

Order No. 97/23

**RURAL MUNICIPALITY OF STANLEY
SIMPLIFIED RATE APPLICATION**

August 16, 2023

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

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1.0 Executive Summary

By this Order, the Public Utilities Board denies approval of the Rural Municipality of Stanley's (RM) application for revised water rates for the Stanley Water Utility (Utility).

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

2.0 Background

The RM operates a water-only utility. The Utility both purchases and produces water.

Rates were last set in Board Order No. 78/21. The Utility's current rates came into effect January 1, 2023, following a pass through rate increase from Pembina Valley Water Coop. The RM last submitted a full rate application in 2014, and submitted simplified rate applications in 2019, 2020, 2021 and the current application in 2023.

3.0 Board Methodology

Simplified Rate Application Process

The Board issued Board Order Nos. 86/17 and 27/23 establishing and revising the Simplified Rate Application Process (Simplified Process). This process applies to municipally-owned public utilities operating water and/or wastewater systems which meet designated criteria and wish to request Board approval for revised rates.

The following criteria are required in order for a utility to qualify to apply for revised rates using the Simplified Process:

1. The utility must be compliant with all regulatory reporting, including but not limited to:
 - a. The audited financial statements being relied upon for evidence by the Board in the application must be current and prepared in compliance with *The Municipal Act* section 190.
 - b. All outstanding utility deficits should have received approval of the Board.
 - c. All directives from previous Board Orders should have been followed, including submitting copies of all by-laws after third reading, as required.
2. The utility must not be experiencing an operating deficit which is the lower of \$10,000 or 5% of operating expenses, when calculated for regulatory purposes. This includes the appropriate adjustments for capital grants and contributed assets as outlined in Board Order No. 151/08, available on the PUB website at www.pubmanitoba.ca.
3. The utility must not be experiencing an unexplained annual operating surplus which is in excess of 20% of operating expenses, when calculated for regulatory purposes. This includes the appropriate adjustments for capital grants and contributed assets as outlined in Board Order No. 151/08, available on the PUB website at

www.pubmanitoba.ca. An example of an explained surplus would be a utility making an annual contribution to reserves for a planned expenditure; when providing the explanation, all details and supporting documentation about the intended purpose of the reserve should be included.

4. The municipality must have reviewed the utility operations and expects the requested rate will be adequate to meet operating costs for the year. If the revised rates are inadequate, the full application process should be initiated to apply for the necessary rate revisions.
5. The utility must be seeking a rate increase of no more than The Bank of Canada Policy Interest Rate +2%, as indicated at www.bankofcanada.ca on the date of the first reading of the municipal by-law, over the current utility rate. The current utility rate must have been in effect for a minimum of one year from the date of application under the Simplified Process. The revised rate must apply equally to all customers of the utility; however, the utility may request a different revision for the customer service charge, water and/or wastewater rates. For example, a qualified utility may request a 2% rate increase for water, a 1% increase in the customer service charge and no change in wastewater rates, if appropriate. A utility that has domestic and wholesale rates and only wishes to increase one of those rates must apply using the full application process.
6. Requests for multi-year increases will be denied; however utilities may make annual requests for rate increases using the Simplified Process, as long the utility continues to meet the designated criteria.
7. The Simplified Process is at the discretion of the Public Utilities Board, and applicants may be subject to the full application process at any time, and for any reason, without explanation or appeal.

The responsibility for determining whether or not a utility meets the designated criteria lies with the applicant utility. If a utility that clearly does not meet the designated criteria attempts to submit an application using the Simplified Process, the Board will deny the application, and charge a processing fee of \$500.00.

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.

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.

4.0 Application

On May 12, 2023, the Board received the RM's application for revised water rates for the Utility. The Application was submitted using the Simplified Process and accompanied by By-Law No. 08/23 having received first reading on May 11, 2023. The Bank of Canada Policy Interest Rate as of that date was 4.5%, allowing the RM to request increases of up to 6.5% using the Simplified Process.

The application requested water rate increases for customers of the Massey Distribution System from \$6.15 to \$6.55 per 1,000 gallons and all other customers from \$13.36 to \$13.58 per 1,000 gallons, increases of 6.5% and 1.6% respectively. The application did not propose a change to the Quarterly Service Charge of \$11.33.

The RM provided an affidavit certifying the Utility meets all Board requirements for the Simplified Process as set out in Board Order Nos. 86/17 and 27/23.

A Public Notice of Application was issued on June 5, 2023, affording customers the opportunity to comment to both the Board and the RM with respect to the proposed rate increases. No responses were received.

The RM's certified it had no unexplained operating surpluses more than 20% of operation expenses; however, the most recent audited financial statements show a 2021 net operating surplus of \$424,834, when calculated for regulatory purposes. The total utility expenses are \$1,559,891, 20% of which is \$311,978. The Board asked the RM to provide an explanation for the need for an increase in light of this surplus and the RM's response stated:

"RM of Stanley is working on providing sewer to areas of the Municipality. We are requesting a rate increase to minimize rate shock when a sewer rate will be added to the utility."

The Board also asked the RM to explain the change in Total General Expenses which went from \$16,365 in 2020 to \$89,502 in 2021, and why the RM's request for revised rates did not include any change to the Quarterly Service Charge, which is the utility charge used to recover General Expenses. The RM's response was the increase was a result of an accounting entry change and that the RM is planning a full utility study which will address the quarterly service charge.

Working Capital Surplus

As per the 2021 Audited Financial Statements, the working capital surplus at December 31, 2021:

	2021
Accumulated Fund Surplus	\$9,651,409
Deduct tangible capital assets	\$11,017,571
Add long term debt	\$904,033
Add utility reserve	\$886,964
Equals Working Capital Surplus/Deficit	\$424,835
Total expenses	\$1,559,891
20% of total expenses(target)	\$311,978

The Utility currently meets the Board minimum working capital surplus of 20%.

5.0 Board Findings

Considering the RM's filing and noting there was no public response to the Notice of Application, the Board has chosen a paper review process.

The Board finds the RM fails to meet the required criteria, as set out in Board Order Nos. 86/17 and 27/23, to apply for revised rates using the Simplified Process and denies the application.

When the Board introduced the Simplified Process in Board Order No. 86/17, it stated one of its objectives with the process was to allow utilities to keep up with rising operating costs using minimal resources.

Based on the evidence provided, the Board finds the Utility has adequate rates to meet its current revenue requirements. The RM's explanation that it requires an increase to mitigate rate shock for future wastewater services does not align with the purpose of the Simplified Process, which is to maintain adequate rates for current operations.

The Board finds the RM's plans to introduce a wastewater collection system represents a material change in the Utility, and rate changes as a consequence of new services should only be contemplated as part of a full and robust review. Given these capital and operational changes, the changes in allocating general expenses and the time since the last full rate application, the Board finds the RM's next rate application should be prepared using the Full Rate Application Process.

The Board does not have any details of the wastewater project, such as timelines, affected customers, and projected revenue requirements, in evidence. An application prepared using the Simplified Process is, by definition, a very simple and basic application and is unsuitable in this case.

The Board requires the RM to review its water rates 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 June 30, 2025.

6.0 IT IS THEREFORE ORDERED THAT:

1. Revised water rates for the RM of Stanley Utility BE AND ARE HEREBY DENIED.
2. The RM of Stanley review water rates 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 June 30, 2025.

Fees payable upon this Order - \$150.00

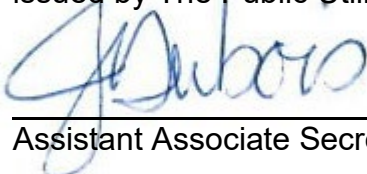
Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

Shawn M^cCutcheon
Panel Chair

"Jennifer Dubois, CPA, CMA"
Assistant Associate Secretary

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issued by The Public Utilities Board


Assistant Associate Secretary