

January 25, 2017  
File: 16-153783

Ms. Jana Kalina and Mr. Larry Duberry

Dear Ms. Kalina and Mr. Duberry:

I am writing in response to your complaint to us regarding BC Hydro. I have reviewed the information that you provided to our office and it is my preliminary decision not to proceed with an investigation of your complaint. This letter provides you with my reasons for this decision

You contacted us on December 6, 2016, with a complaint about BC Hydro and Power Authority. You told us that you had two desired outcomes in dealing with our office. First, for BC Hydro to replace the Smart Meter that was installed at your home with an analogue meter. This is because you feel as though your analogue meter was stolen by BC Hydro. Second, you will pay for a new analogue meter if BC Hydro would allow it. You said that BC Hydro refused this option and has made abusive threats to disconnect your power.

It is my decision to not investigate your complaint because an investigation by our Office would be of no benefit to you. My reasons for this decision follow, but first I will provide some information about the role of our Office and the information I considered in making this decision.

It is the function of the legislature to make laws and it is the role of public agencies to develop policies and procedures to implement those laws. The role of the Ombudsperson is to investigate complaints about unfair administration and determine whether or not there have been any contraventions of the standards of procedural fairness.

Procedural or administrative fairness includes well-recognised common law principles, such as ensuring that a decision is consistent with the process followed and information presented, as well as being consistent with the legislation, policies and procedures that apply to it.

The Electric Tariff in BC sets out the terms and conditions for BC Hydro service and was approved by the BC Utilities Commission. The Tariff and the terms and conditions contained within are legally binding on BC Hydro and on its customers. It was prescribed by the BCUC under the *BC Utilities Commission Act* and approved by the Lieutenant Governor in Council

**You would like a new analogue meter in replacement of your smart meter**

The BC Utilities Commission issued a decision on the Smart Meter Choices Program on April 25, 2014 that established:

- the periods during which legacy meters may remain in place;
- the fees to be charged to customers who retain a legacy or a radio-off smart meter; and,

-- the amount to be credited to customers if BC Hydro is unable to obtain a bi-monthly reading.

The Commission's decision is now part of the Electric Tariff. Section 4.2.3 of the Tariff requires BC Hydro to replace legacy (digital or analogue) meters when either *the seal of the meter* expires or the meter ceases to function properly, whichever occurs first. The expiry date is set by Measurement Canada and BC Hydro cannot extend it. BC Hydro is then required to install a smart meter or a radio-off meter if there are no replacement legacy meters available. Nothing in the Tariff obligates BC Hydro to replenish its stock of legacy meters. That stock has run out and according to its website, BC Hydro will not be replenishing its stock.

It appears as though BC Hydro was acting in accordance with the Tariff when it replaced your analogue meter, and an investigation by our Office would not seek to have BC Hydro act contrary to the Tariff.

**You are willing to pay for a new analogue meter that is outside of BC Hydro's inventory**

The Electric Tariff limits the type of meter that BC Hydro can use. Section 4.2.3 says that once the seal of the meter expires, a replacement Legacy Meter will *only* be installed where BC Hydro has a *suitable* Legacy Meter. BC Hydro will only be deemed to have a suitable replacement Legacy Meter when it has existing verified and sealed Legacy meters in its meter inventory as of the date that a particular Legacy Meter requires replacement.

Because the Tariff is binding on BC Hydro and its customers, BC Hydro is required by law to install the meters it uses. The only meters that BC Hydro can install when it does not have suitable replacement legacy meters are smart meters and radio-off meters.

BC Hydro acted in accordance with the BC Electric Tariff when it told you that you cannot provide your own meter and it would be violating the law to offer that option to you. Again, an investigation by our Office would not seek to have BC Hydro act in contravention of the Tariff. I have copied the above-mentioned sections of the Electric Tariff below for your reference.

If you think that I have misunderstood your complaint, please contact me by fax or mail at the address above or by telephone to the Manager's Assistant at (250) 387-0184. If I have not heard from you by February 25, 2017, I will close our file without further notice to you under Section 13(f) of the *Ombudsperson Act* (see below).

Yours sincerely,



Rose Stanton  
Manager of Investigations



- 13 The Ombudsperson may refuse to investigate or cease investigating a complaint if, in the opinion of the Ombudsperson, any of the following apply:

(f) in the circumstances, investigation would not benefit the complainant or person aggrieved;

R.S.B.C. 1996

#### **4.2.3 Periods during which Legacy Meters May Remain in Place**

If the conditions set out in section 4.2.2 have been satisfied, Residential Service Customers who have satisfied the conditions in section 4.2.2 and who have elected, or are deemed to have elected, to retain a Legacy Meter at the Customer's Premises may continue to have their Electricity consumption measured by the Legacy Meter for the periods, and subject to the conditions, specified below:

(a) A Customer who has elected, or is deemed to have elected, to retain a Legacy Meter can continue to retain the Legacy Meter until the seal of the meter expires, or the meter ceases to function properly, whichever comes first.

(b) If the seal of a Legacy Meter expires, or the meter ceases to function properly before the seal expiry date, BC Hydro will, so long as it has a suitable Legacy Meter in its meter inventory available for installation, install a replacement Legacy Meter at the Customer's Premises. A Customer for whom a replacement Legacy Meter has been installed in accordance with the preceding sentence can continue to retain the replacement Legacy

Meter for the period specified in clause (a), and any replacement Legacy Meter so installed shall be subject to replacement in accordance with this clause (b) as the occasion arises. For purposes of this section, BC Hydro will only be deemed to have suitable replacement Legacy Meters in its meter inventory if it has existing verified and sealed Legacy Meters in its meter inventory as of the date that a Legacy Meter in place at a Customer's Premises requires replacement, and BC Hydro is under no obligation to repair, rebuild or modify, or re-verify and re-seal, any Legacy Meters that have been removed from service for any reason, nor to purchase or otherwise acquire from any source any Legacy Meters in replenishment of its Legacy Meter inventory

(c) In any case where the seal of a Legacy Meter expires, or the meter ceases to function properly, and BC Hydro does not have a suitable Legacy Meter in its meter inventory available for installation, BC Hydro will install either a Smart Meter or a Radio-off Meter at the Customer's Premises, at the Customer's election. A Customer with a Legacy Meter installed at the Customer's Premises can also elect to have a Smart Meter or a Radio-off Meter installed in place of the Legacy Meter at any time. A Customer who elects to have a Smart Meter or a Radio-off Meter installed at the Customer's Premises cannot later change back to a Legacy Meter at the applicable Premises.

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(f) In any case where a Customer ceases to be eligible to have a Legacy Meter installed at the Customer's Premises, or BC Hydro no longer has suitable Legacy Meters available for installation at the Customer's Premises, and the Customer is required to elect to have either a Radio-off Meter or a Smart Meter installed instead, but the Customer refuses or fails to make an election within 10 days after BC Hydro has delivered written notice to the Customer's Premises notifying the Customer that he or she must elect either a Radio-off Meter or a Smart Meter, the Customer will be deemed to have elected to have a Radio-off Meter installed and the Customer shall pay the charges for having a Radio-off Meter installed at the Customer's Premises as set out in the Schedule of Standard Charges from the date of BC Hydro's installation of the replacement Radio-off Meter.

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