

ASSURANCE OF VOLUNTARY COMPLIANCE

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

St. Marys Cement Inc. (Canada)

Licence No. EW-2019-0227

16 Sept 2020

EB-2020-0157

I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of St. Marys Cement Inc. (Canada) (St. Marys). The inspection was carried out following the OEB's finding, in proceeding EB-2019-0227, that St. Marys had been operating as an electricity wholesaler in Ontario without a licence for a period of approximately 3 years, from September 2016 to November 2019.¹ Following the inspection, and in resolution of the contravention, St. Marys 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 September 9, 2019, St. Marys filed an application with the OEB for a new electricity wholesaler licence, pursuant to section 57 of OEB Act. Together with the application, St. Marys self-reported that it had failed to renew its prior electricity wholesaler licence EW-2011-0234, before it expired on September 6, 2016.

The OEB reviewed the application and, on November 14, 2019, issued a Decision and Order granting St. Marys a new electricity wholesaler licence (EW-2019-0227).² In the Decision and Order, the OEB also stated that St. Marys may be subject to a potential OEB compliance proceeding with respect to the contravention, and that the licence was being granted "without prejudice with regard to any future compliance actions".

Operating in the IESO-administered markets without a licence is a contravention of section 57 of the OEB Act. Section 57(e) of the OEB Act states as follows:

¹ Decision and Order, EB-2019-0227, issued November 14, 2019

² *Ibid.*

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, ...

- (e) purchase electricity or ancillary services in the IESO-administered markets or directly from a generator;

Through its September 9, 2019 application filing, and subsequent meetings with OEB staff, St. Marys explained that the failure to secure a renewal of the licence prior to its expiry was an unintentional oversight due to a change in personnel. St. Marys confirmed that, upon discovering the oversight, it took immediate steps to renew the licence and has since updated its internal procedures in order to ensure that this type of contravention does not occur in the future.

II. ASSURANCE

St. Marys hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57(e) of the OEB Act that it not purchase electricity or ancillary services in the IESO-administered markets or directly from a generator without holding a valid licence.

St. Marys also hereby assures the OEB that it will comply with the terms of its electricity wholesaler licence EW-2019-0227, including the obligation under section 8.1 therein to designate a person to act as a primary contact with the OEB on matters related to the licence, and promptly notify the OEB should the contact details change.

IV. ADMINISTRATIVE MONETARY PENALTY

St. Marys agrees to pay an administrative monetary penalty to the OEB in the amount of \$13,000. Payment will be made by cheque or electronically with notice sent to the Registrar and Board Secretary, within two weeks of St. Marys 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 a breach of an order of the OEB.

VII. EXECUTION OF ASSURANCE

I have the authority to bind St. Marys Cement Inc. (Canada) to the terms set out in this Assurance of Voluntary Compliance.

Name: Scott Hric

Title: MANAGER

Company: St. Marys Cement Inc. (Canada)

Signature: [Handwritten Signature]

Dated this 16 day of Sept. 2020.