

MANITOBA ) Order No. 78/09  
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THE PUBLIC UTILITIES BOARD ACT ) May 8, 2009

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

RURAL MUNICIPALITY OF FISHER  
LOCAL IMPROVEMENT DISTRICT NOS. 1 AND 2  
TO DECLARE THE SEWER UTILITY A PUBLIC UTILITY  
AND  
INTERIM SEWER RATES

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## **Introduction**

By this *ex parte* Order, the Public Utilities Board (Board) declares the sewer system serving Local Improvement District Nos. 1 and 2 of the Rural Municipality of Fisher (RM) a public utility, and approves initial and interim annual sewer rates.

The rates are to be collected by tax levy in 2009 up to an aggregate amount of \$60,000.00. This amount shall be collected by mil rate based on assessment and only applied to properties within the RM - Local Improvement District Nos. 1 and 2 that benefit from the sewer system service.

## **Background**

In April 2007 and pursuant to ss. 165(2) of *The Municipal Act*, the RM applied to the Board for approval of a 2006 operating deficit for its sewer utility in the amount of \$24,103.37.

The RM advised the deficit was due to unexpected upgrades to a Lift Station and additional wage costs related to May 2006 flooding. The RM requested the Board approve the recovery of the deficit from the sewer utility's accumulated surplus, which amounted to \$48,151 at December 31, 2006.

In July 2007, the Board sought the RM's comments with respect to the Board declaring the sewer-only utility a public utility and clarification on how costs were recovered.

The RM responded that they were neither seeking the Board's declaration of the utility as a public utility, nor the Board's approval of recovery of the 2006 deficit in the sewer utility

(which were recovered by taxation).

In October 2007, the Board suggested that the sewer system qualified as a public utility. The Board acted because the system is fairly large, the 2006 deficit was significant (approximately 78% of the total operating costs of \$30,700, not including debenture costs), and the water utility service had already been declared a public utility.

The RM objected, and, by a letter dated February 15, 2008, the Board advised that the sewer utility would be declared a public utility and required the RM to bring forth a rate by-law for the Board's approval, with supporting information.

The Board indicated its understanding that the RM billed on a flat rate system, without meters, and that the charges were added to taxes. Further, the Board advised that it would consider a flat rate charge on an interim basis but requested comment as to whether water meter readings should be used to bill for sewer services, where applicable.

To date, no responses to these questions have been received by the Board.

However, the Board requested and received 2009 estimates from the RM for operating the sewer utility on April 29, 2009. The RM estimated operating costs for the sewer system to be \$60,000 in 2009.

#### **Board Findings**

*The Public Utilities Board Act* (Act) states, in part:

**Board may declare sewage system a public utility**

2(6) The board may declare any system of sewage collection or disposal, including all works, plants, sewage lines and equipment pertaining thereto, to be a public utility; and thereupon that system is a public utility under this Act.

The Act provides the authority for the Board to declare a sewage system a public utility and the Board shall exercise this authority and declare the sewer system operated by the RM a public utility. This declaration does not remove or reduce the management responsibilities of the municipality.

Sewer systems provide an essential service for customers and protect the environment. The Board believes regulatory oversight in the public interest as the utility is a monopoly providing an essential service. It is the intention of the Board to declare all such utilities throughout the Province not currently established as a public utility as being so.

The Board notes that the RM has been asked on several occasions for a rate study for the Board to review, to no avail. Accordingly, the Board will set rates on an interim and best efforts basis, based on the information received from the RM.

These rates will be effective for 2009 calendar year only, and may be recovered by taxes providing the amount is treated separate and distinct from taxes and not offset by the Manitoba Education Property Tax Credit. The Board believes it important that customers recognize the costs associated with operating a utility.

The Board will reserve comment on whether or not the rates in effect are fair and reasonable until such time as the RM files with the Board a proposed rates by-law and supporting

information.

The Board will require this information be filed no later than November 15, 2009. The rate study is to include comment from the RM as to whether water meter readings should be used to bill for sewer services, where applicable.

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](http://www.pub.gov.mb.ca).

