

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-200-08**

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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 Renewal of Gas Marketer Licence
Requirement for Financial Statements

BEFORE: R.J. Milbourne, Commissioner December 23, 2008
L.A. O'Hara, Commissioner
D.A. Cote, Commissioner

O R D E R

WHEREAS:

- A. Smart Energy (BC) Ltd. ("Smart Energy") applied to the British Columbia Utilities Commission ("Commission"), for renewal of its Gas Marketer Licence ("Application"); and
- B. The Application included an unaudited financial statement for the year ended March 31, 2008; and
- C. Commission Order A-21-08 ("Order") dated October 30, 2008 renewed the Gas Marketer Licence ("Licence") of Smart Energy for the period November 1, 2008 to October 31, 2009 subject to conditions; and
- D. Commission Order A-21-08 was amended by Commission Order A-21-08A ("Amended Order") dated December 19, 2008. The amendment corrected a date related to the salesperson activity report and is not material to this matter; and
- E. A condition of the Licence renewal, noted as condition 2.12 in both the Order and Amended Order, was that Smart Energy would 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; and
- F. By letter dated December 17, 2008, Smart Energy advised the Commission that preparation of its audited financial statement had been delayed and requested an extension of time to February 28, 2009 to submit the audited financial statement; and
- G. Smart Energy has not submitted any quarterly unaudited financial statements to the Commission since submitting the unaudited financial statement for its year ended March 31, 2008; and

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- H. Section 71.1(3) of the Utilities Commission Act (the “Act”) provides that a gas marketer must comply with the commission rules issued under subsection (10) and the terms and conditions, if any, attached to the gas marketer licence held by the gas marketer; and
- I. Section 71.1(5) of the Act provides that if a person is not in compliance with subsection (1), (3), or (4), the commission may do one of more of,
 - (a) declare an energy supply contract between the person and a low-volume consumer unenforceable, either wholly or to the extent the commission considers proper, in which event the contract is enforceable to the extent specified, and
 - (b) if the person is a gas marketer,
 - (i) amend the terms and conditions of, or impose new terms and conditions on, the gas marketer licence, and
 - (ii) suspend or cancel the gas marketer licence; and
- J. Rule 10 of the Rules for Gas Marketers provides that if the Commission finds, after notice and opportunity for the Gas Marketer to be heard in an oral or written hearing, that a Gas Marketer has failed to comply with the Act or conditions in its Gas Marketer Licence, the Commission may:
 - (a) Suspend or cancel the Gas Marketer Licence;
 - (b) Amend the terms and conditions of, or impose new terms and conditions on the Gas Marketer Licence until the deficiencies are resolved; and
- K. The Commission has considered the request of Smart Energy to extend the time to file its audited financial statement.

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NOW THEREFORE the Commission orders as follows:

1. An oral hearing will be held on Thursday, January 8, 2009 at 9:00 a.m., in the Commission Hearing Room on the Twelfth Floor of 1125 Howe Street, Vancouver, BC, to consider whether:
 - the request by Smart Energy to extend the time to submit its audited financial statement to February 28, 2009 should be granted; or
 - its Licence should be suspended or cancelled or have new or amended terms and conditions attached to it;

as a result of the failure to comply with the condition in its Licence to submit its latest audited financial statement and subsequent quarterly statements to the Commission by December 31, 2008.

2. The Commission will file evidence by Friday, January 2, 2009.
3. Smart Energy will file evidence, if any, by Monday, January 5, 2009.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of December, 2008.

BY ORDER

Original signed by:

R. J. Milbourne
Commissioner