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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-72-08

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

and

**An Application by
British Columbia Homeowners' Natural Gas Corporation
for a Gas Marketer Licence**

BEFORE: L.F. Kelsey, Commissioner
A.A. Rhodes, Commissioner April 17, 2008
P.E. Vivian, Commissioner

O R D E R

WHEREAS:

- A. On January 17, 2008 British Columbia Homeowners' Natural Gas Corporation ("BCHNGC") applied to the Commission for a Gas Marketer Licence. The application included the payment of the \$1,000 application fee and a \$250,000 Letter of Credit pursuant to the requirements of Item 3 of the Licence application form; and
- B. The Commission issued Interrogatory Requests to BCHNGC dated February 4, 2008 and February 27, 2008 and BCHNGC responded on February 19, 2008 and March 18, 2008 respectively; and
- C. The Commission has reviewed BCHNGC's application and relying upon the information and representations made by BCHNGC, finds that approval of a Gas Marketer Licence for the applicant is not in the public interest. Reasons for Decision are attached as Appendix A to this Order.

NOW THEREFORE pursuant to Section 71.1(6) of the Utilities Commission Act and based on the Reasons for Decision attached to this Order, the Commission denies the application for approval of a Gas Marketer Licence to the British Columbia Homeowners' Natural Gas Corporation.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of April 2008.

BY ORDER

Original signed by

L.F. Kelsey
Commissioner

Attachment

An Application by
British Columbia Homeowners' Natural Gas Corporation
for a Gas Marketer's License

REASONS FOR DECISION

On January 17, 2008 the British Columbia's Homeowner's Natural Gas Corporation ("BCHNGC") filed an application with the British Columbia Utilities Commission (the "Commission") for a Gas Marketer Licence that included a \$1000 application fee and a \$250,000 Letter of Credit for the period ending October 31, 2008 (the "Application"). The Commission issued information requests on February 4, 2008 and February 27, 2008. BCHNGC responded on February 19, 2008 and March 18, 2008 respectively.

The Commission considered whether the principals of the firm had demonstrated sufficient business and industry experience to carry on business as a Gas Marketer in British Columbia. The business model as proposed by BCHNGC was also examined to determine its compliance with the Essential Services Model, which is fundamental to the Customer Choice Program, the Code of Conduct for Gas Marketers ("Code"), *"The Business Practices and Consumer Protection Act"* ("Act"), and Rules for Gas Marketers. It is incumbent on the Applicant to establish Gas Marketer operations and a residential consumer contract that is in compliance with all elements of the Customer Choice Program. As a result of the Commission's review the following issues were identified:

1. An applicant for a Gas Marketer Licence must demonstrate, to the satisfaction of the Commission, adequate expertise and experience in a broad range of areas including gas supply, risk management, financial management, retail gas marketing, customer service and depending on the marketing model, proposed training and management of a retail sales force. BCHNGC has provided brief biographies of key personnel instead of the requested resumes and this information is not corroborated by specific reference contacts in this business area. Letters of reference have not been provided and it is impossible to verify from independent sources whether the principals of the firm have the necessary business experience to operate as a Gas Marketer. As a result, the information is vague and the veracity of the statements cannot be tested. Therefore, the Commission is not persuaded that the principals of BCHNGC have the necessary expertise and experience to operate successfully as a Gas Marketer in British Columbia.
2. BCHNGC indicates that it intends to contract with gas suppliers once the gas volumes have been determined. Therefore, gas suppliers have not been contracted at this point but BCHNGC intends to contact Shell Canada, Chevron, Texaco, Duke Energy and El Paso once a Gas Marketer Licence has been granted (letter from Mr. John E. Rogers dated February 19, 2008).

The Commission views this strategy as very problematic as there is no assurance that any gas supplier will provide gas supply on acceptable financial terms. BCHNGC has not demonstrated a credit history with a gas supplier and the actual financial structure of BCHNGC cannot be easily verified as it is not a public company.

3. The Customer Choice program is built on the Gas Marketer providing one to five year contracts at a fixed rate as outlined in Order No. C-6-06, Appendix 6. BCHNGC suggests a business case that includes a future performance contract. In this model, gas would not be contracted for until such time as enough customer sales had been gathered to attract the interest of a gas producer.

Under the definition of “Term” in BCHNGC’s residential consumer contract, it states the following:

“The Term of this Agreement begins on the date of the first gas flow to me under the Agreement which is intended to start within 150 days after BCG’s receipt of this signed Agreement and shall continue for an initial period of five (5) years subject to any renewal (the “Term”).”

In the proposed business model, the customer does not know when gas deliveries will start or the price under the contract although these elements are required under the Code and the Act. This contract structure does not comply with Article 26 of the Code or Article 19 of the Act.

4. The Essential Services model and the Business Rules require that a fixed price contract for one to five years be provided to residential customers (see Order No. C-6-06, Appendix 6). The business model proposed by BCHNGC as described below does not appear to meet the requirements of the Customer Choice program.

Billing and Price (BCHNGC contract page 2)

“I will continue to pay my natural gas bills directly to my gas utility as before. BCG agrees to provide me with a stable unregulated price for gas which will not increase past the price of ???? per GJ (“Supply Cost”) while other prices may fluctuate (higher or lower) compared to the Supply Cost. The Supply Cost does not include taxes, the cost of gas transport including regulated transmission, compressor fuel, distribution and other costs (Including administration fees) that will be charged by my gas utility to BCG which I agree to pay.”

5. The BCHNGC contract indicates that a consumer in the program will get money back through a “10% refund” that is based on the BCHNGC “stable” price. At the time of signing the contract, the customer does not appear to know a clearly stated price. The refund is a suggestion of a savings but in fact it is a decrease off BCHNGC’s future price. This pricing structure does not meet the requirements of Articles 11 and 22 of the Code.
6. The proposed contract does not comply with the requirements of the “*The Business Practices and Consumer Protection Act*” in a number of areas. The contract contains no supply date as required under Section 23(2). Item 5 above makes reference to BCHNGC’s application of a discount; however, the Act in Section 23(4) states that this results in a nonbinding agreement when this is contingent on a future event. In this case, that event would be the delivery of gas within 150 days of the signed agreement.

Section 23(2)

In addition to the information required under section 19 (required contents of contract), a future performance contract must contain the following information:

- (a) the supply date;*
- (b) the date on which the supply of the goods or services will be complete;*
- (c) If there are periodic payments under the contract the amount of each of the periodic payments*

Section 23(4)

Future performance contract is not binding on the consumer if the earning of the rebate, discount or other value is contingent on the occurrence of an event after the time the consumer agrees to buy.

Commission Determination

The Commission is not persuaded that BCHNGC has the necessary experience in the gas marketing business, sufficient technical expertise or the financial resources to competently operate as a Gas Marketer. In addition, the proposed contract does not comply in all respects with the Code of Conduct for Gas Marketers, the Rules for Gas Marketers and the requirements of the “*Business Practices and Consumer Protection Act*”. Therefore the application of BCHNGC for a Gas Marketer Licence is denied and the Letter of Credit is returned to the applicant.