

Order No. 119/23

**CITY OF BRANDON
BRANDON WATER AND WASTEWATER UTILITY
REVISED WATER AND WASTEWATER RATES EFFECTIVE OCTOBER 1, 2023
AND RECOVERY OF ACTUAL OPERATING DEFICITS**

OCTOBER 20, 2023

BEFORE: Shawn McCutcheon, Panel Chair
Irene Hamilton, K.C., Panel Member
Jack Winram, B.A. (Econ), Panel Member

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1.0 Executive Summary

By this Order, the Public Utilities Board (Board) approves the revised water and wastewater rates for the City of Brandon (City), Brandon Water and Wastewater Utility (Utility), and varies the effective dates to October 1, 2023, January 1, 2024, January 1, 2025, and January 1, 2026.

The approved rates are as follows:

	Current Rates	October 1, 2023	January 1, 2024	January 1, 2025	January 1, 2026
Monthly Service Charge*	\$4.66	\$4.80	\$5.11	\$5.42	\$5.74
Quarterly Service Charge	\$17.48	\$18.00	\$19.17	\$20.34	\$21.51
Water (per cubic meter)	\$1.66	\$1.80	\$2.10	\$2.40	\$2.71
Wastewater (per cubic meter)	\$1.63	\$1.79	\$2.14	\$2.49	\$2.84
Deficit Rate Rider – Water (per cubic meter)	-	\$0.19	\$0.19	\$0.19	\$0.19
Deficit Rate Rider – Wastewater (per cubic meter)	-	\$0.21	\$0.21	\$0.21	\$0.21
Monthly Charge Wastewater Only – Residential**	-	\$34.80	\$40.36	\$45.92	\$51.49
Quarterly Charge Wastewater Only – Residential***	-	\$108.00	\$124.92	\$141.84	\$158.76
Wastewater Septic Truck Tipping Fees (per cubic meter)	-	\$8.00	\$8.25	\$8.50	\$9.00
Bulk Water****	\$0.25	\$1.00	\$1.00	\$1.00	\$1.00
Debenture Surcharge (per cubic meter of water)	\$0.083	\$0.083	\$0.083	\$0.083	\$0.083
Debenture Surcharge (per cubic meter of water)	\$0.089	\$0.089	\$0.089	\$0.089	\$0.089

*Based on a quarterly charge discounted by 20% due to monthly payments being automatic

**Based on 45 cubic meters of wastewater fee and deficit rate rider plus Quarterly Service Charge

***Based on 15 cubic meters of wastewater fee and deficit rate rider plus Monthly Service Charge

****Current Bulk Water Fee on a per 25 gallons basis; Year 1 per 445 Litres, Year 2 per 400 Litres, Year 3 per 355 Litres and Year 4 per 310 Litres

The Board also approves the City's request for recovery of actual operating deficits in the amounts of \$2,590,217 for 2015, \$8,757,815 for 2016, \$2,272,738 for 2017, \$686,336 for 2020, and \$1,562,813 for 2021 (or a total five-year deficit of \$15,869,919), when calculated for regulatory purposes, incurred by the Utility to be recovered by a rate rider of \$0.19 per customer per 1,000 gallons of water and a rate rider of \$0.21 per customer per 1,000 gallons of wastewater for a period of seven years, effective October 1, 2023, or until \$15,869,919 is collected, whichever comes first.

Details of rates are found in the attached Schedule A.

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

2.0 Background

The City owns and operates the Utility serving 14,614 metered water and wastewater customers, 120 water only customers, 2 metered wastewater only customers, and 2 unmetered wastewater only customers (or a total of 14,738 customers). Rates were last approved in 2016 in Board Order No. 60/16, with current rates coming into effect July 1, 2018.

Water Supply/Distribution

The Water Treatment Facility (Facility) consists of many parts. Plant 1 was constructed between 1905 and 1946. The Assiniboine River Intake was constructed in the early 1940s. Plant 2 was constructed in 1958. Plant 3 was constructed in 1975. The Sludge Dewatering Facility was constructed in 1997. The new Chemical Building was completed in 2022.

The Facility and Water Distribution System are both classified as Class 4. An average of 26 million litres of potable water is supplied daily and the Facility operators are certified to maintain, analyze and operate the systems to ensure continuous supply of drinking water to customers.

Given the scope of water supply for the City, upgrades are continually ongoing. Upgrades in 2022 have begun to the facility and to the Distribution System to meet and exceed drinking water regulations for the upkeep of the Utility's Public Water Supply Operating License and to increase capacity to keep up with increased water demand from ongoing City development.

Wastewater Collection/Treatment

Lagoons were constructed in the 1960s. The Main Lift Station was expanded in 1972 to include screening and primary grit removal, and in the early 1990s to include Sequencing Batch Reactors. Ultraviolet (UV) treatment was added in 1999 to meet regulatory requirements at that time.

A Water Reclamation Facility (WRF) was established in the early 2000s to provide dedicated treatment for a hog processing facility. Bioreactors and a membrane treatment facility were constructed in 2011. The membrane treatment facility was expanded in 2014, while a dedicated dosing facility to treat pharmaceutical wastewater was introduced to the treatment process at the same time.

The lagoons were upgraded in 2011 to facilitate biosolids management. The Main Lift Station was upgraded in 2014, to establish the site as a municipal Pre-Treatment Facility for a centralized WRF treatment process, where all wastewater streams are combined.

The WRF is operated under a Manitoba Environment Act Licence and complies with Manitoba's Nutrient Management Strategy by producing effluent that is suitable for water reuse. The WRF and the Wastewater Collections System are classified as Class 4 Facilities and treat an average of 27 million litres of wastewater daily. The operators are certified to maintain, analyze, and operate the systems to ensure continued treatment of wastewater for the protection of the environment.

Construction of a new lift station is planned to begin in 2023 to support City growth. Efforts to reduce the number of combining sewers in Brandon are ongoing. To support continual growth of the City, there are also plans for Wastewater Collection System upgrades and expansion.

Unaccounted for Water

The acceptable percentage of unaccounted for water is 10%, based on industry standards. If the percentage is above this amount, the applicant is to explain why and provide a plan to remedy.

As at 2020, unaccounted for water for the Utility was 13%, which is over the industry standard of 10%. The City advises it has been expanding the existing asset management program by tracking system breaks and leaks to improve its watermain replacement program. Leak detection equipment is being expanded for better monitoring of the operation of the distribution system in real-time, to utilize proactive (versus reactive) maintenance activities. Condition assessments for watermains are also planned to advise maintenance planning to better limit water loss.

The City also advises that estimated water loss from January up to July of 2023 has improved to 11%.

3.0 Application

On July 22, 2022, the City applied for revised water and wastewater rates for the Utility. The application was accompanied by a rate study prepared by the City's consultant and By-Law 7342 having had first reading on July 18, 2022. The City also applied for recovery of actual operating deficits incurred by the Utility in the amounts of \$2,590,217 for 2015, \$8,757,815 for 2016, \$2,272,738 for 2017, \$686,336 for 2020, and \$1,562,813 for 2021 (or a total five year deficit of \$15,869,919), when calculated for regulatory purposes, to be recovered by a rate rider of \$0.19 per cubic meter for water and \$0.21 per cubic meter for wastewater for a period of seven years.

Along with the City's applications, the City also requested the Board hold a public hearing in Brandon as part of the rate application process to certify the information contained with the rate application as true and accurate. The City also requested the Board review the deficit application separately from the rate review (and public hearing) to begin recovery of the deficits as soon as possible.

On August 8, 2022, the City filed a letter with the Board giving notice that the City was requesting approval in principle to recover debt for three capital projects within the revised Utility rates requested. The construction of two wastewater lift stations (up to \$36,475,200), watermain replacements (\$2,835,000), and Water Treatment Facility upgrades (\$41,400,000).

At the time the applications were received, the City also requested Board staff hold the applications for review pending additional information required by the City regarding debenture debt.

On November 4, 2022, Board staff submitted information requests to the City regarding its applications, requesting additional information and clarification to ensure the applications were complete and correct. On December 12, 2022, the City responded to the Board's information requests.

On December 12, 2022, Board staff requested clarification regarding some of the City's responses to Board staff's information requests. The City responded to Board staff's requests on January 3, 2023.

The applications were accepted as complete and correct on January 26, 2023 and added to the Board's Application Queue.

A Public Notice of Application was issued on March 10, 2023, allowing for any questions or comments with respect to the proposed rate increases to the Board and/or the City on or before April 24, 2023. There was one response to the Notice regarding the magnitude of the requested rate increases and requesting the Board consider lower increases over a longer duration.

When the City's applications were reviewed, the Board determined that as a new City Council had been elected after the prior Council had requested a public hearing regarding the City's rate application, a request was sent to reconfirm the City's request for a public hearing on June 30, 2023. On July 18, 2023, the new City Council confirmed its request for a public hearing.

When reviewing an application the Board can either: hold a public hearing at which the applicant can present its case and customers can present their concerns; or where it is deemed to be in the best interests of a utility and its customers, the Board can review the application using a paper review process without holding a public hearing. The paper review process considers all written materials submitted by the Utility and the public, as well as any information requests and responses between the Board and the Utility. This process may reduce regulatory costs to the Utility.

A public hearing process allows the Utility and the public the opportunity to review the application and address any concerns with the Board present.

Whenever reasonable, the Board will review the application using a paper review process, which saves the cost of a public hearing process.

The Board chose a public hearing process for the City's applications.

A Public Notice of Hearing was issued on August 2, 2023, advising of a public hearing to be held on September 13, 2023 regarding both the City's rate application and the City's deficit application. The Notice allowed those wanting to make written representations regarding the City's applications or to apply for Intervener Status until the end of the day on August 25, 2023 to do so.

The Board received two responses to the Notice of Public Hearing regarding the City's failure to apply for revised water and wastewater rates on a timely basis. The response stated concerns regarding the magnitude of the requested rate increases and requested rate increases be implemented over a longer period of time to mitigate rate shock.

The rates were calculated based on the following projections using an annual inflation rate of 3% in all calculations:

Schedule of Utility Rate Requirements				
City of Brandon – Brandon Water and Wastewater Utility				
2023 to 2026 Budget Forecasts (\$)				
	2023	2024	2025	2026
	Forecast			
General Expenses				
Administration	933,365	961,366	990,207	1,019,913
Total General Expenses	933,365	961,366	990,207	1,019,913
Revenue				
Penalties	75,000	75,000	75,000	75,000
Total General Revenues	75,000	75,000	75,000	75,000
Net Costs General	858,365	886,366	915,207	944,913
Water Expenses				
Purification and Treatment	9,282,176	9,560,641	9,847,460	10,142,884
Variable Water Treatment				164,197
Transmission and	769,274	792,352	816,123	840,606
Service of Supply	488,235	502,882	517,969	533,508
Amortization	2,680,821	2,722,041	2,747,640	5,752,511
Interest on Long-Term Debt	954,190	1,756,118	2,085,105	2,290,954
Contingency	1,078,865	1,078,865	1,078,865	1,078,865
Reserves	2,000,000	2,000,000	2,000,000	2,000,000
Total Water Expenses	17,253,561	18,412,899	19,093,162	22,803,525
Revenue				
Bulk Water Fees	88,002	96,002	104,003	112,003
Water Service	72,487	72,487	72,487	72,487
Development Charges	394,251	394,979	395,707	402,256
Hydrant Rentals (1,534)	305,800	305,800	305,800	305,800
Total Water Revenues	860,540	869,268	877,997	892,546
Net Costs Water	16,393,021	17,543,631	18,215,165	21,910,979
Wastewater Expenses				
Collection System	2,358,891	2,429,657	2,502,547	2,577,623
Variable Wastewater Treatment	-	-	-	83,667
Treatment and Disposal	6,344,641	6,534,980	6,731,030	6,932,961
Lift Station	163,008	167,898	172,935	178,123

	Amortization	5,342,879	5,317,058	5,317,615	5,693,767
	Interest on Long-Term Debt	1,122,651	1,054,734	1,004,367	951,971
	Contingency	591,184	591,184	591,184	591,184
	Reserves	2,000,000	2,000,000	2,000,000	2,000,000
	Total Wastewater Expenses	17,923,254	18,095,511	18,319,678	19,009,296
Revenue					
	Other Income	-	2,000,000	2,000,000	2,000,000
	Development Charges	1,686,193	1,688,861	1,691,528	1,715,539
	Lagoon – Industry Operating	2,000,000	-	-	-
	Receiving Station – Tipping	145,000	145,000	145,000	145,000
	Total Wastewater Revenue	3,831,193	3,833,861	3,836,528	3,860,539
	Net Costs Wastewater	14,092,061	14,261,650	14,483,150	15,148,757
	Net Operating Costs	31,343,447	32,691,647	33,613,522	38,004,649

The proposed Utility rate increases are primarily required to account for increased operating costs and eliminate the Utility's operating and working capital deficits.

Contingency Allowance and Utility Reserves

As per the Board's Water and Wastewater Rate Application Guidelines, a yearly allowance equal to 10% of the variable operating costs is recommended for a contingency allowance.

The City has included an annual contingency allowance of \$1,078,865 for water and \$591,184 for wastewater or a total annual contingency allowance of \$1,670,049.

The City has included a reserve allocation of \$2.0M annually for water and \$2.0M annually for wastewater to provide for \$15,017,000 to fund \$189.0M in Utility capital projects identified as part of the Utility's five-year capital plan from 2022 to 2026.

Working Capital Surplus/Deficit

Board Order No. 93/09 established that utilities should maintain a minimum working capital surplus, in an amount equal to 20% of annual expenses. The working capital surplus/deficit is defined as the Utility fund balance, excluding any capital related items plus Utility reserves.

As per the 2022 Audited Financial Statements, the most recent information available, the working capital surplus for the Utility at December 31, 2022 was:

	2022
Utility Fund Surplus/Deficit	\$150,843,300
Deduct: Tangible Capital Assets	(222,186,932)
Add: Long-Term Debt	21,898,633
Add: Water Distribution Reserve	8,652,255
Add: Wastewater Reserve	8,308,698
Add: DC Water and Wastewater Cost Charge Reserves	1,137,117
Equals Working Capital Surplus (Deficit)	\$(31,346,929)
Operating Expenses	27,396,597
20% of Operating Expenses (Target)	\$5,479,319

The Utility does not meet the Board minimum working capital surplus of 20% and represents a shortfall of \$36,826,248.

Cost Allocation Methodology

The Board requires all municipal governments to review the costs shared between its general operations and the Utility, and to allocate appropriate and reasonable costs to the Utility, based on a policy known as a Cost Allocation Methodology. This allocation must be submitted to the Board for approval and cannot be changed without receiving approval from the Board. The Board's requirements regarding cost allocation methodologies can be found in Board Order No. 93/09.

The City's allocation plan for shared costs is as follows:

**City of Brandon
Brandon Water and Wastewater Utility
Allocation Plan for Non-Direct Shared Services (see Note 1)
as at July 2022**

Category	Sub-category	Options	
1.0 Administrative Staff		Activity Based (Note 1)	Allocation of staff salaries is reviewed for each position and percentage of time spend on the Utility is determined. Salaries are allocated based on that percentage.
	1.1 Billing services – meter reading to receipting and collection.		Meter reading – N/A Receipting and collection part of admin. staff allocation
	1.2 Accounting/ auditing/ including bylaw making and enforcement.		Direct allocation
	1.3 Common office space		No charge for office space.
	1.4 Office overheads (telephone, photocopier, computer, etc.)		Various office overheads are charged directly to the Utility.
2.0 Operating, construction and maintenance costs			
	2.1 Vehicle – fuel, maintenance, lease costs, capital costs		The Utility has its own vehicle fleet and pays directly.
	2.2 Labor – full time, part time, on call, sick time, vacation (see Note 2)		Based on time sheets. Time worked is charged to the Utility.
	2.3 Public works building and property.		The Utility has its own buildings.
	2.4 Road repairs and alike (see Note 3)		Based on actual costs
3.0 Major projects			
	Interest/ financing		N/A
	Labor		N/A
	External costs		N/A
	External costs		Direct charge (dedicated consulting)

Note 1 – Allocation must be updated periodically to reflect impacts of inflation.

Note 2 – Including salaries and benefits.

Note 3 – If a project involves work benefitting both the Utility and general operations the costs may be shared (i.e. If reconstructing a road and replacing services at the same time, a portion of the roadwork costs may be allocated to the Utility.)

Deficits

By law, Manitoba utilities are not allowed to incur deficits. In the event a deficit does occur, the Utility is required by *The Municipal Act* to obtain Board approval for both the deficit and recovery methodology as soon as it is known.

The City applied for the recovery of actual operating deficits in the amounts of \$2,590,217 for 2015, \$8,757,815 for 2016, \$2,272,738 for 2017, \$686,336 for 2020, and \$1,562,813 for 2021 (or a total five year deficit of \$15,869,919), when calculated for regulatory purposes, incurred by the Utility to be recovered by a rate rider of \$0.19 per cubic meter for water and \$0.21 per cubic meter for wastewater, for a period of seven years.

The City advises the deficits were primarily due to increased costs for wastewater treatment and amortization expenses, as well as payments for wastewater capital works of \$7,447,928 in 2016 of \$5,934,609 and 2017 of \$1,513,319.

4.0 Public Hearing

A Public Hearing took place on September 13, 2023, in accordance with the Notice of Hearing. Approximately 16 members of the public attended, including several members of the City's Council. The City's panel consisted of its City Manager, Director of Utilities, Accounting Manager, and its consultant, Way To Go Consulting Inc.

The City provided a 40-minute presentation regarding the rates requested its rate study and its plans to address water and wastewater utility rates going forward. In the presentation, the City advised that while the rate application process started in 2019, it was delayed by the Coronavirus disease 2019 (COVID-19) pandemic. It recognized, however, that a five-year delay between rate applications should not happen again in the future and the City will be revising its Utility financial practices accordingly.

At the conclusion of the presentation, the City provided the following clarifications and answers to the Board's questions:

- The City is anticipating an actual operating deficit for 2022 and 2023.
 - o A 2022 Deficit Application will be filed with the Board as soon as possible.
 - o If the rates are approved as requested, the Utility does not anticipate any deficits for 2024, 2025, and 2026.
- If rates are approved as requested, Utility Working Capital is anticipated to meet the Board required minimum by 2027, pending the Utility's rate review in 2026.
- While a contingency allowance was included in the last rate study and approved rates, increased operating and amortization expenses exceeded the allowance.
- The City is requesting a seven year rate rider (as opposed to a more standard three year rate rider) to recover the incurred actual operating deficits to help mitigate rate shock from the requested utility rate increases.
- The City has passed a Council Resolution to review utility rates and finances on an annual basis as opposed to previous, periodic reviews, to prevent future, large rate increases and ensure Deficit Applications are filed in a timely manner.
 - o On September 15, 2023, the City provided a copy of Council Resolution, dated September 14, 2023, certifying the following:

"That City Council advise Administration to review the financial position of the utility on an annual basis and, when necessary, submit applications for deficit rate riders on a timely basis and/or submit rate increase applications through the simplified rate application process to the Public Utilities Board, subject to City Council approval."

Board Order No. 60/16

The Board also asked the City why Directive #5 from Board Order No. 60/16 was not followed:

"The City of Brandon 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, by no later than Jun 30, 2018."

The City responded that its representatives were unaware of the directive at this time.

Presentations

There were no registered presenters, however, during the open comment session of the hearing, members of the public provided opinions and comments.

Presenter #1 Elliott Oleson thanked the Board for holding a public hearing. They advised it was their opinion the City made a conscious choice as a political tactic to keep utility rates low year-over-year and were disappointed rates were not properly increased by smaller amounts annually. The requested rate increases are significant and when coupled with current inflation rates will greatly increase cost of living in the City, rental rates will increase significantly, and low and fixed income residents will be intensely affected. The presenter also questioned the City's capital project planning prioritization process, drinking water quality in some neighbourhoods, and challenged the City to be more creative in solving critical financial issues.

Presenter #2 Eva Cameron represented and spoke on behalf of a non-profit housing cooperative (Sprucewoods Co-operative Housing Inc.). They advised the requested utility rate increases over three to four years are not affordable for utility customers and the increases represented approximately 25% of the average income of residents at the housing cooperative. The five-year wait to increase rates is frustrating as it may force some customers into poverty, add additional financial stress to citizens that could have been avoided had the City been more diligent, and it may put the housing cooperative (and perhaps other similar businesses) to close.

Presenter #3 James Epp asked the City if any standard operating procedures were created to help mitigate the issues regarding the lapse in addressing Utility rates. The City advised Council Resolution was passed for an annual review of Utility rates and as a result, a standard operating procedure will be instituted.

Presenter #4 Eren Oleson voiced concerns regarding previously rejected capital projects being later fast-tracked by the City. They also asked the City if the requested deficit rate riders were going to be perpetual and something the Utility would rely upon to support its financial position. The City advised annual operating deficits should be eliminated by its plan to review Utility rates annually. The City also advised customers are becoming better educated regarding water consumption and efficiency, therefore using less water, which in part has created some of the requirement for higher rates.

5.0 Board Findings

Rates

The Board has reviewed the application and the projections for utility rates presented by the City's consultant in its rate application and notes the calculations used to formulate the Utility's rates are not consistent with Public Utilities Board Guidelines, but instead have been designed to phase-in rates to mitigate rate-shock and high year-over-year rate increases.

The Board notes that it has been seven years since the Utility has submitted a rate application or an application for extension to submit a rate application. In the Board's view, the period between rate reviews is unacceptable. Regular rate reviews, submitted every three years as per the Board's Guidelines, protect the financial position of the Utility and may reduce the need for significant rate increases in one year. In this case, the additional cost of a rate rider is required to recover eleven years of operating deficits and replenish the Utility's working capital. Had the City been diligent in making rate applications to the Board every three years, the operating deficits incurred by the Utility may have been mitigated or avoided entirely.

The Board also notes that in Board Order No. 60/16 it ordered the City to review its water and wastewater rates for adequacy and file a report with the Board, as well as an application for revised rates, if required, by no later than June 30, 2018. Please also note, all items found under the heading, "IT IS THEREFORE ORDERED THAT:" are directives, not recommendations, and must be complied with or appealed as outlined below. Pursuant to *The Public Utilities Board Act*, the Board can apply penalties for non-compliance.

It is the Utility's responsibility to review the rates and ensure rates are adequate to recover the cost of services being provided to its ratepayers. Ratepayers are generally more tolerant of regular, smaller increases which also serves to establish rate fairness. The City needs to be much more diligent in conducting regular reviews of its revenue requirements for the Utility.

The Board notes the City's presentation included forecasted increases to the SW Wastewater Servicing capital project from approximately \$20M to \$30M (or an increase of \$10M) and to the Water Treatment Facility capital project from approximately \$41.34M to \$56.4M less \$2.835M (or an increase of \$12.165M) that have not been included in the rates requested or approved in this Order. The Board directs the City to return to the Board with an application for approval of revised rates (if applicable) to provide for the forecasted increases as soon as costs have been finalized and approved by the Municipal Board.

This Board Order also approves in principle capital projects totalling approximately \$189,562,000, and as indicated by the rate study, \$80,650,000 of which is to be funded by debenture debt. The Board directs the City to return to the Board with an application for final approval of capital projects, as soon as costs have been finalized and approved by the Municipal Board, and for approval of any rate adjustments as may be required.

The Board approves the rates as applied for, but varies the effective dates to October 1, 2023, January 1, 2024, January 1, 2025, and January 1, 2026.

The Board requires the City to review its water and wastewater rates for the Utility for adequacy and file a report with the Public Utilities Board, as well as an application for revised rates (if required) on or before April 1, 2026.

Annual Review

The Board notes, at the public hearing City representatives stated the City passed Council Resolution to review utility rates/finances on an annual basis versus previous, periodic reviews, to prevent future, large rate increases and ensure Deficit Applications are filed in a timely manner.

The City's Council Resolution states the following: "That City Council advise Administration to review the financial position of the utility on an annual basis and, when necessary, submit applications for deficit rate riders on a timely basis and/or submit rate increase applications through the simplified rate application process to the Public Utilities Board, subject to City Council approval."

The Board directs the City to review its Audited Financial Statements and Utility financials annually, as per its Council Resolution noted above, and file either a Rate Adequacy Report or a request to review and vary the rates approved in this Order (whichever the City deems applicable), including a copy of City Administration's annual review of the financial position of the Utility, on October 1, 2024 and October 1, 2025.

Deficits

The Board has reviewed the City's Deficit Application and is concerned by the number of deficits and total amount of the deficits incurred by the Utility. The Board reminds the City, that by law, Manitoba utilities are not allowed to incur deficits. In the event a deficit does occur, the Utility is required by to obtain Board approval for both the deficit and recovery methodology as soon as a deficit is known.

The Board is also concerned regarding the seven-year duration of the rate rider requested to recover the five-year total deficit of \$15,869,919. In general, the Board recommends deficits be recovered as soon as feasible (usually three years or less). The Board recognizes, however, that recovering the deficits incurred by the Utility over a period longer than three years will mitigate the financial impact of the rate rider on customers.

The Board notes, utility deficits should ideally be paid by the customer base that existed when the deficits were incurred, however, prior to this rate application, it had been seven years since the Utility last had rates approved by the Board. The City's inattention to the financial condition of the Utility lead to multiple, high dollar amount deficits. The Board also notes that the City's requested rates for the Utility represent a significant increase for customers. The Board therefore finds it must attempt to balance rate fairness and the mitigation of customer rate shock.

The Board notes it is the City's responsibility to review utility rates and financials on a regular basis to ensure rates are adequate to recover the cost of service being provided to ratepayers and to mitigate deficits.

The Board approves the Utility's actual operating deficits, when calculated for regulatory purposes, of \$2,590,217 for 2015, \$8,757,815 for 2016, \$2,272,738 for 2017, \$686,336 for 2020, and \$1,562,813 for 2021 (or a total five-year deficit of \$15,869,919) incurred by the Utility to be recovered by a rate rider of \$0.19 per customer per 1,000 gallons of water and a rate rider of \$0.21 per customer per 1,000 gallons of wastewater for a period of seven years, effective October 1, 2023, or until \$15,869,919 is collected, whichever comes first.

The Board has reviewed the City's 2022 Audited Financial Statements and notes the Utility incurred an actual operating deficit in 2022. The Board directs the City to file a deficit application and recovery methodology for 2022 and any other outstanding, actual operating deficits with the Board as soon as possible.

Bill Affordability

Presenters at the hearing testified the proposed rate increases and rate riders would cause a financial hardship for low income customers. The Board has found elsewhere in this Order the Utility ignored Board guidelines to submit a rate application every three years and instead waited seven years. The City also ignored a 2016 directive to file a report on the adequacy of rates with a rate application by June 30, 2018. Instead, Brandon customers are now going to see a significant rate increase that is required to address deficits from 2015 to 2021 (and potentially 2022 and 2023), as well as seven years of rate riders to reduce the impact of rate shock. The unwillingness or inability of the Utility to carry out its duties in a diligent manner will put some customers at risk of not being able to afford water and wastewater utility services, as bills constitute too high a percentage of their total household/organizational income.

In Board Order No. 101/23, dated August 23, 2023, the Board addressed the issues of bill affordability and energy poverty in the context of Manitoba Hydro. The Board notes, as with electricity, water is a necessity of life and the provider of the service is a monopoly. The Utility's actions contribute to the health, safety, and prosperity of the people in the City.

As a result of the Utility's past inaction, the Board recommends the City consult with customers, stakeholders, non-profit organizations, and other relevant persons/groups/organizations about creating targeted programs to alleviate the financial hardship faced by the Utility's customers.

6.0 IT IS HEREBY ORDERED THAT:

1. The revised water wastewater rates for the City of Brandon, Brandon Water and Wastewater Utility, BE AND ARE HEREBY VARIED in accordance with the attached Schedule A, effective October 1, 2023, January 1, 2024, January 1, 2025, and January 1, 2026.
2. The Shared Cost Allocation Methodology for the City of Brandon BE AND IS HEREBY APPROVED.
3. The City of Brandon is to provide a notice of the decisions found in this Order to its customers as soon as possible, with a copy provided to the Public Utilities Board.
4. The City of Brandon amend its water and wastewater rate By-Law to reflect the decisions in this Order and submit a copy to the Board once it has received third and final reading.
5. The City of Brandon review its water and wastewater rates for the Brandon Water and Wastewater Utility 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 April 1, 2026.
6. The City of Brandon review it's Audited Financial Statements and Utility financials annually, and file either a Rate Adequacy Report or a request to review and vary the rates approved in the Order, including a copy of City Administration's annual review of the financial position of the Utility, on October 1, 2024 and October 1, 2025.
7. The City of Brandon return to the Board with an application for final approval of capital projects, as soon as costs have been finalized and approved by the Municipal Board, and for approval of any rate adjustments as may be required.
8. The actual operating deficit, when calculated for regulatory purposes, in the amount of \$2,590,217 for 2015, \$8,757,815 for 2016, \$2,272,738 for 2017, \$686,336 for 2020, and \$1,562,813 for 2021 (or a total five-year deficit of \$15,869,919) incurred by the Brandon Water and Wastewater Utility is HEREBY APPROVED to be recovered by a rate rider of

\$0.19 per customer per 1,000 gallons of water and a rate rider of \$0.21 per customer per 1,000 gallons of wastewater for a period of seven years, effective October 1, 2023, or until \$15,869,919 is collected, whichever comes first.

9. The City of Brandon submit a deficit application and recovery methodology to the Board for the Brandon Water and Wastewater Utility for 2022 and any other outstanding deficits as soon as possible.

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.pubmanitoba.ca.

Fees payable upon this Order - \$1,500.00

THE PUBLIC UTILITIES BOARD

"Shawn McCutcheon"
Panel Chair

"Frederick Mykytyshyn"
Assistant Associate Secretary

Certified a true copy of Order No. 119/23
Issued by The Public Utilities Board


Assistant Associate Secretary

SCHEDULE A
CITY OF BRANDON
BRANDON WATER AND WASTEWATER UTILITY
WATER AND WASTEWATER UTILITY RATES BY-LAW NO. 7342
SCHEDULE OF QUARTERLY RATES
Effective October 1, 2023

1. Schedule of Commodity Rates

a. Commodity Rates per Cubic Meter

f	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Water	\$1.80	\$2.10	\$2.40	\$2.71
Wastewater	\$1.79	\$2.14	\$2.49	\$2.84
Water & Wastewater	<u>\$3.59</u>	<u>\$4.24</u>	<u>\$4.89</u>	<u>\$5.55</u>

b. Deficit Rate Rider

In addition to the aforesaid commodity rates, a deficit rate rider shall be charged, for 7 years commencing October 1, 2023, to recover the 2015, 2016, 2017, 2020, & 2021 operating deficits as follows:

Water	\$0.19 per cubic meter
Wastewater	\$0.21 per cubic meter

c. Debenture Surcharge

In addition to the aforesaid commodity rates, the following debenture surcharges shall be charged:

- i. \$0.083 per cubic meter of water shall be charged for 20 years commencing October 1, 2021 in accordance with Public Utilities Board Order 108/21;
- ii. \$0.089 per cubic meter of water shall be charged for 20 years commencing October 1, 2022 in accordance with Public Utilities Board Order No. 83/22.

d. Service Charge

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Quarterly	\$18.00	\$19.17	\$20.34	\$21.51
Monthly	\$4.80	\$5.11	\$5.42	\$5.74

Service Charge Rates are per water meter

e. Wastewater Only

Residential Customers	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Quarterly	\$108.00	\$124.92	\$141.84	\$158.76
Monthly	\$34.80	\$40.36	\$45.92	\$51.49

Wastewater only charge is based on 45 cubic meters quarterly or 15 cubic meters monthly, plus the customer service charge.

2. Wastewater Septic Truck Tipping Fees

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Per Cubic Meter	\$8.00	\$8.25	\$8.50	\$9.00

3. Bulk Water

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Per 445 Litres	\$1.00			
Per 400 Litres		\$1.00		
Per 355 Litres			\$1.00	
Per 310 Litres				\$1.00

4. Meter/Bypass Resealing

When damages or meter tampering, or both are reported, all costs to restore or replace the meter, as determined by the Director of Utilities or Delegate, plus payment for the estimated quantity of unmetered water and related wastewater commodity charge, plus a fee for resealing the meter/bypass shall be charged and added to the utility account and collected along with the next scheduled billing, unless prior written authorization for breaking the seal was issued by the Director of Utilities or Delegate.

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Resealing Fee	\$90.00	\$93.00	\$95.00	\$98.00

5. Meter Testing

If any owner or customer wishes to have the water meter in their premises tested, the Director of Utilities or Delegate shall have such meter tested. If the test finds the meter to be accurate, a fee shall be charged for the test. Testing fees shall be added to the utility account and collected along with the next scheduled billing.

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
1" or Less	\$170.00	\$175.00	\$180.00	\$185.00

Greater than 1"	\$245.00	\$255.00	\$260.00	\$270.00
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6. Meter Replacement

Where the meter requires replacement due to damage or freezing, the cost of the meter, or meter replacement parts, plus 20%, and a labour fee shall be added to the utility account and collected along with the next scheduled billing.

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Labour Fee	\$90.00	\$93.00	\$95.00	\$98.00

7. Water Curb Stop Turn On/Turn Off

The fee to turn on or turn off the water service at the curb stop shall be:

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
During working hours	\$90.00	\$93.00	\$95.00	\$98.00
Outside working hours	\$475.00	\$490.00	\$505.00	\$520.00

Working hours shall be between 8:00am-4:00pm, Monday-Friday, not including statutory holidays

Such fee shall be added to the utility account and collected along with the next scheduled billing.

8. Hydrant Connection/Disconnection

The fee for either a temporary hydrant connection or disconnection shall be:

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Connect/Disconnect	\$90.00	\$93.00	\$95.00	\$98.00

Such fee shall be added to the utility account and collected along with the next scheduled billing.

9. Hydrant Fees

The City of Brandon or any other hydrant owner of an active and useable hydrant for the purpose of firefighting operations will pay to the Utility an annual fee for each hydrant connected to the system and a fee for the cost of an annual inspection by the City.

Hydrants that have no firefighting purpose and are used solely for City of Brandon watermain maintenance activities shall not be charged a system connection fee.

	Oct. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
System Connection	\$125.00	\$130.00	\$135.00	\$140.00
Annual Inspection	\$90.00	\$93.00	\$95.00	\$98.00

10. Billings and Penalties

Accounts shall be billed monthly or quarterly, at the discretion of the City, based on water used. A late payment penalty charge of 1.25% monthly shall be charged on the dollar amount owing after the billing due date. The due date will be a minimum of fourteen (14) days after the invoice date of the bills.

11. Outstanding Bills

Pursuant to Section 252(2) of *The Municipal Act*, the amount of all outstanding charges for water and wastewater services, and other service fees, including penalties, 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. Where charges and penalties pursuant to this by-law are not paid within sixty (60) days from the date when they were incurred, the Director of Finance, or Delegate, may add said charges and penalties to the taxes on the property and collect them in the same manner as other taxes.

The fee to add outstanding water and wastewater charges to the property tax roll shall be \$10.00 per account.

SCHEDULE B
CITY OF BRANDON
BRANDON WATER AND WASTEWATER UTILITY
WATER AND WASTEWATER UTILITY RATES BY-LAW NO. 7342

1. Change of Customer Subsequent to Billing
Split water and wastewater billings for a change of customer may only occur prior to each quarterly or monthly billing. Quarterly and monthly water and wastewater billings are payable by the customer of record at the time of the billing.
2. Minimum Refund for Inactive Accounts
Inactive accounts, for water and/or wastewater customers who do not have any other active utility account, with balances less than \$5.00 will not be refunded by the City.
3. Water Service Disconnection for Non-payment
The Public Utilities Board has approved the Conditions Precedent, attached to this by-law as Schedule “C”, to be followed by the City 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.
4. Wastewater Surcharges
There may be levied annually, in addition to rates set forth in Schedule “A”, a special surcharge on sewage based on the strength of various parameters above average domestic strength sewage as established from time to time by the City.
5. Water Allowance due to Line Freezing
That in any case where at the request of the Director of Utilities or Delegate, a customer allows water to run continuously for any period of time to prevent the water lines in the water system from freezing, the charge to that customer for the current quarter shall be the average consumption for the last four previous quarters to the same customer, or the same premises if the occupant has changed, and billed at the rates and terms set out in Schedule “A”.

6. Temporary Water Service

That in any case where at the request of the Director of Utilities or Delegate, a customer is provided with a temporary water service from another utility customer, the charge to both customers for the current quarter shall be the average consumption for the last four previous quarters to the same customer, or the same premises if the occupant has changed, and billed at the rates and terms set out in Schedule "A".

7. Additional Meters

Where deemed expedient:

- a. the City may elect to install auxiliary meters to separately record the amount of wastewater or water for billing purposes; or
- b. upon application to the Director of Utilities or Delegate, by an owner or operator of a premise where a wastewater service is installed, the City shall install an auxiliary meter at the expense of the applicant, for such purpose.
- c. the City may enter into written agreements with large volume wastewater customers that provides for the customer to install a City approved wastewater meter at the customer's expense with wastewater volumes for billing purposes then determined by the wastewater meter. The agreement must provide that the wastewater meter is calibrated at the customer's cost on a schedule recommended by the meter manufacturer or if no schedule is available, then annually, with proof of calibration supplied to the City.

8. Service To Customers Outside Utility's Limits

The Council of the City of Brandon may sign Agreements with customers for the provision of water and wastewater services to properties located outside the boundaries of the City of Brandon. Such Agreements shall provide for payment of the appropriate rates set out in the Schedule "A", as well as a surcharge, set by Resolution of Council, which shall be equivalent to the frontage levy, general taxes, and special taxes for the 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 City boundaries. In addition, all costs of connecting to the Utility's mains, and installing and maintaining service connections, will be paid by the customer.

SCHEDULE C
CITY OF BRANDON
BRANDON WATER AND WASTEWATER UTILITY
WATER AND WASTEWATER UTILITY RATES BY-LAW NO. 7342

**Conditions Precedent Allowing for Collection and Disconnection of Water and/or
Sewer Services for Non-Payment of Accounts**

POLICY AND PROCEDURES REVISED APRIL 17, 2009 (REPLACES SEPTEMBER 4, 2008 ORDER 127/08)

1.0 PURPOSE:

The purpose of this document is to outline and define the disconnection and reconnection policies and procedures for customers with water and/or sewer services.

Disconnection, in accordance with the steps outlined in the following policy and procedures may occur if a customer is in arrears and full payment or payment arrangements suitable to the utility have not been made and if so, such disconnections must occur in conformance with these conditions precedent.

Reconnection, in accordance with the following policy and procedures will occur as soon as it is reasonably possible after the account returns to good standing. This Policy and Procedure does not apply to disconnection practices for routine maintenance of the utility including emergencies.

2.0 SCOPE:

The policy and procedures apply to customers receiving water and/or sewer services. The procedures are detailed to reflect the variety of situations that may occur for each of the following customers.

- 2.1 All property owners and/or tenants responsible for water and/or sewer services.
- 2.2 All landlords responsible for providing tenant water and/or sewer services covered under The Residential Tenancies Act (C.C.S.M. c R119).
- 2.3 Where water and/or sewer services are added to taxes.
- 2.4 Where water is sold in bulk.
- 2.5 Where sewage is dumped into a treatment facility.
- 2.6 Where water and/or sewer service is provided beyond the boundaries of a municipality, if applicable.

3.0 DEFINITIONS:

Account Holder/Customer – shall refer to the person or persons who have applied for water and/or sewer service at a particular residence, whether it be the property owner or renter

Property Owner – shall refer to the person or persons who are listed on the title of a specific property.

Renter – is not the property owner of the subject property and shall refer to the utility account holder/customer of the subject property.

Security Deposit – shall be based on the risk to the utility and should not exceed an estimated bill for three months.

4.0 POLICY:

4.1 The Utility will normally confine collection activity to the person(s) identified on the account who requested the service(s) with an implied agreement to pay or the person or agency who has agreed to pay for the service(s), with the following exception: where a reasonable person would expect that a customer not named on the bill is implicitly responsible for the service(s), i.e. husband or wife (legal or common-law), that person will also be presumed to have liability for the outstanding balance.

4.2 In order to satisfy provisions of *The Freedom of Information and Protection of Privacy Act*, Utilities are encouraged to develop an agreement between the utility and the account holder/customer, with provisions that establish at minimum conditions for service, recourse for unpaid bills, deposits required, and for renter's acknowledgement that information relating to their account status and other information may be released to the property owner to assist with collections.

4.3 The Public Utilities Board (Board) may, on its own initiative, or at the request of a customer, review a Utility's action and make recommendations and/or orders with respect to same as the Board may determine.

4.4 Every effort is to be made by the Utility to resolve outstanding accounts, disconnection and reconnection issues directly with its customer(s). If a solution cannot be reached the customer may apply to the Board for dispute resolution.

4.5 The Utility should familiarize itself with legislated provisions and the duty to report when a child is in need of protection and/or where the life, health or emotional well-being of the child (or children) is endangered. These provisions are contained in Part III – Child Protection - of *The Child and Family Services Act*.

4.6 The Utility must make special application to the Board prior to disconnecting service to a community or multiple residences/properties. Such an application must be shared with the affected community (ies) and/or multiple residences/properties. The

Board will consider the circumstances and particulars of the application and provide the Utility with direction, following such process as the Board may deem appropriate.

- 4.7** If a landlord is responsible for the provision of water and/or sewer services to tenant occupied premises, arrears will be based on the outstanding account balance and will be subject to Residential Tenancy Branch (RTB) procedures at the tenant occupied premises. Landlords failing to bring their outstanding account balance to good standing will be subject to disconnection of services of the same utility at their personal residence and any vacant premises under the same name.
- 4.8** This policy does not affect the Utility's right to disconnect in times of emergency and/or for reasons of safety or for failure to comply with water rationing requirements.
- 4.9** The Utility will keep current data of all disconnected customers in accordance with the following procedures.
- 4.10** The Utility may seek Board exemption from full disconnection procedures when faced with customers who consistently and deliberately show patterns of payment avoidance and who clearly understand the consequences of their actions.

5.0 PROCEDURES

5.1 DISCONNECTION PROCEDURE

Steps 1, 2 and 3 must be followed on water and/or sewer services in arrears.

Step 1

Customers shall receive a billing statement each billing cycle for services. In some cases the bill is for past consumption and/or minimum quarterly bill for the prior quarter and in other cases, for past consumption over the minimum quarterly bill in the prior quarter plus the next minimum quarterly bill in advance. The due date which appears on the bill shall be no less than 14 days after the billing date. Bulk water customers or customers dumping sewage may have special billing arrangements. However, failure to pay an outstanding bill may result in the removal of the right to use the service.

Step 2

If payment is not received within 31 days from the last billing date, a message similar to the following shall appear on a reminder statement:

“Our records indicate your account is past due. Please give this your prompt attention.

If payment or payment arrangements have been made, kindly disregard this notice.”

[The following is applicable to residential premises.]

“Information on service disconnection, payment arrangements and financial assistance is enclosed.”

Sample Insert:

<p>If your account is past due and you have not made payment arrangements, your water and/or sewer service could be disconnected.</p> <p>The Public Utilities Board adopted Order No. 39/09 governing the disconnection of water and/or sewer service for non-payment of account.</p>	<p>To make payment arrangements, please contact the utility at:</p> <p><i>[Insert contact information here]</i></p> <p>If you have already made payment arrangements, please disregard this notice.</p>	<p>Financial assistance may be available through Employment and Income Assistance:</p> <ul style="list-style-type: none"> • 1-800-626-4862 <p>Additional financial counseling and support may be available through Community Financial Counseling Services:</p> <ul style="list-style-type: none"> • 1-888-573-2383
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Step 3

If payment is not received within 45 days of the last billing date, a message similar to the following shall appear on the second and final reminder notice. Reconnection fees will be charged as approved by the Board from time to time:

IMPORTANT PAST DUE NOTICE

Your **account** is past due. If suitable payment arrangements or full payment of the arrears are not made on or before (*enter Date {14 calendar days from date of issue}*) your account will be subject to disconnection. If payment of the arrears has already been made, please notify us immediately.

If payment arrangements have already been made kindly disregard this notice.

If your service(s) is disconnected, full payment of the arrears balance plus a reconnection fee will be required before service is fully restored. A security deposit may also be required.

Customers may appeal the Utility's action by contacting the Public Utilities Board.

The Utility is not responsible for any damages or losses that may occur as a result of services which are disconnected for non-payment. Please ensure you protect people, animals and property that may be impacted by disconnection of service.

Reconnect Fees are \$_____.

Your service will be disconnected on _____ in the a.m. or p.m.

5.2 Where the Utility bills the minimum quarterly bill in advance, and where service is not reconnected, the bill should be adjusted and prorated accordingly, for the period from the date of disconnection to the end of the next quarter.

5.3 The following are exceptions to the above notice requirements before disconnection:

- (a) Where the customer's account was past due and where a payment arrangement was made and subsequently broken, the Utility may disconnect the customer's service with 7 calendar days notice.
- (b) Where the customer's account was past due for services billed at a previous premise, the Utility may, with 10 days notice, disconnect the customer's service at the new premise if the customer fails to make a payment arrangement.

The Utility shall take all reasonable steps to collect the arrears from its account holder/customer before adding any arrears to taxes.

6.0 RECONNECTION OR RESTORATION OF SERVICE PROCEDURE:

6.1 No reconnection of service(s) shall occur unless full payment of the arrears or payment arrangements is made suitable to the Utility including a reconnection fee. Reconnection terms may also include the payment of a security deposit.

6.2 All reasonable efforts shall be made to reconnect or restore the service as soon as possible.

7.0 GENERAL GUIDELINES FOR RENTAL PROPERTIES:

7.1 The renter and property owner are both responsible for providing notice and meter readings to the utility when vacating or renting a premise for the first time.

7.2 If the new renter has an unpaid amount, the utility may refuse service to the tenant.

7.3 The departing tenant will be responsible for services to the date of departure and the arriving tenant or the property owner will be responsible on the date the new tenant takes occupancy.

7.4 If there is a period of time between departing tenant and the arriving tenant the property owner will be responsible for the service charge.

7.5 The renter's deposit, if applicable, will be applied to the utility bill at this time.

In the case where the amount of the deposit, if applicable, exceeds the amount of the final bills and credit is show on the utility account, the credit is then refunded to the renter in the form of a cheque.

8.0 REPORTING REQUIREMENTS:

8.1 The Utility shall record the following information which the Board may request at any time:

- (a) the name of the account holder disconnected;
- (b) efforts made by the Utility to contact the customer (bill messages, letters, telephone calls, personal visits) and the results of such efforts.