

Order No. 56/20

**AN ORDER RESPECTING WATER AND/OR WASTEWATER UTILITIES
COVID-19 PANDEMIC RESPONSE**

April 16, 2020

BEFORE: Shawn McCutcheon, Panel Chair
Robert Gabor, Q.C., Board Chair
Marilyn Kapitany, BSc. (Hon), M.Sc., Member

Table of Contents

1.0	Executive Summary	3
2.0	Background	4
3.0	Board Findings	4
	Extending utility bill due dates	5
	Late fees	5
	Utility rates approved by the Board.....	6
	Charging customers only the minimum payment.....	6
	Utility rates applied for, not yet approved by the Board	7
	Utilities applying for revised rates	7
	Utilities experiencing operating deficits.....	7
4.0	IT IS THEREFORE ORDERED THAT:	8

1.0 Executive Summary

By this Order, the Public Utilities Board (Board) grants approval to waive late fees and extend due dates and payment terms for municipally owned water and/or wastewater utilities.

This Board Order is to remain in effect while the Province of Manitoba is under the state of emergency declared March 20, 2020.

The Board directs any municipality making changes to its policies under the authority of this Board Order to submit those changes to the Board in writing. Those changes must be made only with Council approval.

This Board Order also provides direction to utilities with regard to offering financial support to ratepayers and ongoing applications to the Board.

Further details are under Board Findings.

2.0 Background

The Manitoba government declared a province-wide state of emergency under *The Emergency Measures Act* on March 20, 2020, to protect the health and safety of all Manitobans and reduce the spread of COVID-19.

Both the Provincial and Federal governments have introduced a number of programs to provide immediate relief to Manitobans facing financial challenges due to the pandemic. On April 3, 2020 the Manitoba government announced new measures in the Manitoba Protection Plan to support these efforts, including working with municipal partners.

The Board was contacted by a number of municipalities investigating the options available to municipally owned utilities in providing financial relief to ratepayers.

3.0 Board Findings

The Board's intent with this General Board Order is to provide municipalities the flexibility required to be responsive to the needs of ratepayers during this unprecedented time, without delegating Board authority in regulating the utilities.

The Board will require municipalities to provide any modifications to regular policy in writing to the Board. This can be done by way of email, and should include confirmation that Council has been consulted and agreed to this policy change.

The Board is not a source of funding and as of the date of this Order, is not aware of any financial support available to utilities to replace collecting revenues directly from utility ratepayers.

It is important to note that by law, Manitoba utilities are not allowed to incur deficits. In the event that a deficit does occur, the utility is required by *The Municipal Act* to obtain Board approval for both the deficit and recovery methodology. Should any action taken by a

utility pursuant to this Order result in a deficit, the utility must notify the Board as soon as it becomes aware of the deficit.

The Board has identified the following items of concern to utilities in attempting to accommodate ratepayers through the exceptional circumstances brought on by the COVID-19 pandemic. This list is not exhaustive, and any utility with further questions should contact the Board by phone or email. The Board office is currently closed to the public; however, staff remain available by telephone and email during regular business hours.

Extending utility bill due dates

The Board recommends this approach for providing financial support to ratepayers. The municipality has complete flexibility over the collection process for its utility bills, and can offer ratepayers alternative payment schedules without Board intervention.

The Board also recognizes this accommodation does not prevent the municipality from adding outstanding amounts to property taxes in the future, should the agreed upon repayment terms be defaulted upon. For this reason, the Board recommends any agreements be made in writing, to avoid disputes in future about expectations and obligations.

Late fees

On August 5, 2004 the Board issued Board Order No. 105/04 which directed municipalities to replace any late payment charge clause in the utility by-law with a clause stating, "A late payment charge of 1 ¼% shall be charged on the dollar amount owing after the billing due date. The due date will be at least fourteen days after the mailing of the bills." As a result, most municipally owned utilities have this clause in the utility rates by-law.

Because the clause states the late payment charge "shall" be charged, the municipality is obligated to apply the late payment charge.

The Board grants approval to all municipally owned utilities to waive utility bill late fees.

The Board directs any municipality making changes to its policies or by-law under the authority of this Board Order to submit those changes to the Board in writing, via letter or email. Those changes must be made only with Council approval.

Utility rates approved by the Board

The Board does not recommend revising utility rates, due to the likelihood of the utility incurring an operating deficit as a result.

Utility rates, including deficit recovery rate riders or interim rates, having already received Board approval, whether the effective date has passed or not, must be charged as approved. Upcoming rate changes approved by the Board must be implemented in accordance with the Board Order.

If a municipality wishes to revise any utility rates being charged, it must first obtain Board approval. This can be done by requesting the Board Review and Vary the previous Board Order, in accordance with Section 36 of the Board's Rules of Practice and Procedure. The application should demonstrate the financial implications of the requested rate revision, and the municipality's plan to address any resulting deficit.

The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca. This process requires the application to be filed and served on the parties within 30 days of the decision. The Board will use its discretion to allow water and wastewater utilities to submit applications outside of this period, relating to COVID-19 accommodations.

Charging customers only the minimum payment

The Board does not recommend charging only the minimum payment, or deferring billing in any way. This reduces the revenues of the utility and will result in an operating deficit.

Rather than deferring billing, the utility should consider deferring payments and making alternative payment schedules with ratepayers who require it.

Utility rates applied for, not yet approved by the Board

These applications remain in queue and are being processed in turn. If the municipality would like to make any type of amendment or request a delayed implementation date, please contact the Board as soon as possible.

Utilities applying for revised rates

The Board continues to operate, and is for the most part working remotely but available by phone and email. Utilities are encouraged to continue to submit applications for revised rates, and may request a desired effective date.

Should an extension be required for rate studies or directive due dates, the municipality is directed to contact the Board in writing. The municipality is to provide rationale and proposed new due date for Board consideration.

Utilities experiencing operating deficits

As stated above, Board operations continue and utilities must apply for approval of operating deficits and method of recovery. The Board is sensitive to the financial pressures many communities are experiencing during the COVID-19 pandemic; however, the utility must be self-sustaining and the legislation requires the deficits have Board approval. The Board must consider the impact on ratepayers and the financial health of the utility to ensure it can be sustained to service the ratepayers.

If a utility is seeking a rate rider, but wishes to defer the implementation, this request should be included with the application, with supporting explanation.

4.0 IT IS THEREFORE ORDERED THAT:

1. This Board Order is to remain in effect while the Province of Manitoba is under the state of emergency declared March 20, 2020.
2. Any municipality making temporary changes to its utility processes or by-laws under the authority of this Board Order, must notify the Board in writing of those changes immediately upon adoption.
3. The waiving of late fees by municipally owned water and/or wastewater utilities BE AND IS HEREBY APPROVED, during the state of emergency.
4. The extension of due dates and approval of temporary extended payment terms by municipally owned water and/or wastewater utilities BE AND ARE HEREBY APPROVED.

Fees payable upon this Order – waived

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. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Shawn McCutcheon"

Panel Chair

"Jennifer Dubois, CPA, CMA"

Assistant Associate Secretary

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issued by The Public Utilities Board



Assistant Associate Secretary