

M A N I T O B A) **Order No. 102/15**
)
THE PUBLIC UTILITIES BOARD ACT) **October 19, 2015**

BEFORE: Régis Gosselin, B ès Arts, MBA, CPA, CGA, Chair
The Hon. Anita Neville, P.C., B.A. (Hons.), Member

RURAL MUNICIPALITY OF ELLICE-ARCHIE
ST. LAZARE WATER AND WASTEWATER UTILITY
OPERATING DEFICITS 2012 and 2013

Application

The Public Utilities Board (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;

On September 8, 2015 the Board received deficit applications for 2012 and 2013 for the St. Lazare Utility (Utility) from the Rural Municipality of Ellice-Archie (RM). Prior to amalgamation on January 1, 2015 the Utility was part of the Village of St. Lazare. Rates were last set in 2004.

The submission included a copy of the Village of St. Lazare By-law No. 04-2014, which established a special services levy of \$57,288 for the provision of fire protection, snow removal, street lighting, dust control and recreation support services for 2014. The RM reported that Council suspects this By-law was made to generate funds which would be used for the recovery of the 2013 utility deficit, as the residents of the Village did not receive the additional services described in the By-law.

The RM also developed a financial plan for the Rural Municipality of Ellice-Archie for 2015 which included a \$50,000 provision for "Utility Deficit Recovery". This plan was approved and included on the 2015 tax bills.

The applications were also accompanied by a cover letter explaining that the Council of the newly formed RM does not include any previous Council members from the Village of St. Lazare and the previous administration retired as of December 31, 2014. Council included a \$50,000 at-large levy in the 2015 taxes without realizing that approval from the Public Utilities Board was needed in order to do so, and requested that the Board allow the levy to stand, as the costs associated with reversing the levy would be high and thus financially detrimental to the municipality.

The levy was included in the general levy on individual tax forms but was listed separately under "Utility Deficit Recovery" on the RM's financial plan for 2015. The plan was posted on the RM's website and available for review at any time in the RM's office. A notice of the financial plan was sent out to all taxpayers and the RM held two public hearings to explain the plan in detail. The RM has advised the Board that no concerns or objections to the levy were raised at the hearings.

The RM also advised the Board of its plans to hire a consultant to prepare a rate study, and to submit a rate application before the end of 2016. The Utility has recently completed a water meter installation project and intends to collect consumption data for six months before starting to work on a rate study. It is the intention of the RM to submit the rate application as soon as possible to apply for rates that would avoid further deficits. While the RM does not have audited results for 2014 at this time; however, the RM anticipates that the Utility will experience ongoing deficits until new rates have approved by the Board.

Board findings

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

The Board has long been a proponent of the user-pay principle and believes that utility rates should reflect the actual costs of operating the utility without cross subsidization. Including all of the costs sends a clear pricing signal to customers, gives them a better understanding of the value of the services they receive and can encourage conservation.

However, the Board acknowledges that exceptions to this policy may be warranted in certain circumstances. . The Board accepts the RM's assurances that the inclusion of a \$50,000 utility deficit recovery levy on the 2015 tax bills was due to a lack of experience in dealing with Utility deficits, and stemmed from a belief that it was an allowable approach to address utility revenue shortfall.

The Board will also allow the RM to transfer the revenues collected under the authority of both By-law No. 04-2014 and the 2015 Financial Plan from the general surplus to the Utility operations. The total of \$107,288 will more than offset the 2012 and 2013 deficits, with the balance remaining in the accumulated surplus of the Utility. This additional surplus should be applied to recover the anticipated 2014, 2015 and 2016 deficits, should they materialize, prior to any other method of recovery.

The RM is still required to file deficit applications and seek Board approval for these deficits, and once the accumulated surplus from the approved transfers has been exhausted, an alternate form of recovery should be proposed.

The Board expects that going forward the RM will apply the user-pay principle to the Utility, and be compliant with Board financial reporting requirements as outlined in Board Order Nos. 151/08 and 93/09, available on the Board's website. All future rate or deficit applications should be prepared using Board recommended methodology, or any deviation should be clearly supported and substantiated. The Board commends the RM's Council and administration for their forthcoming and helpful approach to resolving these deficits and incidents of non-compliance.

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. The Rural Municipality of Ellice-Archie – St Lazare water and wastewater utility file an application for revised rates on or before December 31, 2016.
2. The Rural Municipality of Ellice-Archie – St Lazare water and wastewater utility file provide copies of their audited financial statements as soon as they are available, including deficit applications as required.
3. The 2012 and 2013 actual operating deficits, when calculated for regulatory purposes, of \$61,316 incurred in the Rural Municipality of Ellice-Archie – St Lazare water and wastewater utility is HEREBY APPROVED to be recovered through a transfer of \$107,288 from the General Operation Fund.

Fees payable upon this Order - \$150.00

THE PUBLIC UTILITIES BOARD

REGIS GOSSELIN, B ès Arts, MBA, CPA, CGA
Chair

“JENNIFER DUBOIS, CPA, CMA”
Acting Secretary

Certified a true copy of Order No.
102/15 issued by The Public Utilities
Board

Acting Secretary