

Order No. 40/17

**AN ORDER RESPECTING THE RURAL MUNICIPALITY OF CARTIER
SPRINGSTEIN WATER STANDPIPE
LIDO PLAGE UTILITY**

April 18, 2017

**BEFORE: The Hon. Anita Neville, P.C., B.A. (Hons.), Acting Chair
Marilyn Kapitany, B.Sc. (Hons.), M.Sc., Member**

Table of Contents

1.0 Executive Summary..... 3

2.0 The Issues..... 4

3.0 Application..... 5

4.0 Public Hearing 8

5.0 Board Findings on the Issues 9

6.0 IT IS THEREFORE ORDERED THAT:..... 14

1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board or PUB) hereby denies the Rural Municipality of Cartier's (RM) application to decommission the Springstein truck fill water standpipe, located in the Lido Plage utility.

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

2.0 The Issues

The following issues were identified by the Board:

Issue 1 – The Rural Municipality of Cartier has requested PUB approval to decommission the Springstein truck fill water standpipe, located in the Lido Plage Utility.

Issue 2 – The Rural Municipality of Cartier is operating the three utilities located in the Rural Municipality on a consolidated basis as the Cartier Water & Wastewater Utility.

3.0 Application

The RM owns and operates three utilities; Elie, St Eustache and Lido Plage. The Springstein standpipe is included in the Lido Plage utility. These utilities are presented in the audited financial statements as separate entities; however the RM operates them on a consolidated basis as the Cartier water and wastewater utility (Utility). Rates were last revised January 1, 2017 as approved by Board Order No. 125/16, including bulk water rates. The current bulk water rate for the RM of Cartier is \$13.50 per 1,000 gallons, which will increase to \$15.00 per 1,000 gallons effective January 1, 2018.

With the exception of the Springstein standpipe, bulk water sales in the RM of Cartier are managed by the Cartier Regional Water System (CRWS), which is operated by the Manitoba Water Services Board. Each of the participating municipalities purchase cards from CRWS at face value, then sell bulk water cards at their respective municipal offices. Those cards are then used to purchase water at various bulk water sales stations throughout the region, including the RM of Cartier. The municipality in which the bulk water station is situated is then credited with the sales revenue from that card and is charged for that volume of water. Bulk sales revenues and costs for water purchases are all handled by the CRWS.

The Springstein standpipe is connected to a water line that is part of the RM of Macdonald utility and is coin operated. The bulk water cards can't be used at the Springstein standpipe. The RM of Macdonald charges the RM of Cartier \$12.50 per 1,000 gallons of bulk water. This rate has been in effect since April 1, 2016.

On July 21, 2016 the PUB received a request from the RM to decommission the Springstein standpipe effective October 1, 2016. The request was accompanied by unaudited income summaries dating back to 2013, prepared internally by the RM and indicating the standpipe was operating at a loss, a copy of a public notice dated June 22, 2016 advising the public of the RM's intention to close the standpipe, and Council Resolution Nos. 15-094 and 16-147.

The letter from the RM outlined the following factors used in deciding to decommission the standpipe:

1. The standpipe has been operating at a loss for several years. The actual amount of water sold at the standpipe did not warrant the costs associated with maintenance and repairs of the facility.
2. It is the municipality's understanding that new regulations will soon be implemented that would require a retrofit of the standpipe in order to comply with those requirements. Additional costs would be incurred to meet those requirements.
3. Municipal water has been available to residents of Springstein since 2000 with an extension of the waterlines being completed in 2015. Since the RM's initial meeting with residents and the increase in connection fees as of April 1, 2016 a number of residents in Springstein connected to the municipal water service prior to the connection fee increase. This reduced the number of regular standpipe users.
4. It is the RM's estimation that there are less than ten users of the standpipe for domestic use.

In response to the PUB's August 9, 2016 request for additional information, on September 30, 2016 the RM sent detailed money collection records, a cost summary page, internal records of the wages coded to the Springstein standpipe, copies of trail balances and utility bills from the RM of Macdonald. The money collection records indicated a total cash shortfall of \$68.95 since 2013. The cost summary page contained operating expense information that was inconsistent with the income summary information submitted in July 2016.

The RM's submission noted that the coin operated dispensing system at the Springstein truck fill had been tampered with and had also had issues with calibration, dispensing greater volumes than what was being recorded.

When reviewing an application, the PUB has at its disposal two approaches, either a paper or a public hearing review. A public hearing process allows the Utility and stakeholders the opportunity to present their application and any concerns to the PUB in person. The majority of applications reviewed by the PUB are rate applications, and typically the PUB will consider the application and stakeholder responses after the publication of the Notice of Application, and determine which method of review is most appropriate.

In the case of the RM of Cartier, the Notice of Application had not yet been drafted when the PUB decided to process this application by way of a Public Hearing. This decision was made due to the potential consequence of decommissioning the standpipe without hearing from all of the stakeholders.

4.0 Public Hearing

A Notice of Public Hearing was issued February 27, 2017. The hearing took place on March 23, 2017 at the Springstein Mennonite Church in Springstein, MB. There were 18 names on the sign in sheet.

Opening comments were made by the PUB's Acting Chair, followed by introductions and the RM's presentation made by the Chief Administrative Officer.

The presentation outlined the RM's earlier submission, including the factors used by the RM in deciding to decommission the standpipe. The RM stated that the coin system used is becoming obsolete and would need to be upgraded, as well the system itself needs to be retrofitted to a "camlock" style system to be compliant with regulations. This change would also likely require users to retrofit their trucks at their own cost. The RM provided some figures, but acknowledged they were not quotations from suppliers, but rather estimates from the utility operator.

When asked about the operating losses and prices for the Springstein standpipe, the RM acknowledged that it had failed to increase the prices for bulk water to cover the costs incurred at the standpipe. The bulk water rates last set by the PUB were as applied for by the RM, and were not calculated in accordance with PUB recommendations.

During the Public Hearing, it was suggested by the residents in attendance that the RM's estimate for the number of domestic users was inaccurate and that many more residents use the standpipe than estimated by the RM. The RM stated that it had based the estimated number of users on the total consumption at the standpipe using a household average of approximately 67,000 gallons.

When asked by the PUB why the RM is setting rates on a regional basis but accounting for the three utilities separately, the response was that the RM was under the impression that the PUB had ordered the RM to do so.

In closing, the RM stated that the goal of the current and past council has been getting a potable water line in front of every home in the RM and expressed the belief that all homes should be connected to potable water as well as concerns over the health and safety of continued use of cisterns for storing drinking water.

5.0 Board Findings on the Issues

Issue 1 – The Rural Municipality of Cartier has requested PUB approval to decommission the Springstein truck fill water standpipe, located in the Lido Plage Utility.

The PUB will deny the RM's request for approval to decommission the standpipe. The RM identified four factors used to decide to decommission the standpipe. The first was that it had been operating at a loss for several years.

The RM has made the conscious decision to set the connected water and bulk water rates at the same level, which the PUB approved, although it does not align with the PUB guidelines. The PUB grants flexibility in rate setting methodology, to allow for the different variables found in different utilities. In the case of the RM of Cartier, the PUB accepted the RM's assertion that applying the same water rate to bulk and connected customers was appropriate for that utility. The RM's most recent rate study stated, "The bulk water sales rate has always been the same as the metered rate in the RM of Cartier."

When asked why the RM did not increase the rate to keep up with the cost of operating the standpipe, the response was that the PUB must approve rate increases. While this is accurate, when further asked if the RM had applied to the PUB for those necessary rate increases, the RM acknowledged it had not. The PUB has approved revised bulk water rates as requested by the RM.

The second factor identified had to do with the additional costs of retrofitting the standpipe to be compliant with regulatory requirements. The RM has not taken reasonable steps to determine what those additional costs might be. The PUB can't accept this as a supporting factor in decommissioning the standpipe without having any sort of evidence that the costs are prohibitive. The RM also further stated that it had been experiencing issues with the coin dispensing system due to tampering and calibration; however based on the records provided by the RM, it has sold more cubic meters than it has purchased from the RM of Macdonald since 2013.

The most recent rate study, in discussing the resolution to close the Springstein bulk water station, stated "This was a coin operated bulk sales point and the RM has opted to go solely with the card sales process." This indicates to the PUB that the Springstein standpipe, not being connected to the CRWS, does not align with the strategic plan for the utility and perhaps explains the RM's failure to explore other options to make the standpipe viable.

The third factor was the availability of municipal water connections to the residents of Springstein. While the PUB realizes that the RM's long term vision involves residents connecting to the water system, no evidence was provided by the RM indicating that continued use of cisterns and bulk water by the users was prohibited. Until such evidence is made available, the PUB does not find this is an acceptable rationale for decommissioning the standpipe. Bulk water users must be willing to pay a just and reasonable rate for the water they are purchasing. Based on the response at the Public Hearing, the PUB was left with the impression that the users were willing to pay more than the connected water rate for bulk water.

The fourth and final factor identified by the RM was the estimate that there are less than ten users of the standpipe for domestic use. The PUB does not accept this estimate as accurate and believe the RM was not diligent in calculating it. The RM failed to provide evidence to the PUB that it made a reasonable effort to communicate with the residents impacted by the proposed decommissioning to determine how many were users of the

standpipe. The RM in providing an estimate of ten users for domestic use also seemingly failed to consider other users of the standpipe, such as agricultural operations.

The RM's decisions with regards to bulk water rate setting methodology have consequences. The RM's proposed solution to this is to decommission the standpipe. The PUB is of the opinion that the RM has failed to investigate or provide any other option or solution to support the sustainability of the standpipe, despite the fact that the users of the Springstein standpipe have indicated their willingness to pay increased prices.

Issue 2 – The Rural Municipality of Cartier is operating the three utilities located in the Rural Municipality on a consolidated basis as the Cartier Water & Wastewater Utility.

The RM is currently accounting for its utility as three utilities, but setting rates, including the bulk water rate, as a single utility. When questioned about this, the RM's response was that the PUB had ordered the RM to merge the utilities. The PUB can find no record of this directive in its Board Orders. There are many municipalities in Manitoba under PUB jurisdiction that operate multiple utilities. While PUB approval to merge utilities is required under current legislation, this is triggered by an application from the municipality to do so. It would be very unusual for the PUB to direct a municipality to merge utilities, and may not align with the user-pay principle, of which the PUB has long been a proponent.

In the most recent Board Order for the RM of Cartier, Board Order No. 125/16, the PUB asked the RM to either consolidate the accounting of the utilities into a single Schedule 9 for reporting purposes or operate the utilities separately. The current methodology is unnecessarily complicated and opaque, and at an increased risk for cross subsidization. Case in point, the RM's assertion in this application that the Springstein standpipe has been operating at a loss for years is problematic.

Based on the methodologies adopted by the RM, a single rate is set using revenue requirements from three different utility systems. It would therefore be unreasonable, if not impossible, to expect each component of each utility, such as the Springstein standpipe or even the entire Lido Plage utility, to operate on a breakeven basis.

The deficits experienced by the Springstein standpipe were a direct result of the rate setting decisions made by the RM, and could have been avoided had the rates been revised to reflect the costs of operating the standpipe.

The PUB will reiterate its recommendation from Board Order No. 125/16 and suggest that the RM make a decision about operating as three utilities or a single regional utility, then move forward making its operational and administrative decisions consistent with that determination. Right now, the RM is seemingly caught between these two approaches, with adverse consequences. To set rates on a regional basis and then decide to decommission a standpipe based on narrow financial information is inconsistent and unfair to the users of the standpipe.

6.0 IT IS THEREFORE ORDERED THAT:

- 1) The Rural Municipality of Cartier's application to decommission the Springstein truck fill water standpipe BE AND IS HEREBY DENIED.
- 2) The Rural Municipality of Cartier review its water and wastewater 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, 2019.

Fees payable upon this Order - \$1,500.00

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

"THE HON. ANITA NEVILLE, P.C., B.A(Hons.)"
Acting Chair

"JENNIFER DUBOIS, CPA, CMA"
Acting Secretary

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