

**Order No. 85/20**

**TOWN OF LYNN LAKE  
WATER AND WASTEWATER UTILITY  
WATER AND WASTEWATER RATES  
2015 and 2016 DEFICIT RECOVERY**

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**June 19, 2020**

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

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## 1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board) varies the Town of Lynn Lake (Town) Utility's (Utility) application for revised water and wastewater rates.

The Board confirms as final the water and wastewater rates previously established on an interim *ex parte* basis by Board Order No. 45/18.

The Board grants approval for the recovery of a cumulative operating deficit of \$47,912. This deficit is the sum of deficits from 2015 and 2016 and is to be recovered by a quarterly rate rider for a period of three years.

The revised rates are below:

	Oct 1, 2020	Apr 1, 2021	Apr 1, 2022
Quarterly Service Charge	\$ 19.20	\$ 20.23	\$ 21.19
Quarterly Residential Equivalency Unit - Water Charge	\$ 201.41	\$ 205.74	\$ 212.13
Quarterly Residential Equivalency Unit - Wastewater Charge	\$ 96.66	\$ 98.59	\$ 100.56
Quarterly Deficit Rate Rider*	\$ 9.68	\$ 9.68	\$ 9.68
Minimum Quarterly Charge**	\$ 326.95	\$ 334.24	\$ 343.56
*rate rider to recover 2015 and 2016 deficits over three years			
**based on 1 REU, includes service charge, REU and deficit rate rider			

Details of other rates can be found in Schedule A.

The reasons for the Board's decisions are under Board Findings.

## 2.0 Background

The Town owns and operates a water and wastewater utility, consisting of a water treatment plant, water distribution system, wastewater collection system and a wastewater lagoon. The infrastructures of these systems were built more than 50 years ago and both systems require significant investment. The systems were put in place to serve a population approximately ten times the current population.

The Utility has a total of 412.5 residential equivalency units (REUs) assigned to 253 customers. Rates were last set on an interim *ex parte* basis in Board Order No. 45/18, with current rates coming into effect April 1, 2019.

### Water Supply/Distribution

The water treatment plant was put into service in September 2011 and the Town has experienced issues with it since that time. The Town's water treatment plant's production of water fell short of demand within the first year of operation when the system's filters ceased to operate properly. To mitigate this, the Town has combined chlorinated lake water with treated water to keep up with the demand. As all of the water is not moving through the full length of the system and not receiving ultraviolet light treatment, the Town has been under a Boil Water Advisory since October 12, 2012.

Corrective measures have been cost-prohibitive for the Town. In 2017, the Town completed the replacement of one section of water main, which had been experiencing continued breaks. In 2018, the Town completed the repair of all breaks and was able to cap certain unused lines to prevent further breaks. In 2019, another section of water main was replaced. The system is designed to operate with a return line to circulate the water and prevent freezing in the deep of winter. Such systems require significantly more time in maintenance. Because the system is encased in mine tailings, particularly in the south end of Town, its integrity has failed many times. Due to lack of resources, the Town is

dependent upon its own public works crew to do the replacements, which severely limits the amount of replacement to be completed in each year.

In its current state, the water treatment plant produces clean water that is then combined with chlorinated lake water to keep up with demand. There are many breaks and leaks in the system, several “bleeders” (water left running into the wastewater line to prevent freezing) as well as planned line flushing. Once repairs to the system are completed, it is anticipated the unaccounted for water loss will drop closer to the industry average of 10 per cent.

### **Wastewater Collection and Treatment**

The wastewater system is gravity fed with three lift stations that pump the sewage to an aerated, single-cell lagoon. The lagoon discharges into Lynn River after settling and chlorination, then flows into Eldon Lake. The entire wastewater network comprises four and six inch lines from properties connecting to 10 inch main lines flowing by gravity to the lift stations and from there, the wastewater is pumped through 10 inch lines to the lagoon.

The lagoon is already past its anticipated life span and was built to accommodate wastewater from a much larger population than what it currently services.

### **3.0 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.

#### **Residential Equivalency Units**

REUs are used in communities with unmetered distribution and collection systems, where information regarding actual consumption is unavailable. One REU is the estimate of the volume of water consumed and/or wastewater produced by the average single family residence. Units allocated to non-residential customers are based on estimated consumption, as compared with a residence.

## **Contingency Allowance and Utility Reserves**

The Board's Water and Wastewater Rate Application Guidelines recommend an annual contingency allowance equal to 10% of the variable operating costs.

## **Working Capital**

Board Order No. 93/09 established utilities should maintain a minimum working capital surplus, in an amount equal to 20% of annual expenses. The working capital surplus is the Utility fund balance, excluding any capital-related items plus Utility reserves.

## **Operating Deficits**

By law, Manitoba utilities are not allowed to incur deficits. In the event that a deficit does occur, the Utility is required by *The Municipal Act* to obtain Board approval for both the deficit and recovery methodology. The Board is therefore duty bound to approve reasonable rates based on reasonable expense projections.

## **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 approval by the Board. The Board's requirements regarding cost allocation methodologies can be found in Board Order No. 93/09.



## 4.0 Application

On October 28, 2019 the Board received two applications from the Town. The first application was to revise water and wastewater rates for the Utility. The second was an application to approve operating deficits for 2015 and 2016.

The rate application was accompanied by a rate study completed by the Town and By-law 1405-2019, read for the first time on September 11, 2019. The deficit application was accompanied by Council Resolution No. 297-2019, dated October 22, 2019, which was subsequently revised by Council Resolution No. 360-2019, dated December 10, 2019.

The Board issued a final Public Notice of Application on December 12, 2019 affording customers the opportunity to comment to both the Board and the Town with respect to the proposed rate changes. The Board and Town received 119 responses to the Notice. Of those responses received, more than 90% were a signed form letter expressing concern that the proposed rate increases were unmanageable and unrealistic and requesting the Board convene a Public Hearing.

The Town responded to each of the ratepayers who sent in a written response to the Public Notice acknowledging concerns and providing additional information and explanations. The Town also responded to the volume of responses by scheduling a public meeting, which was held February 19, 2020.

On April 6, 2020, in response to Board's queries, the Town provided revised projections and amended its proposed rates. The Town advised the original submission used the internal financial results up to June 2019 and extrapolated for the year at a rate of 200%. The revised submission was updated to include the final, unaudited 2019 financial results. These results shows an overall increase of 20% in water expenses from 2018 to 2019.

The rates were calculated using the following revenue requirement projections:

	2018*	2019**	2020	2021	2022
<b>General Expenses</b>					
Administration (building, office, staff, etc)	20,138	21,860	22,297	22,743	23,198
Working capital surcharge			5,129	5,893	6,571
<b>Total expenses general</b>	<b>20,138</b>	<b>21,860</b>	<b>27,426</b>	<b>28,636</b>	<b>29,769</b>
Penalties	7,787	11,393	8,000	8,160	8,323
<b>Total revenue general</b>	<b>7,787</b>	<b>11,393</b>	<b>8,000</b>	<b>8,160</b>	<b>8,323</b>
<b>Net revenue requirement - general</b>	<b>12,351</b>	<b>10,467</b>	<b>19,426</b>	<b>20,476</b>	<b>21,446</b>
<b>Water Expenses</b>					
Purification and treatment	1,031	1,056	1,077	1,099	1,121
Transmission and distribution	212,962	277,334	282,881	288,539	294,309
Amortization	129,112	134,707	140,000	145,000	150,000
Interest on long term debt	5,840	5,145	4,407	3,625	2,797
Minor capital upgrades			5,000	2,000	2,000
Contingency			28,896	29,164	29,743
<b>Total expenses water</b>	<b>348,945</b>	<b>418,242</b>	<b>462,261</b>	<b>469,427</b>	<b>479,970</b>
Connection revenue	2,640	600	612	624	637
Hydrant rentals	7,000	7,000	11,600	11,600	11,600
Amortization of capital grants	100,286	100,286	100,286	100,286	100,286
Taxation revenues	17,437	17,437	17,437	17,437	17,437
<b>Total revenue water</b>	<b>127,363</b>	<b>125,323</b>	<b>129,935</b>	<b>129,947</b>	<b>129,960</b>
<b>Net revenue requirement - water</b>	<b>221,582</b>	<b>292,919</b>	<b>332,326</b>	<b>339,480</b>	<b>350,010</b>
<b>Wastewater Expenses</b>					
Wastewater collection system	114,502	105,054	107,155	109,299	111,485
Lift station costs	29,350	44,135	45,018	45,918	46,837
Contingency			15,217	15,522	15,832
<b>Total expenses wastewater</b>	<b>143,852</b>	<b>149,189</b>	<b>167,390</b>	<b>170,739</b>	<b>174,154</b>
Lagoon tipping fees	9,877	7,750	7,905	8,063	8,224
<b>Total revenue wastewater</b>	<b>9,877</b>	<b>7,750</b>	<b>7,905</b>	<b>8,063</b>	<b>8,224</b>
<b>Net revenue requirement - wastewater</b>	<b>133,975</b>	<b>141,439</b>	<b>159,485</b>	<b>162,676</b>	<b>165,930</b>

\*audited financial results

\*\*final, unaudited financial results

## Contingency Allowance and Utility Reserves

The Town has included in the projections a contingency allowance of 10% of net rate requirements, less amortization expenses. This equates to approximately \$30,000 for water and \$15,000 for wastewater. There is no provision for transfer to Utility Reserve proposed.

## Working Capital

As per the 2018 audited financial statements, the working capital deficit at December 31, 2018 was:

	2018
Accumulated Fund Surplus/Deficit	<b>\$1,138,664</b>
Deduct tangible capital assets	<b>\$2,544,841</b>
Add long term debt	<b>\$85,769</b>
Add utility reserves	<b>\$54,236</b>
<b>Equals Working Capital Deficit</b>	<b>(\$1,266,172)</b>
Operating costs	<b>\$512,935</b>
<b>20% of operating costs (target)</b>	<b>\$102,587</b>

The projected revenue requirements include a provision to rebuild the working capital, as recommended by the Board.

## Operating Deficits

The October 2019 deficit application indicated the total deficit for the two years was \$225,972 and requested the Board allow the Town to recover the deficits over a period of 11 years. The deficits were not calculated as required by the Board, and did not include the amortization of capital grants, which act as an offsetting revenue and lower the operating deficits.

The Town revised its application and on December 11, 2019 submitted Council Resolution No. 360-2019 proposing the adjusted operating deficits of \$47,912 be

recovered over a period of five years at \$5.81 quarterly, per REU. The Notice of Application was prepared using the December 2019 proposal.

The Town's April 2020 submission revised the deficit application for 2015 and 2016. The revised submission proposed the total deficit of \$47,912 for 2015 and 2016 be recovered over a period of three years, which results in a charge of \$9.68 quarterly, per REU.

### **Cost Allocation Methodology**

The Board approved the Utility's current Cost Allocation Methodology (CAM) in Board Order No. 123/11. The Town did not propose any changes to the existing CAM. The Board reminds the Town that this methodology must be used consistently in the future, and requires Board approval should any changes be considered

### **Unaccounted for Water**

The rate study indicated unaccounted for water is between 11 and 17% of water produced. The system is currently unmetered.

The October 2019 application from the Town advised a metering project was ongoing and the Town was attempting to secure the services of a qualified installer to complete. When providing a requested update in April 2020, the Town stated the meters planned for the project were provided by the Manitoba Water Service Board eight years prior and are now obsolete and cannot be used. The Town did not provide any evidence of future plans to install meters.

## 5.0 Board Findings

Having reviewed the Town's applications and subsequent revisions, weighed the responses to the Notice of Application and considered the Public Meeting called by the Town, the Board has chosen a paper review process. The Board finds the Public Meeting held by the Town in February informed ratepayers of the reasons for the rate increases and allowed them the opportunity to ask questions and provide feedback. The Town also responded to each of the ratepayers who provided comment to the Public Notice.

In future, the Board recommends the Town engage the public in consultation prior to submitting a rate application. It is the responsibility of the Town to communicate and inform the ratepayers of the reasons for the rate increases.

The Board is sensitive to customer reaction to the magnitude of the rate increases, however, must consider the sustainability of the Utility when granting approval of revised rates. The increases required can be considered rate shock, something that is common where rate requirements are not addressed for significant periods of time.

In the case of Lynn Lake, it has been nine years since a full rate application has been reviewed. Consumers are generally more tolerant of regular, smaller increases. The Town needs to be more diligent in conducting regular reviews of its revenue requirements. The rising cost of operating the Utility in Lynn Lake is compounded by the depopulation being experienced in the community, as well as the serious and costly operational issues experienced with the Water Treatment Plant that went into service in 2011.

The Town has experienced significant turnover in staff, which can make the administration of the Utility far more challenging. When approving interim *ex parte* rates in Board Order No. 45/18, the Board noted the 2015 and subsequent audited financial statements were not available. Audited financial statements are crucial in determining the financial state of a utility, and Section 190(1) of *The Municipal Act* requires auditors to submit an audited report to Council no later than June 30 in the year following the fiscal

year for which the audit is prepared. The Town has worked diligently and its audited financial statements are currently up to date.

The Town has been cooperative in its dealings with the Board, preparing the rate application using Board recommended guidelines and responding to information requests in a timely fashion. The current administration advised the Board of instances where rates had been charged without Board approval and have addressed these instances of non-compliance appropriately.

The Town must ensure the REU assignments are up to date and accurately reflect the estimated usage. The Town contacted the Board on March 4, 2020 to discuss the REU assignment for a particular commercial property that had recently changed tenants. Based on the septic pump out records, the Town estimates the water consumption had increased to over 5,000 litres of water per week. The Board finds it is important to allow the Town flexibility in adjusting the REU assignments to respond to changes like the one described above, and will therefore not include the specific REU assignments in the approval granted by the Board.

However, the Board will require the Town to give affected account holders a minimum of 30 days notice of future proposed changes to the REU assignment, allowing the account holder to dispute the change directly to the Town. The notice to the account holder should also advise them they have the right to appeal the Town's final decision with Public Utilities Board. The Board will require the Town to establish a policy for this, including reasonable timelines for response to appeals, and file it with the Board on or before August 1, 2020.

*The Municipal Act* grants municipalities jurisdiction over equipment, therefore the Board is unable to order the Town to install water meters on its system. The Board very strongly recommends the Town make the installation of meters on the system a high priority. Meters eliminate the need for the Town to monitor the REU assignment for changes, allow ratepayers to mitigate their costs and without measuring the volume of water sold, it is

not possible to calculate unaccounted for water in the system, which can increase costs if a utility is unaware it is losing treated water along the distribution system.

The Board grants approval of the operating deficits for 2015 and 2016, and the recovery of these grants over a period of three years, as was included in the Town's April 2020 submission. The Board has long been a proponent of recovering deficits within three years, and given the amount of the quarterly surcharge and the length of time that has transpired since the deficits occurred, the Board finds a three year recovery period most appropriate.

The Town did not file the deficit applications in a timely fashion. An operating deficit should be applied for as soon as a municipality is reasonably aware it will occur. The rate rider collected to recover the deficits should be charged separately from the quarterly REU charge, in the interest of transparency to ratepayers and to allow new municipal staff to easily determine what is being charged. The rate rider should not be collected beyond the approved three year period, even if the full amount has not been recovered.

The Board directs the Town to monitor the collected deficit recovery revenues closely.

Should the deficit amount be recovered before September 30, 2023, the Town is to immediately cease the collection of the rate rider. The Board encourages the Town to work with their auditors to record the collected deficit revenues by way of a separate line item on Schedule 9 of the audited financial statements.

The Board has reviewed the application and revenue projections presented by the Town. The change in water expenses from the 2018 audit to the 2019 unaudited financial results is approximately 20%. The Board asked the Town to provide details and was advised the increase is expected to be ongoing until the water treatment plant is retrofitted. The Town's description of infrastructure failures and operational issues is substantial, and has led to additional capital costs, repairs and overtime for public works staff. Given the evidence of these costs, the Board finds the projections to be reasonable.

The Town only included the first year rate projections in its utility rate by-law. The Board varies the rates to include the projected rates for year two and year three, to allow the Utility to implement 2-3% rate increases in the next two years. These rate increases will be effective October 1, 2020, April 1, 2021 and April 1, 2022.

The Board will require the Town to review the financial position of the Utility, and provide either an application for revised rates or a statement of rate adequacy, on or before June 30, 2022.

The Board reminds the Town regular reviews are important for a financially sound utility and encourages the Town to review Board Order No. 86/17 for future rate applications. The Order outlines the Simplified Rate Application Process for municipally owned public utilities. If, after its rate review, the Town finds it meets the designated criteria for a simplified rate application, it should apply for future rates using the Simplified Rate Application Process.



## 6.0 IT IS THEREFORE ORDERED THAT:

1. The water and wastewater rates for the Town of Lynn Lake Water and Wastewater Utility, BE AND ARE HEREBY VARIED in accordance with the attached Schedule A, effective October 1, 2020, April 1, 2021 and April 1, 2022.
2. The water and wastewater rates for the Town of Lynn Lake Water and Wastewater Utility, as approved on an interim *ex parte* basis in Board Order No 45/18, BE AND ARE HEREBY APPROVED AS FINAL.
3. The Town of Lynn Lake establish a policy for the adjustment of Residential Equivalency Assignments, including timelines for notice and response, and file this policy with the Public Utilities Board on or before August 1, 2020.
4. The operating deficits for 2015 and 2016 totalling \$47,912, when calculated for regulatory purposes, incurred in the Town of Lynn Lake Water and Wastewater Utility, BE AND ARE HEREBY APPROVED to be recovered by a quarterly rate rider of \$9.68 per residential equivalency unit effective October 1, 2020 to September 30, 2023, or until fully recovered.
5. The Town of Lynn Lake is to monitor the deficit revenues and stop the rate rider if recovered in full before September 30, 2023.
6. The Town of Lynn Lake provide a notice to its customers, including the decisions in this Order and submit a copy to the Public Utilities Board.
7. The Town of Lynn Lake amend its Utility rate By-law to reflect the decisions in this Order, and submit a copy to the Board once it has received third and final reading.
8. The Town of Lynn Lake review the Utility rates for adequacy and file a report with the Public Utilities Board, as well as an application for revised rates (if applicable), on or before June 30, 2022.

Fees payable upon this Order - \$500.00

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

Certified a true copy of Order No. 85/20  
issued by The Public Utilities Board

  
Assistant Associate Secretary

**SCHEDULE "A"****TOWN OF LYNN LAKE BY-LAW NO. 1405-2019**

	Oct 1, 2020	Apr 1, 2021	Apr 1, 2022
Quarterly Service Charge	\$ 19.20	\$ 20.23	\$ 21.19
Quarterly Residential Equivalency Unit - Water Charge	\$ 201.41	\$ 205.74	\$ 212.13
Quarterly Residential Equivalency Unit - Wastewater Charge	\$ 96.66	\$ 98.59	\$ 100.56
Quarterly Deficit Rate Rider*	\$ 9.68	\$ 9.68	\$ 9.68
Minimum Quarterly Charge**	\$ 326.95	\$ 334.24	\$ 343.56
*rate rider to recover 2015 and 2016 deficits over three years			
**based on 1 REU, includes service charge, REU and deficit rate rider			

**1. Bulk Sales Rate**

All water sold in bulk by the Town of Lynn Lake shall be charged for at the rate of \$0.40 per 100 gallons, on a pro-rated basis for all quantities greater than 50 gallons. For any quantity of 50 gallons or less the minimum charge will be \$0.40.

**2. Service to Customers Outside Town Limits**

Council of the Town of Lynn Lake may sign agreements with customers for the provision of water services to properties located outside the legal boundaries of the Town. Such agreements shall provide for payment of the appropriate rates set out in this 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 connecting to the utility's mains and installing and maintaining service connections will be paid by such customers.

**3. Billing and Penalties**

A late payment charge of 1.25% per month shall be charged on the dollar amount owing after the billing due date. The due date will be the last day of the month of billing.

#### 4. **Disconnection of Service**

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 Condition Precedent is available for inspection at the Municipality's office.

#### 5. **Reconnection of Service**

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties and a reconnection fee of \$150.00 have been paid.

#### 6. **Outstanding Bills**

Pursuant to Section 252(2) of *The Municipal Act*, the amount of all outstanding charges for water and sewer service 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.

#### 7. **Hydrant Rentals**

The Town of Lynn Lake will pay to the utility an annual rental of \$400.00 for each hydrant connected to the system. In addition, the Town of Lynn Lake will pay for water used for fire-fighting.

## 8. Septic Service

The Town of Lynn Lake will provide septic tank pump-out service on request (if available), and charge the following fees:

- \$100.00 Flat Rate (during business hours<sup>2</sup>)
- \$150.00 Flat Rate (outside of working hours<sup>1 2</sup>)
- \$125.00 per hour Out of Town
- \$175.00 per hour Out of Town (outside working hours<sup>1</sup>)
- \$1.00/km Out of Town

<sup>1</sup> If the call is for less than 4 hours, this rate will apply to the time spent on the job by the operator, and the remaining time to the 4-hour cut-off will be charged at the rate of \$50.00/hour.

<sup>2</sup> In cases where the use of the truck exceeds 1 hour, the flat rate will be charged hourly.