

M A N I T O B A                    )     Order No. 167/08  
  )  
THE PUBLIC UTILITIES BOARD ACT    )     December 16, 2008

BEFORE:   Graham Lane, CA, Chairman  
           Monica Girouard, CGA, Member  
           Susan Proven, P.H.Ec., Member

CONNECTION AND SURCHARGE CLAUSE,  
UTILITY SERVICE (CUSTOMERS OUTSIDE OF  
VILLAGE OF ST. PIERRE-JOLYS)

### **Executive Summary**

By this Order the Public Utilities Board (Board) varies the Village of St. Pierre Jolys' (Village) application to amend By-law No. 2008-06, and approves clauses allowing the Village to extend utility services to customers beyond its boundaries.

These customers will pay the same commodity rates as those customers in the Village. Customers residing beyond the Village's boundaries will be assessed a surcharge, this to recover a fair share of expected future capital costs to be incurred by the Village, and to be collected by taxes from residents of the Village.

As well, the Village may assess an additional one-time \$4,000 charge to these same customers to recover a fair share of past capital costs incurred by the Village in developing its utility's infrastructure. This charge may be financed on terms to be determined by the Village.

### **Application**

The Village intends to extend service to customers located beyond its boundaries and applied to the Board to amend its By-law No. 2008-06 which sets out the current rates charged to customers in the Village. The By-law was approved by Board Order 56/08 of May 9, 2008.

The Village enacted By-law 2008-13 amending By-law No. 2008-06, and added the following clause:

"The council of a municipality may sign agreements

with customers for the provision of water and sewer service to properties located outside the legal boundaries of the Municipality. Such agreements shall provide for payment of the appropriate rates as set forth, as well as a surcharge, set by resolution of Council. In addition, all costs of connecting to the utility's mains, and installing and maintaining service connections will be paid by the customer."

The clause provides discretion to Council to charge customers located outside the Village boundaries the same rates as those charged in the Village, plus assess an ongoing service surcharge to recover a part of the Utility's infrastructure costs being recovered from Village ratepayers by taxes. The Village has no direct taxing authority beyond its boundaries, and requires the Board's approval to recover a share of its capital costs from customers outside of its boundaries.

The additional one-time charge of \$4,000 also approved by this Order relates to the earlier servicing of debentures issued by the Village to meet the costs of past utility infrastructure. The Village advised the Board that the \$4,000 charge would recognize that the existing sewer system had been paid for by Village ratepayers, this through their taxes.

The amending clause also allows for the recovery of future system costs by way of amendments to the ongoing surcharge and, further, notes that costs related to connecting to the Village's sewer system should be met by the "outside" customers. (There are no outstanding debentures at this time to be added as a surcharge.)

## Board Findings

The Board recognizes that the clause proposed by the Village is not typical, the typical clause states:

The Council of the . . . . . may sign agreements with customers for the provision of water and sewer services to properties located outside the legal boundaries of the . . . . . Such agreements shall provide for payment of the appropriate rates set out in the schedule, as well as a surcharge, set by resolution of Council, which shall be equivalent to the frontage levy, general taxes and special taxes for utility purposes in effect at the time, or may be in effect from time to time, and which would be levied on the property concerned if it were within these boundaries. In addition, all costs of connecting to the utility's mains and installing and maintaining service connections will be paid by the customer.

The words deleted in the RM's proposal, underlined as noted above, are significant.

Of concern is that absent the inclusion of the phrase, the discretion provided Council is too broad. The phrase properly provides for the determination of a surcharge to be levied on "outside" customers, as this represents fairness between the residents in the Village and the customers served outside the Village boundaries. The Board also notes this clause provides for the recovery of a share of future costs related to the sewer utility, as may be represented by new debentures.

The Board will approve the Village's proposal, but on condition that the phrase noted above is inserted, and notes that the addition of the phrase will be consistent with Board guidelines and represents standard municipal utility practice.

However the clause, as now stated, does not provide for an additional one-time capital charge against "outside" customers of \$4,000, to recover a fair share of the historical capital costs of the system that was borne by the ratepayers of the Village.

The Board considered this matter very carefully and recognizes that the existing system, which has been in existence since 1960, may be beyond its normal service "life" and that major enhancements may be required in the future, and, if so, "outside" customers should share in those costs.

However the Board noted the remarks made by the Village at a recent public hearing that the sewer system has been upgraded over time at the expense of the existing customers, and that currently the lines are in good condition and should be able to meet the future needs of all the Village's customers. It was then noted that the lift station may need upgrading in the future.

Accordingly the Board will approve the additional one-time charge of \$4,000 but will amend the proposed By-law further to include the following clause:

"The Village of St. Pierre-Jolys shall charge newly connected customers located outside the boundaries of the Village of St. Pierre-Jolys a sum of \$4,000."

The Board will order that the funds collected be deposited in the General Reserve Fund of the Village, rather than the Utility Reserve account, as it was the Village taxpayer who paid for the existing system.

Connecting to the Village's system is not mandatory; future customers will have the choice to either connect to the Village's system or construct their private system.

Accordingly the Board issues this Order on a final basis.

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.

**IT IS THEREFORE ORDERED THAT:**

1. By-law No. 2008-13 be amended and agree with Schedule "A" to this Order.
2. The revenue collected from the connection charge of \$4,000, which may be financed by terms to be determined by the Village, be added to the General Reserve of the Village of St. Pierre Jolys, to be used for the general purposes of Village of St. Pierre Jolys.

Fees payable upon this Order - \$150.00.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"  
Chairman

"G.O. BARRON, FCGA"  
Acting Secretary

Certified a true copy of Order No.  
167/08 issued by The Public  
Utilities Board

Acting Secretary

SCHEDULE "A"  
  
TO BOARD ORDER NO. 167/08  
  
VILLAGE OF ST. PIERRE-JOLYS  
  
SEWER RATES

By-law No. 2008-6 be amended adding the following clauses:

1. The Council of the Village of St. Pierre Jolys may sign agreements with customers for the provision of water and sewer services to properties located outside the legal boundaries of the Village of St. Pierre Jolys. Such agreements shall provide for payment of the appropriate rates set out in the schedule, as well as a surcharge, set by resolution of Council, which shall be equivalent to the frontage levy, general taxes and special taxes for utility purposes in effect at the time, or may be in effect from time to time, and which would be levied on the property concerned if it were within these boundaries. In addition, all costs of connecting to the utility's mains and installing and maintaining service connections will be paid by the customer.
2. The Village of St. Pierre-Jolys shall charge each newly connected customers located outside the boundaries of the Village of St. Pierre-Jolys a sum of \$4,000.