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THE PUBLIC UTILITIES BOARD ACT) Order No. 82/09
) May 15, 2009

BEFORE: Graham Lane, CA, Chairman
 Monica Girouard, CGA, Member

B. J. TRAINOR HOLDINGS LTD.
 REVISED WATER RATES

1.0 Executive Summary

In this Order, the Public Utilities Board (Board) approves a per customer charge of \$130.00 for the 2009 season with respect to water to be supplied by B. J. Trainor Holdings Ltd. (Trainor) to its customers.

The proposed rate increases for 2010 and 2011, as applied for, are not approved and Trainor will be required to meet the Board's Minimum Filing Requirements (MFR) by no later than March 1, 2010 for the Board to consider any further rate changes.

Pursuant to the Board's requirements, notice of the proposed rate change was provided to customers by mail. The Board received numerous letters and telephone calls from customers suggesting that the proposed rate increases were excessive.

2.0 Background

Trainor is a privately owned public utility distributing water to approximately 464 customers on a seasonal basis in the areas of Alberta Beach (152), Traverse Bay (61), Hillside Beach (110) and Belair Properties (141).

In all, Trainor operates four pump houses; each one includes an 8' X 10' building, a 5 HP deep well pump, 100' deep wells with double screens, 2 or 3 100-gallon pressure tanks and a chlorination system.

Water is distributed using 1½" poly pipe for the main lines and ½" poly pipe for the services, mostly installed above ground. The system is pressurized to 75 psi.

Chlorine levels are checked daily at each pump house and every two weeks, water samples are taken to ALS Laboratories in

Winnipeg for testing. Someone is on call 24 hours per day 7 days per week.

Utility services are generally started for the May long weekend.

The Board recently began regulating Trainor and, as part of the Board's regulatory requirements, Trainor is to provide the Board with justification to future proposed rate increases at least 60 days prior to implementation. As well, notification is to be provided to the customers, advising customers of the opportunity to contact the Board with concerns or comments at least 30 days ahead of a proposed rate change.

The Public Utilities Board Act sets out the powers of the Board with respect to the regulation of public utilities and because such utilities generally provide an essential service in a monopoly environment, the Board's jurisdiction over public utilities is quite broad.

While Board regulation of Trainor's system is new, Trainor systems have been providing water to the previously noted areas for some time, with no history of complaints filed with the Board.

This is typical with respect to other privately owned public utilities as well as cooperatively owned utilities, which were also not regulated by the Board until recently. Hence for these utilities, the Board adopted a Complaints Based Regulatory Model, allowing for an analysis of rate proposals only given customer concerns.

3.0 Application

On April 13, 2009, Trainor provided to the Board details of the operation of the public utility including operating costs and the

proposed seasonal rates as noted below:

	Per Customer Per season (5 Months)	Increase
2008 (existing since 1995)	\$100.00	--
2009	\$130.00	30%
2010	\$160.00	23%
2011	\$190.00	19%

Prior to 1995, the customer cost per season was \$80.00. The Utility charges \$300.00 for each new connection to cover labour and supply costs.

In 2008, the operating revenues of the utility were approximately \$46,400 (464 x \$100).

The operating costs projected for the utility in 2009 are:

Start up	\$ 8,000 - \$9,000
Hydro	\$ 5,000
Upgrading and repairs	\$22,000
Insurance	\$ 2,800
Daily reports (23 weeks)	\$12,000
Trips to Winnipeg x 11	\$ 2,200
Standby and office	<u>\$14,000</u>
Total	<u>\$66,000</u>

At existing rates, the utility would have a shortfall of \$19,600 in 2009. With the 2009 proposed rates, the loss would be reduced to \$5,680 and, if operating expenses were maintained and proposed increases in 2010 and 2011 approved, the utility forecasts surpluses of \$8,240 and \$22,160.

Trainor provided a copy of its December 31, 2007 financial statements, which reflect utility operations solely, and as compiled by a chartered accountant though not audited.

The statements indicate that in 2006 and 2007 Trainor incurred losses of \$5,718 and \$1,310 respectively; reducing the Company's retained earnings to \$184,604. Except for a large purchase (\$19,225) in 2006, the utility would have earned a \$13,743

surplus and, except for a \$30,494 repair in 2007, the utility would have earned a \$29,184 surplus in that year.

The cash position of Trainor declined in 2007 from \$2,632, in 2006, to \$733. The amortization expense was \$1,433 in 2007, however a Tangible Capital Asset Schedule was not provided.

Mr. Clifton Trainor, owner of the utility, suggested that he was prepared to continue to provide water services on a regulated basis at the rates now set only for a limited period of time, and that Trainor expected rates to rise to allow for profitable operations in the future.

On April 17, 2009, Trainor mailed notice of proposed rates to its customers, indicating that due to rising costs related to meeting the new drinking water standards, requirements for operator training and regulation by the Board, rate increases were required.

Customers had 30 days to write or call the Board office with comments or concerns about the rate proposal.

Customer responses were numerous (approximately 19) with nearly all customers claiming that the proposed increases were excessive, particularly those proposed for 2010 and 2011.

4.0 Board Findings

Based on the information provided, the Board will approve the application for revised water rates, but for 2009.

Trainor is providing an essential service and to continue to do so safely to meet customer demand requires a utility with a strong financial position. It does not serve utility customers well to starve a utility of sufficient funds to allow for the

operation of the utility in a safe manner.

The Board, in granting Trainor the 2009 rate increase, notes water service is planned to be connected for the May long weekend, and that a number of the customers who contacted the Board with concerns were not opposed to a one year rate increase.

The Board wishes to thank those who have called the Board's office to register their concern; feedback is important.

The lateness of the Company's filing did not provide the Board with a full opportunity to canvas the financial requirements of the utility beyond 2009. However, the Board agrees that continued losses are unacceptable and accepts Trainor's submission for 2009, based on the 2007 financial statements and estimated 2009 losses.

The Board noted rates have not changed since 2005. From previous experience gained from regulating water and sewer utilities, the Board is cognizant of the increased costs of operating a public utility and of increasing provincial requirements with respect to assuring water safety.

Before considering any further increase, the Board will require Trainor to comply with the MFR attached hereto and provide a detailed summary sheet of the need for further increases to be shared with its customers, well in advance of the May long weekend and by no later than March 1, 2010. Financial statements for 2008 and 2009 will be required to be filed with the Board.

To constrain regulatory costs, the Board plans to review the 2010 and 2011 rate proposal through a public paper hearing process unless, the Board determines a public hearing is indicated.

Privately owned public utilities are typically regulated on the

expectation of a rate of return based on the owner's investment, adjusted for income tax. In the near term, this will not likely be achieved; losses are anticipated.

Under such financial circumstances, the Board and customers will need to accept the assurances from Trainor that the system will continue to be operated safely and in sufficient supply to meet the needs of its customers.

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.

5.0 IT IS THEREFORE ORDERED THAT:

1. The charge for water of \$130.00 per customer per season proposed by B. J. Trainor Holdings Ltd. BE AND IS HEREBY APPROVED effective for the 2009 supply period.
2. B. J. Trainor Holdings Ltd. shall not alter or vary this rate unless prior approval of the Public Utilities Board is obtained.
3. On or before March 1, 2010, B. J. Trainor Holdings Ltd. shall comply with the Minimum Filing Requirements as per Schedule "A" attached hereto.

Fees payable upon this Order - \$300.00

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"

Chairman

"KRISTINE SCHWANKE"

Acting Secretary

Certified a true copy of Order
No. 82/09 issued by The Public
Utilities Board

Acting Secretary

SCHEDULE "A"

Of Board Order No. 82/09

Minimum Filing Requirements

1. Number of customers served
2. 2008 and 2009 financial statements
3. Details of operator qualifications/certification.
4.
 - i) Confirmation that the utility is duly licensed under *The Drinking Water Safety Act*. If not, please explain.
 - ii) Details of water testing and confirmation that water meets Drinking Water Standards.
5. If an increase is proposed, statement as to need for the rate increase.
6. Five year capital plan and proposed method of funding projects.
7. Schedule of assets including rate of depreciation.