



ORDER NUMBER
A-12-23

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Code of Conduct for Gas Marketers
Administrative Adjustment

BEFORE:

B. A. Magnan, Panel Chair
E. B. Lockhart, Commissioner

on December 18, 2023

ORDER

WHEREAS:

- A. FortisBC Energy Inc. (FEI) obtained approval from the British Columbia Utilities Commission (BCUC) in 2006 for a Certificate of Public Convenience and Necessity (CPCN) for the Commodity Unbundling Project for Residential Customers (Customer Choice) in accordance with the government's 2002 energy policy, which would allow for unbundling of natural gas through gas marketing companies licensed by the BCUC;
- B. The BCUC established a Code of Conduct for Gas Marketers, and approved the Ninth Revision of the Code of Conduct, effective November 10, 2015, by Order A-12-15; and
- C. The BCUC has reviewed the Ninth Revision of the Code of Conduct and notes there is a numbering duplication of Article 28 within the Code of Conduct. Accordingly, the BCUC finds an administrative adjustment to the Code of Conduct is warranted.

NOW THEREFORE pursuant to section 71.1 of the UCA and the Rules, the BCUC orders as follows:

- 1. The changes in the Ninth Revision (Amended) of the Code of Conduct for Gas Marketers, attached as Appendix A to this Order, are effective as of December 18, 2023 and gas marketers must ensure full compliance with these changes.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of December 2023.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner
Attachment

**CODE OF CONDUCT
FOR GAS MARKETERS**

engaged in the

**COMMODITY UNBUNDLING SERVICE
IN THE PROVINCE OF BRITISH COLUMBIA**

**Ninth Revision (Amended)
Effective December 18, 2023**

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INTRODUCTION

Marketing of natural gas under the Commodity Unbundling Service takes place usually, though not exclusively, in a Consumer's place of business or home, by personal contact, or via telephone or online marketing. Marketing of Gas under the Commodity Unbundling Service involves several parties including Gas Marketers, utilities and the Consumer of the Gas. The relationship between the various parties must be based on fair and ethical principles.

SCOPE

The purpose of this Code is to foster and uphold a sense of responsibility towards the Consumer and towards the general public by all those engaged in the Marketing of Gas to Low Volume Consumers participating in the Commodity Unbundling Service in the Province of British Columbia.

The Code applies to all practices used in the Marketing of Gas under the Commodity Unbundling Service for both residential and commercial Consumers. Where the practices are different between residential and commercial Consumers, it is noted.

The Code is to be applied in spirit as well as to the letter, bearing in mind the varying degrees of knowledge, experience and discriminatory ability of Consumers.

BASIC PRINCIPLES

All Marketing of Gas under the Commodity Unbundling Service will conform to the principles of fair competition as generally accepted in business, with particular regard to:

- the terms of the offer and the methods and form of the contact with the Consumer;
- the methods of presentation and the information on the supply; and
- the fulfilment of any obligation arising from the offer of purchase of Gas under the Commodity Unbundling Service.

Marketing of Gas under the Commodity Unbundling Service will be carried out in conformity with the laws of Canada and its provinces, where applicable.

Gas Marketers shall voluntarily assume responsibility towards the Consumer with respect to fair sales methods, accurate and truthful dissemination of information, and product value, and shall make every reasonable effort to ensure Consumer satisfaction.

Gas Marketers shall ensure that their Salespersons are fully informed as to the characteristics of the gas supplies and/or services offered to enable them to give the Consumer all necessary information to make informed decisions.

DEFINITIONS

For the purpose of this Code:

- **Account Holder** means the Consumer who is listed on the account with the LDC and who is responsible for the account.
- **Act** means the *Utilities Commission Act* of British Columbia as amended from time to time.
- **Agreement Amendment** means the change in price and/or term of the original Consumer's Agreement where the new agreement solicitation and/or enrolment are fully compliant with the Code.
- **Cancellation Period** is period within which the Consumer can cancel the Customer Agreement with no penalty incurred, being 10 calendar days from the date the enrolment is received by the LDC from the Gas Marketer. This will generally coincide with the date of the LDC confirmation letter to the Consumer.
- **Code** means this Code of Conduct for Gas Marketers.
- **Commission** means the British Columbia Utilities Commission.
- **Commodity Unbundling Service** is defined as the series of transactions involving the sale of gas by a Gas Marketer to a Gas utility for resale to a Low Volume Consumer arranged by Gas Marketer at a price agreed to between the Gas Marketer and the Low Volume Consumer.
- **Consumer** refers to any person or entity to which Gas Marketers direct or may direct their Gas Marketing activities under the Commodity Unbundling Service and includes both Consumers contracted with Gas Marketers or Consumers being supplied by a utility. Consumers include Residential and Commercial as defined by the local utility offering the Commodity Unbundling Service.
- **Consumer's Agreement(s)** means all agreements and contracts between a Gas Marketer and a Consumer for the Marketing of Gas.
- **Consumer Information** means information relating to a specific Consumer obtained by a Gas Marketer or its Salesperson in the process of selling or offering to sell Gas to the Consumer, and includes information obtained without the consent of the Consumer.
- **Day(s)** means a calendar day(s) unless otherwise indicated.
- **End User** is an entity or person who utilizes Gas either as fuel or a raw material.
- **Enrolment** is the act of submitting the Consumer's Agreement to the LDC once it has been signed and verified by Third Party Verification in accordance with this Code.
- **Gas** means natural gas, substitute natural gas, synthetic gas, manufactured gas, propane-air gas or any mixture of any of them.
- **Gas Marketer** means an entity licensed by the Commission to engage in Gas Marketing to Low Volume Consumers under the Commodity Unbundling Service.

- **Licence** means a licence issued under the Act by the Commission for the Marketing of Gas by a Gas Marketer to a Low Volume Consumer.
- **Licensed** means a person or entity holding a current valid Licence.
- **Local Distribution Company (LDC)** is a person/company enfranchised to distribute Gas within a defined territory.
- **Low Volume Consumer** – as defined by the Commission pursuant to section 71.1 of the Act. A “low-volume consumer” is defined as a person who, for the applicable period, either:
 - has, or is expected to have, a normalized annual consumption at one premise of less than 2,000 gigajoules of Gas per year; or
 - has chosen the Commodity Unbundling Service supply option, whatever the person’s annual consumption of Gas.
- **Marketing** for the purpose of this Code, means any activities intended to solicit a Consumer or potential Consumer to contract with a Gas Marketer, including providing for a Consumer’s consideration an Offer, and is characterized by door-to-door selling, online marketing, telemarketing, direct mail selling activities, network marketing, multi-level marketing and any other means by which a Gas Marketer or its Salesperson interacts with a Consumer or potential Consumer.
- **Offer** means a proposal to enter into an agreement made to an existing or prospective Consumer for the sale of Gas.
- **Premise** means the building or portion of a building that is provided with Gas through a single meter.
- **Renewal** is the replacement of an existing contract with a further contract with the same Gas Marketer which will have a new term; may have a different price than the Consumer’s previous contract; and may also include revisions as a result of changes in law, the Code of Conduct or Rules for Gas Marketers.
- **Regulation** means a regulation made under the Act.
- **Salesperson** means a person who is employed by or otherwise conducts Marketing and/or Third Party Verification on behalf of a licensed Gas Marketer, or makes representations to Consumers on behalf of a Gas Marketer for the purpose of effecting sales of Gas to Low-Volume Consumers.
- **Third Party** with respect to Confidentiality of Consumer’s Agreement, means a person other than the Gas Marketer, and includes other Gas Marketers, affiliates, Consumers and other persons.
- **Third Party Verification (TPV)** is a digitally recorded electronic process or telephone call between the Gas Marketer and the Consumer to confirm the Consumer’s understanding of the Offer, Consumer’s Agreement, Confirmation Letter and Cancellation Rights.

THE TERMS OF THE CONSUMER'S AGREEMENT AND THE OFFER

ACCURACY

Article 1

The terms of any Offer and Consumer's Agreement shall be clear, so that the Consumer shall know the nature of the product and the benefits, the commitment and risks involved in agreeing to contract for Gas with the Gas Marketer. In particular, but without limiting the generality of the foregoing, any Offer and Consumer's Agreement will be accurate and truthful as to any representation made as to price, delivery arrangements, payment terms and conditions, quality and value of services, and quantity and performance and warranty conditions.

PRICE AND OTHER TERMS

Article 2

Whether an Offer is on cash or any other basis, the Offer and Consumer's Agreement shall clearly state the price and payment terms and any other financial provisions, including any deposit requirement, allocation of cost savings and/or services, and the nature and amount of any additional charges. The Offer and Consumer's Agreement shall clearly state agreement renewal provisions.

The Gas supply price must be a fixed price for 12 month intervals expressed in Canadian dollars per gigajoule. This price shall only apply to the sale of Gas and shall not include provision of other services. If any other term or condition is subject to re-determination, indexation or arbitration, the Offer shall so state.

All Gas Marketers licensed to actively market and/or enrol customers shall submit to the LDC, by the third week of every month, the price that a customer can contract for in the upcoming month. The prices submitted by the Gas Marketers will be displayed in the price depository on the LDC's website.

All Offers shall contain clear statements as to the quantities of Gas to be purchased, intended start-up and delivery dates, and the term of the agreement. The term shall not be less than one year or more than five years in length.

The Consumer's Agreement shall accurately and fully reflect the terms and conditions of the Offer as accepted by the Consumer.

No Offer shall require a sign-up fee to be taken in order to initiate a purchase of natural Gas arrangement under the Commodity Unbundling Service.

OBLIGATIONS AND LIABILITIES

Article 3

The Offer and Consumer's Agreement shall state the respective obligations, liabilities and risks of the Gas Marketer and Consumer in clear and understandable terms so that the Consumer may be sufficiently informed to understand them prior to executing the Consumer Agreement.

The Gas Marketer shall confirm with the Consumer that the Consumer has the signing authority to enter into the Consumer Agreement.

PROTECTION

Article 4

This Code shall be interpreted in accordance with all applicable federal and provincial Consumer protection and business practice legislation, including the *British Columbia Business Practices and Consumer Protection Act* and related *Consumer Contracts Regulation*.

GUARANTEES

Article 5

Offers and Consumer's Agreement may contain the words "guarantee," "guaranteed," "warranty" or "warranted," or words having the same or similar meanings, only if the terms of the guarantee as well as the remedial action open to the Consumer are clearly and succinctly set out in the Offer and Consumer's Agreement. Any such guarantee shall in no way diminish the rights which a purchaser would otherwise enjoy under Canadian or applicable provincial laws. The name and address of the guarantor shall be clearly and fully stated.

PRESENTATION OF THE OFFER

IDENTITY OF THE GAS MARKETER

Article 6

The name, permanent address, main British Columbia office address and the telephone number, fax number, email and website addresses of the Gas Marketer shall be clearly and fully disclosed in any Marketing document or other Marketing literature distributed to the Consumer, including the Consumer's Agreement, so as to enable the Consumer to remain in touch directly with the Gas Marketer. Marketing documents and other literature containing only an accommodation address or a post office box number are not acceptable.

Article 7

All Salespersons shall immediately, truthfully and fully identify themselves and provide proof of licensing and bonding, to prospective Consumers. They shall also truthfully and fully indicate the purpose of their approach to the Consumers, identify the Gas Marketer with whom they are associated and indicate that they are Marketing Gas under the Commodity Unbundling Service.

A Gas Marketer shall ensure that every Salesperson that is acting on its behalf and that is marketing to a Consumer in person:

- provides the Consumer with identity collateral that meets the requirements below, before making any representation to the Consumer about the Gas Marketer's products, services or business and before requesting any information about the Consumer, including asking that the Consumer locate any utility bills; and
- wears at all times, on the front of the Salesperson's outer clothing, an identification badge that meets the requirements below.

Identity Collateral Requirements:

The identity collateral shall be clear, legible and include the following information:

- (a) the name and address of the Gas Marketer;
- (b) the name and/or identification number of the Salesperson acting on behalf of the Gas Marketer;
- (c) the toll-free telephone number of the Gas Marketer; and
- (d) the website address of the Gas Marketer.

Identification Badge Requirements:

The identification badge shall be clear and legible and:

- (a) include a photograph of the Salesperson's face that is not more than 2 years old at any time;
- (b) identify the Gas Marketer; and
- (c) identify the name and identification number of the Salesperson acting on behalf of the Gas Marketer.

The Salesperson's photograph and all of the required information set out above must be shown on the same side of the identification badge, and must at all times be facing the Consumer.

Article 8

Neither a Gas Marketer nor any Salesperson shall mislead or otherwise create any confusion in the mind of a Consumer about the identity of the represented Gas Marketer, its promotion campaigns or trade mark, or those of competitors and/or LDCs.

Specifically, a Gas Marketer or any Salesperson when marketing a supply contract to a Consumer shall state that they are not representing the Consumer's local distribution company.

INTEGRITY

Article 9

Salespersons shall in good faith assist Consumers to evaluate the nature of the transactions. Marketing efforts shall be organized and carried out so as not to:

- create confusion in the mind of the Consumer;
- mislead the Consumer or misrepresent any aspect of the Offer or Consumer's Agreement;
- abuse the trust of the Consumer;
- unduly pressure or harass the Consumer to enter into transactions; and
- exploit the lack of experience and knowledge of the Consumer.

CLARITY

Article 10

Gas Marketers and Salespersons shall ensure that all terms of any Offer or Consumer's Agreement are communicated to the Consumer in writing in a clear, complete, accurate and understandable manner. Print which by its size or other visual characteristics is likely to negatively affect the legibility or clarity of any Offer or Consumer's Agreement, shall not be used.

TRUTHFUL PRESENTATION

Article 11

The characteristics of any transaction shall include:

- price, deposit, credit and rebate terms;
- terms of payment and frequency;
- intended beginning and end dates of the agreement;
- identity of and accessibility to the Gas Marketer;
- process for making a complaint to or enquiry of the Gas Marketer;
- delivery terms and conditions, during-and after-sales services;
- sources and reliability of supplies;
- terms of guarantee and warranty;
- liabilities and obligations of the Gas Marketer and Consumer;
- benefits/risks to Consumer;
- awards, bonuses, prizes, discounts and other incentives with respect to the Offer and Consumer's Agreement;
- Consumer's entitlement to receive a copy of this Code from the Gas Marketer;
- Consumer's entitlement to receive a copy of the Customer Choice Standard Information Booklet from the Gas Marketer;
- reasons for which the agreement may be terminated by the Gas Marketer;
- for Commercial Consumers, that the agreement is made with respect to the Consumer's Premise and terminates in the event the Consumer moves;
- for Residential Consumers, that the agreement is made with respect to the Consumer at the Consumer's Premise and in the event the Residential Consumer moves:
 - the Consumer's Agreement will apply to the Consumer at the Consumer's new Premise provided that the new Premise is within the eligible service territory of the LDC providing the Commodity Unbundling Service;
 - the Consumer's Agreement will terminate upon the move if the Consumer provides reasonable proof to the Gas Marketer that the new Premise is outside of the eligible service territory or the

Consumer is no longer a customer of the LDC providing the Commodity Unbundling Service. Exit fees will not apply in this situation;

- cancellation provisions and rights of the Consumer including a mandatory 10-day Cancellation Period. For Commercial Consumers, a 10-day Cancellation Period will not apply in the case of a single Commercial Consumer whose aggregate annual volume exceeds 2,000 gigajoules per year at one or more premises and who has provided written consent to the gas marketer to waive the 10-day Cancellation Period;
- rights under the Consumer's Agreement with respect to assignments, transfers and sales to another Gas Marketer;
- any deposit, exit fees, administration fees, late fees or any other charges payable to the Gas Marketer, if applicable;
- any other information required to be provided to the Consumer by Canadian or applicable provincial law; and
- all other terms of the Offer and Consumer's Agreement shall be presented completely, accurately and truthfully.

COMPLAINTS AND DISPUTE RESOLUTIONS

Article 12

Should any Consumer complain that a Gas Marketer or Salesperson has engaged in any improper course of conduct pertaining to Marketing under the Commodity Unbundling Service, the Gas Marketer shall promptly investigate the complaint and take all appropriate and necessary steps in the circumstances to redress any and all wrongs disclosed by such investigation.

All Consumer Agreements will include a provision that all disputes between the Gas Marketer and a Consumer arising out of the contract will be referred to and resolved by arbitration administered by the Commission or other body appointed by the Commission for purpose of resolving such disputes and conducted according to the Commission's rules for the resolution of such disputes. The Gas Marketer shall pay a dispute resolution fee for each dispute referred to the Commission as determined by the Commission, except for a dispute where the Commission determines that the Consumer will be solely responsible for the dispute resolution fee.

The Gas Marketer and the Consumer must follow the guidelines approved by the Commission from time to time as they pertain to Customer Choice entitled Complaint Guidelines, Dispute Guidelines and Reconsideration Guidelines.

SALESPERSON OPERATIONS

RESPECT OF PRIVACY

Article 13

Marketing shall not be intrusive, aggressive or harassing in nature. Marketing activity (excluding online marketing) shall be limited to between Monday to Friday between the hours of 9:00 a.m. and 9:30 p.m. or on Saturday and Sunday between the hours of 10:00 a.m. and 6:00 p.m. local time. The right of a Consumer to

refuse further discussion shall be respected. Posted signs restricting and/or prohibiting marketing and soliciting must be respected.

For telephone marketing, in the event that a recorded message constitutes a portion, or all of the sales process, the caller must first personally obtain the consent of the recipient to play a recorded offer.

HONESTY, FAIRNESS AND VERACITY

Article 14

A Salesperson shall not abuse the trust of individual Consumers or exploit their lack of experience or knowledge, nor play on ignorance or on fear, thereby exerting undue pressure on Consumers. All Offers must, therefore, be clear and honest.

A Salesperson shall not make any statement or take any measure which, directly or by implication, omission, ambiguity or exaggeration, is likely to mislead a Consumer with regard to the benefits of the Program, terms of the Offer, Consumer's Agreement or any other matter.

The Gas Marketer may not request that the Consumer provide their FortisBC account information, including their bill, until the Consumer expresses intent to enter into the Consumer Agreement.

A Salesperson shall, to the best of his or her knowledge and ability, give complete, accurate and clear answers to a Consumer's questions concerning the Offer or any other matter.

Article 15

A Salesperson shall ensure that the Consumers clearly and thoroughly understand the information given. The demonstration or explanation of the transaction under the Commodity Unbundling Service shall, as far as possible, be adapted to the needs and enquiries of the Consumers.

A Salesperson shall give sufficient time for Consumers to read the entire contract form thoughtfully and without interruption or harassment. Where a language or comprehension issue is likely to impede the Consumer's ability to fully understand the offer and the transactions, the Salesperson shall not execute the Consumer Agreement(s) and/or the Third Party Verification.

A Salesperson shall not make any verbal representations regarding agreements, rights or obligation unless those representations are contained in the Consumer's Agreement.

Gas Marketers shall ensure that their Salespersons are generally knowledgeable in the natural gas business, fully informed as to the characteristics of gas supplies and/or services offered and the Consumer's Agreement utilized by the Gas Marketer, to enable them to give Consumers all necessary information to make informed decisions.

A Salesperson shall ensure that the Consumer has been provided with a copy of the Customer Choice Standard Information Booklet and shall advise the Consumer to fully review the information contained within before the expiration of the 10 day Cancellation Period. A Salesperson shall provide a copy of the Customer Choice Standard Information Booklet to a potential Consumer, when requested, even if that Consumer decides not to enter into a Consumer Agreement with that Salesperson at that time.

TESTIMONIALS AND ENDORSEMENTS

Article 16

A Salesperson shall not refer to any testimonial, endorsement or customer experience which is:

- not authorized by the person quoted, if in a private capacity;
- not genuine or unrelated to the experience of the person giving it;
- obsolete or otherwise no longer applicable;
- taken out of context; or
- used in any way likely to mislead the Consumer.

COMPARISONS AND FAIR COMPETITION

Article 17

A Salesperson shall refrain from using comparisons, statistics and visual material which might mislead and/or which are incompatible with the principles of fair competition. Points of comparison shall be fairly selected and shall be based on facts which can be substantiated. All comparisons, statistics and visual material must be clearly and accurately labelled.

All comparisons, statistics and visual material that are provided to a Consumer must be actual data obtained from the LDC and based only on actual data for British Columbia.

All statements or promises made in any promotional material must be complete and in accordance with actual conditions, situations and circumstances existing at the time the promotion is made. Any data referred to must be competent and reliable and support the specific claim for which it is cited. Illustrations of historical data based on past records of more than five years are not permitted, and no projections of future pricing may be presented to the Consumer.

Article 18

A Salesperson shall not discredit any competing company, firm or individual, or any supplies or services provided by such parties, directly or by implication. Accurate, complete and truthful comparisons, however, are acceptable. When price comparisons are used, they must be factual, complete and verifiable.

Article 19

A Salesperson shall not induce any Consumer to breach a contract with another Gas Marketer.

Article 20

A Salesperson shall not take unfair advantage of the goodwill attached to the trade name or symbol of another Gas Marketer or product.

A Salesperson shall clearly indicate that the Offer is not being made by a regulated Gas distributor, and not seek to mislead or otherwise create any confusion in the mind of a Consumer about the identity of the Gas Marketer, or about the trademarks of the regulated distributor or of competitors.

Article 21

A Gas Marketer or Salesperson shall not engage in any false or misleading advertising or publish any material which may have the effect of misleading potential Consumers.

TRAINING AND TESTING

Article 22

A Gas Marketer shall ensure that no Salesperson that acts on its behalf markets to a Consumer or negotiates, enters into, verifies, renews or amends a contract with a Consumer unless the Salesperson has successfully completed training as set out in this Code.

A Gas Marketer shall ensure that training includes the following for a Salesperson:

- a) training in relation to all of the legal and regulatory requirements applicable to the sales process, contract verification, consumer cancellation rights and the renewal or amendment process; and
- b) adequate and accurate material covering the following areas:
 - i. gas market structure;
 - ii. how to complete a contract;
 - iii. how gas pricing works, including the pricing of gas supplied by the LDC;
 - iv. the content of this Code; and
 - v. all relevant regulatory requirements.

A Gas Marketer shall determine the successful completion of training by means of a training test that is designed and administered in order to assess each Salesperson's knowledge of the elements listed above.

The Gas Marketer shall maintain, for each Salesperson that acts on its behalf, records of the training and testing materials and results. The records shall be provided to the Commission on request.

CONSUMER INFORMATION

INFORMATION TO BE MAINTAINED BY A GAS MARKETER

Article 23

A Gas Marketer shall have a current telephone number listed in British Columbia which may be reached by the general public without charge and shall provide it to every Consumer.

A Gas Marketer shall maintain on file and provide such information to the Commission upon request:

- A list of all Salespersons who act for that Gas Marketer;

- A list of Consumers;
- A log of cancellation requests, including confirmation numbers provided to Consumers and the name or identification number of the representative who accepted the request for cancellation;
- The Notices of Appointment of Marketer signed by its Consumers;
- Copies of the Gas Marketer's supply contract with each Consumer containing the Consumer's written signature; and
- Copies of the Commercial Consumer's written consent waiving the 10 day Cancellation Period.

In addition, the LDC has a right to audit any Notices of Appointment of Marketers and the Gas Marketer's supply contract with each Consumer by providing prior written notice of five business days to a Gas Marketer.

REQUEST FOR HISTORICAL GAS CONSUMPTION INFORMATION

Article 24

Prior to submitting a request to the LDC for a Consumer's historical gas consumption data, a Gas Marketer must obtain the Consumer's signature on a consent form and provide a copy of this signed consent form to the LDC.

CONFIDENTIALITY OF CONSUMER INFORMATION

Article 25

A Gas Marketer must comply with the Personal Information Protection Act requirements of British Columbia.

A Gas Marketer shall not disclose Consumer information without the consent of the Consumer in writing, except where the Consumer information is required to be disclosed for the following purposes:

- For billing, collections or Gas supply management purposes (i.e. consumption information);
- For law enforcement purposes;
- For the purpose of complying with a legal requirement or an order of a regulatory body exercising jurisdiction over the Gas Marketer or the Consumer;
- For the processing of past due accounts of the Consumer which have been passed to a debt collection agency; or
- In the event that a Gas Marketer assigns, sells or transfers its list of Consumers and its existing agreements with Consumers to another licensed Gas Marketer.

Consumer information may be disclosed where the information has been sufficiently aggregated such that an individual's information cannot reasonably be identified.

A Gas Marketer shall inform Consumers that information may be released to a Third Party without the Consumer's consent for the purposes listed above.

A Gas Marketer shall not use Consumer information for one purpose from a Consumer for any other purpose without the written consent of the Consumer.

AGREEMENTS AND CONTRACTS

AGREEMENT SPECIFICATIONS

Article 26

The Consumer's Agreement, in accompaniment with the Notice of Appointment of Marketer, will be clearly designated as an "Agreement" or a "Contract." The terms "Application" or "Enrollment" do not accurately reflect the agreement made between the Marketer and the Consumer and shall not be used by the Gas Marketer or Salesperson when referring to the contract or contracting process. There should be no confusion in the mind of the customer that this is a binding contract and not an application or enrollment.

The agreement must include a Title field next to Consumer's Name, to be completed by the signatory. For Residential Consumers, the signatory may be the Account Holder or a legally authorized representative. For Commercial Consumers, the signatory must confirm that he/she is authorized to sign on behalf of the company.

The Consumer's right to cancel without penalty must be referred to as the "Ten Day Cancellation" provision and must be clearly stated in the Consumer's Agreement, prominently situated above the Consumer's signature line. Instructions must be included on how the Consumer can exercise this option.

The first page of the agreement between the Gas Marketer and a Consumer must accurately summarize and clearly state the essential elements of the Offer including:

- Price (Canadian \$ per gigajoule);
- Term (length in years, start and end dates);
- Renewal provisions;
- Cancellation provisions, including the option for an eligible Rate Schedule 2 or Rate Schedule 3 customer to waive the 10-day Cancellation Period with the Consumer's signature for consent;
- Penalties and terms for early termination of the contract, including minimum contract term, and the requirement that the Consumer's Agreement may only be terminated on the anniversary date; and
- Conditions which may affect the price or term of the Offer.

The Consumer's Agreement must also include a date signed field (beside the Consumer's signature); to be completed by the signatory at the time the contract or agreement is signed.

The Consumer's Agreement must comply with all applicable federal and provincial Consumer protection and business practice legislation, including the *British Columbia Business Practices and Consumer Protection Act* and related *Consumer Contracts Regulation*.

The minimum contract term is one year with a maximum contract term of no more than five years and the contract start date and contract end date must coincide with the program entry dates which fall on the 1st day of each month, e.g. July 1, 2012 to July 1, 2017.

A Consumer may enter into an Agreement with any Gas Marketer, or a combination of Gas Marketers, for a maximum period of five years of gas flow.

NEW AGREEMENTS

Article 27

In the case where a Consumer enters into an agreement with a Gas Marketer for the first time, the Gas Marketer shall obtain the Consumer's written signature or electronic signature on the Consumer Agreement. In the case of electronic signature, the Gas Marketer shall ensure all applicable requirements under the *British Columbia Electronic Transactions Act* are met.

Voice contracting is not allowed for new agreements.

The Gas Marketer shall direct the LDC to switch the Consumer's Gas supply only once the Gas Marketer is in possession of the signed (written or electronic) Consumer Agreement from the Consumer.

RENEWAL OF AGREEMENTS

Article 28-A

Renewal Package

Should the Gas Marketer want to renew a Consumer's Agreement, the Gas Marketer shall give written notice in the form of a renewal package delivered to the Consumer no less than 90 days prior to the applicable renewal date, via one or more of the following methods: mail, facsimile or email. The renewal package must include a new Consumer's Agreement which shall contain all essential terms of the Offer and complete terms and conditions. A new Notice of Appointment is not necessary.

The Consumer shall have 30 days after the receipt of written notice from the Gas Marketer to execute the renewal agreement or the contract will expire. In the event the Consumer does not respond to the renewal package, the Consumer's LDC will return to being the natural gas supplier at the end of the contract.

The timing of written notices (delivery of renewal packages) must align with notice periods on entry dates on the 1st day of the month to permit a Consumer to change Gas Marketers upon expiry or cancellation of an existing agreement.

The renewal date shall be such that it coincides with the program entry date on the 1st day of the month following the effective end date of the contract being renewed.

The Consumer shall have the option to execute the renewal agreement via agreement with a written or electronic signature or voice contracting.

Consumer Agreement with written or electronic signature

The Gas Marketer shall obtain the Consumer's written signature or electronic signature on the Consumer's Agreement. In the case of electronic signature, the Gas Marketer shall ensure all applicable requirements under the *British Columbia Electronic Transactions Act* are met. The Gas Marketer shall direct the LDC to switch the Consumer's Gas supply only once the Gas Marketer is in possession of the signed Consumer Agreement from the Consumer.

The TPV is not required if the Consumer executes the Agreement with no contact by a Salesperson, through any means (e.g. in-person, telephone, online), at the time of contracting.

Consumer Agreement via voice contract

Renewal Consumer Agreements may be executed via voice contracting. The Gas Marketer will file with the Commission for its comment and approval the new voice contracting script and/or as soon as changes are made to the voice contracting script, prior to its commercial use. The script shall include all matters that are required in the TPV script. Provided all requirements of the TPV are met in the approved voice contracting script, a TPV is not necessary.

The Consumer must receive comprehensive and complete contract renewal information in the form of a renewal package before a telephone solicitation call is made. Before the renewal may proceed, the Consumer must confirm that the renewal information has been received.

The voice contracting call will be in the form of a digitally recorded telephone call either initiated as an outbound call from the Gas Marketer to the Consumer or as an inbound call from the Consumer.

The digital file will be available for the Commission three days after the initial recording and retained by the Gas Marketer for the term of the Consumer's Agreement.

AMENDMENT OF AGREEMENTS

Article 28-B

The Consumer shall have the option to amend the Consumer Agreement via agreement with a written or electronic signature or voice contracting. See Article 28-A for the agreement and TPV requirements, which apply to both renewal and amendment of agreements.

Since the enrolment of the amended agreement will automatically trigger a confirmation letter notifying the Consumer of the 10-day Cancellation Period, if the Consumer elects to use this Cancellation Period, the terms and conditions of the original agreement will be reinstated.

CANCELLATION OF AGREEMENTS

Article 29

A Gas Marketer shall accept a Consumer's request for cancellation when within the 10-day Cancellation Period, and under the terms of the contract without engaging in further sales or marketing activity under that Consumer's Agreement.

A Gas Marketer shall accept a Consumer's request for cancellation when within the Cancellation Period without making the process onerous on the Consumer. The Consumer must be able to exercise their rights under the Cancellation Period by telephone, facsimile, email or mail.

When exercising a Cancellation Provision to cancel the Consumer's Agreement at the anniversary date of the Consumer's Agreement, the Consumer may provide written notice to the Gas Marketer at any time prior to the 60 days before the anniversary date of the Consumer's Agreement.

TRANSFER OF AGREEMENTS

Article 30

A Gas Marketer shall not assign, sell or otherwise transfer the Consumer Agreements to another person who is not a licensed Gas Marketer.

Within 30 days of assignment, sale or transfer of the administration of an agreement to another licensed Gas Marketer, the affected Consumer must be notified of the new Gas Marketer's address for service, telephone number and the Consumer complaints process, if these have changed.

The assignment, sale or transfer of a Gas Marketer's Consumer Agreements to another Gas Marketer shall be approved in advance by the Commission.

RESPONSIBILITY FOR CODE OBSERVANCE

Article 31

The primary responsibility for the observance of this Code and associated Commission Orders rests with the Gas Marketer. Failure to comply with, or breach of, the Code and/or associated Commission Orders, may result in fines or the suspension or revocation of the Gas Marketer's license for a period to be determined by the Commission. A breach of this Code may occur in the course of inducing a person to enter into an Offer or Consumer's Agreement, even in the absence of a contract.

Gas Marketers shall ensure that their Salespersons adhere to the standards required of a Gas Marketer as set out in the Code of Conduct for Gas Marketers, and shall be accountable for the behaviour and performance of their Salespersons.

Article 32

The LDC shall refrain from conducting business with anyone who is not licensed in the province of British Columbia and does not strictly adhere to this Code.

THIRD PARTY VERIFICATION

Article 33

Third Party Verification (TPV) is the form of a digitally recorded: telephone call, either initiated as an outbound call from the Gas Marketer to the Consumer or as an inbound call from the Consumer; or electronic process, wherein the Gas Marketer sends a website link by email to the Consumer to an electronic verification form. Regardless of the method of TPV (telephone or electronic) all requirements set out below apply.

The Salesperson must conduct the TPV call clearly in an understandable pace and tone.

For Residential and Rate Schedule 2 customers, the TPV must not occur until 24 hours after the Consumer executes the contract, and in order to complete the sale, must occur within 20 calendar days of the Consumer executing the contract. The Consumer who signed the contract with a Gas Marketer must confirm their understanding of the key elements of the agreement through a TPV. The Salesperson is not permitted to be on the premise during the TPV with a residential or Rate Schedule 2 customer.

Rate Schedule 3 customers are exempt from the 24 hour TPV waiting period; these Consumers are permitted to complete the TPV immediately upon execution of the contract, and the TPV must occur within 20 calendar days of the Consumer executing the contract.

The TPV must be completed before the Consumer's enrolment is submitted to the LDC. The digital file will be available for the Commission three days after the initial recording and retained by the Gas Marketer for the term of the Consumer's Agreement.

The TPV is not required if the Consumer executes the Agreement with no contact by a Salesperson, through any means (e.g. in-person, telephone, online), at the time of contracting.

Additional requirements for automated TPV calls:

The following additional requirements are in place for the use of automated TPV calls (i.e. where a live-person is not conducting the TPV call):

- the call must use voice verification (as opposed to using button tones to confirm understanding, e.g. press 1 for "yes" or 2 for "no");
- the call must include a record of the incoming or outgoing telephone number dialed to/from the Consumer to complete the call; and
- the Gas Marketer must review all of the calls.

Additional requirements for electronic TPV:

The following additional requirements are in place for the use of electronic TPV:

- Where permitted, the Gas Marketer shall send an email to the Consumer with a link to the electronic verification website. Access to the electronic TPV process is only possible via the email link.
- The electronic verification questionnaire must follow the required TPV script.
- The Gas Marketer must submit all electronic TPV materials to Commission staff for review and approval prior to commercial distribution and/or use. The Gas Marketer must retain, and submit to the Commission upon request, a record of the email sent to the Consumer regarding the TPV and a record of the Consumer's electronic verification.

Residential Consumers

For Residential Consumers, the TPV must follow the standardized scripting set out below. The Commission will not allow additions or deviations from the standardized script at this time. If the Gas Marketer wishes to request an amendment to the standardized script, the Gas Marketer may file the modified TPV script with Commission staff for comment and approval.

Disclaimer: The gas marketer shall terminate the call if the customer objects to the call being recorded. For points that need confirmation from the customer, a Yes/No (Y/N) is indicated at the end of the question. Gas Marketers can use the term "agreement" or "contract," as appropriate.

Script Preamble

Outbound

Good morning/afternoon/evening "CUSTOMER." My name is "TPV AGENT's NAME" and I am calling from "GAS MARKETER" to confirm the key points on the contract/agreement you recently signed with (Agent's name *OR* one of our agents).

This call is the final step before your enrollment with "GAS MARKETER" is completed. We record this call on behalf of the BC Utilities Commission. The Commission will use the information gathered in this verification call to rule on any disagreement that may arise in the future.

Inbound

My name is (TPV AGENT's NAME). Thank you for calling "GAS MARKETER" to confirm the key points on the contract/agreement you recently signed with (Agent's name *OR* one of our agents).

This call is the final step before your enrollment with "GAS MARKETER" is completed. We record this call on behalf of the BC Utilities Commission. The Commission will use the information gathered in this verification call to rule on any disagreement that may arise in the future.

1. I understand your full name is ... Is this correct?
2. Our records show that you signed the contract/agreement more than 24 hours ago, on "DATE." Do you agree? Y/N

Unfortunately, your enrollment with "GAS MARKETER" cannot continue as it has been less than 24 hours since you signed the agreement. To proceed with the enrollment we will contact you in "X" days or you have the option to call us back at "PHONE NUMBER."
3. Have you been left with a copy of your signed contract/agreement?

If no – the call shall be terminated
If yes – would you like to get your copy of the contract/agreement for reference? Y/N
(Must be permitted)
4. Are you the FortisBC account holder? Y/N

If no – are you legally authorized to enter into a contract/agreement for this residence/premise on behalf of the account holder? Y/N
5. Do you understand that "GAS MARKETER" is completely independent of FortisBC or the government and entering into a contract/agreement with our company is entirely voluntary? Y/N
6. Do you understand that "GAS MARKETER" will become your natural gas supplier and FortisBC will remain responsible for invoicing, emergency service and delivery? Y/N
7. Do you understand that we will be supplying your natural gas at a fixed rate of "PRICE" [x dollars and x cents per gigajoule] for a term of "TERM" years? Y/N

If applicable: I have a record that you selected our green energy option for an additional "GREEN ENERGY PRICE." Your green energy charge will be included in your Cost of Gas on your bill from FortisBC. Do you understand that your total fixed price will be "TOTAL PRICE?" Y/N
8. Do you understand that by signing a fixed rate contract/agreement, you may not save money? Y/N

9. Did you receive a copy of the Standard Information Booklet entitled “It’s Your Choice?” Y/N

This booklet is also available on the FortisBC and BC Utilities Commission websites.

10. You have 10 days to cancel this contract/agreement without penalty. Following your 10-day cancellation period, you can only make a request to cancel your contract/agreement on its anniversary date and you will be responsible for early termination fees. Do you understand your cancellation rights? Y/N
11. You will receive a letter from FortisBC confirming your enrollment with “GAS MARKETER.”

Thank you for your time and if you have questions please contact us at the contact information provided on your contract/agreement. We recommend that you review the terms and conditions of your contract/agreement and read the “It’s Your Choice” booklet before your 10-day cancellation period expires.

Commercial Consumers

For Rate Schedule 2 and Rate Schedule 3 customers, the TPV will cover the topics specified by the Commission for this purpose, and will be sent to the Commission for comments prior to implementation. A list containing the major topics to be included in the script is detailed below and it is up to the Gas Marketer to arrange the script. The topics must be addressed individually and where the topic calls for confirmation, the Consumer must so confirm.

1. Identification of the gas marketer as an independent supplier and not affiliated with the local utility or the government.
2. Collect basic information:
 - a. Full business name
 - b. Full signee name
 - c. Title/Position
 - d. Number of locations to be signed up
3. **Signing Authority** –does the signee have the authority to bind agreements for the organization? To be answered with **Yes** or **No**. If in doubt, proceed with one of the questions below:
 - a. Is there a more senior individual that the marketer should speak to regarding the decision on the agreement? Y/N
 - b. Have you entered into long term, financially binding agreements on behalf of the company in the past? Y/N
4. Confirmation that the Consumer has a copy of the Gas Marketer agreement and that the Consumer understands that he is entering into a binding agreement for the supply of energy for the company.
5. Confirmation of the price and term.
6. If customer chose a green energy option, confirmation of the price, the fact that it will be included in the commodity charge on the utility bill, and the cancellation rights for the green option.
7. Confirmation that the customer understands the right to cancel without penalty during the 10 day cancellation period, or if the customer waived the right, confirmation that the customers has done so.

8. Confirmation that the customer understands that entering into the agreement may not result in saving money.

MODIFICATION TO THE CODE

Article 34

The Code shall be reviewed and modified, if required, at an annual general meeting, via written process and/or in-person, as established by the Commission. Modifications to the Code are subject to the approval of the Commission.