

ASSURANCE OF VOLUNTARY COMPLIANCE

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

Dyno Nobel Nitrogen Inc.
Licence No. EW-2021-0166

OEB File No. EB-2023-0082
February 23, 2023

I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of Dyno Nobel Nitrogen Inc. (Dyno Nobel) pursuant to the OEB's finding, in proceeding EB-2021-0166, that Dyno Nobel had been operating as an electricity wholesaler in Ontario without a licence. Following the inspection, and in resolution of the contravention, Dyno Nobel 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 June 30, 2021, Dyno Nobel filed an application with the OEB for an electricity wholesaler licence pursuant to section 60 of the OEB Act. With its application, Dyno Nobel stated that after reviewing its records, Dyno Nobel learned that its electricity wholesaler licence (EW-2015-0197) had expired on July 22, 2020. Dyno Nobel acknowledged that after its licence expired, it continued to purchase power to support operations of its manufacturing plant in Ontario.

The OEB reviewed the licence application and on September 23, 2021 issued a Decision and Order¹ granting Dyno Nobel a new electricity wholesaler licence (EW-2021-0166). In the Decision and Order, the OEB noted that Dyno Nobel had been operating without a licence from July 23, 2020 until September 23, 2021. The OEB further noted that the granting of the new licence was without prejudice to any future compliance actions regarding Dyno Nobel's operating without a licence.

Operating in the IESO-administered markets without a licence is a contravention of section 57(e) of the OEB Act, which provides as follows:

¹ Decision and Order, EB-2021-0016, issued September 23, 2021.

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 the filing of its June 30, 2021 application and subsequent discussions with OEB staff, Dyno Nobel explained that the failure to secure a licence was an unintentional oversight due to a change in personnel. Dyno Nobel confirmed that it took steps to obtain the licence immediately after discovering the oversight and has updated its internal procedures to ensure that a similar situation will not occur in the future.

III. ASSURANCE

Dyno Nobel hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57 (e) of the OEB Act to hold a licence for the purpose of purchasing electricity or ancillary services in the IESO-administered markets or directly from a generator.

Dyno Nobel also hereby assures the OEB that it will comply with the terms of its electricity wholesaler licence EW-2021-0166, 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

Dyno Nobel agrees to pay an administrative monetary penalty to the OEB in the amount of \$2,500. Payment will be made electronically, together with notice sent to the Registrar, within two weeks of Dyno Nobel 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.

VI. EXECUTION

I have the authority to bind Dyno Nobel Nitrogen Inc. to the terms set out in this Assurance of Voluntary Compliance.

Name: SANDRA KINGHORN

Title: SITE MANAGER

Company: DYNO NOBEL NITROGEN INC.

Signature: Sandra Kinghorn

Dated this **23** day of February, 2023.