



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-30-11**

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

and

Active Energy Corp. – Compliance Inquiry
Customer Choice Program

BEFORE: N.E. MacMurchy, Commissioner/Panel Chair
A.A. Rhodes, Commissioner December 19, 2011
D.A. Cote, Commissioner

O R D E R

WHEREAS:

- A. By Order C-6-06 dated August 14, 2006, the British Columbia Utilities Commission (Commission) 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;
- B. Section 71.1(3) of the *Utilities Commission Act* (Act) states that a Gas Marketer must comply with Commission rules issued under subsection (10) and the terms and conditions, if any, attached to the Gas Marketer Licence held by the Gas Marketer;
- 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 by Commission Orders G-45-07, G-73-07, G-44-08, A-9-08, A-4-09, A-11-10 and A-9-11 establishing certain other requirements;
- D. Commission Order G-90-03 established Rules for Gas Marketers (Rules), which were revised by Commission Orders G-44-08, G-114-08, A-6-09 and A-11-11;
- 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;
- F. Section 82(1) of the Act 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;
- G. Section 8 of the Act states that the Commission may appoint or engage persons having special or technical knowledge necessary to assist the Commission in carrying out its functions;
- H. Section 78(2) of the Act 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;

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- I. On January 27, 2011, by Order A-4-11, the Commission granted Active Energy Corp., operating as Active Renewable Marketing Ltd. (Active Energy), a Gas Marketer Licence subject to conditions;
- J. On September 20, 2011, the Commission informed Active Energy it was in receipt of two separate Code of Conduct complaints linked to an Agent from Active Energy and requested a response to the complaints;
- K. On September 23, 2011 and on September 26, 2011, in response to the Commission's request for comments, Active Energy identified the Agent who was the subject of the complaints as well as the disciplinary actions taken;
- L. On October 14, 2011, by Order A-22-11, the Commission retained the services of Business Practices and Consumer Protection Authority, (Consumer Protection BC) to carry out a Compliance Inquiry of Active Energy's compliance with the Code of Conduct and the Rules, and upon completion to file a report with the Commission;
- M. Consumer Protection BC completed its Compliance Inquiry of Active Energy and filed a report titled Compliance Inquiry Report Active Energy Corp. (Report) with the Commission on November 18, 2011, a copy of which has been sent to Active Energy.

NOW THEREFORE the Commission orders as follows:

1. A hearing is convened to make a determination on the findings of the Compliance Inquiry.
2. Active Energy shall provide a submission outlining its preference with supporting reasons for the following:
 - a. process options for review of the Report including:
 - i. oral or written hearing, or a combination, for compliance with the Rules and Code of Conduct;
 - ii. oral or written hearing, or a combination, for determination of further imposition of conditions, or cancellation of the gas marketing licence, by the Commission if a contravention has been found.
 - b. timetable (information requests, responses, filing of further evidence, submissions).
3. The submission from Active Energy must be provided to the Commission by January 6, 2012. Following receipt and consideration of Active Energy's submission, the Commission will make a determination of the process it will follow to dispose of the matter.
4. The Commission may hold Active Energy responsible for the cost of the inquiry and the cost of the hearing depending on the findings in this matter.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of December 2011.

BY ORDER

N.E. MacMurchy
Commissioner/Panel Chair