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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** A-14-13

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

and

Active Energy Corp.
Application for Renewal of its Gas Marketer Licence
under the Customer Choice Program

BEFORE:

L.F. Kelsey, Commissioner
C.A. Brown, Commissioner
N.E. MacMurchy, Commissioner
B.A. Magnan, Commissioner
D.M. Morton, Commissioner
R.D. Revel, Commissioner
C. van Wermeskerken, Commissioner

October 24, 2013

O R D E R

- A. On August 28, 2013, Active Energy Corp., carrying on business as Active Renewable Marketing Ltd. (Active Energy), applied to the British Columbia Utilities Commission (Commission) for renewal of its Gas Marketer Licence. The Application for renewal of its Licence to Market Natural Gas (Application) included the payment of the \$1,000 Application Fee and a \$250,000 proof of security, pursuant to Sections 2 and 4 respectively, of the Licence Requirements;
- B. On January 30, 2013, by Order A-1-13, the Commission approved a Settlement concluding a Compliance Inquiry into Active Energy with respect to customer disputes, and the steps taken by Active Energy in dealing with those disputes;
- C. In the Application, Active Energy requests that the Commission hold the financial information confidential on the basis that it is commercially sensitive; and
- D. The Commission has reviewed Active Energy's Application and, relying upon the information and representations made by Active Energy, finds that renewal of its Gas Marketer Licence, subject to certain conditions, is warranted.

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

1. A Gas Marketer Licence is issued to Active Energy Corp. for the period of November 1, 2013 to December 21, 2013.
2. The financial information in the Application will be held confidential, as requested by Active Energy.
3. This licence is subject to the following conditions:

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- a. Active Energy must carry out the undertakings as provided in its Application for a Gas Marketer Licence and as set out in the Rules for Gas Marketers.
- b. Active Energy must comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of FortisBC Energy Inc. Active Energy shall ensure that its employees, salespersons or other representatives of its products and services comply with the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers and Active Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
- c. Active Energy must maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
- d. Active Energy must file with the Commission, pursuant to item 10.0 of the Rules for Gas Marketers, the following information:
 - i. Unaudited quarterly financial statements, no later than 45 days after the end of each quarter;
 - ii. The most recent version of the documents submitted to satisfy Section 7, Financial Qualifications, of the Licence Requirements;
 - iii. The most recent version of the documents submitted under Sections (8), (9), (10), (11) and (12) of the Licence Requirements, for the Commission's comment and approval, prior to commercial distribution and/or use.
- e. The Commission may, at any time and without prior notice to Active Energy, amend or impose new terms and conditions on, suspend, or cancel the Gas Marketer Licence for reasons the Commission, in its sole discretion, considers sufficient.
- f. The Gas Marketer Licence and all copies of it shall remain the property of the Commission. Active Energy will return these documents forthwith upon written request from the Commission.
- g. On a weekly basis, Active Energy is to submit to the Commission via express courier, in a digital form on a CD or memory stick, the following:
 - i. all recordings of TPV calls, in their entirety, inbound and/or outbound both reaffirmed and non-reaffirmed;
 - ii. all recordings of calls, in their entirety, received within the 10 day cancellation period irrespective of the call's outcome (customer proceeds with the cancellation or chooses to remain on the contract);
 - iii. when requested to do so by the Commission, Active Energy is to provide a copy of the contract(s) referred to in subparagraphs (i) and (ii) above;
 - iv. an excel spreadsheet containing a list of the calls provided under subparagraphs (i) and (ii) above which shall include: customer's name, customer's FortisBC account number, customer type (Residential, Commercial Rate 2, Commercial Rate 3), contract signing date, TPV call date, TPV outcome (Reaffirmed/Non-reaffirmed), 10-day cancellation call date, 10-day cancellation call outcome (Cancelled/Not-cancelled), and enrolment date (if applicable).
- h. On-site visits by Head Office to the BC Sales office(s) are to take place at a minimum of once each quarter. Following each visit, Active Energy is to submit to the Commission a detailed report that includes:

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- i. an assessment of the actions of the independent sales agents with respect to their compliance and non-compliance with the Code of Conduct for Gas Marketers;
 - ii. activities undertaken by Active Energy in the quarter to ensure Code of Conduct for Gas Marketers compliance for all BC staff and independent agents.
- i. Active Energy shall:
- i. maintain a quarterly complaint ratio of less than 1% (complaints as a percentage of the contracts signed);
 - ii. report its quarterly complaint ratio by no later than 15 days from the end of the quarter;
 - iii. report the total number of quarterly sales by no later than 15 days from the end of the quarter;
 - iv. report, by reason for complaint, the total number of quarterly complaints and the number of validated quarterly complaints by no later than 15 days from the end of the quarter; and
 - v. follow the Commission guidelines as described in Appendix A of the Reasons for Decision dated April 2, 2012 for determining the number of complaints and the reasons for complaints.
- j. Active Energy must follow the Forgery and Unauthorized Signature Complaint Protocols set out in the Active Energy 2012 Compliance Inquiry Settlement when responding to complaints regarding alleged forgery or unauthorized signature that arise in the future in relation to agreements signed prior to September 1, 2010.
- k. Active Energy must submit the BCUC Report as required by the Settlement for all relevant complaints and disputes to the Commission and the customer within 2 weeks of receipt of the completed forgery and/or unauthorized signor package.
- l. Active Energy must initiate an investigation relating to all future complaints of unauthorized signature or allegations of forgery within 48 hours from receipt of the complaint. If the complaint is received directly by Active Energy, the Commission must be notified within 2 business days with the details of the complaint.
- m. 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 Energy to cease marketing to new customers until the complaint is fully investigated and successfully resolved.
- n. Active Energy must submit documentation to the Commission to satisfy Licence Requirement 7, and any updated documentation to satisfy the remaining Licence Requirements if there is a material change to those documents as presented in the Application dated August 28, 2013, by December 2, 2013.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th of October 2013.

BY ORDER

Original signed by:
D.M. Morton
Commissioner

Attachment



LICENCE No. A-14-13

GAS MARKETER LICENCE

Active Energy Corp.

Operating as: Active Renewable Marketing Ltd.

is granted a licence for the purpose of providing advice to, or acting on behalf of, a low volume consumer ⁽¹⁾ purchasing gas directly in the Province of British Columbia subject to the terms and conditions contained in Commission Order A-14-13, which are set out in the reverse of the Licence.

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Original signed by:

D.M. Morton, Commissioner

ISSUED: November 1, 2013

EXPIRES: December 21, 2013

(1) As described in the Rules for Gas Marketers

This Gas Marketer Licence is subject to the following conditions:

- a. Active Energy must carry out the undertakings as provided in its Application for a Gas Marketer Licence and as set out in the Rules for Gas Marketers.
- b. Active Energy must comply with the Code of Conduct for Gas Marketers and Rate Schedule 36 of FortisBC Energy Inc. Active Energy shall ensure that its employees, salespersons or other representatives of its products and services comply with the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers and Active Energy shall be responsible for any non-compliance of its employees, salespersons or other representatives of its products and services.
- c. Active Energy must maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
- d. Active Energy must file with the Commission, pursuant to item 10.0 of the Rules for Gas Marketers, the following information:
 - i. Unaudited quarterly financial statements, no later than 45 days after the end of each quarter;
 - ii. The most recent version of the documents submitted to satisfy Section 7, Financial Qualifications, of the Licence Requirements;
 - iii. The most recent version of the documents submitted under Sections (8), (9), (10), (11) and (12) of the Licence Requirements, for the Commission's comment and approval, prior to commercial distribution and/or use.
- e. The Commission may, at any time and without prior notice to Active Energy, amend or impose new terms and conditions on, suspend, or cancel the Gas Marketer Licence for reasons the Commission, in its sole discretion, considers sufficient.
- f. The Gas Marketer Licence and all copies of it shall remain the property of the Commission. Active Energy will return these documents forthwith upon written request from the Commission.
- g. On a weekly basis, Active Energy is to submit to the Commission via express courier, in a digital form on a CD or memory stick, the following:
 - i. all recordings of TPV calls, in their entirety, inbound and/or outbound both reaffirmed and non-reaffirmed;
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 - iii. when requested to do so by the Commission, Active Energy is to provide a copy of the contract(s) referred to in subparagraphs (i) and (ii) above;
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 - i. an assessment of the actions of the independent sales agents with respect to their compliance and non-compliance with the Code of Conduct for Gas Marketers;

- ii. activities undertaken by Active Energy in the quarter to ensure Code of Conduct for Gas Marketers compliance for all BC staff and independent agents.
- i. Active Energy shall:
 - i. maintain a quarterly complaint ratio of less than 1% (complaints as a percentage of the contracts signed);
 - ii. report its quarterly complaint ratio by no later than 15 days from the end of the quarter;
 - iii. report the total number of quarterly sales by no later than 15 days from the end of the quarter;
 - iv. report, by reason for complaint, the total number of quarterly complaints and the number of validated quarterly complaints by no later than 15 days from the end of the quarter; and
 - v. follow the Commission guidelines as described in Appendix A of the Reasons for Decision dated April 2, 2012 for determining the number of complaints and the reasons for complaints.
- j. Active Energy must follow the Forgery and Unauthorized Signature Complaint Protocols set out in the Active Energy 2012 Compliance Inquiry Settlement when responding to complaints regarding alleged forgery or unauthorized signature that arise in the future in relation to agreements signed prior to September 1, 2010.
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