

Order No. 141/18

**TOWN OF LAC DU BONNET
LAC DU BONNET WATER AND WASTEWATER UTILITY
DECISION ON REQUEST TO REVIEW AND VARY BOARD ORDER NO. 62/17**

OCTOBER 15, 2018

**BEFORE: Shawn M^cCutcheon, Chair
Carol Hainsworth, C.B.A., Member**

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1.0 Executive Summary

On August 14, 2017, the Public Utilities Board (Board) received a request to review and vary Board Order No. 62/17, from the Town of Lac du Bonnet (Town). The Board hereby denies the request by the Town to review and vary Board Order No. 62/17, Utility System Development Charges (SDC).

2.0 Background

In Board Order No. 62/17, issued June 13, 2017, the Board varied the system development charges that the Town applied for, noting that this issue dates back to 2010. In this Order, the Board authorized the Town to charge the SDC to those customers connecting from outside of the Town's boundaries and denied the SDC for customers located within the Town. The SDCs for water and wastewater were approved as follows:

Water system development charge – out of boundaries	\$2,500.00
Wastewater system development charge – out of boundaries	\$1,500.00
Water and Wastewater system development charge – within Town	\$ -

3.0 Application

In the application received August 14, 2017, the Town requested the Board to review and vary Board Order No. 62/17, Utility System Development Charges (SDC). The Town believes the Board erred in law in Board Order No. 62/17, by denying the Town approval to charge SDC for customers located within the Town's boundaries.

On August 8, 2018 the Board requested additional information to clarify the Town's request. The Board requested the Town provide the following information:

- Who a SDC would be applicable to;
- When a SDB would apply; and
- Why the Town does not have historical costs to base the SDC on.

September 14, 2018 The Town provided the following responses to the Board's information requests:

- A SDC would be applied to residential, commercial and industrial property owners and developers for all new creation and expansion of water and wastewater services.
- An SDC would apply to current property owners on future development, future developers when building permits are applied for and on current property owners when implementing or developing new expansion.
- The Town does not have historical costs for this development charge study as no adequate records are available.

4.0 Board Findings

For the Board to consider a request to review and vary it must first determine whether or not it will review the original decision, as per section 36(4) of the Public Utilities Board Rules of Practice and Procedure it states:

(4) The Board shall determine, with or without a hearing, in respect of an application for review, the preliminary question of whether the matter should be reviewed and whether there is reason to believe the order or decision should be rescinded, changed, altered or varied.

The Board must determine if the application has presented any information that was previously unavailable to the Board that could have changed the decision or outcome of the Board Order in question. The Board must also determine if the applicant has raised substantial doubt that there was a proven error in law or jurisdiction.

The Board finds that after reviewing the Town's application and responses to the information requests received on September 14, 2018, the Town has not presented any new information that could change the decision of Board Order No. 62/17 nor has the Town raised substantial doubt that the Board erred in law or jurisdiction. The Board therefore denies the Town's request to view and vary Board Order 62/17.

The Board notes that the Town stated in its application that the Board Order No. 62/17 ordered the Town to break its own utility by-law (By-law 09/14) which the Board had already approved in Board Order No. 46/13. Board Order No. 46/13 approves the rates within by-law 115/10 not 09/14.

Further, the Board has previously addressed issues of the Town implementing SDCs in Board Order No. 80/15 which asserts that the Town does not have authority to establish SDCs without making a proper application to the Board for approval, before passing the by-law.

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

5.0 IT IS THEREFORE ORDERED THAT:

1. The Town of Lac du Bonnet's request to review and vary Board Order 62/17 is HEREBY DENIED.


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
Acting Chair

"Rachel M^cMillin, B. Sc."
A/Assistant Associate Secretary

Certified a true copy of Order No. 141/18
issued by The Public Utilities Board


Secretary