



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-3-12**

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

and

An Application by Smart Energy (BC) Ltd.
for Renewal of its Gas Marketer Licence
under the Customer Choice Program

BEFORE: L.F. Kelsey, Commissioner January 31, 2012
D.A. Cote, Commissioner

O R D E R

WHEREAS:

- A. On August 18, 2011, Smart Energy (BC) 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. On October 20, 2011 by Order A-25-11, the Commission issued to Smart Energy a Gas Marketer Licence for the period of November 1, 2011 to January 31, 2012 with conditions, including the condition "*Smart Energy is not permitted to market to and/or enroll new and/or existing customers under the Customer Choice Program*";
- C. On November 23, 2011 by Order A-28-11, the Commission launched a Compliance Inquiry of Smart Energy's compliance with the Code of Conduct for Gas Marketers and the Rules for Gas Marketers. The Commission retained the services of Consumer Protection BC to carry out the Inquiry and, upon completion, to file a report with the Commission;
- D. Consumer Protection BC completed its Compliance Inquiry on Smart Energy and filed a report entitled Compliance Inquiry of Smart Energy (BC) Inc. (Report) with the Commission on January 16, 2012;
- E. On January 23, 2012, Smart Energy filed its written response on the findings in the Report to the Commission;
- F. The Report alleges violations of the Code of Conduct for Gas Marketers which will be pursued through a separate process.

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

1. The Commission issues to Smart Energy a Gas Marketer Licence for the period of February 1, 2012 to October 31, 2012 subject to the following conditions:
 - a. Smart Energy will carry out the undertakings as provided in its application and as set out in the revised Rules for Gas Marketers (effective July 25, 2011).

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- b. Smart Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of FortisBC Energy Inc. Smart 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 Smart Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
- c. Smart Energy will maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
- d. Smart Energy will file with the Commission unaudited quarterly financial statements no later than 45 days after the end of each quarter.
- e. Smart Energy will file with the Commission the most recent version of the documents submitted to satisfy Section 7, Financial Qualifications, of the Licence Requirements.
- f. Smart Energy will file with the Commission for its comment and approval the documents submitted under Sections (8), (9), (10), (11) and (12) of the Licence Requirements as soon as changes are made and prior to their commercial distribution and/or use.
- g. Smart Energy is licensed to engage in gas marketing only to Commercial Consumers currently enrolled under FortisBC Energy's Rate Schedules 2, 3, and 23.
- h. Smart Energy is licensed to renew its existing customers.
- i. Smart Energy is not permitted to market to and/or enrol new Residential Consumers currently enrolled under FortisBC Energy's Rate Schedule 1 until such time as it can demonstrate that it possesses the necessary processes to be in compliance with the Code of Conduct for Gas Marketers.
- j. The Commission may, at any time and without prior notice to Smart 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.
- k. The Gas Marketer Licence and all copies of it shall remain the property of the Commission. Smart Energy will return these documents forthwith upon written request from the Commission.

DATED at the City of Vancouver, in the Province of British Columbia, this 31st day of January 2012.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment



LICENCE No. A-3-12

GAS MARKETER LICENCE

SMART ENERGY (BC) 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-3-12, which are set out in the reverse of the Licence.

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Original signed by:

L.F. Kelsey, Commissioner

ISSUED: February 1, 2012

EXPIRES: October 31, 2012

(1) As described in the Rules for Gas Marketers

This Gas Marketer Licence is subject to the following conditions:

- a. Smart Energy will carry out the undertakings as provided in its application and as set out in the revised Rules for Gas Marketers (effective July 25, 2011).
- b. Smart Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of FortisBC Energy Inc. Smart 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 Smart Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
- c. Smart Energy will maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
- d. Smart Energy will file with the Commission unaudited quarterly financial statements no later than 45 days after the end of each quarter.
- e. Smart Energy will file with the Commission the most recent version of the documents submitted to satisfy Section 7, Financial Qualifications, of the Licence Requirements.
- f. Smart Energy will file with the Commission for its comment and approval the documents submitted under Sections (8), (9), (10), (11) and (12) of the Licence Requirements as soon as changes are made and prior to their commercial distribution and/or use.
- g. Smart Energy is licensed to engage in gas marketing only to Commercial Consumers currently enrolled under FortisBC Energy's Rate Schedules 2, 3, and 23.
- h. Smart Energy is licensed to renew its existing customers.
- i. Smart Energy is not permitted to market to and/or enrol new Residential Consumers currently enrolled under FortisBC Energy's Rate Schedule 1 until such time as it can demonstrate that it possesses the necessary processes to be in compliance with the Code of Conduct for Gas Marketers.
- j. The Commission may, at any time and without prior notice to Smart 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.
- k. The Gas Marketer Licence and all copies of it shall remain the property of the Commission. Smart Energy will return these documents forthwith upon written request from the Commission.