



BC Hydro – Smart Meters - Class Action Lawsuit Update – April 7, 2015

We believe that the “people’s” class action lawsuit against BC Hydro is a strong and just case, which is picking up steam as it winds its way through numerous court processes. These large legal actions take patience and an unwavering focus on the goal, as it can take years to attain the justice being sought. Anything that ***must be done, must be done no matter how long it takes!*** Despite serious attempts by the BC Liberals to derail our case, it is important that you know we have not lost our footing and, in fact, any delays have helped us to create a stronger case.

Citizens for Safe Technology Society and the Coalition to Stop Smart Meters have worked together from the start to organize and manage this legal action. We encourage you to share this message with others who are dissatisfied with the abusive and extortive practices of the Liberals and BC Hydro over the microwave smart grid program.

From the very beginning, with the passing of the Clean Energy Act in 2010, the Liberals have systematically eliminated all regulatory oversight which safeguards the public, and would have allowed for the normal process of hearings with the opportunity for public input. It is shocking that the Liberals have obstinately refused to act in accordance with our democratic system of law, and consistently denied the BC Utilities Commission (BCUC) its full mandate to provide independent oversight for the public good. In doing so, they have violated the very foundations of our democratic, civil and humane society.

In comparison, when the BCUC was allowed to do its job as in the case of Fortis and Nelson utility providers, a universally available opt-out choice program was imposed, with strict orders that opt out choices be made easily available to all customers with no barriers or exceptions. We believe that the Smart Grid has so many inherent dangers and is such an unethical milking of the public to fund ridiculous costs, that it should be stopped altogether. But the opt out choices required by the BCUC for our other British Columbia power providers are an improvement over the BC Liberals forced regime who allow no independent scrutiny and no way for their abusive control strategies to be reined in.

The next step in this journey was the application by Fortis in July 2012 to the BCUC for approval of their smart grid rollout. Many individuals, both members of the public and experts representing CST, gave evidence at the Fortis Hearing. Fortis had initially proposed that everyone would be required to accept a microwave smart meter, or their power would be disconnected. However, on July 23, 2013, the BCUC did speak up and protect the public by requiring opt out choice for each and every customer with no restrictions, other than a punitive fee schedule. We are grateful to everyone, expert and

layperson alike, who participated at this Hearing to demand opt out choices.

Immediately prior to the announcement by BCUC that the Fortis microwave smart grid program must incorporate choice for all, the Liberals tried to turn down the heat and deflect criticism for their rigid stance of a microwave smart meter or no power. It was obvious the Liberals had been forewarned of the BCUC decision to require Fortis to incorporate opt out choices. Up to that point, the Liberals' mantra had consistently been that everyone **MUST** take a microwave smart meter or the whole grid wouldn't work (just one of their many lies). So, on July 18, 2013, Bill Bennett, Minister of Energy and Mines, stated in his press release that "... **nobody will be forced to take a smart meter. I believe that this is a fair and reasonable solution for all British Columbians.**" However, these words would ring hollow within days as the evidence continued to mount that the Liberals had no intention at all of allowing opt out choices for all British Columbians.

Our civil "class action" lawsuit against BC Hydro was filed in the Supreme Court of BC on July 25, 2013.

As expected, the Liberals continued to shrug off any duty and responsibility to the public on the issue of the microwave smart grid. The Liberals responded on September 25, 2013, by ordering the Lieutenant Governor to issue an Order in Council, Direction No. 4, which was their attempt to circumvent our lawsuit against BC Hydro. There was no legislative debate, no opportunity for public input. This was an obvious, heavy-handed attempt to squash all resistance while appearing to be offering choice, as Fortis was ordered to do. Direction 4 ordered the BCUC to approve the Liberal mandate for the opt out program, **and no more – no changes, no questioning.** In other words, Direction 4 again removed any hope of independent oversight to protect the public and required the BCUC to follow government orders.

Direction 4 allowed opt out choice **ONLY** for residential customers who had thus far managed to avoid the installation of a microwave smart meter up until December 1, 2013. No commercial customers were allowed an opt out choice.

After more than 2 years of forced installations, and two months after commencement of this legal action against BC Hydro, the Liberals used Direction 4 to deny opt out choice for 96% of BC Hydro customers, allowing opt out choice **ONLY** for those customers who had successfully refused a smart meter of any kind up to December 1, 2013. Out of 1.8 million customers, only 4% were deemed eligible for choice. Direction 4 only allowed customers to opt out if they had residential accounts (no business), and no RF smart meter had yet been installed by December 1, 2013. In short, Direction 4 closed any loopholes left out of the Clean Energy Act and determined the different ways in which individual customers may suffer under the heavy hand of BC Hydro's smart meter rollout.

It was an amazing moment to realize the Liberals had imposed an act which made legal severe restriction of civil liberties without any kind of parliamentary discussion.

We can revisit Bill Bennett's promise "...nobody will be forced to take a smart meter...",

and see how far short of the mark the Liberals have fallen. It quickly became apparent that the opt out was a cynical attempt to appease the public while devising a scheme to squash resistance by applying an onerous fee structure which many could not afford. This is a tactic used by criminals the world over – it's called extortion.

Remarkably, or maybe not so, although Direction 4 came into effect months after the commencement of legal action against BC Hydro, it was silent as to the existence of this legal action or that this action is applying for class action status to represent all BC Hydro customers. Instead, letters were sent to each customer attempting to elicit their written agreement and which would effectively surrender their right to be a class member of the lawsuit without ever being aware of its existence.

The Clean Energy Act did not define that a smart meter must be of the microwave radiofrequency radiation variety. It was not until Direction 4 was issued, that “meter” was defined as a microwave radiofrequency radiation emitting device which closed the door to the safer alternatives of keeping an analogue meter and wired smart meter options, both of which are available for other utilities. Further, the BCUC was directed NOT to question BC Hydro's practices and NOT to exercise its mandate as public oversight by opening any discussions regarding any aspect of the smart meter program whatsoever. The BCUC was ONLY allowed to give final blessing to the opt- out fee structure.

On September 18, 2014, the Human Rights Tribunal dismissed the complaint against BC Hydro stating difficulty in establishing microwave smart meter emissions as the cause of EHS symptoms. However, in its decision, the Human Rights Tribunal stated at paragraphs 141 to 143:

- a) accepted that there is a real issue of potential harm to the human body arising from exposure to EMF frequencies;
- b) lauded the BCUC and B.C. Hydro for providing the opt out options that they do; and
- c) found that the issue (of potential harm to the human body arising from exposure to EMF frequencies) is clearly one of concern to the public.

Now we were left with only one legal option, the class action lawsuit.

We realized that the Liberals would go to any lengths to protect the microwave smart grid program, to emasculate the BCUC, to disallow any and all protection of the public by way of independent reviews or scrutiny or parliamentary debate. The BC Liberals have acted with alacrity and without hesitation to blow apart our democratic and civil rights.

Given that the Liberals have legalized their blatant and draconian abuse of individual rights, it was necessary for us to rewrite our lawsuit in response. We have now changed course in our class action to stand squarely on the foundation of our Canadian Charter of Rights and Freedoms, Sections 7 and 8. On March 16, 2015, we filed a revised Second Notice of Civil Claim at the Vancouver Supreme Court Registry which challenges the constitutional validity of the various legislative and/or administrative acts, including Direction 4, which have authorized the Liberals to force microwave radiation emitting

smart meters onto customers who refuse the same, as well as challenging the constitutional validity of Opt Out and Failed Installation Fees. Our case was scheduled to be heard in court commencing April 27, 2015, however, due to a change in judge's schedule, the date is now scheduled to be heard December 7-11, 2015. We ask that as many people as possible attend the Vancouver courthouse on these dates.

<http://citizensforsafetechnology.org/Class-Action-Lawsuit-against-BC-Hydro--Update,49,4201>

Our Case in Simplified Terms:

Pursuant to Section 7 of the Charter, there is clear definition of the right of the individual to a protected sphere of autonomy over fundamental personal choices. In simple terms, this action, will seek relief on behalf of *any BC Hydro Customer who at any time requests that there be no operation of an RF-Emitting Meter at his/her Dwelling.*

Furthermore, the action seeks protection against both the imposition of an RF-Emitting Meter as well as the imposition of Service Refusal, Opt-out Fees or Failed Installation Fees in *lieu* of the RF-Emitting Meter.

Our lawsuit is now a Charter challenge in court, and it is based on the following assertions of fact:

- a) The microwave radiation smart meter emissions cause biological effects in individuals who are exposed to them;
- b) There is a real issue of potential harm to the human body arising from exposure to these emissions;
- c) The safety of the Emissions remains a matter of reasonable concern; and
- d) The choice to be free from the operation of an RF-Emitting Meter at one's Dwelling is a fundamental personal choice.

Where an RF Emitting Meter is operating at a Dwelling, the occupants of that Dwelling will be exposed to the microwave radiofrequency radiation Emissions. At any given Dwelling, these Emissions cause biological effects in individuals who are exposed to them, which biological effects will increase with proximity to the RF emitting Meter and duration of exposure. There is consensus in the scientific community that exposure to RF emissions causes biological effects. Those biological effects have not been established as safe to human health, on the contrary, the WHO classified these emissions as Class 2B possible to cause human cancer. The biological response to RF emissions is cumulative, which means that the RF emissions causing a biological effect and the severity of an effect increases with the duration of exposure. On April 19, 2013, WHO/IARC publication includes the finding that children are particularly vulnerable to RF emissions. For those who have no choice on the smart meter, their exposure is 24/7 ad infinitum,

whether they wish it or not.

A growing number of individuals choose to eliminate or minimize their exposure to RF emissions in their residential and workplace environments. The choice to be free from the operation of an RF emitting meter at one's dwelling is a fundamental personal choice and an act of environmental self-determination. Under Section 7 of the Charter of Rights and Freedoms, we don't have to prove that these microwave emitting devices are harmful. Because there is evidence that would cause a reasonable person to have concern, then it is that person's right to refuse having the government impose such a device on their home.

The facts of our case show that the actions taken by the Liberals and BC Hydro amount to

a) **Deprivation of liberty interest;**

b) **Deprivation of security;**

c) **Infringement of the right to territorial privacy;**

d) **Lack of parity:** the facts are that other utilities in BC are subject to regulatory scrutiny with respect to their microwave smart meter programs while BC Hydro is not;

e) **Lack of democratic process:** the facts setting out how the law authorizing the conduct of the Liberals and BC Hydro came into effect in the absence of any legislative process

f) **Arbitrariness:** everyone is not being treated equally. Those who were tricked, deceived, harassed and bullied into accepting a microwave smart meter were not given a choice. Those who cannot afford to pay the extortion fees are not given a choice.

g) **Disproportionate:** the benefits do not justify the risks to democratic rights.

We must demand that all governments in Canada work for the people, not against them. The truth of the matter is that we all need to join together to fight this injustice. It is not just the rights of sanctuary in one's own home that is at stake, it is the very basis of our civilized and caring society. Once a government seizes power to create laws that are unjust in order to control the public and squash dissent, and these actions are allowed to play out unchallenged, the die is cast for the continued erosion of rights until our society will be unrecognizable. None of us can risk being silent when a government takes unjust action to impose unwarranted risks onto and into our very homes and every community. Complacency is not an option when you realize democracy is literally being stolen from us while we go to work, watch TV and fall sleep. Agree with the smart grid or not, democratic process must be revered in our society because the opposite is a system breakdown that leads to destruction of all our values and ways of life held most dear.

Please continue to join our class action lawsuit and help this process succeed:

<http://citizensforsafetechnology.org/CLASS-ACTION-PARTICIPATION-FORM-Updated-August-27-2013,2,3107>

As a final note, we wish to acknowledge the efforts of our lawyer, David Aaron, who continually keeps us all on track, and the fires burning! We owe him a tremendous debt of gratitude and offer him our admiration. Now people, listen up! We still need your support if you want this lawsuit to have a fighting chance, and we thank so many of you who make the effort to register and donate whatever you can. We are standing together, and that's thrilling! Just look at what we can do when we stay positive, dance together, and don't give up!

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