

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-28-11**

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

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

and

**Smart Energy (BC) Ltd. – Compliance Inquiry
Customer Choice Program**

BEFORE: L.F. Kelsey, Commissioner

November 23, 2011

O R D E R

WHEREAS:

- A. By Order C-6-06 dated August 14, 2006, the British Columbia Utilities Commission (the Commission) granted a Certificate of Public Convenience and Necessity for the Residential Commodity Unbundling Project for residential customers in all Terasen Gas Inc. service areas, excluding Fort Nelson and Revelstoke, effective November 1, 2007;
- B. Section 71.1(3) of the *Utilities Commission Act* (the Act) states that a Gas Marketer must comply with Commission rules issued under subsection (10) and the terms and conditions, if any, attached to the Gas Marketer Licence held by the Gas Marketer;
- C. Commission Order G-90-03 established a Code of Conduct for Gas Marketers (Code of Conduct), which was amended as set out and revised by Commission Orders G-45-07, G-73-07, G-44-08, A-9-08, A-4-09, A-11-10 and A-9-11 establishing certain other requirements;
- D. Commission Order G-90-03 established Rules for Gas Marketers (Rules), which were revised by Commission Orders G-44-08, G-114-08, A-6-09 and A-11-11;
- E. Section 8.0 of the Rules states that all Gas Marketers must comply with the Rules and the Code of Conduct for Gas Marketers approved by the Commission;
- F. Section 82(1) of the Act states that the Commission may, on its own motion, inquire into, hear and determine a matter that under this Act it may inquire into, hear or determine on application or complaint;
- G. Section 8 of the Act states that the Commission may appoint or engage persons having special or technical knowledge necessary to assist the Commission in carrying out its functions;
- H. Section 78(2) of the Act states that an inquiry that the Commission considers necessary may be made by a member or officer or by a person appointed by the Commission to make the inquiry, and the Commission may act on that person's report;

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** A-28-11

2

- I. On September 30, 2010, by Order A-21-10, the Commission granted Smart Energy (BC) Ltd. (Smart Energy), a Gas Marketer Licence subject to conditions;
- J. On August 18, 2011, Smart Energy applied to the Commission for renewal of its Gas Marketer Licence. Based on the information provided by Smart Energy in its Application, Smart Energy appears to lack the necessary systems and infrastructure to carry on business as a Gas Marketer in compliance with the Code of Conduct for Gas Marketers ;
- K. The Commission has retained the services of Business Practices and Consumer Protection Authority, (Consumer Protection BC) to carry out an Inquiry of Smart Energy's compliance with the Code of Conduct and the Rules, and upon completion to file a report with the Commission;
- L. Section 71.1(9) of the Act states that section 43 applies to each gas marketer as if that gas marketer were a public utility; and
- M. Section 43(1) of the Act states that a public utility must provide to the Commission information required by the Commission and, for the purposes of this Act, must answer specifically all questions of the Commission.

NOW THEREFORE pursuant to section 71.1 of the Act, the Rules and Code of Conduct, the Commission orders:

- 1. Effective immediately, Consumer Protection BC will perform a Compliance Inquiry of Smart Energy.
- 2. Consumer Protection BC will contact Smart Energy as soon as possible following issuance of this Order and arrange for the Compliance Inquiry to be undertaken in an efficient and expeditious manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of November 2011.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner