

**M A N I T O B A** ) **Order No. 14/16**  
 )  
**THE PUBLIC UTILITIES BOARD ACT** ) **January 28, 2016**

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

**MUNICIPALITY OF TWO BORDERS**  
**LYLETON WATER UTILITY**  
**INTERIM WATER RATES**

## Summary

By this Order, the Public Utilities Board (Board) approves, on an interim *ex parte* basis, water rates applied for by the Municipality of Two Borders (Municipality) for the Lyleton water utility (Utility).

The new rates are to be effective January 1, 2016. The approved rates are shown below.

	<b>Current By-law No. 8/2008</b>	<b>Proposed By-law No. 9-2015 Jan 1, 2016</b>	<b>Increase/ Decrease</b>
Quarterly Service Charge	\$5.00	\$5.20	4.00%
Water \$/1,000 gallons	Flat rate \$158*	\$14.72	n/a
Minimum Quarterly**	n/a	\$49.36	n/a
Reconnection Fee	\$50.00	\$50.00	0.00%
Hydrant Rental (Annual)	\$163.00	\$75.00	-53.99%
*Per residential equivalency unit (REU); one REU being the volume of water estimated to be used by the average single family			
**Based on 3,000 gallons			

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

## Application

The Municipality of Two Borders was formed January 1, 2015 by the amalgamation of the Rural Municipalities of Albert, Edward and Arthur. The Lyleton Utility was previously part of the Rural Municipality of Edward.

The Municipality of Two Borders applied on October 21, 2015 for revised water rates for the Lyleton Utility. The application was accompanied by a rate study prepared by the Municipality's consultant and By-law No.9-2015 having received 1<sup>st</sup> reading on October 20, 2015.

A request was then made on November 30, 2015 that the Board consider revised water rates be set on an interim *ex parte* basis for the Lyleton Utility so that further deficits could be avoided. The Municipality also stated that the Utility currently bills annually on taxes, using a system of residential equivalency units (REU), 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. REUs are used in communities with unmetered distribution and collection systems, where information regarding actual consumption is unavailable. The Municipality anticipated the completion of the meter installation project and would be billing quarterly going forward, using metered consumption.

On December 7, 2015 the Board contacted the Municipality to inquire about outstanding information for the 2012 and 2013 deficit applications for the Lyleton Utility. The Board requested a council resolution, information regarding the proposed method of addressing the deficit, and Board Schedule 9 forms for the deficit years.

A response was received December 21, 2015 and included the requested Board Schedule 9 forms for 2012 and 2013. The Municipality advised the Board that there was no council resolution regarding the deficits; the deficits were recovered through budgeting in the following year. The submission also stated that the transfers from the Operating Fund shown on the audited financial statements were to recognize and recover the previous year's deficit.

When reviewing an application, the Board has at its disposal several approaches. It can hold a public oral hearing at which the applicant can present its case and customers can present their concerns. In other cases, where it is deemed to be in the best interest of the Utility and its customers, the Board may review the application using a paper review process. In some cases, the Board can also establish interim *ex parte* rates, which are rates that are subject to review following a more complete process.

## **Board Findings**

The Board will, on an interim *ex parte* basis, approve water rates as applied for by the Municipality effective January 1, 2016. As a rule, the Board is not a proponent of retroactive rate increases; however, it has determined that an exception is appropriate in this case. The Board makes this interim rate decision due to the urgent need to avoid further deficits and to allow the Utility to bill customers using the newly installed meters. Current rates were set in 2008.

The Board is concerned the former Rural Municipality of Edward recovered the outstanding deficits through a transfer from the General Fund. This was not approved by the Board, nor was the deficit application, which had outstanding information requests when the Municipality submitted the current rate application. While the Board is sympathetic to the challenges that amalgamation presented to those affected communities, there is still a responsibility to act appropriately and be compliant with Board requirements. The Board urges the Municipality 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.

In reviewing the rate application for final approval, the Board will revisit the deficits from 2012 and 2013. The Municipality should expect further questions regarding the transfer of funds. The Board will also expect the Municipality to submit the 2014 and 2015 audited financial statements as soon as they are available, along with any necessary deficit applications.

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.

**IT IS THEREFORE ORDERED THAT:**

1. The Municipality of Two Borders Lyleton Utility By-law No. 9-2015 BE AND IS HEREBY APPROVED on an interim *ex parte* basis, with the water rates to be effective January 1, 2016.
2. The Municipality of Two Borders file a copy of By-law No. 9-2015, once it has received third and final reading, with the Public Utilities Board.
3. The Municipality of Two Borders provide the Public Utilities Board with the 2014 and 2015 audited financial statements, as well as any necessary deficit applications, as soon as they are available.

Fees payable upon this Order - \$150.00

THE PUBLIC UTILITIES BOARD

"SUSAN PROVEN, P.H.Ec."

Acting Chair

"JENNIFER DUBOIS, CPA, CMA"

Acting Secretary

Certified a true copy of Order No. 14/16  
issued by The Public Utilities Board

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Acting Secretary

MUNICIPALITY OF TWO BORDERS  
 LYLETON  
 SCHEDULE "A"

SCHEDULE OF QUARTERLY RATES

**January 1, 2016**

1. Rates per 1,000 Gallons

1,000 Gallons per Quarter

Water

\$14.72

2. Minimum Charges per Quarter

Notwithstanding the rates set forth in paragraph 1, all customers will pay the applicable minimum charges set out below, which includes the water allowance as listed.

a. **Water Customers**

<u>Meter Size</u>	<u>Ratio</u>	<u>Water Capacity Included Gallons</u>	<u>Customer Service Charge</u>	<u>Water Commodity Charge</u>	<u>Total Quarterly Minimum</u>
5/8 inch	1	3,000	\$5.20	\$44.16	\$49.36
3/4 inch	2	6,000	\$5.20	\$88.32	\$93.52
1 inch	4	12,000	\$5.20	\$176.64	\$181.84

The Following Clauses are Effective January 1, 2016

1. Service to Customers outside Lyleton limits

The Council of the Municipality of Two Borders may sign agreements with customers for the provision of water and sewer services to properties located outside the legal boundaries of Lyleton. Such agreements shall provide for payment of the appropriate rates set out in the 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 the time, or 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 connection to the Utility's mains and installing and maintaining service connections will be paid by the customer.

2. Billings and Penalties

Accounts shall be billed quarterly based on water used. A late payment penalty charge of 1 ¼% compounded monthly shall be charged on the dollar amount owing after the billing due date. The due date will be at least twenty (20) days after the mailing of the bills.

3. Disconnections

The Public Utilities Board has approved the 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 are available for inspection at the Municipal office.

4. Reconnection

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties and a reconnection fee of \$50.00 have been paid.

Seasonal residents requiring a reconnection for the period of time they are using the water system will be levied a \$50.00 reconnection fee.

5. Outstanding Bills

Pursuant to Section 252(2) of the Municipal Act, the amount of all outstanding charges for water and sewer services, including fines and penalties, are a lien and charge 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. Where charges and penalties pursuant to this by-law are not paid within sixty (60) days from the date when they were incurred, said charges and penalties shall be added to the taxes on the property and collected in the same manner as other taxes.

6. Hydrant Rentals

An annual charge of seventy five hundred dollars (\$75.00) per hydrant shall be made by the said utility to Lyleton for fire protection services, which annual charge shall include water used.

7. Municipality to be Notified of Failure of Meter

In the case of breakage, stoppage or irregularity in a water meter, the customer shall notify the Designated Officer immediately upon such condition being discovered. All installation, repair and disconnection of any water meter shall be performed only by those authorized to do such work by the municipality.

8. Meter Testing

Any customer wishing to have a meter tested for accuracy will pay in advance a fee of \$100, plus any applicable meter testing costs. In the event the meter tests prove that the meter is recording water flows in excess of actual flows, the meter testing fee and associated costs will be refunded to the customer and the customer's account will be reviewed and adjusted accordingly.

9. Meter Tampering

Where there is evidence of meter tampering a minimum charge of \$500 will be applied to the customer's account in addition to an amount calculated to adjust for the tampering based on historical usage.

10. Cross Connections

No customer or person shall connect, cause to be connected or allow to remain connected any piping, fixture, fitting, container or appliance in a manner which under any circumstances may allow water, wastewater or any harmful liquid or substance to enter the Municipality's water system.

If a condition is found to exist which, in the opinion of the Municipality, is contrary to the aforesaid, the Municipality may either:

- Shut off the service or services; or
- Give notice to the customer to correct the fault at his or her own expense within a specified time period. If the customer fails to comply with such notice the Municipality shall proceed in accordance with clause 4 of this by-law.

11. Authorization for Officer to Enter Upon Premises

The Public Works Foreman, or other employee authorized by the Municipality in the absence of the Public Works Foreman, shall be authorized to enter upon any premise for the purpose of:

affixing to any pipe, wire or apparatus connected with any such utility, a meter or any other measuring or testing device; or

taking readings from, repairing, inspecting or removing any meter or apparatus belonging to the Municipality.

12. New Connections

Any person wishing to connect to the water distribution system must make arrangements with the municipal office. A connection fee of \$500.00 will be levied for any new connection with the connection fee including the cost of the meter, curb stop, and flow control valve.