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VANCOUVER, B.C. V6Z 2N3 CANADA
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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-90-03

TELEPHONE: (604) 660-4700
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**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**An Application by Terasen Gas Inc.
for Commodity Unbundling Service for Commercial Customers effective November 1, 2004
and Implementation of a Stable Commodity Rate Residential Service effective January 1, 2005**

BEFORE: L.A. Boychuk, Panel Chair)
and Commissioner) December 23, 2003
L.F. Kelsey, Commissioner)

O R D E R

WHEREAS:

- A. In response to Commission Letter No. L-49-02 Terasen Gas Inc. ("Terasen Gas") filed its Commodity Unbundling and Customer Choice Report dated February 28, 2003; and
- B. In letter No. L-14-03 the Commission determined that unbundling would be phased-in. Commercial customers would have an unbundled option for November 1, 2004 and a one-year stable rate option would be available for residential customers; and
- C. In Letter No. L-25-03 the Commission determined the "Business Rules for Commodity Unbundling" dated June 5, 2003; and
- D. On October 27, 2003, Terasen Gas filed its Terasen Gas Commodity Unbundling Application; and
- E. The Commission issued draft Rules for Gas Marketers with Letter No. L-54-01; and
- F. The Terasen Gas Application and the Draft Rules for Gas Marketers were reviewed with interested stakeholders at a Commission-led workshop on November 20, 2003 and received comments from interested parties; and
- G. The comments from CEG Energy Options Inc., Premstar Pacific and Direct Energy Marketing Ltd. were reviewed and Terasen Gas responded; and
- H. Terasen Gas submitted "Revisions to the Terasen Gas Commodity Unbundling October 27, 2003 Application" on December 4, 2003 that addressed matters identified by the interested parties.

NOW THEREFORE the Commission orders as follows:

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1. Pursuant to Section 71.1(10) of the Utilities Commission Act (“the Act”), the Rules for Gas Marketers are approved effective January 1, 2004 (attached as Appendix A to this Order).
2. The Commission accepts the Terasen Gas Commodity Unbundling Application dated October 27, 2003, Revisions to the Terasen Gas Commodity Unbundling October 27, 2003 Application dated December 4, 2003 (“Revisions”) and Addendum to Revisions to the Terasen Gas Inc. Commodity Unbundling October 27, 2003 Application (included in Terasen Gas Inc. December 15, 2003 Responses to Stakeholder’s Comments Commodity Unbundling October 27, 2003 Application – Revised December 4, 2003) and approves the following pursuant to Section 61 of the Act.
 - 2.1 Effective January 1, 2004, Rate Schedule 36 for Commodity Unbundling Service including: Transaction Notification, Table of Charges, Notice of Appointment of Marketer and Service Agreement (December 4, 2003, Revisions, Attachment #1).
 - 2.2 Effective January 1, 2004, applicable sections of Terasen Gas’ General Terms and Conditions (December 4, 2003 Revisions, Attachment #2).
 - 2.3 Effective January 1, 2004, the Code of Conduct for Gas Marketers (December 4, 2003, Revisions, Attachment #6).
 - 2.4 In Article 17 of the Code of Conduct for Gas Marketers entitled “Honesty, Fairness and Veracity”, Terasen Gas is directed to add the following:

“Gas Marketers shall ensure that their salespersons are generally knowledgeable in the natural gas business, fully informed as to the characteristics of gas supplies and/or services offered and the Consumer’s Agreement utilized by the Marketer, to enable them to give the consumer all necessary information to make informed decisions.”

In Article 29 of the Code of Conduct for Gas Marketers entitled “Responsibility for Code Observance”, Terasen Gas is directed to add the following:

“Gas Marketers shall ensure that their salespersons adhere to the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers, and shall be accountable for the behavior and performance of their salespersons.”
 - 2.5 Effective April 1, 2004, format for Rate Schedule 2U and 3U (December 4, 2003, Revisions, Attachments #3 and #4).

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2.6 Effective April 1, 2004, format of Stable Commodity Rate Schedule (1S) and the Stable Commodity Rate Agreement (December 4, 2003, Revisions Attachment #5) are approved for calendar year 2005. The continuation of Stable Commodity Rate (1S) will be re-evaluated by the Commission in the event that commodity unbundling service is made available to the residential class.

2.7 Effective April 1, 2004, format for the Table of Charges for the Rate Schedules (1,2,3,4,5,6,6A and 7) (October 27, 2004, Appendices 5,6,7,8,9,10 and 11).

3. The Commission endorses the Customer Education Plan (October 27, 2004, Appendix 13).

DATED at the City of Vancouver, in the Province of British Columbia, this 9th day of January 2004.

BY ORDER

Original signed by:

Lori Ann Boychuk
Panel Chair
and Commissioner

Attachments

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 licence renewals will follow the procedures for a new licence.

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.

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.

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**Application for a
Licence to Market Natural Gas**

Application Instructions

Licence Requirements

To apply to obtain or renew a licence as a Natural Gas Marketer, you must submit the following:

1. A completed Application for a Licence to Market Natural Gas (Form A);
2. A \$1000 Application Fee;
3. Proof that you have security in the amount of \$250,000. You may provide such proof by way of a bond, letter of credit or security for \$250,000 acceptable to the Commission;
4. A copy of your Annual Report filed with the Registrar of Companies in B.C. or a copy of the last Registration Certificate filed in B.C.;
5. Financial Statements. A copy of your latest audited financial statement and any subsequent unaudited quarterly statements. Applicants may request that the Commission hold these financial statements confidential;
6. Confirmation that the applicant's working capital position at the time of the most recent financial statement exceeded \$50,000 and that the current ratio of current assets to current liabilities exceeds 1.10;
7. Copies of all licences to carry on business in B.C.;
8. The training plan/procedures and the manuals that are being and will be used by the Gas Marketer and its employees to market and sell natural gas; and
9. Such other information that the Commission may require.

Instructions

Type or print clearly all information in black ink. Please send the completed form to:

British Columbia Utilities Commission
Sixth Floor, 900 Howe St. , Box 250
Vancouver, BC., V6Z 2N3

Attention: Mr. Robert Pellatt
Commission Secretary

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**Application for a
 Licence to Market Natural Gas**

A. General Information

1. Name of Business (Name to appear on Licence)			
2. If there has been a change of name, show all previous names			
3. Primary Contact for this Licence (British Columbia Contact)			
Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/> Other <input type="checkbox"/>	Last Name:	Full First name:	Initial:
Position Held:			
Contact Address			
City		Postal	
Phone Number	Fax Number	E-mail Address	

4. Type and period of Licence Applied for	
Initial Licence to Market Natural Gas	<input type="checkbox"/>
Renewal Licence to Market Natural Gas	<input type="checkbox"/>
Requested Licence Term	_____
5. Business Classification	
Sole Proprietor	<input type="checkbox"/>
Partnership	<input type="checkbox"/>
Corporation	<input type="checkbox"/>
Other (describe): _____	<input type="checkbox"/>

B. Information about the Applicant Organization

1. Applicant Organization (Corporation, Partnership, Sole Proprietorship, Other)			
Full Legal Name of Organization		Date of Formation	
Business Address			
City	Province.	Country	Postal/ZIP
Phone Number	Fax Number	E-mail Address	

2. Licensing History			
Has your organization or an affiliate of your organization ever been granted a licence to market gas in British Columbia?		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>
If your response is yes to the above, please provide the following information:			
Licence Type		Licence No.	
Please provide a summary with reasons and results of any investigation for any situations where gas has not flowed as required in the Gas Marketer's gas supply contracts with local distribution companies for corresponding direct sale to customers.			
Please provide character references from local distribution companies who are familiar with the activities of the Gas Marketer.			
If your organization has ever marketed or sold electricity or natural gas in any other jurisdiction? If so, please provide the following information:			
Organization	Jurisdiction	Licence Type	Licence/Registration No.

3. Please provide the requested details of all legal proceedings as attachments to this Application.

	Yes	No
Has your organization ever made a proposal to its creditors under the Bankruptcy and Insolvency Act, been declared bankrupt or is it presently party to bankruptcy or receivership proceedings?	<input type="checkbox"/>	<input type="checkbox"/>
1. Where your organization is an undischarged bankrupt, provide a copy of the Assignment in Bankruptcy and a list of creditors 2. Where your organization is a discharged bankrupt, provide full proof of discharge 3. Where your organization has submitted a proposal to creditors or is in receivership provide a copy of the proposal or receivership order together with a list of creditors.		
Are there any unpaid judgments against your organization? If yes, provide a copy of each judgment. State amount outstanding and repayment arrangements.	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization ever been found guilty or convicted or an offence under any law, Regulation or Act or are any charges now pending? This includes where a conditional discharge or an absolute discharge has been ordered. If yes, provide particulars in a separate, signed and dated statement.	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization ever had a licence or registration of any kind refused, suspended, revoked or cancelled? If yes, attach particulars	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization ever been subject of a regulatory investigation or proceeding? If yes, attach particulars.	<input type="checkbox"/>	<input type="checkbox"/>
Has your organization ever been reprimanded, fined or otherwise disciplined by a regulatory/licensing body? If yes, attach particulars.	<input type="checkbox"/>	<input type="checkbox"/>
How many customer complaints about your organization's gas marketing activities were received in the last 12 months? _____		

C. Information About Each Key Individual

Attach a copy of this sheet for each Sole Proprietor, Partner, Officer and Director

1. Personal Information			
Mr. <input type="checkbox"/>	Last Name:	Full First name:	Initial:
Mrs. <input type="checkbox"/>			
Ms. <input type="checkbox"/>	Position Held:		
Other <input type="checkbox"/>			
Contact Address			
City		Prov.	Country
			Postal/ZIP
Phone Number		Fax Number	Birthdate mm/dd/yy
			<div style="display: flex; justify-content: space-between;"> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>

2. Personal Experience in Energy Industry

	Yes	No
Has this person been a proprietor, partner, officer, director of an organization that was granted a licence to market natural gas in British Columbia? If yes, provide licence number.	<input type="checkbox"/>	<input type="checkbox"/>
Has this person been a proprietor, partner, officer, or director of an organization that marketed or sold electricity or natural gas other than for a regulated distribution utility in any other jurisdiction? If yes, please provide company name, jurisdiction, or location and licence or registration type, identifier and date issued.	<input type="checkbox"/>	<input type="checkbox"/>
Has this person been a proprietor, partner, officer, or director of an organization that had a registration or licence of any kind refused, suspended, revoked or cancelled? If yes, provide particulars.	<input type="checkbox"/>	<input type="checkbox"/>

3. Legal Proceedings

Is this person now or has this person been involved in personal bankruptcy proceedings. If yes, attach Assignment or Discharge papers.	<input type="checkbox"/>	<input type="checkbox"/>
Is this person now or has this person been an officer, director, or majority shareholder of a corporation which has been declared bankrupt has made a proposal to its creditors under the Bankruptcy and Insolvency Act, or is in receivership, or is presently party to bankruptcy proceedings? 1. Where this person is an undischarged bankrupt, provide a copy of the Assignment in Bankruptcy and a list of creditors 2. Where this person is a discharged bankrupt, provide full proof of discharge 3. For corporate bankruptcies, proposals or receiverships provide related documents.	<input type="checkbox"/>	<input type="checkbox"/>
Are there any unpaid judgments against this person? If yes, submit a copy of each judgment. State amount outstanding and repayment arrangements.	<input type="checkbox"/>	<input type="checkbox"/>
Has this person ever been fined, reprimanded, disciplined or otherwise subject to penalties or been investigated by a regulatory body or government agency arising out activities relating to the marketing of gas or electricity? If yes, attach full particulars on a separate, signed and dated statement.	<input type="checkbox"/>	<input type="checkbox"/>
Has this person ever been found guilty or convicted of an offense under any law or are any charges now pending? This includes where a conditional discharge or an absolute discharge has been ordered. If yes, attach full particulars on a separate, signed and dated statement.	<input type="checkbox"/>	<input type="checkbox"/>

D. Confirmation and Understanding

As evidenced by signing this Application, you understand that the Commission may deny, suspend or revoke a licence, or fine or otherwise discipline a licence holder, for reasons it considers sufficient, and that the following may constitute sufficient cause:

1. Misrepresentations in this Application.
2. Failure to carry out undertakings set out in this Application.
3. Failure to comply with the Code of Conduct for Gas Marketers, any applicable legislation, the Rules for Gas Marketers or conditions in the Gas Marketer Licence.
4. Failure to maintain a satisfactory performance bond.
5. Past performance in B.C. or other jurisdictions in respect to Items 1 to 4 above may be sufficient cause for denial of licence.

By signing this application, you confirm and warrant the following:

1. Your sales people/agent will provide all customers, at time of the sale, with a standard information booklet and a copy of the Notice of Appointment of Marketer agreement and any other contract signed by that customer.
2. You have read the Rules for Gas Marketers pursuant to Section 71.1 of the Utilities Commission Act and the Code of Conduct for Gas Marketers, and accept the obligations set out therein.
3. The Licensee shall notify the Commission of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than (20) calendar days past the date upon which such change occurs.

By signing this Application, and to verify the information provided on this form, you authorize the Commission to collect additional information from some or all of the following sources: federal, provincial/state and municipal governments; licensing bodies; law enforcement agencies; sheriffs' offices; credit bureaus; professional and industry associations; and former and current employers. In order to determine whether your organization can reasonably be expected to be financially responsible in the conduct of business, a credit review (in accordance with standard business practices) may be undertaken by the Commission. **Only information relevant to your application will be collected.**

The Applicant certifies that the foregoing information and materials accompanying this Application are correct.

Note: The proprietor or at least one partner, officer or director of the organization must sign this Application. In addition, each individual who has provided information in Section "C" must sign this Application.

Print Name and Title	Signature of Applicant	Date Signed