

M A N I T O B A) Order No. 62/14
)
THE PUBLIC UTILITIES BOARD ACT) June 5, 2014

BEFORE: Susan Proven, P.H.Ec., Acting Chair
The Hon. Anita Neville, P.C., B.A. (Hons.), Member

**RURAL MUNICIPALITY OF WALLACE
WATER UTILITY
ACTUAL DEFICITS 2010 and 2011**

WHEREAS the Public Utilities Board issued Order No. 151/08 on November 7, 2008 requiring all water and/or sewer utilities to report an actual year-end deficit to the Board if the utility:

1. had not received prior approval for the deficit from the Board and such deficit either exceeds \$10,000 or represents 5% of the utility's operating budget; or
2. had received prior approval for the deficit from the Board and the actual deficit:
 - a. exceeds the previously approved amount by either \$10,000 or 5% of the utility's operating budget; or
 - b. is caused as a result that differs from that upon which said approval was granted;

Summary

By this Order, the Public Utilities Board (Board) hereby varies an application made by the Rural Municipality of Wallace (RM) and approves operating deficits for the years 2010 and 2011, to be recovered through a deficit recovery surcharge, effective July 1, 2014 to June 30, 2016. The Board denies a proposed increase to the Quarterly Customer Service Charge.

The existing rates approved on Board Order No. 2/12 and the deficit recovery surcharge are shown below:

Commodity Rate \$/cubic meter (m ³)	Current (Order 2/12)
Water Rate \$/m ³	\$1.79
Quarterly Customer Service Charge	\$24.10
Minimum Quarterly	\$48.03
Bulk Water (treated) \$/1,000 gallons	\$9.14
New charges	
Deficit recovery surcharge \$/m ³	\$0.61

Details of other rates may be found in the attached Schedule "A".

Background

The RM of Wallace operates a water utility with 385 customers, including the RM of Pipestone and the community of Maryfield, Saskatchewan. Rates were last set by Board Order No. 2/12 on January 6, 2012.

The Board received a letter from the RM on April 16, 2014 requesting the Board's approval to revise the water commodity charge from \$1.79 to \$1.96 per cubic meter (m³) for a period of four (4) years, to recover utility operating deficits from 2010 and 2011. The deficits were \$215,428 and \$270,344, respectively. This does not include a \$50,000 transfer to reserves that was included in the 2011 audited financial statements.

The submission included By-law No. 2195, which was given first and second reading February 25, 2014. This By-law replaced By-law No. 2168 and included a Quarterly Customer Service Charge of \$26.20, increasing from \$24.10. No supporting calculations were provided and no mention of the change to the Quarterly Customer Service Charge was made in the letter from the RM.

The RM has advised the Board that recovery through a commodity surcharge is appropriate because two of its customers account for a large percentage of the water sold. Allocating recovery of the deficits equally amongst all customers, as is often seen in deficit recovery, would result in residential customers paying a disproportionate amount of the deficit.

The Board website provides an application for deficit approval, which was not submitted by the RM. In addition, the RM's submission did not include a rate study or application, though Board Order No. 2/12 included a directive requiring the RM to file an application for revised rate, if required, on or before July 1, 2013. The RM advised the Board that a rate study was prepared by a consultant, but was never finalized nor filed with the Board.

The RM has advised that they are amalgamating with neighbouring municipalities and plan to defer any further rate studies until after amalgamation; they are planning to conduct a rate review prior to July 1, 2015. The RM has experienced some challenges relating to staff changes and significant growth. The stated number of customers has gone from 290 to 385 since the last rate application was filed in 2011.

The RM has submitted internal, unaudited financial statements for 2012 and 2013, which indicate an anticipated surplus for 2012 and an anticipated deficit for 2013. However, the expenses on the report have an unexplained variance of \$573,177; the expenses shown for 2012 are possibly significantly understated.

Working capital calculation

In Board Order No. 93/09, the Board established that utilities should maintain a minimum working capital surplus, in an amount equal to 20% of annual expenses. The working capital surplus is defined as the Utility fund balance, excluding any capital

related items plus Utility reserves.

The RM's working capital deficit as of December 31, 2011:

Fund Surplus/Deficit	\$13,329,067
Deduct TCA	\$18,437,254
Add Long-Term Debt	\$ 4,124,051
Add Utility Reserves	\$ 200,052
Equals Working Capital Surplus	\$ (784,084)
Annual operating costs	\$ 1,254,619
Target: 20% of annual operating costs	\$ 250,924

Board Findings

By law, Manitoba utilities are not allowed to incur deficits. In the event that a deficit does occur, the Utility is required to obtain Board approval for a recovery methodology.

The Board is sympathetic to the resource constraints experienced by the RM, however, the lack of urgency to remedy the financial situation is disconcerting. The deficits experienced represent a significant percentage of the revenues earned annually, but applications for Board approval were not filed in a timely manner, as required by Board Order No. 151/08.

Order No. 2/12 required the RM to comment on rate adequacy by July 1, 2013. The Board did not receive a request for an extension or any comment on the adequacy of the rates until November 2013. No mention was made at that time of the deficits experienced in 2010 and 2011; the Board only became aware of them when the audited financial statements were submitted in

January 2014.

The RM has indicated that they consider the current rates to be adequate. Given that the audited financial statements are a year behind, the Board has reservations about accepting that statement without evidence. The RM has advised the Board that they estimate a possible deficit of \$379,205 for 2013, depending on how certain "capital-like expenses" are allocated during the audit.

Therefore, the Board will require that a rate study be filed no later than January 1, 2015; the Board also expects that audited financial statements will be current and available for review by that time.

The original request from the RM was for an increase of \$0.17 per m³. At the estimated sales volume of 395,159 m³ per year, it would take over seven years to recover the 2010 and 2011 deficits.

In setting the deficit recovery surcharge of \$0.61 per m³, the Board has not taken into consideration the \$50,000 transferred into reserves in 2011. Setting money aside in the reserves should be done when there is a surplus from the operating year or adequate accumulated surplus, neither of which is the case with the RM of Wallace.

The Board denies the increase to the Quarterly Customer Service Charge indicated on By-law No. 2195. In order to increase rates or the Quarterly Customer Service Charge, the RM is required to

follow the appropriate procedures and file for revised rates.

The public needs to be served with proper notice and any revisions are to be quantitatively supported.

The Board agrees that it is most appropriate to use a deficit recovery surcharge collected on a per m³ basis. The Board asks that the RM ensure the surcharge is added on a separate line on the quarterly bill.

The amount recovered should be tracked by the RM, and if the period of two years needs to be reduced or prolonged in order to recover the full amount of the deficits, the RM may apply to the Board to Review and Vary this Order as required.

The Board will also ask that the RM take into consideration the considerable growth in the community and take appropriate steps to ensure that only the properties connected to the Utility as of December 31, 2011 are charged the recovery surcharge.

The Board will require the RM to submit By-law No. 2195 once it has been revised to reflect the changes in this Order, and has received third and final reading.

Finally, the Board wishes to impress upon the RM the seriousness of complying with Board directives, procedures and reporting requirements. Pursuant to the *Public Utilities Board Act*, the Board has available enforcement methods and can apply penalties.

The Board recommends the RM to review its internal processes to determine how to avoid missing reporting requirements and deadlines in the future.

The Board urges the RM to review the Public Utilities Board Act and General Board Order Nos. 151/08 and 93/09 to have a better understanding of their responsibilities in reporting to the Board.

IT IS THEREFORE ORDERED THAT:

1. The actual 2010 and 2011 operating deficits of \$215,428 and \$270,344, incurred in the Rural Municipality of Wallace Water Utility Operations, BE AND ARE HEREBY APPROVED to be recovered from properties connected to the Utility as of December 31, 2011 by means of a deficit recovery surcharge of \$0.61 per cubic meter (m³) over a two (2) year period effective July 1, 2014 to June 30, 2016;
2. The proposed revised Quarterly Customer Service Charge BE AND IS HEREBY DENIED.
3. The Rural Municipality of Wallace file with the Board a revised water rates By-law to reflect the decision in this Order, once it has received third and final reading;

4. The Rural Municipality of Wallace completes and submits a rate study on or before January 1, 2015;
5. The Rural Municipality of Wallace submits audited financial statements for 2012 and 2013 as soon as they are available and no later than January 1, 2015.

Fees payable upon this Order - \$500.00

THE PUBLIC UTILITIES BOARD

"SUSAN PROVEN, P.H.Ec."

Acting Chair

"JENNIFER DUBOIS, CMA."

Acting Secretary

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.

**Schedule “A”
 The Rural Municipality of Wallace
 Water Rates By-Law No. 2195**

Schedule of Quarterly Rates:

1. Commodity rates per m³:

All water consumption Water
\$1.79/m³

2. Deficit recovery surcharge (2010 and 2011) per m³:

All water consumption Water
\$0.61/m³

3. Minimum Charges, Quarterly

Notwithstanding the Commodity rates set forth in paragraph 1 hereof, all customers will pay the applicable minimum charges set out below, which will include water allowances indicated:

a. Water and Sewer Customers

Meter Size mm (in.)	Group Capacity Ratio	Water Included m³	Customer Service Charge	Water Commodity Charges	Total Quarterly Minimum
16 mm (5/8")	1	13.370	24.10	23.93	48.03
19 mm (3/4")	2	26.739	24.10	47.86	71.96
25 mm (1")	4	53.478	24.10	95.74	119.84
38 mm (1 1/2")	10	133.696	24.10	239.32	263.42
50 mm (2")	50	334.239	24.10	598.29	622.39

4. Bulk Filling Station Rate

All treated water sold in bulk by the Rural Municipality of Wallace shall be charged for at the rate of \$2.01 per cubic meter (\$9.14 per 1,000 Imperial Gallons).

All untreated water sold in bulk by the Rural Municipality of Wallace shall be charged for at the rate of \$1.44 per cubic meter (\$6.50 per 1,000 Imperial Gallons).

5. Service to Customers outside Municipality

The Council of the Rural Municipality of Wallace may sign agreements with customers for the provision of water services to properties located outside the legal boundaries of the Rural Municipality of Wallace. Such agreements shall provide for payment of the appropriate rates as set out in this 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 that time, or as 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.

6. Billings and Penalties

Accounts shall be billed quarterly, and shall be due payable 30 days after date of billing. A penalty of 1.25% per month of the amount of the bill shall be added if not paid by the due date. (Note: Due date may be set as Council sees fit to do.)

7. Disconnection and Reconnection

Water services may be discontinued if the water account has not been paid within 45 days of the last billing date. Before service is reconnected, payment shall be made of all arrears and penalties, plus a reconnection charge of \$75.00 during working hours. If reconnection is required after normal working hours, a charge of \$150.00 must be paid prior to reconnection.

The Public Utilities Board has approved Conditions Precedent to be followed by the municipality with respect to the disconnection of service for non-payment including such matters as notice and the right to appeal such action to the Public Utilities Board. A copy of the Conditions Precedent is available for inspection at the Municipal office.

8. Request for Meter Testing

Any customer may request that the water meter be tested. Upon receipt of a \$45.00 deposit, the R.M. of Wallace will submit the meter for testing to an independent testing company. Should the meter be found to be reading in excess of actual flows, the said deposit of \$45.00 shall be returned to the customer. Should the meter be found to be accurate, or reading below the actual flows, the customer shall forfeit the deposit to cover the cost of testing.

9. Outstanding Bills

Pursuant to Section 252(2) of *The Municipal Act*, the amount of all outstanding charges for water services are a lien and charged upon the land serviced, and shall be collected in the same manner in which ordinary taxes upon the land are collectible, and with like remedies.