

Order No. 10/21

**LOCAL GOVERNMENT DISTRICT OF PINAWA
AWANIPARK WATER UTILITY
INITIAL INTERIM *ex parte* WATER RATES**

January 18, 2021

Revised January 25, 2021

BEFORE: Irene Hamilton, Q.C., Panel Chair
Marilyn Kapitany, B.Sc. (Hon), M.Sc., Panel Member
Shawn McCutcheon, Panel Member

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1.0 Executive Summary

By this Order the Public Utilities Board (Board) varies the initial interim *ex parte* water rates as applied for by the Local Government District of Pinawa (LGD) for the new Awanipark Water Utility (Utility).

Water purchase rate forecasts are varied (as per Board Order No. 193/19) as follows:

	August 1, 2019	July 1, 2020	July 1, 2021
Board Approved Water Purchase Rate (per cubic meter)	\$7.20	\$7.24	\$7.30

Water purchase cost forecasts are varied (as per Board Order No. 193/19) as follows:

	December 1, 2019	January 1, 2021	January 1, 2022
Revised Water Purchase Cost	\$18,050	\$18,175	\$18,250

The resulting new rates are to be effective retroactive to December 1, 2019 and are as follows:

	December 1, 2019	January 1, 2021	January 1, 2022
Quarterly Service Charge	\$4.80	\$4.80	\$4.80
Water (per cubic meter)	\$9.19	\$9.24	\$9.27
Total Quarterly Minimum Charge*	\$133.46	\$134.16	\$134.58

*Based on 14 cubic meters

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

The LGD advises the Utility began providing service to customers on December 19, 2019 and the Board approves the LGD's request for retroactive water rates to December 19, 2019 to coincide with the commencement of water service to Utility customers.

Rationale for the Board's decisions may be found under the Board Findings section below.

2.0 Application

On January 9, 2020, the LGD applied for initial interim water rates for the new Utility. The LGD subsequently advised board staff, water service began on December 19, 2019 and it was the LGD's intent to bill customers for water services retroactive to this date. Customers have been advised of this intent accordingly. The application was accompanied by a rate study prepared by the LGD's consultant and By-Law No. 853-19 having received first reading on May 14, 2019 and second reading on December 17, 2019.

The new Utility purchases water from the Brookfield Water Utility (Brookfield) in the Rural Municipality of Lac du Bonnet (RM). At the time the LGD's rate study was completed, initial services were to be provided to 37 occupied lot owners in the Awanipark development and they will be billed quarterly. Both the LGD and the RM advise there is potential to increase service to 57 lots.

When reviewing an application the Board can either; hold a public hearing at which the applicant can present its case and customers can present their concerns; or where it is deemed to be in the best interests of a utility and its customers, the Board can review the application using a paper review process without holding a public hearing. If a public hearing is not held when making its decision, the Board proceeds with a detailed paper review process which includes consideration of all comments and concerns received and may include additional information requests to the utility's application.

In some cases, where there is an urgent need for rates or rate increases and the Board determines it to be in the best interest of all parties, the Board can 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. When setting initial rates for a new utility the Board will often approve interim rates and at a later date confirm rates as final once there is sufficient historical information for the utility to provide accurate projections for rate setting purposes. The Board has determined interim rates are appropriate in the case of the LGD's application for the Utility to be able to charge customers.

Cost Allocation Methodology

The Board requires all municipal governments to review the costs shared between its general operations and the Utility, and to allocate appropriate and reasonable costs to the Utility, based on a policy known as a Cost Allocation Methodology. This allocation must be submitted to the Board for approval and cannot be changed without receiving approval from the Board. The Board's requirements regarding the cost allocation methodologies can be found in Board Order No. 93/09.

The LGD's consultant did not provide a Cost Allocation Methodology in the rate study. LGD staff advised the Board calculations for administrative costs were based on approved rates from the existing Pinawa Water and Wastewater Utility.

3.0 Board Findings

The Board has reviewed the application, the projections presented by the LGD's consultant in the rate study, and the responses to Board staff questions/correspondence.

The Board finds that this is a new utility, operating cost requirements may be unpredictable. While the Board accepts that interim rates are required by the Utility, it finds that the duration of the requested initial interim rates is too long. Initial interim rates should only be in place until sufficient historical information is available to establish final rates for a utility. The Board therefore varies the duration of rates by reducing them by one year, to ensure utility rates are based on accurate financial data.

The Board also finds there are issues with the LGD's application and methodologies and forecasts used to calculate the requested rates as follows:

Contingency Allowance Calculations

The Board approved Guidelines for preparing Public Utilities Board rate applications states the following as the Board approved methodology for calculating contingency allowances for the purposes of forecasting and ratemaking:

- "A yearly allowance equal to 10% of the variable operating costs is recommended as a guideline, unless other indicators suggest something different. Variations should be explained. A new water or [wastewater] system will not likely require maintenance or repairs during the period covered by the rate study. A utility with mostly fixed costs will not usually encounter large unexpected expenses."

The Board finds the calculation used in the rate study for the contingency allowance (1% of the historical capital cost of the Utility System) inconsistent with the Board Water and Wastewater Rate Application Guidelines. The Board recommends the LGD review the most recent Public Utilities Board of Manitoba Guidelines prior to filing its next application.

The Board therefore varies the LGD's contingency allowance from \$500 per year (or 1% of historical capital costs), to using the 10% of the Utility's variable costs, to \$1,977 for 2020, \$2,010 for 2021, and \$2,017 for 2022.

Water Purchase Rate and Cost Forecast

The Board finds the rate study includes incorrect rates for water purchase costs that correspond to rates charged by the Whitemouth Water Utility. As the supplied water is being purchased from the Brookfield Water Utility, water purchase costs are to be as per Board Order No. 193/19 (approved December 19, 2019). The Board therefore varies the water purchase costs to be \$7.20 per cubic meter effective August 1, 2019, \$7.24 per cubic meter effective July 1, 2020, and \$7.30 per cubic meter effective July 1, 2021 (please see table below).

The Board therefore revises the water purchase costs used to calculate the requested rates to \$18,050 for 2020, \$18,175 for 2021, and \$18,250 for 2022.

When combined with the revised contingency allowance, this results in an increase to the forecasted rate requirements for the Utility as follows:

	December 1, 2019	January 1, 2021	January 1, 2022
Requested Water Rate (per cubic meter)	\$6.65	\$6.75	\$6.80
Revised Water Rate Requirement (per cubic meter)	\$9.19	\$9.24	\$9.27

The Board notes the LGD of Pinawa and the Rural Municipality of Lac du Bonnet do not have a Water Supply and Sale Agreement in place. As water purchased from the Brookfield Water Utility is being processed and not flowing directly to the Awanipark Water Utility from the Whitemouth Water Utility, Awanipark customers are therefore subject to the same rates paid by all Brookfield Water Utility customers. The Board directs the LGD of Pinawa and the Rural Municipality of Lac du Bonnet to provide a copy of the Water Supply and Sale Agreement once it has been approved and signed by both parties.

The Board notes Water Supply and Sale Agreements should have been negotiated, finalized, signed, and submitted to the Board prior to the flow of water is provided. In the Board's view, a Water Supply and Sale Agreement is of the utmost importance to create defining characteristics as to how utilities/municipalities are to function and co-ordinate with one another. This includes (but is not limited to): jurisdiction, ownership of capital assets, maintenance and repair, sharing and/or division of costs/expenses, etc. Such matters must be conducted by the involved parties and in conjunction with Board approved methodologies, rates, requirements, and Orders.

Retroactive Rate Increase

The Board notes the LGD finalized its rate application for water rates after water was already being provided to ratepayers, which is not the normal process. The Board does not generally approve retroactive rate increases, as applicants should have allowed for enough time for a Notice and rates to be approved before service is provided, as per the Board's Guidelines. The Board, however, has determined it is necessary in this case to recover the Utility's costs for 2020. The LGD has informed the Board that customers were provided with a notice that rates would be effective from the originating date of service, December 19, 2019.

The Board is sensitive to customer concerns regarding rates, but must also consider the sustainability of the Utility. As four billing periods have now elapsed, the Board requires the LGD to submit a payment schedule and Ratepayer Notice, prior to billing the customers, for Board review so as not to cause undue hardship on customers. The Board also requires a Notice of Application, informing stakeholders of the rates and/or increases approved on an interim *ex parte* basis, be published in accordance with the Board's Rules of Practice and Procedure. The Board also requires that the Utility advise customers in advance of the amounts owing for which they will be billed.

Cost Allocation Methodology

The Board notes the consultant's rate study did not include a rationale or supporting calculations for the LGD's Cost Allocation Methodology. The Board reminds the LGD, future Cost Allocation Methodologies must include supporting calculations and rationale for forecasted costs to allow the Board to properly review and analyze the LGD's requested quarterly service charge and to provide transparency to utility customers regarding how requested rates have been calculated.

Next Rate Review

The Board directs the LGD to file an Application for final rates, and accompanying rate study and By-Law, based on the 2021 Audited Financial Statements by September 1, 2022. The Board also directs the LGD to monitor the new Utility's performance. If the LGD becomes aware the rates approved in this Order are inadequate to cover the operating costs of the Utility, a deficit has materialized, or the rate is higher than required to cover operating expenses, the Board directs the LGD to submit a revised Rate Application as soon as possible and/or a Deficit Application as soon as it is known.

The Board notes that should the 2021 Audited Financial Statements be delayed for any reason or should the LGD become aware that it is unable to meet the September 1, 2022 deadline noted above, the LGD contact Board staff as soon as possible to determine a revised date of submission.

4.0 IT IS THEREFORE ORDERED THAT:

1. Initial interim water rates for the Local Government District of Pinawa, Awanipark Water Utility BE AND ARE HEREBY VARIED on an *ex parte* basis in accordance with the attached Schedule A, effective December 1, 2019.
2. The Local Government District of Pinawa's request for retroactive rates, BE AND IS HEREBY APPROVED to December 19, 2019.
3. The Local Government District of Pinawa, Awanipark Water Utility provide notice of the interim rates to its customers.
4. The Local Government District of Pinawa amend its water By-Law for the Awanipark Water Utility to reflect the decisions in this Order and file a copy with the Public Utilities Board, as soon as it has received third and final reading.
5. The Cost Allocation Methodology for shared services as submitted by the Local Government District of Pinawa BE AND IS HEREBY APPROVED.
6. The Local Government District of Pinawa prepare a Schedule of Retroactive Billing and Draft Customer Notices and provide a copy to the Public Utilities Board prior to billing customers.
7. The Local Government District of Pinawa provide a copy of the Audited Financial Statements to the Public Utilities Board annually, including any necessary Deficit Applications, by September 30 of each year.
8. The Local Government District of Pinawa review its rates for adequacy and file a report with the Public Utilities Board, as well as an Application for revised rates including a Cost Allocation Methodology, rate study, and By-Law, by no later than September 1, 2022.

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.

Fees payable upon this Order – \$500.00

THE PUBLIC UTILITIES BOARD

"Irene Hamilton, Q.C."

Panel Chair

"Frederick Mykytyshyn"

Assistant Associate Secretary

Certified a true copy of Order No. 10/21 issued
by The Public Utilities Board



Assistant Associate Secretary

Schedule A

**THE LOCAL GOVERNMENT DISTRICT OF PINAWA
WATER RATES – AWANIPARK WATER UTILITY
BY-LAW NO 853-19**

SCHEDULE OF QUARTERLY RATES:

1.	<u>Commodity Rates per m³</u>		<u>Water</u>		
	All Water Consumption				
	Effective December 1, 2019 (retroactive)		\$9.19		
	Effective January 1, 2021		\$9.24		
	Effective January 1, 2022		\$9.27		
2.	<u>Minimum Charges Quarterly</u>				
	Notwithstanding the Commodity rates set forth in Paragraph 1 hereof, all customers will pay the applicable minimum charges as set out below which will include the water allowances indicated:				
a)	Customers				
		Water Included <u>m³</u>	Customer Service <u>Charge</u>	Water Rate <u>per m³</u>	Total Quarterly <u>Minimum</u>
	Effective December 1, 2019	14.00	\$4.80	\$9.19	\$133.46
	Effective January 1, 2021	14.00	\$4.80	\$9.24	\$134.16
	Effective January 1, 2022	14.00	\$4.80	\$9.27	\$134.58

The following clauses take effect December 1, 2019:

3. Billings and Penalties
A late payment charge of 1.25% shall be charged on the dollar amount owing after the billing due date. The due date will be at least 30 days after the mailing of the bills.
4. Disconnection
The Public Utilities Board has approved the Conditions Precedent to be followed by the Local Government District 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 is available for inspection at the Municipal Office.

Customers who wish to disconnect due to a planned absence are subject to payment of disconnection and reconnection fees. Customers shall be billed the quarterly service charge.

5. Reconnection

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties and a reconnection fee of \$25 have been paid.

6. Outstanding Bills

Pursuant to Section 252(2) of *The Municipal Act*, the amount of all outstanding charges for water and wastewater service 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.

For rental situations, tenants will be required to sign a service agreement to establish the tenant's responsibility to pay for services provided. When a tenant is in arrears, the landlord will be notified in writing and will be advised of the right to add an uncollectible charge as a lien 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.

7. 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.