

ASSURANCE OF VOLUNTARY COMPLIANCE

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

E.L.K. Energy Inc.

Licence No. ED-2003-0015

OEB File No. EB-2022-0078

February 28, 2022

I. INTRODUCTION AND SUMMARY

Ontario Energy Board (OEB) staff conducted an inspection of E.L.K. Energy Inc. (E.L.K.), a licensed electricity distributor, under the authority of Part VII of *Ontario Energy Board Act, 1998* (OEB Act) (the “Inspection”). The Inspection determined that E.L.K. did not retain sufficient records of its inspections in accordance with Section 4.4.2 of the OEB’s Distribution System Code (DSC), and as a consequence E.L.K. was unable to provide evidence that it had conducted the requisite inspections of its assets.

Following the Inspection, and in resolution of the contravention, E.L.K. has provided this Assurance of Voluntary Compliance to the OEB, under section 112.7 of the OEB Act.

II. STATEMENT OF FACTS

E.L.K. operates as an electricity distributor in Ontario under OEB licence ED-2003-0015, distributing electricity within the Towns of Essex, Lakeshore, and Kingsville as more fully set out in Schedule 1 of the above referenced licence.

In the settlement proposal approved by the OEB as part of E.L.K.’s last cost of service application (EB-2016-0066), E.L.K. agreed to undertake an independent asset condition assessment of its distribution infrastructure. In accordance with this obligation, E.L.K. engaged third parties to conduct asset condition assessments of its distribution system infrastructure. E.L.K. filed these asset conditions assessments with the industry relations department of the OEB. These assessments indicated that E.L.K. did not have available any records of past inspections of its assets.

Due to the ongoing concerns, OEB staff commenced the Inspection in March 2021 to determine whether E.L.K. was in compliance with the applicable sections of the DSC and E.L.K.'s Electricity Distribution Licence.

Section 4.4.2 of the DSC states that a distributor "shall perform inspection activities of its distribution system in accordance with the requirements in Appendix C attached to this Code." Section C.1 of Appendix C of the DSC further states that a distributor shall file both annual summary reports of detailed patrol inspection activities that have taken place during the previous year as well as an outline of inspection plans ("compliance plans") for the forthcoming year. Section C.2 of Appendix C also requires a distributor to collect and record information on patrol deficiencies and corrective actions taken.

In the course of its Inspection, OEB staff requested supporting documentation from E.L.K. relating to asset management, specifically processes for inspecting and reporting on asset conditions.

E.L.K. could not provide evidence that it regularly inspects its assets in accordance with Appendix C of the DSC. E.L.K. stated that it does not have formal asset inspection procedures in place and instead relies on verbal reporting of issues identified during inspections. E.L.K. confirmed that no documentation exists to show that inspections were scheduled or that corrective actions were taken on identified issues.

During the period of the OEB Inspection, E.L.K. experienced turnover of key management and staff. E.L.K. stated that the lack of formal asset inspection procedures and documentation of asset inspections was attributable to former E.L.K. management and practices.

To address the OEB Inspection's findings, E.L.K.'s current management has taken numerous steps to improve its asset management practices, including:

1. Updated work order forms to document inspections associated with every work order performed in October 2021.
2. Training to all operations staff on the use of the new work order forms in October 2021.
3. Completed visual inspection of one-third of E.L.K.'s system as of December 20, 2021 and documented the outcome of those inspections in accordance with the DSC.
4. Retained a third-party firm that will perform asset inspections in conformity with the DSC commencing January 2022. The third-party firm will perform inspections of at least one-third of E.L.K.'s system every year going forward and create a more formalized record-keeping of the asset inspections.
5. Implemented staffing changes with specific responsibilities and oversight of asset management practices and compliance with regulatory obligations in December 2021.

III. ASSURANCE OF VOLUNTARY COMPLIANCE

E.L.K. understands that, in accordance with Section 4.4.2 of the DSC, E.L.K. is required to perform regular ongoing inspection activities of its distribution system. E.L.K. also understands that in accordance with Appendix C of the DSC, E.L.K. must file both annual summary reports of detailed patrol inspection activities that have taken place during the previous year as well as an outline of inspection plans for the forthcoming year. E.L.K. understands that it must collect and record information on patrol deficiencies and corrective actions taken.

E.L.K. acknowledges that it has not maintained records of inspection activities, policies and procedures, deficiencies identified and corrective actions taken.

E.L.K. acknowledges that it has therefore failed to comply with Section 4.4.2 of the DSC.

E.L.K. assures the OEB that it has taken appropriate measures, as set out above, to ensure that inspection activities of its distribution system are in compliance with all of its regulatory obligations.

IV. ADMINISTRATIVE MONETARY PENALTY

E.L.K. agrees to pay an administrative monetary penalty to the OEB in the amount of \$5,000. Payment will be made electronically with notice sent to the OEB's Registrar, within two weeks of E.L.K. having received notice of the acceptance of this Assurance by the OEB. E.L.K. will not recover the costs related to this Assurance of Voluntary Compliance from its customers.

V. CONSUMER RIGHTS

Nothing in the Assurance of Voluntary Compliance affects any rights a consumer may have under any applicable laws.

VI. 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.

VII. EXECUTION OF ASSURANCE

I have the authority to bind E.L.K. Energy Inc. to the terms set out in this Assurance of Voluntary Compliance.

Name: Cheryl Tratechand
Title: CFO / DIRECTOR OF SPANISH SPEAKING RELATIONS
Company: E.L.K. ENERGY INC
Signature: Cheryl Tratechand

Dated this 28th day of February, 2022.