



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** A-9-10

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

and

Active Renewable Marketing Limited
Compliance Inquiry
Customer Choice Program

BEFORE: D.A. Cote, Commissioner

May 25, 2010

O R D E R

WHEREAS:

- A. British Columbia Utilities Commission (Commission) Order C-6-06 dated August 14, 2006, granted a Certificate of Public Convenience and Necessity for the Residential Commodity Unbundling Project for residential customers in all Terasen Gas Inc. service areas, excluding Fort Nelson and Revelstoke, effective November 1, 2007; and
- B. Section 71.1(3) of the *Utilities Commission Act* (UCA) states that a Gas Marketer must comply with the Commission rules issued under subsection (10) and the terms and conditions, if any, attached to the Gas Marketer Licence held by the Gas Marketer; and
- C. Commission Order G-90-03 established a Code of Conduct for Gas Marketers (Code of Conduct), which was amended as set out and revised in Commission Orders G-73-07, G-44-08, and most recently in Order A-4-09; and
- D. Commission Order G-90-03 established Rules for Gas Marketers (Rules), which were revised in Commission Order G-114-08 and most recently in Order A-6-09; and
- E. Section 8.0 of the Rules states that, "All Gas Marketers must comply with the Rules and the Code of Conduct for Gas Marketers approved by the Commission and as may be amended by the Commission from time to time. Gas Marketers in violation of the Rules or the Code of Conduct may be subject to penalties and licence suspension or cancellation"; and
- F. By Order A-8-10, the Commission found Active Renewable Marketing Limited (Active) in breach of Article 18 of the Code of Conduct, by distributing a brochure with a graph containing Terasen Gas Inc.'s historical natural gas rates for nine years; and
- G. In the course of the Commission's information requests, Active stated that: a) approximately 120 residential customers received the non-compliant brochure; b) Active distributed the brochure from late September 2009 and ceased distribution on October 17, 2009; c) the brochure was provided to residential customers only; d) it ceased actively marketing to residential customers on October 17, 2009; and e) the brochure was not distributed in lieu of the Customer Choice Standard Information Booklet; and

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- H. To confirm Active's submission that it was not actively marketing to residential customers, the Commission requested Terasen Gas Inc. provide the Commission with a list of customers enrolled by Active under the Customer Choice Program from October 1, 2009 to May 10, 2010. The list demonstrates that Active enrolled residential customers beyond October 17, 2009; and
- I. Section 8 of the UCA states that the "Commission may appoint or engage persons having special or technical knowledge necessary to assist the Commission in carrying out its functions"; and
- J. Section 82(1) of the UCA states that the Commission may, on its own motion, inquire into, hear and determine a matter that under this Act it may inquire into, hear or determine on application or complaint; and
- K. Section 78(2) of the UCA states that, "An inquiry that the commission considers necessary may be made by a member or officer or by a person appointed by the commission to make the inquiry, and the commission may act on that person's report."

NOW THEREFORE pursuant to sections 8, 71(1), 78(2), and 82(1) of the *Utilities Commission Act* the Commission orders as follows:

- 1. Effective immediately, Grant Thornton LLP will perform a Compliance Inquiry of Active Renewable Marketing Limited as it relates to the review of Active's marketing materials, including but not limited to:
 - a) Active's use of its brochure; and b) the accuracy and truthfulness of the information provided to the Commission relating to this matter.
- 2. Upon notice by, and at a time and date to be determined by representatives of Grant Thornton LLP, Active must make available full access to its premises and records for the inspection of Grant Thornton LLP throughout the course of this Inquiry.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of May 2010.

BY ORDER

Original signed by:

D.A. Cote
Commissioner