

ASSURANCE OF VOLUNTARY COMPLIANCE

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

CP Energy Marketing L.P.

Licence No. EW-2019-0220

OEB File No. EB-2020-0097

March 12, 2020

I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of CP Energy Marketing L.P. (CP Energy) pursuant to the OEB's finding, in proceeding EB-2019-0220, that CP Energy operated as an electricity wholesaler in Ontario without a licence since January 24, 2012, when its Licence EW-2006-0320 expired (Previous Licence).¹ Although the Previous Licence expired in January 2012, CP Energy ceased its electricity wholesaler business in Ontario in August 2013 and revived that business in May 2019. In the period between August 2013 and May 2019, CP Energy did not actively operate as an electricity wholesaler in Ontario. Accordingly, although the Previous Licence expired in January 2012, CP Energy actively operated as an electricity wholesaler in Ontario without a licence for a period of approximately 18 months and not continuously since January 2012. Following the inspection, and in resolution of the contravention, CP Energy 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 4, 2019, CP Energy filed an application with the OEB for an electricity wholesaler licence, pursuant to section 60 of the OEB Act. CP Energy previously held the Previous Licence which expired on January 24, 2012. Together with the application, CP Energy self-reported that the Previous Licence was not renewed in January 2012 because CP Energy decided in late 2011 to change its overall business activities and geographic footprint, including by ceasing its electricity wholesaler business in Ontario. CP Energy further self-reported that on or about May 2019, it decided to revive its electricity wholesaler

¹ Decision and Order, EB-2019-0220, issued November 7, 2019

business in Ontario and therefore promptly applied for a new licence from the OEB.

In preparing its new licence application, CP Energy discovered, and self-reported, that due to flaws in internal controls and communications in late 2011 and early 2012, the Previous Licence was inadvertently allowed to lapse prematurely in January 2012, before the wind-down of CP Energy's Ontario electricity wholesaler business was completed in August 2013. Additionally, or alternatively, due to flaws in internal controls and communications in late 2011 and early 2012, the wind-down of the Ontario electricity wholesaler business was inadvertently not timed to correspond with the expiry of the Previous Licence in January 2012.

The OEB reviewed the application and, on November 7, 2019, issued a Decision and Order granting CP Energy an electricity wholesaler licence EW-2019-0220.² In the Decision and Order, the OEB noted that CP Energy had been operating without a licence since January 24, 2012, and that in so doing it had contravened section 57 of the OEB Act. The OEB also stated that CP Energy may be subject to a potential OEB compliance proceeding with respect to the contravention and that the licence was being granted without prejudice regarding 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 specifically states 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

² *Ibid.*

licenced to do so under this Part and no other person shall, unless
licenced 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 4, 2019 application filing, and subsequent discussions with OEB staff, CP Energy explained that although the Previous Licence expired on January 24, 2012, CP Energy wound-down its Ontario electricity wholesaler business in August 2013 and then decided to revive that business on or about May 2019. Therefore, CP Energy actively operated without an electricity wholesaler licence for approximately 18 months from January 2012 to August 2013 and again in May 2019, rather than continuously since January 2012. CP Energy did not carry on an active electricity wholesaler business in Ontario during the period between August 2013 and May 2019. Failure to coordinate the expiry of the Previous Licence in January 2012 with the timing of the winding-down of the Ontario electricity wholesaler business in August 2013 was inadvertent and the result of flaws in internal controls and communications in late 2011 and early 2012.

CP Energy confirmed that upon deciding to revive its Ontario electricity wholesaler business on or about May 2019, and upon discovering the oversight with respect to the Previous Licence, it took steps to obtain a new licence from the OEB and self-reported the oversight with respect to the Previous Licence. CP Energy also confirmed that it has enhanced its internal procedures in order to ensure that this type of contravention does not occur in the future. CP Energy explained that its enhanced internal procedures include designating multiple personnel who are accountable for renewing the licence, redundant diarized electronic reminders about renewing the licence, broad communications, that require active acknowledgments, about the licence renewal to all relevant internal

stakeholders, and training of new employees about licence renewal procedures, to ensure continuity of knowledge should key personnel leave their current roles or the company.

II. ASSURANCE

CP Energy 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 has a licence for the purpose of purchasing electricity or ancillary services in the IESO-administered markets or directly from a generator.

CP Energy also hereby assures the OEB that it will comply with the terms of its electricity wholesaler licence EW-2019-0220, 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 to promptly notify the OEB should the contact details change.

IV. ADMINISTRATIVE MONETARY PENALTY

CP Energy agrees to pay an administrative monetary penalty to the OEB in the amount of \$10,000. Payment will be made by cheque or electronically, together with notice sent to the Registrar and Board Secretary, within two weeks of CP Energy 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.

VII. EXECUTION

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

Name: Leigh Mulholland

Title: Chief Compliance Officer

Company: CP Energy Marketing L.P.,
by its General Partner,
CP Energy Marketing Inc.

Signature:  _____

Dated this 12th day of March, 2020.