

Order No. 95/17

**REQUESTED CLARIFICATION OF BOARD ORDER NUMBER 140/10
RURAL MUNICIPALITY OF WHITEMOUTH**

SEPTEMBER 8, 2017

**BEFORE: Carol Hainsworth, C.B.A, Member, Acting Chair
Sharon McKay, Member**

1.0 Executive Summary

On February 25, 2016, the Public Utilities Board (the Board) received a letter outlining an issue from a Mr. Solomon Sawchuk of Whitemouth Manitoba. In the letter, Mr. Sawchuk requested that the Board resolve an on-going dispute between the property owners (Mr. Sawchuk) and the Rural Municipality of Whitemouth (RM) in respect to the definition of ‘unmetered’ and ‘unmetered users’ as it applies to the Seven Sisters Sewer System.

As a result of this letter the RM has also made a request to the Board to provide an Order that clearly states the intent of Board Order 140/10, to include seasonal and vacant lots in the parties to be charged a quarterly user fee.

2.0 Background

Board Order No. 140/10 approved a quarterly charge of \$13.62 for “Unmetered users (seasonal and vacant lots)”. The reference to ‘vacant lots’ appears a number of times in the Order and is also in Schedule “A”.

Mr. Sawchuk has been billed for 5 Clifford Street in Seven Sisters, Manitoba and this property is not currently connected to the sewer system. Mr. Sawchuk does not feel that the PUB has given the RM authority to charge “non users” a quarterly fee.

According to the RM (November 19, 2014 letter) Mr. Sawchuk has been charged this sewer fee since 2010 when the board order was passed.

Issue

In the correspondence addressed to the Board, Mr. Sawchuk stated the purpose of the letter was to request the Board to resolve an on-going dispute between the property owners (Mr. Sawchuk) and the RM in respect to the definition of what is meant by ‘unmetered’ and ‘unmetered users’ as they apply to the Seven Sisters Sewer System. Mr. Sawchuk’s position is as follows: “If un-metered means not connected, then un-metered

user is a contradiction of terms. You cannot be not connected and be a user at the same time.....one does not become a user just because the sewer line goes past your property in the back lane.” Further, Mr. Sawchuk states the RM’s position is that “Your lot is considered un-metered because it is not connected to the sewer system.”

Available evidence

The Board had at its disposal various documents related to this issue. Mr. Sawchuk also provided additional background by providing copies of correspondence with the RM:

- Mr. Sawchuk letter to the RM October 30, 2014
- The RM letter to Mr. Sawchuk November 19, 2014
- Mr. Sawchuk second letter to the RM May 28, 2015

The Board has reviewed the documents provided by Mr. Sawchuk, Board Order No. 140/10 and provided the RM with the opportunity to respond. The RM provided no further response to the complaint for the Board to consider. A letter was sent to the Mr. Sawchuk dated August 5, 2016. This letter stated the following to Mr. Sawchuk:

“Upon review of Board Order 140/10, the Board finds that the Order clearly intends to include properties which are not connected to the collection system. The Order defines the term ‘un-metered user’ as including seasonal customers and vacant lots on pages 3, 11 and 22.”

In an email dated March 23, 2017 the RM, upon further council discussion, made a request to the Board to provide an Order to help resolve this matter and be proactive should this come up at a later date.

3.0 Board Findings

Sewer rates for the Seven Sisters Sewer System, in the RM of Whitemouth, are set out in Board Order No. 140/10, dated December 23, 2010.

The Order on page 11 sets out the following provision in regard to 'un-metered user':

"The RM advised that the unmetered customers are mostly seasonal or vacant building lots. Because of this, the RM proposed to assess these properties the basic minimum quarterly amount."

Upon review of Board Order No. 140/10, the Board finds that the Order intends to include properties which are not connected to the collection system. The Order defines the term 'un-metered user' as including seasonal customers and vacant lots as stated above. The Order further provides the current and revised sewer rates which include un-metered users on page 3 and the quarterly rate to be charged for un-metered users on page 22.

The Board concludes that Mr. Sawchuk's property is included in the definition of 'un-metered user' and is responsible for payment of the quarterly user fee.

Fees payable upon this Order have been waived at the discretion of the Board.

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.pub.gov.mb.ca.

THE PUBLIC UTILITIES BOARD

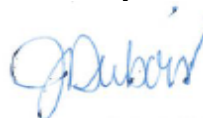
"Carol Hainsworth"

Acting Chair

"Jennifer Dubois, CPA, CMA"

Acting Secretary

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Acting Secretary