

M A N I T O B A) Order No. 29/09
)
THE PUBLIC UTILITIES BOARD ACT) March 24, 2009

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

TOWN OF LAC DU BONNET
UTILITY SURCHARGE
(CUSTOMERS SERVED IN THE Tanco Subdivision)

Executive Summary

By this Order, the Public Utilities Board (Board) directs the Town of Lac du Bonnet (Town) to apply a surcharge to customers in the Tanco subdivision in the Rural Municipality of Lac du Bonnet (RM). The surcharge is to be collected in each of the years 2009, 2010 and 2011.

The surcharge shall be determined in the same manner as if the Tanco properties had been located within the Town's limits (portioned assessment multiplied by the mil rate) at the time the debenture debt payment was levied.

The surcharge shall apply to property owners in the Tanco subdivision who owned their property and were connected to the Town's sewer system in each of the final three years of the two lagoon related debentures, as noted below:

Year to Bill	2009		2009		2010		2010		2011	
Roll Number	1 mil BL 14/95	.57Mils BL 2/97	.86 mil BL14/95	.48 Mils BI 2/97	.86 Mils BL14/95	.47 Mils BL 2/97				
188992	\$ 44.78	\$ 25.52	\$ 38.51	\$ 21.56	\$ 38.51	\$ 21.11				
188994	\$ 32.27	\$ 18.39	\$ 27.75	\$ 15.04	\$ 27.75	\$ 14.73				
188996	\$ 36.27	\$ 20.67	\$ 31.19	\$ 17.17	\$ 31.19	\$ 16.82				
188998	\$ -	\$ -	\$ -	\$ 15.77	\$ -	\$ 15.44				
189000	\$ 50.09	\$ 28.55	\$ 43.08	\$ 34.99	\$ 43.08	\$ 34.26				
189002	\$ 55.44	\$ 31.60	\$ 47.68	\$ 38.00	\$ 47.68	\$ 37.21				
189004	\$ 61.84	\$ 35.25	\$ 53.18	\$ 39.60	\$ 53.18	\$ 38.77				
189006	\$ -	\$ 44.99	\$ 67.88	\$ 50.61	\$ 67.88	\$ 49.56				
189010	\$ 37.04	\$ 21.11	\$ 31.85	\$ 17.20	\$ 31.85	\$ 16.84				
189012	\$ 29.88	\$ 17.03	\$ 25.70	\$ 14.04	\$ 25.70	\$ 13.75				
189014	\$ 32.09	\$ 18.29	\$ 27.60	\$ 15.51	\$ 27.60	\$ 15.19				
189018	\$ 64.31	\$ 36.66	\$ 55.31	\$ 28.45	\$ 55.31	\$ 27.86				
189020	\$ -	\$ 25.80	\$ 38.93	\$ 21.73	\$ 38.93	\$ 21.28				
189022	\$ 57.06	\$ 32.52	\$ 49.07	\$ 28.38	\$ 49.07	\$ 28.81				
189024	\$ 32.81	\$ 18.70	\$ 28.22	\$ 15.34	\$ 28.22	\$ 15.02				
189026	\$ 35.46	\$ 20.21	\$ 30.50	\$ 17.19	\$ 30.50	\$ 16.84				
189028	\$ 36.68	\$ 22.11	\$ 33.36	\$ 18.04	\$ 33.36	\$ 17.66				
189032	\$ 38.16	\$ 21.75	\$ 32.82	\$ 18.38	\$ 32.82	\$ 18.00				
189034	\$ 38.07	\$ 21.70	\$ 32.74	\$ 17.78	\$ 32.74	\$ 17.41				

Introduction

By Order 111/07 dated August 24, 2007, the Board approved revised utility rates for the Town, as reflected in the Town's Rate By-law No. 68/07.

The revised rate schedules, attached to both Order 111/07 and the Town's rate by-law, indicates in Section 5(b) (ii), which is applicable to properties in the Tanco subdivision, the following:

"Any additional surcharges sufficient to cover all taxes for the sewage lagoon which it would be required to pay if such residences were located in the Town."

Further, in Order 111/07, the Board:

"recommends the Town review its approach to billing Tanco customers, to best ensure those customers are bearing a reasonable charge for the sewer services they receive from the Town"

On July 2, 2008, the Board issued Order 92/08, and authorized the Town to amend By-law No. 68/07 and add a clause to set rates to be applicable to the Tanco subdivision. The Town did so by By-law No. 84/08.

Order 92/08 makes reference to the Board's Order 111/07:

"The Board awaits the Town's response to the Board's recommendation in Order 111/07 and notes that upon receipt a further adjustment may be required as there may be a need to consider a surcharge to recover part of the debenture debt cost of the Utility."

By way of a letter dated July 31, 2008, a concerned citizen requested that the Board review the Tanco situation and consider a surcharge, this to better address the concept of equality of treatment regarding the application of capital debt that should

be collected from customers outside the municipal boundaries. The customer cited the Board's application of a surcharge to customers in Cypress River (Rural Municipality of Victoria), by Order 63/08.

Discussion and Findings

The Town provided information with respect to:

- capital expenditures related the lagoon,
- a history of the connection of the Tanco subdivision, and
- historical sewer services rates billings.

Two debentures were issued for the construction of a new lagoon and the decommissioning of the old lagoon - one in 1995 for \$160,000 and the other in 1997 for \$162,000, each issued for a ten-year term. The Town collected the payment annually by taxation, set by mil rate (as noted in the chart on page 2) multiplied by the portioned assessment. ("Portioned assessment" refers to the portion of the assessed property value to which the mil rate is applied to calculate property taxes. In Manitoba a single-family residence is portioned at 45%; if valued at \$100,000, the mil rate is applied to \$45,000.)

The Town's records indicate the first bill for sewer service provided to Tanco residents was issued in 1969. In 1975, the Town completed its sewage treatment project and, in 1978, billed the Rural Municipality of Lac du Bonnet (RM) \$6,081.75 for capital contributions to date, this with respect to the Tanco subdivision.

The Town's records show that the RM has been invoiced annually for operation of the sewer service related to the 19 connections in the Tanco subdivision since 1994, until 2008. The rates were reviewed

and revised in July 2008, by Order 92/08, and include a rate for the operation and maintenance of the sewer system.

The Town indicated that no surcharge has been applied to the Tanco properties in relation to the capital costs of the construction of the new lagoon and decommissioning of the old one.

The Board approves by-laws for municipally owned water and/or sewer utilities, which provide for rates, charges and other terms and conditions of the utility. A standard clause contained within most municipal by-laws refers to the owner of the utility making agreements with customers for the provision of services outside of the municipality. Such agreements provide for the payment of the appropriate rates set out in the schedule, as well as a surcharge, set by resolution of Council, equivalent to the frontage levy, general taxes and special taxes for Utility purposes in effect at the time, or as may be effect from time to time, and which would be levied on the property concerned if it were within the Town's boundaries.

The Board notes that previous rate by-laws adopted by the Town have included this standard clause or a comparable variation and also notes that the Town has not collected surcharges for the provisions of service to the Tanco subdivision.

The Board believes that Tanco residents should have contributed a proportionate amount to cover the construction of the lagoon and the decommissioning of the old lagoon. It is the Board's opinion that it is not the fault of the Tanco residents that this surcharge has not been applied over the years since the debentures were issued. Thus the Board concludes that these residents should not be required to

make payments for the full ten years of the debentures. However, the Board does believe that a contribution to some extent should be assessed.

Further, the Board notes that since the debentures matured, there have been ownership changes with some of the properties in the Tanco subdivision. As such, the Board will not require the Town to apply the surcharge where, according to the RM's final assessment rolls for each of the years 2003 to 2007, the current owner(s) did not own the property in the final three years of the debentures. For example, if the property changed owners during 2003, the surcharge would only be applied in 2004, 2005, 2006 and 2007; similarly if ownership changed in 2006, the surcharge would only be applied in 2007.

Accordingly, the Board will require the Town to collect in 2009, 2010 and 2011 an amount equivalent to the special mil rate had the properties been within the Town's boundaries for the final three years of By-laws No. 14/95 and 2/97.

And lastly, the Board will direct the Town place these funds in the Utility Reserve Fund, to be used for future capital improvement to the sewer system.

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 THEREFORE ORDERED THAT:

1. A surcharge, to be assessed in 2009, 2010 and 2011 on each of the following properties in the Tanco subdivision that were connected to the Town of Lac du Bonnet's sewer system during the period of 2003 to 2007, IS HEREBY APPROVED as follows:

Year to Bill	2009	2009	2010	2010	2011	2011
Roll Number	1 mil BL 14/95	.57Mils BL 2/97	.86 mil BL14/95	.48 Mils BI 2/97	.86 Mils BL14/95	.47 Mils BL 2/97
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189028	\$ 36.68	\$ 22.11	\$ 33.36	\$ 18.04	\$ 33.36	\$ 17.66
189032	\$ 38.16	\$ 21.75	\$ 32.82	\$ 18.38	\$ 32.82	\$ 18.00

2. The Town of Lac du Bonnet place these amounts collected into the Utility Reserve Fund to be used for future capital improvements related to the sewer system.

Fees payable upon this Order - \$150.00

THE PUBLIC UTILITIES BOARD

March 24, 2009
Order No. 29/09
Page 8 of 8

"GRAHAM LANE, CA"

Chair

"KRISTINE SCHWANKE"

Acting Secretary

Certified a true copy of Order No.
29/09 issued by The Public
Utilities Board

Acting Secretary