

Order No. 49/23

**ORDER RESPECTING
THE MUNICIPALITY OF SWAN VALLEY WEST
BENITO WATER AND WASTEWATER UTILITY
REQUEST TO REVIEW AND VARY BOARD ORDER NO. 93/22
INTERIM *EX PARTE* WATER AND WASTEWATER RATES AND ACTUAL
OPERATING DEFICITS**

APRIL 20, 2023

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

1.0 Executive Summary

On July 5, 2022, the Municipality of Swan Valley West (Municipality) applied to the Public Utilities Board (Board) for interim, *ex parte* water and wastewater rates for the Benito Water and Wastewater Utility (Utility), to be effective no later than January 1, 2023. Where there is an urgent need for a rate increase and the Board determines it to be in the best interest of all parties, the Board may 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, before being approved as final by Board Order.

On August 11, 2022, the Board approved interim *ex parte* rates as requested by the Municipality and a six-year deficit of \$243,435 to be recovered by existing surplus account funding and a seven-year rate rider of \$5.25 per customer per 1,000 gallons as requested by the Municipality, effective October 1, 2022. The Municipality requested interim *ex parte* rates to mitigate further Utility deficits.

On November 9, 2022, the Board received a letter from the Municipality's Interim Acting Chief Administrative Officer (CAO) advising the Board of the Council for the Municipality's recommendation its rate application be withdrawn.

On November 15, 2023, Board staff responded to the Municipality's letter and requested additional information and clarification(s) regarding the Municipality's request to withdraw its application and an outline of the Board's process required to Review and Vary a Board Order.

On February 24, 2023, the Municipality responded to the Board's request for additional information with a letter requesting the interim, approved water and wastewater rates be varied and the deficit rate rider be discontinued. The Municipality requested water and wastewater rates be varied based on an increase of 20% and the customer service charge be increased by 4% from the rates approved in Board Order No. 83/14 (approved in 2014). The Municipality also requested the seven-year deficit rate rider be discontinued based on

new revenue and findings from pending, ongoing audits of the Municipality's Audited Financial Statements.

On March 3, 2023, Board staff sent a letter to the Municipality advising the Municipality's application was incomplete; requesting additional information/clarification regarding the Municipality's forecasts and revised rate calculations; clarification regarding a \$100,000 Local Urban District (LUD) Committee Grant the Municipality requested be transferred from the Municipality's General fund to offset Utility deficits; a revised Deficit Application; and a Council Resolution supporting the Municipality's request to review and vary Board Order No. 93/22. A Council Resolution is required as part of an application to the Board to provide evidence that a municipality's council supports and approves a municipality's request to the Board. A revised Deficit Application is required to outline a municipality's rationale for any revised deficit and/or revised deficit recovery recalculations, and for the Board to understand the new/revised calculations.

On March 13, 2023, the Municipality responded to the Board's letter. On March 15, 2023, Board staff sent another letter to the Municipality advising the Municipality its application to review and vary Board Order No. 93/22 was still incomplete and requesting the required Council Resolution supporting the Municipality's request and a revised Deficit Application.

By this Order, Board varies Order 93/22 and varies the Municipality's request to discontinue the previously approved deficit recovery rate rider. The Board is taking this action in the interest of ratepayers, based on revised information provided by the Municipality. The revised rates are interim and must be finalized based on a revised rate study and an Application for final rates. The revised rates are as follows:

	Board Order No. 83/14 (Previous Rates)	Board Order No. 93/22 (Interim Rates)	Revised Interim Rates
Quarterly Service Charge	\$21.81	\$22.66	\$22.68
Water (per 1,000 gallons)	\$5.74	\$22.27	\$6.89
Wastewater (per 1,000 gallons)	\$6.06	\$7.45	\$7.27
Minimum Quarterly Charge*	\$57.21	\$111.82	\$65.16

Minimum Quarterly Charge – Water Only*	\$39.03	\$89.47	\$43.35
Deficit Rate Rider (per 1,000 gallons)	-	\$5.25	\$2.54
Minimum Quarterly Rate Rider Charge*	-	\$15.75	\$7.62
Minimum Quarterly Charge With Rate Rider*	-	\$127.57	\$72.78
Minimum Quarterly Charge With Rate Rider – Water Only*	-	\$105.22	\$50.97

*Based on 3,000 gallons

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

2.0 Background

Please note, this Board Order is best read in conjunction with Board Order No. 93/22, issued August 11, 2022.

On November 9, 2022, the Board received a letter from the Municipality's Interim Acting CAO advising the Board of the Council for the Municipality's recommendation its rate application be withdrawn. On February 24, 2023, the Board received a letter requesting water and wastewater rates be varied based on an increase of 20% and the customer service charge be set based on an increase of 4% from the rates approved in Board Order No. 83/14. The letter also indicated the Municipality was requesting the rate rider requested by the Municipality, of \$5.25 per customer per 1,000 gallons to recover a six-year \$243,435 actual operating deficit, that was approved by the Board in Board Order No. 93/22 be varied.

On March 3, 2023 and March 15, 2023, the Board requested a revised Deficit Application from the Municipality, including the revised recovery amount, supporting calculations, duration, and recovery methodology. To date, the Municipality has not filed a revised Deficit Application with the Board.

Based on the correspondence and evidence provided by the Municipality, Board staff have surmised the Municipality is requesting the six-year \$243,435 actual operating deficit be recovered through a combination of existing surplus account funding of \$49,369, \$6,933 in deficit rate rider recoveries since October 1, 2022, a one-time \$100,000 transfer from the Municipality's General Reserve Fund, and the remainder of \$87,133 from findings from pending, ongoing audits of the Municipality's Audited Financial Statements from 2015 up to and including 2020.

The requests were supported by Council Resolution No. 2023-183 dated March 14, 2023 and submitted to the Board on March 17, 2023.

3.0 Board Findings

2015 – 2020 Deficits

The Board has reviewed the Municipality's request to vary the deficit rate rider approved in Board Order No. 93/22. The Board notes the Municipality previously requested a recovery of a 2015 actual operating deficit of \$5,914, a 2016 actual operating deficit of \$27,604, a 2017 actual operating deficit of \$22,150, a 2018 actual operating deficit of \$15,206, a 2019 actual operating deficit of \$53,777, and a 2020 actual operating deficit of \$118,784 or a total six-year deficit of \$243,435 through a combination of existing surplus account funding of \$49,369 and a rate rider of \$5.25 per customer per 1,000 gallons for a period of seven years or until revenue from the rate rider has reached \$194,066, whichever comes first. The Board approved the Deficit Application as requested by the Municipality effective October 1, 2022.

The Board notes, on March 3, 2023 and March 15, 2023, the Board requested a revised Deficit Application from the Municipality, including the revised recovery amount, supporting calculations, duration, and recovery methodology. To date, the Municipality has not filed a revised Deficit Application. However, the Municipality has provided additional information, including a Council Resolution supporting the use of a transfer of \$100,000 from the Municipality's General Reserve Fund to reduce the deficit.

The Board approves the use of existing surplus account funding of \$49,369 as indicated in its initial Deficit Application from Board Order No. 93/22 to offset the Utility's six-year \$243,435 actual operating deficit.

The Board approves the use of the \$6,933 collected by the rate rider approved in Board Order No. 93/22 to offset the Utility's six-year \$243,435 actual operating deficit.

The Board notes that the \$100,000 in Municipal General Reserve funds was established at the time the former LUD of Benito amalgamated with the Municipality to be used by the Municipality for the benefit of constituents of the former LUD of Benito. The Board approves a one-time transfer of \$100,000 from the Municipality's General Reserve Fund to offset the Utility's six-year \$243,435 actual operating deficit.

The Board varies the Municipality's request to cease recovery of the remaining \$87,133. The Municipality has not provided evidence for its claim the 2015 through 2020 Audited Financial Statements are unreliable and unusable as a source of information regarding the Utility's operating results. Until such time as the Municipality provides evidence, the Board finds the recovery of the remaining actual operating deficits, as ordered in Board Order No. 93/22, must continue to protect the sustainability of the Utility.

The Board varies the Municipality's request to vary the deficit rate rider as approved in Board Order No. 93/22 as follows:

2015 to 2020 Actual Operating Deficit	\$243,435
Less: Existing Surplus Account Funding	49,369
Less: Deficit Funds Recovered to Date	6,933
Less: One-Time Transfer from General Fund	<u>100,000</u>
Remaining Deficit to be Recovered	<u>\$ 87,133</u>

$\$87,133/5,283,000$ (estimated volume of water sold per year) x 6.5 years = \$2.54/1,000 gallons

The Board approves a revised rate rider of \$2.54 per customer per 1,000 gallons, beginning April 1, 2023, for a period of six years and six months or until revenue from the rate rider has reached \$87,133, whichever comes first.

Review and Vary Water and Wastewater Rates

The Board has reviewed the Municipality's request to vary the water and wastewater rates approved in Board Order No. 93/22. The Municipality is also requesting an extension to the fall of 2023 to complete a revised rate application and that the water and wastewater rates be varied on an interim basis until that time, using the following rate-setting methodology:

	Rates Approved in Board Order No. 83/14	Requested Increase	Requested Rate
Quarterly Service Charge	\$21.81	4%	\$22.68
Water (per 1,000 gallons)	\$5.74	20%	\$6.89
Wastewater (per 1,000 gallons)	\$6.06	20%	\$7.27
Minimum Quarterly Charge*	\$57.21	-	\$65.16
Minimum Quarterly Charge – Water Only*	\$39.03	-	\$43.35

The Board notes that the revised rates were not calculated using the Board's recommended rate-setting methodology as outlined in the Board Guidelines for preparing applications for revised utility rates. In general, rate applications should be prepared using the methodology as outlined in the Board's Guidelines. If an alternative methodology is used, it should always be transparent, consistent, logical, and quantifiable.

The Board also notes the Municipality's revised forecast includes the following significant revisions for forecasted expenditure requirements:

	Initial Forecast	Revised Forecast	Difference
Water Purification and Treatment	\$134,806	\$0	\$(134,806)
Water Transmission and Distribution	\$2,445	\$25,300	\$22,855
Other Water Expenses	\$525	\$40,000	\$39,475

The Municipality has provided the following explanations for the forecast revisions:

Water Purification and Treatment – Previous calculations were based on a percentage of staff time assigned to the Utility. The Municipality is no longer assigning staff time to the Utility for this purpose.

Water Transmission and Distribution – Direct costs associated with water have been moved to the Transmission and Distribution line item.

Other Waster Expenses – The Municipality has allocated a flat rate of \$40,000 per year to provide for the expected cost of utility operator time, training, vehicles, etc.

The Board notes the Utility's most recent, completed Audited Financial Statements are from 2020. The Board also notes Utility rate studies/forecasts should be based on up-to-date financial data, which in this case should be the 2021 Audited Financial Statements. Given the 2021 Audited Financial Statements were to be reported no later than June 30, 2022, the Board is concerned the Municipality's forecasts may not align accurately with the Utility's most up-to-date Utility costs required to sustain the Utility operations.

The Board also notes that based on the above noted revisions to the Municipality's water expenditure forecast, the Municipality appears to have revised its Cost Allocation Methodology. The Board also notes that all municipal governments are required 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. The allocation must be submitted to the Board for approval and cannot be changed without receiving approval from the Board. The Board's requirements regarding cost allocation methodologies can be found in Board Order No. 93/09. The Board did not receive a complete, revised Cost Allocation Methodology with the Municipality's application.

The Board approves the revised interim water and wastewater rates as requested by the Municipality subject to:

- The Municipality returning by no later than November 1, 2023 with a complete, revised Utility Rate Application.

- The Municipality updating the Utility's future years' expenditure forecasts, including detailed explanations/calculations, in its revised Utility Rate Application.
- The Municipality forwarding a copy of the Municipality's 2021 and 2022 Audited Financial Statements as soon as they have been finalized.
- The Municipality closely monitoring the Utility's finances and returning to the Board as soon as possible if it determined the interim rates are not sufficient to provide for the operation of the Utility.

The Board also notes that 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 Board directs the Municipality to file a Deficit Application and corresponding recovery methodology with the Board as soon as any Utility deficit is known.

4.0 IT IS THEREFORE ORDERED THAT:

1. The request by the Municipality of Swan Valley West, Benito Water and Wastewater Utility, to vary water and wastewater rates as approved in Board Order No. 93/22 BE AND IS HEREBY APPROVED, effective April 1, 2023, subject to the conditions outlined in the Board Findings section of this Order.
2. The request by the Municipality of Swan Valley West, Benito Water and Wastewater Utility, to vary the deficit rate rider as approved in Board order No. 93/22 BE AND IS HERBY VARIED to \$2.54 per customer per 1,000 gallons beginning April 1, 2023 for a period of six years and six months or until revenue from the rate rider has reached \$87,133, whichever comes first.
3. The Municipality of Swan Valley West review the water and wastewater rates for the Benito Water and Wastewater Utility and file a report with the Public Utilities Board, as well as an application for final rates, by no later than November 1, 2023.

4. The Municipality of Swan Valley West file a 2021 and/or a 2022 Deficit application with the Public Utilities Board, if a deficit materializes, as soon as it is known.
5. The Municipality of Swan Valley West submit its 2021 and 2022 Audited Financial Statements as soon as they are received.

Fees payable upon this Order – \$300.00

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

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by The Public Utilities Board


Assistant Associate Secretary