

ASSURANCE OF VOLUNTARY COMPLIANCE

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

**PUC Distribution Inc.
Licence No. ED-2002-0546**

OEB File No. EB-2021-0104

April 21, 2021

I. INTRODUCTION AND SUMMARY

The Ontario Energy Board (OEB) commenced an inspection of PUC Distribution Inc. (PUC Distribution) on August 5, 2020, in relation to PUC Distribution's disconnection procedures. Following the inspection, OEB staff identified, and PUC Distribution verified, specific instances of the utility's non-compliance with its customer disconnection obligations under the Distribution System Code (DSC). In response to being notified of the contravention, PUC Distribution undertook a full review of its collection and disconnection practices. In resolution of the contravention, PUC Distribution 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

PUC Distribution is an electricity distributor that operates in the city of Sault Ste. Marie under OEB licence ED-2002-0546.

The OEB received a consumer complaint on November 6, 2019 relating to PUC Distribution's customer disconnection notice. In the process of reviewing the complaint, OEB staff identified a breach of enforceable provisions by PUC Distribution relating to the utility's disconnection notice that was used during the period May 1, 2019 to November 14, 2019.

By letter addressed to PUC Distribution, dated August 5, 2020, the OEB advised that it was commencing an inspection to assess PUC Distribution's compliance with the DSC and its electricity distribution licence in order to determine if enforcement action would be necessary. The OEB's letter advised that the inspection was in relation to non-compliance with section 4.2 of the DSC and related provisions. The OEB's letter set out requirements for PUC Distribution to provide the OEB with certain information in relation to the allegations of non-compliance.

In response to the OEB's letter, PUC Distribution undertook a full review of its collection and disconnection practices, including each of the disconnection notices that it had sent during the period May 1 to November 14, 2019. Based on this review, PUC Distribution advised OEB staff

that it had distributed 3,656 disconnection notices that did not comply with all the requirements of the DSC for one, or more, of the following reasons:

- The disconnection notice did not comply with section 4.2.3 of the DSC, in that the disconnection notice failed to provide the required minimum 10 days' notice prior to the earliest date upon which the customer is advised that disconnection may occur.
- The disconnection notice did not comply with section 4.2.2 (b) of the DSC, which requires a distributor to advise of the earliest date on which disconnection may occur; and did not comply with section 4.2.2.3 of the DSC which establishes a maximum 11 day disconnection period.
- The disconnection notice did not comply with section 4.2.2.(k) of the DSC, which requires that it contain a reference to an OEB-prescribed arrears payment agreement that may be available to all residential customers.

The non-compliant disconnection notice was mailed to 3,656 customers during the period from May 1, 2019 to November 14, 2019, and 303 of these customers ultimately had their electricity service disconnected. The 3,656 customers were provided less than the minimum 10-day notice period. This, in turn, resulted in a disconnection window with a stated earliest possible date of disconnection that was earlier than permitted under the DSC.

Of the 303 customers identified above who had their electricity improperly disconnected, 178 were charged a total of \$12,610 in reconnection fees by PUC Distribution.

PUC Distribution failed to fully comply with its obligations under the DSC, as detailed below. PUC Distribution emphasized that this error was unintentional and a misinterpretation of the DSC which has now been rectified. PUC Distribution consulted with other distributors and has followed OEB guidance and updated its customer disconnection notice to satisfy all requirements of the DSC. PUC Distribution is aware of its obligations under the DSC related to the disconnection process and takes these obligations seriously.

Section 4.2.2

Section 4.2.2 of the DSC provides, in part, that a distributor that intends to disconnect, pursuant to section 31 of the *Electricity Act, 1998*, the property of a residential customer for non-payment shall send or deliver a disconnection notice to the customer that contains, at a minimum, the following information:

- (b) the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.3 and 4.2.2.3;
- (k) that a Board-prescribed standard arrears management program and equal monthly payment plan option may be available to all residential customers, along with contact information for the distributor where the customer can obtain further information.

In breach of section 4.2.2 (b), PUC Distribution inadvertently provided 3,656 disconnection notices which contained a false and misleading “earliest date on which the disconnection may occur”. As such, PUC Distribution failed to ensure that its customers who were at risk of being disconnected for non-payment had the minimum 10-day window within which to make arrangements to settle the customers' outstanding accounts without fear of being disconnected. PUC Distribution also did not comply with section 4.2.2.3 of the DSC which establishes a maximum 11-day disconnection period. In some instances, the disconnection period exceeded 11 days.

In addition, the disconnection notice did not comply with section 4.2.2.(k) of the DSC, which requires that a disconnection notice contain a reference to an OEB-prescribed arrears payment agreement and equal monthly payment plan option that may be available to all residential customers.

Section 4.2.3

Section 4.2.3 of the DSC provides that a distributor shall not disconnect a customer for non-payment until the following minimum notice periods have elapsed:

- (a) 60 days from the date on which the disconnection notice is received by the customer, in the case of a residential customer that has provided the distributor with documentation

from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the customer or on the physical health of the customer's spouse, dependent family member or other person that regularly resides with the customer; or
(b) 10 days from the date on which the disconnection notice is received, in all other cases.

PUC Distribution did not comply with section 4.2.3 of the DSC, in that the disconnection notice failed to provide the required 10 days' notice prior to the earliest date upon which the customer is advised that disconnection may occur. PUC Distribution breached its obligation under section 4.2.3 (b) by disconnecting 303 customers without providing them the minimum 10-day window within which to make arrangements to settle their outstanding accounts.

Section 4.2.3.1

Section 4.2.3.1 states that "for the purposes of section 4.2.3:

- (a) Where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the third business day after the date on which the notice was printed by the distributor."

PUC Distribution unintentionally failed to comply with the requirement under section 4.2.3.1 by misinterpreting the computation of time as set out in section 2.6.7 of the DSC. In some instances PUC Distribution used a deemed received period of three calendar days, rather than the required three business days. As a result, a minimum 10-day notice period was not provided.

III. ASSURANCE

PUC Distribution hereby assures the OEB that it is aware of its obligations under the DSC related to the disconnection process and that it takes these obligations seriously. PUC Distribution further assures that all reasonable steps have been taken to ensure that PUC Distribution staff involved in the collection and disconnection process have been properly informed of the regulatory requirements and on-going training and management oversight remains in place to support compliance.

PUC Distribution shall voluntarily make an additional payment of \$25,000 for 2021 Low-income Energy Assistance Program (LEAP) funding, to assist the most vulnerable customers in its service territory.

PUC Distribution shall deliver a letter, the contents of which will be approved by OEB staff, to each of the affected customers advising of the non-compliance and its resolution. Specifically,

- i. to address those customers who were given a non-compliant disconnection notice between May 1, 2019 to November 14, 2019, PUC Distribution shall send a letter advising of PUC Distribution's non-compliance for not providing the required amount of notice days as per the DSC.
- ii. to address those customers who were charged reconnection fees, PUC Distribution shall (i) send a letter advising of PUC Distribution's non-compliance for not providing the required amount of notice days as per the DSC, (ii) issue a refund of the reconnection fee, which was a total of \$12,610 for all 178 customers.
- iii. advise those affected customers in (i) and (ii) above of PUC Distribution having provided the OEB with this Assurance of Voluntary Compliance, and PUC Distribution's additional payment of \$25,000 to the LEAP agency serving customers in the PUC Distribution service territory.

PUC Distribution understands that when a disconnection is initiated, it must ensure it complies with all of the requirements set out in section 4.2 of the DSC and that one of the most important requirements of the DSC is that the notice of disconnection include, at a minimum, all of the elements listed in section 4.2.2 so that customers are provided the necessary information to address any potential disconnection. PUC Distribution further assures that it has put in place internal system improvements to prevent reoccurrence of the non-compliance and mitigate against human error. These changes will ensure PUC Distribution's customers receive an electricity disconnection notice that is compliant with all regulatory requirements.

PUC Distribution assures that it will not apply to recover the costs related to this Assurance of Voluntary Compliance in any current or future rate application.

IV. ADMINISTRATIVE MONETARY PENALTY

PUC Distribution agrees to pay an administrative monetary penalty to the OEB in the amount of \$20,000. Payment will be made, together with notice sent to the OEB's Registrar, within two weeks of PUC Distribution being given notice of the acceptance of the Assurance by the OEB.

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.

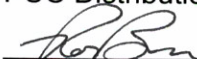
VII. EXECUTION OF ASSURANCE

I have the authority to bind PUC Distribution Inc. to the terms set out in this Assurance of Voluntary Compliance.

Name: Robert Brewer

Title: President & CEO

Company: PUC Distribution Inc.

Signature:  _____

Dated this 21ST day of April, 2021