

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

**Ellwood Energy Storage LP**  
Licence No. ES-2022-0082

OEB File No. EB-2023-0155

June 27, 2023

## I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of Ellwood Energy Storage LP (Ellwood) pursuant to the OEB's finding, in proceeding EB-2022-0082, that Ellwood had been operating as an electricity storage facility in Ontario without a licence.

Following the inspection, and in resolution of the contravention, Ellwood 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 January 27, 2022, Ellwood filed an application with the OEB for an electricity storage licence pursuant to section 60 of the OEB Act. Ellwood stated that after reviewing its records, it learned that its electricity storage licence (ES-2016-0216) had expired on August 24, 2021.

On July 7, 2022, the OEB issued a Decision and Order (EB-2022-0082) granting Ellwood a new electricity storage licence (ES-2022-0082). In the Decision and Order, the OEB noted that Ellwood had been operating without a licence from August 24, 2021 until February 14, 2022. The OEB further noted that the granting of the new licence was without prejudice to any future compliance actions regarding Ellwood operating without a licence contrary to the OEB Act.

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

### **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,

(f) sell electricity or ancillary services through the IESO-administered markets or directly to another person, other than a consumer;

During the inspection Ellwood confirmed that, upon discovery of the expiry of their licence in October 2021, Ellwood shut down its electricity storage facility until a new licence was granted. Therefore, Ellwood continued to store and sell electricity only up to October 2021, and not until February 2022 as originally indicated in the EB-2022-0082 Decision and Order.

Through the filing of its January 27, 2022 application, and subsequent discussions with OEB staff, Ellwood explained that the failure to secure a licence was an unintentional oversight. Ellwood confirmed that it has taken steps to update its internal procedures to ensure that a similar situation will not occur in the future.

### **III. ASSURANCE**

Ellwood hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57 (f) of the OEB Act to hold a licence for the purpose of selling electricity or ancillary services through the IESO-administered markets or directly to another person.

Ellwood also hereby assures the OEB that it will comply with the terms of its electricity storage licence ES-2022-0082, including the obligation under section 10.1 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**

Ellwood agrees to pay an administrative monetary penalty to the OEB in the amount of \$1,500. Payment will be made electronically, together with notice sent to the Registrar, within two weeks of Ellwood 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.

**VI. EXECUTION**

I have the authority to bind Ellwood Energy Storage LP to the terms set out in this Assurance of Voluntary Compliance.

Name: Kasia Kuk

Title: Authorized Signatory

Company: Ellwood Energy storage LP

Signature: 

Dated this 27 day of June 2023.