

**Order No. 131/23**

**MUNICIPALITY OF NORFOLK TREHERNE  
RATHWELL WATER AND WASTEWATER UTILITY  
REQUEST FOR INTERIM EX PARTE APPROVAL**

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**November 15, 2023**

**BEFORE: Shawn McCutcheon, Panel Chair  
Irene Hamilton, K.C., Panel Member**

**Table of Contents**

**1.0 Executive Summary ..... 3**

**2.0 Board Methodology..... 3**

    Review Process ..... 3

    Interim *ex parte* Approval..... 3

**3.0 Application..... 4**

    Operating Deficits ..... 4

**4.0 Board Findings ..... 5**

**5.0 IT IS THEREFORE ORDERED THAT: ..... 6**

## 1.0 Executive Summary

By this Order, the Public Utilities Board (Board) denies the Municipality of Norfolk Treherne (Municipality), Rathwell Water and Wastewater Utility's (Utility) request for approval of its water and wastewater rate application on an interim *ex parte* basis.

The Board will review the application and consider approval of interim rates after the publication of a Notice of Application.

The reasons for the Board's decisions are under 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.

### 3.0 Application

The Board received an application for revised water rates and initial wastewater rates for the Rathwell Utility on September 21, 2023. The application was accompanied by Council Resolution No. 23 0213 requesting that the rate be approved on an interim *ex parte* basis due to the 2022 operating deficit, forecast 2023 operating deficit, and to enable the Utility to commence charging based on metered water volume and to establish a wastewater rate.

Current rates were set in Board Order No. 124/11, effective January 1, 2011 and are based on residential equivalency units for water services only.

The application stated that the Utility had begun providing wastewater services in 2023 and installed water meters in 2014.

In response to the Board's Minimum Filing Requirements #21, which asks the applicant to provide details of any notification of revised rates provided to customers and a summary of any response, the Municipality advised it would advertise the proposed rate increase as required by the Board. No additional details of communication to the ratepayers was included in the rate application.

#### Operating Deficits

The Municipality has advised the Utility experienced an operating deficit in 2022 and forecast one for 2023. Board staff reviewed the audited financial statements and determined the Utility also experienced operating deficits in 2014, 2015 and 2016. The Municipality has not submitted applications to the Board for approval of any of these deficits.

## 4.0 Board Findings

The Board considered the Municipality's request for interim *ex parte* approval of its proposed water and wastewater rates, and finds the interests of the ratepayers outweigh any urgency indicated in the setting of the proposed rates.

The Municipality has not provided the Board with any evidence of consultation or notice to the ratepayers informing them of the requested increase in water rates, the implementation of initial wastewater rates or the change in methodology from an annual flat rate, residential equivalency unit based utility bill to a quarterly, commodity based utility bill. The changes requested by the Municipality are significant and the Board denies the request to approve them on an interim *ex parte* basis, a process that would approve the rate revisions prior to publication of a Notice of Application.

The Board will work with the Municipality to issue a Notice of Application, and once the period allowing for public response has lapsed, the Board will revisit the Municipality's application. The Board will reconsider approving interim rates at that time, based on the response to the Notice and any further evidence received from the Municipality.

## 5.0 IT IS THEREFORE ORDERED THAT:

1. The request for approval water and wastewater rates on an interim *ex parte* basis for the Municipality of Norfolk Treherne – Rathwell Water and Wastewater Utility, BE AND IS HEREBY DENIED.

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

THE PUBLIC UTILITIES BOARD

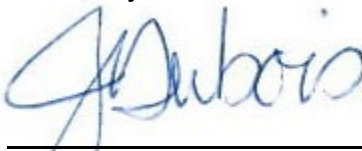
"Shawn McCutcheon"

Panel Chair

"Jennifer Dubois, CPA, CMA"

Assistant Associate Secretary

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Assistant Associate Secretary