

Order No. 74/16

**MUNICIPALITY OF TWO BORDERS
LYLETON WATER UTILITY
2016, 2017 and 2018 FINAL RATES
2012 and 2013 DEFICITS**

June 3, 2016

REVISED JUNE 16, 2016

**BEFORE: Régis Gosselin, B ès Arts, MBA, CPA, CGA, Chair
The Hon. Anita Neville, P.C., B.A. (Hons.), Member**

Summary

By this Order, the Public Utilities Board (Board) hereby confirms as final the interim ex parte water rates for the Municipality of Two Borders (Municipality), Lyleton Water Utility (Utility) approved on an interim ex parte basis in Board Order No. 14/16.

The Board also approves actual operating deficits of \$2,207.56 (2012) and \$4,544.53 (2013). These deficits have already been recovered by the former RM of Edward through unapproved transfers from the General Fund.

The confirmed and revised rates are shown below:

	By-law No. 9-2015 July 1, 2016
Quarterly Service Charge	\$5.20
Water \$/1,000 gallons	\$14.72
Minimum Quarterly**	\$49.36
Reconnection Fee	\$50.00
Hydrant Rental (Annual)	\$75.00
**Based on 3,000 gallons	

Details of other rates may be found in the attached schedule "A".

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

Background

The Municipality owns and operates a water only utility serving 30 customers. The system has been in operation year round since 1978. However, many components of the original system have been replaced or upgraded. The raw water source for the water system is ground water from an unnamed aquifer.

Interim rates were set in Board Order No. 14/16.

The Municipality of Two Borders was formed January 1, 2015 by the amalgamation of the Rural Municipalities of Albert, Edward and Arthur. The Lyleton Utility was previously part of the Rural Municipality of Edward.

The Utility operators have appropriate certifications.

The Utility system was unmetered and new meters were installed recently. Unaccounted for water cannot be calculated at this time.

Application

The Municipality of Two Borders applied on October 21, 2015 for revised water rates for the Lyleton Utility. The application was accompanied by a rate study prepared by the Municipality's consultant and By-law No. 9-2015 having received 1st reading on October 20, 2015.

A request was then made on November 30, 2015 that the Board consider revised water rates be set on an interim *ex parte* basis for the Lyleton Utility so that further deficits could be avoided. The Municipality also stated that the Utility currently bills annually on taxes, using a system of residential equivalency units (REU). REUs are used in communities with unmetered distribution and collection systems, where information

regarding actual consumption is unavailable. The Municipality anticipated the completion of a meter installation project in 2015 and would be using metered consumption for billing quarterly, going forward.

In January of 2016, the Board, which had not yet had the opportunity to review the details in the submission, determined that an interim rate was in order. The Board made this decision due to the urgent need to increase revenues to avoid further Utility deficits and allow the Utility to bill customers using the newly installed meters.

This interim approval was subject to variation upon completion of a more detailed review. The process included a requirement that a Notice of the proposed increase be provided to ratepayers. This was done in February 2016 and two responses were received from customers.

When reviewing an application, the Board has at its disposal two approaches, either a paper or a public hearing review. After the publication of the Notice of Application, the Board will consider the application and stakeholder responses, and determine which method of review is most appropriate.

A public hearing process allows the Utility and stakeholders the opportunity to present their application and any concerns to the Board in person.

The Board may review the application using a paper review process, which saves the cost of a public hearing process. Having received only two responses, the Board decided to review the application using a paper process which saves the Municipality the cost of a public hearing.

Deficits

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

Board is therefore duty bound to approve reasonable rates based on reasonable expense projections.

The Municipality submitted deficit applications for 2012 and 2013 on July 8, 2015. The submitted rate study referred to a deficit in 2014. In Board Order No. 14/16 the Board requested the Municipality's 2014 audited statements and deficit application if applicable. To date, this has not been received.

Working Capital Surplus/Deficit

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 is defined as the Utility fund balance, excluding any capital related items plus Utility reserves.

As per the 2013 audited financial statements, the most recent information available, the working capital surplus at December 31, 2013 was:

	2013
Fund Surplus/Deficit	\$40,920
Deduct tangible capital assets	\$44,041
Add Long-Term Debt	\$ -
Add Utility Reserves	\$ -
Equals Working Capital Deficiency	-\$ 3,121
Operating costs	\$13,799
20% of operating costs	\$ 2,760

Budgeted expenditures

The rates are calculated using the following cost projections:

	2%	2016	2017	2018
Billing and Collection		600	612	624
Expenses - general		600	612	624
Penalties		2,040	2,081	2,122
Revenue - general		0	0	0
Net rate revenue - general			612	624
Purification and treatment		11,689	11,922	12,161
Amortization		2,648	2,648	2,648
Expenses - water		14,337	14,570	14,809
Hydrant rentals		150	150	150
Revenue - water		150	150	150
Net rate revenue-water		14,187	14,420	14,659

Cost allocation methodology

The Board requires all municipalities to review the costs shared between the general operations of the Municipality and the Utility, and to allocate appropriate and reasonable costs to the Utility, based on a policy known as a Cost Allocation Methodology. This policy 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.

Due the small size of the Utility and the proposed increase in Utility rates, the Municipality proposed to maintain the flat rate cost allocation of \$600 per year to the Utility and increase it by 2% a year thereafter. The application stated that the Municipality will review its cost allocation methodology in the next required rate study.

Board Findings

The Board has reviewed the application and the projections presented by the Municipality in their rate study and will approve as final, the interim *ex parte* water rates approved in Board Order 14/16, as applied for by the Municipality.

The Board is sensitive to customer reaction to the magnitude of the rate increase, however, must consider the sustainability of the Utility when approving rates.

The Board reviewed the ratepayer responses. One ratepayer indicated that he would be using the water for livestock and spraying purposes, and as such felt that he should be charged a reduced rate. A second ratepayer submitted a copy of a Water Use Agreement which had been in force since 1983 for his property. The Municipality did not provide any evidence in response to these ratepayers, indicating to the Board that they do not have any interest in amending the application to request a preferential rate for agricultural users on the system or those with Water Use Agreements. The second ratepayer contacted Board staff and verbally advised staff that the Municipality told him that they would not be honouring the Water Use Agreement going forward.

The Board would consider an application for preferential rates; however this would require transparency to all ratepayers, as any lower rates being charged would require subsidization by the remaining ratepayers. The Board would also expect that any such request would be clearly substantiated and supported by persuasive rationale. The Board has long been a proponent of user-pay and single step rates.

The increases required can be considered to be rate shock, something that is common where rate requirements are not addressed for significant periods of time. In the case of the Lyleton Utility, it has been eight years since a rate change has taken place. Consumers are generally more tolerant of regular, smaller increases. The Municipality needs to be diligent in conducting regular reviews of utility revenue requirements and filing deficit applications as required by *The Municipal Act*.

The Board understands the challenges that amalgamation presented to the affected communities; but the Municipality is still required to comply with all Board requirements. The Board urges the Municipality to review *the Public Utilities Board Act* and general Board Order Nos. 151/08 and 93/09 to have a better understanding of their responsibilities in reporting to the Board.

The Board will approve the recovery of the 2012 and 2013 operating deficits. The deficit application and responses to queries from the Board revealed that the former Rural Municipality of Edward recovered the prior deficits through a transfer from the General Fund. The deficits and method of recovery were not approved by the Board as required by *The Municipal Act*.

In approving these deficits, the Board considered the undue hardship reversing the decision would cause the Utility customers. If in future these actions are repeated by the Municipality, the Board may order a return of the unapproved transfers back to the General Fund. The Municipality is required to seek the approval of the Board for all operating deficits, including any proposed method of recovery.

The Board supports the principle of user-pay utility rates. It is only when rates are set on a user pay basis that they send the correct price signal to ratepayers and allows ratepayers to make decisions about their use of the services. By embarking on a metering project, the Municipality is sending a signal that they agree with this principle, and the Board commends this; however the recovery of Utility deficits from the general fund does not align with this principle. In the case of the Municipality of Two Borders, a number of taxpayers are not utility ratepayers, and this leads to taxpayers subsidizing the utility customers. It is imperative that the Municipality puts an end to this practice immediately.

The Board realizes that the Municipality will likely experience deficits for 2014 and 2015, given the information provided in its rate study. The Municipality is to provide the Board with copies of the 2014 and 2015 audited financial statements, and submit any necessary applications for operating deficits, as required by Board Order No. 151/08.

Given the working capital position of the utility, the Municipality should consider applying for a rate rider to recover any future deficits.

As of December 31, 2013 the Utility had a working capital deficiency; this is likely to be worsened if deficits materialize in 2014 and 2015. The rates approved in this Order were calculated using estimates and assumptions, since the Municipality has only just installed meters on the system and has no historical data to rely upon. The Board has seen the introduction of meters and commodity based rates reduce consumption significantly, up to 25-35% in some cases. This can have a material impact on the adequacy of the rates approved, especially in smaller utilities. For these reasons, the Board will require the Municipality review the Utility's water rates for adequacy and file a report with the Board, as well as an application for revised rates if required, by no later than December 31, 2017. Should the Municipality find that rates are inadequate and it is necessary to perform this review earlier, the Board encourages them to do so.

The Board will require the Municipality to submit a copy of a revised by-law reflecting the decisions in this Order, once it has received third and final reading.

The Board will approve the cost allocation methodology as proposed by the Municipality.

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. Revised water rate for the Municipality of Two Borders for the Lyleton Utility as approved on an interim *ex parte* basis by Board Order No. 14/16, BE AND ARE HEREBY CONFIRMED AS FINAL.
2. The Municipality of Two Borders amend its water rate By-law for the Lyleton Utility to reflect the decisions in this Order and submit a copy to the Board once it has received third and final reading.
3. The actual deficits of \$\$2,207.56 for 2012 and \$4,544.53 for 2013 ARE HEREBY APPROVED, having been recovered by the former Rural Municipality of Edward through transfers from the General Operating Fund.
4. The Municipality of Two Borders review its water rate for adequacy and file a report with the Public Utilities Board, as well as an application for revised rates if required, by no later than December 31, 2017.
5. The Municipality of Two Borders provide the Public Utilities Board with the 2014 and 2015 audited financial statements, as well as any necessary deficit applications, as soon as they are available.

Fees payable upon this Order - \$500.00

THE PUBLIC UTILITIES BOARD

“RÉGIS GOSSELIN, B ès Arts, MBA, CPA, CGA”
Chair

“JENNIFER DUBOIS, CPA, CMA”
Acting Secretary

Certified a true copy of Order No. 74/16
issued by The Public Utilities Board

Acting Secretary

MUNICIPALITY OF TWO BORDERS

LYLETON

SCHEDULE "A"

SCHEDULE OF QUARTERLY RATES

January 1, 2016

1. Rates per 1,000 Gallons

1,000 Gallons per Quarter
Water
\$14.72

2. Minimum Charges per Quarter

Notwithstanding the rates set forth in paragraph 1, all customers will pay the applicable minimum charges set out below, which includes the water allowance as listed.

a. Water Customers

<u>Meter Size Ratio</u>	<u>Group</u>	<u>Water Capacity Included</u>	<u>Customer Service</u>		<u>Water Commodity</u>	<u>Total Quarterly</u>
			<u>Charge</u>	<u>Charge</u>		
5/8 inch	1	3,000	\$5.20	\$44.16	Minimum	\$49.36
3/4 inch	2	6,000	\$5.20	\$88.32		\$93.52
1 inch	4	12,000	\$5.20	\$176.64		\$181.84

The Following Clauses are Effective January 1, 2016

1. Service to Customers outside Lyleton limits

The Council of the Municipality of Two Borders may sign agreements with customers for the provision of water and sewer services to properties located outside the legal boundaries of Lyleton. Such agreements shall provide for payment of the appropriate rates set out in the schedule, as well as a surcharge, set by resolution of Council which shall be equivalent to the frontage levy, general taxes and special taxes for utility purposes in effect at the time, or may

be in effect from time to time, and which would be levied on the property concerned if it were within these boundaries. In addition, all costs of connection to the Utility's mains and installing and maintaining service connections will be paid by the customer.

2. Billings and Penalties

Accounts shall be billed quarterly based on water used. A late payment penalty charge of 1 ¼% compounded monthly shall be charged on the dollar amount owing after the billing due date. The due date will be at least twenty (20) days after the mailing of the bills.

3. Disconnections

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 Municipal office.

4. Reconnection

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties and a 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.

5. Outstanding Bills

Pursuant to Section 252(2) of the Municipal Act, the amount of all outstanding charges for water and sewer services, including fines and penalties, are a lien and charge upon the land serviced, and shall be collected in the same manner in which ordinary taxes upon the land are collectible, and with like remedies. Where charges and penalties pursuant to this by-law are not paid within sixty (60) days

from the date when they were incurred, said charges and penalties shall be added to the taxes on the property and collected in the same manner as other taxes.

6. Hydrant Rentals

An annual charge of seventy five hundred dollars (\$75.00) per hydrant shall be made by the said utility to Lyleton for fire protection services, which annual charge shall include water used.

7. Municipality to be Notified of Failure of Meter

In the case of breakage, stoppage or irregularity in a water meter, the customer shall notify the Designated Officer immediately upon such condition being discovered. All installation, repair and disconnection of any water meter shall be performed only by those authorized to do such work by the municipality.

8. Meter Testing

Any customer wishing to have a meter tested for accuracy will pay in advance a fee of \$100, plus any applicable meter testing costs. In the event the meter tests prove that the meter is recording water flows in excess of actual flows, the meter testing fee and associated costs will be refunded to the customer and the customer's account will be reviewed and adjusted accordingly.

9. Meter Tampering

Where there is evidence of meter tampering a minimum charge of \$500 will be applied to the customer's account in addition to an amount calculated to adjust for the tampering based on historical usage.

10. Cross Connections

No customer or person shall connect, cause to be connected or allow to remain connected any piping, fixture, fitting, container or appliance in a manner which under any circumstances may allow water, wastewater or any harmful liquid or substance to enter the Municipality's water system.

If a condition is found to exist which, in the opinion of the Municipality, is contrary to the aforesaid, the Municipality may either:

- Shut off the service or services; or
- Give notice to the customer to correct the fault at his or her own expense within a specified time period. If the customer fails to comply with such notice the Municipality shall proceed in accordance with clause 4 of this by-law.

11. Authorization for Officer to Enter Upon Premises

The Public Works Foreman, or other employee authorized by the Municipality in the absence of the Public Works Foreman, shall be authorized to enter upon any premise for the purpose of:

affixing to any pipe, wire or apparatus connected with any such utility, a meter or any other measuring or testing device; or

taking readings from, repairing, inspecting or removing any meter or apparatus belonging to the Municipality.

12. New Connections

Any person wishing to connect to the water distribution system must make arrangements with the municipal office. A connection fee of \$500.00 will be levied for any new connection with the connection fee including the cost of the meter, curb stop, and flow control valve.