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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-44-08

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

and

**Modifications to the Code of Conduct for Natural Gas Marketers
engaged in
Commodity Unbundling Service
in The Province of British Columbia**

BEFORE: L.F. Kelsey, Commissioner March 18, 2008

O R D E R

WHEREAS:

- A. Commission Order No. C-6-06 granted a Certificate of Public Convenience and Necessity ("CPCN") to Terasen Gas Inc. (Terasen Gas") for the Residential Commodity Unbundling Project effective November 1, 2007; and
- B. Commission Order No. G-152-06 approved five components in support of the Residential Commodity Unbundling CPCN that included: Customer Education, Confirmation Letter, Dispute Resolution Process, Changes to the Code of Conduct for Gas Marketers ("Code of Conduct") and Changes to Rate Schedule 36; and
- C. Commission Order No. G-40-07 approved revisions to Rate Schedules 1U, 1X, 2X, 3X and the Code of Conduct; and
- D. Commission Order No. G-45-07 approved revisions to the Code of Conduct; and
- E. Commission Order No. G-73-07 approved further revisions to the Code of Conduct; and
- F. By letter dated January 11, 2008, the Commission requested comments of all Gas Marketers on three issues related to customer complaint and dispute matters; and
- G. Letters were received between January 25, 2008 and February 29, 2008 from Access Gas Service Inc. ("AGS"), Active Energy ULC ("Active Renewable"), CEG Energy Options Inc. ("CEG"), Direct Energy Marketing Ltd. ("Direct Energy"), Energy Savings (BC) Limited Partnership ("ESBC"), Summitt Energy BC L.P. ("Summitt Energy"), Superior Energy Management ("SEM"), and Universal Energy Corporation ("UEC" or "Universal Energy"), commenting on each of the three issues; and

- H. The Commission has reviewed the Gas Marketers' comments on each issue and has determined that the Code of Conduct should be amended to incorporate changes to each of the three issues; and
- I. In reviewing the revised version of the Code of Conduct, the Commission noted Article 8 required one edit.

NOW THEREFORE pursuant to section 71.1 of the Utilities Commission Act and the Code of Conduct and Rules for Gas Marketers, the Commission amends the Code of Conduct and the Rules for Gas Marketers effective the date of this Order by adding additional clarification as set out below with Reasons for Decision attached as Appendix A, and orders that:

1. The Code of Conduct is amended to state under Article 13 as follows:

Should any Consumer complain that a Gas Marketer or Salesperson has engaged in any improper course of conduct pertaining to Marketing under the Commodity Unbundling Service, the Gas Marketer shall promptly investigate the complaint and take all appropriate and necessary steps in the circumstances to redress any and all wrongs disclosed by such investigation.

All contracts between a Gas Marketer and a Consumer will include a provision 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 Commission or other body appointed by the Commission for purpose of resolving such disputes and conducted according to the Commission's rules for the resolution of such disputes. The Gas Marketer shall pay a dispute resolution fee for each dispute referred to the Commission as determined by the Commission, except for a dispute where the Commission determines that the Consumer will be solely responsible for the dispute resolution fee.

All evidence in a dispute must be uploaded in GEM by the end of the ninth day following the initial logging of the dispute in GEM. This includes evidence provided by customers and by Gas Marketers. No evidence will be accepted for a dispute if received after the ninth day outstanding on GEM. If information is to be considered after this deadline, the party must submit a request for reconsideration in accordance with BCUC procedures.

Minimum evidence to be filed by a Gas Marketer includes the Customer Agreement or Contract, Notice of Appointment of Marketer, and Third Party Verification Recording for Agreements or Contracts signed after July 1, 2007.

2. The Rules for Gas Marketers is amended to state under section 5.0 as follows:

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.

The Customer's form for signature, in accompaniment with the Notice of Appointment of Marketer, will be clearly designated as an "Agreement" or a "Contract."

3. The Code of Conduct is amended to state under Article 26 as follows:

The Customer's form for signature, in accompaniment with the Notice of Appointment of Marketer, will be clearly designated as an "Agreement" or a "Contract". The terms "Application" or "Enrollment" do not accurately reflect the agreement made between the Marketer and the Consumer. There should be no confusion in the mind of the customer that this is a binding contract and not an application or enrollment.

The Consumer's right to cancel without penalty must be referred to as the "Ten Day Cancellation" provision and must be clearly stated in the Agreement or Contract, prominently situated above the Consumer's signature line. Instructions must be included on how the Consumer can exercise this option.

The first page of the agreement between the Gas Marketer and a Consumer must accurately summarize and clearly state the essential elements of the Offer, including:

- *Price (Canadian \$ per gigajoule)*
- *Term (length in years, start and end dates)*
- *Renewal provisions (type, frequency, dates)*
- *Cancellation provision*
- *Penalties and terms for early termination of the contract, including minimum contract term*
- *Conditions which may affect the price or term of the Offer*

The minimum contract term is one year with a maximum contract term of no more than five years and the dates for commencement of service and termination of service must coincide with program entry dates.

4. The Code of Conduct is amended to state under Article 31 as follows:

Third Party Verification is the form of a digitally recorded telephone call either initiated as an outbound call from the Gas Marketer to the consumer or as an inbound call initially dialed by the sales agent to the Gas Marketer. In instances where the agent is present during the Third Party Verification, the Commission will consider this in the event of dispute adjudication. If the agent is present during the Third Party Verification, there must not be any communication between the customer and the agent. The Third Party Verification may only be completed after the salesperson has completed the sales presentation and the customer has executed the Agreement, and before the Consumer's enrollment is submitted to the LDC.

The Commission will allow inbound and outbound calls for Third Party Verification. If the Third Party Verification call is carried out in the presence of a salesperson, the salesperson must not participate in, interrupt, or make comment to the customer during the call. Should such communication occur, the Third Party Verification must be terminated, and the Marketer may not contact the customer again for a minimum of five days after that date. The Commission will be aware of the presence of the salesperson during a Third Party Verification call and if any communication is held between the customer and the salesperson, the Commission will deem the Third Party Verification to be invalid. The Third Party Verification must be the final step in the sale, the salesperson must have already fully and clearly explained the terms and conditions of the agreement to ensure that at the time of the Third Party Verification call the customer has received and reviewed all of the information, and the customer must have already executed the Agreement.

The scripting will cover the topics specified by the Commission for this purpose, and be available to the Commission for review and approval. The digital file will be available to the Commission 3 days after the initial recording and retained by the Gas Marketer for the term of the contract.

5. The Code of Conduct is amended to state under Article 8 as follows:

Neither a Gas Marketer or any Salesperson shall mislead or otherwise create any confusion in the mind of a Consumer about the identity of the represented Gas Marketer, its promotion campaigns or trade mark, or those of competitors and/or LDC's.

*Specifically, a Gas Marketer **or** any Salesperson when Marketing a supply contract to a Consumer shall state that they are not representing the Consumer's local distribution company.*

6. Where this Order requires changes to be made to a Gas Marketer's supply contract, 30 days from the date of this Order will be given to implement the changes.

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A Revised Code of Conduct for Gas Marketers is attached as Appendix B to this Order.

A Revised Rules for Gas Marketers is attached as Appendix C to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of March 2008.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachments

Modifications to the Code of Conduct for Natural Gas Marketers
engaged in
Commodity Unbundling Service
in The Province Of British Columbia

REASONS FOR DECISION

1.0 INTRODUCTION

By letter dated January 11, 2008, the Commission requested Gas Marketers' comments on a number of issues surrounding complaint and dispute related matters, specifically, the Timeline and Evidence Requirements for Resolving Disputes ("Timeline"), the Information to be Disclosed in a Contract ("Contract Requirements"), and the Presence of a Salesperson during the Third Party Verification ("Presence of a Salesperson")

The first two issues, the Timeline and the Contract Requirements are considered to be matters which have processes in place and require formalization in the Code of Conduct and Rules for Gas Marketers. The third issue, the Presence of a Salesperson was addressed previously in the Number 2 of Commission Determination attached as Appendix A to Commission Order No. G-73-07, which states:

"The Commission prefers that the TPV be exclusively an outbound call with the sales agent not present. However, the Commission is willing to allow the agent to be present during the confirmation process as the Confirmation Letter provides the customer with information to cancel the contract if intimidation is an issue. However, if over time customer complaints confirm that sales agents are imposing undue influence on customer, then this issue will be re-examined."

Letters were received between January 25, 2008 and February 29, 2008 from Access Gas Service Inc. ("AGS"), Active Energy ULC ("Active Renewable"), CEG Energy Options Inc. ("CEG"), Direct Energy Marketing Ltd. ("Direct Energy"), Energy Savings (BC) Limited Partnership ("ESBC"), Summitt Energy BC L.P. ("Summitt Energy"), Superior Energy Management ("SEM"), and Universal Energy Corporation ("Universal Energy"), commenting on each of the three issues.

2.0 ISSUE NO. 1 - TIMELINE

The Commission requested Gas Marketers' comments on how much time is required for resolving disputes on the GEM portal. The current Commission practice allows Gas Marketers 10 days to upload evidence in the matter, and then the dispute is adjudicated. The entire turnaround time is about 10-15 days.

The Commission also proposed that evidence be specified as required, such as a valid copy of the contract, and the Third Party Verification (TPV) recording.

2.1 Gas Marketers' Comments

AGS agrees that the process should specifically include the filing of both a copy of the TPV recording and the executed Gas Marketer Agreement. AGS can commit to a turnaround time of 3 business days to upload supporting documentation to GEM for BCUC to review.

Active Renewable agrees that a 15 day turnaround time is satisfactory. Adding the TPV to the upload in addition to the Contract plus any additional documentation at the retailer's option is reasonable and supported by Active Energy.

CEG is willing to accept a five working day timeline in order to provide supporting evidence. CEG also accepts the requirement for providing the TPV and a copy of the Customer Agreement.

Direct Energy supports the clarification of expectations around the dispute resolution process and agrees that a Contract and TPV call should be included at a minimum. The ability to include other relevant material is also supported. Direct Energy notes that there is a significant workload involved in investigating and responding to each issue thoroughly and also that the nine days currently allowed has been necessary sometimes to ensure a full investigation of the issue. Shortening the timeframe may prove too onerous and may jeopardize the attention that each complaint currently receives. Direct Energy encourages BCUC to keep the existing timelines.

ESBC believes that a 10-business day turnaround, from initial complaint to resolution, is a reasonable timeframe. ESBC would expect that up to five days response time for each of the marketer and the Commission would be reasonable. ESBC believes the current evidence requirements of the BCUC are also reasonable, namely the TPV, the Contract, and any additional supporting information the marketer would like to bring to the BCUC's attention.

Summitt Energy notes that the current timeline for marketers to respond to GEM disputes provides adequate time to respond to the dispute and upload the required documents. Summitt Energy would not recommend shortening this timeframe as nine days is required to review the details of the complaint, engage in follow-up discussions with the customer, retrieve and review supporting documents, and obtain company internal approval on the response. Summitt Energy supports the Commission's proposal to require that a TPV be part of the marketer's response to the GEM complaint for contracts signed after July 1, 2007.

SEM recommends reducing the dispute response timeline from up to nine calendar days to seven calendar days. SEM also supports a more formalized timeline for completion of the dispute adjudication. SEM supports that all dispute responses include a TPV of the account. SEM also seeks confirmation that accounts enrolled prior to July 1, 2007 do not require a TPV based on the Code of Conduct in effect at that time.

UEC believes that the current timeline for uploading a copy of a Contract with supporting documentation into the GEM system should not be changed. The current timeline allows for a detailed and complete report to be submitted. UEC supports the requirement of a TPV as evidence in the dispute resolution process.

WEG would agree with a slight shortening to seven or eight days from the current 10 days. WEG also agrees with the provision of the TPV requirement in the dispute resolution process, and have been providing this information in any disputes for contracts signed after July 1, 2007.

2.2 Commission Determination

All evidence must be uploaded to GEM by the end of the ninth day following the initial logging of the dispute through GEM. This includes evidence provided by customers and by marketers. No evidence will be accepted for a dispute if received after the ninth day. If information is to be considered after this deadline, the party must submit a request for reconsideration in accordance with BCUC procedures.

Minimum evidence to be filed by a Gas Marketer includes the Customer Agreement or Contract, Notice of Appointment of Marketer, and Third Party Verification Recording for Agreements or Contracts signed after July 1, 2007.

3.0 ISSUE NO. 2 - CONTRACT REQUIREMENTS

The Commission requested Gas Marketers' comments on what information should be disclosed in a contract. The Code of Conduct for Gas Marketers, Appendix B of Commission Order No. G-73-07 outlines the terms of the offer and consumer's agreements. Although some, but not all Gas Marketers' "Contracts and Agreements"

include clear reference to the 10-day cancellation period provisions, this is not a current requirement outlined in the Code of Conduct. In addition, the Commission requested comment on the use of wording to describe the document which is signed by the Customer.

3.1 Gas Marketers' Comments

AGS firmly believes that the words "Contract" and "Agreement" are synonymous and appropriate when referring to a Gas Marketer's standard documentation. AGS concedes that use of the word "Application" or "Registration" may be considered by some consumers to be misleading. AGS agrees that referring to the 10-day cancellation rights as the "cooling-off period" may create confusion in the mind of some consumers and should not be used in either the contract or the TPV script. AGS suggests that all terms and conditions be affixed to the actual form filled in by the customer (ideally on the backside) rather than being hidden in a separate brochure which is the case with some marketers.

Active Renewable states that the agreement should be clearly stated as an "Agreement or Contract" and the specific terms including the "10 day cancellation period" should be clearly stated on the Agreement or Contract.

CEG does not believe that the Agreement needs to be titled specifically as a Contract. CEG believes that the title Enrollment is not a misleading term for the Agreement. CEG believes that the Agreement with the customer should indicate clearly the customer is entering into a Contract with the Gas Marketer. CEG agrees that the front page of the customer Agreement should clearly state the customer has 10 days to cancel the Agreement after receiving the enrollment confirmation letter from Terasen.

Direct Energy strongly supports the requirement for information about the cooling off period to be included in the contract. Direct Energy believes that there should be flexibility for marketers to use different terms such as Agreement as these are commonly used for other type of consumer contracts and are sometimes more familiar to consumers.

ESBC would support the use of consistent terminology in this regard for all marketers and suggests the use of the word "Agreement" most closely adheres to the Code of Conduct. ESBC views the cancellation policy as a material item that warrants inclusion in to the terms and conditions presented on the first page as described in Article 26 of the Code of Conduct. ESBC also supports consistency and that all marketers should make this customer right clear on the first page of the contract. ESBC states that the terms "cancellation" and "cancel" describe the cooling off period with the most clarity for customers, and recommend that the terms used be standard amongst all marketers.

Summitt Energy is of the opinion that if marketers leave a copy of the Registration Form, a copy of the Agreement Terms and Conditions, Appendix C – Notice of Appointment of Marketer, and Terasen Gas' Customer Information Booklet, all this information will clearly indicate to the customer that they have entered into a binding contract. SEM is of the opinion that because the term cooling-off is widely known contract terms amongst the general public that it is not necessary to require marketers to change the term to 10-day cancellation period.

SEM submits the term "Agreement" as its recommendation for designation of the enrollment form. "Agreement" is used extensively in the Code of Conduct and, in conjunction with the requirements outlined in Article 26 of the Code, should be clear to the customer the obligations entailed in signing the form. SEM supports reference to a cancellation period vs. a "cooling off period" to reduce any confusion as to the customer's right to cancel. SEM

suggests that we should guard against burying the most pertinent terms and conditions on the face of the agreement amongst details possibly captured elsewhere on the document.

Universal Energy submits that the 10-day cancellation period is in the Terms and Conditions as a separate document, and that no changes are necessary to reference of the document as an Agreement.

Wholesale Energy feels that the following information should be disclosed in a gas marketing contract: term, price, cancellation fees, and 10 day cancellation period. Wholesale Energy submits that the variety of terms used to refer to the customer documents may cause confusion. However, Wholesale Energy states that they do not refer to the document as a contract as it is not binding until a successful TPV has been conducted. In effect, the customer is signing a document showing their intent to enter into a contract with a gas marketer.

3.2 Commission Determination

The Customer's form for signature must be clearly designated as an "Agreement" or a "Contract". There should be no confusion in the mind of the customer that this is a binding contract and not an application or enrollment.

The Consumer's right to cancel without penalty must be referred to as the "Ten Day Cancellation" provision and must be clearly stated in the Agreement or Contract, prominently situated above the Consumer's signature line. Instructions must be included on how the Consumer can exercise this option.

4.0 ISSUE NO. 3 - PRESENCE OF A SALESPERSON

In Commission Order No. G-73-07, the Commission noted that the matter relating to whether or not a Salesperson should be present during a TPV will be re-examined. The Commission requested Gas Marketers' comments on this matter for re-review.

4.1 Gas Marketers' Comments

AGS has experimented with both outbound and inbound verification. AGS supports inbound verification for the following reasons: 1) Due to the clarity and rigidity of their script they receive very few calls from enrolled customers stating they didn't understand the key points of their agreement. 2) The salesperson is forced to ensure the customer is made aware of the key points of their agreement because the TPV operators will not, under any circumstances, further push or sell the product. 3) There is no possibility of being unable to contact the customer after the sale. This prevents a situation where a consumer may believe they've enrolled in the program but have not actually completed the sales process. 4) It is far more cost effective. AGS believes that inbound TPV should remain an option for marketers. AGS suggests standard scripting to prevent the coaching/selling that occurs during some Gas Marketer verification that can lead to confusion and unclear messaging. AGS feels that it would best ensure customer protection and put all marketers onto a level playing field thus preventing salespeople migrating to the "easiest" sale.

Active Renewable believes that the current option of inbound and outbound calls is working effectively at this time. Active Renewable notes that outbound call will cost significantly more to maintain as: a) more call center personnel will be required to conduct outbound calls as compared to inbound calls; and b) the likelihood of locating and contacting the customer through outbound calls significantly decreases resulting in cancelled contracts. Active Renewable suggests that the BCUC give notice, and then take action on those specific retailers who are in breach of the Code rather than enforcing a higher cost and cumbersome process.

CEG does not typically have the salesperson present during the TPV call but CEG does not recommend that the Commission mandate that the salesperson not be present during the TPV. CEG mentions that the information provided by the Agent is much clearer in the customers mind whether positive or negative and allows the marketer a better insight into the behavior of the Agent. CEG suggests that if Agent intimidation is isolated to specific marketer(s), those marketers should be mandated to not have an Agent present during a TPV call for an indefinite period and that this is to be confirmed by the verification call.

Direct Energy advised that the TPV is most valuable when conducted at point-of-sale, that is, during the signing process. This allows the gas marketer to assess a customer's understanding before the paperwork is completed and reduces the chance of a customer actually being enrolled in a contract they do not understand. Direct Energy submits that an additional question could be added to the script requirements, ensuring that the questions are asked in random order so that an agent is not able to assess the response on any particular issue. In addition, the salesperson could initiate the call but then be directed to leave the premises by the TPV agent.

ESBC asserts that the most efficient and convenient manner to contract and verify the sale is to have the salesperson present during the TPV call. ESBC submits that the customer can ask questions of both the salesperson and the customer service representative and have them answered at the same time. This offers the customer the ability to confirm their understanding with two different people at one time. The current process can be completed conveniently. The customer is not going to have to go through a separate confirmation process and then reconnect with the salesperson or company later to complete the sale. Most people are used to signing long-term agreements at the time of sale. ESBC supports the TPV process which goes beyond that employed in other industries to ensure customer can verify the key terms and conditions of the agreement and the rights they have been provided. ESBC feels that imposing additional processes for all companies and customers when the concerns relate to a few people is overly burdensome and not warranted.

Summitt Energy is of the opinion that the TPV call initiated by the sales agent, coincident with the sales transaction, and in the presence of the sales agent puts undue pressure on the customer to accept the contract and does not provide the customer with adequate time to read through and consider all the terms and conditions of the contract. Summitt Energy would recommend that 24 hours pass before attempting to verify the contract without the presence of a sales agent. The passing of this time will provide the customer with the time to review the contract, independent of a sales presentation and decide how to proceed.

SEM suggests that allowing the TPV immediately following the sale increases the chance that the customer will be reached and having the sales agent present allows the agent to clarify any issues or response to questions on the spot. SEM notes that strict policies are necessary to ensure that aggressive agent behaviors and any complaints against an agent imposing undue influence on a customer's decision to sign and verify an agreement are dealt with immediately.

Universal Energy believes that the current system should remain in place, where the agent has the option of being present during the TPV.

Wholesale Energy is in favor of being able to carry out the TPV call with the salesperson present. The sales process is fresh in the customer's mind, so it is easier for them to recall the details that were outlined to them during the sales process. If the TPV call uncovers any deficiencies during the sales process, the marketer is made aware of this immediately and can take corrective action right away. Wholesale Energy feels that conducting the TPV call with the salesperson present improves the quality of the sale and the selling process, and is beneficial to all parties.

4.2 Commission Determination

The Commission will allow inbound and outbound calls for Third Party Verification (“TPV”). If the TPV call is carried out in the presence of a salesperson, the salesperson must not participate in, interrupt, or make comment to the customer during the call. Should such communication occur, the Third Party Verification must be terminated, and the Marketer may not contact the customer again for a minimum of five days after that date. The Commission will be aware of the presence of the salesperson during a TPV call and if any communication is held between the customer and the salesperson, the Commission will deem the TPV to be invalid. The TPV must be the final step in the sale, the salesperson must have already fully and clearly explained the terms and conditions of the agreement to ensure that at the time of the TPV call the customer has received and reviewed all of the information, and the customer must have already executed the Agreement.

CODE OF CONDUCT
For
GAS MARKETERS
engaged in the
COMMODITY UNBUNDLING SERVICE
IN THE PROVINCE OF BRITISH COLUMBIA

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CODE OF CONDUCT

For

GAS MARKETERS

engaged in the

COMMODITY UNBUNDLING SERVICE
IN THE PROVINCE OF BRITISH COLUMBIA

Introduction

Marketing of natural gas under the Commodity Unbundling Service takes place usually, though not exclusively, in a Consumer's place of business or home, by personal contact, or via telephone or internet marketing. Marketing of Gas under the Commodity Unbundling Service involves several parties including Gas Marketers, utilities and the Consumer of the Gas. The relationship between the various parties must be based on fair and ethical principles.

Scope

The purpose of this Code is to foster and uphold a sense of responsibility towards the Consumer and towards the general public by all those engaged in Marketing of Gas to Low Volume Consumers participating in the Commodity Unbundling Service in the Province of British Columbia.

The Code applies to all practices used in the Marketing of Gas under the Commodity Unbundling Service for both residential and commercial Consumers. Where the practices are different between residential and commercial Consumers, it is noted.

The Code is to be applied in spirit as well as to the letter, bearing in mind the varying degrees of knowledge, experience and discriminatory ability of Consumers.

Basic Principles

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;
- 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.

Gas Marketers shall voluntarily assume responsibility towards the Consumer with respect to fair sales methods and product value, and shall make every reasonable effort to ensure Consumer satisfaction.

Gas Marketers shall ensure that their Salespersons are fully informed as to the characteristics of the gas supplies and/or services offered to enable them to give the Consumer all necessary information to make informed decisions.

DEFINITIONS

For the purpose of this Code:

- **Act** means the Utilities Commission Act of British Columbia as amended from time to time.
- **Code** means this Code of Conduct for Gas Marketers.
- **Commission** means the British Columbia Utilities Commission.
- **Commodity Unbundling Service** is defined as the series of transactions involving the sale of gas by a Gas Marketer to a Gas utility for resale to a Low Volume Consumer arranged by Gas Marketer at a price agreed to between the Gas Marketer and the Low Volume Consumer.
- **Consumer** refers to any person or entity to which Gas Marketers direct or may direct their Gas Marketing activities under the Commodity Unbundling Service and includes both Consumers contracted with Gas Marketers or Consumers being supplied by a utility. Consumers include Residential and Commercial as defined by the local utility offering the Commodity Unbundling Service.
- **Consumer's Agreements** means all written agreements and contracts between a Gas Marketer and a Consumer for the Marketing of Gas, other than the Offer.
- **Consumer Information** means information relating to a specific Consumer obtained by a Gas Marketer or its Salesperson in the process of selling or offering to sell Gas to the Consumer, and includes information obtained without the consent of the Consumer.
- **Day(s)** means a calendar day(s) unless otherwise indicated.
- **End User** is an entity or person who utilizes Gas either as fuel or a raw material.
- **Gas** means natural gas, substitute natural gas, synthetic gas, manufactured gas, propane-air gas or any mixture of any of them.
- **Gas Marketer** means an entity licensed by the Commission to engage in Gas Marketing to Low Volume Consumers under the Commodity Unbundling Service.
- **License** means a license issued under the Act by the Commission for the Marketing of Gas by a Gas Marketer to a Low Volume Consumer.
- **Licensed** means a person or entity holding a current valid License.
- **Local Distribution Company (LDC; Utility)** is a person/company enfranchised to distribute Gas within a defined territory.
- **Low Volume Consumer** – as defined by the Commission pursuant to section 71.1 of the Act. A “low-volume consumer” is defined as a person who, for the applicable period, either:
 - has, or is expected to have, a normalized annual consumption at one premise of less than 2,000 gigajoules of Gas per year; or
 - has chosen the Commodity Unbundling Service supply option, whatever the person's annual consumption of Gas.

- **Marketing** for the purpose of this Code, means any activities intended to solicit a Consumer or potential Consumer to contract with a Gas Marketer, including providing for a Consumer's consideration an Offer, and is characterized by door-to-door selling, internet, telemarketing, direct mail selling activities, and any other means by which a Gas Marketer or its Salesperson interacts directly with a Gas Consumer or potential Gas Consumer.
- **Offer** means a proposal to enter into an agreement made to an existing or prospective Consumer for the sale of Gas.
- **Premise** means the building or portion of a building that is provided with Gas through a single meter.
- **Regulation** means a regulation made under the Act.
- **Salesperson** means a person who is employed by or otherwise conducts Marketing on behalf of a licensed Gas Marketer, or makes representations to Consumers on behalf of a Gas Marketer for the purpose of effecting sales of Gas to Low-Volume Consumers.
- **Third Party** with respect to a Gas Marketer, means a person other than the Gas Marketer, and includes other Gas Marketers, affiliates, Consumers and other persons.
- **Third Party Verification (TPV)** is a digitally recorded telephone call between the Gas Marketer and the Residential Consumer to confirm with the Residential Consumer an understanding of the Offer, Consumer's Agreements, Confirmation Letter and Cancellation Rights.

THE TERMS OF THE CONSUMER'S AGREEMENTS AND THE OFFER

Accuracy

Article 1

The terms of any Offer and Consumer's Agreements shall be clear, so that the Consumer shall know the nature of the product and the benefits, the commitment and risks involved in agreeing to contract for Gas with the Gas Marketer. In particular, but without limiting the generality of the foregoing, any Offer and Consumer's Agreements will be accurate and truthful as to any representation made as to price, delivery arrangements, payment terms and conditions, quality and value of services, and quantity and performance and warranty conditions.

Price and Other Terms

Article 2

Whether an Offer is on cash or any other basis, the Offer and Consumer's Agreements shall clearly state the price and payment terms and any other financial provisions, including any deposit requirement, allocation of cost savings and/or services, and the nature and amount of any additional charges. The Offer and Consumer's Agreements shall clearly state agreement renewal provisions including default rollover provisions.

The Gas supply price must be a fixed price for 12 month intervals expressed in Canadian dollars per gigajoule. This price shall only apply to the sale of Gas and shall not include provision of other services.

If any other term or condition is subject to re-determination, indexation or arbitration, the Offer shall so state.

All Offers shall contain clear statements as to the quantities of Gas to be purchased, intended start-up and delivery dates, and the term of the agreement. The term shall not be less than one year or more than five years in length.

The Consumer's Agreements shall accurately and fully reflect the terms and conditions of the Offer as accepted by the Consumer.

No Offer shall require a sign-up fee to be taken in order to initiate a purchase of natural Gas arrangement under the Commodity Unbundling Service.

Obligations and Liabilities

Article 3

The Offer and Consumer's Agreements shall state the respective obligations, liabilities and risks of the Gas Marketer and Consumer in clear and understandable terms so that the Consumer may be sufficiently informed to understand them prior to executing Consumer's Agreements.

The Gas Marketer shall confirm with the Consumer that the Consumer has the signing authority to enter into the Consumer Agreement.

Protection

Article 4

This Code shall be interpreted in accordance with all applicable federal and provincial Consumer protection and business practice legislation.

Guarantees

Article 5

Offers and Consumer's Agreements may contain the words "guarantee", "guaranteed", "warranty" or "warranted", or words having the same or similar meanings, only if the terms of the guarantee as well as the remedial action open to the Consumer are clearly and succinctly set out in the Offer and Consumer's Agreements. Any such guarantee shall in no way diminish the rights which a purchaser would otherwise enjoy under Canadian or applicable provincial laws. The name and address of the guarantor shall be clearly and fully stated.

PRESENTATION OF THE OFFER

Identity of the Gas Marketer

Article 6

The name, permanent address, main British Columbia office address and the telephone number, fax number, e-mail and website addresses of the Gas Marketer shall be clearly and fully disclosed in any Marketing document or other Marketing literature distributed to the Consumer, so as to enable the Consumer to remain in touch directly with the Gas Marketer. Marketing documents and other literature containing only an accommodation address or a post office box number are not acceptable.

Article 7

All Salespersons shall immediately, truthfully and fully identify themselves and provide proof of licensing and bonding, to prospective Consumers. They shall also truthfully and fully indicate the purpose of their approach to the Consumers, identify the Gas Marketer with whom they are associated and indicate that they are Marketing Gas under the Commodity Unbundling Service.

Article 8

Neither a Gas Marketer or any Salesperson shall mislead or otherwise create any confusion in the mind of a Consumer about the identity of the represented Gas Marketer, its promotion campaigns or trade mark, or those of competitors and/or LDCs.

Specifically, a Gas Marketer or any Salesperson when Marketing a supply contract to a Consumer shall state that they are not representing the Consumer's local distribution company.

Integrity

Article 9

Salespersons shall in good faith assist Consumers to evaluate the nature of the transactions. Marketing efforts shall be organized and carried out so as not to:

- create confusion in the mind of the Consumer;
- mislead the Consumer or misrepresent any aspect of the Offer or Consumer's Agreements;
- abuse the trust of the Consumer;
- unduly pressure or harass the Consumer to enter into transactions; and
- exploit the lack of experience and knowledge of the Consumer.

Clarity

Article 10

Gas Marketers and Salespersons shall ensure that all terms of any Offer or Consumer's Agreements are communicated to the Consumer in writing in a clear, complete, accurate and understandable manner. Print which by its size or other visual characteristics is likely to negatively affect the legibility or clarity of any Offer or Consumer's Agreements, shall not be used.

Truthful Presentation

Article 11

The characteristics of any transaction shall include:

- price, deposit, credit and rebate terms;
- terms of payment and frequency;

- the beginning and end dates of the agreement;
- identity of and accessibility to the Gas Marketer;
- process for making a complaint to or enquiry of the Gas Marketer;
- delivery terms and conditions, during-and after-sales services;
- sources and reliability of supplies;
- terms of guarantee and warranty;
- liabilities and obligations of the Gas Marketer and Consumer;
- benefits/risks to Consumer;
- awards, bonuses, prizes, discounts and other incentives with respect to the Offer and Consumer's Agreements;
- Consumer's entitlement to receive a copy of this Code from the Gas Marketer;
- reasons for which the agreement may be terminated by the Gas Marketer;
- for Commercial Consumers, that the agreement is made with respect to the Consumer's Premise and terminates in the event the Consumer moves;
- for Residential Consumers, that the agreement is made with respect to the Consumer at the Consumer's Premise and in the event the Residential Consumer moves, the Consumer's Agreements will apply to the Consumer at their new Premise, provided that the new Premise is served with natural gas and that it is in an eligible service territory of the Utility providing the Commodity Unbundling Service;
- for Commercial Consumers, cancellation rights of the Consumer including a mandatory 10 day cooling off period; a Gas Marketer must not submit a Consumer enrolment to the LDC for processing until the 10 day cooling off period has expired. For Commercial Consumers, a 10 day cooling off period will not apply in the case of a single commercial Consumer whose aggregate annual volume exceeds 2,000 gigajoules per year at one or more premises and who has provided written consent to the gas marketer to waive the 10-day cooling off period;
- for Residential Consumers, for the purposes of the Commodity Unbundling Service, the 10 day cooling off period is defined as the 10 calendar days from the date the enrolment is received by the Utility from the Marketer;
- rights under the Consumer's Agreements with respect to assignments, transfers and sales to another Gas Marketer;
- any deposit, exit, late fees or any other charges payable to the Gas Marketer, if applicable;
- any other information required to be provided to the Consumer by Canadian or applicable provincial law; and
- all other terms of the Offer shall be presented completely, accurately and truthfully.

Telephone, Door to Door and Internet Marketing

Article 12

Telephone and Door to Door Marketing

When conducting telephone or door to door Marketing, the Gas Marketer shall comply with applicable laws. All telephone and door to door contacts must be made Monday to Friday between the hours of 9 a.m. and 9:30 p.m. or on Saturday and Sunday between the hours of 10:00 a.m. and 6:00 p.m. local time. Salespersons must immediately, truthfully and fully identify themselves to the prospective Consumers. They shall also immediately, truthfully and fully indicate the purpose of their approach to the Consumers, identify the Gas Marketer with whom they are associated and indicate that they are selling Gas under the Commodity Unbundling Service.

For telephone Marketing, the caller must first personally obtain the consent of the recipient to play a recorded offer. The Gas Marketer shall forward a written agreement to sign-up for service by telephone marketing and obtain from the Consumer a signed agreement in return. The Gas Marketer shall direct the LDC to switch the Consumer's Gas supply only once the Gas Marketer is in possession of the signed agreement from the Consumer.

Internet Marketing

The Gas Marketer shall forward a written agreement to sign-up for service by Internet marketing and obtain from the Consumer a signed agreement in return or obtain an electronic signature which complies with the B.C. Electronic Transactions Act. The Gas Marketer shall direct the LDC to switch the Consumer's Gas supply only once the Gas Marketer is in possession of the signed agreement from the Consumer. Electronic signatures which comply with the B.C. Electronic Transactions Act shall be accepted for Consumers committing to new agreements and for the renewal of existing agreements.

Complaints and Dispute Resolutions

Article 13

Should any Consumer complain that a Gas Marketer or Salesperson has engaged in any improper course of conduct pertaining to Marketing under the Commodity Unbundling Service, the Gas Marketer shall promptly investigate the complaint and take all appropriate and necessary steps in the circumstances to redress any and all wrongs disclosed by such investigation.

All contracts between a Gas Marketer and a Consumer will include a provision 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 Commission or other body appointed by the Commission for purpose of resolving such disputes and conducted according to the Commission's rules for the resolution of such disputes. The Gas Marketer shall pay a dispute resolution fee for each dispute referred to the Commission as determined by the Commission, except for a dispute where the Commission determines that the Consumer will be solely responsible for the dispute resolution fee.

All evidence in a dispute must be uploaded in GEM by the end of the ninth day following the initial logging of the dispute in GEM. This includes evidence provided by customers and by Gas Marketers. No evidence will be accepted for a dispute if received after the ninth day outstanding on GEM. If information is to be considered after this deadline, the party must submit a request for reconsideration in accordance with BCUC procedures.

Minimum evidence to be filed by a Gas Marketer includes the Customer Agreement or Contract, Notice of Appointment of Marketer, and Third Party Verification Recording for Agreements or Contracts signed after July 1, 2007.

SALESPERSON OPERATIONS

Respect of Privacy

Article 14

Marketing shall not be intrusive or harassing in nature. Marketing activity (excluding online Marketing) shall be limited to between Monday to Friday between the hours of 9 a.m. and 9:30 p.m. or on Saturday and Sunday between the hours of 10:00 a.m. and 6:00 p.m. local time. The right of a Consumer to refuse further discussion shall be respected.

Honesty, Fairness and Veracity

Article 15

A Salesperson shall not abuse the trust of individual Consumers or exploit their lack of experience or knowledge, nor play on ignorance or on fear, thereby exerting undue pressure on Consumers. All Offers must, therefore, be clear and honest.

A Salesperson shall not make any statement or take any measure which, directly or by implication, omission, ambiguity or exaggeration, is likely to mislead a Consumer with regard to the terms of the Offer, Consumer's Agreements or any other matter.

A Salesperson shall, to the best of his or her knowledge and ability, give complete, accurate and clear answers to a Consumer's questions concerning the Offer or any other matter.

Article 16

A Salesperson shall ensure that the Consumers clearly and thoroughly understand the information given. The demonstration or explanation of the transaction under the Commodity Unbundling Service shall, as far as possible, be adapted to the needs and enquiries of the Consumers.

A Salesperson shall give sufficient time for Consumers to read the entire contract form thoughtfully and without interruption or harassment.

A Salesperson shall not make any verbal representations regarding agreements, rights or obligation unless those representations are contained in the Consumer's Agreements.

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.

Testimonials and Endorsements

Article 17

A Salesperson shall not refer to any testimonial or endorsement which is:

- not authorized by the person quoted, if in a private capacity;
- not genuine or unrelated to the experience of the person giving it;
- obsolete or otherwise no longer applicable;
- taken out of context; or
- used in any way likely to mislead the Consumer.

Comparisons and Fair Competition

Article 18

A Salesperson shall refrain from using comparisons which might mislead and which are incompatible with the principles of fair competition. Points of comparison shall be fairly selected and shall be based on facts which can be substantiated.

All statements or promises made in any promotional material must be complete and in accordance with actual conditions, situations and circumstances existing at the time the promotion is made. Any data referred to must be competent and reliable and support the specific claim for which it is cited.

Article 19

A Salesperson shall not discredit any competing company, firm or individual, or any supplies or services provided by such parties, directly or by implication. Accurate, complete and truthful comparisons, however, are acceptable. When price comparisons are used, they must be factual, complete and verifiable.

Article 20

A Salesperson shall not induce any Consumer to breach a contract with another Gas Marketer.

Article 21

A Salesperson shall not take unfair advantage of the goodwill attached to the trade name or symbol of another Gas Marketer or product.

A Salesperson shall clearly indicate that the Offer is not being made by a regulated Gas distributor, and not seek to mislead or otherwise create any confusion in the mind of a Consumer about the identity of the Gas Marketer, or about the trademarks of the regulated distributor or of competitors.

Article 22

A Gas Marketer shall not engage in any false or misleading advertising or publish any material which may have the effect of misleading potential Consumers.

CONSUMER INFORMATION

Information to be Maintained by a Gas Marketer

Article 23

A Gas Marketer shall have a current telephone number listed in British Columbia which may be reached by the general public without charge and shall provide it to every Consumer.

A Gas Marketer shall maintain on file and provide such information to the Commission upon request:

- A list of all Salespersons and sub-contractors who act for that Gas Marketer;
- A list of Consumers;
- The Notices of Appointment of Marketer signed by its Consumers;
- Copies of the Gas Marketer's supply contract with each Consumers containing the Consumer's written signature; and
- Copies of the commercial Consumer's written consent waiving the 10-day cooling off period.

In addition, the LDC has a right to audit any Notices of Appointment of Marketers and the Gas Marketer's supply contract with each Consumers by providing prior written notice of five business days to a Gas Marketer.

Request for Historical Gas Consumption Information

Article 24

Prior to submitting a request to the LDC for a Consumer's historical gas consumption data, a Gas Marketer must obtain the Consumer's signature on a consent form and provide a copy of this signed consent form to the LDC.

Confidentiality of Consumer Information

Article 25

A Gas Marketer must comply with the Personal Information Protection Act requirements of British Columbia.

A Gas Marketer shall not disclose Consumer information without the consent of the Consumer in writing, except where the Consumer information is required to be disclosed for the following purposes:

- For billing, collections or Gas supply management purposes (i.e. consumption information);
- For law enforcement purposes;
- For the purpose of complying with a legal requirement or an order of a regulatory body exercising jurisdiction over the Gas Marketer or the Consumer;
- For the processing of past due accounts of the Consumer which have been passed to a debt collection agency; or
- In the event that a Gas Marketer assigns, sells or transfers its list of Consumers and its existing agreements with Consumers to another licensed Gas Marketer.

Consumer information may be disclosed where the information has been sufficiently aggregated such that an individual's information cannot reasonably be identified.

A Gas Marketer shall inform Consumers that information may be released to a Third Party without the Consumer's consent for the purposes listed above.

A Gas Marketer shall not use Consumer information for one purpose from a Consumer for any other purpose without the written consent of the Consumer.

AGREEMENTS AND CONTRACTS

Agreement Specifications

Article 26

The Customer's form for signature, in accompaniment with the Notice of Appointment of Marketer, will be clearly designated as an "Agreement" or a "Contract". The terms "Application" or "Enrollment" do not accurately reflect the agreement made between the Marketer and the Consumer. There should be no confusion in the mind of the customer that this is a binding contract and not an application or enrollment.

The Consumer's right to cancel without penalty must be referred to as the "Ten Day Cancellation" provision and must be clearly stated in the Agreement or Contract, prominently situated above the Consumer's signature line. Instructions must be included on how the Consumer can exercise this option.

The first page of the agreement between the Gas Marketer and a Consumer must accurately summarize and clearly state the essential elements of the Offer including:

- Price (Canadian \$ per gigajoule)
- Term (length in years, start and end dates)
- Renewal provisions (type, frequency, dates)
- Cancellation provision
- Penalties and terms for early termination of the contract, including minimum contract term
- Conditions which may affect the price or term of the Offer

The minimum contract term is one year with a maximum contract term of no more than five years and the dates for commencement of service and termination of service must coincide with program entry dates.

Agreement Renewals

Article 27

The agreement should clearly set out the contract renewal provisions including those for default rollover.

- The renewal date shall be such that it coincides with a LDC program entry date. Notice periods for contract renewal should require the Gas Marketer to give notice to the Consumer no more than 120 days and no less than 90 days prior to the applicable renewal date.
- The Consumer shall have 30 days after receipt of written notice from the Gas Marketer to select renewal terms or cancel the contract.
- Where no instructions are received by Terasen Gas from the current Gas Marketer of record prior to the cut-off date for the applicable renewal date, and where a valid enrolment for the same Consumer is not received by Terasen Gas from another Marketer, the Consumer's Agreement will be evergreened, with the same fixed price for a 12 month period.
- The timing of notices need to align with notice periods on entry dates to permit a Consumer to change Gas Marketers upon expiry or cancellation of an existing agreement.

If the Consumer has cancelled its agreement and wishes to return to Utility supply, the Gas Marketer must notify the LDC within two business days of receiving notice from the Consumer.

Transfer of Agreements

Article 28

A Gas Marketer shall not assign, sell or otherwise transfer the Consumer's agreements to another person who is not a licensed Gas Marketer.

Within 30 days of assignment, sale or transfer of the administration of an agreement to another licensed Gas Marketer, the affected Consumer must be notified of the new Gas Marketer's address for service, telephone number and the Consumer complaints process, if these have changed.

The assignment, sale or transfer of a Gas Marketer's Consumer agreements to another Gas Marketer shall be approved in advance by the Commission.

Responsibility for Code Observance

Article 29

The primary responsibility for the observance of this Code rests with the Gas Marketer. Failure to comply with, or breach of, the Code may result in fines or the suspension or revocation of the Gas Marketer's license for a period to be determined by the Commission. A breach of this Code may occur in the course of inducing a person to enter into an Offer or Consumer's Agreements, even in the absence of a contract.

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 behaviour and performance of their salespersons.

Article 30

The Utility shall refrain from conducting business with anyone who is not licensed in the province of British Columbia and does not strictly adhere to this Code.

Third Party Verification

Article 31

Third Party Verification is the form of a digitally recorded telephone call either initiated as an outbound call from the Gas Marketer to the consumer or as an inbound call initially dialed by the sales agent to the Gas Marketer. In instances where the agent is present during the Third Party Verification, the Commission will consider this in the event of dispute adjudication. If the agent is present during the Third Party Verification, there must not be any communication between the customer and the agent. The Third Party Verification may only be completed after the salesperson has completed the sales presentation and the customer has executed the Agreement, and before the Consumer's enrollment is submitted to the LDC.

The Commission will allow inbound and outbound calls for Third Party Verification. If the Third Party Verification call is carried out in the presence of a salesperson, the salesperson must not participate in, interrupt, or make comment to the customer during the call. Should such communication occur, the Third Party Verification must be terminated, and the Marketer may not contact the customer again for a minimum of five days after that date. The Commission will be aware of the presence of the salesperson during a Third Party Verification call and if any communication is held between the customer and the salesperson, the Commission will deem the TPV to be invalid. The Third Party Verification must be the final step in the sale, the salesperson must have already fully and clearly explained the terms and conditions of the agreement to ensure that at the time of the Third Party Verification call the customer has received and reviewed all of the information, and the customer must have already executed the Agreement.

The scripting will cover the topics specified by the Commission for this purpose, and be available to the Commission for review and approval. The digital file will be available to the Commission 3 days after the initial recording and retained by the Gas Marketer for the term of the contract.

Modification to the Code

Article 32

The Code shall be reviewed and modified if required at an annual meeting to be held prior to May 1 of each year. All changes will require the approval of the Commission.

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.

The Customer's form for signature, in accompaniment with the Notice of Appointment of Marketer, will be clearly designated as an "Agreement" or a "Contract".

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.