

**Order No. 45/18**

**TOWN OF LYNN LAKE  
WATER AND WASTEWATER UTILITY  
APPROVAL TO RATE APPLICATION AND  
INTERIM *ex parte* WATER AND WASTEWATER RATES  
EFFECTIVE APRIL 1, 2018 UNTIL APRIL 1, 2019**

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**April 3, 2018**

**BEFORE: Robert Gabor, Q.C., Chairman  
Marilyn Kapitany, BSc. (Hon), M.Sc., Member  
Shawn McCutcheon, Member**

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## 1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board) approves the interim rate request on *ex parte* basis, but varies the water and wastewater rates for the Town of Lynn Lake (Town) Water and Wastewater Utility (Utility). The revised rates are effective April 1, 2018 until April 1, 2019. The approved interim rates are as follows:

Rates	
Flat Rate-Commodity Charge per Quarter	\$223.10
Administration Service Charge per Quarter	\$61.02
Bulk Water/100 Gallons	\$2.96
Rate Rider per Quarter April 1, 2018 Board Order No. 14/15	\$18.48

	REU	Total includes Rate Rider* per REU (Flat rate + Admin S/C) Proposed Rates April 1-2017
Single family-Small Commercial (otherwise not listed)	1	\$302.60
Commercial- Pharmacy; Arena; Hall; ESSO; etc.	2	\$544.18
Sanche Store, Suites; NW Dev. Corp.	3	\$785.76
RCMP, Motel	4	\$1,027.34
Northern Store	5	\$1,268.92
Hostels	7	\$1,752.08
Bronx	8	\$1,993.66
Plaza	9	\$2,235.24
Hotel, Restaurant, Bar; Apartments	12	\$2,959.98
Hospital	37	\$8,999.48
School	38	\$9,241.06

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

Details may be found in the attached Schedule "A".

## 2.0 Background

The Town owns and operates a water and wastewater utility, which currently consists of a water treatment plant, water distribution system, wastewater collection system and a wastewater lagoon. The Utility has a total of 462 customers. Of that, 460 are water and wastewater only customers, with an allocation of 387 Residential Equivalency Units (REUs), and two are water-only customers. The customers are billed quarterly. The last water and wastewater rates were set in September 2011 in Board Order No. 123/11.

Where a system has no meters, volume of water used and/or volume of effluent returned to the wastewater system are based on residential equivalent units, one unit being the volume of wastewater estimated to be produced by the average single family residence.

As per the Town's rate study, the water distribution and wastewater collection infrastructure was built more than 50 years ago and both systems require significant investment. Both systems were put in place to serve a much larger population, approximately four to six times the current population. The Town has experienced a population decline over the past 30 years and, according to the most recent Government of Canada Census information, 494 people lived in the Town in 2016. The Town further states that, while a reduced demand allows operations to continue, the fact that so few people are paying for the rate to operate these systems is impairing the ability to renew the systems.

The Town has also been experiencing issues with the water treatment plant that was put into service in September 2011. The Town's water treatment plant's production of water fell short of demand within the first year of operation when the system's filters ceased to operate properly. To mitigate this, the Town has combined chlorinated lake water with the treated water to keep up with demand. As all of the water is not moving through the full length of the system and not receiving ultraviolet light treatment, the Town has been under a Boil Water Advisory since October 12, 2012 under the authority of the Medical Officer of Health, Manitoba Health and the Office of Drinking Water, Manitoba Conservation and Water Stewardship (2012).

### 3.0 Application

The Town currently has a rate application before the Board. The application was received on August 6, 2015, for the approval of revised water and wastewater rates for years 2015 to 2019 for the Utility. The application was accompanied by a rate study prepared by the Town and By-law No. 1385-2015 having received first reading on July 16, 2015.

A Notice of Application was issued October 19, 2015 affording customers the opportunity to comment to both the Town and the Board with respect to the proposed increases. The Board received one response.

On March 23, 2018, the Board received a letter and Council Resolution 55-2018 from the Town requesting approval of interim water and wastewater rates. The request is for the rates to remain at the current rate the Town is charging. The Town is also requesting the Board approve the withdrawal of the 2015 rate application and rate study as it is neither complete nor reflective of the current situation.

The Town is requesting interim rates because of numerous disruptions in administrative services for a number of years, resulting in a number of holes in the administrative process. This included not having the audits completed for the 2015 and 2016 financials, with an anticipated deficit for those years. In addition, the previous Council and administration implemented the proposed rates in accordance with the 2015 rate application and the current rates being charged are the proposed 2017 rates within the application.

The letter states the Town hopes to be in a better position to advance a new application with the completion of the 2015 and 2016 audited financials in the coming months. The Town has also received Council approval to hire a consultant to conduct a rate study once the audits are complete.

## 4.0 Board Findings

The Board is concerned with the amount of time taken by the Town to address issues with the water treatment plant and the length of time the Town has been under a Boil Water Advisory. The Board encourages the Town to work with Manitoba Water Services Board and the Province to bring the water treatment plant into compliance.

Interim rates are reserved for instances where the applicant can show that there is a compelling argument to allow it. This is typically done by showing the Board that the Utility is experiencing operating deficits and will continue to do so if revised rates are not approved in an expedited manner.

Where there is an urgent need for a rate increase and the Board determines it to be in the best interest of all parties, the Board may establish interim *ex parte* rates. Interim rates are typically approved as applied for and are then subject to a full rate review, before final rates are established.

The Board notes the Town had incurred deficits for years 2012, 2013 and 2014 that were approved to be recovered through rate rider in Board Order No. 136/15 on December 8, 2014, with the effective dates being varied in Board Order No. 14/15 on February 3, 2015. The current rate rider will decrease from \$31.40 to \$18.48 as of April 1, 2018, as per the table below, a difference of \$12.92 per quarter per customer. This difference will be added to the water and wastewater flat rate and will result in a charge of \$223.10 per quarter.

	April-01-15	April-01-16	April-01-17	April-01-18	April-01-19
Rate Rider Total	\$61,550	\$48,600	\$48,600	\$28,600	\$28,600
Per REU (Annually)	\$159.04	\$125.58	\$125.58	\$73.90	\$73.90
Per REU (Quarterly)	\$39.76	\$31.40	\$31.40	\$18.48	\$18.48

The Board is also aware the Town has an anticipated operating deficit for 2015. The Board requires the Town to file for approval of operating deficit for 2015 once audited financials are available, and for the 2016 operating deficit should it materialize.

The Board is disappointed the Town does not have completed audited financial statements for years 2015 and 2016, making it difficult to determine an exact financial state of the Utility. Section 190(1) of The Municipal Act requires auditors to submit an audited report to Council no later than June 30 in the year following the fiscal year for which the audit is prepared.

The Board orders the Town to submit the 2015 and 2016 audited financial statements to the Board as soon as they are completed.

The Board is also concerned the Town is charging rates that have not been approved by the Board. Pursuant to The Public Utilities Board Act, the Board has available enforcement methods and can apply penalties. The Board will consider utilizing these means at its disposal if the Town fails to comply with this Order. The Board urges the Town and Council to review their internal processes to determine how these matters can be better handled.

The Board will provide interim rates due to its conclusion that the current total quarterly charge should remain the same to keep the Utility financially stable and to mitigate future deficits. Because the rate rider will decrease as of April 1, 2018, the Board will vary the water and wastewater rate. To reduce rates at this time would generate deficits and result in higher rate increases in the future which is not in the public's interest. Board Order No. 14/15 remains in effect.

The current rates the Town is charged are shown below:

<b>Current Rates</b>	
Flat Rate-Commodity Charge/Quarter	\$210.18
Administration Service Charge/Quarter	\$61.02
Bulk Water/100 Gallons	\$2.96
Rate Rider/Quarter April 1, 2017 Board Order No. 14/15	\$31.40

The Board approves the interim rate request on *ex parte* basis, but varies the water and wastewater rates to \$223.10 per quarter. The administration service charge is to remain the same at \$61.02 per quarter and is effective for a period of one year April 1, 2018 until April 1, 2019.

The Board's interim approval of these rates is provided on a conditional basis and without prior public notice due to the poor financial position of the Town's Utility and the urgent need for the revenue to remain stable.

The Board will require the Town to issue a notice to its customers as soon as possible.

The Board will also approve the Town's request to withdraw the rate application as it finds the rationale reasonable.

The Board orders the Town to file a revised rate application and rate study with the Board by October 31, 2018.

The Board will work with the Town to expedite its rate application once a new rate application and audited financial statements are received, in consideration of the original submission date of August 6, 2015 and the rates not having an increase in approximately seven years.

The Board would like to remind the Town that it needs to be more diligent in conducting regular reviews of its revenue requirements.

The problems associated with a declining population, including fewer customers to pay for utility operations, are not new to the Board. Depopulation is a significant problem faced by some other utilities in Manitoba. Notwithstanding these circumstances and the pressure placed on ratepayers, there remains a duty of care for the Town to operate the utility in a safe manner, so as to further the health, welfare and economic development of the Town.



## 5.0 IT IS THEREFORE ORDERED THAT:

- 1) Revised water and wastewater rates for the Town of Lynn Lake, Water and Wastewater Utility BE AND ARE HEREBY APPROVED on an interim *ex parte* basis, effective for one year, April 1, 2018 to April 1, 2019, in accordance with Schedule “A” to this Order.
- 2) The Town of Lynn Lake’s request for withdraw of the 2015 application for revised water and wastewater rates, is HEREBY APPROVED.
- 3) The Town of Lynn Lake amend its water and wastewater By-law to reflect changes in this Board Order and submit a copy to the Public Utilities Board once it has received third and final reading.
- 4) The Town of Lynn Lake provide Notice to its customers of the decisions in this Order in the next billing cycle, with a copy to the Public Utilities Board.
- 5) The Town of Lynn Lake submit the 2015 audited financial statement and a deficit application for the recovery of the 2015 operating deficit, by no later than June 30, 2018.
- 6) The Town of Lynn Lake submit its 2016 audited financial statements, with a deficit application if required, as soon as the statements are available.
- 7) The Town of Lynn Lake file a revised rate application with rate study with the Public Utilities Board by no later than October 31, 2018.

Fees payable upon this Order - \$150.00

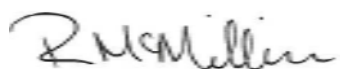
Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board’s Rules of Practice and Procedure. The Board’s Rules may be viewed on the Board’s website at [www.pubmanitoba.ca](http://www.pubmanitoba.ca).

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."  
Chair

"Rachel McMillin, B.Sc."  
Acting Secretary

Certified a true copy of Order No. 45/18  
issued by The Public Utilities Board



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Acting Secretary

## Schedule “A”

### To Town of Lynn Lake By-Law No. 1385-2015

		Rates April 1, 2018
Flat Rate-Commodity Charge/Quarter		\$223.10
Administration Service Charge/Quarter		\$61.02
Rate Rider/Quarter/REU		\$18.48*
Bulk Water/100 Gallons		\$2.96
	REU Assignment	Quarterly Rates with Rate Rider
Single Family-Small Commercial (otherwise not listed)	1	\$302.60
Commercial-Pharmacy, Arena, Hall, Esso, Etc.	2	\$544.18
Sanche Store, Suites, NW Dev. Corp.	3	\$785.76
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*Quarterly Rate Rider effective April 1, 2018		

#### **Billing and Penalties**

A late payment charge of one and one quarter percent (1 ¼%) per month shall be charged on the dollar amount owing after the billing due date. The due date will be the last day of the month of billing.

#### **Disconnection**

The Public Utilities Board has approved the 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 Condition Precedent is available for inspection at the Municipality’s office.

#### **Hydrant rentals**

\$200 per annum per hydrant.

#### **Service to Customers outside the Town**

Council of the Town of Lynn Lake may sign agreements with customers for the provision of water services to properties located outside the legal boundaries of the Town. 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 such customers.

**Outstanding Bills**

Pursuant to Section 252(2) of The Municipal Act, the amount of all outstanding charges for water service 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.