

M A N I T O B A) Order No. 32/10
)
THE PUBLIC UTILITIES BOARD ACT) March 31, 2010

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

PEMBINA VALLEY WATER COOPERATIVE INC.
REVISED WATER RATES

Executive Summary

Following the issuance of Board Order No. 150/09 concerning the potential for the disconnection of water services to a First Nation (FN), the Public Utilities Board (Board), through staff, together with the participation of Indian and Northern Affairs Canada (INAC), Pembina Valley Water Cooperative Inc. (PVWC) and the third party manager engaged by INAC to administer the financial affairs of a FN, have sought to resolve payment issues related to a customer's delinquency with respect to PVWC water billings.

Following discussions with the above named parties and further deliberation, the Board will vary PVWC's approved rates, establish a separate customer class and provide for the implementation of a Rate Rider for charges to customers in that new class. The Rate Rider will be an additional charge of \$0.50 per 1000 Imperial gallons, to be applied to PVWC's billings to customers in the new class.

The new class and Rate Rider will be for PVWC's customers that are in arrears of payment of prior invoices from PVWC. Provided customers in this new rate class are complying and current with their payment terms, PVWC will not be allowed to institute disconnection procedures against such customers.

The Rate Rider shall be added to the current Base Rate of \$6.40 per 1,000 Imperial gallons, which Base Rate is charged to all of PVWC's customers. The Rate Rider shall take effect April 1, 2010 and continue to be applied until all of the customer's arrears have been paid. The proceeds from the Rate Rider are to

be applied to the arrears portion of the customer's account with PVWC, together with any other payments as agreed between the customer and PVWC. The Base Rate portion of the charge is to be applied to the most recent costs invoiced to the customer.

Further, the Board authorizes PVWC, on notice to the Board and the customer, to cease applying the Rate Rider once the customer's arrears balance has been fully recovered. PVWC is also authorized to reinstitute the Rate Rider, again on notice to the Board and the customer, if a customer falls into further arrears at some future date.

Background

PVWC is a water utility cooperative, with membership comprised of 18 urban and rural municipalities served by PVWC. In addition to serving the member municipalities, PVWC also provides water services to a FN and a few small water cooperatives.

PVWC is a public utility as defined in *The Public Utilities Board Act*. The Board's regulatory jurisdiction over PVWC is established by and described in that legislation.

PVWC does not provide water distribution services directly to the residents of the various municipalities and other customers it serves, but to the municipalities and other wholesale customers, which then distribute the water to their customers/residents/ratepayers.

On Tuesday, June 17, 2008, PVWC briefly disconnected water services to a FN, which had not paid its water bill in the previous four months.

On June 18, 2008, the Board, by way of Order 82/08, directed the reconnection of the service. In arriving at that decision, the Board expressed its understanding of PVWC's reasons for its actions, but ruled that concerns over the health and safety of the residents "trumped" the financial arrears concern by PVWC. Subsequently, the FN paid its arrears to PVWC.

PVWC applied to the Board on August 19, 2009, seeking authority to serve notice of disconnection to the FN.

The FN again fell into arrears in payments to PVWC and was placed, by INAC, under third party management. Initially, PVWC had no assurance that the third party manager would pay the arrears, and so sought assurance from INAC and the third party manager.

With no indication from INAC that it would make or assure payment of the FN's account delinquency costs, and with the third party manager agreeing to pay the principal balance of the arrears and current billings on a going-forward basis, PVWC applied to the Board to disconnect service to the FN as of December 31, 2010.

Following discussions with INAC and the third party manager of the FN, but obtaining no assurance that the FN's delinquency-related costs would be paid to PVWC, the Board granted conditional authority to PVWC to issue a disconnection notice.

Intervention

With the view that it is in the best interest of all involved that the FN continue to purchase and obtain water through PVWC, the Board instructed staff to work cooperatively with all parties in an effort to resolve the delinquency situation and gain adequate assurance that PVWC would be paid for its full cost of service to the FN.

Following meetings between representatives of INAC, the provincial department of Family Services and Consumer Affairs, the provincial department of Local Government (formerly Intergovernmental Affairs) and the Board, the FN's third party manager began to make additional payments to PVWC towards retiring only the principal portion of the arrears by December 1, 2010.

However, the third party manager indicated that it had no authority to pay PVWC's costs related to past due balances. Thereafter Board staff, in cooperation with PVWC, explored options to resolve the impasse, all in order to protect the supply of drinking water by PVWC to the FN.

As a result of those discussions, a proposal was brought forward to establish a separate customer class for customers in arrears and implement a Rate Rider for that customer class to permit recovery of the delinquency related costs.

As noted in a December 15, 2009 letter to PVWC from the third party manager, PVWC has confirmed that the third party manager

will continue to make "principal payments" on the arrears until the principal arrears are retired.

Application

In a letter dated February 23, 2010, PVWC proposed to the Board that a special all-inclusive rate of \$6.70 per 1000 Imperial gallons be implemented to be applied to a separate customer class for customers in arrears.

This would effectively constitute the Base Rate of \$6.40 per 1000 Imperial gallons, (which is the current rate charged to all of PVWC's customers), plus a \$0.30 per 1000 Imperial gallons Rate Rider to cover delinquency related costs incurred by PVWC. PVWC funds its overall operations in part through bank borrowings, which involves the incurring of financial costs. Such costs are higher when customer billings are not paid in full in accordance with the normal payment terms, as PVWC needs additional borrowings to cover the difference.

PVWC has projected that with the third party manager paying and keeping current the billings related to the Rate Rider, the FN's account will be brought current within a reasonable timeframe.

When the arrears are fully collected, and new billings are being paid in accordance with normal payment terms, the \$0.30 Rate Rider is to cease, and the customer is to be transferred back to the other customer class.

Board Finding

The Board is pleased that progress has been made in addressing the issue of full cost recovery for PVWC with respect to the customer that is in arrears (following the issuance of Order 150/09 in October of 2009).

The Board notes and appreciates INAC's intervention with the third party manager, towards ensuring that payments are made to PVWC to retire the principal amount of the current arrears on the FN account.

The Board is also appreciative of the efforts made by PVWC, in working with Board staff, to determine and establish a new customer class, with a special Rate Rider in order to address the delinquency-related costs of a customer's arrears.

The delinquency balances resulted in additional finance and collection related costs incurred by PVWC, which, as previously indicated, relies on bank loan financing to operate its Utility.

These additional costs would not be incurred in the absence of a customer's delinquency and the Board finds it unfair to PVWC's members and other customers should they be required to subsidize the costs of water supply to a customer in arrears in payments of its accounts.

The Board concludes that PVWC establishing a separate class and a Rate Rider with respect to a customer in arrears represents a fair and reasonable approach that, if followed, will avoid any necessity to consider service disconnection.

It is not unusual for the Board to establish separate rates for different customer classes based on differing cost drivers for differing customer classes. In this case, the arrears and consequent financial and administrative implications for PVWC represent a different cost driver than exists for the other customers of PVWC.

It is on this basis that the Board will approve the establishment of a separate customer class for customers in arrears and the imposition of a Rate Rider effective April 1, 2010.

The Board varies the quantum of the Rate Rider, from the original amount sought by PVWC to \$0.50 per 1,000 Imperial gallons, based on anticipated consumption by the customer in arrears. This Rate Rider will result in the full costs of PVWC being recovered over a period no longer than approximately one year, a period deemed appropriate in the circumstances.

If, for any reason, the third party manager, INAC or the customer in arrears do not act to meet the obligations of the customer to PVWC through the special class Rate Rider and other agreements the Board will be forced to reconsider providing approval for service disconnection. If this is a potential outcome, the customer in arrears, INAC and the third party manager would best begin preparations for developing assurance of another supply source for potable water for the customer.

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, www.pub.gov.mb.ca.

IT IS THEREFORE ORDERED THAT:

1. Pembina Valley Water Cooperative Inc. establish a separate customer class for customers in arrears in payment of accounts.
2. Pembina Valley Water Cooperative Inc. establish a Rate Rider of \$0.50 per 1000 Imperial gallons effective April 1, 2010 to be applied to the customer(s) in the special customer class;
3. The Base Rate, as previously approved by the Board, together with the Rate Rider approved in this Order, be charged on all water provided to the customer(s) in the special customer class.
4. The Rate Rider remains in effect until the delinquency related balances of the customer(s) in the special customer class are fully recovered.
5. The entire proceeds from the Rate Rider are to be applied against the delinquency related costs incurred for the customer in the special customer class.

6. Pembina Valley Water Cooperative Inc. is hereby authorized to re-implement the Rate Rider, should arrears reoccur in future, upon notification to the Board and the customer.
7. If any new delinquencies develop, Pembina Valley Water Cooperative Inc. is to reapply to the Board should it seek future disconnection of water supply to any customer

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"

Chairman

"KRISTINE SHIELDS"

Acting Secretary

Certified a true copy of Order
No. 32/10 issued by The Public
Utilities Board

Secretary