

**Order No. 106/21**

**MUNICIPALITY OF ROSSBURN  
SUNSET POINT WATER UTILITY  
FINAL WATER RATES  
2013-2019 OPERATING DEFICITS**

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**October 1, 2021**

**BEFORE: Shawn McCutcheon, Panel Chair  
Mike Watson, Panel Member**

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## 1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board) confirms as final the interim water rates for the Sunset Point Utility (Utility), located in the Municipality of Rosburn (Municipality), approved on an interim *ex parte* basis in Board Order No. 131/20.

The Board grants approval for the recovery of a cumulative operating deficit of \$150,297 for the years 2013-2019. The Board grants approval of the recovery of \$92,172 by means of an annual utility rate rider of \$236.33 for a period of fifteen years on the 26 properties that are currently connected to the Utility.

The Board grants approval of the recovery of \$58,125 by means of a transfer of \$13,125 from the General fund, which is the amount of money contributed as part of the development agreement for the Sunset Point Subdivision, and \$45,000 consisting of future revenue from the speculative sale of a lot developed at Sunset Point and owned by the Municipality. The Municipality advises it has not sold this lot, but intends to do so in the future. The Municipality agrees to contribute \$45,000 of the proceeds to the deficit recovery and has stated it believes \$45,000 to be a conservative estimate of the proceeds of the sale.

The revised rates are below:

	Jan 1, 2020
Annual Service Charge	\$ 58.00
Water Charge (per REU)	\$ 923.20
<b>Annual minimum charge</b>	<b>\$ 981.20</b>
Annual Rate Rider*	\$ 236.33
<b>Minimum Annual Charge with Rate Rider</b>	<b>\$ 1,217.53</b>

\*deficit rate rider approved for 15 years, recovering 2013 to 2019

Details of other rates are in Schedule A.

The reasons for the Board's decisions are in Board Findings.

## 2.0 Board Methodology

### Review Process

When reviewing an application, the Board has at its disposal two approaches, a paper review process or a public hearing. After the publication of the Notice of Application, the Board considers the application and responses, if any, and determines which method of review is most appropriate. Whenever reasonable, the Board can review the application using a paper review process, which saves the cost of a public hearing.

Where there is an urgent need for initial or revised rates and the Board determines it to be in the best interest of all parties, the Board may establish interim *ex parte* rates.

### Interim *ex parte* Approval

Interim *ex parte* rates are typically approved as applied for and are then subject to a standard Board review process, including a Public Notice of Application, before being confirmed as final by Board Order.

Since this process allows a Municipality to charge ratepayers revised rates in advance of the Board's comprehensive review, it is reserved for instances where a Municipality can show a compelling argument to allow it.

### Contingency Allowance and Utility Reserves

The Board's Water and Wastewater Rate Application Guidelines recommend an annual contingency allowance equal to 10% of the variable operating costs.

## **Working Capital**

Board Order No. 93/09 established utilities should maintain a minimum working capital surplus, in an amount equal to 20% of annual expenses. The working capital surplus is the Utility fund balance, excluding any capital-related items plus Utility reserves.

## **Operating Deficits**

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. The Board is therefore duty bound to approve reasonable rates based on reasonable expense projections.

## **Cost Allocation Methodology**

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

## **Unaccounted for Water**

Water losses may be caused by such events as distribution line losses, service leaks, water used for fire fighting or line flushing, and under-registration of water meters. The Board Guidelines require utilities to compare the volume of water produced or purchased against the volume of water sold, to determine the percentage of unaccounted for water. Unaccounted for water volumes of approximately 10% are considered industry standard.

The Board expects any utility experiencing a greater volume of unaccounted for water to provide an explanation and plan to address the water losses.

### 3.0 Background

The Rossburn Municipality was formed in January 2015 with the amalgamation of the Town of Rossburn and the Rural Municipality of Rossburn (RM). The Sunset Point Utility is located within the former RM. In 2007, the developer installed the water plant and in 2009, it was gifted to the RM. In September 2009, the RM took over operations of the Utility, and began charging for the services in the final quarter of 2011. The RM believed this was a “private utility” and did not request or receive Board approval for the utility rates.

Since 2011, the Utility charged an annual rate of \$284.40 to any property with a water connection located within the Sunset Point development. The rate was based on the rates approved by the Board for the Town of Rossburn Utility in Board Order No. 77/10, issued July 2010. The two utilities are not connected and do not share any physical infrastructure. The Town Utility is a metered water and wastewater utility, Sunset Point is an unmetered water only utility. The rates are inadequate and the Utility has incurred significant annual operating deficits since at least 2013, totalling over \$150,000.

On November 14, 2016, the Municipality applied to the Board for approval of initial rates and requested interim rate approval. There was no requested change to the flat rate of \$284.40 per connection. On March 2, 2017 the Board issued Board Order No 28/17, granting approval of the initial rates. The Board Order also directed the Utility to submit a copy of the water rate by-law once it had had third and final reading, to file an application for revised rates on or before June 30, 2017 and to file applications for approval of all operating deficits no later than April 30, 2017.

## Water Supply/Distribution

Sunset Point Water Utility is an unmetered utility providing treated water to 25 single family residences located at Rossman Lake. Sunset Point water plant was installed in 2007 by the property developer and gifted to the RM in 2009.

The Municipality is considering options to connect Sunset Point Utility to Rossburn Utility to reduce operating costs and potentially expand the Utility to make it more viable. Discussions are underway with the Manitoba Water Services Board to ascertain the capital and operating costs of this project.

### 4.0 Application

On June 3, 2020, the Municipality submitted an application for revised water rates for the Utility, and requested the Board approve the rates effective January 1, 2020 on an interim, *ex parte* basis. The application included a rate study prepared by the Municipality's consultant and By-law No. 2020-005, having had first reading March 2, 2020. The rates proposed in the current by-law and rate study did not match, and there was no indication of which by-law was being rescinded.

The application was reviewed for completeness, and the Board contacted the Municipality on June 23, 2020 with a list of deficiencies in the application, including discrepancies between the proposed rates in the by-law and rate study and the outstanding deficit applications for the years 2013 to 2019. The Municipality responded, advising the utility rates approved in Board Order No. 28/17 had never been authorized by by-law as required and resubmitted By-law 2020-005 on June 8, 2020. By-law 2020-005 had not been given second reading to approve the changes to Schedule A.

The Board had also noted in its June 23, 2020 letter that the Municipality had not submitted any applications for the deficits incurred from 2013 to date. The Municipality's



response stated this was due to the Municipality not having a plan for deficit recovery. The Municipality requested “that deficit approval be deferred at this time”.

Board Order No. 131/20 was issued on November 2, 2020, approving interim *ex parte* rates and directing the Municipality to file all outstanding deficits on or before November 30, 2020.

The Board issued a Public Notice of Application on November 19, 2020 affording customers the opportunity to comment to both the Board and the Municipality with respect to the proposed rate changes. The Board received a response to the Notice, from a resident advising they were acting as a representative of the residents of Sunset Point. The response included a copy of a presentation made to the Municipality.

On December 1, 2020, the Municipality requested an extension to September 2021 to file a deficit reduction plan. Board Order No. 22/21 was issued on February 3, 2021 denying the Municipality’s request to extend the deficit application deadline and directing them to file by February 28, 2021. The Board received a deficit application for the years 2013 to 2019 on March 1, 2021.

The Board issued a second Public Notice of Application on March 19, 2021, with the second Notice being to inform stakeholders of the Municipality’s deficit application and requested method of recovery, and to invite stakeholders in the community to comment to both the Board and the Municipality with respect to the proposal. The Board received further communication from the resident acting as a representative of the residents of Sunset Point.

The water rates were calculated using the following revenue requirement projections:

	2020
Administration	1,500
<b>Net revenue requirement - general</b>	<b>1,500</b>
Water testing	3,000
Utilities	5,300
Public Works allocation	6,021
Material and supplies	7,500
Contingency	2,182
<b>Net revenue requirement - water</b>	<b>24,003</b>

### Contingency Allowance and Utility Reserves

The Municipality has included in the 2020 projections a contingency allowance of 10% of net rate requirements, less amortization expenses. This equates to \$2,182.

There is no provision for transfer to Utility Reserve proposed.

### Working Capital

As per the 2020 audited financial statements, the Working Capital Surplus at December 31, 2020 was:

	2020
Accumulated Fund Surplus/Deficit	<b>\$260,900</b>
Deduct tangible capital assets	<b>\$411,224</b>
Add long term debt	<b>\$0</b>
Add utility reserves	<b>\$0</b>
<b>Equals Working Capital Surplus/Deficit</b>	<b>(\$150,324)</b>
Operating costs	<b>\$44,476</b>
<b>20% of operating costs (target)</b>	<b>\$8,895</b>

## Operating Deficits

The Municipality has applied for approval of the operating deficits from 2013 to 2019, as outlined above in the Application section.

## Cost Allocation Methodology

The Municipality has requested a Cost Allocation Methodology of .35% of Financial Plan General “At Large” Government Services less Assessment and Grants expenses.

## Unaccounted for Water

The system is unmetered, making it impossible to determine the volume of unaccounted for water.

## 5.0 Board Findings

The Board considered the Municipality’s filing and reviewed the responses to both Notices of Application, and has chosen a paper review process.

The Board has reviewed the application and revenue projections presented by the Municipality and finds the projections to be reasonable. The increases required can be considered to be rate shock, something that is common where rate requirements are not addressed for significant periods of time. In the case of the Sunset Point Utility, rates have never been calculated based on costs of operating the Utility, and the rates that were used were inadequate. The current Municipality was not responsible for establishing the Utility in this way; however, this oversight was discovered through amalgamation, which took place in 2015.

The Board will grant final approval of the water rates set on an interim *ex parte* basis in Board Order No. 131/20.

The Board will approve the revised cost allocation methodology.

The Board expects the Municipality to submit to the Board information regarding the agreed upon sale of the developed lot in Sunset Point, until such time as the sale is completed and \$45,000 is contributed to the Utility. The Municipality must submit a written plan on or before December 31, 2021 advising the Board when it expects to make the property available for sale, how it proposes to deal with the shortfall if the property sells for less than \$45,000 and updates are to be provided in writing every six months thereafter.

The Board will grant approval of the 2013 to 2019 operating deficits, and the recovery methodology proposed by the Municipality. The Municipality is to recover \$92,172 by means of an annual utility rate rider of \$236.33 for a period of fifteen years on the 26 properties that are currently connected to the Utility.

The Board grants approval of the recovery of \$58,125 by means of a transfer of \$13,125 from the General fund, which is the amount of money contributed as part of the development agreement for the Sunset Point Subdivision, and \$45,000 consisting of future revenue from the speculative sale of a lot developed at Sunset Point and owned by the Municipality. The Municipality advises it has not sold this lot, but intends to do so in the future. The Municipality agrees to contribute \$45,000 of the proceeds to the deficit recovery and has stated it believes \$45,000 to be a conservative estimate of the proceeds of the sale.

The Board has carefully considered the possible consequences of approving or denying the Municipality's request to use \$45,000 of the proposed sale of a developed lot owned by the Municipality to recover a portion of the 2013 to 2019 operating deficits. The Board has long been a proponent of the user-pay principle, and typically will not allow any transfers from general revenues to subsidize the Utility, except in rare circumstances.

The Board makes the decision to allow the Municipality to make the transfer for several reasons. The Utility has a very limited customer base, with only 26 connected customers, and the Board is concerned the rate increases, coupled with deficit rate riders approved to be recovered from the 26 connections may result in the remaining ratepayers abandoning the Utility. The Board expects this would result in the Municipality absorbing the deficits as well as any future costs of dissolving the Utility.

The Board also finds the Municipality was negligent in its management of the Utility and failed to meet its responsibility to the ratepayers of the Utility by implementing rates that would be adequate to meet the revenue requirements of the Utility or by applying for Board approval of deficits in a timely fashion. The Board finds this transfer is necessary to mitigate the impact of the long-term mismanagement of the Utility on ratepayers.

Please note all items found under the heading, "IT IS THEREFORE ORDERED THAT:" are directives, not recommendations, and must be complied with or appealed as outlined below. Pursuant to *The Public Utilities Board Act*, the Board can apply penalties for non-compliance.

The Board reminds the Municipality regular reviews are important for a financially sound utility and encourages the Municipality to review Board Order No. 86/17 for future rate applications. The Order outlines the Simplified Rate Application Process for municipally owned public utilities. If, after its rate review, the Municipality finds it meets the designated criteria for a simplified rate application, it should apply for future rates using the Simplified Rate Application Process.

## 6.0 IT IS THEREFORE ORDERED THAT:

1. The water rates for the Municipality of Rosscburn - Sunset Point Water Utility, BE AND ARE HEREBY CONFIRMED AS FINAL in accordance with the attached Schedule A.
2. The Cost Allocation Methodology for shared services as submitted by the Municipality of Rosscburn - Sunset Point Water Utility BE AND IS HEREBY APPROVED.
3. The operating deficits for 2013 to 2019 totalling \$150,297, when calculated for regulatory purposes, incurred in the Municipality of Rosscburn - Sunset Point Water Utility, BE AND ARE HEREBY APPROVED. Recovery of the deficits will be as follows: \$92,172 by means of an annual utility rate rider of \$236.33 for a period of fifteen years on the 26 properties that are currently connected to the Utility; \$13,125 by means of a transfer from the General fund; and \$45,000 by means of future revenue from the speculative sale of a lot developed at Sunset Point and owned by the Municipality.
4. The Municipality of Rosscburn will provide the Public Utilities Board information regarding the agreed upon sale of the developed lot in Sunset Point, on or before December 31, 2021, advising when it expects to make the property available for sale, with updates provided every six months thereafter.
5. The Municipality of Rosscburn, Sunset Point Water Utility file an application for approval of the 2020 operating deficit, by no later than October 31, 2021.
6. The Municipality of Rosscburn, Sunset Point Water Utility review its water 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 December 31, 2022.

Fees payable upon this Order - \$650.00

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. The Board's Rules may be viewed on the Board's website at [www.pubmanitoba.ca](http://www.pubmanitoba.ca).

THE PUBLIC UTILITIES BOARD

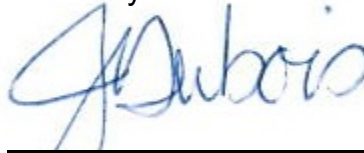
"Shawn McCutcheon"

Panel Chair

"Jennifer Dubois, CPA, CMA"

Assistant Associate Secretary

Certified a true copy of Order No. 106/21  
issued by The Public Utilities Board



Assistant Associate Secretary

**SCHEDULE A TO BY-LAW NO. 2020-005**  
Schedule of Water Rates for Properties Serviced by Sunset Point Utility

**January 1, 2020**  
**SCHEDULE OF ANNUAL RATES**

1. Customer Service Charge  
The annual customer service charge shall be \$58.00  
The annual water commodity charge shall be \$923.20
2. Commodity Rates  
The commodity rate for all treated water supplied shall be based on one residential equivalency unit. The annual water usage rate for one residential equivalent unit shall be \$981.20

**The following clauses take effect January 1, 2020:**

3. Annual Billing  
Accounts shall be billed annually. 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 twenty (20) days after the mailing of the bills.
4. Service To Customers Outside Sunset Point Limits  
The Council of Rossmore Municipality may sign Agreements with customers for the provision of water services to properties located outside the boundaries of the Sunset Point Water Utility. 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 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 Sunset Point water utility boundaries. In addition, all costs of connecting to the Utility's mains, and installing and maintaining service connections, will be paid by the customer.
5. Disconnection  
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 offices.
6. Outstanding Bills  
Pursuant to Section 252(2) of The Municipal Act, the amount of all outstanding charges for water services 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.