BRITISH COLUMBIA UTILITIES COMMISSION

ORDER NUMBER A-1-11

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: http://www.bcuc.com

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

Superior Energy Management Gas LP
Compliance Inquiry − Customer Choice Program

BEFORE: L.F. Kelsey, Commissioner
N.E. MacMurchy, Commissioner
D. Morton, Commissioner

January 6, 2011

O R D E R

WHEREAS:

A. By Order A-18-09, the British Columbia Utilities Commission (Commission) retained the services of Grant Thornton LLP (Grant Thornton) to carry out a Compliance Inquiry of Superior Energy Management Gas LP (Superior Energy) to ensure full compliance with the Rules for Gas Marketers (Rules) and the Code of Conduct for Gas Marketers (Code of Conduct), and the terms and conditions, if any, attached to Superior Energy's Licence;

B. Grant Thornton completed its Inquiry of Superior Energy and filed a report titled "Complaints Inquiry of Superior Energy Management" (Grant Thornton Report or Report) with the Commission on April 9, 2010, a copy of which was provided to Superior Energy;

C. The Grant Thornton Report identified potential exceptions and deficiencies against the Commission's requirements in the following key areas: record keeping and reporting of complaints; Third Party Verification calls (TPV calls); and sales agent conduct. Additional findings were made relating to Superior Energy's non-adherence to the Commission's required timeframe for responding to complaints and disputes;

D. By Order A-10-10, the Commission ordered a hearing to make a determination on the matter of Superior Energy's compliance with the Rules and the Code of Conduct. In response, Superior Energy requested an opportunity to provide the Commission a response to the findings set out in the Grant Thornton Report. Superior Energy also requested supporting materials from Grant Thornton;

E. On July 30, 2010, Superior Energy provided a response to the Grant Thornton Report, which included its comments to some of the findings contained therein. On September 17, 2010, Superior Energy provided further responses based on Grant Thornton's filing of additional evidence on August 24, 2010;

F. By letter dated November 3, 2010, the Commission afforded Superior Energy the opportunity to make submissions regarding whether it had violated the Rules or the Code of Conduct based on the findings from the Grant Thornton Report, and if so, to propose the appropriate remedy if a violation was identified;

G. By letter dated December 3, 2010, Superior Energy stated that, "while Superior had established procedures to establish compliance with the Code requirements, in some instances those procedures were not carried out as thoroughly or accurately as they could have been. As a result, there were times when the Code was not strictly complied with." Superior Energy noted that these two areas refer to response times to disputes and complaints, as well as TPV calls.

H. Superior Energy further noted in its December 3 submission that there is no remedy necessary for the areas of non-compliance as necessary measures were implemented to address deficiencies in its processes and systems. Superior Energy advised that these measures include the following.

   a. cross-training of another analyst to ensure that the Commission's response timelines are adhered to; and
   b. choosing another contractor to conduct the TPV calls and initiating a quality assurance program in reviewing these TPV calls.

I. The Commission has reviewed the submissions from Grant Thornton and Superior Energy and finds that Superior Energy did not comply with: article 13 of the Code of Conduct and condition 2.8 of its Licence A-22-08A in responding to complaints and disputes within the required timeframe; and article 32 of the Code of Conduct in its conduct of Third Party Verification calls in certain instances.

NOW THEREFORE pursuant to section 71(1) of the *Utilities Commission Act,* the Commission orders as follows:

1. Superior Energy will continue to implement the measures noted in Item H as well as any other measures necessary to ensure that the Code of Conduct, Rules for Gas Marketers, and Superior Energy's licence requirements are strictly adhered to. Superior Energy will monitor and report fully on the status of the measures indicated in Item H within 60 calendar days from the date of this Order.

2. Superior Energy will monitor its employee, salesperson, and contractor compliance with the Code of Conduct, Rules for Gas Marketers, and the terms and conditions of Superior Energy's Licence by conducting an annual compliance review, the results of which will be summarized in a report to be filed with the Commission upon filing of an application for renewal of its Gas Marketing Licence. This compliance report must be certified by an officer of Superior Energy or the company's external auditor. The review period of the report must align with Superior Energy's recently concluded fiscal year.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of January 2011.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner