

BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER A-29-12



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

and

An Application by Active Energy Corp.
for Renewal of its Gas Marketer Licence
under the Customer Choice Program

BEFORE: L.F. Kelsey, Commissioner
 B.A. Magnan, Commissioner

October 25, 2012

O R D E R

WHEREAS:

- A. On August 30, 2012 Active Energy Corp., carrying on business as Active Renewable Marketing Ltd., applied to the British Columbia Utilities Commission (Commission) for renewal of its Gas Marketer Licence. The Application for renewal of its Licence to Market Natural Gas (Application) included the payment of the \$1,000 Application Fee and a \$250,000 proof of security, pursuant to Sections 2 and 4 respectively, under Licence Requirements;
- B. The Commission notes that, on March 8, 2012, by Order A-5-12, it established a Compliance Inquiry with respect to Active Energy's compliance with the Code of Conduct for Gas Marketers and the Rules for Gas Marketers.
- C. The Commission notes that Active Energy is in violation of the following condition of its Gas Marketer License, which was amended on April 3, 2012 by Order A-24-11A: "Active Energy shall: (i) maintain a quarterly complaint ratio of less than 1% (complaints as percentage of the contracts signed)," as Active Energy's complaint ratio was 1.92% in first reporting quarter and 10% in the second reporting quarter.
- D. The Commission has reviewed Active Energy's Application and relying upon the information and representations made by Active Energy finds that renewal of its Gas Marketer Licence, subject to conditions, is warranted.
- E. Given the violation of the condition in Order A-24-11A, the Commission finds it reasonable to renew Active Energy's license for 6 months only. At the end of 6 months the Commission will review Active Energy's performance with respect to complaints and disputes and determine whether further conditions, including a possible restriction from marketing, should be placed on Active Energy's license.

NOW THEREFORE pursuant to section 71.1(6) of the *Utilities Commission Act*, the Commission orders as follows:

1. The Commission issues to Active Energy a Gas Marketer Licence for the period of November 1, 2012 to April 30, 2013.
2. This licence is subject to the following conditions:
 - a. Active Energy will carry out the undertakings as provided in its Application for a Gas Marketer Licence and as set out in the Rules for Gas Marketers established by Order A-11-11.
 - b. Active Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of FortisBC Energy Inc. Active Energy shall ensure that its employees, salespersons or other representatives of its products and services comply with the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers and Active Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
 - c. Active Energy will maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
 - d. Active Energy will file with the Commission, pursuant to item 10.0 of the Rules for Gas Marketers, the following information:
 - i. Unaudited quarterly financial statements, no later than 45 days after the end of each quarter;
 - ii. The most recent version of the documents submitted to satisfy Section 7, Financial Qualifications, of the Licence Requirements;
 - iii. The most recent version of the documents submitted under Sections (8), (9), (10), (11) and (12) of the Licence Requirements, for the Commission's comment and approval, prior to commercial distribution and/or use.
 - e. Active Energy will submit the updated revolving credit agreement, which is up for renegotiation in March 2013, to the Commission as soon as the agreement is available.
 - f. The Commission may, at any time and without prior notice to Active Energy, amend or impose new terms and conditions on, suspend, or cancel the Gas Marketer Licence for reasons the Commission, in its sole discretion, deems and considers sufficient.
 - g. The Gas Marketer Licence and all copies of it shall remain the property of the Commission. Active Energy will return these documents forthwith upon written request from the Commission.
 - h. On a weekly basis, Active Energy is to submit to the Commission via express courier, in a digital form on a CD or memory stick, the following:
 - i. all recordings of TPV calls, in their entirety, inbound and/or outbound both reaffirmed and non-reaffirmed;
 - ii. all recordings of calls, in their entirety, received within the 10 day cancellation period irrespective of the call's outcome (customer proceeds with the cancellation or chooses to remain on the contract);

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- iii. when requested to do so by the Commission, Active Energy is to provide a copy of the contract(s) referred to in subparagraphs (i) and (ii) above;
- iv. an excel spreadsheet containing a list of the calls provided under subparagraphs (i) and (ii) above which shall include: customer's name, customer's FortisBC account number, customer type (Residential, Commercial Rate 2, Commercial Rate 3), contract signing date, TPV call date, TPV outcome (Reaffirmed/Non-reaffirmed), 10-day cancellation call date, 10-day cancellation call outcome (Cancelled/Not-cancelled), and enrolment date (if applicable).
- i. On-site visits by Head Office to the BC Sales office(s) are to take place at a minimum of once each quarter. Following each visit, Active Energy is to submit to the Commission a detailed report that includes:
 - i. an assessment of the actions of the independent sales agents with respect to their compliance and non-compliance with the Code of Conduct for Gas Marketers;
 - ii. activities undertaken by Active Energy in the quarter to ensure Code of Conduct for Gas Marketers compliance for all BC staff and independent agents.
- j. Active Energy shall:
 - i. maintain a quarterly complaint ratio of less than 1% (complaints as a percentage of the contracts signed);
 - ii. report its quarterly complaint ratio by no later than 15 days from the end of the quarter;
 - iii. report the total number of quarterly sales by no later than 15 days from the end of the quarters;
 - iv. report, by reason for complaint, the total number of quarterly complaints and the number of validated quarterly complaints by no later than 15 days from the end of the quarter; and
 - v. follow the Commission guidelines as described in Appendix A of the Reasons for Decision dated April 2, 2012 for determining the number of complaints and the reasons for complaints.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of October 2012.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment



LICENCE No. A-29-12

GAS MARKETER LICENCE

Active Energy Corp.

Operating as: Active Renewable Marketing Ltd.

is granted a licence for the purpose of providing advice to, or acting on behalf of, a low volume consumer ⁽¹⁾ purchasing gas directly in the Province of British Columbia subject to the terms and conditions contained in Commission Order A-29-12, which are set out in the reverse of the Licence.

BRITISH COLUMBIA UTILITIES COMMISSION

Original signed by:

L.F. Kelsey, Commissioner

ISSUED: November 1, 2012

EXPIRES: April 30, 2013

(1) As described in the Rules for Gas Marketers

This Gas Marketer Licence is subject to the following conditions:

- a. Active Energy will carry out the undertakings as provided in its Application for a Gas Marketer Licence and as set out in the Rules for Gas Marketers established by Order A-11-11.
- b. Active Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of FortisBC Energy Inc. Active Energy shall ensure that its employees, salespersons or other representatives of its products and services comply with the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers and Active Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
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- d. Active Energy will file with the Commission, pursuant to item 10.0 of the Rules for Gas Marketers, the following information:
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 - ii. The most recent version of the documents submitted to satisfy Section 7, Financial Qualifications, of the Licence Requirements;
 - iii. The most recent version of the documents submitted under Sections (8), (9), (10), (11) and (12) of the Licence Requirements, for the Commission's comment and approval, prior to commercial distribution and/or use.
- e. Active Energy will submit the updated revolving credit agreement, which is up for renegotiation in March 2013, to the Commission as soon as the agreement is available.
- f. The Commission may, at any time and without prior notice to Active Energy, amend or impose new terms and conditions on, suspend, or cancel the Gas Marketer Licence for reasons the Commission, in its sole discretion, deems and considers sufficient.
- g. The Gas Marketer Licence and all copies of it shall remain the property of the Commission. Active Energy will return these documents forthwith upon written request from the Commission.
- h. On a weekly basis, Active Energy is to submit to the Commission via express courier, in a digital form on a CD or memory stick, the following:
 - i. all recordings of TPV calls, in their entirety, inbound and/or outbound both reaffirmed and non-reaffirmed;
 - ii. all recordings of calls, in their entirety, received within the 10 day cancellation period irrespective of the call's outcome (customer proceeds with the cancellation or chooses to remain on the contract);
 - iii. when requested to do so by the Commission, Active Energy is to provide a copy of the contract(s) referred to in subparagraphs (i) and (ii) above;
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 - i. an assessment of the actions of the independent sales agents with respect to their compliance and non-compliance with the Code of Conduct for Gas Marketers;
 - ii. activities undertaken by Active Energy in the quarter to ensure Code of Conduct for Gas Marketers compliance for all BC staff and independent agents.
- j. Active Energy shall:
 - i. maintain a quarterly complaint ratio of less than 1% (complaints as a percentage of the contracts signed);
 - ii. report its quarterly complaint ratio by no later than 15 days from the end of the quarter;
 - iii. report the total number of quarterly sales by no later than 15 days from the end of the quarters;
 - iv. report, by reason for complaint, the total number of quarterly complaints and the number of validated quarterly complaints by no later than 15 days from the end of the quarter; and
 - v. follow the Commission guidelines as described in Appendix A of the Reasons for Decision dated April 2, 2012 for determining the number of complaints and the reasons for complaints.

