

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



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-6-10**

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

**Active Renewable Marketing Limited
Complaint - Allegation of Forgery
Code of Conduct for Gas Marketers**

BEFORE: L.F. Kelsey, Commissioner April 29, 2010

O R D E R

WHEREAS:

- A. On February 12, 2010 Ms. Pam Karabotso (customer) filed a dispute (19837) against Active Renewable Marketing Ltd. (Active) alleging forgery of her contract. The contract was allegedly signed by her former employee, Ms. Brooklyn Waselenchuk (contract signatory); and
- B. In response, Active filed a cancellation request through the Gateway for Energy Marketers system (GEM) on February 22, 2010 and the customer's contract with Active was cancelled on the same date; and
- C. On February 26, 2010 Active uploaded its position in GEM, which stated that it did not believe that the documents provided by the customer constituted "conclusive evidence of a forgery." It noted that the customer provided Active with copies of identification cards bearing signature samples of the alleged contract signatory; however, the agreement was signed with initials only; and
- D. On March 4, 2010 the British Columbia Utilities Commission (Commission) received faxed correspondence from the customer consisting of Terasen Gas bills, copies of signed government-issued identification of the alleged contract signatory, and a fax confirmation highlighting receipt of documents at Active's contact numbers; and
- E. The Commission, by letters dated March 12 and March 25, 2010 requested Active review the customer's complaint and provide a response to the allegations. The Commission notes that it did not receive a response from Active by the due dates of March 18 and March 29, respectively as outlined in the Commission letters; and

- F. On April 1, 2010, via GEM, Active provided a copy of the contract, Notice of Appointment of Marketer along with a letter which stated that, "Because we cannot decide on the validity of the signature provided to us by Pam Karabotos, we ask for the Commission to decide..."; and
- G. By letter dated April 15, 2010 Commission staff advised both parties that the complaint matter would be submitted in full to the Commission for decision and notified both parties to submit additional information they wished to have considered on or before April 20, 2010; and
- H. On April 16, 2010 the Commission received documents via facsimile from the customer. The documents provided included samples of the alleged contract signatory's initials. The customer also advised that, "Brooklyn has documented proof from Mac's Cosmetics that she was in fact working at Mac's on August 29th, 2009 when the contract was signed"; and
- I. Active did not provide additional information for consideration of the Commission; and
- J. The Commission has considered the evidence provided by both the customer and Active and notes Active's late submissions to two Commission information requests as well as the lack of evidence refuting the customer's allegations; and
- K. Section 71.1 (3) of the *Utilities Commission 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 the gas marketer licence held by the gas marketer."; and
- L. Section 71.1 (5) of the *Utilities Commission Act* states that the Commission that, "If a person is not in compliance with subsection (1), (3) or (4), the commission may do one or more of "(a) declare an energy supply contract between the person and a low-volume consumer unenforceable, either wholly or to the extent the commission considers proper, in which event the contract is enforceable to the extent specified..."; and
- M. The Commission finds that Active, by not responding to a request for information of the Commission in the required time, is not in compliance with section 71.1(9) of the *Utilities Commission Act*, which states that, "Section 43 applies to each gas marketer as if that gas marketer were a public utility." Section 43 of the *Utilities Commission Act* is the duty to provide information. This section reads, in part:
- "43(1) A public utility must, for the purposes of this Act,
- (a) answer specifically all questions of the commission, and
- (b) provide to the commission
- (i) the information the commission requires..."; and

BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER A-6-10

3

N. The Commission also finds that Active did not fully observe the Code of Conduct in spirit and in letter, specifically, the Basic Principles; Article 15, Honesty, Fairness, and Veracity; and Article 30, Responsibility for Code Observance.

NOW THEREFORE pursuant to section 71.1 of the *Utilities Commission Act* and the Code of Conduct and Rules for Gas Marketers, the Commission declares that:

The contract between Active and the customer is wholly unenforceable, and therefore Active must reimburse the customer all the money collected under Active's contract from its start date of November 1, 2009 until the cancellation of the contract on February 22, 2010. The reimbursement must be issued to the customer within 30 calendar days from the date of this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 11th day of May 2010.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner