

M A N I T O B A) **Order No. 139/15**
)
THE PUBLIC UTILITIES BOARD ACT) **December 18, 2015**
REVISED JANUARY 8, 2016

BEFORE: Régis Gosselin, B ès Arts, MBA, CPA, CGA, Chair
Marilyn Kapitany, B.Sc. (Hons.), M.Sc., Member

**PROCEDURAL ORDER
APPEAL OF DISCONNECTION
TR AND B & G UTILITIES**

Summary

The Public Utilities Board (Board) hereby acknowledges the application from Mr. TR (Applicant) appealing the disconnection of water services located at XXXX Triangle Road in Dauphin, Manitoba by B & G Utilities (Respondent). By this Order the Board also provides the parties with instructions and establishes a timetable (Schedule “A” to this Order) pertaining to the proceeding.

Application

On December 2, 2015 the Board received an application from Mr. TR requesting that the Board settle a dispute between himself and B & G Utilities, which has led to the Applicant’s home being disconnected from the water distribution system.

The Board has established a set of guidelines available on their website, “Review and Appeal Process for Disconnections” (Schedule “B” to this Order), which sets out a series of steps to be taken when a customer has a complaint regarding a disconnection.

Seeking redress from the Board should be a last resort when attempting to resolve a dispute of this nature. The parties involved should make every attempt to come to an agreed upon resolution before asking the Board to become involved. The Board has the authority to assign costs for the Board’s inquiry in this matter and resulting Orders to either or both of the parties involved.

When reviewing an application, the Board has at its disposal two approaches, either a paper or a public hearing review. The Board will consider the application and response, and determine which method of review is most appropriate. For the time being, the Board will proceed using the guidelines for a written hearing, though it may decide that an oral hearing is necessary at some point in the future.

Timeline and appeal process

The Board has established a timeline (Schedule "A") which sets out the requirements of all parties. Only the Board may change the dates. If any of the parties request a change to the timeline, the request should be made in writing, with a copy to the other party. The Board understands that there may be a need to adjust the timeline, particularly given the time of year.

The Board directs B & G Utilities to restore water services to Mr. TR no later than December 22, 2015. Any charges accruing from the date of connection must be paid by Mr. TR on time and in full, in accordance with regular billing terms, otherwise B & G Utilities has the authority to immediately disconnect the service.

The Board will provide B & G Utilities with a copy of the Applicant's appeal, and will give the utility until January 8, 2016 to provide its response to the Board. Please use "Step 2: Written Hearing" from Schedule "B" in preparing this submission, and be sure to include the details of the customer's account, a summary of discussions with the customer and reasons for the position taken by the utility. The submission should also include any other evidence the Respondent believes to be important to the Board's review.

The Applicant will receive a copy of B&G Utilities' response and has until January 29, 2016 to provide a rebuttal, a copy of which will be provided to the Respondent.

After these submissions have been received and reviewed by the Board, the Board may ask questions and make requests for additional information and evidence. If so, the Applicant and Respondent will be sent a letter from the Board and given a reasonable period to respond.

After the Board has received all of the necessary evidence and information, it will make a decision that will be communicated to the parties through a Board Order. The Board will send an electronic copy of the Order to each of the parties, and a hard copy will be mailed.

Board comments

The Board would like to urge the two parties to continue working towards a resolution of this dispute. This issue is one that should be resolved by the customer and the Utility, and should not require the intervention of the Board.

Should the parties come to an agreement in this matter, they should both notify the Board as soon as possible and the Applicant should inform the Board, in writing, that he is withdrawing his appeal.

The Board reminds the two parties that the Board's costs may be assigned to either or both parties. The Board has decided to waive costs for this Order; however this does not mean that costs will not be assigned in the future.

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 (Rules). The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

IT IS HEREBY ORDERED THAT:

1. B & G Utilites is to restore water service to Mr. TR at XXXX Triangle Road, Dauphin, Manitoba on or before December 22, 2015.
2. Mr. TR is to pay all charges for XXXX Triangle Road, Dauphin, Manitoba as of the date of restoration of water service on time and in full in accordance with the regular billing practices of the utility.
3. Schedule "A", as attached, shall be the timetable for the orderly exchange of information by the participating parties, unless otherwise approved by the Public Utilities Board.
4. Schedule "B", as attached, shall apply with respect to the hearing of the appeal.

Fees payable upon this Order – waived

THE PUBLIC UTILITIES BOARD

"Régis Gosselin, B ès Arts, MBA, CPA, CGA"
Chair

"JENNIFER DUBOIS, CPA, CMA"

Acting Secretary

Certified a true copy of Order No.
139/15 issued by The Public Utilities
Board

Acting Secretary

Schedule "A"

Timetable

Item	Due date (subject to revision)
1 B&G Utilities to restore water service to Mr. TR, pending the Board's decision regarding the appeal	December 22, 2015
2 B&G Utilities to provide the Board with a response to Mr. TR's application	January 15, 2016
3 Mr. TR to provide rebuttal to Item 2	February 5, 2016
4 Information requests will be submitted to the parties	February 19, 2016
5 Responses to Item 4 to be submitted to the Board	March 4, 2016
6 The Board issues a Board Order deciding the appeal	April 7, 2016

Schedule “B”

March 18, 2002

REVIEW AND APPEAL PROCESS DISCONNECTIONS

This Guideline sets out the Board’s Appeal Process for complaints, the making of Orders of the Board and request to vary or appeal an Order of the Board. This Guideline also sets out the procedures to be followed at an Oral Hearing.

STEP 1:

Board staff receives a complaint from a customer, or on behalf of a customer (the customer), by phone, mail (fax, e-mail) or in person, stating that a customer is to be, has been disconnected, or has a dispute with a utility. The process is explained to the customer and where it appears that the parties could resolve the problem, the customer is directed to again contact the utility. If it appears that an agreement between the parties is not possible and if the customer wants to proceed with an appeal then the customer is asked to provide in writing:

- i) the reasons for the appeal;
- ii) the results of the direct discussions between the parties.

The Board shall provide copies of these documents to the utility.

STEP 2:

The Board shall arrange to hear the appeal following a written or oral hearing process as noted below:

WRITTEN HEARING

Where the Board wishes to proceed by way of written submissions Board staff shall obtain a report from:

- a) the utility outlining:
 - i) details of the customer’s account;
 - ii) summary of direct discussions with the customer;
 - iii) reasons for the position taken by the utility;
- b) the customer outlining the response of the position of the utility.

ORAL HEARING

Where the Board wishes to proceed by way of an oral hearing, written notices are sent to both parties advising of time and date. All of the above documents plus information sheet is sent to customer. Evening hearings can be arranged for customers so wishing.

STEP 3:

The Board conducts its written or oral hearing and makes a determination as to the customer's complaint.

The Board's decision (Order) is to be communicated in writing to both the customer and the utility.

STEP 4:

Pursuant to Subsection 44(2) of *The Public Utilities Board Act* (the "Act") the customer or the utility may request, in writing, that the Board review, rescind, change, alter or vary the decision or Order made by the Board. When making this request the applicant must demonstrate that conditions have changed materially since the hearing was held.

STEP 5:

Pursuant to Section 58 of The Public Utilities Board Act an appeal lies from any final Order or decision of the Board to The Court of Appeal upon:

- a) any question involving the jurisdiction of the Board; or
- b) any point of law.

The appeal shall be taken only:

- a) by leave to appeal obtained from a judge of The Court of Appeal;
- b) within one month after the making of the Order or decision sought to be appealed from, or within such further time as the judge under special circumstances shall allow; and
- c) after notice to the other parties stating the grounds of appeal.

CONDUCT OF ORAL HEARING

1. The Board is not bound by the rules of evidence and can take evidence under oath or otherwise.
2. The customer and the utility are invited to bring to the hearing any witnesses and or documents relevant to the dispute to be heard.
3. The Board's staff will obtain the names of all persons attending the hearing. All witnesses may be asked to leave the hearing room until they are called, one at a time by the party for whom they are appearing.
4. The Chairman of the Board will ask the customer to present his or her claim or position, including documents or witnesses. The other party will then be asked to respond.
5. Direct discussions between the parties will be limited. Either party may ask a question or seek clarification of the other through the Chairman.

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6. During the entire process the Chairman and members of the Board may ask questions of either party.
7. The Board's decision may be given either orally at the end of the hearing or will be mailed to both parties shortly thereafter.