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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** A-33-10

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

and

**An Inquiry of Active Renewable Marketing Limited
Code of Conduct for Gas Marketers
Customer Choice Program**

BEFORE: L.F. Kelsey, Commissioner

November 5, 2010

O R D E R

WHEREAS:

- A. By Order A-9-10, the British Columbia Utilities Commission (Commission) ordered a compliance inquiry of Active Renewable Marketing Limited (Active) to be conducted by Grant Thornton LLP (Grant Thornton) as it relates to the review of Active's marketing materials;
- B. On September 17, 2010, Grant Thornton filed its Report with the Commission. The Report contained a summary of key findings, which noted that in addition to the distribution of a non-compliant marketing brochure, six commercial customers responded to Grant Thornton's inquiries noting that they were not aware of any contractual relationship with Active;
- C. Of the six commercial customers, three asserted that the signatures on the contract did not match those of the noted signatories;
- D. The remaining three commercial customers did not recall signing the contract, or noted that the person identified as signing would not have had the authority to do so;
- E. On October 14, 2010, in response to the Commission's request for comments, Active identified the actions it has taken to improve its compliance with the Code of Conduct;
- F. The Commission agrees that Active's initiatives to improve compliance with the Code of Conduct, if implemented and monitored properly by Active, are positive. However, the Commission remains concerned over Active's overall compliance as the Commission continues to receive complaints demonstrating sales practices that are in contravention of the Code of Conduct. Since the filing of the Report on September 17, 2010, the Commission received six complaints against Active, related to unauthorized signatures or allegations of forgery. The complaints stem from contracts signed in 2008 and 2009. As some of the salespersons facing the allegation in these complaints remain employed by Active, the Commission finds it necessary to implement actions to prevent any future concerns of this nature.

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NOW THEREFORE pursuant to section 71.1(6) of the *Utilities Commission Act* the Commission orders as follows:

1. Active must file with the Commission for its review, any new marketing material prior to distribution to and use by Active's salespersons.
2. Active must review all contracts attributable by salespersons, both active and inactive, who received at least three complaints alleging forgery or unauthorized signature within the past 12 months and submit a report to the Commission identifying the salespersons, the date contract was signed, contract status (flowing or cancelled), and customer's contact information. This report must be received by the Commission within 14 days of the date of this Order.
3. For each contract currently flowing, where as a result of this review allegations of forgery or unauthorized signature are made, Active must satisfy the Commission that the contract was solicited and executed in accordance with the Code of Conduct. If Active is unable to adequately satisfy the Commission that the consumer agreement was solicited and executed in compliance with the Code of Conduct, the Commission may initiate further action.
4. Active must initiate an investigation relating to all future complaints of unauthorized signatures or allegations of forgery within 48 hours from receipt of the complaint. If the complaint is received directly by Active, the Commission must be notified immediately with the details of the complaint.
5. If a complaint is received relating to unauthorized signatures or allegations of forgery involving a contract signed after August 7, 2010, the Commission may order Active to cease marketing to new customers until the complaint is fully investigated and successfully resolved.

DATED at the City of Vancouver, in the Province of British Columbia, this 5th day of November 2010.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner