BRITISH COLUMBIA UTILITIES COMMISSION

ORDER NUMBER G-114-08

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

and

Customer Choice Program Statistics for the Commission Website
and Modifications to the Rules for Gas Marketers
engaged in Commodity Unbundling Service
in The Province of British Columbia

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

O R D E R

WHEREAS:

A. By letter dated March 20, 2008 the Commission advised that a change to the Rules for Gas Marketers (the "Rules") was required to support the standard of excellence of the Customer Choice Program (the "Program"). Specifically, the Commission noted that it intended to consider the level of disputes experienced by the Gas Marketers when reviewing an Application for a Licence to Market Natural Gas ("Application for Licence Renewal"), and proposed revisions to section 2 of the Rules. In the letter, the Commission suggested that a level of complaints, disputes and courtesy drops that is more than 150% of the average for the Program would qualify as being *'significantly higher';* and

B. By letter dated May 9, 2008 the Commission provided proposed statistics for the Commission website to the Gas Marketers, including level of disputes and cancellations from Program inception through April 2008, and requested comments from the Gas Marketers; and

C. Comments were received from Access Gas Service Inc. ("AGS"), CEG Energy Options Inc. ("CEG"), Direct Energy Marketing Ltd. ("Direct Energy"), Energy Savings (BC) Limited Partnership ("ESBC"), Nexen Marketing Inc. ("Nexen Marketing"), Summitt Energy BC L.P. ("Summitt Energy"), Superior Energy Management ("SEM"), Universal Energy Corporation ("UEC" or "Universal Energy") and Wholesale Energy Group ("WEG" or "Wholesale Energy"), many of which requested more information and raised concerns that Gas Marketers may have with the statistical data that was provided by the Commission; and

D. By letter dated May 27, 2008 the Commission provided the Gas Marketers with an opportunity to submit a joint submission explaining what Gas Marketers would desire as statistical data which would be made available on the Commission website, and which may be considered in reviewing an Application for Licence Renewal; and

E. A joint submission was filed by the "Marketing Group" consisting of Active Energy ULC ("Active Renewable"), CEG Energy Options Inc. ("CEG"), Direct Energy Marketing Ltd. ("Direct Energy"), Energy Savings (BC) Limited Partnership ("ESBC"), Summitt Energy BC L.P. ("Summitt Energy"), Superior Energy Management ("SEM"), Universal Energy Corporation ("UEC" or "Universal Energy"); and Wholesale Energy Group ("WEG" or "Wholesale Energy") on June 11, 2008; and

F. By letter dated June 20, 2008 Terasen Gas Inc. ("TGI") provided comments on Commission's proposed statistics to the Gas Marketers as well as comments on the joint submission of the Marketing Group; and

G. The Commission has reviewed and taken into consideration the comments provided by the Gas Marketers and TGI and has determined the form and process by which the selected statistics will be posted on the Commission website; and

H. The Commission has determined that the Rules will be amended to reflect Commission procedure in its review of an Application for Licence Renewal; and

NOW THEREFORE the Commission orders as follows:

1. The Rules for Gas Marketers, attached as Appendix B to this Order, is amended to state under section 2.0 as follows:

    Application for a Gas Marketer Licence must be made using the form that is attached as Form A, and must be submitted to the Commission at least 60 days prior to the date that the licence is required together with a cheque in the amount of $1,000 made payable to the Ministry of Finance. The term of a Gas Marketer Licence will be specified in the licence and will be for a November through October gas contract year or such other period as the Commission may determine.

    Applications for a licence renewal will follow the procedure for a new licence, and must be submitted to the Commission at least 60 days prior to the expiry date of the Gas Marketer's current licence. The Application for renewal must identify the Gas Marketer's current level of complaints, disputes, and cancellations. If the Gas Marketer is currently experiencing a level of complaints, disputes and cancellations that is significantly high, the Application for renewal must address the reason for the high level and the actions that the Gas Marketer has taken or will implement to remedy the problem.

2. The term *'significantly high'* is defined in section 9.0 of the Reasons for Decisions attached as Appendix A to this Order.

3. The form of statistics attached as Appendix C to this Order will be used for publication on the Commission website.

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

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachments

Customer Choice Program Statistics for the Commission Website
and
Modifications to the Rules for Gas Marketers Engaged in the Commodity Unbundling Service
in the Province of British Columbia

REASONS FOR DECISION

1.0 INTRODUCTION

By letter dated March 20, 2008 the Commission advised that a change to the Rules for Gas Marketers (the "Rules") was required to support the standard of excellence of the Customer Choice Program (the "Program"), so that consumers and Gas Marketers will continue to have confidence in and support the Program. Specifically, the Commission noted that it intended to consider the level of disputes experienced by the Gas Marketers when reviewing an Application for a Licence to Market Natural Gas ("Application for Licence Renewal"), and proposed revisions to section 2 of the Rules. It was suggested that the level of complaints, disputes and courtesy drops that is more than 150% of the average for the program would qualify as being *'significantly higher'.*

By letter dated May 9, 2008 the Commission provided proposed statistics for publication on the Commission website to the Gas Marketers, including level of disputes and cancellations from Program inception through April 2008, and requested comments from the Gas Marketers.

Comments were received from various Gas Marketers, many of which requested more information and raised concerns that Gas Marketers may have in the statistical data that was provided by the Commission.

By letter dated May 27, 2008 the Commission provided the Gas Marketers with an opportunity to submit a joint submission explaining what Gas Marketers would desire as statistical data which would be made available on the Commission website, and may be considered in reviewing an Application for Licence Renewal.

With respect to the comments received from Gas Marketers, the Commission notes that although all comments were reviewed and taken into consideration, each Gas Marketer's comments will not individually be elaborated on within this Reasons for Decision. Rather, it is to be noted that in reviewing the comments, more weight was placed on the joint submission of the Gas Marketing Group.

Upon reviewing and taking into consideration the comments provide by the Gas Marketers and Terasen Gas Inc. ("TGI"), the Commission has concluded that the enclosed statistics, attached as Appendix C, will be the form used for publication on the Commission website. Please note that the statistics to be published on the Commission website will reflect data pertaining to residential customers only. The Commission is of the view that it is generally the residential customers that may benefit from the assistance of this evaluative overview.

Although the Commission does acknowledge that there is a transitional stage at the beginning of any new program that is introduced, it is of the view that the level of complaints from the general public have reflected a less than satisfactory level of consumer satisfaction. For the longevity and success of the Program, and in order for the Program to gain integrity and public faith, it is essential that there be more transparency into the marketplace activities and conduct of the Gas Marketers. As such, working within the confines and limitations of the current Gateway for Energy Marketers ("GEM") system, the Commission is of the view that the currently selected form of statistics for the Commission website represents a fair compromise of the concerns and views expressed by all parties. However, the Commission does recognize that this is a temporary process of publication and the information to be published will be modified as GEM system enhancements, as it relates to this matter, are identified and implemented.

2.0 TERMINOLOGY

Some Gas Marketers stated that the definition of a dispute is a Customer complaint that is either logged with the Commission through the GEM system or through the Commission directly and requires resolution by the Commission. They also stated that a complaint is a Customer dispute addressed directly to the Commission for resolution rather than through the GEM system. Therefore, the Gas Marketers argued that disputes and complaints were considered the same in the context of their submission.

Commission Determination

The Commission does not agree with the Gas Marketers' statement that the definition of a complaint and a dispute is interchangeable. Rather, the Commission is of the view that a dispute may be representative and indicative of an element of a Customer's complaint. As a dispute constitutes a more measurable and standardized way of presenting Customer concerns, dispute figures will be used for the purposes of website statistics.

The Commission will post the following terminology on the Commission website to accompany the statistics:

> **Dispute**: A dispute of a contract between a Customer and a Gas Marketer where a party is seeking third party resolution.
>
> **Cancellation**: A contract cancelled for any reason other than an account that is finalized due to account closure or ineffective change of address when a Customer moves premises.

3.0 DISPUTES AND CANCELLATIONS

One of the major concerns of both Gas Marketers and TGI is the limitation of the GEM system at this time, such as the inability to distinguish legitimate disputes and cancellations from operational correction disputes, duplicate disputes, reconsideration disputes, anniversary drops, and courtesy drops. Further, it is argued that a courtesy drop equates to a non-dispute, as it is an agreement between the Gas Marketer and the Customer to cancel the contract, and therefore not a dispute of the contract itself.

Commission Determination

The Commission does acknowledge that the current GEM system does not allow for the accurate categorizing or filtering of different types of disputes. The Commission also recognizes that there are various reasons for which a Customer's account may be cancelled. However, the Commission is of the view that all disputes and cancellations, no matter their nature or reason, are an indication of the quality of the sales presentation or subsequent customer service and reflective of a Customer's intent or desire to exit a contract with a Gas Marketer.

The Code of Conduct for Gas Marketers (the "Code") contains Articles that altogether attempt to ensure the Customer's full and complete understanding of the Program:

> Article 1: *"The terms of any Offer and Consumer's Agreements shall be clear, so that the Consumer shall know the nature of the product and the benefits, the commitment and risks involved in agreeing to contract for Gas with the Gas Marketer."*
>
> Article 3: *"The Offer and Consumer Agreement shall state the respective obligations, liabilities and risks of the Gas Marketer and Consumer in clear and understandable terms so that the Consumer may be sufficiently informed to understand them prior to executing Consumer's Agreements."*
>
> Article 15: *"A Salesperson shall not abuse the trust of individuals Consumers or exploit their lack of experience or knowledge, nor play on ignorance or on fear, thereby exerting undue pressure on Consumers. All Offers must, therefore, be clear and honest. A Salesperson shall not make any statements or take any measure which, directly, or by implication, omission, ambiguity or exaggeration, is likely to mislead a Consumer with regards to the terms of the Offer, Consumer's Agreements or any other matter. A Salesperson shall, to the best of his or her knowledge and ability, give complete, accurate and clear answers to a Consumer's questions concerning the Offer or any other matter."*
>
> Article 16: *"A Salesperson shall ensure that the Consumers clearly and thoroughly understand the information given…a Salesperson shall give sufficient time for Consumers to read the entire contract form thoughtfully and without interruption or harassment."*

The Commission is of the view that if these and other Articles of the Code were fully complied with, to the letter and in spirit, then this would prevent the Gas Marketers from having to log many disputes for any reason.

Although the Commission recognizes the limitations of the GEM system, for the time being, the Commission is of the view that all parties involved have to work within the confines of the system. As such, the data that is currently available has to be used in the fairest way possible. The alternative would be that no statistics be displayed until data that is logged subsequent to significant GEM system enhancements becomes available and the Commission does not support this alternative.

This means that the current data may include some duplicated disputes or disputes logged for operational reasons. However, this limitation is one that affects all Gas Marketers and therefore does not single out or disfavour any one Gas Marketer specifically. Also, it is presumed that these numbers are relatively low and should not dramatically impact the data as a whole.

It is important to remember the intent and objective in making this data available to the public. First and foremost, the data should contribute to marketplace transparency and be customer friendly. It should offer the Customers, at first glance, a quick overview of the trends in the marketplace and give Customers the ability to evaluate and compare data for any given Gas Marketer. As such, the Commission feels that it is important, even taking into consideration some of the limitations as discussed, that the current data be used to generate statistical information for publication on the Commission website.

It is to be noted that the Commission looks forward to a time when the implementation of GEM system enhancements and the ability to categorize disputes and cancellations and generate selective and filtered reports will allow for the kind of data reporting and statistical representation that is favoured by the Gas Marketers.

4.0 DATA TERM AND REPORTING REFRESH FREQUENCY

Another major concern of the Gas Marketers was the data term and reporting refresh frequency of the statistics. The Gas Marketers were strongly opposed to the usage of data prior to November 1, 2007. The Gas Marketers noted that the period between May 1, 2007 and November 1, 2007 was fraught with transitional issues and the Program rules were being changed and tweaked by the Commission. It was also noted that some Gas Marketers were cancelling Customers who were not verified before Third Party Verification ("TPV") became mandatory on July 1, 2007, pursuant to Commission Order G-73-07. As an alternative, the Gas Marketers proposed quarterly reporting, presumably using the data from the most recent three months for the first website posting, with a link that makes historical data available to Customers.

On this issue, TGI recognized the value of using data from Program inception and supported the use of cancellation data for this reporting term. TGI also supported a monthly reporting cycle as a reflection of current marketplace trends and activities.

Commission Determination

The Commission is of the view that the dispute and cancellation data incurring from the inception of the Program holds significant value as to the quality of sales and service of the Gas Marketers. The Commission does not intend to withhold this information from the Customer simply because of the early stages of the Program. The Commission will present the information by way of monthly reporting, as a rotating 12-month cycle, removing the oldest data one month at a time as updated data becomes available. This means that for the Commission to display the most recent 12 month data, the proposed term for the first website posting in August 2008 would be from August 1, 2007 – July 31, 2008. This also means that the data from May 1, 2007 to July 31, 2007 will not be included in this first reporting period. Further, as each month progresses, the oldest month will be dropped from the consecutive total. The Commission views this as a fair compromise between the Gas Marketers' desire to only present the most recent quarterly data, TGI's desire to present cancellation data from Program inception, and the Commission's desire to display dispute and cancellation data from Program inception on a cumulative basis. The Commission's rotating annual cycle will allow the Gas Marketers, to gain advantageous data for inclusion in the calculation each month, at the same time, alleviating them from what may be disadvantages of the oldest data dating to the early stages of the Program.

At each reporting refresh period, the previous month's statistical report will be archived but will still be available for viewing via a web-link. This link will be displayed on the same web-page of the Commission website as where the most current statistical report will be displayed.

The Commission will also display a pie graph identifying the percentage of Customers eligible for the Program in BC and the percentage of Customers currently enrolled in the Program for that reporting period.

5.0 REPRESENTATION OF STATISTICS

In an effort to protect confidential and competitive data, both Gas Marketers and TGI proposed the representation of dispute and cancellation statistics to be displayed as the number of disputes or cancellations per every 1,000 customers.

Commission Determination

The Commission agrees with the proposed method of representation. The formulas for this representation would be total number of disputes divided by total net enrollments times 1,000 and the total number of cancellations divided by total gross enrollments times 1,000.

6.0 VERIFICATION

The Gas Marketers suggested that the Commission audit the statistical data to ensure integrity and validity and for the Commission to also to allow the Gas Marketers an opportunity to verify the statistics attributed to them prior to publication on the website.

Commission Determination

The Commission is of the view that it is unnecessary to conduct routine auditing of the data for each Gas Marketer or establish a process of routine data verification by each Gas Marketer at every reporting refresh period. It is intended that all data be provided from TGI and the Commission agrees with TGI that data verification is not necessary given that the Customer Choice system reliably processes enrollment transactions. With future GEM system enhancements, and the ability to extract categorized data and as according to the agreed filtering criteria, it is intended that all reporting be automatically generated and formatted. If it is so desired, Gas Marketers may make requests or enquiries on the details of the data on an individual case basis.

7.0 *'INACTIVE'* GAS MARKETERS

The Gas Marketers recommended that the statistics for *'inactive marketers'* not be published or be noted *'not-applicable,'* rather than *'0,'* as the latter notation may inaccurately denote a perfect record.

Commission Determination

The Commission is of the view that all Gas Marketers that have been granted a Gas Marketer Licence (the "Licence") are subject to the same process of data calculation. The Commission notes that a Licence does not distinguish between commercial or residential markets. Rather, it is up to the Gas Marketer to determine the focus or direction of the marketing activities of their company. Consequently, the Commission is of the view that all Gas Marketers that are in possession of a Gas Marketer Licence, regardless of the concentration of their marketing activity, will be included in the statistical reporting.

The Commission is of the view that the statistical data be displayed without interpretation by the Commission. The Commission does not intend to arbitrarily label a Gas Marketer as *'not-applicable,'* because of a lack of marketing activity. If data exists, then the statistical formula will be applied and calculated statistics published for the Gas Marketer. If the data does not exist, or it is not reliable enough for TGI to provide, rather than noting *'0,'* a footnote marked with an asterix will read: *'there is insufficient data to report in this period.'*

8.0 FREEDOM OF INFORMATION OF PROTECTION OF PRIVACY ACT ("FOIPPA")

The Gas Marketers and TGI requested clarification on whether the data used to determine the statistics to be published on the Commission website, or in a process to review an Application for Licence Renewal is subject to information requests under the *FOIPPA* and what the Commission may be required to release pursuant to such a request.

Commission Determination

The Commission interprets the Gas Marketers' and TGI's request for clarification as a question of the information that the Commission may be required to release to the public upon a request made under the *FOIPPA*.

Section 4 of the *FOIPPA* states that:

> *4(1) A person who makes a request under section 5 has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.*

The *FOIPPA* defines *'personal information'* as *'recorded information about an identifiable individual other than contact information.'*

As such, pursuant to the *FOIPPA*, should a member of the public request any information from the Commission with respect to the website statistics, the only information that the Commission is authorized to release is information that pertains specifically to the requesting individual. For instance, a Gas Marketer's total enrollment figure is not personal information and will not be released.

On that same note, the Commission is not in possession of personal information as it relates to the statistics. The Commission will receive statistical figures only from TGI and will not receive a breakdown of personal customer information.

The Commission does acknowledge the commercial sensitivity of the enrollment data and has addressed this concern, at least to some degree, with its decision to present the data as a figure per every 1,000 net or gross enrollments.

9.0 MEASURE FOR LICENCE RENEWAL AND REVISION TO THE RULES FOR GAS MARKETERS

By letter dated March 20, 2008 the Commission noted that it intended to consider the level of disputes experienced by the Gas Marketers when reviewing an Application for Licence Renewal and proposed revisions to section 2 of the Rules. In the letter, the Commission also noted that it considered that a level of complaints, disputes and courtesy drops that is more than 150% higher than the average for the Program, qualified as being *'significantly higher'.* The revision to section 2 of the Rules in this Order reads:

> *Application for a Gas Marketer Licence must be made using the form that is attached as Form A, and must be submitted to the Commission at least 60 days prior to the date that the licence is required together with a cheque in the amount of $1,000 made payable to the Ministry of Finance. The term of a Gas Marketer Licence will be specified in the licence and*

will be for a November through October gas contract year or such other period as the Commission may determine.

Applications for a licence renewal will follow the procedure for a new licence, and must be submitted to the Commission at least 60 days prior to the expiry date of the Gas Marketer's current licence. The Application for renewal must identify the Gas Marketer's current level of complaints, disputes, and cancellations. If the Gas Marketer is currently experiencing a level of complaints, disputes and cancellations that is significantly high, the Application for renewal must address the reason for the high level and the actions that the Gas Marketer has taken or will implement to remedy the problem.

Commission Determination

The Commission is of the view that the measure for licence renewal of 150% more than average for the Program, will not be considered *'significantly high'.* Rather, *'significantly high'* is defined as those statistics that fall within the top quartile of an assessment scale which is comprised of the range of dispute and cancellation statistics of all of the Gas Marketers currently participating in the Program.

As such, pursuant to the amended Rules, a Gas Marketer whose statistics qualify as being *'significantly high',* must address in its Application for Licence Renewal, the reason for the high level and the actions that the Gas Marketer has taken or will implement to remedy the problem. These Gas Marketers will also be subject to an in-depth assessment of their Application for Licence Renewal which may include a hearing.

However, it should be noted that the Commission will review all Gas Marketers' Applications for Licence Renewal, at a level it deems appropriate, prior to disposing of the Applications. In carrying out the review, the level of dispute, cancellations and the Gas Marketer's adherence to the Code and the Rules will all be taken into consideration.

The Revised Rules for Gas Marketers is attached as Appendix B to this Order.

10.0 SELECTED STATISTICS AND INFORMATION PROVIDED BY TGI

By the 7th business day following the last day of every month, TGI is requested to provide to the Commission the statistics for the preceding 12 months, with the last date of data calculation being the last date of the preceding month. TGI is requested to provide the statistics in a format ready for posting on the website, thereby eliminating Commission modification of the data.

BRITISH COLUMBIA UTILITIES COMMISSION

Rules for Gas Marketers

Sections 71.1(1) of the Utilities Commission Act (the "Act") requires a person who is not a public utility and who performs a gas marketing activity for low-volume consumers to hold a Gas Marketer License issued by the Commission. The following Rules for Gas Marketers (the "Rules") have been developed pursuant to subsection 71.1(10) to assist the administration of Gas Marketer licencing.

1.0 LOW-VOLUME CONSUMER

A "low-volume consumer" means a person who, for the applicable period, either:

a) has, or is expected to have, a normalized annual consumption at one premise of less than 2,000 gigajoules of gas per year; or

b) has chosen the unbundled commodity service option, whatever the person's annual consumption of gas.

2.0 APPLICATION FOR A GAS MARKETER LICENCE

Application for a Gas Marketer Licence must be made using the form that is attached as Form A, and must be submitted to the Commission at least 60 days prior to the date that the licence is required together with a cheque in the amount of $1,000 made payable to the Ministry of Finance. The term of a Gas Marketer Licence will be specified in the licence and will be for a November through October gas contract year or such other period as the Commission may determine.

Applications for a licence renewal will follow the procedure for a new licence, and must be submitted to the Commission at least 60 days prior to the expiry date of the Gas Marketer's current licence. The Application for renewal must identify the Gas Marketer's current level of complaints, disputes, and cancellations. If the Gas Marketer is currently experiencing a level of complaints, disputes and cancellations that is significantly high, the Application for renewal must address the reason for the high level and the actions that the Gas Marketer has taken or will implement to remedy the problem.

3.0 AGENT FOR SERVICE

If the Licensee does not have a registered office or other place of business in British Columbia, the Licensee must file with the Commission the name of a person who is to act as the Licensee's Agent for Service in British Columbia and upon whom service of process, notices or other documentation may be made. The Licensee's Agent for Service in British Columbia must be either an individual who is a resident of British Columbia and is at least 18 years old, or a corporation that has its head office or registered office in British Columbia.

4.0 STANDARD FORM OF GAS SUPPLY CONTRACT

The standard form of gas supply contract between the Gas Marketer and the public utility is subject to Commission approval. Section 71 of the Act requires that a copy of the gas supply contract between a Gas Marketer and a public utility must be filed with the Commission. Gas Marketers must incorporate, in their contracts with gas suppliers, appropriate clauses to ensure adequate security of supply.

5.0 AGREEMENTS WITH CUSTOMERS

Gas Marketers must use a form of Notice of Appointment of Marketer that has been approved by the Commission to set out the arrangements between the consumer, the Gas Marketer and the public utility.

Gas Marketers also must include in their natural gas supply contract documents with consumers the requirements related to term, price and disclosure of other information as set out in the Rules, the Code of Conduct for Gas Marketers, the Code of Conduct and Transfer Pricing Policy for Provision of Utility Resources and Services, and tariff schedules for unbundled commodity service.

The Customer's form for signature, in accompaniment with the Notice of Appointment of Marketer, will be clearly designated as an "Agreement" or a "Contract".

6.0 STANDARD INFORMATION BOOKLET

Each public utility that has an approved gas unbundled commodity service tariff must, in co-operation with Gas Marketers, develop a standard information booklet for its service area which outlines the procedures for commodity purchase and discloses potential benefits and risks. A Gas Marketer must distribute the standard information booklet prepared by the public utility to all prospective clients (and include a reference to the booklet in their Notice of Appointment of Marketer). The public utility will make the booklet available in both hard copy and electronic form.

7.0 LIMITATION ON DIRECT SALES

Except for conventional utility gas sales under its approved tariff, a public utility must not sell natural gas other than through a non-regulated subsidiary which is subject to the Rules. A public utility is required to demonstrate to the satisfaction of the Commission a complete operational separation from any such subsidiary. The relationship between the public utility and its non-regulated subsidiary is subject to the utility's Code of Conduct and Transfer Pricing Policy for Provision of Utility Resources and Services.

8.0 CODE OF CONDUCT

All Gas Marketers must comply with the Rules and the Code of Conduct for Gas Marketers approved by the Commission and as may be amended by the Commission from time to time. Gas Marketers in violation of the Rules or the Code of Conduct may be subject to penalties and licence suspension or cancellation. Gas Marketers will reference the Code of Conduct for Gas Marketers and its availability to customers in their Notice of Appointment of Marketer and make a copy available to the customer.

9.0 PERFORMANCE SECURITY

In order to receive a Gas Marketer Licence an applicant must provide proof of performance security in the amount of $250,000 (or such other amount as the Commission may determine) and file with the Commission proof of that security. The performance security must be in the form of a bond, letter of credit or other security acceptable to the Commission, be payable to the Minister of Finance and must permit the Minister of Finance to draw upon the security in whole or in part at the discretion of the Commission in the event of a Commission finding pursuant to subsection 71.1(8) of the Act.

10.0 ENFORCEMENT OF RULES AND CODE OF CONDUCT AND LICENCE CONDITIONS

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.

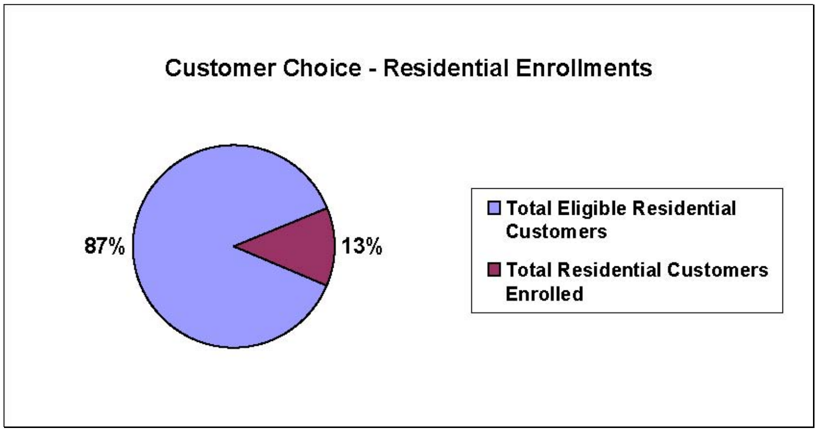
c. Apply penalties pursuant to Section 106(4) and (5) of the Act not to exceed $10,000 for each day for each day such violation continues.

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.

11.0 Failure by a Gas Marketer to comply with its gas delivery obligations as outlined in the gas supply agreement between the Gas Marketer and the public utility may result in the suspension or revocation of the Gas Marketer Licence.

CUSTOMER CHOICE PROGRAM STATISTICS

PROGRAM ELIGIBLE AND ENROLLED RESIDENTIAL CUSTOMERS IN BRITISH COLUMBIA



DISPUTED AND CANCELLED CONTRACTS FOR RESIDENTIAL CUSTOMERS ONLY

MARKETER NAME	July 2007 to June 2008 [1]	
	Disputed Contracts[2]	Cancelled Contracts[3]
Access Gas Services Inc.	42	292
Active Renewable Marketing Ltd.	58	237
CEG Energy Options Inc.	Note*	703
Direct Energy Marketing Ltd.	246	335
Energy Savings B.C. L.P.	247	631
Firefly Energy	Note*	Note*
MXenergy (Canada) Ltd.	73	123
Nexen Energy Solutions	Note*	Note*
Premstar Energy - ECNG	Note*	Note*
Smart Energy (BC) Ltd.	65	253
Summitt Energy BC L.P.	101	425
Superior Energy Management Gas L.P.	Note*	472
Universal Energy Corporation	213	416
Wholesale Energy Group Ltd.	Note*	587
Average for All Marketers	197	418

[1] Information as submitted for close of business for June 30, 2007 to June 30, 2008
[2] Disputed contracts: per every 1000 net enrollments
[3] Cancelled contracts: per every 1000 gross enrollments
* Note: there is insufficient data to report in this period

TERMINOLOGY
DISPUTE
A dispute of a contract between a Customer and a Gas Marketer where a party is seeking third party resolution.
CANCELLATION
A contract cancelled for any reason other than accounts that are finalized due to account closure, ineffective change of address when a Customer moves premises, or when a contract expires at the end of its term.