corrected on February 28, 2021 when NT Power integrated the Midland billing system with the NT Power billing system. NT Power customers other than those in the historic Midland service territory were not affected.

## II. ASSURANCE

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

1. NT Power will credit current Midland rate zone customers a total of \$95,460.18 which is equivalent to the overcharges going back four years from when the issue was discovered (i.e., from September 1, 2018 to February 28, 2021, when the issue was corrected), calculated in the manner set out in the Appendix to this AVC. The credit includes both (a) the amount that would be required to be reimbursed to customers under section 7.7.7 of the Retail Settlement Code (that is, the most recent two years' worth of overcharges plus interest in accordance with section 7.7.9 of the Retail Settlement Code); and (b) without waiving or in any way limiting the rights of NT Power pursuant to the Retail Settlement Code, including but not limited to section 7.7.7, or NT Power's Conditions of Service, or otherwise, a voluntary additional amount.

The credit will be paid through a lump sum bill credit which will appear on Midland customers' bills within 90 days of the acceptance of this AVC by the OEB. Every Midland customer in a rate class will receive the same credit amount, as shown in the Appendix, regardless of whether the

customer was actually a customer for the entire four-year credit period. At the time of the credit, NT Power will provide an explanation to Midland customers in a form to be approved by the OEB. The total amount of all credits to be provided is \$95,460.18, and will be split across NT Power's current customer base in Midland at the time of credit.

**III. ADMINISTRATIVE PENALTY**

NT Power agrees to pay an administrative penalty to the OEB in the amount of \$2,250. 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**

NT Power 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 NT Power to the terms set out in this AVC.

Name: Ysni Semsedini

Title: President & CEO

Signature: *Ysni Semsedini*

Dated this 1<sup>st</sup> day of February, 2023

**APPENDIX**

<b>Midland Customers</b>	<b>Sept. 1st 2018 - Feb. 28, 2021</b>	<b>Customer/Connection Count at Dec. 31 2022</b>	<b>Credit per Customer/Connection</b>
Residential	82,803.56	6721	12.32
GS<50	7,405.78	801	9.25
GS>50	2,614.83	93	28.12
Streetlights	2,552.58	1854	1.38
Unmetered Scattered Load	50.35	18	2.80
FIT/microFit	33.08	14	2.36
<b>Total</b>	<b>95,460.18</b>		