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

and

An Application by Active Renewable Marketing Limited
for renewal of its Gas Marketer Licence
under the Customer Choice Program

BEFORE: D.A. Cote, Commissioner
N.E. MacMurchy, Commissioner
D. Morton, Commissioner

January 27, 2011

ORDER

WHEREAS:

- A. By Order A-28-10 dated October 29, 2010, Active Energy Corp., operating as Active Renewable Marketing Limited (Active Energy) was issued a Gas Marketer Licence with an expiry date of January 31, 2011. It was noted in the Licence that Active Energy did not comply with the Current Ratio and Working Capital requirements of the British Columbia Utilities Commission (Commission) based on its audited financial statements for the year-ended December 31, 2009;
- B. On December 31, 2010 Active Energy applied to the Commission for renewal of a Gas Marketer Licence. The Application for renewal of its Licence to Market Natural Gas (Application) included the payment of the \$1,000 Application Fee pursuant to item 2 of the Licence Requirements. Active Energy has previously filed a Letter of Credit valid until October 31, 2011, pursuant to item 3 of the Licence Requirements. It has also submitted its unaudited financial statements for quarters ending March 31, 2010, June 30, 2010 and September 30, 2010 pursuant to item 5 of the Licence Requirements;
- C. Active Energy meets the Current Ratio and Working Capital requirements of the Commission based on the information from its unaudited quarterly statements;
- D. The Commission has been monitoring and investigating concerns regarding Active Energy's compliance with the Code of Conduct for Gas Marketers (Code of Conduct) and its licence conditions. The Commission notes that Active Energy, with direction from the Commission, has initiated measures to improve its compliance with the Code of Conduct for Gas Marketers and its licence conditions;

- E. The Commission also notes that it continues to receive complaints and disputes relating to Active Energy's contracts signed in 2008 and 2009, relating to allegations of forgery or unauthorized signatures and this matter is being addressed through a separate process;
- F. The Commission has reviewed Active Energy's Application and relying upon the information and representations made by Active Energy finds that renewal of its Gas Marketer Licence, and subject to conditions, is warranted. During the licence period, the Commission will closely monitor Active Energy's compliance with the Code of Conduct and the conditions of its Gas Marketer Licence.

NOW THEREFORE pursuant to section 71.1(6) of the *Utilities Commission Act* the Commission orders as follows:

1. The Commission issues to Active Energy a Gas Marketer Licence for the period January 27, 2011 to October 31, 2011 subject to receipt of Active Energy's audited financial statements for the year-ended December 31, 2010 by March 31, 2011. Failure to submit these statements by the due date may result in the revocation of Active Energy's Licence or further conditions to be imposed by the Commission.
2. Due to non-compliance with the Current Ratio and Working Capital requirements of the Commission based on its audited financial statements for the year-ended December 31, 2009 a new condition (j) is placed on this Licence.
3. The Gas Marketer Licence is subject to the following conditions:
 - a. Active Energy will carry out the undertakings as set out in the Application for a Licence to Market Natural Gas dated December 31, 2010 and the Rules for Gas Marketers.
 - b. Active Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of Terasen Gas Inc. Active Energy shall ensure that its employees, salespersons or other representatives of its products and services comply with the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers and Active Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
 - c. Active Energy will maintain a \$250,000 Letter of Credit or acceptable substitute in full force and effect for the duration of the Licence.
 - d. Active Energy will maintain a Working Capital position of at least \$50,000 and a Current Ratio of current assets to current liabilities of at least 1.10.
 - e. The Commission may, at any time and without prior notice to Active Energy, amend or impose new terms and conditions on, suspend, or cancel the Gas Marketer Licence for reasons the Commission, in its sole discretion, deems and considers sufficient.

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- f. The Gas Marketer Licence and all copies of it shall remain the property of the Commission and Active Energy will return these documents forthwith upon written request from the Commission.
- g. Active Energy will file with the Commission unaudited monthly financial statements no later than 30 days after the end of the relevant month.
- h. Active Energy will continue to file a salesperson activity report, which will include the following details: the number of complaints/disputes, the nature of complaints/disputes, the salesperson involved, and the resolution Active has implemented, if any. A template of this report was attached to Order A-28-10.
- i. Active Energy will complete a Third Party Verification call for all customers who enroll under the Customer Choice Program. The Third Party Verification call for residential customers must follow the standardized script in accordance with the Code of Conduct for Gas Marketers. The Third Party Verification call for commercial customers must follow a modified script approved by the Commission. Active Energy will submit a proposed script to the Commission's consideration prior to enrolling commercial customers under the Customer Choice Program.
- j. Active must file with the Commission its audited financial statements for the year-ended December 31, 2010 by March 31, 2011.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of January 2011.

BY ORDER

Original signed by:

D. Morton
Commissioner

Attachment



LICENCE No. A-4-11

GAS MARKETER LICENCE

Active Energy Corp.

Operating as: Active Renewable Marketing Limited

is granted a licence for the purpose of providing advice to, or acting on behalf of, a low volume consumer ⁽¹⁾ purchasing gas directly in the Province of British Columbia subject to the terms and conditions contained in Commission Order A-4-11, which are set out in the reverse of the Licence.

BRITISH COLUMBIA UTILITIES COMMISSION

Original signed by:

D. Morton, Commissioner

ISSUED: January 27, 2011

EXPIRES: October 31, 2011

(1)As described in the Rules for Gas Marketers

The Gas Marketer Licence is subject to the following conditions:

- a. Active Energy will carry out the undertakings as set out in the Application for a Licence to Market Natural Gas dated December 31, 2010 and the Rules for Gas Marketers.
- b. Active Energy will comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of Terasen Gas Inc. Active Energy shall ensure that its employees, salespersons or other representatives of its products and services comply with the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers and Active Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
- c. Active Energy will maintain a \$250,000 Letter of Credit or acceptable substitute in full force and effect for the duration of the Licence.
- d. Active Energy will maintain a Working Capital position of at least \$50,000 and a Current Ratio of current assets to current liabilities of at least 1.10.
- e. The Commission may, at any time and without prior notice to Active Energy, amend or impose new terms and conditions on, suspend, or cancel the Gas Marketer Licence for reasons the Commission, in its sole discretion, deems and considers sufficient.
- f. The Gas Marketer Licence and all copies of it shall remain the property of the Commission and Active Energy will return these documents forthwith upon written request from the Commission.
- g. Active Energy will file with the Commission unaudited monthly financial statements no later than 30 days after the end of the relevant month.
- h. Active Energy will continue to file a salesperson activity report, which will include the following details: the number of complaints/disputes, the nature of complaints/disputes, the salesperson involved, and the resolution Active has implemented, if any. A template of this report was attached to Order A-28-10.
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- j. Active must file with the Commission its audited financial statements for the year-ended December 31, 2010 by March 31, 2011.