

Order No. 28/22

**TOWN OF TEULON
TEULON WASTEWATER UTILITY
INTERIM *EX PARTE* LAGOON TIPPING FEE
AND ACTUAL OPERATING DEFICITS**

March 10, 2022

**BEFORE: Marilyn Kapitany, B.Sc. (Hon), M.Sc., Panel Chair
Shawn McCutcheon, Member**

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1.0 Executive Summary

By this Order, the Public Utilities Board (Board) approves, on an interim *ex parte* basis, lagoon tipping fees of \$40.00 per load for single rear axle septic truck and \$60.00 per load for double rear axle septic truck as applied for by the Town of Teulon (Town), Teulon Wastewater Utility (Utility), effective the date of this Order.

The Board also approves a 2014 actual operating deficit of \$20,266, a 2015 actual operating deficit of \$55,223, and a 2016 actual operating deficit of \$22,452, or a total three-year deficit of \$97,941, to be recovered from the Utility's Accumulated Surplus.

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

2.0 Background

The Utility last had rates approved on December 17, 2003 in Board Order No. 182/03. The Utility last had a deficit approved on April 25, 2006 in the amount of \$15,086.78 for 2005 in Board Order No. 58/06 to be recovered from the Utility's Accumulated Surplus.

Based on a jurisdictional scan of tipping fees in adjacent municipalities by the Town and its consultant, the Town determined septic truck tipping fee rates be established as \$40.00 per truck load for single axle septic trucks and \$60.00 per truck load for double axle septic trucks. The requested tipping fees will replace expired agreements with the Rural Municipality of Rockwood of \$5,000 annually and the Rural Municipality of Armstrong of \$25.00 per household annually. The Town's consultant has advised both Rural Municipalities continued to pay the annual fees until 2021, despite the agreements being expired.

By law, Manitoba utilities are not allowed to incur deficits. In the event that a deficit does occur, a utility is required to obtain Board approval for recovery methodology that the utility proposes.

The Public Utilities Board (Board) issued Order No. 151/08 on November 7, 2008 requiring all water and/or wastewater utilities to report an actual year-end deficit to the Board if the utility:

1. had not received prior approval for the deficit from the Board and such deficit either exceeds \$10,000 or represents 5% of the utility's operating budget; or
2. had received prior approval for the deficit from the Board and the actual deficit:
 - a. exceeds the previously approved amount by either \$10,000 or 5% of the utility's operating budget; or
 - b. is caused as a result that differs from that upon which said approval was granted.

3.0 Application

On November 10, 2021, the Town applied to the Board for interim, *ex parte* lagoon tipping fees, to be effective January 1, 2022. The Town also submitted Council Resolution No. 2021-247 and By-Law No. 6-2021, having had first reading on September 14, 2021, to add a clause to By-Law No. 6/03 that includes lagoon tipping fees as noted above.

A Public Notice of Application was issued on December 3, 2021 allowing for any questions or comments with respect to the proposed tipping fees to the Board and/or the Town on or before January 2, 2022. The Board did not receive any responses to the Notice. In this case, the Town also provided notice of the requested increases (pending Board approval) to both the Rural Municipality of Rockwood and the Rural Municipality of Armstrong prior to applying to the Board and did not receive any responses.

Included in the Town's application was a statement of rate adequacy from the Town's consultant, supported by Council Resolution No. 2022-105.

The Town also applied for recovery of a 2014 actual operating deficit of \$20,266, a 2015 actual operating deficit of \$55,223, and a 2016 actual operating deficit of \$22,452, or a total three-year deficit of \$97,941 due to decreased billing revenues, to be recovered from the Utility's Accumulated Surplus.

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. The paper review process considers all written materials submitted by the Utility and the public, as well as any information requests and responses between the Board and the Utility. This process may reduce regulatory costs to the Utility.

Whenever reasonable, the Board will review the application using a paper review process, which saves the cost of a public hearing process. The Board has chosen a paper review for this application.

In some cases the Board can establish interim rates, which are rates that are subject to review following a more complete process, such as a rate application. When setting initial rates, the Board will often approve interim rates. These are then confirmed as final once there is sufficient information to provide accurate projections for rate setting purposes.

Working Capital Calculation

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

As per the 2020 Audited Financial Statements for the Utility, the most recent information available, the working capital deficit as at December 31, 2020 is as follows:

	2020
Utility Fund Surplus/Deficit	\$1,295,251
Deduct: Tangible Capital Assets	(1,025,093)
Add: Long-Term Debt	-
Add: Utility Reserves	299,516
Equals Working Capital Surplus (Deficit)	\$569,674
Operating Expenses	100,027
20% of Operating Expenses (Target)	\$20,005

The Utility's working capital meets the Board's minimum requirement of 20% of operating expenses.

4.0 Board Findings

Lagoon Tipping Fees

The Board has reviewed the Town's application and is concerned neither the Town nor the Board have any record of Board approval of Town's previous agreements with the Rural Municipality of Rockwood and the Rural Municipality of Armstrong for tipping fees. The Board advises the Town all fees/rates and revisions to fees/rates charged by a Utility require Board approval prior to being charged to customers.

The Board directs the Town to ensure it applies to the Board accordingly for approval of all future fees/rates and/or revisions to fees/rates prior to charging them to Utility customers.

Based on the jurisdictional scan provided by the Town's consultant, the Board finds the Town's requested lagoon tipping fees of \$40.00 per truck load for single axle septic trucks and \$60.00 per truck load for double axle septic trucks reasonable. The Board therefore approves on an interim, *ex parte* basis the lagoon tipping fees as applied for by the Town, effective the date of this Order.

Utility Rates

The Board notes the Town's letter of rate adequacy and that the Town's consultant has reviewed the Utility's finances and has advised the existing utility rates are adequate for 2022 and therefore a rate application is not required. The Board also notes the Utility has expiring amortization of capital grants of \$38,487 and advises the Utility to account for this in future rate applications and analysis of rate adequacy accordingly.

The Board notes the Town has not applied for revised rates for the Utility since 2003 and has not filed a statement of rate adequacy since 2009. The Board reminds the Town regular rate reviews are required to protect the financial position of the Utility and prevent deficits as were incurred by the Utility in 2014, 2015, and 2016. The Board directs the Town to review its wastewater rates for the Utility for adequacy and file a report with the Board, as well as an application for revised rates (if required) on or before December 31, 2022. The Board also directs the Town to include lagoon tipping fees in its rate review accordingly and in the Town's next full rate application and future rate applications to the Board.

Deficits

The Board has reviewed the Town's deficit applications and finds them to be reasonable. The Board therefore approves the Town's 2014 actual operating deficit of \$20,266, 2015 actual operating deficit of \$55,223, and 2016 actual operating deficit of \$22,452, or a total three-year deficit of \$97,941, to be recovered from the Utility's Accumulated Surplus.

The Board reminds the Town 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 as soon as a deficit is known.

5.0 IT IS THEREFORE ORDERED THAT:

1. The lagoon tipping fee of \$40.00 per load for single rear axel septic trucks and \$60.00 per load for double rear axel septic trucks for the Town of Teulon, Teulon Wastewater Utility, BE AND IS HEREBY APPROVED on an interim *ex parte* basis in accordance with the attached Schedule A, effective the date of this Order.
2. The Town of Teulon review its wastewater rates for the Teulon Wastewater Utility for adequacy and file a report with the Public Utilities Board, including an application for revised rates (if required), by no later than December 31, 2022.
3. The actual operating deficits of \$20,266 for 2014, \$55,223 for 2015, and \$22,452 for 2016, or the total three-year deficit of \$97,941, are HEREBY APPROVED to be recovered from the Utility's Accumulated Surplus.

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

THE PUBLIC UTILITIES BOARD

"Marilyn Kapitany"
Panel Chair

"Frederick Mykytyshyn"
Assistant Associate Secretary

Certified a true copy of Order No. 28/22 issued
by The Public Utilities Board


Assistant Associate Secretary

SCHEDULE A

TOWN OF TEULON TEULON WASTEWATER UTILITY LAGOON TIPPING FEE AMENDMENT TO BY-LAW NO. 6/03

Effective March 10, 2022

8. Wastewater Lagoon Septic Truck Tipping Fee Rates

- a. That all Septic Truck operators discharging wastewater into the Teulon wastewater lagoon shall register at the Teulon Municipal Office.
- b. That each Septic Truck hauler registered with the Town shall be charged a fee of \$40.00 per load for septic trucks with a single rear axle and \$60.00 per load for septic trucks with double rear axles.
- c. Each Septic Truck hauler must submit monthly reports to the Town indicating the number of septic truck loads discharged at the Teulon Wastewater Lagoon and whether the Septic Truck is single or double axle. Monthly reports along with the appropriate payment must be received by the Town no later than the 10th day of the following month.
- d. Failure to submit monthly reports and payment may result in the Town revoking all rights and privileges for the Septic Truck hauler to discharge at Teulon wastewater lagoon.