

SIXTH FLOOR, 900 HOWE STREET, BOX 250  
VANCOUVER, B.C. V6Z 2N3 CANADA  
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-157-08

TELEPHONE: (604) 660-4700  
BC TOLL FREE: 1-800-663-1385  
FACSIMILE: (604) 660-1102

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

**and**

**Universal Energy Corporation – Complaint Inquiry  
Customer Choice Program**

**BEFORE:** A.A. Rhodes, Commissioner October 24, 2008

**O R D E R**

**WHEREAS:**

- A. By Order C-6-06 dated August 14, 2006, the British Columbia Utilities Commission (the “Commission”) granted a Certificate of Public Convenience and Necessity for the Residential Commodity Unbundling Project for residential customers in all Terasen Gas Inc. service areas, excluding Fort Nelson and Revelstoke, effective November 1, 2007; and
- B. Section 71.1(3) of the *Utilities Commission Act* (“UCA” or “Act”) states that a Gas Marketer must comply with the Commission rules issued under subsection (10) and the terms and conditions, if any, attached to its Gas Marketer Licence; and
- C. On November 1, 2007 the Commission granted Universal Energy Corporation (“Universal Energy”) Gas Marketer Licence A-30-07; and
- D. Commission Order G-90-03 established a Code of Conduct for Gas Marketers (“Code of Conduct”), which was amended most recently as set out in Appendix B to Commission Order A-9-08; and
- E. Commission Order G-90-03 also established Rules for Gas Marketers (“Rules”), which were revised and attached as Appendix C to Commission Order G-44-08; and
- F. Section 8.0 of the Rules states that all Gas Marketers must comply with the Rules and the Code of Conduct for Gas Marketers approved by the Commission; and

- G. On August 28, 2008 Mr. Bradley Kitchen logged a dispute/complaint concerning a contract with Universal Energy, signed by Jannicke Kitchen on July 24, 2008, noting a violation of “article(s) 9, 12, 15, 17, 18, & 31 of the Code of Conduct...”; and
- H. On September 5, 2008 Universal Energy replied to Mr. Kitchen’s dispute/complaint and stated that “Universal’s position is that the agreement between Universal and Mr. Kitchen is binding”; and
- I. Section 82(1) of the UCA states that the Commission may, on its own motion, inquire into, hear and determine a matter that under this Act it may inquire into, hear or determine on application or complaint; and
- J. Section 8 of the UCA states that the Commission may appoint or engage persons having special or technical knowledge necessary to assist the Commission in carrying out its functions; and
- K. Section 78(2) of the UCA states that an inquiry that the Commission considers necessary may be made by a member or officer or by a person appointed by the Commission to make the inquiry, and the Commission may act on that person’s report; and
- L. The Commission retained the services of William J. Grant to conduct an Inquiry into the substance of the dispute of Mr. Bradley Kitchen. Upon completion of the Inquiry Mr. Grant was to file a report with the Commission; and
- M. Section 71.1(9) of the UCA states that Section 43 applies to each Gas Marketer as if that Gas Marketer were a public utility; and
- N. Section 43(1) states that a public utility must provide to the Commission information required by the Commission and, for the purposes of this Act, must answer specifically all questions of the Commission; and
- O. On October 22, 2008 the Commission received Mr. Grant’s Inquiry Report.

**NOW THEREFORE** pursuant to sections 71.1 and 117 of the Act and the Rules and Code of Conduct for Gas Marketers, the Commission orders that:

- 1. The findings and recommendations in the Inquiry Report are accepted and are attached as Appendix 1 to this Order.

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2. The Agreement between Universal Energy and Mrs. Kitchen will be cancelled on the same basis as if cancellation had occurred during the normal ten day cancellation period.
3. At the next Annual Review of the Code of Conduct the issues raised in the Inquiry Report are to be reviewed by the parties to seek resolution on any modifications of the Code of Conduct that the Commission should consider.
4. The costs of the Commission of \$4,990.90 incurred for the services of the Inquiry Officer are to be recovered from Universal Energy.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 24<sup>th</sup> day of October 2008.

BY ORDER

*Original signed by:*

A.A. Rhodes  
Commissioner

Attachment

# **KITCHEN COMPLAINT INQUIRY REPORT**

# **INQUIRY REPORT**

In the matter of the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

Universal Energy Corporation – Complaint by Mr. Bradley Kitchen  
under the Customer Choice Program

Inquiry Officer,  
William J. Grant

October 21, 2008

## **INQUIRY REPORT**

### **BACKGROUND**

On November 25, 2002, the Government of British Columbia issued its energy policy, “Energy Plan for our Future: A Plan for BC”. Policy Action #19 stated, in part, that “The Utilities Commission Act will be amended in Spring 2003 to allow direct natural gas sales to low-volume customers, and to require licensing of marketers who serve those customers.”

Section 71.1(3) of the Utilities Commission Act (“UCA”) states that a gas marketer must comply with the Commission rules established under subsection (10) and the terms and conditions, if any, attached to its gas marketer’s licence.

By Order C-6-06 dated August 14, 2006, the British Columbia Utilities Commission (“Commission”) granted a Certificate of Public Convenience and Necessity for the Residential Commodity Unbundling Project for residential customers in all Terasen Gas Inc. service areas, excluding Fort Nelson and Revelstoke, effective November 1, 2007. Universal Energy Corporation (“UEC”) has a gas marketer’s licence pursuant to Commission Orders A-06-06 and A-30-07.

The Commission has established a Code of Conduct for Gas Marketers (“Code of Conduct”) and Rules for Gas Marketers (“Rules”). The Code of Conduct was most recently amended as set out in Appendix B to Commission Order A-9-08 and the Rules were revised and attached as Appendix C to Commission Order G-44-08.

The purpose of the Code of Conduct is to foster and uphold a sense of responsibility towards the consumer and towards the general public by those engaged in the marketing of gas to low-volume consumers participating in the commodity unbundling service in the Province of British Columbia. The relationship between the various parties must be based on fair and ethical principles and the Code of

Conduct 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. The most recent version of the Code of Conduct includes 33 Articles covering issues related to the terms of the consumers' agreements and offer, the presentation of the offer to consumers, salespersons' operations, consumer information, agreements and contracts.

The Rules for Gas Marketers establishes requirements pursuant to sections 71.1(1) and subsection 71(1) (10) of the UCA as they will apply to gas marketers seeking a licence from the Commission. Amongst other matters, the Rules establish requirements for the "Agreement" or "Contract" with consumers and the Notice of Appointment of Marketer. The Rules require that all gas marketers comply with the Rules and the Code of Conduct approved by the Commission. Violations of the Rules or the Code of Conduct may be subject to penalties and licence suspension or cancellation.

On August 28, 2008 Mr. Bradley Kitchen logged a dispute/complaint concerning a contract with UEC, signed by Mrs. Kitchen on July 24, 2008, alleging that UEC violated Articles 9, 12, 15, 18 and 31 of the Code of Conduct and that the Terasen Gas Confirmation letter was not received within the 10 day cooling off period.

The complaint was given a dispute number 11110 and forwarded to the Commission.

## **THE KITCHEN COMPLAINT**

On July 24, 2008 an authorized agent of UEC attended the Kitchen's residence at 40456 Thunderbird Ridge in Squamish and signed up Mrs. Kitchen to a Residential Natural Gas Price Protection Plus Agreement and Notice of Appointment of Marketer. The Agreement is to purchase natural gas supply at a protected price of \$10.49 per gigajoule for an initial period of five years. In the event of future price declines, the customer may exercise a blend and extend option as laid out in the Agreement. The Agreement states that the customer understands that the protected price may be higher or lower than the regulated prices that may be offered by Terasen Gas during the term of the Agreement. The

Agreement and the Notice of Appointment of Marketer are in conformance with the Code of Conduct and Commission requirements. The text details the ten day cancellation provision and an acknowledgment that Mrs. Kitchen is a person legally authorized to execute a contract for the purpose of supplying natural gas to the premises.

The complaint by Mr. Kitchen was initiated with Terasen Gas on August 28, 2008. Correspondence dated September 3, 2008 from Mr. Kitchen provides details of the complaint. He alleges that the UEC marketing campaign was aggressive and misleading. Based on discussions with his wife and a review of the Code of Conduct he believes that Articles 1, 9, 12, 15, 16, 17 and 18 were violated, and, therefore, the Commission should cancel this contract.

On September 16, 2008 Mrs. Kitchen wrote to the Commission to provide her recollections of the circumstances leading to her signing the Agreement and Notice of Appointment of Marketer on July 24. She states that the sales agent asked her if she was sick of paying too much for her gas bills and that he and his colleagues were canvassing the neighbourhood making sure people were not paying too much. **She asked the agent to come back at another time when her husband would be home from work overseas, since he does all the accounts when he is home. She alleges that he was insistent that she could sign the forms and that because he was only there that day, it was her only chance to stop their gas bills from going up.** She recalls him stating that neighbours all down the street had just signed up. She states that she was unaware of the current gas supplier Terasen or Universal Energy and had no idea what a gigajoule was. **After reviewing a recent Terasen Gas bill and undertaking some calculations, the sales agent showed her how much money she would save and she states she didn't want to miss the only chance to save money for her family.** Mrs. Kitchen is Swedish and English is her second language. She feels she was confused by the sales agent and now that she has reviewed the matter her letter states "Why would I purchase anything that is costing me more than what we are paying now?!"



In a Third Party Verification (“TPV”) call on July 25, 2008 Mrs. Kitchen acknowledged that she was authorized to sign the Agreement, that because of the quarterly price setting for Terasen Gas, the UEC contract price may be higher or lower than the quarterly Terasen Gas price, and that she has ten days to cancel the Agreement **from the date when they receive the Confirmation letter from Terasen**. She also rated the sales agent a ten out of ten for his performance. The TPV call conforms with the requirements of the Code of Conduct except that the UEC agent verbally extended the 10 day Cancellation Period to 10 days after the Kitchens received the Terasen Gas Confirmation letter.

Terasen Gas issued its confirmation letter shortly after signing of the Agreement. However, there was a serious rock slide on the Sea to Sky Highway in late July and the Kitchens state that they did not receive the confirmation letter prior to Mrs. Kitchen’s departure for Sweden on July 31, 2008. They retrieved the Terasen Gas letter from their mail box after the family’s return from Europe on August 21, 2008. Mr. Kitchen provided various emails to the Commission including one in which he averred that he did not receive the Terasen Gas letter until after he returned from work overseas on August 22<sup>nd</sup> and he then immediately called UEC to cancel.

UEC responded to the Kitchen complaint in two correspondences dated September 5 and September 15, 2008. The first correspondence identifies that Mr. Kitchen did contact UEC’s Customer Service Centre on August 22, 2008 to request cancellation of the Agreement. Mr. Kitchen was advised that the Agreement was deemed valid and he was provided with the dispute resolution process. On August 28, 2008 Mr. Kitchen again contacted UEC’s Customer Service Centre and explained that due to a landslide he was unable to obtain the Terasen confirmation letter within the ten day cancellation period. UEC states that since the request to cancel was received after the ten day cancellation window had expired, the Agreement between UEC and Mr. Kitchen is binding.

The September 15<sup>th</sup> correspondence expands UEC’s rationale for not cancelling the Agreement. Essentially, UEC’s position is that Mrs. Kitchen signed the Agreement and participated in a TPV call to confirm the natural gas supply price, the voluntary nature of the program, the fact that Universal’s natural gas supply price may be higher or lower than Terasen’s quarterly natural gas commodity cost,

and the fact that UEC is not affiliated with Terasen Gas. UEC did not identify a specific difficulty with Mrs. Kitchen's understanding or speaking of English and notes that Mrs. Kitchen rated UEC's sales agent a ten out of ten on performance. The TPV call contradicts some of the assertions in Mr. Kitchen's complaint.

The sales agent, Mr. Pachulski, is no longer active as a UEC sales agent in the BC market. UEC was able to contact Mr. Pachulski and UEC advises that he denies the accusations raised by the Kitchens. Mr. Pachulski did not have a record of any customer complaints while marketing for UEC in BC.

On September 18, 2008 the Commission issued Order G-133-08 appointing the writer to conduct an Inquiry into the complaint by Mr. Bradley Kitchen with respect to UEC.

## **THE INQUIRY AND FINDINGS**

In undertaking this inquiry I have reviewed the correspondence in the files, I have reviewed the most recent versions of the Code of Conduct and Rules for Gas Marketers and I have spoken with and exchanged emails with UEC to obtain additional information and understanding of UEC's positions. I have reviewed the training materials and the talking points that sales agents are to refer to when making calls. I have also spoken with the Kitchens on several occasions and travelled to Squamish to meet with the Kitchens on the evening of September 23, 2008.

That same evening I distributed a note to 31 residences on the same side of Thunderbird Ridge as the Kitchens. That note is attached as Appendix 1. In an effort to better understand the nature of the marketing solicitations made by the UEC sales agent the note asks the residents to contact me if they have clear recollections of their interaction with the UEC sales agent at the time (either positive or negative). One neighbour of the Kitchens met me on her property and stated that the sales agent was a nice guy but "pushy" and would not take no for an answer. The only other response to my note states that the UEC sales agent at her house was very persuasive and persistent and that she felt pressured to sign up. That correspondence is attached as Appendix 2.

I have also attempted to contact Mr. Pachulski through UEC but he has apparently moved back to Ontario without providing a forwarding address, and I have not spoken directly with him. UEC and the Kitchens have willingly assisted me with any information I required. I thank them for that assistance.

In considering all of the material I believe there are three questions the Commission needs to consider in determining whether to cancel the Agreement, or not.

Did Mrs. Kitchen have the right to sign the Agreement and Notice of Appointment of Marketer?

The Agreement clearly asks for an acknowledgement that the person signing the Agreement is legally authorized to execute a contract for the purpose of supplying natural gas to the premises. The TPV call also clearly asks the same question. Mrs. Kitchen signed the Agreement and acknowledged she had this authority in response to the TPV call. Article 3 of the Code of Conduct states that “The Gas Marketer shall confirm with the Consumer that the Consumer has the signing authority to enter into the Consumer Agreement.” It seems to be accepted that the spouse of the account holder has the authority to enter into the Agreement.

Mrs. Kitchen notes that the marketing agent filled out the Agreement and she misunderstood the nature of the arrangement that she was signing. As noted above, Mrs Kitchen explained to the agent that her husband was overseas and that he was the family member in charge of all the accounts. She states that the sales agent told her that she could sign the Agreement instead of her husband and now that she fully understands the obligations of the Agreement, she does not feel qualified to sign contracts on her husband’s account.

On this issue I accept that Mrs. Kitchen was a person legally authorized to execute a contract for the purpose of supplying natural gas to the premises.

Article 33 of the Code of Conduct calls for an annual meeting to be held prior to May 1 of each year to consider modifications to the Code of Conduct. Recognizing the desire for fair marketing methods in the Code of Conduct and the principles identified in Article 9 of the Code of Conduct, the participants in next year's meeting should consider if a direct follow up should occur with the account holder when an Agreement has been signed by his or her spouse or common law spouse. In this case, Mrs. Kitchen identifies that she did not know what she was doing and signed the Agreement to avoid missing out on what she understood to be an opportunity that all the neighbours down the street had just signed on to.

Was Mrs. Kitchen misled or otherwise unable to understand the commitments in the Agreement she signed?

The Scope of the Code of Conduct states that, "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." Article 9 of the Code of Conduct identifies that 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 consumers' agreements; abuse the trust of the consumer; unduly pressure or harass the consumer to enter into transactions; or exploit the lack of experience and knowledge of the consumer. Article 12 identifies that door-to-door sales persons are to immediately, truthfully and fully indicate the purpose of their approach to the consumers. Article 15 states that "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." A salesperson shall ensure that consumers clearly and thoroughly understand the information given. Where a language or comprehension issue is likely to impede the consumer's ability to understand the offer and transactions, the sales person shall not execute the consumer agreement(s) and/or the third party verification. Article 17 states, in part, a sales person shall not refer to any testimonial, endorsement, or customer experience which is not genuine or unrelated to the experience of the person giving it. Article 18 requires the sales person to use fair comparisons and statistics and to avoid misleading Consumers. Mr. Kitchen's email of complaint dated September 3,

2008 identifies three cases of alleged violation along with the Articles of the Code of Conduct which would apply. His complaint states:

- “1      My wife told the UE salesperson first off that she didn't understand or handle the utilities, her husband did and he was away so UE salesperson should come back. UE Salesperson told her she had to do something here as he was only in the neighborhood today and this was her only chance to save money on her gas bill.  
(Article 1, 9, 12, 15 broken)
- 2      UE salesperson informed her that he was just walking around the neighborhood making sure people weren't paying too much for gas. Informed her that Terasen can put up the price of gas at any time and he was there to protect ordinary people from that. UE salesperson told her that signing up with him would definitely save money on gas and said she would be ‘stupid’ to not do it. Made no mention of risk.  
(Article 1, 9, 12, 15, 16)
- 3      To my wife's memory, the salesperson never identified themselves as selling gas. They presented themselves more as a consumer advocate. She was under the impression that the form she signed ensured that the gas price would never rise above a certain amount. Salesperson indicated that most people on the street had signed up already. She didn't think that the man at the door was selling anything.  
(Article 1, 9, 12, 15, 17, 18)”

The UEC responses point to the details of the Agreement and the TPV call to refute the assertions of the Kitchens. UEC notes that Mrs. Kitchen herself rated the Universal sales agent a ten-out-of-ten on performance and Mr. Pachulski denies the concerns and accusations raised by the Kitchens. Mr. Pachulski did not have a record of any customer complaints while acting for Universal in BC and UEC has provided to me other TPV recordings from July 24, 2008 in which other parties who signed up with UEC rated Mr. Pachulski either a ten out of ten or a very high rating. In response to the three direct

accusations by Mr. Kitchen, UEC states the following:

- "1        During the 'TPV' call Mrs. Kitchen affirms that she is authorized to enter into an agreement for the premise. Furthermore, Mrs. Kitchen is advised that the Customer Choice program is voluntary and that she may or may not save money with Universal's Price Protection Program.
  
- 2        Mrs. Kitchen confirms that the Universal sales agent made her aware that Terasen's natural gas price is subject to quarterly review. Universal's sales agents are trained to explain that Universal offers a five year fixed price program for natural gas commodity supply, and that Terasen's natural gas commodity price may vary on a quarterly basis after review by the BCUC.
  
- 3        The natural gas supply price of \$10.49 per Gigajoule is highlighted on the agreement signed by Mrs. Kitchen (attached). This price offered by Universal is reiterated during the "TPV" call completed with Mrs. Kitchen."

The positions of UEC and the Kitchens are clearly a case of he said versus she said, without clear factual evidence of what exactly happened during the sales call at the Kitchen's residence on July 24. Recognizing that my recommendations on this matter would be judgmental I have sought out further information and discussions with both sides to try and understand the veracity of the positions taken. That is, in part, why I met directly with the Kitchens and have sought additional information from UEC. I also attempted to get third party views by providing my request to neighbours to contact me if they had any positive or negative recollections of their interactions with Mr. Pachulski that day. I would have wished to talk directly with Mr. Pachulski had he been available. Without having the opportunity to meet face to face with Mr. Pachulski and gauge his response to my questions, his denial passed on by UEC carries somewhat less weight than a direct response.

After meeting with Mrs. Kitchen, I believe her to be an honest and kind person who for whatever reason did not fully understand the nature and obligations of the Agreement that she signed. Her English is reasonably good and I do not believe it, by itself, would have been an impediment to her understanding. However, she was clearly confused about the nature of the Agreement put before her by the sales agent. She told me that that day she was distracted by her two very young children while the sales agent was making his pitch to her. She asked the sales agent to return when her husband would be home but he was persistent. Not understanding the natural gas commodity pricing mechanisms for Terasen Gas or the consequences of signing a multi-year fixed price Agreement with a gas marketer, she believed that this offer would immediately save money for her family and had to be completed that same day. I suspect she may also have been influenced by statements or inferences that her neighbours were all signing up and it would be stupid not to take advantage of the offer.

On the other hand UEC makes the point that there is no independent corroboration of the Kitchen's assertions and the TPV call is quite persuasive when Mrs. Kitchen acknowledges that UEC's price may be higher or lower than the quarterly price setting for Terasen Gas and that she rates the sales agent a ten-out-of-ten. The rate of \$10.49 per gigajoule over a five year period is highlighted in the Agreement and the rate is circled by the sales agent on the Agreement that Mrs. Kitchen signed. In addition, the commodity charges on the Terasen bill attached to the Agreement provided by Mrs. Kitchen has underlined the rate per gigajoule effective prior to July 2008 and as of July 2008. Both of those rates are lower than the quoted rate in the UEC Agreement. Therefore, if Mrs. Kitchen had fully understood the document she would have easily identified that the quoted rate was higher than the existing rate she was paying to Terasen Gas.

With the value of hindsight it seems clear that Mrs. Kitchen was confused about the exact nature of the Agreement she was signing, but it is not clear whether that confusion was the result of misleading sales tactics by the sales agent or whether she was distracted by her children or otherwise confused about the nature of the natural gas commodity business. Nonetheless, she did advise the agent that she did not handle such affairs and requested that he deal with her husband, who was absent overseas.

In considering all this, I think the nature of door-to-door gas sales marketing where agents are paid 100 percent on commission, creates a natural incentive for the sales agent to push to obtain a sign up without violating the minimum requirements of the Code of Conduct.

I have reviewed the training materials and the talking points for sales agents of UEC and find the training materials to be of high quality and the talking points do not violate either the intent or letter of the Code of Conduct. Unfortunately, it remains likely that some sales agents working solely on commission may well take a more liberal interpretation of the Code of Conduct as they seek to sign up customers. In this case, three individuals indicate the sales agent was “pushy” and would not take no for an answer. This incident may be indicative of why a strong Code of Conduct and Rules are necessary when door-to-door sales of natural gas commodity contracts are a primary marketing method and sales agent are paid entirely on commission. They would naturally be highly motivated to complete the sales contracts. Where a personable and persistent sales agent meets an ill-informed home owner who has trouble saying no to people, the home owner is likely to feel considerable pressure to sign an Agreement put in front of them. This might be accentuated if an uninformed home owner was led to believe that all the neighbours were signing up and, by implication, the home owner was losing out by not signing up as well. However, the cost of this purchase is much higher than normal door-to-door sales activities, perhaps as much as \$5,000 over five years. Therefore, the Commission should provide maximum consumer protection if door to door sales are to remain a primary marketing method for the Customer Choice Program. This matter should be reviewed at the Annual Review of the Code of Conduct.

Based on all the information provided to me, I believe that at a minimum the UEC sales agent violated the spirit of the Code of Conduct. Some, if not all, of the provisions of Article 9 of the Code of Conduct were violated by the persistence of the sales agent, the inducement that he was there to help homeowners save money on their gas bills (which implies that they are losing money with Terasen Gas supply) and the statement that he was only in the neighbourhood that day implying that there was a one day window only for the opportunity. I accept that the sales agent was personable but I believe he



was unduly persistent with an individual who acknowledged she did not handle the gas bills and was distracted by her children. She asked him to return when her husband would be there.

When does the cancellation period expire?

The Agreement that Mrs. Kitchen signed identifies that she could cancel the Agreement at any time during the period that ends ten days after the date of the Confirmation letter sent by Terasen Gas. However, Cancellation Period is defined in the definitions of the Code of Conduct as being ten calendar days from the date the enrolment is received by the Utility from the gas marketer. This will generally coincide with the date of the Terasen Gas confirmation letter to the consumer. During the follow up TPV call Mrs. Kitchen explicitly asked the UEC representative when the cancellation day was. The agent responded “When you receive the letter from Terasen. From then onwards you have ten days.” This was only a small, technical violation of the Code of Conduct, Article 32 provided that UEC must honour what Mrs. Kitchen would reasonably understand the statement to be. Otherwise, I would see it as misleading and therefore a violation of the Code of Conduct.

The Kitchens did not receive the letter from Terasen until they returned to Canada on August 21, 2008. Thereafter, Mr. Kitchen contacted UEC promptly to cancel the contract. Given the date stamp on the Terasen Confirmation letter envelope of July 28<sup>th</sup> and the closure of the Sea to Sky Highway due to the rock slide on July 29<sup>th</sup>, it is unlikely that the letter was delivered to the Kitchen’s postal box prior to Mrs. Kitchen’s departure for Sweden on July 31<sup>st</sup>. In any event, it was not picked up by the Kitchens until August 21<sup>st</sup>.

On this issue, I believe the UEC agent who undertook the TPV call bound UEC to the longer cancellation period she identified in the conversation with Mrs. Kitchen. That should allow the Kitchens ten days after August 21, 2008 to cancel the contract given the special circumstances that developed. When the TPV agent informed Mrs. Kitchen that she had 10 days from when she received the Terasen Gas letter, Mrs. Kitchen would not reasonably be aware that a legal interpretation might establish the date as when the letter was delivered to the mailbox rather than when she picked it up.

Article 28 of the Code of Conduct states that “A Gas Marketer shall accept a Consumer’s request for cancellation when within the 10 day Cancellation Period, and under the terms of the contract without engaging in further sales or marketing activity under that Consumer’s Agreement.” Recognising that the 10 day cancellation period in the Code of Conduct is to allow homeowners a reasonable opportunity to cancel the Agreement after a sober second consideration, I believe that in the spirit of the Code of Conduct UEC should have allowed cancellation of the contract when it became aware of the commitments given in the TPV phone call and that the Kitchens did not physically receive the Terasen Gas letter until August 21<sup>st</sup>.

The circumstances of cancelling contracts by a Terasen Gas account holder who is unaware of the commitments made by his/her spouse during the 10 day cancellation period is another issue which should be reviewed at that next Code of Conduct Annual Review. Mr. Kitchen’s circumstance highlights the problem. He was outside of Canada during the Agreement sign up by his wife, and for several weeks thereafter. Although he is the Terasen Gas account holder and normally deals with the Terasen Gas matters, he had no awareness of the UEC Agreement during the normal cancellation period. Where such a circumstance occurs, and the Terasen Gas account holder can demonstrate that he/she could not reasonably have been aware of the Terasen Gas Confirmation letter during the Cancellation Period, I think it would only be fair to allow cancellation of the contract if the Terasen Gas account holder acts promptly once he/she receives the Terasen Gas Confirmation letter.

## **RECOMMENDATIONS**

Based on all of this information I recommend the following:

1. The Agreement between UEC and Mrs. Kitchen should be cancelled on the same basis as if cancellation had occurred during the normal ten day cancellation period.

2. At the next Annual Review of the Code of Conduct the issues raised in this Inquiry Report should be reviewed by the parties to seek resolution on any modifications of the Code of Conduct that the Commission should then approve.

## **B.C. Utilities Commission**

### **Inquiry into natural gas marketing by Universal Energy Corporation (UEC)**

#### **Dear Resident:**

I have been appointed by the B.C. Utilities Commission (BCUC) to undertake an Inquiry into a dispute between a resident of Garibaldi Highlands and UEC regarding the appropriateness of the door to door sales methods used at that residence on July 24, 2008.

The BCUC licences and regulates gas marketing companies under the Residential Gas Unbundling Program (often called the Customer Choice Program) and enforces the Rules for Gas Marketers and Code of Conduct for such sales.

I am distributing this note to residents located nearby the residence in question in an effort to better understand the nature of the marketing solicitations made by the sales agents of UEC on or around July 24<sup>th</sup> in the Garibaldi Highlands area. This is by no means a scientific method of review, but if you have clear recollections of your interaction with UEC sales people at that time (either positive or negative) it will assist me by adding context to my Inquiry Report.

I can be contacted by the following methods:

E-mail: [bill.grant@bcuc.com](mailto:bill.grant@bcuc.com)

Mail: **William Grant**  
**B.C. Utilities Commission**  
**Sixth floor, 900 Howe Street**  
**Box 250**  
**Vancouver, B.C.**  
**V6Z 2N3**

Telephone: **604- 929 1381**

Please contact me by October 6, 2008.

William (Bill) Grant  
Inquiry Officer

My name is Arlene Antonios I am writing regarding the sales method used by Universal Energy. The Sales Person appears at my door at dinner time, when I answered the door the sales person proceeded to tell me about Universal Energy. I told him I am not interested, he continued to pressure me to sign up and he will not take no for an answer. At that time I had company and this salesman would not leave until I signed, but I canceled it the next morning. He was very persuasive and persistent. Thank you Arlene Antonios