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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-198-08**

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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.
for Reconsideration of Commission Order G-45-08
and Reconsideration Decision Order G-111-08

BEFORE: L.F. Kelsey, Commissioner December 16, 2008

ORDER

WHEREAS:

- A. Smart Energy (BC) Ltd. ("Smart Energy") conducted a sales call to a gas Customer in Surrey on or about November 15, 2007; as a result of the call, the Customer signed a contract with Smart Energy for the supply of Natural Gas; and
- B. On January 17, 2008, the Customer logged a dispute through the Terasen Gas Inc. Gateway for Energy Marketers ("GEM") system identified as Dispute No. 8895, and provided the British Columbia Utilities Commission (the "Commission") with an email dated January 17, 2008 as evidence in the dispute; and
- C. Smart Energy provided as evidence a copy of the Customer's contract with Smart Energy and a Third Party Verification ("TPV") recording; and
- D. The Commission subsequently cancelled the Customer's contract with Smart Energy; and
- E. The Commission wrote to Smart Energy initiating a Written Hearing into the conduct of the TPV provided as evidence by Smart Energy, and the allegations of the Customer against Smart Energy; and
- F. Following a Written Hearing on the matter, the Commission found that Smart Energy had violated Articles 9, 15, and 31 of the Code of Conduct for Gas Marketers (the "Code"), and further, that Smart Energy was not in compliance with Commission Order G-73-07; and
- G. The Commission ordered that Smart Energy pay to the Commission a financial penalty of \$3,000.00 for each of the three breaches of the Code, for a total penalty of \$9,000.00, all as set out in the Reasons for Decision attached as Appendix A to the Order G-45-08; and
- H. By letter dated April 24, 2008 Smart Energy applied, pursuant to sections 99 and 100 of the *Utilities Commission Act* (the "Act"), for a Reconsideration of Commission Order G-45-08 (the "Reconsideration

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Application”); and

- I. The Commission reviewed the Reconsideration Application by Smart Energy and the established criteria regarding the reasonable basis for allowing reconsideration and concluded that the request for reconsideration should proceed. By Commission Order G-80-08, the Commission allowed the Smart Energy Reconsideration Application, determined that no new evidence will be allowed and that Smart Energy shall file argument with respect of the Reconsideration Application by May 30, 2008; and
- J. By letter dated May 30, 2008, Smart Energy filed Written Argument. Following a review of the evidence the Commission issued Order G-111-08 with Reasons, finding that the requirements of Articles 9 and 15 of the Code apply in this situation; the conduct of the TPV Agent was not in compliance with Articles 9 and 15 of the Code; the TPV Agent did not refer to the 10-day right of cancellation as required by Commission Order G-73-07 and determining that Smart Energy is in violation of Article 31 of the Code of Conduct; and
- K. Smart Energy was directed to make a submission to the Commission on its view of an appropriate action by the Commission under section 71.1(5) of the Act; and
- L. By letter dated August 5, 2008, Smart Energy submitted with reasons that an appropriate remedy in the circumstances would be to add a condition to the License of Smart Energy with respect to the continuation of a training and review procedure for all TPV Agents (“Submission”); and
- O. The Commission has reviewed the Submission of Smart Energy, the findings of the Reconsideration Proceeding, and the previous cancellation of the Customer’s contract.

NOW THEREFORE the Commission accepts the Submission of Smart Energy, with respect to an appropriate remedy in this matter, and returns to Smart Energy the financial penalty required by Order G-45-08.

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