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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-3-13**

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

and

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

BEFORE:

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

April 15, 2013

O R D E R

WHEREAS:

- A. On March 1, 2013, Active Energy Corp., carrying on business as Active Renewable Marketing Ltd., 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, under Licence Requirements;
- B. The Commission notes that, on January 30, 2013, by Order A-1-13, it approved a Settlement concluding a Compliance Inquiry into Active Energy with respect to disputes alleging falsified contracts or unauthorized signatures, and the steps taken by Active Energy in dealing with these allegations;
- C. 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 conditions, is warranted.

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

1. The Commission will issue to Active Energy a Gas Marketer Licence for the period of May 1, 2013 to October 31, 2013, subject to:
 - a. Receipt by the Commission and the claimant of the BCUC Report, as required by the Settlement, by April 29, 2013 for all complaints received directly by Active Energy up until April 1, 2013, where the claimant did not lodge a dispute with the Commission; and
 - b. Payment to the Commission for the Fiscal 2012-2013 costs of the Active Energy 2012 Compliance Inquiry, billed to date.

2. This licence is subject to the following conditions:

- a. Active Energy will carry out the undertakings as provided in its Application for a Gas Marketer Licence and as set out in the Rules for Gas Marketers established by Order A-11-11.
- b. Active Energy will 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 will maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
- d. Active Energy will 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. Active Energy is not permitted to market to and/or enrol customers until the documents required under Sections (8), (10), (11) and (12) of the Licence Requirements have been accepted by Commission staff.
- f. 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, deems and considers sufficient.
- g. 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.
- h. 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).

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- i. 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:
 - 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.
- j. Active Energy shall:
 - i. maintain a quarterly complaint ratio of less than 1 percent (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 quarters;
 - 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.
- k. 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.
- l. Active Energy must submit the BCUC Report as required by the Settlement, for complaints and disputes alleging forgery and/or unauthorized signature received from April 1, 2013 onward to the Commission and the claimant within 2 weeks of receipt of the completed forgery and/or unauthorized signor package.
- m. 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 immediately with the details of the complaint.
- n. 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.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of April 2013.

BY ORDER

Original signed by:

D.M. Morton
Commissioner



LICENCE No. A-3-13

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-3-13, which are set out in the reverse of the Licence.

BRITISH COLUMBIA UTILITIES COMMISSION

Original signed by:

D.M. Morton, Commissioner

ISSUED: May 1, 2013

EXPIRES: October 31, 2013

(1) As described in the Rules for Gas Marketers

This licence is subject to the following conditions:

- a. Active Energy will carry out the undertakings as provided in its Application for a Gas Marketer Licence and as set out in the Rules for Gas Marketers established by Order A-11-11.
- b. Active Energy will 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 will maintain a \$250,000 performance security in full force and effect for the duration of the Licence.
- d. Active Energy will 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. Active Energy is not permitted to market to and/or enrol customers until the documents required under Sections (8), (10), (11) and (12) of the Licence Requirements have been accepted by Commission staff.
- f. 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, deems and considers sufficient.
- g. 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.
- h. 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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 - 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 quarters;
 - 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.
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