



June 25, 2021

Sent via email

Letter L-22-21

Mr. James Bartlett
Access Gas Services Inc.
800 Carleton Court #201,
Delta, BC V3M 6Y6
james.bartlett@rockpointgs.com

Re: Access Gas Services Inc. – Complaint Concerning Alleged Gas Marketer Misconduct against Easy Energy Inc. – Final Order

On June 12, 2020, Access Gas Services Inc. (Access Gas) filed a complaint with the British Columbia Utilities Commission (BCUC) pursuant to section 83 of the *Utilities Commission Act* (UCA) (Complaint). In the Complaint, Access Gas alleges that Easy Energy Inc. (Easy Energy) engaged in improper practices that violate section 71.1(4) of the UCA, as well as the Code of Conduct for Gas Marketers (Code).¹

Review of the Complaint

Legislative Authority

The BCUC issues licences and oversees the activities of Gas Marketers and has established the Code of Conduct (Code) and Rules for Gas Marketers (Rules).²

Section 71.1(4) of the UCA states that a Gas Marketer must not carry on or offer to carry on business as a gas marketer in a name other than the name in which it is licenced unless authorized to do so in the licence.

Section 8 of the Rules states “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 may be subject to penalties and licence suspension or cancellation.”³

The current version of the Code was approved and came into effect November 10, 2015. The Code is set through a formal BCUC proceeding. The Code applies to all practices used in the Marketing of Gas under the Commodity Unbundling Service for both residential and commercial Consumers. Gas Marketers are required to strictly adhere to the Code in their service provisions to customers and are unable to change the Code without BCUC approval.

Section 83 of the UCA states that if a complaint is made to the BCUC, the BCUC has powers to determine whether a hearing or inquiry is to be had, and generally whether any action on its part is or is not to be taken.

¹ [Code of Conduct for Gas Marketers.](#)

² [Rules for Gas Marketers.](#)

³ Rules for Gas Marketers, Order A-12-13, Appendix A, p. 2.

Review Process

In reviewing the Complaint, under the BCUC Complaints Guidelines, the BCUC has, among other things, referred to the Code, to ensure Easy Energy's actions were in accordance with the Code's terms and conditions of service.

As stated within the Code, Basic Principles;⁴

All Marketing of Gas under the Commodity Unbundling Service will conform to the principles of fair competition as generally accepted in business, with particular regard to:

- the terms of the offer and the methods and form of the contact with the Consumer;
- the methods of presentation and the information on the supply; and
- the fulfilment of any obligation arising from the offer of purchase of Gas under the Commodity Unbundling Service.

Marketing of Gas under the Commodity Unbundling Service will be carried out in conformity with the laws of Canada and its provinces, where applicable.

Background

In the Complaint, Access Gas alleges that Easy Energy obtained confidential information from Access Gas and used this information to target Access Gas' customers. Access Gas further alleges that Easy Energy misled Access Gas' customers into believing there is a relationship between Access Gas and Easy Energy, and that Easy Energy attempted, through the resulting confusion, to have Access Gas' customers cancel their contracts and sign new contracts with Easy Energy.⁵

In the Complaint, Access Gas provides transcripts as well as recorded audio conversations of four of its customers with an Easy Energy representative in support of the alleged misconduct. Subsequently, Access Gas provided transcripts and recorded audio conversations of another five of its customers with an Easy Energy representative also in support of the alleged misconduct on the part of Easy Energy.

In accordance with section 4.2 of the BCUC Complaints Guide,⁶ on July 24, 2020, BCUC staff forwarded the Complaint to Easy Energy for its review and written response.

On July 8, 2020, Easy Energy provided the BCUC with its response. Easy Energy submits that it did not claim to be affiliated with or working for Access Gas and while it "may have stated that they are licenced under the Customer Choice Program, similar to Access or other retailers," Easy Energy submits that the statement was neither a misrepresentation nor a claim that Easy Energy is affiliated with Access Gas.

Easy Energy further submits that Access Gas' Complaint is unfounded and completely lacking in merit or credibility and that the Complaint is motivated by an attempt to adversely impact competition.

⁴ Code of Conduct for Gas Marketers, Appendix A, p. 1.

⁵ Access Gas Complaint dated June 12, 2020.

⁶ [BCUC Complaints Guide, Section 4.2.](#)

Complaint Review

On August 20, 2020, BCUC staff issued questions to both Access Gas and Easy Energy seeking:

- as a courtesy, consent from Access Gas to speak with customers identified in the Complaint (Customers) along with their phone numbers and email addresses;
- production from Access Gas of the audio recordings conversations of the transcripts referred to in support of its Complaint;
- production of appointment logs from Easy Energy to confirm the times and dates of interactions with the Customers; and
- details of any internal investigations by Easy Energy into the conduct of its employees and marketers during their interactions with the Customers.

On August 28, 2020, Easy Energy provided the BCUC with a summary of an investigation that it had conducted and denied that it had engaged in any of the improper conduct alleged by Access Gas. Easy Energy also notes that the Complaint originated from Access Gas and that the Customers did not make a complaint to either the BCUC or Easy Energy.

Further, Easy Energy provided information from their appointment logs for each of the customers, including correspondence dates, and noting whether a Customer had an appointment with Easy Energy.

On September 10 and 14, 2020, in its submissions to the BCUC, Access Gas provided audio files of recorded phone conversations which formed the basis of the transcripts provided with the Complaint. Access Gas also provided its consent for the BCUC to contact the Customers.

On September 15, 2020, BCUC staff contacted each of the Customers by phone with follow up phone calls on September 16 and 17, 2020. As a result of these phone calls, staff received verbal consent to investigate the allegations in the Complaint from six of the nine Customers referred to in Access Gas' Complaint.

Upon receiving the consents to investigate from the six Customers and in accordance with the complaint review process outlined in the BCUC's Customer Complaints Guide, BCUC staff requested the following from each of the six Customers:

- an email providing written consent to continue the investigation;
- confirmation that they were the party participating in the audio recording of the conversation with Access Gas; and
- a written description of the Complaint from the Customer to verify their concerns.

By September 22, 2020, BCUC staff received a written description of the complaint from one of the six Customers who had provided their verbal consent. To ensure each customer had received the BCUC email and their wish to continue with their complaint, follow up calls were placed to the remaining Customers.

On December 7, 2020, after numerous follow up attempts, two customers provided the required written consent to proceed. The remaining customers chose not to move forward with their individual complaints to Access Gas about Easy Energy by opting out of the process via email to the BCUC and/or verbal confirmation to BCUC staff.

By December 10, 2020, one of the two Customers who provided written consent to proceed with a complaint to the BCUC, submitted a written summary of the complaint to the BCUC. BCUC staff, in accordance with the BCUC

complaints process, sent the customer complaint on to Easy Energy for its review and a written response by December 24, 2020.

On December 14, 2020, Easy Energy responded to the customer complaint offering a copy of the agreement signed by the customer as well as a copy of the Third-Party Verification call recording.

By email to the BCUC dated December 15, 2020, the other customer, who provided consent to proceed but had not provided a written summary of the complaint, stated he/she did not wish to move forward with a written complaint against Easy Energy and chose to retract the complaint.

On January 19, 2021, an investigation report based on the agents' interactions with the remaining customer was requested and received from Easy Energy (Investigation Report). As mentioned within the Investigation Report, Easy Energy offered details of the two interactions between the customer and Easy Energy, and states:

May 15, 2020 – PHONE – Following a telephone conversation with an independent contractor authorized to represent Easy... a link to an Easy agreement was delivered to [the customer] for completion via email...The agreement was executed that same day. A copy of the executed agreement and Standard Information Booklet were then sent to [the customer] via email... and that email was viewed three times on May 17, 2020, May 18, 2020 and May 21, 2020.

May 18, 2020 – PHONE – [the customer] verified his Easy agreement with Easy's third-party verification service provider. [sic]

Summary

The BCUC has reviewed all correspondence submitted by Access Gas and Easy Energy and finds that there is insufficient evidence to support Access Gas' allegations of misconduct. In its Complaint, Access Gas made accusations of widespread violations of the Code, supported by the allegations that nine of its Customers had brought forward concerns that sales agents of Easy Energy were not behaving in a manner that was in compliance with the Code.

After numerous attempts by the BCUC to collect evidence in regard to these allegations, only one of the original nine customer's concerns was substantiated and reviewed through the BCUC complaint process. The BCUC has reviewed that matter, and is satisfied that once Easy Energy was aware of the concerns, it conducted an adequate investigation of the sales agent involved. The BCUC finds no evidence of general or specific practices of Easy Energy or its agent that amount to a violation of the Code.

The BCUC has a well-defined complaint procedure for either contract disputes with a Gas Marketer company or a customer complaint against a Gas Marketer company. It is a requirement of this process that the BCUC receive a written complaint from the (potential) customer before it can move forward to investigate the complaint. When a complaint is brought forward to a Gas Marketer regarding the conduct of another Gas Marketer it is important that each Gas Marketer follows the complaint process. As noted, Article 12 of the Code provides in part that "all disputes between the Gas Marketer and a Consumer arising out of the contract will be referred to and resolved by arbitration administered by the BCUC or other body appointed by the BCUC for purpose of resolving such disputes and conducted according to the BCUC's rules for the resolution of such disputes." In order to effectively arbitrate a dispute the BCUC must first receive a written complaint from the Consumer (or customer). This step was not taken in this Complaint and, as a result, BCUC staff were unable to gather the required information and process Access Gas' Complaint logged against Easy Energy.

The BCUC also reminds all Gas Marketers of their obligations under the Code and that salespeople working for a Gas Marketer are the responsibility of the Gas Marketer. It is important to ensure that all salespeople, as well as staff and management, are adequately trained and informed of their requirements under the Code.

The BCUC has reviewed the matter and finds that there is insufficient evidence to substantiate the allegations made by Access Gas, that Easy Energy obtained confidential information from Access Gas and used this information to mislead Access Gas' Customers and induce them to enter into contracts with Easy Energy. For the foregoing reasons the Complaint is closed.

Although this Complaint is closed, the BCUC will continue to monitor Easy Energy complaints. If additional evidence is provided to the BCUC, the BCUC will take investigative steps to review this matter further utilizing the Customer Choice dispute process.

Office of the Ombudsperson

If you have concerns about how the BCUC handled your Complaint, you may wish to contact the Office of the Ombudsperson. The Office of the Ombudsperson receives enquiries and complaints about the practices and services of public agencies within its jurisdiction. Their role is to impartially investigate complaints to determine whether public agencies have acted fairly and reasonably, and whether their actions and decisions were consistent with relevant legislation, policies and procedures.

If you decide to file a complaint with the Ombudsperson, they will review the BCUC's process to ensure it was fair. Though this may not result in a different outcome for you, the office could request that the BCUC reopen its investigation.

Provided is a link to the Office of the Ombudsperson's website: <https://www.bcombudsperson.ca/>. You can also call their office toll-free at: 1-800-567-3247. An employee at the office will be able to assist you and inform you of your options.

Thank you again for contacting the BCUC.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

DD/ae

Enclosure

cc: Mr. Tom Dixon
President & CEO
Easy Energy Inc.
tom@easyenergy.ca

An application for reconsideration of this determination can be made following the guidelines enclosed.