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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-8-12**

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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 Reconsideration of Commission Order A-6-12

BEFORE: L.F. Kelsey, Commissioner

May 8, 2012

O R D E R

WHEREAS:

- A. On November 23, 2011, by Order A-28-11, the British Columbia Utilities Commission (Commission) initiated a Compliance Inquiry (Inquiry) of Smart Energy (BC) Ltd.'s (Smart Energy) compliance with the Code of Conduct for Gas Marketer (Code of Conduct) and the Rules for Gas Marketers (Rules). The Commission retained the services of Consumer Protection BC to carry out the Inquiry and, upon completion, to file a report with the Commission;
- B. 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. On January 23, 2012, Smart Energy filed its written response on the findings in the Report to the Commission;
- C. On March 12, 2012, by Order A-6-12, the Commission determined that violations of the Code of Conduct had occurred with respect to potentially overcharging customers exit fees as well as failing to complete Third Party Verification calls for two customers. The Commission directed Smart Energy to modify its processes to ensure Code of Conduct violations are prevented, as well as to identify and reimburse any customers that were overcharged exit fees;
- D. By Order A-6-12, the Commission also ordered Smart Energy to pay the costs associated with the Consumer Protection BC Compliance Inquiry investigation and preparation of the Report in the amount of \$10,214.40;
- E. By letter dated April 4, 2012, Smart Energy submitted an Application for Reconsideration (Application) of Directive 4 of Order A-6-12 on the grounds that it fails to see why it should be responsible for the entire cost of the Inquiry and Report when the investigator assigned by Consumer Protection BC to perform the audit had no prior experience in applying and interpreting the Code of Conduct as it relates to Smart Energy's business;

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- F. By letter dated April 13, 2012, Consumer Protection BC responded to Commission's request for comment on the Application submitted by Smart Energy. Consumer Protection BC acknowledged that prior to this case the investigator had no prior knowledge or experience with the Customer Choice program and its components;
- G. By letter dated April 16, 2012, Smart Energy replied to Consumer Protection BC's response to the Application. Smart Energy stated that it should not be held financially responsible for the entire cost of the Inquiry and that "the hours spent by Consumer Protection BC becoming familiar with the Customer Choice program as well as our time spent helping Consumer Protection BC become familiar with the inner workings of a typical natural gas marketer should mitigate a significant amount of the inquiry costs";
- H. The Commission has reviewed and considered the Report and the submissions and response of Smart Energy and Consumer Protection BC. The Commission determines that the Inquiry on Smart Energy is different from other Inquiries carried out by Consumer Protection BC on the practices of other marketers and that it required a more in-depth understanding of a gas marketer's ongoing operations.

NOW THEREFORE the Commission orders that Smart Energy will pay 50 percent of the costs associated with the Consumer Protection BC Compliance Inquiry investigation and preparation of the Report in the amount of \$5,107.20. Smart Energy shall send a certified cheque or bank draft to the Commission payable to the Minister of Finance in the specified amount within 30 days of the date of this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of May 2012.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner