

M A N I T O B A) Order No. 4/09
)
THE PUBLIC UTILITIES BOARD ACT) January 26, 2009

BEFORE: Graham Lane, CA, Chairman
 Monica Girouard, CGA, Member
 Susan Proven, P.H.Ec., Member

THE RURAL MUNICIPALITY OF EDWARD
LOCAL URBAN DISTRICT OF LYLETON
REVISED WATER RATES AND
RECOVERY OF 2008 REVENUE DEFICIT

Executive Summary

By this Order the Public Utilities Board (Board):

- a) confirms the interim rates approved in Ex Parte Order 47/08;
- b) approves an application for revised rates for the Lyleton Community Water Distribution System (Lyleton); and
- c) approves recovery of the 2008 operating deficit from the Utility's accumulated surplus.

As required, Notice of the Rural Municipality of Edward's (RM) application, the Board's interim decision and the proposed revised rates were provided to ratepayers. Neither comments nor concerns were filed with the Board relating to this application. Previous, interim and now revised rates are as follows:

	Previous	Annual Rates	
		Interim (includes previous charge)	Revised
Residential (1 REU) ⁽¹⁾			
Water			\$158.00
Service Charge			<u>\$ 5.00</u>
Total	\$80.00	\$155.00	\$163.00
Rural ⁽²⁾ (1.75 REUs)			
Water			\$276.50
Service Charge			<u>\$ 5.00</u>
Total	-	\$235.00	\$281.50
Seasonal (0.25 REU)			
Water			\$39.50
Service Charge			<u>\$ 5.00</u>
Total	-	\$ 95.00	\$44.50

⁽¹⁾ REU - Residential Equivalent Unit

⁽²⁾ Connected in 2007

Background

There are 26 customers connected to the utility: 22 residential, 1 seasonal resident, 2 fire hydrants and 1 rural hook up.

On April 21, 2008, the Board, by way of Order 47/08, and on an interim Ex Parte basis, approved the levying of:

- a) an additional annual charge of \$75.00 per connected customer,
- b) the new annual fire hydrant charge of \$75.00, and
- c) the existing annual \$160.00 charge to rural customers.

The additional \$75.00 charge was required to provide the Utility the opportunity to operate on a near breakeven basis, and the charge was to be added to the RM's 2008 property tax bills (as a distinct charge). The \$75 was in addition to the \$20.00 charge collected quarterly on water bills, as set out in By-law No. 1/85, which had been approved by Board Order 33/85.

The overall effect involved an approximate 100% increase to total annual charges for water service (\$155 for connected customers, compared to the previous annual \$80.00 charged on a quarterly basis).

The Board provided approval on a conditional basis and without prior public notice due to its assessment of what was an inadequate financial position of the RM's utility, and the corresponding urgent need for higher revenue.

The Order required the RM to conduct a rate study, and to file an application for final rates, supported by the rate study, with the Board. On May 12, 2008, the RM, as was also required, provided the Board with a copy of its response to a Water Stewardship's report.

In 2008, the utility incurred a \$650.00 deficit, and the RM applied to recover the deficit by way of a transfer from the accumulated surplus. At December 31, 2007, the accumulated surplus had a balance of \$2,561.48, this after recovery of a 2007 operating deficit.

Application and Rate Study

The Board received the RM's application, rate study and its By-law No. 8/2008, read for the first time on November 12, 2008, on November 14, 2008; the rate study was prepared by the RM's Chief Administrative Officer.

The application proposed a change to annual billing through tax notices, rather than the existing quarterly billing.

The water distribution system was established in or about 1980; rates were last reviewed and approved on a final basis by the Board in 1985.

There is no outstanding capital debt related to the utility.

As the system has no meters, the RM proposed a flat annual rate based on Residential Equivalency Units (REU), as follows:

Units	Customer	Service Charge	Commodity Rate	Annual Bill
1	Single Family Residential and Hall	\$5.00	\$158.00	\$163.00
1.75	Rural Resident	\$5.00	\$276.50	\$281.50
1	Hydrant Users	\$5.00	\$158.00	\$163.00

The application proposed that the utility's only seasonal resident be assessed one quarter of the single-family residential commodity rate of \$158.00 plus the \$5.00 service charge, for an annual charge of \$44.50, as noted below.

The impact to those connected to Lyleton's system was projected to be:

	Existing (1985)	Annual Rates		%
		Interim	Proposed	
Residential (1 REU)			\$158.00	
Water			\$ 5.00	
Service Charge			<u>5.00</u>	
Total	\$80.00	\$155.00	\$163.00	5%
Rural ⁽¹⁾ (1.75 REUs)			\$276.50	
Water			\$276.50	
Service Charge			<u>5.00</u>	
Total	-	\$235.00	\$281.50	20%
Seasonal (0.25 REU)			\$39.50	
Water			\$39.50	
Service Charge			<u>5.00</u>	
Total	-	\$ 95.00	\$44.50	(53%)

⁽¹⁾ Connected in 2007

The application also requested that the reconnection charge be increased, from \$5.00 to \$50.00.

Based on the filed rate study, the utility's estimated annual revenue and expenses were:

Revenues

Service charge	\$ 130.00
Commodity charges	<u>\$4,108.00</u>
Total Revenue	<u>\$4,238.00</u>

Expenses

Administration	\$ 150.00
Production/Distribution	<u>\$3,995.00</u>
Total Expenses	<u>\$4,145.00</u>

Surplus/ (Deficit)	<u>\$ 93.00</u>
---------------------------	-----------------

The rates do not include provisions for either contingencies or for a contribution to the utility reserve fund.

The deficits of prior years were met by transfers from the utility's accumulated surplus account, which had a balance of \$2,561.48 after recovery of the 2007 operating deficit.

The utility reserve has no balance, having been depleted in 2004 to meet, in part, the costs of the construction of a new cistern.

Notice of the application was mailed to each customer and placed in five prominent locations throughout the communities of Pierson and Lyleton.

The notice invited any person wishing to make representation to write to the Board by January 9, 2009; no communications from ratepayers were submitted.

Board Findings

The Public Utilities Board Act allows the Board to issue interim ex parte orders on finding urgency, and the Board so acted.

While the RM had been encouraged to review its rates and make an application since 2005, only recently did it act. Without an immediate increase in rates, the utility was expected to incur another operating deficit in 2008. To the extent possible, operating deficits are to be avoided; accordingly, the Board issued Order 47/08, increasing rates on an Interim Ex Parte basis.

Having issued Order 47/08, the Board then directed the RM to prepare and file a rate study in 2008. Following receipt of that study and the RM's proposal on November 14, 2008, the Board directed that a public notice be issued to allow ratepayers an opportunity to address both the then-current and proposed rates.

By Order 47/08, which should be read in conjunction with this Order, the Board requested the RM to consider:

- "1. Adequacy of rates - even with the interim rates, the operation of the utility is near a breakeven position with no provision being made for unexpected repairs, i.e. contingencies, nor any provision for a reserve for future capital replacements (like the pump replacement program). When developing its next rate submission, these matters should be considered, and as well, the potential for a further customer rate shock.
2. Quarterly Billing versus Collection on the Tax Bill - the Board notes the RM's preference for eliminating quarterly billing and adding all utility charges to property tax bills, and, recognizing that such an

approach would reduce the RM's costs is prepared to consider such a proposal.

However, (such charges) are separate and distinct from taxes, and are not to be offset or reduced through the application of the Manitoba Education Property Tax Credit. To do otherwise would be to usurp the user-pay concept promoted by this Board.

3. Costs of testing for disinfection and bacteria - the adequacy of rates to recover the full costs of this monitoring to meet full compliance."

The Board notes that even with the interim rates provided in Order 47/08, an application was received from the RM advising of a deficit for 2008, with a proposal to recover by a transfer from the utility's surplus account. The RM has advised that the 2008 deficit was the result of the-then method of billing quarterly in advance.

The RM's last quarterly billing for 2008 would have been for service for January to March 2009. As noted above, the RM wishes to change the billing cycle from quarterly to annually.

The Board notes that there are no provisions for either contingencies or a contribution to the utility reserve reflected in the new rates. While the estimate for 2009 suggests a modest \$93.00 surplus, should a pump need replacing or if a water line break occurs, utility funds to address these matters would be limited.

The RM advised:

"The rates do not include contribution to a reserve or provision for contingency. The utility shares its infrastructure with the

municipal community well system and when the infrastructure needs to be replaced all users municipal and utility will share in the cost of replacement through general taxation."

The Board strongly supports a user pay system, where those benefitting from the service are responsible for the full costs of operating, including replacing pumps and fixing line breaks. The Board reiterates its recommendation that the RM consider such provisions in future rate reviews.

While the Board does not favour large rate increases, preferring regular rate reviews and gradual rate adjustments, in some cases large increases are advisable, especially where no review of rates has taken place for a considerable amount of time.

In this case, ahead of the Board's interim action, it had been 23 years since the last rate increase. The Board recommends that rate adequacy be regularly reviewed in the future, and underscores its concern by directing the RM to submit rate reviews to the Board, at minimum, every 3 years.

In regard to the RM's proposal to assess utility rates through the annual tax bills, the Board will approve this approach, recognizing that it will help minimize administrative costs.

That said utility related charges are to be set out on the annual bill, separate and distinct from property taxes. Further, the RM is to ensure that the Manitoba Education Property Tax Credit does not offset or reduce utility based charges.

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 (Rules). The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

IT IS THEREFORE ORDERED THAT:

1. Interim Ex Parte Order No. 47/08 dated April 21, 2008 IS HEREBY CONFIRMED as final.
2. The Rural Municipality of Edward's By-law No. 8/2008 BE AND IS HEREBY APPROVED, subject to amendments to reflect the attached Schedule "A".
3. The 2008 revenue deficit of the Lyleton Community Water Distribution System in the amount of \$650.00 be recovered from the Utility's accumulated surplus.
4. The annual per connection charge be collected on the tax bill, on the condition that it be treated separate and distinct from taxes and not be offset by the Manitoba Education Property Tax Credit.
5. The Rural Municipality of Edward complete a rate study for the Lyleton Community Water Distribution System every three years, at minimum, and file such studies with the Public Utilities Board no later than November 30th of the year in which the study is completed.

Fees payable upon this Order - \$100.00.

THE PUBLIC UTILITIES BOARD
"GRAHAM LANE, CA"
Chairman

"KRISTINE SCHWANKE"
Acting Secretary

Certified a true copy of Order
No. 4/08 issued by The Public
Utilities Board

Acting Secretary

SCHEDULE "A"

TO BOARD ORDER NO. 4/09

RURAL MUNICIPALITY OF EDWARD

BY-LAW NO. 8/2008

Units	Customer	Service Charge	Commodity Rate	Annual Bill
1	Single Family Residence and Hall	\$5.00	\$158.00	\$163.00
1.75	Rural Resident	\$5.00	\$276.50	\$281.50
1	Hydrant Users	\$5.00	\$158.00	\$163.00
0.25	Seasonal Resident	\$5.00	\$ 39.50	\$ 44.50

Service to Customers Outside the Community of Lyleton

The Council of the Rural Municipality of Edward may sign agreements with customers for the provision of water services to properties located outside the boundaries of the Community of Lyleton.

Such agreements will provide for payment of the appropriate rates as set forth in the table above as well as a surcharge, set by resolution of Council which will be equivalent to the frontage levy and general and special taxes for utility purposes in effect at the time or as may be in effect from time to time and would be levied on the property concerned if it were within these boundaries. In addition, all costs in connection to the utility's mains, installing and maintaining service connections will be paid by the customer.

Billing and Penalties

Accounts shall be billed annually on the tax notices and shall be due and payable together with the taxes October 31st of each year unless otherwise identified in the Financial Plan By-law of the municipality.

Penalties will correspond with those imposed by the Levy by-law to a maximum of 1 ¼ % per month to comply with Public Utilities Board Order No. 105/04.

New Connections

Any person wishing to connect to the water distribution system must arrange with the municipal office. A connection fee of \$500.00 will be levied for any new connection. In addition, any new connection for the passing of this study/by-law requires a curb stop to be installed. Cost of the curb stop will be part of the connection fee. The applicable rate percentage ratio will be billed out for the portion of the year remaining.

Disconnection

The Public Utilities Board has approved the Conditions Precedent to be followed by the municipality 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 Municipality's office.

Reconnection

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties and reconnection fee of \$50.00 have been paid.

Seasonal residents requiring a reconnection for the period of time they are using the water system will be levied a \$50.00 reconnection fee.

Hydrant Rentals

Hydrant rentals will be levied at the yearly rate of a single residence hook-up. In the future, no hydrant hook-ups will be allowed within the Community of Lyleton.