

M A N I T O B A) Order No. 70/13
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THE PUBLIC UTILITIES BOARD ACT) June 18, 2013

BEFORE: Susan Proven, P.H.Ec., Acting Chair
Marilyn Kapitany, B.Sc. (Hons.), M.Sc., Member
Régis Gosselin, B.A., MBA, CGA, Chair

MUNICIPALITY OF KILLARNEY-
TURTLE MOUNTAIN
Appeal of Mr. Josef Hassner for
Disconnection of Water Services

Executive Summary

The Public Utilities Board (Board) hereby directs the Municipality of Killarney-Turtle Mountain (Municipality) to maintain water supply service to the following location within the Municipality of Killarney-Turtle Mountain belonging to Mr. Josef Hassner: **204 Park Street, Killarney, MB** (residence).

The Board hereby also directs that according to the Municipal By-law No. 14-2012, the Municipality is within their rights to disconnect the water supply to the following location **506 Broadway Avenue, Killarney, MB** (apartment and store) if Mr. Hassner fails to allow the Municipality to install a remote read meter, after receiving reasonable notice.

Background

In March 2012, the Municipality began a project to replace all analog residential water meters with new Neptune meters equipped with wireless automated meter readers. These automated meters allow for the remote collection of a customer's meter reading by the Utility.

Mr. Josef Hassner refused to have the new meter installed at either of his two properties. His refusal was based on privacy and health concerns. The Municipality shut off the water at both locations on August 24, 2012. On October 10, 2012, after forty eight (48) days the Board was notified by Mr. Hassner that the disconnection had taken place without proper notice.

In Board Order Nos. 127/08 and 39/09, the Board outlined the *Conditions Precedent Allowing for Collection and Disconnection of Water and/or Sewer Services for Non-Payment of Accounts'* (Conditions Precedent).

Due to lack of notice and these conditions not having been met, the Municipality restored the water at both locations.

On February 15, 2013, Mr. Hassner advised the Board that the Municipality had notified him that By-law No. 14-2012 had been revised. He was also told that he would be in violation of the By-law should he continue to refuse to allow the installation of the remote read meters. (Annex A)

At this time the Board began the written appeal process at Mr. Hassner's request. (Annex B, No 9.)

Board Findings

As a public utility, the Municipality is in the position of providing water and sewer service to the community of Killarney, which includes Mr. Hassner's properties. As such, it is the view of the Board that the Municipality should consider all options that are reasonable for both the utility and the ratepayer to resolve matters of disagreement. The Board is disappointed that the two parties were unable to come to a resolution without intervention from the Board.

It is the opinion of the Board that being without water service would present a serious hardship to the complainant and his family. The Board therefore directs the Municipality to maintain the water service to Mr. Hassner's residence **204 Park Street, Killarney, MB** (residence) at this time.

The Board finds that the Municipality has not shown sufficient evidence that allowing Mr. Hassner to keep an analog meter will cause an undue hardship, financial or otherwise, to the Municipality.

The Board suggests that the Municipality accommodate customer-read meter readings from Mr. Hassner, so as to minimize any financial and operational burden on the Municipality. The RM may charge up to \$25.00 for the service of an annual reading of the meter by their operator.

In the matter of the business located at **506 Broadway Avenue, Killarney, MB** (apartment and store), the Board directs that the Municipality is within their rights to enforce the compliance of By-law 24-2012. The complainant should be reminded of the option to install a vault to encase the remote read meter at his expense.

This Order should not be taken as precedent in the matter of the installation of remote read water meters, or meters of any other kind. The Board is of the opinion that these automated meters can add value to a Utility, and is supportive of the installation of automated meters in communities in Manitoba.

The decision to allow Mr. Hassner to keep an analog meter at his residence was a reflection of the Board's belief in providing reasonable accommodation to this single customer of the Utility and is delivered without prejudice.

Mr. Hassner's responsibility to the Municipality includes ensuring that no hardship is suffered by the Municipality in the maintenance of this meter. Any repair or replacement costs related to the water meter will have to be paid by Mr. Hassner.

The Board instructs that, in accordance with the Utility's billing cycle, Mr. Hassner submit water meter readings on a timely basis and pay his water utility bills in a timely manner.

Should at any time the Conditions Precedent for disconnection, set in Board Order Nos. 127/08 and 39/09 be met, then it is within the rights of the Municipality to disconnect water service under the provisions of these Orders. The exception to this being Nos. 21, 22, 23, 24, 25 and 33 of By-law No. 14-2012 at **204 Park Street, Killarney, MB** (residence).

This Order is to apply until rescinded by the Board or until the Municipality provides evidence that the circumstances of the ratepayer have changed such that a re-examination by the Board is warranted.

IT IS THEREFORE ORDERED WITHOUT PREJUDICE THAT:

1. The Municipality of Killarney - Turtle Mountain maintain water and sewer services to Mr. Josef Hassner's residence located at **204 Park Street, Killarney, Manitoba** as noted in this Order.
2. Mr. Josef Hassner comply with the Municipality of Killarney - Turtle Mountain By-law No. 14-2012 with the exception of Nos. 21, 22, 23, 24, 25 and 33 as appended to this Order at the residence of **204 Park Street, Killarney, MB.**
3. Mr. Josef Hassner comply with the Municipality of Killarney - Turtle Mountain By-law No. 14-2012 at the business located at **506 Broadway Avenue, Killarney, MB** (apartment and store) and allow a remote read meter to be installed.
4. The Municipality is within their rights to disconnect water service to **204 Park Street, Killarney, Manitoba** and at **506 Broadway Avenue, Killarney, MB** should Conditions Precedent set in Board Order No. 39/09 be met.
5. The Municipality revise By-law No. 14-2012 to be compliant with Board Order No. 127/08 and include reference to the Board's Conditions Precedent.

Fees payable upon this Order by Josef Hassner - waived at the discretion of the Board.

THE PUBLIC UTILITIES BOARD

"Susan Proven, P.H.Ec."
Acting Chair

"Jennifer Dubois, CMA"
Acting Secretary

Certified a true copy of
Order No. 70/13 issued by The
Public Utilities Board

Acting Secretary

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca

Annex "A"

**MUNICIPALITY OF KILLARNEY – TURTLE MOUNTAIN
BY-LAW NO. 14-2012**

Being a By-Law of the Municipality of Killarney – Turtle Mountain respecting the management and regulation of the waterworks system.

WHEREAS, it is deemed advisable to revise and consolidate all by-laws relating to the management and regulation of the waterworks system.

AND WHEREAS, The Municipal Act reads in part as follows:

250(2) Without limiting the generality of subsection (1), a municipality may for municipal purposes do the following:

- (b) construct, operate, repair, improve and maintain works and improvements;
- (c) acquire, establish, maintain and operate services, facilities and utilities;
- (e) use municipal equipment, materials and labour to carry out private works on private property.

252(1) A municipality exercising powers in the nature of those referred to in clauses 250(2)(b), (c) and (e) may set terms and conditions in respect of users, including:

- (a) setting the rates or amounts of deposits, fees and other charges, and charging and collecting them;
- (b) providing for a right of entry onto private property to determine compliance with other terms and conditions, to determine the amount of deposits, fees or other charges, or to disconnect a service; and
- (c) discontinuing or disconnecting a service and refusing to provide the service to users who fail to comply with the terms and conditions.

252(2) A charge referred to in clause (1)(a) may be collected by the municipality in the same manner as a tax may be collected or enforced under this act.

NOW THEREFORE, the Council of the Municipality of Killarney – Turtle Mountain, in council duly assembled, hereby enacts as follows:

1. Definitions

- a) "Consumer" means any person to whom water is supplied by the Municipality and/or a person who uses the sewer system of the Municipality and includes a builder or contractor using water in connection with any work or contract;
- b) "Finance Manager" means the Manager of Finance of the Municipality or their designate;
- c) "Meter vault" means an underground structure designed and constructed to accommodate a water meter or waste water meter and associated piping only.
- d) "Person" includes a person, firm, partnership or corporation;
- e) "Sewer Service" means the sewer service system owned and operated by the Municipality consisting of the sewer main saddle, riser, bends, adaptors and piping between the sewer main and the street boundary;
- f) "Utilities Manager" means the Manager of Utilities of the Municipality or their designate;
- g) "Water Service" means the water service system owned and operated by the Municipality consisting of the main stop, curb stop, fitting and piping between the water main and the street boundary;
- h) "Waterworks System" means the sewer collection and treatment system and the water supply and treatment system owned and operated by the Municipality, consisting of the operating branch, the revenue branch and the waterworks office, which shall be the Civic office.

2. The collection of revenues derived from the waterworks system, the payment of all disbursements connected therewith and the supervision of all books, accounts and records shall be under the general direction of the Finance Manager.

3. The operation, construction and maintenance of all works relating to the waterworks system shall be under the general direction and control of the Utilities Manager. The position of Utilities Manager is a designated officer for the purposes of the administration and enforcement of this By-law. The Utilities Manager shall have all the powers provided to a designated officer under the Municipal Act.

4. Subject to Section 250 (2) of the Municipal Act:

- a) The Municipality shall pay the cost of installing and maintaining the water service from the waterworks mains to the nearest point on the street boundary of the premises served.
- b) The owners of all premise serviced shall pay the entire cost of installing and maintaining the sewer service actually installed from the sewer main to the street boundary of the premises serviced.
- c) The owner of every premises served shall pay the full cost of installing and maintaining the water and sewer service between the street boundary and the building served.

- d) Where the sewer service is shared the Municipality will pay the cost of maintaining the service from the Y connection to the sewer main.
 - e) The Municipality shall reimburse the owner of every premise the full cost of clearing a blockage in the sewer service to the premises, if the blockage is from tree roots from trees on the Municipal property.
5. The standard water service from the water main to the street boundary shall be a 5/8" or 3/4" standard pipe and a 5/8" or 3/4" main stop.
6. The Municipality shall place in each water service a curb stop and box between the street gutter and the street line for the purpose of turning the water supply on or off. The size of the curb stop or any other cut-off to be inserted in the water service under any application shall be the same size as the service applied for. The position in the street in which any water service is to be laid shall be approved by the Utilities Manager prior to installation.
7. The service pipes from the street line to the inside of the foundation wall of any building into which a service is introduced, shall be placed not less than 2.4 m below the surface of the ground level, unless the Utilities Manager otherwise determines.
8. A bronze valve connected to the water service pipe shall be placed inside the wall of the building as close as possible to the point of entry of the water service pipe. The owner shall maintain the bronze valve to ensure that it is in a good mechanical condition and available in an emergency.
9. No branch pipe or branch service shall be taken from that part of the water service pipe between the curb stop and the water meter, but all such branches shall be taken from within the premises, beyond the water meter. The water meter shall be placed in the water service pipe as close as possible to the valve, downstream from the water supply.
10. a) Each owner shall keep his water service pipe, bronze gate valve and other fixtures on his premises, and between such premises and the street line, including the connection to that part of the service within the municipal street, in good order and repair, and protected from frost, at their own risk and expense.
- b) The water service pipe from the line in the street to the water meter in the building supplied, together with all couplings, valves and apparatus placed thereon shall be under the control of the Municipality and if any damage is done to this portion of the water service pipe or its fittings, whether by neglect or otherwise, the Municipality may repair same or have it repaired and charge the costs to the occupier or owner of the premises, which may be collected either as water rates or may be added to the taxes on the property and collected in the same manner as ordinary municipal taxes.

11. The waterworks system including the water service, sewer service and every apparatus connected or related thereto shall be of the design and quality approved by the Utilities Manager.
12. Every owner to whose property the Municipality has made a service connection shall connect to that service within 3 months of the date the service was provided.
13. Applications for water and sewer service shall be made to the Municipal office on the form provided for the purpose, and such application shall be the contact between the Municipality and the consumer for the supply of water and sewer service. In certain cases, the Municipality may accept other forms of application and such other forms of application shall be the contract between the consumer and the Municipality for the supply of water and sewer service.
14. a) No person except an authorized Municipal employee shall:
 - i) tap or make any connection or communication with any pipe or main which is part of or connected to the water works system;
 - ii) open, close or in any manner interfere with any curb stop, main stop or valve, which is part of or connected to the water works system.
- b) No person shall make any connection or communication of an independent water supply with a; pipe or main which is part of or connected to the waterworks system.
15. All plumbing fixtures below ground level shall be protected by a back water valve which shall be placed inside the basement wall of the building as close as possible to the point of entry of the branch sewer service pipe draining the fixtures into the main sewer service pipe. The owner shall maintain the backwater valve to ensure that it is in good mechanical condition and is available and accessible in case of emergency. A sewer cleanout connected to the sewer service pipe shall be placed inside the wall of the building between the wall and the backwater valve. The owner shall maintain the cleanout and keep the cleanout visible and serviceable in case of emergency. The minimum size of cleanout shall be 4 inches in diameter.
16. Upon vacating any building or premises, the occupier shall turn off the water supply at the valve inside the wall of such buildings, and shall give immediate written notice to the Municipality that the premises are being vacated. In case the water is not turned off, the Municipality may cut off the water from such building without notice and charge the cost thereof to the owner to be collected in the same manner as water rates, or the costs may be added to the taxes on the property and collected in the same manner as ordinary municipal taxes. Nothing contained or implied herein shall be deemed to place any responsibility duty or liability on the Municipality.

17. The owner or occupier of any premises who request the Municipality to turn off the water service to such premises shall, before making such request, close the valve and drain all water from the water pipes in the premises and the appliances free from water until the Municipality is notified that water service is again required for the premises.
18. In the course of making repairs to the street mains, or in constructing new work, or in connecting or repairing water service pipes, whether by the Municipality or by some other person, the Municipality shall have the right to shut off the water from any consumer, without notice and keep it shut off as long as may be deemed necessary.
19. The Municipality shall not be liable for any damages as the result of suddenly, with or without notice, shutting off the supply of water to a consumer.
20. A plumber employed by the owner or occupier of premises connected to the waterworks system shall be deemed to be the agent of such owner or occupier and the Municipality will not be responsible for the acts of the plumber.
21. No owner of a property or consumer may use a water meter unless the meter is approved and provided by the Municipality, and has remote automatic reading capability.
22. No owner shall refuse or obstruct the Municipality in the installation of a water meter and related items, including the installation of automatic meter reading equipment.
23. No owner of a property or consumer shall fail to install a water meter and related items, including the installation of automatic meter reading equipment as required by the Municipality.
24. Despite section 22, an owner of a property may apply to the Municipality to have the water meter and automatic meter reading equipment installed and placed in a meter vault. Upon receipt of an application, the Utilities Manager shall determine if a meter vault may be reasonably used on the property, and if it can be to identify the works and specifications required to install a meter vault on the property. The Municipality may require the owner of the property to enter into an agreement providing for the terms for the installation, operation and maintenance of the meter vault on the property.
25. The owner of the property or consumer shall be responsible for the Municipality's costs for the operation and maintenance of the meter vault.
26. a) The Municipality may refuse to supply water to any person unless the person requiring the water signs an agreement to take, use and pay for the water according to the Waterworks Rate By-Law.

b) The consumer shall notify the Municipality as soon as they become aware of breakage or stoppage or irregularity in water meter or an automatic reading device.

c) All disconnections, removals, alterations and repair of water meters and automatic reading devices shall be done by a Municipal employee only and no other person shall install, disconnect, repair, remove, tamper with, alter, damage or paint a water meter or an automatic reading device, or the pipes and wiring connected thereto.

d) The Municipality shall seal all water meters and no person except an authorized employee of the Municipality shall break or in any way interfere to tamper with such seal.

e) If a water meter is damaged by the backflow of hot water from a water heating apparatus, tank or boiler, the Municipality shall repair and if necessary, replace the meter and all charges for repairing or replacing the meter shall be paid by the owner or occupier of the premises in which the meter is situated.

f) If a water meter is damaged by frost, or from any other cause, the Municipality may repair or replace the meter and all charges for repairing or replacing the meter shall be paid by the owner of the property or the consumer in which the meter is situated.

27. The water meters shall remain the property of the Municipality. An owner of property or a consumer shall ensure that the water meters and automatic reading devices on the premises shall at all times be accessible to authorized Municipality employees, so that they may be examined, read, inspected and if necessary, repaired.

28. When a meter is found not to be in proper working order, or a meter reading is not obtained, the Utilities Manager shall estimate the amount of water consumed for any quarter or other period, based on the amount of water consumed during the time the meter was working, or on any other information available, and such estimate shall be the basis for billing the consumer for water used.

29. Where an apartment block, tenement, duplex or other multiple occupied building, or a trailer park with a meter house, has one service connection, the owner shall pay for water supplied to the property, but where any suite, or any portion of such building, or a trailer, has a separate service connection, it shall be rated as separate building, and the occupier thereof shall be a consumer and shall pay for the water consumed therein.

30. The supply of water through each separate service shall be recorded by one meter only, for which only one account will be rendered. If additional or auxiliary meters are required by the consumer for reporting the subdivision of any such supply, they shall be furnished and set up by the consumer at his expense and as designated by the Utilities Manager, and the consumer shall assume all responsibility for the reading and maintaining of said additional meters.

31. Notwithstanding the provisions of the Water Rate By-law, water and sewer services supplied may, in the case of commencement or termination of service, be billed monthly or otherwise, and the rates prorated accordingly and, in the case of termination of service, such prorated billings may be made payable by the customer earlier than the immediately ensuing quarterly billing in the normal course.
32. Water meters shall be read in whole thousands of gallons with the exception of the initial and final reading upon commencement or termination of the water supply contract.
33. The Municipality shall have the right to limit the amount of water supplied to any consumer.
34. The Municipality may, by resolution or by-law, discontinue, prohibit, or limit the supply of water for fountains, jets, garden hoses, sprinklers or swimming pools, or limit the hours that water may be used for those purposes.
35. The rate for turning water on and off and the rate for repairs to meters and the rates for all other charges payable by the user of the water works system shall be the rates fixed by the Water Rate By-law.
36.
 - a) In this section, contractor means a contractor, sub-contractor, owner or any one or more of them and their agents and employees.
 - b) At least 7 days prior to commencing the construction of a building or structure which by nature of its intended use will be connected to the Municipal water and sewer system, on a site where a water line and curb stop are in place, the contractor shall notify the Municipality in writing of the date of commencement and the Municipality shall forthwith do all things necessary to ensure that the water line and curb stop are functional and in good repair.
 - c) Upon receiving an application for water turn on following the issue of an occupancy permit for the building or structure, the Municipality shall inspect and test the water line and curb stop. If the curb stop is damaged from any cause whatsoever, the contractor shall, at his own cost and expense, repair the damage as prescribed by the Municipality and the Municipality shall not be obligated to turn on the water until the damage is repaired.
37. The Utilities Manager or their designate may upon giving reasonable notice, enter any property or premises connected to the Water Service at a reasonable time to inspect any equipment or other installations to determine compliance with this By-law, whether the actions or measures set out in an order have been taken, and to remedy or prevent a re-occurrence of a contravention of this By-law.

38. If in the opinion of the Utilities Manager there is a violation under this By-law, the Utilities Manager may issue an order in writing, and may provide that if the person does not comply with the order within the specified time, the Municipality will take the actions or measures at the expense of that person.
39. A person served with an order may request that Council to review the order, by written notice to Council within 14 days after the date of receipt of the order.
40. Upon receiving a request for review, the Chief Administrative Officer shall set a date and time for the review of the order, and shall notify the person of the date of the review. The notice shall include a statement:
 - (a) of the time, place and purpose of the hearing; and
 - (b) that if the person does not attend the hearing, the matter will be dealt with in their absence and there will be no further notice of this proceeding.
41. At the time and place set out in the notice, Council shall hold a hearing to consider the request for review and the order. The person may appear in person or by counsel. The person is entitled to hear the material presented at the hearing and to inspect any documents filed.
42. Following the hearing, Council shall determine and decide any matter respecting the review and the order. Council may confirm, vary, substitute or cancel the order.
43. If the person does not attend the hearing, the matter may be dealt with in their absence and the person shall not be entitled to any further notice in the proceeding.
44. The decision of Council on a review shall be final.
45. The time specified in an order is suspended from the date of receipt of a request for review to the date upon which Council makes its decision.
46. If the person has not remedied the non-compliance within the time provided in the order, the Utilities Manager is authorized to carry out any repairs, or any remedial or enforcement action under this By-law. The Utilities Manager is authorized to suspend or terminate the supply of water to the property or premises until the non-compliance has been remedied.

47. The Utilities Manager may suspend or terminate water service on the first working day after the due date posted on the waterworks bill. The water shall remain cut off until the account and all penalties are paid and the Municipality shall not be obliged to turn on the water earlier than the first working day following payment of the account and penalties.

48. If the order of the Utilities Manager so provided, the actions or measures will be taken at the person's expense. The costs of any actions or measures taken will be an amount owing by the person to the Municipality, and may be collected in any manner in which a tax may be collected or enforced under the Act.

49. A person who contravenes this By-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000.00. Any costs associated with or resulting from enforcing this By-law are in addition to any such fine, and are an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced under the Municipal Act.

DONE AND PASSED by the Council of the Municipality of Killarney – Turtle Mountain in Council duly assembled this 13th day of February, A.D. 2013.

Mayor

Chief Administrative Officer

Read a first time this 24th day of October, A.D. 2012.
Read a second time this 13th day of February, A.D. 2013.
Read a third time this 13th day of February, A.D. 2013.

Annex "B"
Chronological timeline of events

1. In **March 2012**, the Municipality began a project to replace all analog residential water meters with new Neptune meters with wireless automated meter readers. These automated meters allow for the remote collection of a customer's meter reading by the Utility.

2. On **August 23, 2012** Josef Hassner refused to have the new automated meter installed on his properties at 204 Park Street and 506 Broadway Avenue in Killarney, Manitoba. Mr. Hassner was informed by the Municipality that refusal of the automated style of meters would result in disconnection of his service. Mr. Hassner threatened legal action if the automated meter was installed without his consent and maintained his refusal by way of a registered letter to the Municipality. In the letter, Mr. Hassner states his position is based on the belief that the meters pose health, privacy and safety concerns.

3. On **August 24, 2012**, the Municipality disconnected water service to Mr. Hassner's properties for his refusal to permit the installation of the automated meter. The Municipality provided verbal notice to Mr. Hassner of their intention to disconnect on August 23, 2012.

4. On **October 10, 2012**, Mr. Hassner filed a complaint with the Board stating that water service to his properties had been disconnected August 24, 2012 and he had been forty-eight (48) days without water. Mr. Hassner complained that this was a very unhygienic and unsafe living environment for his family of four.

5. On **October 11, 2012**, a letter was sent from the Board to the Municipality requesting a report on the events leading up to the disconnection of the water service to these properties. The Municipality was asked to advise the Board of the actions they were considering in remedying the situation.

6. On **October 11, 2012**, (same day) the Municipality responded with a letter stating that, following conversations with Board staff, the Municipality would be reconnecting Mr. Hassner's water services. The Municipality had been urged by Board staff to reconnect immediately, due to the lack of notice provided to Mr. Hassner.

Through Board Order Nos. 127/08 and 39/09, the Board established Conditions Precedent with respect to service disconnections, and those conditions include a right of customers to appeal a disconnection to the Board.

Board Order No. 127/08 states *"Reference to the Public Utilities Board's Conditions Precedent shall be included in all by-laws of municipalities governing rates charged for water and/or sewer service and all terms and conditions of service established by water and/or sewer utilities regulated by the Board."*

7. The Municipality also stated in the letter of **October 22, 2012** that they would be proceeding with installing the new automated meter at Mr. Hassner's residence and business and his continued refusal to allow them to install the devices would result in disconnection of his services.

8. On **February 15, 2013**, the Municipality sent a letter to Mr. Hassner with regards to this matter. The letter stated that in accordance with By-law No.14-2012, read for the first time on October 24, 2012 and for the third time on February 13, 2013, the Municipality was requesting access to install the new automated meters at the two above mentioned properties. Arrangements were to be made by February 28, 2013 and failure on the part of Mr. Hassner to make arrangements would result in the Municipality discontinuing service.

Upon receipt of this letter, Mr. Hassner contacted the Board and made a formal request to appeal the Notice of Disconnection. Municipal By-law No. 14-2012 is appended to this Order.

9. The Board's written appeal process involves:

- i. Receiving the customer's appeal including the reasons for the appeal from the customer and results of the customer's discussions with the Utility.
- ii. Receiving the evidence from the Utility including a summary of the Utility's discussions with the customer, reason for the position taken by the Utility and relevant customer account details.
- iii. The response from the customer to the Utility's evidence.

10. On **February 26, 2013**, a written hearing process was initiated by the Public Utilities Board. Mr. Hassner and the Municipality were requested to submit the above evidence, in accordance with the Board's written appeal process.

11. On **March 4, 2013**, the Board received a letter from the Municipality with the requested information. The letter stated: *"It is the Utility's position that we have the right to determine, which type of meter and reading device are installed in the residences we service. Allowances have been made in our by-law for customers to appeal an order to Council."*

12. Mr. Hassner responded on **March 7, 2013** with a 48 page email outlining his position. Mr. Hassner remains firm in his refusal of the installation of the automated meter. He contends that his position is based on a violation of privacy and a serious health concern for him and his family resulting from the low frequency signals produced by the automated meter.

In his response, Mr. Hassner states that *"We also will not waste any time with the Killarney Town Council."*, and threatens legal action against, *"...closed ears and minds that are pre-programmed to the one desired outcome only."*

13. Both parties' evidence was reviewed by Board Members. On **March 27, 2013** the Board requested that a final attempt be made for a resolution to the matter before the Board issued an Order.

14. On **April 3, 2013**, Board staff spoke with the Municipality and advised that it would be in the best interest of all concerned if a resolution could be attained without the Board's formal intervention. The Municipality responded that no such resolution was forthcoming and they would await the decision by way of a Board Order.

The Municipality made mention of the concession of a meter vault, which is found in by-law 14-2012. A meter vault, at the expense of the property owner, could be made to encase the meter off the property and outside the household. No mention of the meter vault was found in Mr. Hassner's communications. At a potential cost of \$5,000 for each property, the Board is concerned whether this is a reasonable option for Mr. Hassner.