

M A N I T O B A	)	Order No. 39/09
	)	
THE PUBLIC UTILITIES BOARD ACT	)	April 17, 2009

BEFORE: Graham Lane, CA, Chairman  
Susan Proven, P.H.Ec., Member

REVIEW AND VARIANCE OF ORDER 127/08,  
AND THE ESTABLISHMENT OF  
REVISED CONDITIONS PRECEDENT  
CONCERNING THE DISCONNECTION  
OF WATER AND/OR SEWER SERVICES  
FOR NON-PAYMENT OF ACCOUNTS

## **Background**

On September 4, 2008, the Public Utilities Board (Board) issued Order No. 127/08 establishing the procedures to be followed by owners of water and/or sewer utilities as '*Conditions Precedent Allowing for Collection and Disconnection of Water and/or Sewer Services for Non-Payment of Accounts*' (herein referred to as Conditions Precedent or CP).

Generally, the Conditions Precedent set out the Purpose, Scope, Policy and Procedures to be followed by utilities with respect to service disconnections, and include a right of customers to appeal a disconnection and involve the Board.

## **Revised Conditions Precedent**

Since the issuance of Order 127/08, several municipalities expressed concerns regarding the Board's requirement that utilities provide (Section 8.0 of the CP):

- "(c) any evidence of the customer either contacting, or being encouraged to contact, an appropriate social agency;
- (d) if known, details of any follow-up action being undertaken by a social agency; and
- (e) information indicating the presence of children, the elderly and the disabled."

and further,

"Where there are children 12 and under, the matters will be referred in writing to Child and Family Services as soon as facts are known."

Several municipalities noted that the responsibility for social services has previously been transferred from municipalities to the Province of Manitoba, and opined that the above CP requirements in Order 127/08 appeared to contradict the aforementioned transfer.

### **Board Findings**

In issuing Order 127/08, the Board was aware of the transfer of responsibility to the Province and had no intention of assigning municipalities financial responsibility for social assistance. That said, the matter of removal of essential services, i.e. disconnection of water and/or sewer service, is specifically addressed in legislation.

For example, *The Residential Tenancies Act* and *The Child and Family Services Act*, as well as the CP requirements of the Board, were set out on the premise that utilities should take steps to have basic knowledge concerning their customers before an important service is disconnected. Accordingly, Order 127/08 set out certain responsibilities related to social issues with respect to non-paying customers.

After careful consideration of the concerns expressed by the aforementioned municipalities, the Board will delete the requirements set out in Clauses 8.1(c), 8.1(d) and 8.1(e) of Order 127/08. However, the Board will continue to advise municipal and other utilities that legislation and the Board continue to hold utilities responsible for ensuring that their customers are aware that assistance may be available through the Provincial Employment and Income Assistance.

Furthermore, and with respect to children, the Board notes that *The Child and Family Services Act* places a specific onus on "persons" (which may, and the Board makes this interpretation, be interpreted to include municipal and other utilities) to take action when and where a child may be, or is, endangered by the removal of an essential service.

Therefore, the Board will also revise and amend Section 4.0 of the

CP, and add Section 4.5, as noted below:

"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 is endangered. These provisions are contained in Part III - Child Protection - of *The Child and Family Services Act*."

Accordingly, the revised CP will be circulated to all owners of water and/or sewer utilities and take effect immediately.

**IT IS THEREFORE ORDERED THAT:**

Order No. 127/08 be and is hereby revised and amended by deleting the Conditions Precedent attached to Order 127/08 and inserting the Conditions Precedent attached to this Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA."

Chairman

"G. BARRON, FCGA"

Acting Secretary

Certified a true copy of Order No.  
39/09 issued by The Public Utilities  
Board

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Acting Secretary

**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.

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

**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.

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

## **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"><li>• 1-800-626-4862</li></ul> <p>Additional financial counseling and support may be available through Community Financial Counseling Services:</p> <ul style="list-style-type: none"><li>• 1-888-573-2383</li></ul>
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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



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

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.

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

- 5.4** A message similar to the following shall appear on any future billing statements where services have been disconnected:

"Your account remains outstanding despite previous requests for payment. Failure to pay the outstanding account balance may make your account subject to legal action. Please call the phone number on the front of your billing statement or pay in person. If payment of the arrears has already been made please notify the Utility immediately. If payment arrangements have already been made kindly disregard this notice."

**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 a credit is shown 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.