



LETTER NO. L-53-07

ROBERT J. PELLATT
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Log No. 20670

VIA E-MAIL

June 21, 2007

gpotter@energysavings.com; info@energysavings.com
info@wegltd.com

RULES FOR GAS MARKETERS COMPLAINT NO. 1
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Mr. Gord Potter
Vice President, Regulatory Affairs
Energy Savings (B.C.) Limited Partnership
Suite 200, 6345 Dixie Road
Mississauga, ON L5T 2E6

Mr. David Keay
Chief Executive Officer
Wholesale Energy Group
488 Wellington Street West, Suite 200
Toronto, ON M5V 1E3

Dear Sirs:

Re: Energy Savings B.C. ("ESBC")
Complaint to Commission
Marketing Tactics of Wholesale Energy Group Ltd.

This is in response to the letter dated June 20, 2007 from Energy Savings B.C. ("ESBC") making a formal complaint about the marketing tactics of Wholesale Energy Group Ltd. ("Wholesale Energy"). ESBC alleges that Wholesale Energy induced existing ESBC customers to break their contracts, and requests the Commission's attention and action on the matter. The June 20th letter and an earlier letter dated May 30, 2007 from ESBC to Wholesale Energy are enclosed.

The Code of Conduct for Gas Marketers (the "Code") was most recently approved by Commission Order No. G-45-07. Each licensed Gas Marketer has agreed to accept the obligations of the Code, and compliance with the Code is a condition of a Gas Marketer licence. Section 20 of the Code states:

"A Salesperson shall not induce any Consumer to break a contract with another Gas Marketer."

The Commission takes allegations of a violation of the Code very seriously and will take action to ensure that all Gas Marketers strictly adhere to their obligations under the Code, so that consumers and other Gas Marketers have confidence in and continue to support unbundling of the residential gas market. Section 10 of the Rules for Gas Marketers (the "Rules") that were approved by Order No. G-90-03 addresses the enforcement of the Rules, the Code and licence conditions. The Commission will review an alleged violation by a process that, while as expeditious as possible, provides both complainant and respondent with notice, and a suitable opportunity to present their evidence and other submissions on the matter and to respond to each other. The Commission expects that only the complainant and respondent will be involved in the Commission process to resolve a complaint and that, except possibly in very unusual circumstances, all materials provided to the Commission by one party will be fully disclosed to the other. Except for the final determination, the Commission does not intend to release information related to a complaint to parties that are not directly involved.

Consistent with Section 10 of the Rules and its practices for handling complaints, the Commission hereby establishes a written hearing and the following Regulatory Timetable for resolution of the ESBC complaint against Wholesale Energy:

Regulatory Timetable

<u>Action</u>	<u>Date 2007</u>
ESBC Written Submission	Friday, June 29
Wholesale Energy Written Submission	Monday, July 9
ESBC Reply Submission	Friday, July 13

The ESBC Written Submission should include all evidence and arguments that ESBC desires the Commission to consider, and should be copied to Wholesale Energy. ESBC indicated in its June 20th letter that it would be filing evidence in confidence. The Commission does not wish to receive information that is not disclosed to Wholesale Energy, and requests that ESBC redact any information that it considers confidential, prior to submitting it to the Commission and Wholesale Energy. It will be helpful if both recordings and transcripts of recorded conversations can be provided. The Commission also asks that ESBC identify the specific actions that it is requesting the Commission take in this matter.

The Wholesale Energy Written Submission should include all evidence and arguments that Wholesale Energy desires the Commission to consider, and should be copied to ESBC.

The ESBC written Reply Submission should be limited to responding to points raised in the Wholesale Energy Written Submission.

Yours truly

Original signed by:

Robert J. Pellatt

RJP/dlf
Enclosures

Wednesday June 20, 2007

SENT BY ELECTRONIC MAIL

Robert Pellatt
Commission Secretary
British Columbia Utilities Commission
6th Floor 900 Howe Street
Vancouver, B.C.
Commission.secretary@bcuc.com

Dear Mr. Pellatt,

RE: Formal Complaint- Wholesale Energy Marketing Tactics

Energy Savings B.C. ('ESBC') requests BCUC attention and action in respect of repeated violations of the Code of Conduct for Gas Marketers committed and continuing by Wholesale Energy.

ESBC has been receiving reports for some time since May 1 that Wholesale Energy sales agents are inducing consumers to breach existing ESBC contracts. On May 30, 2007 I obtained clear undeniable evidence of this practice and sent notice to Wholesale Energy on that same date requesting that the company immediately cease this practice. The letter was also copied to Bob Brownell at the BCUC and is attached for your reference.

Despite our respectful notice to this marketer, and despite the BCUC lawyer's clear instruction and direction at the BCUC meeting convened on June 13th, specifically that inducing a consumer to breach existing contracts was a clear violation of the Code, Wholesale Energy continues the practice.

I have now obtained further evidence that on June 14th and June 15th, Wholesale Energy induced existing ESBC customers to breach their contracts. It is clear to me that Wholesale is **intentionally and deliberately** operating in contravention of the Code, Article 20.

ESBC respectfully requests the BCUC to respond promptly to mitigate further harm against ESBC and others, and to impose substantial sanctions upon Wholesale Energy to ensure their compliance with the Code going forward.

ESBC will submit the evidence supporting this complaint in confidence to you under separate cover. The evidence captures recorded conversations which present proprietary components of our sales process and therefore I request that it not be disclosed to any parties publicly.

Sincerely,



Gord Potter
Senior Vice President Regulatory Affairs

ATTACHMENT



ATTACHMENT

May 30, 2007

David Keay, Chief Executive Officer
Wholesale Energy Group
488 Wellington Street West, Suite 200
Toronto ON
M5V 1E3
Email: info@wepltd.com

VIA COURIER & ELECTRONIC MAIL

Dear David,

Re: Wholesale Energy Marketing Practices in British Columbia

On May 22, 2007, the Energy Savings B.C. ("ESBC") call centre received a call (recorded) from a customer who had previously executed a contract for supply with ESBC. The customer is located in Westbank and the call involved the customer and a representative from Wholesale Energy (whose name appeared to be 'Doug'). The contents of the call confirm that your agent:

- clearly identified that he is associated with Wholesale Energy;
- knowingly and with intent induced and prompted the customer to request cancellation of her existing agreement with ESBC; and
- was aggressive and demanding with our call centre representative and repeatedly attempted to instruct our representative to cancel the customer's contract with ESBC.

The customer clearly states during the call that the Wholesale Energy agent instructed her to contact ESBC to cancel her existing contract.

I have been notified on numerous occasions that your agents are engaging in such activity and in this instance we have recorded confirmation of your agent's acts.

It is my view that neither you nor your agent has the lawful authority to act for the customer in this regard and further, that inducing a consumer to breach an existing contract is prohibited under the Gas Marketer's Code of Conduct in British Columbia.

I have advised our litigation counsel of your activity in this regard and have been advised that you are responsible for our damages as a result of your agent's activity, as your agent was obviously acting within the scope of their activities on behalf of you as principal. We expect that you will ensure that your agents cease such activity and are prepared to seek injunctive relief should this type of activity continue.

Yours truly,



Gord Potter
Senior Vice President
Regulatory Affairs
T: 905.795.4214

c Bob Brownell, British Columbia Utilities Commission, bob.brownell@bcuc.com