

M A N I T O B A) Order No. 32/15
)
THE PUBLIC UTILITIES BOARD ACT) March 12, 2015

BEFORE: Susan Proven, P.H.Ec., Acting Chair
 Marilyn Kapitany, B.Sc. (Hons.), M.Sc., Member

VILLAGE OF DUNNOTTAR
TO DECLARE THE SEWER UTILITY A PUBLIC UTILITY
AND
INTERIM INITIAL SEWER RATES

Summary

By this *ex parte* Order, the Public Utilities Board (Board) declares the sewer system serving the Village of Dunnottar (Village) a public utility, and approves initial and interim sewer rates.

The rates were calculated using cost information provided by the Village to recover costs for the 2015 calendar year.

The rates approved are \$490 per year, per residential equivalency unit.

Background

The Village of Dunnottar operates a lagoon and requires all residents to use holding tanks to store their wastewater. The Village has an annual contract for the removal of septage from the full retention holding tanks, which are then charged out to the property owners through taxation. This charge is calculated on a mill rate tax assessment.

The Village of Dunnottar applied for and received a license from Manitoba Conservation allowing them to revise the existing lagoon license with the addition of a passive filtration system.

Every residence is pumped out once per week, up to 1,000 gallons, during the summer season, which runs from April to October. The summer schedule includes 1,114 tanks for a 26 week period. The winter schedule includes 386 tanks. In the event a seasonal property requests a pump out in the off season, they are also pumped at no additional charge.

Application

On September 5, 2013 the Board received a letter which included a petition signed by 39 residents of the Village of Dunnottar. The letter requested that the cost of holding tank pump outs in the Village be removed from the current mill rate tax assessment and be assessed on a system that is fair and equitable for all residents. The letter went on to state that under the current system, residents with lakefront or higher assessed properties are paying three to ten times more for the same service than homeowners who are not on the lake.

After discussion with the Village's Chief Administrative Officer, the Board, by letter dated September 9, 2013, sought a rate study from the Village with detailed information regarding existing sewer infrastructure, processes in place and how costs are recovered. The Board advised the Village that once the information was reviewed, they would prepare a decision as to whether or not the existing system met the criteria to be declared a public utility. The Board requested the submission be made on or before March 30, 2014.

The Village later requested and was granted two extensions to the deadline, which brought the due date to December 31, 2014. The Board received a letter January 23, 2015 from the Village requesting a determination on the criteria under which the current operations would be considered a Utility prior to complying with the September 2013 request. Further communication between the Board and the Village clarified that the Board was requesting the information required to make that

determination.

On February 6, 2015 the Village submitted the information requested, including a copy of the audited financial statements for 2013 and the contract between the Village and the septage hauler.

The expenses relating to the operation of the lagoon were stated to be approximately \$200, plus the cost of the contract to pump out the holding tanks. The Village advised the Board that the capital cost of the passive filter project in 2014 was \$770,000, which was paid by a combination of grants and reserves, including a 50/50 grant from the Manitoba Water Services Board. There is no operating information about the costs of the passive filter, because the project was only completed in 2014.

Budgeted expenditures

	<u>2015</u>	<u>2016</u>	<u>2017</u>
Pumpouts	536,250	536,250	536,250
Annual effluent testing	200	200	200
Amortization of passive filter system (est 50% of \$770,000 over 40 years)	9,625	9,625	9,625
Total	546,075	546,075	546,075
Number of tanks (summer)	1,114	1,114	1,114
Residential equivalency unit	490	490	490

Residential equivalency units

The initial sewer rate is calculated on a residential equivalency unit (REU) basis, one REU being the volume of water estimated to be used by the average single family residence. Units allocated to other customers are based on estimated water they will use, as compared with a residence. In the case of the Village of Dunnottar, all customers have been assigned one REU. REUs are used in communities with unmetered distribution and collection systems, where information regarding actual consumption is unavailable.

Board Findings

The Public Utilities Board Act (Act) states, in part:

Board may declare sewage system a public utility

2(6) The board may declare any system of sewage collection or disposal, including all works, plants, sewage lines and equipment pertaining thereto, to be a public utility; and thereupon that system is a public utility under this Act.

The Act provides the authority for the Board to declare any system of collection a public utility, and the Board shall exercise this authority and declare the sewer system operated by the Village a public utility. This declaration does not remove or reduce the management responsibilities of the Village.

Sewer systems provide an essential service for customers and protect the environment. The Board believes regulatory oversight is in the public interest as the utility is a monopoly providing an essential service. It is the intention of the Board to declare all such utilities throughout the Province not currently established as a public utility as being so.

The Board notes that the Village was originally asked to provide the information September 9, 2013 and requested multiple extensions, which meant that the Board could not resolve this issue before the June 2014 tax bills were issued.

Accordingly, the Board will set rates on an interim and best efforts basis, based on the information received from the Village in order to have the rates effective in time for the June 30, 2015 tax bills. The rates are set on a flat rate basis for both seasonal and full time residents to reflect the fixed nature of the costs of operating the sewer utility.

The Board encourages the Village to file a request to review and vary the Order if the budgeted expenditures shown above do not accurately reflect the cost of operating the utility. This should be filed within 30 days of the date of issue.

The Board commends the Village for its environmental efforts in restricting residents to holding tanks, pumping them out regularly and inspecting the tanks for leaks. The Village submits that this mitigates the risk of tanks leaking or overflowing, or residents installing illegal gray water pits or dumps. The Board agrees that this is excellent practice, and feels that using a flat rate system to charge ratepayers will support this going forward.

The Board will require the Village to file a rate by-law, having had third reading, no later than June 30, 2015.

The Board has long been a proponent of the user-pay principle and believes it important that customers recognize the costs

associated with operating a utility. At this time, the rates may be recovered on the tax bill, providing the amount is treated separate and distinct from taxes and not offset by the Manitoba Education Property Tax Credit.

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 sewer system serving the Village of Dunnottar BE AND IS HEREBY declared a public utility by the Public Utilities Board.
2. The Public Utilities Board approves, on an interim *ex parte* basis, the recovery of expenses for the Village of Dunnottar sewer utility in the amount of \$490 per residential equivalency unit, with recovery to be treated separate and distinct from taxes and shall not be offset by the Manitoba Education Property Tax Credit.
3. The Village of Dunnottar review its sewer rates for adequacy and file a report with the Public Utilities Board, as well as an application for revised rates if required, by no later than June 30, 2016.
4. The Village of Dunnottar provide notice to customers of this decision as indicated herein, with a copy of the notice to be submitted to the Public Utilities Board.

Fees payable upon this Order - \$150.00

THE PUBLIC UTILITIES BOARD

"SUSAN PROVEN, P.H.Ec."
Acting Chair

"JENNIFER DUBOIS, CMA"
Acting Secretary

Certified a true copy of
Order No. 32/15 issued by The
Public Utilities Board

Acting Secretary