

MANITOBA) Order No. 57/12
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THE PUBLIC UTILITIES BOARD ACT) May 7, 2012

BEFORE: Susan Proven, P.H.Ec., Acting Chair
Monica Girouard, CGA, Member

TOWN OF BIRTLE
WATER AND SEWER RATES
2012

Executive Summary

The Public Utilities Board (Board) approves revised water and sewer rates for the Town of Birtle (Town) effective April 1, 2012 and confirms as final interim rates approved on an ex parte basis by Order No. 70/10 on July 6, 2010.

For each Residential Equivalent Unit (REU), the quarterly charge will be:

Water Commodity Rate	\$ 125.00
Sewer Commodity Rate	\$ 27.00
Service Charge	<u>\$ 24.70</u>
Total Quarterly	\$ 176.70

The revised rates represent a 41% increase over the interim rates currently in place. These rates will be effective April 1, 2012 and will appear on the next quarterly bill scheduled for May 2012.

Details of the revised rates are attached to this Order as Schedule "A".

The Board has also determined that the Town will not be required to refund amounts billed and collected in 2011 despite the fact that these amounts were billed without Board approval.

Rationale for these decisions can be found in the text of this Order.

Introduction

Prior to the interim Order issued in July of 2010, rates had last been amended in 2001, by way of Order 138/01 which provided for rate increases in 2001, 2002 and 2003.

The Town filed an application in April of 2010 seeking revised rates to be effective for 2010, 2011 and 2012. While the Board was not in a position to deal with the application in detail at that time, it did determine that a rate increase was necessary in order to avoid continuing deficits by the utility and approved new rates effective for the August 2010 billings on an interim ex parte basis.

Approvals provided on an ex parte basis are subject to revision once the Board has completed a detailed review process. Such a process includes public notification of the increases with opportunity provided to customers to express opinions to both the Town and the Board. The Board then has at its disposal two review options. One being a paper process review, the second being an oral hearing. The combination of the significant increases being proposed, along with the concerns expressed by customers through submissions received by the Board, led to the Board calling an oral hearing which was held on December 8, 2011 in the Birtle Community Hall. Approximately 20 people attended the hearing.

Unfortunately, and without knowledge of the Board, Town officials billed customers for the revised rates proposed for 2011, effective January 1, 2011. Water and sewer rates require Board approval prior to billing customers. After discussion with the Board, the Town adjusted the November 2011 billings to reflect appropriately approved rates. The Town appealed to the Board that they not be required to issue refunds of the overbilled amounts due to the poor financial condition of the utility and the inordinate effort required to calculate and issue the refunds.

Background

The Town's Water and Sewer Utility serves 284 customers, 265 being residential customers. The system was constructed in the 1950's, with its water and sewer main upgraded during the 1970's, 80's and 90's. The mains along Birtle's Main Street are reportedly in need of upgrading. The Town anticipates a significant cost to rehabilitate these mains.

The Town obtains its water from wells. Raw water is filtered, chlorinated and stored in a treated water reservoir. The Town's water system underwent an engineering assessment in 2009. That report indicated that most of the system's problems have been addressed, and that the existing water treatment plant and reservoir equipment is functional.

As the Town is located in a valley, a booster station is required to serve customers at higher elevations; the Town operates two booster stations, one for stand-by purposes only.

The Town's two-cell lagoon was last cleaned in the 1990's; effluent is discharged into the Birdtail Creek pursuant to the Town's Environmental License. The Town also operates one lift station as part of the wastewater collection system.

The Town reports that its water distribution and sewage collection system are in good condition. Nonetheless, the Town has reported that it incurred many water main breaks during 2011 which resulted in service interruptions.

The Town intends to install water meters in the future, but until that occurs, the approach to billing will remain based on Residential Equivalent Units (REU's). The Town advises that meters had been installed at a few select locations several years ago, to assist in estimating the amount of water used by various customer groups.

Application

The Town filed its application on April 23, 2010, along with first reading of By-law No. 2010-06, which sets out proposed water and sewer rates for the years 2010 through 2012. The application was accompanied by a rate study prepared by the Town's consultant, Mr. G.O. Barron, FCGA.

Audited financial statements for 2009 and 2010 were not available at the time that the rate study was prepared. The Town's application was based on amounts estimated required to generate sufficient utility revenue to meet the utility's annual operating expenses, including provisions for contingencies and a contribution to the utility reserves. These estimates did not include any provisions for amortization expense as required under generally accepted accounting principles.

The Town proposed to phase-in the overall rate increase over three years, with the first year resulting in a 26% increase, the second a 21% increase, and an additional 17% the third year.

The table below shows existing and proposed rates:

REU	Existing	Year One	Year Two	Year Three
Water (\$REU quarterly)	\$ 65.00	\$ 85.00	\$105.00	\$125.00
Sewer (\$REU quarterly)	\$ 22.50	\$ 24.00	\$ 25.50	\$ 27.00
Service Charge	\$ 11.25	\$ 15.50	\$ 19.75	\$ 24.00
Total Quarterly	\$ 98.75	\$124.50	\$150.25	\$176.00
Hydrant Rental (annual)	\$ 75.00	\$100.00	\$100.00	\$100.00
Reconnection	\$ 25.00	\$ 50.00	\$ 50.00	\$ 50.00
Turn On/Off Water	\$ 15.00	\$ 25.00	\$ 25.00	\$ 25.00

For commercial customers, the revised total quarterly charge would vary, depending on the number of REU's assigned.

The rates proposed were intended to recover the following projected annual net revenue requirements:

Description	2010	2011	2012
General Revenue Requirements	\$ 26,445	\$ 27,238	\$ 28,055
Water Expenses	113,757	117,170	120,685
Reserve Provision	15,000	15,450	15,914
Contingency	10,000	10,300	10,609
Rebates	2,040	2,040	2,040
Less Revenues	- 3,700	- 3,703	- 3,707
Water Revenue Requirements	137,097	141,257	145,541
Sewer Expenses	26,580	27,377	28,199
Contingency	3,000	3,090	3,183
Sewer Revenue Requirements	29,580	30,467	31,382

The estimates provide for a 3% inflation rate, but do not reflect new Public Sector Accounting Board (PSAB) accounting standards, with respect to the recording of annual amortization of capital assets and the prescribed approach to recording debenture payments.

While the 2009 audited financial statements were subsequently received, the data from those statements was not used in preparing the rate study.

The Town also proposed changes to the assignment of REU's for commercial customers; these changes were approved by the Board in Order 70/10. Subsequently, the Town received requests for other adjustments to REU's and recommended adjustments for three customers, namely Snow's Country Meats, S&D Restaurant, and Birtle Abattoir.

The Town holds that the revised assignments are fair and reasonable, and are consistent with the Board's guidelines.

Finally the Town submitted a cost allocation methodology which included the time spent on utility matters and directly by staff plus 20% of audit costs to be allocated to the utility.

The Public Hearing

The concerns expressed by those who attended the public hearing were not dissimilar from the comments received by the Board via letter and e-mail. These concerns covered aesthetically unacceptable water quality, unplanned and unannounced service breaks, water ruining faucets and causing discoloration of laundry, and water of questionable quality, despite claims that the water meets the required drinking water standards. Many advised that they would not

drink the water and that they purchase their drinking water supply in bottles. This was exacerbated by concerns over the fact that significant increases were being applied to what is considered by them to be an unacceptable water supply.

Town officials advised that they have applied to the Manitoba Water Services Board for assistance but have not yet to date been successful.

Also of concern was the Town's plan to meter the water supply and the capital costs associated with that plan. Although most appear to be in favor of the installation of meters, affordability was the key issue.

Board Findings

The Board is concerned over two issues in particular:

1. the Town proceeded to issue billings without appropriate Board authorization; this contravenes *the Public Utilities Board Act*; and
2. the audited financial statements for the Town are severely in arrears; 2009 financial statements were received well after the application was filed and 2010 financial statements are still not available; this does not provide the Board with the comparative information that it requires to appropriately assess whether or not the expense projections, underpinning the rate proposal, are valid.

Concerning the unauthorized billings, the Board has considered the Town's request to not require refunding of the overbilled amounts due to the effort involved. The financial condition of the utility was more germane to the Board in arriving at its decision to not require the refunds. Utilities are not allowed to incur deficits without Board approval and where such deficits do occur, utilities are required to recover them. As a rule these recoveries, which are authorized by the Board, are surcharges on utility customers. Directing a refund which then causes the utility to incur a deficit which would then have to be recovered from those same customers was deemed circuitous and ineffective.

The Board has reviewed the 2009 audited financial results and compared those to the projections included in the rate study. The Board notes that the amortization and interest expenses, which had not been taken into account in preparing the rate study, were in large measure offset by the taxation revenues realized by the utility to service the outstanding debentures, also not considered in the rate study. The net projected results appear to be reasonable and on this basis the Board will approve the rates proposed in the rate study for 2012.

Nonetheless, the Board needs to assure itself that the financial results upon which the rates are based continue to reflect the historical experience. The Board will therefore direct that the Town file the 2010 audited financial statements, now almost a year overdue, as soon as possible. The Board will also direct that the utility file a revised rate study proposing rates for 2013, by no later than September 30, 2012.

The Board will approve the cost allocation methodology submitted by the Town and remind the Town that any future changes to that methodology will require Board approval.

The Board will approve the revised assignments of REU's for the three commercial customers, as reflected in schedule "A" attached.

The Board will require the Town to prepare a water and sewer rate by-law that agrees with the provisions of this Order, and provide a copy of same to the Board once it has received third and final reading.

The Board is sympathetic to the water quality concerns raised by the customers who contacted the Board and attended the public hearing. The Board is also concerned with the reported water main breaks and service interruptions and will require the Town to provide it with a progress report on proposed mitigation action to address water quality parameters, including colour and taste. However, as previously stated, utilities are not allowed to incur operating deficits. The Board is therefore obligated to provide sufficient funds to operate the utility notwithstanding its qualitative deficiencies. Having said that, the Board does expect Town officials to exercise due diligence in pursuing mitigation activities to provide potable water acceptable to its customer base.

The Board will expect the Town to make every effort to provide sufficient notice to its customers if and when service is to be interrupted so that they might have an opportunity to make alternate arrangements.

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 and sewer rates for The Town of Birtle BE AND ARE HEREBY APPROVED in accordance with the attached Schedule "A", effective April 1, 2012.
2. Interim water and sewer rates for the Town of Birtle as approved by Order 70/10 BE AND ARE CONFIRMED AS FINAL.
3. The Town of Birtle shall submit a certified copy of its water and sewer by-law reflecting Schedule A attached once it has received third and final reading.
4. The cost allocation methodology proposed by the Town of Birtle BE AND IS HEREBY APPROVED.
5. The Town of Birtle submit a copy of its 2010 audited financial statements to the Board as soon as they are available.
6. The Town of Birtle submit to the Board a revised rate study and rate proposal for the year 2013 by no later than September 30, 2012.
7. The Town of Birtle investigate the causes and possible solutions with respect to water quality concerns and provide a progress report to the Board by no later than September 30, 2012.

Schedule "A"
 To Board Order No. 57/12
 Town of Birtle
 Water and Sewer Rates

1. Residential Equivalent Unit (REU) Per Quarter:

Water Commodity Rate	\$ 125.00
Sewer Commodity Rate	\$ 27.00
Service Charge	\$ 24.70
Total Quarterly	\$ 176.70

Customer	REU	Service Charge	Water Charge	Sewer Charge	Quarterly Bill
Single Family Residence, Post office, CDC Building, JA Woods Riverside, TVC Office, RM building, Asselstine Agencies, Birtle Drop In, Value Shoppe, Vanguard CU, Royal Bank, Sims & Co., Snow's Country Meats, Birtle Abattoir	1	\$24.70	\$125.00	\$27.00	\$176.70
Goulet, Nail Finesse, Birtle Pharmacy	1.5	\$24.70	\$187.50	\$40.50	\$252.70
MH Complex, Birtle Fire Hall, TVC Home/Farm Centre, TVC Gas Bar, Birtle Hall, S.B. Ringers, Mainline Motors, Midaga's	2	\$24.70	\$250.00	\$54.00	\$328.70
Crane Steel Structures, S&D Restaurant	3	\$24.70	\$375.00	\$81.00	\$480.70
Springside Apartments, Birtle Community Centre, Lions Corner	4	\$24.70	\$500.00	\$108.00	\$632.70
Favorite Motel, Glendon Place	5	\$24.70	\$625.00	\$135.00	\$784.70
Birtle Hotel, TVC Grocery Store/Bakery	6	\$24.70	\$750.00	\$162.00	\$936.70
Lions Village	8	\$24.70	\$1,000.00	\$216.00	\$1,240.70
Birtle Elementary School/Parkwest School Division	10	\$24.00	\$1,250.00	\$270.00	\$1,544.70
Morton Manor	12	\$24.70	\$1,500.00	\$324.00	\$1,848.70
Pioneer Lodge, Town Campground (Seasonal)	15	\$24.70	\$1,875.00	\$405.00	\$2,304.70
Collegiate	25	\$24.70	\$3,125.00	\$675.00	\$3,824.70
Birtle Health Centre/PCH	35	\$24.70	\$4,375.00	\$945.00	\$5,344.70
Water only	1	\$24.70	\$125.00	--	\$149.70
Sewer only	1	\$24.70	--	\$27.00	\$51.70

2. Invoicing:

Invoices for accounts shall be issued the second month in each quarter, and shall be due and payable 15 days after the invoice date. Where water is turned on for a customer, the invoice shall be issued at the beginning of the next month and shall cover the services from that time to the end of the quarter.

3. Late Payment Charge:

A late payment charge of 1 ¼% shall be charged on the dollar amount owing after the billing due date.

4. Disconnection for Non-payment:

The Public Utilities Board has approved 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.

5. Service to Customers outside the Town limits:

The Council of the Town of Birtle may sign agreements with customers for the provision of water and sewer services to properties located outside the legal boundaries of the Town of Birtle. 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 the customer.

6. Hydrant Rentals:

The Town of Birtle will pay to the utility an annual rental of \$100.00 for each hydrant connected to the system, which includes the cost of water used for fire fighting and line flushing.

7. Disconnection and Reconnection:

The charge for the disconnection and/or reconnection of service whether at the customer's request or because of non-payment of account is \$50.00 per disconnection or reconnection.

8. Turn on and Turn off Charges:

Water turned off for repairs and on again at the request of the customer shall have a charge of \$25.00 for services.

9. Outstanding Bills:

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

10. Valve:

Property owners are required to install and operate a suitable valve or other mechanical device for shutting off or controlling the water connection in the cellar or basement of the owner's dwelling unit.

11. Sewage Surcharges:

(a) There may be levied annually, in addition to rates set forth above, a special surcharge on sewage having a Biochemical Oxygen Demand in excess of 300 parts per million, to be set by resolution of Council.

(b) A special surcharge for substances requiring special treatment shall be charged based on the actual cost of treatment required for the particular sewage or industrial wastes.