

Order No. 125/22

**CITY OF FLIN FLON
WATER AND WASTEWATER UTILITY**

November 29, 2022

**BEFORE: Irene Hamilton, K.C., Panel Chair
Marilyn Kapitany, B.Sc. (Hon), M. Sc., Panel Member**

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6.0 IT IS THEREFORE ORDERED THAT: 13

1.0 Executive Summary

By this Order, the Public Utilities Board (Board) denies the City of Flin Flon Water and Wastewater Utility's (Utility) application for revised water and wastewater rates.

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

2.0 Background

The City owns and operates the Utility serving 2,264 accounts, made up of 300 metered accounts and 1,964 flat rate residential accounts (including Channing area residents). All commercial and multifamily properties are required to have meters installed while a moratorium on residential meter installations remains in place. Rates were last approved for the Utility in Board Order No. 122/20, coming into effect January 1, 2021.

The rates found in the Board Order included a deficit surcharge to recover the 2014 operating deficit, which was initially approved in Board Order No. 96/16, and subsequently varied by Board Order No. 68/17.

The Board granted approval of the recovery of the 2014 deficit of \$939,234 by way of a deficit rate rider as shown below:

Meter size	Group Capacity Ratio	Number of Accounts	Monthly Amount
Flat rate & 5/8 inch meters	1	2200	\$5.06
3/4 inch meters	2	29	\$10.12
1 inch meters	4	32	\$20.24
1 1/2 inch meters	10	10	\$50.60
2 inch meters	25	17	\$126.50
3 inch meters	45	2	\$227.37
4 inch meters	90	1	\$455.40

The City receives a grant in lieu of utility fees from HudBay Minerals (HudBay) through a Contribution Agreement that originated in the 1960's and has been revised several times to date. This agreement does not allow for the inclusion of any utility expenses, but does allow for contributions to Utility Capital Expenses for the installation, renewal and replacement of infrastructure, for which the monies are raised through mill rates in the General Fund. The creation of Utility Capital Reserves through utility rates would remain outside the Contribution Agreement, resulting in higher costs for the residents of this community.

The Utility has a Wastewater Treatment Plant (WWTP) and a newly constructed Water Treatment Plant (WTP)

Water Supply/Distribution

The Utility system is a continuous double main re-circulating system that requires heating of the water from October to April of each year to prevent the freezing of the water lines.

The new WTP provides an Ultra Filtration treatment process above a 4.5ML reservoir and the project included a renewal of the recently decommissioned Heating Plant #2. The Twin Feeder Main renewal project completed in 2008 brings fresh water from the source, Cliff Lake, to the new WTP. The City has completed several underground infrastructure renewal projects under its own capital projects budgets over the past several years and continues to spend approximately \$500,000 per year on these infrastructure renewals, including the replacement of water lines, sewer lines, mains and connections.

Wastewater Collection and Treatment

The WWTP consists of a Head-works facility for primary treatment/sludge processing, constructed in 1999-2000 and a sequential batch reactor facility constructed in 2004-2005.

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.

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 (CAM). 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.

Unaccounted for Water

Water losses may be caused by such events as distribution line losses, service leaks, water used for fire fighting or line flushing, and under-registration of water meters. The Board Guidelines require utilities to compare the volume of water produced or purchased against the volume of water sold, to determine the percentage of unaccounted for water. Unaccounted for water volumes of approximately 10% are considered industry standard.

The Board expects any utility experiencing a greater volume of unaccounted for water to provide an explanation and plan to address the water losses.

4.0 Application

On November 22, 2021, the Board received the City's application to revise its water and wastewater rates. The City has requested the Board grant approval to continue charging the rates as approved in Board Order No. 122/20, including the rate rider for the 2014 operating deficit, which the Board Ordered the City to collect during the five year period from January 1, 2018 to December 31, 2022. The City's request amounts to an increase equal to the deficit recovery, which has been calculated on a flat rate basis, collected based on the group capacity ratio of each customer, whether metered or unmetered.

The application was accompanied by a rate study prepared by the applicant and By-law 2021-15, having had first reading November 16, 2021.

The Board conducted an initial review to determine completeness of the submission, sending a round of information requests to the City May 17, 2022. The City responded June 20, 2022.

Working Capital

As per the 2021 audited financial statements, the working capital deficit at December 31, 2021 was:

	2021
Accumulated Fund Surplus	\$21,935,260
Deduct tangible capital assets	\$37,171,674
Add long term debt	\$3,655,468
Add utility reserves	\$0
Equals Working Capital Deficit	(\$11,580,946)
Total expenses	\$4,460,192
20% of total expenses (target)	\$892,038

Operating Deficits

The City's application included a referenced copy of the minimum filing requirements (pre-2017 version). Number 14 is the summary of operating deficits in the last five years, ie amount and approved method of recovery, and the City referenced Section 5 of its application. Section 5 included a copy of the 2020 audited financial statements, and a PUB Schedule 9, which did not reconcile to the audit. The City responded to the Board's questions regarding these discrepancies by advising its auditor had changed the way its audits were presented, removing the property tax and hydrant rental revenues despite the CAO unsuccessfully requesting the format used in previous statements continue to be used. The City advised the 2021 audited statements would once again reflect these revenues in Schedule 9. Based on the unaudited information presented by the City for 2019 and 2020, the Utility did not experience an operating deficit, and no operating deficit has been applied for since 2014.

Cost Allocation Methodology

The Board approved the Utility's current Cost Allocation Methodology (CAM) in Board Order No. 93/16. The City did not propose any changes to the existing CAM.

Unaccounted for Water

The Utility indicated the 2017 unaccounted for water was 9% of water produced. The City's application included a referenced copy of the minimum filing requirements (pre-2017 version). Number 29 asks for commentary on unaccounted for water if the amount exceeds 10%, and the City referenced this as "N/A". Section 9 of its application, "Rate Calculations", states the unaccounted for water volume is 21% of total annual pumping. No information is provided to determine how the City calculated or estimated this figure.

5.0 Board Findings

The Board finds that the City's ongoing use of its own methodology rather than the Board's recommended guidelines to calculate proposed utility rates remains a significant issue. The Board has questioned the City's methodology in the past. The Board's May 2022 information requests included questions asking for the rationale for the variation. The City responded: "This format as been in use and was a part of the 2014 water study and rate application and has been subsequently utilized in every water rate study and application since that has been completed for the City of Flin Flon."

The Board has reviewed the application and revenue projections presented by the City, and finds the submission inconsistent with the Board's recommended methodologies. While the continuation of the deficit recovery surcharge would almost certainly result in a less complicated process administratively, it is not quantifiable nor transparent to ratepayers. Having considered the City's filing the Board finds it appropriate to conduct a paper review process, denies the City's request and directs the City to discontinue the collection of the deficit rate rider effective December 31, 2022.

The City's 2014 rate application was decided by Board Order No. 96/16, which stated:

"The methodology which the applicant used to determine the combined commodity charge for both water and wastewater is not consistent with Board recommended methods. This is also true for the calculation of rates for metered and unmetered customers. Use of the guidelines and workbooks provided on the Board's website are not compulsory, but these are based on best practices and should be adhered to unless there is a strong rationale for adjustment. The Board encourages the City staff to confer with Board staff whenever they are uncertain about the Board's recommended methodology and, where a variation to the methodology is proposed, that the variation be clearly substantiated in the application. Unless the City has a strong rationale to justify a variance, the Board recommends that the City of Flin Flon establish a customer service charge, a water rate and a wastewater rate, rather than a combined charge, using the workbooks provided. The differentiation sends a clearer pricing signal to customers. The

use of a different methodology complicates the analysis of the rate application and leads to unnecessary delays in processing.”

The City also submitted a rate application in 2019, which was decided by Board Order No. 122/20, which included similar direction from the Board:

“The Board notes, applications for revised rates are not required to use Board methodology, however, any proposed/requested variation must be clearly substantiated in the Application. This includes (but is not limited to) all supporting calculations, a clear and concise explanation for the proposed variation, and any other information to justify the methodology to both the Board and Utility customers.”

Examples of the variation from Board methodology include a single combined commodity charge for both water and wastewater, alternative minimum charge volumes for metered customers and the exclusion of amortization expense from the revenue requirements. The City advised the Board “...there is a cost to moving to a separated billing system. This cost has not been determined at this time, however through the work that we will be doing over the next 4 to 6 months costs will be identified.” The City further advised, “Property tax revenue is being attributed to these expenses and therefore if the related expenses were not removed from the calculation, the consumer would be required to pay through taxation and again through water rates.”

The Board has made every effort to work with the City and explain the appropriate processes, advising multiple times that variation from Board methodology must be substantiated and quantified. Those efforts to accommodate the City in the past are not acceptable as an explanation for the alternative methodology. The Board has historically granted approval due to the City’s indisputable need for revised rates, despite the shortcomings of the submitted rate applications.

The Board denies the request to continue charging the deficit recovery rate rider beyond December 31, 2022. The City has been given ample opportunity to quantify its

alternative methodology, as well as provide a compelling rationale for same, and has failed to do so. Therefore, the Board will order the City of Flin Flon to submit a rate application using the rate study process, following Board recommended guidelines. The Board has provided a number of resources, including educational webinars, on its website, and Board staff are available to provide clarification on processes as required. The Board notes the City's most recent submission was prepared using an outdated version of the Minimum Filing Requirements, this checklist was revised in 2017. The Board recommends the City review the Board's website and updated information on rate applications, as well as previous Board Orders issued to the City, for background information in preparing the rate application.

The Board orders the City to submit its rate application on or before June 30, 2023.

6.0 IT IS THEREFORE ORDERED THAT:

1. The revised water and wastewater rates for the City of Flin Flon Water and wastewater Utility, BE AND ARE HEREBY DENIED.
2. The City of Flin Flon's 2014 Utility deficit recovery be discontinued December 31, 2022, as directed in Board Order No 68/17.
3. The City of Flin Flon 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.
4. The City of Flin Flon submit a rate study and application for revised rates on or before June 30, 2023.

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.

THE PUBLIC UTILITIES BOARD

"Irene Hamilton, K.C."

Panel Chair

"Jennifer Dubois, CPA, CMA"

Assistant Associate Secretary

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Assistant Associate Secretary