

Assurance of Voluntary Compliance

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

Niagara Peninsula Energy Inc.

EB-2023-0302

October 16, 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 July 21, 2023, Niagara Peninsula Energy Inc. ("NPEI"), a distributor serving approximately 58,700 customers, wrote to the OEB advising that it had seen the AVCs provided by Kingston Hydro Corporation and Atikokan Hydro Inc. which related to the incorrect proration of fixed monthly charges. NPEI reported that after reviewing those AVCs, it discovered a similar issue with its billing system with respect to first/final bills. 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 month. Customers in NPEI's Residential, GS<50, GS>50, Sentinel, MicroFit, and Unmetered Scattered Load rate classes were affected, but only in the circumstance described above.

NPEI determined that the issue had persisted for several years. Effective October 2, 2023, NPEI appropriately implemented changes to its billing system to ensure customers would not be overcharged due to the incorrect proration of fixed monthly charges.

NPEI has agreed to provide this AVC which is modeled on the ones referenced above. NPEI recognizes that several other distributors that have provided an AVC to the OEB in respect of the incorrect proration of fixed charges have agreed to issue a credit to affected customers equivalent to four years' worth of overcharges. As the impacted bills represented only a portion of all bills issued, the total amount that NPEI over-collected over the period of January 1, 2019 to December 31, 2022 is relatively small: \$28,456.21 (or an average of \$7,114.05 per year). Considering that a four-year customer credit would be small (around 48 cents per residential customer), and that many customers who received impacted bills are no longer customers of NPEI and therefore difficult to track down, NPEI has proposed instead to make a contribution to the Low-income Energy Assistance Program (LEAP), to help customers in need.

II. ASSURANCE

NPEI 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, NPEI assures the OEB that it will take the following measures:

1. NPEI will make a payment of \$28,456.21 to the LEAP agency serving customers in the NPEI service territory, which is equivalent to four years of overcharges (January 1, 2019 to December 31, 2022). 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, NPEI will notify customers of the contribution and this AVC, in a form and manner to be approved by the OEB.

III. ADMINISTRATIVE PENALTY

NPEI 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


NPEI 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 NPEI to the terms set out in this AVC.

Name: Brian Wilkie

Title: President & CEO

Signature:  _____

Dated this 16th day of October, 2023