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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-144-07

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

**and**

**Smart Energy Corporation ("Smart Energy")  
Breach of the Code of Conduct for Gas Marketers  
Third Party Verification Compliance**

**BEFORE:** R.H. Hobbs, Chair November 28, 2007

**O R D E R**

**WHEREAS:**

- A. By Order No. G-73-07 the Commission ordered that a Third Party Verification ("TPV") call will be mandatory for all door to door sales to residential customers effective July 1, 2007. The TPV will be a telephone call conducted with the customer who signed the contract using a digital recorded voice call and the call will be maintained by the marketer for the term of the contract. It should be available three days after the initial recording if requested by the Commission; and
- B. Upon reviewing contract disputes for Smart Energy, Disputes No. 7131, 7152, 7153, 7192, and 7199, the Commission noted that Smart Energy had not uploaded a recorded TPV call for Commission review in adjudicating the aforementioned disputes; and
- C. By Letter dated November 1, 2007, the Commission requested that Smart Energy provide the TPV calls for the above-noted disputes. The Commission requested that the disputes be provided on or before November 5, 2007; and
- D. On November 6, 2007 by email, Smart Energy advised the Commission that due to system upgrades, Smart Energy was unable to retrieve some of the data and therefore Smart Energy did not provide the requested TPV recordings; and
- E. By Letter dated November 6, 2007, the Commission advised Smart Energy that if the TPV calls are not accessible, the lack of satisfactory TPV compliance is in violation of the Code of Conduct, and the Commission may find it necessary to condition Smart Energy's Gas Marketing Licence to prohibit further solicitation in the marketplace until the deficiency is remedied; and
- F. The Commission requested the TPV recordings for the above-noted disputes as well as the last 20 recordings for which contracts had been submitted to Terasen Gas Inc. up to November 5, 2007 at 11:00 a.m. to be provided to the Commission to prove compliance before end of business day November 7, 2007; and

- G. On November 7, 2007 the Commission received a fax from Mr. Stephen A. Mellows, Barrister and Solicitor, retained as counsel by Smart Energy with respect to the requests made by the Commission for Smart Energy's TPV recordings. Mr. Mellows requested an extension for the recordings to be provided to the Commission before close of business on November 9, 2007; and
- H. The Commission gave verbal confirmation to Mr. Mellows on November 7, 2007 that the deadline would be accepted by the Commission; and
- I. By Letter dated November 9, 2007 the Commission confirmed the deadline at close of business on November 9, 2007 for Smart Energy to provide the total of 25 noted TPV recordings to the Commission to prove compliance with Order No. G-73-07; and
- J. By email dated November 9, 2007 from Smart Energy, the Commission received notice that all 25 TPV recordings could not be provided to the Commission upon request, and 10 TPV recordings were provided by email on November 9, 2007. Smart Energy noted that the remaining 15 TPV calls have been recorded but are not available for timely retrieval; and
- K. Commission Order No. G-140-07 dated November 15, 2007 prohibited Smart Energy from signing additional customers to sales contracts under the Residential Commodity Unbundling Program until Smart Energy could demonstrate to the satisfaction of the Commission that it could provide digitally recorded TPV calls to comply with Order No. G-73-07; and
- L. On November 21, 2007 Smart Energy provided the Commission with a report which outlined the remedy that would allow Smart Energy to provide TPV calls within three days of recording in compliance with Order No. G-73-07, a memo to its sales agents confirming new procedures, and a TPV script; and
- M. The Commission reviewed the TPV script and found that it did not comply with Order No. G-73-07; and
- N. On November 27, 2007 Smart Energy provided the Commission with a revised TPV script.

**NOW THEREFORE** pursuant to section 71(1) of the Utilities Commission Act, the Commission orders that effective 9:00 a.m., November 29, 2007, Smart Energy is now permitted to sign customers to sales contracts under the Residential Commodity Unbundling Program provided that:

1. Smart Energy will apply the revised TPV script dated November 27, 2007.
2. The digitally recorded TPV calls are available for review by the Commission three days after the recording as provided for in Order No. G-73-07.
3. Smart Energy complied with Order No. G-140-07 and did not sign contracts with residential customers under the Residential Commodity Unbundling Program during the effective period of the Order.

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4. Smart Energy files, until further notice from the Commission, copies of all contracts submitted to Terasen Gas Inc. for registration in the Residential Commodity Unbundling Program, accompanied by a TPV recording for each contract, within three days of the date the contract is submitted.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 28<sup>th</sup> day of November 2007.

BY ORDER

*Original signed by*

Robert H. Hobbs