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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-80-08**

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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. ("Smart Energy")
for Reconsideration of Commission Order No. G-45-08

BEFORE: L.F. Kelsey, Panel Chair May 12, 2008
L.A. O'Hara, Commissioner
A.W.K. Anderson, Commissioner

ORDER

WHEREAS:

- A. By Commission Order No. G-45-08 dated March 19, 2008, the Commission determined that Smart Energy has violated Articles 9, 15, and 31 of the Code of Conduct and further, that Smart Energy is not in compliance with Commission Order No. G-73-07 (the "Order"); and
- B. Pursuant to section 71.1 of the Utilities Commission Act and the Code of Conduct and Rules for Gas Marketers, the Commission ordered that within 30 calendar days of the date the Order, Smart Energy will pay to the Commission a financial penalty ("Financial Penalty") of \$3,000.00 for each of the three breaches of the Code of Conduct, for a total penalty pursuant to this Order of \$9,000.00 all as set out in the Reasons for Decision attached as Appendix A. to the Order; and
- C. On April 17, 2008 Smart Energy filed with the Court Of Appeal for British Columbia, Notice Of Application For Leave To Appeal from the Order; and

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- D. By Letter dated April 24, 2008 Smart Energy filed with the Commission a request for a review of the Order (“Reconsideration Application”) citing errors of law, based on incorrect interpretations of the law, excess of jurisdiction, patent unreasonableness and procedural unfairness. Smart Energy submitted that the Commission has no jurisdiction to levy such a penalty; and
- E. Smart Energy seeks a reconsideration of the Order based on the evidence presented at the original hearing; and
- F. By letter dated May 6, 2008, Counsel for Smart Energy indicated that he was unavailable until May 14, 2008; and
- G. The Commission Panel has reviewed the Reconsideration Application by Smart Energy and the criteria regarding the reasonable basis for allowing reconsideration, and has concluded that the request for reconsideration should proceed.

NOW THEREFORE the Commission orders as follows;

1. The Commission allows the Smart Energy Reconsideration Application.
2. New evidence will not be allowed in the Smart Energy Reconsideration Application. Smart Energy shall file argument in respect of the Reconsideration Application by May 30, 2008.

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of May 2008.

BY ORDER

Original signed by:

L.F. Kelsey
Panel Chair