



**LETTER L-27-13**

SIXTH FLOOR, 900 HOWE STREET, BOX 250  
VANCOUVER, BC CANADA V6Z 2N3  
TELEPHONE: (604) 660-4700  
BC TOLL FREE: 1-800-663-1385  
FACSIMILE: (604) 660-1102

Log No. 35482

ERICA HAMILTON  
COMMISSION SECRETARY  
Commission.Secretary@bcuc.com  
web site: <http://www.bcuc.com>

**VIA EMAIL/MAIL**

Silversmith@netidea.com  
vpellowski@gmail.com; hal.wrightway@gmail.com

May 9, 2013

TO: Mr. Haldane Wright  
Director & President  
Silversmith Power and Light Corporation  
PO Box 369  
New Denver, BC V0G 1S0

Ms. Veronika Pellowski  
Director & Secretary  
Silversmith Power and Light Corporation  
PO Box 369  
New Denver, BC V0G 1S0

Dear Mr. Wright and Ms. Pellowski:

Re: Silversmith Power and Light Corporation  
Outstanding Compliance Matters

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The British Columbia Utilities Commission has not received adequate responses to various requests for information regarding Silversmith Power and Light Corporation.

Silversmith, as a public utility, is required to comply with the *Utilities Commission Act (Act)* and to provide information requested by the Commission. Information and other requests made by the Commission must be responded to in accordance with sections 43 and 49 of the *Act*.

On March 16, 2012, the Commission issued a letter through legal counsel requesting that Silversmith provide certain outstanding information required to complete Silversmith's compliance filing requirements for the years 2005-2009. Requests for the outstanding information had previously been made to Silversmith by letters from the Commission or its counsel dated May 17, 2011 and August 4, 2011.

The March 16, 2012 letter also reminded Silversmith of its ongoing informational requirements, which are also now overdue, and have been summarized below:

1. Annual reports for June 30, 2010, 2011 and 2012;
2. Description of the billing status of customers;
3. Total number of customers of the Utility;
4. Total energy production and sales volumes for 2009-2012; and
5. Details of the potential power sales agreement with BC Hydro and a description of how this possible transaction might impact certain customers.

By letter dated March 28, 2012, Silversmith responded in part to the March 16, 2012 letter addressing the issue of outstanding legal fees owed to the Commission and advising that since Mr. Wright assumed control of Silversmith, he believed he had been “committed to work with the BCUC to bring [Silversmith] into full compliance as a utility.”

To date, Silversmith has not provided answers to the information requested by the Commission.

Annual reports of public utilities must be filed within four months of the end of the Utility’s fiscal year. Silversmith, as a public utility, is required to file these annual reports pursuant to section 49 of the *Act*.

In failing to provide the information requested by the Commission, Silversmith appears to be in contravention of sections 43 and 49 of the *Act*. However, the Commission is prepared to allow Silversmith, its directors and officers one final opportunity to comply with the Commission’s outstanding requests for information. Silversmith’s last Annual Report filed with BC Registry Services on August 28, 2012, names Haldane Wright and Veronika Pellowski as Silversmith’s directors and officers, with Mr. Wright holding the office of President and Ms. Pellowski holding the office of Secretary. Therefore, Silversmith, its directors and officers are directed to file Silversmith’s responses to the outstanding information requests by 4:00 p.m. on July 8, 2013.

On November 8, 2012, Order in Council No. 731 (OIC 731) brought into force Part 8.1 of the *Act*, which authorizes the Commission to impose administrative penalties against persons who contravene the *Act* or the regulations, or an order, standard or rule of the Commission. OIC 731 also brought into force the Administrative Penalties Regulation, which provides for penalties against corporations and their directors, officers or agents who contravene the provisions of the *Act*. Different penalties apply where different sections of the *Act* are contravened. Part 8.1 of the *Act* and OIC 731 are attached.

The failure of Silversmith, its directors or officers to meet the July 8, 2013 deadline may result in the Commission establishing a hearing and other actions in accordance with the administrative penalty provisions of the *Utilities Commission Act*.

The Commission also wishes to remind Silversmith of the outstanding invoice of \$13,409.93 payable to the Commission, which was attached as part of the March 16, 2012 letter sent to Silversmith through Commission legal counsel.

Yours truly,

*Original Signed By:*

Erica Hamilton

SW/cms  
Attachments

PROVINCE OF BRITISH COLUMBIA

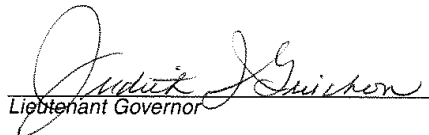
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

731

, Approved and Ordered

NOV - 8 2012

  
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that sections 36, 37, 40 (b) and (c), 43, 44 and 46 of the *Energy and Mines Statutes Amendment Act, 2012*, S.B.C. 2012, c. 27, are brought into force and the attached Administrative Penalties Regulation is made.

DEPOSITED

November 9, 2012

B.C. REG. 316/2012



Minister of Energy, Mines and Natural Gas  
and Minister Responsible for Housing and  
Deputy Premier



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Energy and Mines Statutes Amendment Act, 2012*, S.B.C. 2012, c. 27, s. 48;  
*Utilities Commission Act*, R.S.B.C. 1996, c. 473, ss. 109.2 and 125

Other:

September 20, 2012

R/333/2012/27

## SCHEDULE

### ADMINISTRATIVE PENALTIES REGULATION

#### Definition

- 1 In this regulation, “Act” means the *Utilities Commission Act*.

#### Application

- 2 This regulation does not apply to a water utility, as defined in section 1 of the *Water Utility Act*, unless the water utility is also a public utility under the Act, disregarding section 4 (a) of the *Water Utility Act*.

#### Penalties

- 3
- (1) A person who contravenes section 42, 43, 44 or 73 of the Act is liable to an administrative penalty not exceeding
    - (a) \$500 000, if the person is a corporation, and
    - (b) \$100 000, if the person is a director, officer or agent of a corporation that contravenes the section.
  - (2) A person who contravenes an order under section 47 of the Act is liable to an administrative penalty not exceeding
    - (a) \$200 000, if the person is a corporation, and
    - (b) \$100 000, if the person is a director, officer or agent of a corporation that contravenes the section.
  - (3) A person who contravenes section 71 or 71.1 of the Act is liable to an administrative penalty not exceeding \$100 000.
  - (4) A person who contravenes a reliability standard adopted by the commission is liable to an administrative penalty not exceeding
    - (a) \$1 000 000, if the person is a corporation, and
    - (b) \$100 000, if the person is a director, officer or agent of a corporation that contravenes the reliability standard.
  - (5) A person who contravenes any section of the Act other than those referred to in subsections (1) to (4) of this section is liable to an administrative penalty not exceeding \$25 000.
  - (6) Section 47 of the Act and all reliability standards adopted by the commission are prescribed for the purposes of section 109.2 (2) of the Act.

## **Part 8.1 — Administrative Penalties**

### **Contraventions**

**109.1** (1) After giving a person an opportunity to be heard, the commission, for the purposes of section 109.2, may find that the person has contravened a provision of

(a) this Act or the regulations, or

(b) an order, standard or rule of the commission or a reliability standard adopted by the commission.

(2) If a corporation contravenes a provision referred to in subsection (1), a director, officer or agent of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.

(3) Without limiting section 112, if an employee, contractor or agent of a corporation contravenes a provision referred to in subsection (1) of this section in the course of carrying out the employment, contract or agency, the corporation also contravenes the provision.

(4) The commission may not find that a person has contravened a provision referred to in subsection (1) if the person demonstrates to the satisfaction of the commission that

(a) the person exercised due diligence to prevent the contravention, or

(b) the person's actions or omissions relevant to the provision were the result of an officially induced error.

(5) Nothing in subsection (4) prevents the commission from doing anything else that the commission is authorized to do under this Act with respect to an act or omission by the person.

(6) If a person referred to in subsection (2) or (3) has not contravened a provision referred to in subsection (1) as a result of demonstrating to the satisfaction of the commission anything referred to in subsection (4), the commission may find, subject to subsection (4), that any of the other persons referred to in subsection (2) or (3) have contravened the provision.

(7) A person does not contravene a provision referred to in subsection (1) by doing or omitting to do something if that act or omission is reasonably necessary to conform to the requirements of the *Workers Compensation Act* or any regulations under that Act.

### **Administrative penalties**

**109.2** (1) If the commission finds that a person has contravened a provision referred to in section 109.1 (1), the commission may impose an administrative penalty on the person in an amount that does not exceed the prescribed limit.

(2) If a contravention of a prescribed provision occurs over more than one day or continues for

more than one day, separate administrative penalties, each not exceeding the prescribed limit for the purposes of subsection (1), may be imposed for each day the contravention continues.

(3) Before the commission imposes an administrative penalty on a person, the commission, in addition to considering anything else the commission considers relevant, must consider the following:

- (a) previous contraventions by, administrative penalties imposed on and orders issued to the following:
  - (i) the person;
  - (ii) if the person is an individual, a corporation for which the individual is or was a director, officer or agent;
  - (iii) if the person is a corporation, an individual who is or was a director, officer or agent of the corporation;
- (b) the gravity and magnitude of the contravention;
- (c) the extent of the harm to others resulting from the contravention;
- (d) whether the contravention was repeated or continuous;
- (e) whether the contravention was deliberate;
- (f) any economic benefit derived by the person from the contravention;
- (g) the person's efforts to prevent and correct the contravention;
- (h) the cost of compliance with the provision contravened;
- (i) whether the person self-reported the contravention;
- (j) the degree and quality of cooperation during the commission's investigation;
- (k) any undue hardship that might arise from the amount of the penalty;
- (l) any other matters prescribed by the Lieutenant Governor in Council.

(4) If a person is charged with an offence under this Act, an administrative penalty may not be imposed on the person in respect of the same circumstances that gave rise to the charge.

### **Notice of contravention or penalty**

**109.3** (1) If the commission finds under section 109.1 that a person has contravened a provision referred to in that section or imposes under section 109.2 an administrative penalty on a person, the commission must give to the person a notice of the decision, and the notice must include reasons for the decision and specify the following:

- (a) the contravention;

- (b) the amount of the penalty, if any;
- (c) the date by which the penalty, if any, must be paid;
- (d) the person's right, with respect to the decision, to apply for a reconsideration under section 99 or to appeal it under section 101;
- (e) an address to which a request for a reconsideration under section 99 may be sent.

(2) If the commission imposes an administrative penalty on a person, the commission may make public the reasons for and the amount of the penalty.

#### **Due date of penalty**

**109.4** A person on whom an administrative penalty is imposed under section 109.2 must pay the penalty

- (a) within 30 days after the date on which the notice referred to in section 109.3 (1) is given to the person, or
- (b) by a later date ordered by the commission.

#### **Recovery of penalty from ratepayers prohibited**

**109.5** In setting rates for a public utility, the commission must not allow the public utility to recover from persons who receive or may receive service from the public utility the costs of paying an administrative penalty imposed under this Part.

#### **Enforcement of administrative penalty**

**109.6** (1) An administrative penalty constitutes a debt payable to the government by the person on whom the penalty is imposed.

(2) If a person fails to pay an administrative penalty as required under section 109.4, the government may file with the Supreme Court or Provincial Court a certified copy of the notice imposing the penalty and, on being filed, the notice has the same force and effect, and all proceedings may be taken on the notice, as if the notice were a judgment of that court.

#### **Revenue from administrative penalties**

**109.7** The commission must pay into the consolidated revenue fund all amounts derived from administrative penalties.

**Limitation period**

**109.8** (1) The time limit for giving a notice under section 109.3 imposing an administrative penalty is 2 years after the date on which the act or omission alleged to constitute the contravention first came to the attention of the chair of the commission.

(2) A certificate purporting to have been issued by the chair of the commission and certifying the date referred to in subsection (1) is proof of that date.