

**Order No. 63/19**

**MUNICIPALITY OF LORNE  
NOTRE DAME DE LOURDES WATER AND WASTEWATER UTILITY  
INTERIM *EX PARTE* WATER AND WASTEWATER RATES  
BUDGETED OPERATING DEFICITS FOR 2018 AND 2019  
ACTUAL OPERATING DEFICITS FOR 2009 THROUGH 2017**

---

**May 16, 2019 - revised**

**BEFORE:** Carol Hainsworth, C.B.A., Panel Chair  
Shawn McCutcheon, Panel Member

## 1.0 Executive Summary

By this Order, the Public Utilities Board (Board) approves, on an interim *ex parte* basis, revised water and wastewater rates as applied for by the Municipality of Lorne (Municipality), for the Notre Dame de Lourdes Water and Wastewater Utility (Utility). The Board also approved actual and budgeted operating deficits of \$11,335 for 2019 (budgeted), \$5,175 for 2018 (budgeted), \$23,334 for 2017, \$30,658 for 2016, \$6,670 for 2015, \$54,103 for 2014, \$126,847 for 2013, \$43,511 for 2012, \$45,346 for 2011, \$49,209 for 2010, and \$62,629 for 2009, or a total eleven-year actual and budgeted operating deficit of \$458,817, to be recovered through a combination of existing surplus account funding of \$109,922 and a rate rider of \$5.05 per 1,000 gallons beginning July 1, 2019 for a period of five years or until revenue from the rate rider has reached \$348,895, whichever comes first.

The revised rates are to be effective July 1, 2019. The approved rates and rate rider are shown in the table as follows:

	<b>Current Rates</b>	<b>July 1, 2019</b>
Quarterly Service Charge	\$ 6.75	\$ 7.96
Water (per 1,000 gallons)	\$ 8.35	\$ 11.67
Wastewater (per 1,000 gallons)	\$ 1.71	\$ 1.43
Minimum Quarterly Charge*	\$ 36.93	\$ 47.26
Wastewater Only Customers**	\$ 22.14	\$ 20.83
Rate Rider (per 1,000 gallons of water)	-	\$ 5.05

\*Based on 3,000 gallons

\*\*Based on 9,000 gallons

Details of other rates may be found in the attached Schedule A to this Order.

## 2.0 Application

On November 21, 2018, the Municipality applied for revised water and wastewater rates for the Utility. The application was accompanied by a rate study prepared by the Municipality's consultant, By-Law 0032/18 having had first reading November 13, 2018, and Council Resolution No. 2018 201 requesting rates be set on an interim *ex parte* basis.

The Municipality's Utility rates were last approved in Board Order No 47-11 with the last rate increase occurring March 31, 2011.

The Municipality is requesting interim rates because the Utility continues to incur shortfalls/deficits and it has been eight years since the Utility has had revised rates.

The Board also received an application for approval of seven actual and budgeted operating deficits of \$11,334 for 2019 (budgeted), \$5,176 for 2018 (budgeted), \$8,795 for 2017, \$30,658 for 2016, \$6,670 for 2015, \$54,103 for 2014, and \$126,847 for 2013, or a total seven-year operating deficit of \$243,583. Council Resolution No. 2018 182 requested the deficits be recovered through a rate rider of \$3.52 per 1,000 gallons consumed.

After analysis, a discrepancy was noted in the Utility's capital grant reporting and the Municipality submitted revised actual and budgeted operating deficits of \$11,335 for 2019 (budgeted), \$5,175 for 2018 (budgeted), \$23,334 for 2017, \$30,658 for 2016, \$6,670 for 2015, \$54,103 for 2014, \$126,847 for 2013, \$43,511 for 2012, \$45,346 for 2011, \$49,209 for 2010, and \$62,629 for 2009, or a total eleven-year operating deficit of \$458,817. Council Resolution No. 2019 210 is requesting this operating deficit be recovered through a combination of existing surplus account funding of \$109,922 and a rate rider of \$5.05 per 1,000 gallons beginning July 1, 2019 for a period of five years or until revenue from the rate rider has reached \$348,895 , whichever comes first.

The Deficit Application states the deficits are a result of increased costs and a lack of revenue.

As per a supplementary calculation provided by the Municipality's consultant, the working capital at December 31, 2017 was:

	2017
Utility Fund Surplus/Deficit	\$209,888
Deduct Tangible Capital Assets	(595,984)
Add Long-Term Debt	68,418
Add Utility Reserves	8,119
<b>Equals Working Capital Surplus (Deficit)</b>	<b>\$(309,559)</b>
Operating Expenses	197,002
<b>20% of Operating Expenses (Target)</b>	<b>\$39,400</b>

When reviewing an application, the Board has at its disposal several approaches. It can hold a public 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 interests of the Utility and its customers, the Board may review the application using a paper review process.

Where there is an urgent need for a rate increase and the Board determines it to be in the best interest of all parties, the Board may also establish interim *ex parte* rates. Interim rates are typically approved as applied for, and are then subject to a Public Notice of Application as well as the Board's review using one of the processes outlined above, before being approved as final by Board Order.

Since this process allows a municipality to temporarily circumvent the Board's review process, it is reserved for instances where a municipality can show there is a compelling argument to allow it. This is usually done by demonstrating to the Board the utility is experiencing multi-year operating deficits and will continue to do so if revised rates are not approved in an expedited manner.

### 3.0 Board findings

The Board approves, on an interim *ex parte* basis, the water and wastewater rates as applied for by the Municipality effective July 1, 2019. The Board makes this interim rate decision to mitigate the ongoing operating deficits Utility is experiencing.

A Notice of the Application to inform the ratepayers of the interim water and wastewater rate increases will be issued as soon as possible.

The Board approves the deficits and the proposed recovery methodology as applied for by the Municipality, but notes it is disturbed the Utility incurred eleven consecutive operating deficits from 2009 up to and including 2019. The Municipality did not apply for any deficits until 2018. By law, Manitoba utilities are not allowed to incur deficits. In the event a deficit occurs, a utility is required by law to file a deficit application and approval of a recovery plan with the Board as soon as it is known.

The reporting of deficits and filing of Deficit Applications is by law a responsibility of the Municipality. Pursuant to *The Public Utilities Board Act*, the Board has available enforcement methods and can apply penalties. The Board will consider utilizing the means at its disposal if the Municipality fails to adhere to this requirement in the future. The Board urges the Municipality to review their internal processes to ensure the reporting of deficits are done in a timely matter.

The Board has approved the Municipality's requested methodology for the recovery of the eleven-year deficit, however, notes the dilution of the Utility's working capital position will leave the Utility in a state of risk should unforeseen requirements and/or further deficits occur beyond 2019.

It has been eight years since the Municipality's rates were last approved. This is an unacceptable time-period between rate reviews. Regular rate reviews submitted in a timelier three-year period, as per the Board's Guidelines, protect the financial position of the Utility, exhibit consideration for the finances of ratepayers, and mitigates the need for substantial rate increases. As a result of the above-noted deficits and utility rates that have not been revised since 2011, an additional customer cost using a rate rider is required to recover the eleven years of utility deficits.

It is the Utility's responsibility to review its rates and ensure rates are adequate to recover the cost of the service provided to its customers. Customers are generally more tolerant of regular, smaller increases than one significant increase after years of stagnant rates. The Municipality needs to be much more diligent in conducting regular reviews of its revenue requirements and filing Rate/Deficit Applications with the Board accordingly.

The Board strongly encourages the Municipality to work closely with its auditor(s) to ensure the Public Utilities Board Note to the Consolidated Financial Statements is complete and correct. If this note is omitted, incomplete, and/or incorrect, it inhibits the Board's ability to assess the Utility's financial position and the Municipality's ability to set appropriate rates to sustain the Utility and its operations.

#### **4.0 IT IS THEREFORE ORDERED THAT:**

1. The Municipality of Lorne's application for revised water and wastewater rates for the Notre Dame de Lourdes Water and Wastewater Utility BE AND ARE HEREBY APPROVED on an interim *ex parte* basis in accordance with the attached Schedule "A", effective July 1, 2019.

2. The actual and budgeted operating deficits, when calculated for regulatory purposes, of \$11,335 for 2019 (budgeted), \$5,175 for 2018 (budgeted), \$23,334 for 2017, \$30,658 for 2016, \$6,670 for 2015, \$54,103 for 2014, \$126,847 for 2013, \$43,511 for 2012, \$45,346 for 2011, \$49,209 for 2010, and \$62,629 for 2009 or a total eleven-year actual and budgeted operating deficit of \$458,817 incurred in the Municipality of Lorne, Notre Dame de Lourdes Water and Wastewater Utility, is HEREBY APPROVED to be recovered through a combination of the existing surplus account funding of \$109,922 and a rate rider of \$5.05 per 1,000 gallons beginning July 1, 2019 for a period of five years or until revenue from the rate rider has reached \$348,895, whoever comes first.
3. The Municipality of Lorne amend its water and wastewater By-Law to reflect the decisions in this Board Order and file a copy with the Public Utilities Board, as soon as it has received third and final reading.
4. The Municipality Lorne, Notre Dame de Lourdes Water and Wastewater Utility provide notice of the interim rates to its customers as soon as possible.

Fees payable upon this Order - \$150.00

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.pubmanitoba.ca](http://www.pubmanitoba.ca).

THE PUBLIC UTILITIES BOARD

"Carol Hainsworth"

Panel Chair

"Frederick Mykytyshyn"

Assistant Associate Secretary

Certified a true copy of Order No. 63/19  
issued by The Public Utilities Board

  
Assistant Associate Secretary



## SCHEDULE A

### MUNICIPALITY OF LORNE NOTRE DAME DE LOURDES UTILITY WATER & WASTEWATER UTILITY RATES BY-LAW #0032/18 SCHEDULE OF QUARTERLY RATES

1. Schedule of Commodity Rates & Quarterly Service Charge

**July 1, 2019**

Rates per 1,000 Gallons

1,000 Gallons per quarter

	Water	Wastewater	Water & Wastewater
	\$11.67	\$1.43	\$13.10

Quarterly Service Charge \$7.96

2. Minimum Charges per Quarter

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

**a) Water & Wastewater Customers**

Meter Size	Water Included (Gallons)	Customer Service Charge	Water Commodity Charge	Wastewater Commodity Charge	Deficit Rate Rider \$5.05/1,000	Water & Wastewater Total Quarterly Minimum
5/8 inch	3,000	\$7.96	\$35.01	\$4.29	\$15.15	\$62.41
¾ inch	6,000	\$7.96	\$70.02	\$8.58	\$30.30	\$116.86
1 inch	12,000	\$7.96	\$140.04	\$17.16	\$60.60	\$225.76
1 ½ inch	30,000	\$7.96	\$350.10	\$42.90	\$151.50	\$552.46
2 inch	75,000	\$7.96	\$875.25	\$107.25	\$378.75	\$1,369.21

**b) Water Only Customers**

The minimum charge will be the same for each meter size as shown above but the Wastewater Commodity Charge will be excluded.

**c) Wastewater Only for Residential Customers**

The wastewater only charge is based on average quarterly consumption of 9,000 gallons plus the quarterly customer service charge.

The quarterly charge for wastewater only customers is  $(9 * \$1.43) + \$7.96 = \$20.83$ .

**The following clauses take effect July 1, 2019:**3. Deficit Rate Rider

Deficit Rate Rider of \$5.05 per 1,000 gallons of consumption, commencing June 1, 2019 for the 2009 through 2019 deficits is calculated based on a 5-year recovery period as follows:

2009 Actual Audited Deficit	\$62,629
2010 Actual Audited Deficit	\$49,209
2011 Actual Audited Deficit	\$45,346
2012 Actual Audited Deficit	\$43,511
2013 Actual Audited Deficit	\$126,847
2014 Actual Audited Deficit	\$54,103
2015 Actual Audited Deficit	\$6,670
2016 Actual Audited Deficit	\$30,658
2017 Actual Audited Deficit	\$23,334
2018 Budgeted Deficit	\$5,175
2019 Budgeted Deficit	\$11,335

4. Billings And Penalties

Accounts shall be billed quarterly based on water used. A late payment charge of 1.25% compounded monthly shall be charged on the dollar amount owing after the billing due date. The due date will be at least 20 days after the mailing of the bills.

5. Hydrant Charges

The Municipality of Lorne, or any other hydrant owner, will pay to the Utility an annual fee of \$5,000 for the purpose of maintaining and repairing all fire hydrants connected to the system which shall include the cost of water used for firefighting.

6. Liability for Charges

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

7. Meter Testing

That in any case where a utility customer requests that a meter be tested for accuracy, the customer will provide the Municipality with a deposit of \$100. The Municipality will then remove the subject meter and send it to an independent lab for testing. If the meter is found to be faulty, all costs associated with the testing process will be borne by the Municipality and the deposit will be refunded to the customer and the customer's account will be adjusted for the preceding four months. If the meter is found to be in proper working order, all costs associated with the testing process will be borne by the customer and the customer will be billed or refunded any balance owing.

8. Change in Meter Size

A customer may upon application to the Municipal Council, be granted a change in water meter size so as to more accurately reflect the required consumption of water throughout the year. However, if for some reason that same customer applies for a reversal involving a water meter change back to the original size, that customer then must pay for all costs pertaining to the reversal plus a fee of \$25.00.

9. Meter Reading

All customers shall submit a quarterly meter reading within the last 10 calendar days of March, June, September, and December. Customers may submit the meter reading by phone, e-mail or in person during normal business hours at the municipal office. Failure by any customer to complete and submit the quarterly meter reading by the due date will result in an estimate of the water consumption for that customer for the specified quarter. The estimate shall be based on the average consumption per quarter in the previous year, or in the case of a new customer the estimate shall be based on the average quarterly residential consumption.

All Estimated reading shall be subject to a \$25.00 administration fee. Should a customer wish to dispute an estimated reading, a request to waive the fee must be submitted to the Chief Administrative Officer. Customers may appeal the CAO's decision in writing to Council.

10. Disconnection and Reconnection

The Public Utilities Board has approved the Conditions Precedent to be followed by the Municipality with respect to 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 Municipality's office.

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties, and a reconnection fee of \$25.00 have been paid.

#### 11. Service to Customers Outside Utility's Limits

The Council of Municipality of Lorne may sign Agreements with customers for the provision of water and wastewater services to properties located outside the boundaries of the Municipality. Such Agreements shall provide for payment of the appropriate rates 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 the 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 the Municipality's boundaries. In addition, all costs of connecting to the Utility's mains, and installing and maintaining service connections, will be paid by the customer.

#### 12. Water Allowance Due to Line Freezing

That in any case where, at the request of Council, a customer allows water to run continuously for any period of time to prevent the water lines in the water system from freezing, the charge to that customer for the current quarter shall be the average of the billings for the last two previous quarters to the same customer, or to the same premises if the occupant has changed.

#### 13. Wastewater Surcharges

- a) There may be levied annually, in addition to the rates set forth above, a special surcharge on wastewater having a Biochemical Oxygen Demand in excess of 300 parts per million, to be set by Resolution of Council.
- b) A special surcharge for substances requiring special treatment shall be charged based on the actual costs of treatment required for the particular wastewater or industrial waste.

#### 14. 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.

#### 15. Conditions of Disrepair

In the event that there are conditions of disrepair in the wastewater and water works on a property that detrimentally affects the system as a whole and, upon the failure of the owner of the property to correct the condition within a reasonable time, the Municipality, or its agents, may enter the property, effect repairs and charge the cost thereof against the subject property as ordinary taxes.

#### 16. Authorization for Officer to Enter Upon Premises

The Public Works Manager, or other employee authorized by the Municipality in the absence of the Public Works Manager, 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.