

**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-73-07

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

and

Complaints by Residential Customers about Gas Marketers  
and in Response Revisions to the Code of Conduct for Gas Marketers

**BEFORE:** L.F. Kelsey, Commissioner June 27, 2007

**O R D E R**

**WHEREAS:**

- A. Order No. C-6-06 granted a Certificate of Public Convenience and Necessity (“CPCN”) to Terasen Gas Inc. (“Terasen Gas”) for the Residential Commodity Unbundling Project effective November 1, 2007; and
- B. Order No. G-152-06 approved five components in support of the Residential Commodity Unbundling CPCN that included the Customer Education Plan, Confirmation Letter, Dispute Resolution Process, Changes to the Code of Conduct for Gas Marketers and Changes to Rate Schedule 36; and
- C. Order No. G-40-07 approved revisions to Rate Schedules 1U, 1X, 2X, 3X and the Code of Conduct for Gas Marketers (“Code of Conduct”); and
- D. Order No. G-45-07 approved revisions to the Code of Conduct outlined in items 1 to 5 in Terasen Gas’ letter dated April 3, 2007; and
- E. The Commission has received a considerable number of complaints from residential customers about the activities of individual sales agents employed by Gas Marketers; and
- F. Under Article 31 of the current Code of Conduct, the Commission held a meeting with all licensed Gas Marketers on June 13, 2007 to review systemic problems in the Residential Commodity Unbundling Program (“Program”) and to consider adjustments to minimize the number and types of reoccurring complaints. A plan for a third party verification program (“Third Party Verification”) and the posting of individual Gas Marketer complaint ratios (based on complaints per customer enrollments) on the Commission website were discussed as methods to improve the Program; and
- G. Letters were received between June 14, 2007 and June 19, 2007 from Access Gas Service Inc., Active Energy ULC., CEG Energy Options Inc., Direct Energy Marketing Ltd., Energy Savings (BC) Limited Partnership, MxEnergy (Canada) Ltd., Summit Energy BC L.P., Superior Energy Management and Universal Energy Corporation (collectively “Gas Marketers”) commenting on Third Party Verification and other issues; and

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H. The Commission has reviewed the Gas Marketers' comments on Third Party Verification and determined that the Code of Conduct should be amended to include this process.

**NOW THEREFORE** pursuant to Section 71.1 of the Utilities Commission Act and Rules for Gas Marketers the Commission amends the Code of Conduct effective July 1, 2007 by addition of Third Party Verification as set out below with Reasons for Decision attached as Appendix A. Commencing July 1, 2007, Third Party Verification will be completed for each door-to-door sale to a residential consumer prior to submitting a request to Terasen Gas to enroll the consumer in the Program.

The Code of Conduct is amended and renumbered and Article 31 is as follows:

*“Third Party Verification 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 initially dialed by the sales agent to the Gas Marketer with the customer then interacting with the Gas Marketer. The scripting will cover the topics specified by the Commission for this purpose, and be available to the Commission for review and approval. The digital file will be available to the Commission 3 days after the initial recording and retained by the Gas Marketer for the term of the contract.”*

The revised Code of Conduct for Gas Marketers is attached as Appendix B to this Order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this        27<sup>th</sup>        day of June 2007.

BY ORDER

*Original signed by:*

L.F. Kelsey  
Commissioner

Attachments

Modification to the Code of Conduct for Gas Marketers  
engaged in  
**COMMODITY UNBUNDLING SERVICE**  
**IN THE PROVINCE OF BRITISH COLUMBIA**

**REASONS FOR DECISION**

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**INTRODUCTION**

The Residential Commodity Unbundling Program (“RCUP” or “Program”) has been in place since May 1, 2007. In this period, Gas Marketers have enrolled over 70,000 customers however the process of enrollment has resulted in the Commission receiving a considerable number of complaints from customers. At this point the Commission decided to review systemic problems with RCUP and make adjustments to minimize the number and types of recurring complaints.

On June 13, 2007 Commission staff held a meeting with licenced Gas Marketers to review the customer complaint history and present the introduction of a compulsory telephone Third Party Verification program (“TPV”) and receive comments from Gas Marketers on the proposal. The outline of the proposed TPV program had the following elements:

- The telephone verification process can be performed by the Gas Marketer or outsourced to a Third Party. It will not be conducted by the sales agent.
- Verification telephone calls are to be conducted by all Gas Marketers for each sale.
- The verification telephone call should be conducted by using a digitally-recorded voice call and the call should be maintained by the marketer for the term of the contract. It should be available three days after the initial recording in a digital file if requested by the BCUC.
- The verification telephone call should be conducted at any time after the agent leaves the customer’s premise and prior to the marketer sending the enrolment transaction to Terasen Gas.
- Scripting requirements shall include the following:
  - Identification of the Gas Marketer and confirmation to the customer that the marketer is not affiliated with Terasen Gas or the government.
  - Confirmation that the consumer is the account holder or authorized to enter into an agreement for the premise.
  - Confirmation of the product, price and term of the agreement.
  - Advisement of the Confirmation Letter that will be sent by Terasen Gas Inc.
  - Confirmation of the consumer’s cancellation rights.
- All contracts are to be verified from this date forward (implementation date). Contracts enrolled prior to this date are subject to complaints currently on file.

- Confirmation is not required if the contract was initiated by the customer and entered into via the internet or if customer responded to a Gas Marketer's direct mail campaign.

Letters were received between June 14, 2007 and June 19, 2007 from Access Gas Service Inc., Active Energy ULC., CEG Energy Options Inc., Direct Energy Marketing Ltd., Energy Savings (BC) Limited Partnership, Summit Energy BC L.P., Superior Energy Management and Universal Energy Corporation (called "Gas Marketers") commenting on Third Party Verification ("TPV").

## **LETTERS OF COMMENT FROM THE GAS MARKETERS**

### Access Gas Service Inc. ("Access") (Letter dated June 15, 2007)

Access agreed with the Commission that Third Party Verification should be implemented for July 1, 2007. The recorded voice confirmation based on a uniform script for all Marketers should be done as an outbound call where the Gas Marketer makes the call rather than the sales agent. The telephone call should be placed after the sales agent leaves the customers' residence.

Access proposed that Gas Marketers should be allowed to submit customers for enrollment that have not been verified by TPV but if the TPV recording cannot be obtained within the 10 day cooling off period the customer would be dropped. All customers enrolled prior to July 1, 2007, the mandatory date for the introduction of TPV should be subject to a reaffirmation call and given the same rights as those customers who have not yet signed a contract.

### Active Energy ULC ("Active") (letter dated June 19, 2007)

TPV should only apply to residential door to door campaigns and the verification call should incorporate the Commission's proposed questions but a mandatory script is not supported. The Gas Marketer would have the time between the sales call and the end of the cooling off period to confirm customers through the TPV process otherwise the customer would be dropped.

### CEG Energy Options Inc. ("CEG") (Letter dated June 14, 2007)

CEG accepts that the July 1, 2007 implementation of the compulsory TPV is reasonable but requests that Gas Marketers be given the flexibility to either conduct the TPV telephone call at the point of sale while the marketer's agent is at the door or at any time the agent leaves the customer's premises but prior to sending an enrollment request.

There should be no compulsory scripting of the TPV verification call and those customers that have been enrolled at this time should not be subject to reaffirmation. This would cause confusion in the marketplace and diminish confidence in the program.

### Direct Energy Marketing Ltd ("Direct") (letter dated June 15, 2007)

The Third Party Verification call is most valuable when conducted at point of sale during the contract signing process. If the agent is at the customer's premises, fraud is easier to detect. The TPV agent is able to distinguish whether the agent's voice is different from the customer's and whether the agent is coaching the customer. In Direct's experience there have been no instances of agent intimidation during the TPV call and the TPV call script has been deliberately designed to ensure that an agent is not aware of the questions being asked the customer.

Enrolments should not be submitted to Terasen Gas before TPV has been completed. In order to ensure 100% coverage, it is necessary for the agent to conduct the call at time of the contract signing. This keeps costs down as outbound calling will require process changes and lead to increased expense as customer call lists need to be generated and managed between sales agents and TPV vendors.

In Direct's program, third party vendors do not have the ability to cancel contracts if customers do not verify the contract during the call. Customers are required to send cancellation notices to the Gas Marketer directly. Therefore if the customer does not understand the contract, it could be cancelled at that point.

In Direct's view, the TPV must be retroactive to May 1 and be available to the BCUC in digital format within 3 days notice. A retroactive verification process is appropriate if the Commission is concerned about complaint levels and Gas Marketer behavior to this point.

There should be minimum mandatory scripting requirements but Gas Marketers should be able to include questions as required. Commission approval of the script should be based on Gas Marketer behavior. Direct agrees with the following elements to be included in the script:

- Identification of the Gas Marketer and confirmation to the customer that the marketer is not affiliated with Terasen Gas or the government
- Confirmation that the consumer is an account holder or authorized to enter into an agreement for the premise
- Confirmation of the product, price and term of the agreement
- Advisement of the Confirmation Letter that will be sent by Terasen Gas
- Confirmation of the consumer's cancellation rights

Direct also agrees that if a contract is initiated by the customer and entered into through the internet or if the customer responded to a direct mail campaign then a TPV is not required. In the future if telesales are permitted this sales channel would not require TPV.

Energy Savings (BC) Limited Partnership ("ESBC") (Letter dated June 18, 2007)

The verification call should be conducted while the sales agent was on the premises or at any time after the sale but prior to the enrolment transaction being sent to Terasen Gas. The scripting requirements should be specific to each Gas Marketer and reviewed or approved by the Commission. Prescriptive scripts should not be mandated.

In order to deal with complaints and disputes, ESBC indicated that all marketers who have not exercised a reaffirmation process in the past should be mandated to reaffirm their current enrollments retroactively to May 1, 2007. In the alternative, all Gas Marketers could be required to reaffirm their customers.

MxEnergy (Canada) Ltd. ("MxEnergy") (Letter dated June 15, 2007)

MxEnergy conducts a TPV while the sales agent is still on the premises and has not experienced customer intimidation or impersonation. This method allows the customer to confirm the salesperson's badge and identification of the company being represented. It is MxEnergy's view that customers want a one step process and initiating TPV after the sales agent leaves the premises is more expensive and results in dropped customers who believe they have a valid contract.

If the Commission orders the TPV to be conducted after the sales agent leaves the premise, MxEnergy requests that the Commission set a minimum threshold percentage of 75% for customers that must be contacted through the telephone call verification method.

MxEnergy also recommends that the Commission set a minimum standard for the TPV script that would include the following:

- Is the account holder authorized to enter into the agreement, as well as confirm all the account details such as name, address and account numbers
- Understands the price and term of the agreement
- Understands that they may or may not save money over the term of the agreement since no one knows where the natural gas market is going and what Terasen Gas prices will be
- Has a copy of the agreement
- Understands the sales representative is representing the marketer and not Terasen Gas,
- Understands they are switching their supply to the marketer and this switch is voluntary and not obligated
- Understands when the switch will take place
- Received the Standard Information Booklet
- Understands that they have 10 days to rescind the agreement or they are locked in for the term of the agreement
- Will receive a Confirmation Letter from Terasen Gas

#### Summit Energy BC L.P (“Summit”)

TPV must be conducted by a digitally recorded call after the sales agent leaves the customer’s premises. If the sales agent is present, there exists a high probability that the customer will feel pressured to agree to the verification which is contrary to the intent of this process.

The enrollment with Terasen Gas should take place as soon as the contract is signed however if the TPV is not completed within the 10 day cooling off period then the customer should be dropped. The Customer contract would then be invalid.

Reaffirmation should be made retroactive to May 1, 2007. If this is not done the potential exists for customers to unknowingly be bound to contracts that they do not understand. If action is taken now the contracts can be dropped prior to November 1, 2007 otherwise there will be financial repercussions for the customer, Gas Marketer and the credibility of the Program.

#### Superior Energy Management (“Superior”)

Superior has developed an outbound verification process but warned that such a program may not be successful in contacting 100% of customers. In addition, Superior expressed concern with the potential for undue influence on the customer if the sales agent was at the customer’s premises during the verification process. If TPV is too prescriptive it may preclude the introduction of more innovative technology to confirm a customer in the future.

Superior also expressed concern if the Commission imposed compulsory retroactive verification on contracts back to May 1, 2007. Customer disputes should be examined on a case by case basis otherwise confidence in the Program may be eroded.

Universal Energy Corporation (“Universal”)

Mandating a standard verification process on marketers who have developed efficient processes prior to market opening unduly impacts these marketers. A standard TPV should be applied against marketers who have an inordinate number of complaints.

Verification should occur after the sales agent has left the premises and prior to the expiry of the 10 day cooling off period. Universal is opposed to a point of sale verification process as it creates no protection for the customer from intimidation by the sales agent and will result in more complaints.

Universal has developed its own standardized script and a rigorous quality assurance program where the majority of the verification calls are reviewed by a quality assurance team (“QA”). If QA team determines that a customer does not understand the basic terms and conditions of the contract then a QA associate will call the customer back to reexamine these issues.

Universal does not support 100% verification as it will adversely affect its business model. A digitally recorded message confirming the planned enrollment action and informing the customer that the Confirmation letter is forthcoming is more than sufficient notice for the customer.

**COMMISSION DETERMINATION**

- 1. Third Party Verification will be mandatory for all door to door sales to residential customers effective July 1, 2007. The TPV will be a telephone call conducted with the customer who signed the contract using a digitally recorded voice call and the call will be maintained by the marketer for the term of the contract. It should be available three days after the initial recording in a digital file if requested by the BCUC.**

All marketers have had advanced notice on this issue and the majority of Gas Marketers already have some form of TPV in place. The digitally recorded interaction based on a call verification script provides firm evidence of the customer’s understanding on key points in the contracting process that are necessary to resolve disputes.

- 2. The telephone verification process can be performed by the Gas Marketer or outsourced to a Third Party. It will not be conducted by the sales agent, but may be initiated as an inbound call by the customer or sales agent to the third party or as an outbound call by the third party to the customer.**

The Commission prefers that the TPV be exclusively an outbound call with the sales agent not present. However the Commission is willing to allow the agent to be present during the confirmation process as the Confirmation Letter provides the customer with information to cancel the contract if intimidation is an issue. However if over time customer complaints confirm that sales agents are imposing undue influence on customers, then this issue will be reexamined.

- 3. TPV telephone calls are to be conducted by all Gas Marketers for each door to door sale to residential customers commencing July 1, 2007, and must be completed before enrollment of the customer is registered.**

The Gas Marketer must provide 100% verification before the customer may be enrolled in the Customer Choice system for processing. Those customers that cannot be verified will be dropped. It is the Commission's view that the highest probability of contacting a customer is within the first 10 days after signing a contract.

Any level of verification calls of less than 100% would be difficult to monitor. A 100% verification provides assurance that customers entering into a contract with a Gas Marketer understand the consequences of their action. This provision then places less stress on the Terasen Gas enrollment system and complaints should be diminished before they reach the Terasen Gas call centre or the Commission.

- 4. A script containing the major topics which must be canvassed with the customer is listed below and it is up to the Gas Marketer to arrange the script.**

- **Identification of the Gas Marketer and confirmation that the marketer is not affiliated with Terasen Gas or the government.**
- **Confirmation that the Customer understands that once the Gas Marketer contract is signed gas supply is provided by a Gas Marketer. This action is entirely voluntary and there is no obligation to switch gas suppliers.**
- **Confirmation that the consumer is the account holder or authorized to enter into an agreement for the premise.**
- **Confirmation that the customer has a copy of the Gas Marketer agreement**
- **Confirmation that the customer has knowledge of the product, price and term of the agreement.**
- **Confirmation that the customer may not save money.**
- **Advisement of the Confirmation Letter that will be sent by Terasen Gas Inc.**
- **Confirmation of the consumer's cancellation rights under the 10 day cooling off period.**

- 5. All contracts are to be verified from July 1, 2007 forward. Contracts enrolled prior to this date are subject to complaints currently on file.**

In the Commission's view, reverification of contracts entered into prior to July 1, 2007 would undermine the integrity of the entire program as customers may use the opportunity to be released from legitimate contracts for possibly lower priced agreements. The enrollment process would have to be entirely unwound which places significant stress on the Terasen Gas enrollment system. However the same result or resolution of complaints should be achieved through the complaint review process and this should be relieved to some extent by the number of Gas Marketers that already incorporate TPV in their procedures.



6. **Confirmation is not required if the contract was initiated by the customer and entered into via the internet or if customer responded to a Gas Marketer's direct mail campaign.**

The Commission believes that if the customer initiates contact with a Gas Marketer there is a sufficient knowledge level and interest in the program that makes the customer educated to the point where TPV loses its value.

**CODE OF CONDUCT**  
**For**  
**GAS MARKETERS**  
**engaged in the**  
**COMMODITY UNBUNDLING SERVICE**  
**IN THE PROVINCE OF BRITISH COLUMBIA**

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**CODE OF CONDUCT**

**For**

**GAS MARKETERS**

**engaged in the**

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

**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 internet 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 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;
- 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 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:

- **Act** means the Utilities Commission Act of British Columbia as amended from time to time.
- **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 Agreements** means all written agreements and contracts between a Gas Marketer and a Consumer for the Marketing of Gas, other than the Offer.
- **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.
- **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.
- **License** means a license 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 License.
- **Local Distribution Company (LDC; Utility)** 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, internet, telemarketing, direct mail selling activities, and any

other means by which a Gas Marketer or its Salesperson interacts directly with a Gas Consumer or potential Gas 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.
- **Regulation** means a regulation made under the Act.
- **Salesperson** means a person who is employed by or otherwise conducts Marketing 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 a Gas Marketer, 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 telephone call between the Gas Marketer and the Residential Consumer to confirm with the Residential Consumer an understanding of the Offer, Consumer's Agreements, Confirmation Letter and Cancellation Rights.

## **THE TERMS OF THE CONSUMER'S AGREEMENTS AND THE OFFER**

### **Accuracy**

#### Article 1

The terms of any Offer and Consumer's Agreements 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 Agreements 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 Agreements 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 Agreements shall clearly state agreement renewal provisions including default rollover 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 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 Agreements 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 Agreements 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 Consumer's Agreements.

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.

## **Guarantees**

### Article 5

Offers and Consumer's Agreements 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 Agreements. 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, e-mail 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, 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.

### Article 8

Neither a Gas Marketer or 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 nor 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 Agreements;
- 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 Agreements 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 Agreements, 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;
- the 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 Agreements;
- Consumer's entitlement to receive a copy of this Code 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 Agreements will apply to the Consumer at their new Premise, provided that the new Premise is served with natural gas and that it is in an eligible service territory of the Utility providing the Commodity Unbundling Service;
- for Commercial Consumers, cancellation rights of the Consumer including a mandatory 10 day cooling off period; a Gas Marketer must not submit a Consumer enrolment to the LDC for processing until the 10 day cooling off period has expired. For Commercial Consumers, a 10 day cooling off 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 cooling off period;
- for Residential Consumers, for the purposes of the Commodity Unbundling Service, the 10 day cooling off period is defined as the 10 calendar days from the date the enrolment is received by the Utility from the Marketer;
- rights under the Consumer's Agreements with respect to assignments, transfers and sales to another Gas Marketer;
- any deposit, exit, 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 shall be presented completely, accurately and truthfully.

## **Telephone, Door to Door and Internet Marketing**

### Article 12

#### Telephone and Door to Door Marketing

When conducting telephone or door to door Marketing, the Gas Marketer shall comply with applicable laws. All telephone and door to door contacts must be made Monday to Friday between the hours of 9 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. Salespersons must immediately, truthfully and fully identify themselves to the prospective Consumers. They shall also immediately, 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 selling Gas under the Commodity Unbundling Service.

For telephone Marketing, the caller must first personally obtain the consent of the recipient to play a recorded offer. The Gas Marketer shall forward a written agreement to sign-up for service by telephone marketing and obtain from the Consumer a signed agreement in return. 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 agreement from the Consumer.

#### Internet Marketing

The Gas Marketer shall forward a written agreement to sign-up for service by Internet marketing and obtain from the Consumer a signed agreement in return or obtain an electronic signature which complies with the B.C. Electronic Transactions Act. 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 agreement from the Consumer. Electronic signatures which comply with the B.C. Electronic Transactions Act shall be accepted for Consumers committing to new agreements and for the renewal of existing agreements.

## **Complaints and Dispute Resolutions**

### Article 13

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 contracts between a Gas Marketer and a Consumer 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.

## **SALESPERSON OPERATIONS**

### **Respect of Privacy**

#### Article 14

Marketing shall not be intrusive or harassing in nature. Marketing activity (excluding online Marketing) shall be limited to between Monday to Friday between the hours of 9 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.

### **Honesty, Fairness and Veracity**

#### Article 15

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 terms of the Offer, Consumer's Agreements or any other matter.

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 16

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.

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

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 Marketer, to enable them to give the Consumer all necessary information to make informed decisions.

### **Testimonials and Endorsements**

#### Article 17

A Salesperson shall not refer to any testimonial or endorsement 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 18

A Salesperson shall refrain from using comparisons which might mislead and 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 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.

### Article 19

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 20

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

### Article 21

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 22

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

## **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 and sub-contractors who act for that Gas Marketer;
- A list of Consumers;
- The Notices of Appointment of Marketer signed by its Consumers;
- Copies of the Gas Marketer's supply contract with each Consumers containing the Consumer's written signature; and
- Copies of the commercial Consumer's written consent waiving the 10-day cooling off 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 Consumers 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 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 (type, frequency, dates)
- Penalties for early termination of the contract
- Conditions which may affect the price or term of the Offer

The minimum contract term is one year with a maximum contract term of no more than five years and the dates for commencement of service and termination of service must coincide with program entry dates.

### **Agreement Renewals**

#### Article 27

The agreement should clearly set out the contract renewal provisions including those for default rollover.

- The renewal date shall be such that it coincides with a LDC program entry date. Notice periods for contract renewal should require the Gas Marketer to give notice to the Consumer no more than 120 days and no less than 90 days prior to the applicable renewal date.
- The Consumer shall have 30 days after receipt of written notice from the Gas Marketer to select renewal terms or cancel the contract.
- Where no instructions are received by Terasen Gas from the current Gas Marketer of record prior to the cut-off date for the applicable renewal date, and where a valid enrolment for the same Consumer is not received by Terasen Gas from another Marketer, the Consumer's Agreement will be evergreened, with the same fixed price for a 12 month period.
- The timing of notices need to align with notice periods on entry dates to permit a Consumer to change Gas Marketers upon expiry or cancellation of an existing agreement.

If the Consumer has cancelled its agreement and wishes to return to Utility supply, the Gas Marketer must notify the LDC within two business days of receiving notice from the Consumer.

## **Transfer of Agreements**

### Article 28

A Gas Marketer shall not assign, sell or otherwise transfer the Consumer's 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 29

The primary responsibility for the observance of this Code rests with the Gas Marketer. Failure to comply with, or breach of, the Code 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 Agreements, 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 30

The Utility 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 31

Third Party Verification 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 initially dialed by the sales agent to the Gas Marketer with the customer then interacting with the Gas Marketer. The scripting will cover the topics specified by the Commission for this purpose, and be available to the Commission for review and approval. The digital file will be available to the Commission 3 days after the initial recording and retained by the Gas Marketer for the term of the contract.



## **Modification to the Code**

### Article 32

The Code shall be reviewed and modified if required at an annual meeting to be held prior to May 1 of each year. All changes will require the approval of the Commission.