

Assurance of Voluntary Compliance

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

Festival Hydro Inc.

EB-2024-0094

April 8, 2024

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 October 18, 2023, the OEB sent another letter requiring that all licensed, rate-regulated distributors that have not already come forward confirm that any OEB-approved fixed monthly charges are being applied correctly.

On November 7, 2023, Festival Hydro Inc. ("**FHI**") advised the OEB that it had reviewed its customer billing system to ensure accuracy relating to the fixed charge proration issue. Based on that review, FHI determined that its billing system had been incorrectly translating approved fixed monthly charges for the first and last bill of partial months (move-in and move-out) in a similar manner as described in the Atikokan Hydro Inc. and Niagara Peninsula Energy Inc. AVCs dated June 19, 2023, and October 16, 2023, respectively.

In its letter, FHI stated that to the best of its knowledge, (i) the proration issue has existed for a number of years and (ii) the impact of the billing error resulted in overcharges of \$8,067.77 between August 1, 2019, and July 31, 2023. FHI further advised that it is in the process of implementing a new Customer Information System (CIS) in which proposed guidance of a 365-day proration is built into the new CIS, as FHI retires an end-of-life system with no other distributors using it.

Subsequent to the November 7 letter, FHI confirmed that the fixed charge proration issue was resolved in the current CIS as of November 6th, 2023. FHI also provided information that it had begun investigating the issue and the impact on customers in early July 2023. Ultimately, FHI explained, the investigation took some time to complete and report to the OEB as (i) FHI needed to engage an external programming consultant to assist in the process; and (ii) FHI performed internal testing to ensure that the proration issue had been fixed.

Considering that a four-year customer credit would be small (around 35 cents per account), and that many customers who received impacted bills are no longer customers of FHI and therefore difficult to track down, FHI has proposed instead to contribute to the Low-income Energy Assistance Program (LEAP), to help customers in need.

II. ASSURANCE

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

1. FHI will make a payment of \$8,067.77 to the LEAP agency serving customers in the FHI service territory, which is equivalent to four years of overcharges (August 1, 2019, and July 31, 2023). 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, FHI will notify customers of the contribution and this AVC, in a form and manner to be approved by the OEB.

III. ADMINISTRATIVE PENALTY

FHI 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

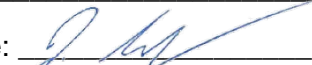
FHI acknowledges that this AVC has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act.

VI. EXECUTION OF ASSURANCE

I have the authority to bind FHI to the terms set out in this AVC.

Name: Jeff Graham

Title: President and CEO

Signature:  _____

Dated this 08 day of April, 2024