



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-21-08A**

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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**

BEFORE: L.F. Kelsey, Commissioner
P.E. Vivian, Commissioner
October 30, 2008

O R D E R

WHEREAS:

- A. On August 27, 2008 Smart Energy (BC) Ltd. ("Smart Energy"), applied to the British Columbia Utilities Commission ("Commission") for renewal of its Gas Marketer Licence ("Application"). The Application included the payment of the \$1,000 Application fee and a \$250,000 Letter of Credit, pursuant to items 2 and 3 respectively, of the Licence Requirements;
- B. The Application included a copy of Smart Energy's unaudited financial statement for year ended March 31, 2008, however did not include a copy of Smart Energy's latest audited financial statement and any subsequent unaudited quarterly statement, pursuant to item 5 of the Licence Requirement. Smart Energy indicated that it intended to have its financial statements audited after December 2008.
- D. On October 23, 2008, Smart Energy requested the rescission of Commission Order G-144-07 that directed Smart Energy to file with the Commission copies of signed contracts and Third Party Verification calls for new enrollments; and
- E. The Commission has considered Smart Energy's request to rescind of Order G-144-07 and reviewed Smart Energy's Application and relying upon the information and representations made by Smart Energy, finds that approval of a Gas Marketer Licence subject to conditions is warranted.

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 November 1, 2008 to October 31, 2009.

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2. The Gas Marketer Licence is subject to the following conditions:
 - 2.1 Smart Energy will carry out the undertakings as set out in the Application for a Gas Marketer Licence to Market Natural Gas dated August 27, 2008 and the Rules for Gas Marketers.
 - 2.2 Smart Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of Terasen Gas Inc.
 - 2.3 Smart Energy will maintain a Letter of Credit or acceptable substitute in full force and effect for the duration of the Licence.
 - 2.4 Smart Energy will maintain a Working Capital position of at least \$50,000 and a Current Ratio of current assets to current liabilities of at least 1.10.
 - 2.5 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.
 - 2.6 The Gas Marketer Licence and all copies of it shall remain the property of the Commission and Smart Energy will return these documents forthwith upon written request from the Commission.
 - 2.7 Smart Energy will file a salesperson activity report with the Commission every three months. The first report will examine the three month period of November 1, 2008 to January 31, 2009 and will be filed with the Commission within 15 business days following the last date of the reporting period. Each subsequent report will follow the same time model with respect to its length of the reporting period and the filing deadline. The report should contain sales activity information with respect to all active salespersons employed by Smart Energy within the reporting period. The information to be provided by Smart Energy is outlined in the MS Excel template, attached as Appendix A to this Order. Smart Energy will use the template for filing the report. Upon review of the report, the Commission may call upon Smart Energy and/or their salesperson(s), or sales managers to attend at the Commission office to discuss compliance issue(s).
 - 2.8 Smart Energy must make contact with a customer within 3 business days upon receipt of a verbal or written enquiry or complaint. A record of the response, either in writing or as a recording, will be made available by Smart Energy upon request from the Commission.
 - 2.9 Effective on or before November 15, 2008 Smart Energy will record and maintain all of its inbound and outbound telephone conversations. The digital recordings will be made available by Smart Energy within three days of the initial recording and must be provided upon request of the Commission.
 - 2.10 Upon receipt of a web enrollment for service, Smart Energy will forward its written agreement to sign-up for service and obtain from the customer a signed agreement in return. An electronic

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signature must be obtained from the customer via Smart Energy's website, however Smart Energy must be in receipt of a signed hard copy of the agreement before the customer is registered with Terasen Gas Inc. This condition is effective for all sign-up for service received as of November 15, 2008. All documents must be maintained on file and available to the Commission in accordance with the Code of Conduct.

2.11 Smart Energy will complete a Third Party Verification call, in accordance with the Code of Conduct for Gas Marketers, for all customers who sign-up for service by internet marketing. The Third Party Verification must take place after the signed written agreement is received from the customer and before the enrollment of the customer is registered with Terasen Gas Inc. This condition is effective for all sign-up for service received as of November 15, 2008.

2.12 Smart Energy will file with the Commission by December 31, 2008 its latest audited financial statement and any subsequent unaudited quarterly statements, pursuant to item 5 of the Licence Requirements.

3. Smart Energy may cease the filing of its contracts and Third Party Verification recordings as Ordered in Commission Order G-144-07.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of December 2008.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment