

# **Market Surveillance Administrator**

**Re: FortisAlberta Inc.**

January 20, 2005

**Contents**

1	Introduction.....	2
1.1	Introduction and Background .....	2
1.2	Definitions .....	3
1.3	Scope of our Engagement.....	3
2	Summary of Findings.....	7
3	Restrictions and Limitations.....	9

# 1 Introduction

## 1.1 Introduction and Background

Grant Thornton LLP was retained by the Market Surveillance Administrator (“MSA”) by letter dated October 4, 2004, to test the compliance of FortisAlberta Inc. (“FortisAlberta”), previously Aquila Networks Canada (Alberta) Ltd., with certain sections of the Code of Conduct Regulation (the “Code”) under the Electric Utilities Act of Alberta (the “Act”) for the period January 1, 2004 to June 30, 2004 (the “Stub Period”). The MSA was established under the *Electric Utilities Act* with a mandate of surveillance and investigation to ensure a fair, efficient, and openly competitive market.

FortisAlberta is a subsidiary of Fortis Inc. During the Stub Period, Fortis Inc. acquired Aquila, which became FortisAlberta. This transaction was completed on May 31, 2004 and resulted in a significant change in staff including the individuals who were involved with compliance with the Code during the Stub Period for Aquila.

FortisAlberta, and Aquila before the change in ownership, is described as a “wires company” distributing electricity throughout its Alberta territory where it owns and operates the electricity distribution system in southern and central Alberta. For purposes of the Code, FortisAlberta is defined as an “Owner”.

It is understood by Grant Thornton LLP and the MSA that compliance with the Code is the responsibility of FortisAlberta. This includes ensuring that there are appropriate systems, procedures and activities (i.e. controls) in place which are designed and undertaken to be in compliance with the Code. The Code also requires FortisAlberta to prepare and adhere to a Compliance Plan approved by the MSA. This report does not provide an opinion on the appropriateness, sufficiency or completeness of FortisAlberta’s compliance with the Code or with their Compliance Plan but presents findings resulting from conducting certain procedures to test the controls that FortisAlberta had in place during the Stub Period to comply with certain sections of the Code.

During the Stub Period, our review indicated that there was little, if any, difference between the controls used by Aquila and FortisAlberta to comply with the Code. Consequently, for purposes of this report, we have referred to FortisAlberta when discussing the testing of controls; however, this also includes the controls that were in place during the Aquila period. Where differences in controls were noted between Aquila and FortisAlberta, we have referenced this in the report.

FortisAlberta does not have an affiliated retail entity in Alberta under the “Fortis” name. During the Stub Period, however, Aquila and FortisAlberta contracted with Epcor Energy Services (Alberta) Inc. (“EESAI”) to be the provider of default supply services to customers in Alberta. During the Stub Period, there was a dispute between Aquila (and subsequently FortisAlberta) and the MSA regarding whether or not EESAI was considered to be an “Affiliated Retailer” under the Code. This was eventually resolved with Aquila and FortisAlberta agreeing that EESAI was considered an affiliated retailer and all parties were therefore subject to the Code. Pursuant to the Compliance Plan filed with the MSA, FortisAlberta and EESAI signed a letter agreement effective June 30, 2004 regarding their relationship and the protection and use of customer information under the Code.

During the Stub Period, neither Aquila nor FortisAlberta received full approval for their compliance plan filed with the MSA; however, they were granted interim approval until June 1, 2004. FortisAlberta did not receive full compliance plan approval from the MSA until June 30, 2004 and was therefore not in compliance with the Code for the month of June 2004.

## **1.2 Definitions**

Any specific terms that are used in this report have the same meanings that are defined in the Code.

## **1.3 Scope of our Engagement**

The MSA asked Grant Thornton LLP to focus on and we designed our testing around the following sections of the Code:

- Section 10 dealing with the disclosure of Customer Information with consent by Owners or Retailers;
- Section 11 dealing with the disclosure of Customer Information to two or more Retailers by an Owner or Regulated Rate Provider;

- Section 12 dealing with the conditions for the disclosure of Customer Information by an Owner or Regulated Rate Provider;
- Section 13 dealing with the disclosure of a customer's historical energy consumption by an Owner or Regulated Rate Provider;
- Section 14 dealing with the provision of aggregated Customer Information by an Owner or Regulated Rate Provider;
- Section 15 dealing with the equal treatment of Retailers by Owners;
- Section 20 dealing with the non-disclosure of Customer Information for marketing or sales purposes between an Owner and an Affiliated Retailer; and,
- Section 34 dealing with compliance reporting.

1.3.1 Available Information/Documents

We reviewed and relied on the following in preparing our report:

- (1) The following individuals were interviewed to gain an understanding of the policies and procedures in place during the Stub Period. The representations made by these individuals were relied on in completing this engagement:
  - a. Robert Fink – Corporate Counsel & Corporate Secretary Legal Services;
  - b. Nipa Chakravarti – Director, Customer Operations;
  - c. Cynthia Johnston – Vice President, Corporate Services & Regulatory;
  - d. Brenda Verhelst – Manager, Retailer Relations;
  - e. Kim McKylor – Manager, Contact Centre AB;
  - f. Blair Debaar – Real Time Manager, Contact Centre AB;
  - g. Ron McLaren – Senior Account Executive, Major Accounts AB;
  - h. Judy Croteau – Senior Financial Analyst, Contract Administration AB;
  - i. Georgina Newell – Supervisor, Site Management AB; and,
  - j. Carlo Perri – Manager, IT Applications.

- (2) The training material used in the Call Centre to teach new and existing employees about the Code;
- (3) The list of new employees employed during the Stub Period;
- (4) The list of all employees who came into contact with customers or retailers during the Stub Period;
- (5) The detailed listing of revenue generated from the disclosure of historical energy consumption;
- (6) The FortisAlberta Compliance Plan filed with and approved by the MSA on June 30, 2004;
- (7) FortisAlberta's definition of "marketing";
- (8) The Call Centre Agents Scorecards selected in the sample;
- (9) Call logs used to select the sample of calls to listen to during the Stub Period;
- (10) The recording of the calls selected in the Call Centre testing;
- (11) The consent forms for the disclosure of customer information selected in the sample; and,
- (12) The management representation letter signed by Robert Fink, Corporate Counsel and Corporate Secretary of FortisAlberta, dated January 13, 2005.

#### 1.3.2 Scope Limitations

We encountered the following limitations in conducting our analysis:

- (1) The June 2004 Monthly Compliance Report was signed by Cynthia Johnston who is the only person still employed by FortisAlberta who prepared the compliance reports during the Stub Period. Ms. Johnston informed us that she was asked to be the compliance officer for the month of June because she was the VP of Regulatory for FortisAlberta and in the past, the VP of Regulatory was also the compliance officer. Subsequent to June 30, 2004, Robert Fink replaced her as the compliance officer. Ms. Johnston was assigned this job at the beginning of June 2004 when it was clear that former Aquila executives who had signed the compliance reports for the first five months of 2004 were resigning effective May 31, 2004. Ms. Johnston also indicated that prior to the completion of the transaction through which Fortis Inc. acquired Aquila, Fortis Inc. employees were not allowed into the Aquila offices unsupervised and they were not given access to

any information related to the Code of Conduct reporting. We were therefore not able to interview the two former Compliance Officers to determine what policies and procedures were followed to complete the monthly compliance reporting prior to June 1, 2004. Consequently, we were limited in our ability to understand the processes used by Aquila to comply with the Code during the period January to May 2004.

- (2) During the Stub Period, the systems for preventing and detecting Code violations by both Aquila and FortisAlberta were informal and undocumented. There were many instances where a policy was stated to exist but no documentation was maintained (i.e. no documentation was kept on which employees received Code of Conduct training prior to July 2004). This has significantly limited our ability to gain sufficient understanding of the compliance reporting system in place during the first five months of the Stub Period thereby making the policies and procedures difficult to confirm.
- (3) Due to the nature of the engagement, we have been unable to assess the completeness of the information reviewed and relied upon. In other words, we have been unable to ensure that the population from which we selected our samples for testing purposes was complete.

## 2 Summary of Findings

Based on the procedures conducted, our summary of significant findings are as follows:

- Many of the procedures and systems used by FortisAlberta and/or Aquila to comply with the Code during the Stub Period were informal and not documented. Consequently, we were not able to draw definitive conclusions with respect to compliance with the Code in all instances;
- This lack of formal, documented procedures together with the position of FortisAlberta and Aquila that they were not subject to the Code for at least part of the Stub Period, suggests that they may not have taken compliance with the Code seriously during the Stub Period;
- Between June 1 and June 30, 2004, FortisAlberta was not in compliance with Section 31 of the Code as they did not have a compliance plan approved by the MSA until June 30, 2004 and the interim approval of their draft compliance plan had expired on June 1, 2004;
- Per review of the “Permission to Release Electric Customer Load Data”, it appears to conform to the requirements under Section 10(2) of the Code of Conduct except that the form does not state the period of time that the consent is in effect. This appears to be in violation of Section 10(2)(c);
- Subsequent to completing our review, FortisAlberta provided us with their second and third Quarter Compliance Reports. These reports disclosed instances of non-compliance with the Code during the Stub Period which had not been included in the monthly reporting to the MSA or disclosed to us during our review. Consequently, we returned to FortisAlberta to complete additional procedures regarding this new disclosure;
- There were two instances of non-compliance disclosed in these quarterly reports related to the release of customer information to retailers who were not the retailer of record. We reviewed the supporting documentation and had discussions with the FortisAlberta staff. It appears as though the disclosure was accidental and related to infrequent and unusual releases of information such that the informal processes used by FortisAlberta to control the release of customer information were not applied;



- FortisAlberta appears to have taken appropriate action to mitigate the effects these instances of non-compliance could have had on retailers of record;
- We understand that FortisAlberta has implemented policies, including additional reviews before the spreadsheets are sent and protecting certain fields in the spreadsheet prior to release, and training around these issues to ensure that these instances do not reoccur in the future;
- We found no other apparent instances of Code violations at FortisAlberta or Aquila during the Stub Period; and,
- We received good cooperation from FortisAlberta in the course of conducting our engagement and were not restricted in gaining access to information other than as noted in the scope limitations noted above.

Based on our findings, we have the following recommendations:

- The procedures used by FortisAlberta to comply with the Code should be formalized and documented. We understand that this may have occurred subsequent to the Stub Period as indicated in the Compliance Plan filed with the MSA; and,
- As the “Permission to Release Electric Customer Load Data” form does not contain a field that states the period of time that the consent is in effect, we suggest that FortisAlberta either amend this form to include a field the customer completes to specify the period of time the consent is in effect or modify the form to indicate that the request is only in effect for the particular request and any further requests for information will require an additional consent form.

### 3 Restrictions and Limitations

This Report was prepared for the Market Surveillance Administrator in relation to the testing of the compliance of FortisAlberta Inc. (previously Aquila Networks Canada (Alberta) Ltd.) with certain sections of the Code of Conduct Regulation under the Electric Utilities Act of Alberta for the period January 1, 2004 to June 30, 2004. This report is not to be used for any other purpose and we specifically disclaim any responsibility for losses or damages incurred through use of this Report for a purpose other than as described in this paragraph. It should not be reproduced in whole or in part without our express written permission, other than as required by the MSA in relation to compliance matters.

We reserve the right, but will be under no obligation, to review and/or revise the contents of this Report in light of information which becomes known to us after the date of this Report.

Yours truly,

GRANT THORNTON LLP

The image shows a handwritten signature in black ink that reads "Grant Thornton LLP". The signature is written in a cursive, flowing style.

David J. Elzinga, CA-IFA, CFE  
Partner