



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-64-08

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IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

Planet Energy Corporation
Breach of the Code of Conduct for Gas Marketers

BEFORE: L.F. Kelsey, Commissioner April 1, 2008

O R D E R

WHEREAS:

- A. In reviewing Dispute Number 9829, the Commission noted that the Third Party Verification (“TPV”) recording as provided by Planet Energy Corporation (“Planet Energy”) as evidence in the dispute did not meet the requirements of Article 31 of the Code of Conduct for Gas Marketers (“Code of Conduct”); and
- B. By letter dated March 14, 2008, the Commission advised Planet Energy of the TPV deficiency and initiated a written hearing into the matter offering Planet Energy an opportunity to comment on the matter; and
- C. Planet Energy provided its response on March 25, 2008 noting that it believed that its amended script complied with the requirements of Commission Order No. G-73-07; and
- D. The Commission finds that Planet Energy has violated Article 31 of the Code of Conduct.

NOW THEREFORE pursuant to section 71.1 of the Utilities Commission Act and the Code of Conduct and Rules for Gas Marketers, the Commission orders that within 30 calendar days of the date of this Order, Planet Energy will pay to the Commission a financial penalty of \$1,000.00 for this breach of the Code of Conduct, as set out in the Reasons for Decision attached as Appendix A.

DATED at the City of Vancouver, in the Province of British Columbia, this 1st day of April 2008.

BY ORDER

Original signed by

L.F. Kelsey
Commissioner

Attachment

**Planet Energy Corporation
Breach of the Code of Conduct for Gas Marketers**

REASONS FOR DECISION

1.0 BACKGROUND

In reviewing Dispute Number 9829, the Commission noted that the Third Party Verification (“TPV”) recording as provided by Planet Energy Corporation (“Planet Energy”) as evidence in the dispute did not meet the requirements of Article 31 of the Code of Conduct for Gas Marketers (“Code of Conduct”). The Commission wrote to Planet Energy on March 14, 2008 and advised of the deficiency in the TPV and initiated a written hearing in the matter and provided Planet Energy an opportunity to comment on the matter.

2.0 PLANET ENERGY REPLY

By letter dated March 25, 2008 Planet Energy provided its reply (“Reply”). In its Reply, Planet Energy indicated that since marketing to residential customers, it performed TPV recordings for all customers to ensure the quality of the customer contracts. Planet Energy advised that it amended its script at the time that the Commission mandated TPV as a requirement for all residential customers enrolled in the Customer Choice Program as of July 1, 2007. Planet Energy indicated that it provided the Commission with a script to confirm that the amended script was in compliance with Commission Order No. G-73-07. Planet Energy notes that it did not receive any advice from the Commission regarding the script’s compliance or non-compliance until late in November 2008 when Planet Energy contacted the Commission to obtain confirmation that the script was in compliance. At that time, the Commission advised Planet Energy that it had already advised that the script did not conform to the requirements as outlined in Commission Order No. G-73-07. Planet Energy advised that it believed that its amended script complied with the requirements of Commission Order No. G-73-07.

3.0 CODE OF CONDUCT ARTICLE 31

Article 31 states:

“Third Party Verification is the form of a digitally recorded telephone call either initiated as an outbound call from the Gas Marketer to the consumer or as an inbound call initially dialed by the sales agent to the Gas Marketer with the customer then interacting with the Gas Marketer. The scripting will cover the topics specified by the Commission for this purpose, and be available to the Commission for review and approval. The digital file will be available to the Commission 3 days after the initial recording and retained by the Gas Marketer for the term of the contract.”

Commission Determination, Appendix A to Commission Order No. G-73-07 states:

“A script containing the major topics which must be canvassed with the customer is listed below and it is up to the Gas Marketer to arrange the script.

- *Identification of the Gas Marketer and confirmation that the marketer is not affiliated with Terasen Gas or the government.*
- *Confirmation that the Customer understands that once the Gas Marketer contract is signed gas supply is provided by a Gas Marketer. This action is entirely voluntary and there is no obligation to switch gas suppliers.*
- *Confirmation that the consumer is the account holder or authorized to enter into an agreement for the premise.*
- *Confirmation that the customer has a copy of the Gas Marketer agreement*
- *Confirmation that the customer has knowledge of the product, price and term of the agreement.*
- *Confirmation that the customer may not save money.*
- *Advisement of the Confirmation Letter that will be sent by Terasen Gas Inc.*
- *Confirmation of the consumer’s cancellation rights under the 10 day cooling off period.”*

4.0 COMMISSION DETERMINATION

In focusing on Dispute Number 9829, Planet Energy does not comment specifically on whether or not this TPV meets the requirements of Commission Order No. G-73-07. The Commission notes that in reviewing the TPV associated with the Dispute, the audio quality of the script is very poor and a number of the script topics as required by Commission Order No. G-73-07 have not been covered by the TPV agent.

The Commission determines that Planet Energy is in violation of the Code of Conduct, specifically Article 31.

5.0 RULES FOR GAS MARKETERS

Section 10.0 of the Rules for Gas Marketers states:

“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, the Rules, the Code of Conduct for Gas Marketers or conditions in its Gas Marketer Licence, and in addition to any other remedies or actions that may be applied, 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.*
- c) *Apply penalties pursuant to Section 106(4) and (5) of the Act not to exceed \$10,000 for each day for each day such violation continues.*
- d) *Order that a portion or all of the performance security (referred to in Rule 9.0) be paid out to consumers, public utilities or other persons that the Commission considers to have been harmed by an act or omission of the Gas Marketer including a breach of the Act, the Rules, the Code of Conduct for Gas Marketers, or conditions of the Gas Marketer Licence.”*

In determining an appropriate remedy or action to apply in this case, the Commission has considered Planet Energy's statements in its Reply of March 25, 2008. Planet Energy does not comment on the alleged deficiencies of the TPV in this matter, rather it addressed issues surrounding receiving approval of its script and advised that it believed that its script complied with the requirements of Commission Order No. G-73-07.

Adherence to the Code of Conduct is essential to maintain the integrity of the Customer Choice Program and the primary responsibility for the observance of the Code of Conduct rests with the Gas Marketer. Being found to be non-compliant and not demonstrating an acceptance of responsibility for compliance is a serious matter. It is however, the first such finding against Planet Energy and therefore the action of the Commission is tempered somewhat.

The Commission applies a penalty of \$1,000 against Planet Energy.