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Alberta Utilities Commission

**0747744 B.C. Ltd.**

**Water Rates Approval Application for the  
Lakes of Muirfield Residential Development**

**July 24, 2014**

**The Alberta Utilities Commission**

Decision 2014-217: 0747744 B.C. Ltd.

Water Rates Approval Application for the Lakes of Muirfield Residential Development

Application No. 1610411

Proceeding No. 3131

July 24, 2014

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## **1 Introduction**

1. On December 5 and 11, 2013, an order for foreclosure<sup>1</sup> was granted by the Court of Queen's Bench of Alberta vesting title to property previously owned by Muirfield Land Corp. (MLC) in the name of 0747744 B.C. Ltd. (the applicant). The water utility serving the Lakes of Muirfield residential development is located on this property.
2. The Alberta Utilities Commission (AUC or the Commission) received a letter dated March 10, 2014 from the applicant indicating that 0747744 B.C. Ltd. had recently become owner of the water utility serving the Lakes of Muirfield residential development located east of Calgary in Wheatland County.
3. By letter dated March 27, 2014, the Commission received confirmation that the letter of March 10, 2014 should be considered an application pursuant to Section 89 of the *Public Utilities Act*, RSA 2000, c. P-45, requesting approval of the rates and terms and conditions approved by the Commission in Decision [2009-048](#)<sup>2</sup> respecting the continued operation of the Lakes of Muirfield water utility by the applicant. The Commission assigned this Application No. 1610411 and designated it as Proceeding No. 3131 in its electronic filing system.
4. The Commission issued a notice of application on March 31, 2014, requesting parties who wished to intervene in the proceeding to submit a statement of intent to participate (SIP) to the Commission by April 21, 2014.
5. By separate correspondence, each dated April 18, 2014, Max and Laurie Huntley (the Huntleys) and Jason Knibb of Knibb Developments Ltd., submitted SIPs objecting to the applicant being granted utility rights and responsibility for the reasons explained in their letters.
6. On May 5, 2014, the Commission issued letters to the Huntleys and to Knibb Developments Ltd. requesting clarification of their objections to the application.
7. The Huntleys submitted their response on May 19, 2014. Knibb Developments Ltd. did not respond to the Commission's letter.
8. On June 11, 2014, the Commission issued correspondence to all parties indicating that the application would be dealt with further by way of a written proceeding.

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<sup>1</sup> Exhibit No. 2, the Lakes of Muirfield order for foreclosure filed December 2013.

<sup>2</sup> Decision 2009-048: Muirfield Land Corp., Water Rates for the Lakes of Muirfield Golf Course and Residential Development, Rule 011 – Rate Application Process for Water Utilities, Application No. 1527535, May 1, 2009.

9. The Commission considers that the record for this proceeding closed on June 11, 2014.

10. On July 16, 2014, the Commission received an updated terms and conditions document and an updated standard fees and charges schedule from the applicant. The Commission reviewed the documents to confirm that the change in company name was the only change made to the documents.

## **2 Background**

11. In Decision 2009-048, the Commission approved rates and terms and conditions for MLC to operate a water utility serving the Lakes of Muirfield residential development. Physical operation of the water utility has been and continues to be carried out by Corix Utilities Inc. (Corix).

12. The current application requests approval of the same rates and terms and conditions approved by the Commission in Decision 2009-048 respecting the continued operation of this water utility by the applicant. The rates approved in Decision 2009-048 are only applicable to the delivery of potable water and do not apply to rates charged for waste water treatment for the Lakes of Muirfield residential development.

13. The application stated that there were many documents and agreements in place between MLC and other parties ranging from the municipalities involved, Alberta Environment and Sustainable Resource Development, the Western Irrigation District and others, and that in each case an assignment agreement or some type of amendment was put in place so that the applicant could carry on business as usual. It included the assurance that there is no plan whatsoever to increase the water rates and that in essence the only thing changing would be the name of the company owning the water treatment plant.<sup>3</sup>

14. As part of its application, the applicant also submitted<sup>4</sup> proof that it is a corporation registered to own land and carry on business in the province of Alberta, a copy of its pending application to Alberta Environment and Sustainable Resource Development for an amended water licence, and a copy of the certificate of title to the property on which the water treatment plant is presumably located.

## **3 Intervener objections**

15. Each of the April 18, 2014 letters from the Huntleys and Knibb Developments Ltd. stated that:

... the project has been mismanaged by 074774 B.C. Ltd. [0747744 B.C. Ltd.] leaving a trail of victims including the vendors of the land who were never paid for one third of the agreed upon purchase price. The default resulted in a judgment in the amount of \$755,049.29 in Court of Queen's Bench Action No. 1301~06426 against Muirfield land Corp. through which 074774 B.C. Ltd. [0747744 B.C. Ltd.] operated.

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<sup>3</sup> Exhibit No. 1, application.

<sup>4</sup> Exhibit No. 1, application.

Another victim of the project is Knibb Developments Ltd. which is an unpaid creditor with a claim of approximately \$583,500 filed in Action No. 1301-06373 in the Court of Queen's Bench. By virtue of a temporary agreement, Knibb was receiving monthly payments of \$3500 which ceased when the principals of 074 [0747744 B.C. Ltd.] took over.

Through its foreclosure of the land 074774 B.C. Ltd. [0747744 B.C. Ltd.] took the benefit of the land and services the non-payment of which was the decision of its principals.

In brief, 074774 B.C. Ltd. [0747744 B.C. Ltd.] has shown itself to be a callous operator, unconcerned about its legal and moral obligations as a result of which it is unsafe to entrust it with utility type powers and responsibilities.

16. In their response to the Commission's May 5, 2014 letter, the Huntleys indicated that they:<sup>5</sup>

- are neither residents of the Lakes of Muirfield nor customers of the Lakes of Muirfield water utility
- have no comment in connection with the rates, terms and conditions applied for by the applicant
- are not currently or intending to seek legal recourse against the applicant
- will not be potentially directly or adversely affected if the Commission approves the application
- do not have another operator to propose to continue operation of the Lakes of Muirfield operation
- the issues raised in their letter "address the character, reliability and business practices of the proposed assignee which in turn speaks to the question of whether it is safe to entrust a public utility into the hands of this prospective assignee"

#### 4 Commission findings

17. In this proceeding, the Commission is determining whether to approve, pursuant to Section 89 of the *Public Utilities Act*, RSA 2000, c. P-45, certain rates which may be charged and the applicable terms and conditions of service for the water utility currently serving the Lakes of Muirfield residential development. The Commission is not approving a franchise, deciding whether to grant utility or water rights to anyone, or licensing anyone to operate as a public utility. Wheatland County is the municipality in the locality and has specific legislative authority and responsibility under the *Municipal Government Act*, RSA 2000, c. M-26, and other applicable planning and development legislation for arrangements which were put in place for the provision of public utilities, such as water and waste water service, as an aspect of the development, subdivision and use of lands located within its boundaries.

18. The Commission is required to determine whether either the Huntleys or Knibb Developments Ltd. has a legal right or interest that could be "directly and adversely affected" by its decision in this proceeding. Section 9(2) of the *Alberta Utilities Commission Act*, SA 2007,

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<sup>5</sup> Exhibit No. 11.

c. A-37.2, governs whether an intending intervener is entitled to participate in the proceeding including a right to hearing. To determine whether a party has standing, the Commission applies two tests. First, it considers whether a right or interest being asserted by a person is one known to law. Second, if a right or interest exists, the Commission will consider whether the person has provided information which shows that approval of the application before it may directly and adversely affect such right or interest.

19. The evidence indicates and the Commission finds that neither the Huntleys nor Knibb Developments Ltd. owns property served by the Lakes of Muirfield water utility; each of them is only an unsecured creditor of MLC whose judgment debt will not be changed by any decision made in this proceeding. As such, neither of them is potentially directly and adversely affected by the decisions to be made in this proceeding and neither has shown the requisite legal right or interest required to entitle them to standing. Therefore, the Commission concludes that neither of them is entitled to standing in this proceeding.

20. Each of the proposed interveners is clearly greatly dissatisfied with the applicant's acquisition of ownership of the Lakes of Muirfield water utility and the unsold balance of the development without payment owed to them by the development's prior owner. That outcome for them, however, is not relevant to what water rates may be charged and should not be allowed to interfere with continuation of the residents' water service. Additionally, the evidence is clear that the change of ownership of the development which occurred resulted from the apparent conclusion of court proceedings which the proposed interveners appear to have had an opportunity to contest. The Commission does not have authority to change judicial decisions or the consequences resulting from due process of law.

21. The evidence shows and the Commission finds that the applicant is registered to carry on business in Alberta and indicates that the corporation has taken steps to become party to various contracts, licenses and arrangements needed with other third parties to enable it to continue to provide the water service previously provided by MLC. No change to the utility's rate base or revenue requirement is entailed. The Commission finds no sufficient factual basis for concern that the applicant will not furnish safe, adequate and proper water service to its customers as required by it pursuant to Section 88(b) of the *Public Utilities Act*.

22. The Commission directs the applicant to maintain all records previously held by MLC pertaining to the water utility serving the Lakes of Muirfield, including those records that contributed to the development of the rates approved in Decision 2009-048. The applicant is further directed to provide the Commission by January 15, 2015, with confirmation satisfactory to the Commission of issuance in its name of the water licences applied for from Alberta Environment and Sustainable Resource Development, conveyance to it at nominal cost of the water system, and registration of transfer to it of all requisite water utility rights-of-way or easements pertaining to the water utility system.

23. The Commission continues to hold the view that the rates and terms and conditions approved in Decision 2009-048 are just and reasonable, and concludes that those rates may be charged by the applicant as owner of the water utility serving the Lakes of Muirfield residential development.

## 5 Order

24. It is hereby ordered that:

- (1) The water rates approved in Decision 2009-048 are approved for the continued operation of the Lakes of Muirfield development water utility by 0747744 B.C. Ltd.
- (2) The terms and conditions of service approved in Decision 2009-048 are approved for the continued operation of the Lakes of Muirfield development water utility by 0747744 B.C. Ltd.

Dated on July 24, 2014.

### **The Alberta Utilities Commission**

*(original signed by)*

Willie Grieve, QC  
Chair

*(original signed by)*

Anne Michaud  
Commission Member

*(original signed by)*

Bill Lyttle  
Commission Member



## Appendix 1 – Proceeding participants

Name of organization (abbreviation) counsel or representative
0747744 B.C. Ltd. J. Souza
M. and L. Huntley
Knibb Developments J. Knibb

The Alberta Utilities Commission
Commission Panel
W. Grieve, QC, Chair
A. Michaud, Commission Member
B. Lyttle, Commission Member
Commission Staff
J. Petch (Commission counsel)
C. Arnot

**Appendix 2 – 0747744 B.C. Ltd. terms and conditions and standard fees and charges  
schedule effective July 24, 2014**



Appendix 2 - Terms  
and conditions and fe

(consists of 22 pages)

### Appendix 3 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. The Commission directs the applicant to maintain all records previously held by MLC pertaining to the water utility serving the Lakes of Muirfield, including those records that contributed to the development of the rates approved in Decision 2009-048. The applicant is further directed to provide the Commission by January 15, 2015, with confirmation satisfactory to the Commission of issuance in its name of the water licences applied for from Alberta Environment and Sustainable Resource Development, conveyance to it at nominal cost of the water system, and registration of transfer to it of all requisite water utility rights-of-way or easements pertaining to the water utility system. .... Paragraph 22

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**0747744 B.C. Ltd.**

**Water System Tariff  
Terms and Conditions**

CONTAINING

DEFINITIONS, TERMS AND CONDITIONS AND RATES FOR SERVICE

Effective: July 24, 2014

This Terms and Conditions Document is available for public inspection at the offices of

0747744 B.C. Ltd. in Lyalta, Alberta.

0747744 B.C. Ltd.

**0747744 B.C. LTD.**

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### **Part A - Definitions**

The following terms, wherever used in these Terms and Conditions, shall have the meaning set forth below:

- (a) “**Account Charge**” means the single initial set-up charge required to be paid by a Customer for Services in the amount specified in the Standard Fees and Charges Schedule;
- (b) “**Applicant**” means any Person applying for utility service from the Company subject to this Terms and Conditions Document;
- (c) “**Basic Charge**” means the fixed charge required to be paid by a Customer for Services during a prescribed period in the amount specified in the Rate Schedule;
- (d) “**Call-Back Charge**” means the charge required to be paid by a Customer for call back in the amount specified in the applicable Standard Fees and Charges Schedule;
- (e) “**Collection Charge**” means the charge required to be paid by a Customer for collection of an overdue account in the amount specified in the Standard Fees and Charges Schedule;
- (f) “**Commercial Service**” means the provision of Service supplied to commercial, institutional or small industrial operations;
- (g) “**Company**” means 0747744 B.C. Ltd. or any division or affiliate of 0747744 B.C. Ltd. carrying on the business of a water or sewer utility, and their respective duly authorized officers, agents and employees;
- (h) “**Customer**” means a Person who is an owner or occupant of a Premise which receives Services from the Company;
- (i) “**Person**” means any individual, corporation, partnership, cooperative, association or other entity;
- (j) “**Premise**” means a single lot or piece of ground including improvements thereon, to which Service is or will be provided by the Company;
- (k) “**Rate Schedule**” means a schedule attached to and forming part of these terms and conditions, which sets out the charges for Service and certain other related charges in connection with the provision of Services;

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- (l) “**Reactivation Charge**” means the charge required to be paid by a Customer for reactivation of Services in the amount specified in the Standard Fees and Charges Schedule;
- (m) “**Regulator**” means the applicable regulatory authority.
- (n) “**Residential Premise**” means the Premise of a single Customer, whether single family dwelling, separately metered single-family townhouse, row house, apartment, or single-metered apartment blocks with four or less apartments;
- (o) “**Residential Service**” means the provision of Service provided to a Residential Premise;
- (p) “**Services**” means the provision of water and/or sewer utility services supplied by the Company to a Premise by the Water System and includes the operation and maintenance of the Water System;
- (q) “**Services Agreement**” means either an oral or written application for Services of a Customer which has been approved by the Company and which is deemed to include the terms and conditions set out herein or an agreement for Services in a form determined by the Company and signed by the Customer;
- (r) “**Service Connection**” means, in respect of any component of the Water System provided to a building, the connection point representing the demarcation between the service infrastructure owned by the Company and the equipment owned by the Customer or owner of the property. The Water System Service Connection demarcation point is the property line.
- (s) “**Tenant**” means a Person who has the temporary use and occupation of real property owned by another person.
- (t) “**Water System**” means the water treatment plant and all pipes, pumps, valves, reservoirs, manholes and appurtenances which constitute the system for supplying water to the Service Connections.

**Part B -GENERAL TERMS AND CONDITIONS**

**1. Application for Service**

The Company provides Services to Customers solely in accordance with the terms and conditions set out herein and the Rate Schedules attached hereto.

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Every Person wishing to become a Customer shall apply to the Company for Services. Application for Services can be made in person, in writing, by phone call or e-mail. Applicants will be required by the Company to complete an application form or an agreement for Service in such form as determined by the Company from time to time. Applicants may be required to provide reference information and identification acceptable to the Company.

The application or agreement for Services will become a Services Agreement upon commencement of the provision of Services, and these terms and conditions will be part of said Services Agreement.

If an Applicant requests Services from the Company at more than one Premise, or for more than one separately operated business, the Applicant will be considered a separate Customer for each of the Premises and businesses. The Company will determine whether or not any building contains one or more Premises or any business is separately operated.

The Company may refuse to provide Services to an Applicant if an occupant of the Applicant's Premise has an unpaid account for Services incurred while the occupant previously occupied any Premise at the same time as the Applicant.

**2. Re-Application for Service**

If a Customer's Services Agreement is terminated, whether or not there is a physical disconnection by the Company, and if that Customer or the spouse, servant or agent of that Customer applies for new Services within 12 months of the most recent termination date for the same Premise, then the Applicant shall pay the greater of:

- (a) the costs that the Company estimates that it will incur in making the restoration or reconnection of the Services; and
- (b) the sum of the Basic Charges which the Customer would have paid between the time of termination and the time of application for new Services

**3. Assignment**

A Customer shall not transfer or assign a Services Agreement to another Person without the written consent of the Company.

**4. Rates**

The Account Charge, the Basic Charge, and any other fees or charges to be charged by the Company, and paid by Customers to the Company for Services shall be the rates from time to time in effect. The current rates are set out in the Rate Schedules attached hereto.

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The Company reserves its right to amend the rates set out in the Rate Schedules from time to time and to establish alternative rate structures for the provision of the Services subject to the approval of the Regulator.

**5. Service Connections**

5.1 Maintenance of Water System

The Company shall maintain the Water System and the Water System shall be and remain the property of the Company. The Company will normally serve each parcel of land with one Service Connection. If a Customer requests more than one Service Connection for a Service, the Company may install the additional Service Connection and charge the Customer the Application Fee as set out in the Standard Fees and Charges Schedule, as well as the full cost (including overhead) for the additional Service Connection installation. The Company, at its discretion, may bill for the additional Service Connection from a separate account.

5.2 Separate Service

Each Premise shall be served individually through a separate service line, unless the Company approves some other arrangement because of special circumstances.

5.3 Winter Construction

During winter construction conditions such as ground frost or excessive snow accumulations, the Company may postpone construction until winter construction conditions subside.

**6. Equipment and Facilities on Private Property**

The Company is not responsible for any facilities and equipment on a Customer's Premise beyond the Service Connection. All infrastructure and equipment including all pipelines used to connect a Premise to the Service Connection shall be installed, maintained and owned by the Customer or the owner of the Premise and shall be installed and maintained in a manner satisfactory to the Company. The Customer shall be responsible to keep and maintain the water line on the Customer's property in good working order.

The Company may, at its discretion, install or require the installation of meters and meter reading devices at a convenient location at the Premises and such meters and meter reading devices shall remain the property of the Company and the Customer shall ensure that the Company has reasonable access to such meters and meter reading devices. In case of a defective water meter the determination of the defect would be required. If the defect were a warranty issue the manufacturer would provide the corresponding replacement parts or reissue the meter on the basis of their warranty. If the defect were a result of the homeowner's negligence the cost or the replacement of the repair would be the homeowner's responsibility. If the defect was the

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result of negligence on the part of the utility (0747744 B.C. Ltd.) then the cost of the repair would be the responsibility of the utility. All issues would be governed by AWWA (American Water Works Association) standards.

**7. Disconnection by Authorized Personnel**

Services shall not be disconnected from any Premise by any person who is not an agent of the Company, except temporarily by a qualified plumber in order to perform maintenance or repairs on facilities and equipment within the Premise. No Customer, unless specifically authorized to do so by the Company, shall open or close any of the valves in the Water System or any of the Service Connections.

**8. Service Reconnections**

A Customer shall pay a Reactivation Charge when Services are reconnected to a Premise previously disconnected from Services for the following reasons:

- (a) at the request of the Customer;
- (b) to permit the Customer to make alterations to or on the private property;
- (c) for breach of these terms and conditions.

The Reactivation Charge applies when the same Customer, or the spouse, employee, agent, contractor or partner of the same Customer requests reactivation of Services to the Premise within a period of one year.

A Customer shall not be required to pay a Reactivation Charge when the service disconnection was made for the reason of public safety or when the Company made the service disconnection for service requirements of the Company.

The Applicant for reactivation must pay the greater of:

- (d) the costs the Company incurs in reactivating the Service; and
- (e) the sum of the Basic Charges which the Customer would have paid between the time of termination and the time of reactivation of Services.

**9. Change in Customer**

It shall be the obligation of each Customer to notify the Company to terminate Services upon change of occupant or ownership of the Premises. The notice shall state the effective date for the change, which shall be no less than seven days after the notice is received by the Company.

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Upon receipt of such notice, the Company shall prepare and submit to the Customer a final bill.

**10. Use Of Services**

A Customer shall use the Services only for the purposes permitted under the Rate Schedules for which application is or was made.

If there are separate systems for potable water and for irrigation water, the Customer shall be responsible to ensure that no cross connection occurs between the two systems, and that any taps or other fixtures from which water may be consumed are connected to the potable water system.

A Customer shall use the Services so as not to endanger equipment or cause any undue or abnormal fluctuations on the Water System.

A Customer shall request permission from the Company in advance if the Customer wishes to use an excessive quantity of water, such as for filling a swimming pool or such other purpose, and the Company will approve such request provided the quantity of water can be safely delivered through the Company's Water System and other Customers are not inconvenienced thereby.

**11. Resale / Unauthorized Supply or Use**

Unless authorized in writing by the Company, a Customer shall not sell or supply Services supplied to it by the Company to other Persons or use the Services supplied to it by the Company for any purpose other than as specified herein.

A Customer shall not make any connection or extension of any kind to the Water System without the prior written authorization of the Company. If any person makes any unauthorized connection or extension to the Water System, the Company may, in addition to any other remedies, immediately discontinue Services to such unauthorized connection or extension. In the case of any dispute concerning the authority for any such connection or extension, the burden of proof shall be upon the Customer to establish the validity of such authority.

**12. Billing**

12.1 Bills will be rendered on the basis of the Customer's Service Agreement, the Rate Schedules under which the Customer is provided Services and the fees and charges contained in the Standard Fees and Charges Schedule.

12.2 Bills will be rendered as often as deemed necessary by the Company, but generally on a monthly or bi-monthly basis. The due date for payment of bills shown on the face of the bill is the first business day after:

- (a) the twenty first (21<sup>st</sup>) calendar day following the billing date;

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12.3 Customers requesting historic billing information may be charged the cost of processing and providing this information but shall be notified of such charge in advance.

**13. Back Billing**

13.1 The Company, in the circumstances specified herein, may charge, demand, collect or receive from its Customers in respect of Services rendered, a greater or lesser compensation than that specified in the subsisting Rate Schedules of the Company applicable to those Services. In the case of a minor adjustment to a Customer's bill, such adjustments do not require back-billing treatment to be applied.

13.2 Back billing means the re-billing by the Company for services rendered to a Customer because the original billings were discovered to be either too high (over-billed) or too low (under-billed). The discovery may be made by either the Customer or the Company and may result from the conduct of an inspection. The cause of the billing error may include any of the following:

- (a) the application of an incorrect rate;
- (b) fraud, theft or any other criminal act;
- (c) faulty meter.

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13.3 If there are reasonable grounds to believe that a Customer has tampered with or otherwise used the Company's Water System or the Services in an unauthorized way, or evidence of fraud, theft or other criminal act exists, then the extent of back-billing will be for the duration of the unauthorized use, subject to the applicable limitation period provided by law, and the provisions of sections 14.8, 14.9, 14.10 and 14.11 below do not apply.

13.4 In addition, the Customer is liable for the direct administrative costs incurred by the Company in the investigation of any incident of tampering, including the direct costs of repair, or replacement of equipment.

13.5 Under-billing resulting from circumstances described above will bear interest at the rate normally charged by the Company on unpaid accounts from the date of the original under-billed invoice until the amount under-billed is paid in full.

13.6 In every case of under-billing or over-billing, the cause of the error will be remedied without delay, and the Customer will be promptly notified of the error and of the effect upon the Customer's ongoing bill.

13.7 In every case of over-billing, the Company will refund to the Customer all money incorrectly collected for the duration of the error, subject to the applicable limitation period provided by law.

13.8 Subject to section 14.3 above, in every case of under-billing, the Company will back-bill the Customer for the shorter of the duration of the error and;

- (a) six months for Customers receiving Residential Services or Commercial Service;  
or
- (b) one year for all other Customers or as set out in a special or individually negotiated Services Agreement with the Company.

13.9 Subject to section 14.3 above, in every case of under-billing, the Company will offer the Customer reasonable terms of repayment. If requested by the Customer, the repayment term will be equivalent in length to the back-billing period. The repayment will be interest free and in equal installments corresponding to the normal billing cycle. However, delinquency in payment of such installments will be subject to the usual late payment charges.

13.10 Subject to section 14.3 above, if a Customer disputes a portion of a back-billing due to under-billing based upon either consumption, demand or duration of the error, the Company will not threaten or cause the discontinuance of Services for the Customer's failure to pay that portion of the back-billing, unless there are no reasonable grounds for the Customer to dispute that portion of the back-billing. The undisputed portion of the bill shall be paid by the Customer and the Company may discontinue Services if such undisputed portion of the bill is not paid.

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13.11 Subject to section 14.3 above, in all instances of back billing where changes of occupancy have occurred, the Company will make a reasonable attempt to locate the former Customer. If, after a period of one year, such Customer cannot be located, the over-billing or under-billing applicable to them will be cancelled.

**14. Late Payment Charge**

If the amount due on any bill has not been paid in full on or before the due date shown on such bill, and if the unpaid balance is \$15 or more, a further bill will be rendered to include the overdue amount plus a Late Payment Charge as set out in the Standard Fees and Charges Schedule. Notwithstanding the due date shown, to allow time for payments made to reach the Company, and to co-ordinate the billing of Late Payment Charges with scheduled billing cycles, the Company may, in its discretion, waive Late Payment Charges on payments not processed until a number of days after the due date.

**15. Returned Cheque Charge**

If a cheque received by the Company from a Customer in payment of any account is returned by the Customer's bank, trust company or financial institution for the reason of not sufficient funds, or any reason other than clerical error, a Returned Cheque Charge, as set out in the Standard Fees and Charges Schedule, for processing each returned cheque will be added to the amount due and payable by the Customer whether or not the service has been disconnected.

**16. Refusal to Provide Service and Discontinuance of Service**

16.1 The Company may refuse to provide Services or may, with 48 hours written notice, discontinue Services to any Customer or Applicant who:

- (a) failed to fully pay for Services at any Premises on or before the due date;
- (b) failed to pay any required security deposit, equivalent form of security, or post a guarantee or required increase in it, by the specified date;
- (c) is in receivership or bankruptcy, or operating under the protection of any insolvency legislation and has failed to pay any outstanding bills to the Company;  
or
- (d) occupied the Premise with another occupant who has an outstanding account incurred for Services while occupying any Premise at the same time as the Customer.

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16.2 The Company may refuse to provide Services or may discontinue Services without notice, to any Customer or Applicant who:

- (a) refuses to provide reference information and identification acceptable to the Company, when applying for Services or at any subsequent time on request by the Company;
- (b) breaches the terms and conditions upon which Services are provided by the Company;
- (c) does not keep and maintain the water lines or appliances in good and working repair;;
- (d) uses the Water System or the Services in such a manner, as in the Company's opinion may lead to a dangerous situation;
- (e) fails to make modifications or additions to the Customer's equipment which have been required by the Company in order to prevent the danger described in 17.2(d) above;
- (f) fraudulently misrepresents to the Company the Customer's use of the Water System or the Services or vacates the Customer's Premise; or
- (g) has the Customer's Service Agreement terminated for any reason.

The Company shall not be liable for any loss, injury or damage suffered by any Customer by reason of the discontinuation of or refusal to provide Services.

**17. Security for Payment of Bills**

Customers who have not established or maintained credit to the satisfaction of the Company, may be required to provide a security deposit or equivalent form of security, the amount of which may not:

- (a) be less than \$250.00; or
- (b) exceed an amount equal to three months' average billing.

A security deposit or equivalent form of security is not an advance payment.

The Company will pay interest on a security deposit at the rate and at the times specified in the Standard Fees and Charges Schedule. If a security deposit is returned to a Customer for any reason, the Company will credit any accrued interest to the Customer's account at that time. No interest is payable on:

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- (c) any unclaimed deposit left with the Company after the account for which it is security is closed; or
- (d) on a deposit held by the Company in a form other than cash.

When a Customer pays the final bill, the Company will refund any security deposit plus any accrued interest or cancel the equivalent form of security.

If the Company is unable to locate the Customer to whom a security deposit is payable and it remains unclaimed for 10 years, the deposit then becomes the property of the Company.

If a Customer's bill is not paid when due, the Company may apply all or any part of the Customer's security deposit or equivalent form of security and any accrued interest towards payment of the bill. Under these circumstances, the Company may still elect to discontinue Services to the Customer for failure to pay for Services.

If a Customer's security deposit or equivalent form of security is appropriated by the Company for payment of an unpaid bill, the Customer must re-establish the security deposit or equivalent form of security before the Company will reconnect or continue Services to the Customer.

**18. Account Charge – Existing Installation**

When a change of Customer occurs, an Account Charge, as set out in the Standard Fees and Charges Schedule, shall be paid by the new Customer with respect to each Services applied for and for each account in that Customer's name for which a separate bill is rendered by the Company, except if the new Customer is, or was, the spouse of the former Customer.

**19. Collection Charge**

A Collection Charge, as set out in the Standard Fees and Charges Schedule, shall be paid by the Customer for each time a Company representative attends the Customer's Premise to disconnect Services following issuance of a disconnect notice.

**20. Termination of Service**

Unless the Services Agreement or applicable Rate Schedule specifies otherwise, the Services Agreement will terminate on the date specified by the Customer in a written termination notice to the Company, provided that the date of termination shall be at least 48 hours after delivery of the notice of termination. The Customer will be responsible for all charges outstanding for Services provided up to the date that the Services Agreement is properly terminated.

The Customer is not released from any previously existing obligations to the Company by terminating the Services Agreement.

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After receiving a termination notice for a Premise, and after a reasonable period of time during which a new Customer has not applied for Services at the Premise, the Company may seal off the Service lines connected to the Premise.

The Company reserves the right to suspend or terminate Services at any time to prevent fraudulent use of the Water System or the Services and to protect its property if the Customer fails to comply with the terms of the Customer's Service Agreement, or if the Company is ordered by a competent government authority to suspend or terminate such Services.

**21. Curtailement of Service**

The Company will use commercially reasonable efforts to provide regular and uninterrupted Services, but it does not guarantee continuous Services.

Services may be temporarily suspended to make repairs or improvements to the Water System or in the event of fire, flood or other sudden emergency. Further, at any time in the event of a breakdown or failure of the main supply or distributing plant or equipment, or to comply with the requirements of any law, the Company shall have the right to require any Customer or class or classes of Customers or all its Customers, until notice of termination of the requirement is given, or between specified hours, to discontinue the use of Services for any purpose or purposes or to reduce in any specified degree or quantity of consumption of Services for any purpose or purposes.

The Company will, whenever practicable, give notice by phone, mail, hand delivery or other means determined by the Company of any suspension of Services to the Customer and will restore Services as soon as reasonably possible.

The Company shall have authority, in the event of any emergency or event affecting the adequacy of the supply of water to the users of the Company's Water System or the fire fighting capacity or the condition of the Water System, either actual or imminent, to require any or all users to curtail or discontinue the use of water for nonessential uses and to use water only in accordance with regulations or restrictions determined by the Company. Such curtailment or discontinuance shall remain in effect for the duration of such emergency or event, as determined by the company. Verbal or other notice by the Company to the Customer or public advertisement in a newspaper circulated locally shall be deemed to be sufficient notice of such curtailment or discontinuance. No Customer shall thereafter use or permit to be used water furnished by the Company except in strict compliance with such regulations or restrictions. Failure by a Customer to comply with such regulations or restrictions may, without limiting any other rights or remedies available to the Company, result in fines imposed by the Company and/or suspension of water service to the Customer.

Nonessential uses of water are included in the following list:

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- (a) use of hoses, sprinklers, or other means for sprinkling or watering of shrubbery, trees, lawns, grass, plants, vines, gardens, vegetables, flowers, or any other vegetation;
- (b) use of water for washing automobiles, trucks, trailers, trailer houses, or any other type of mobile equipment;
- (c) washing of streets, driveways, parking lots, office buildings, exteriors of homes, sidewalks, apartments, or other outdoor surfaces;
- (d) operation of any ornamental fountain or other structures making a similar use of water;
- (e) use of water for filling swimming or wading pools or spas;
- (f) operation of any water-cooled comfort air conditioning which does not have water-conserving equipment;
- (g) use of water from fire hydrants for construction purpose, fire department drills, or testing fire apparatus, except as deemed necessary and approved in the interest of public health or safety;
- (h) use of water to flush a sewer line or sewer manhole; and
- (i) use of water for commercial farms and nurseries other than a bare minimum to preserve plants, crops and livestock.

**22. Liability**

The Company, its affiliates and their directors, officers, employees, contractors and agents are not responsible or liable for any loss, injury (including death), damage or expense incurred by any owner of a Premise or any Customer or other Person claiming by or through the Customer or owner, caused by or resulting from, directly or indirectly, any discontinuance, suspension, or interruption of, or failure or defect in the supply or delivery of the Services, unless the loss, injury, damage or expense is directly attributable to the gross negligence or willful misconduct of the Company, its directors, officers, employees, contractors or agents provided, however, that the Company, its affiliates and their directors, officers, employees, contractors and agents are not responsible for any loss of profit, loss of revenues or other economic loss or consequential loss even if the loss is directly attributable to the gross negligence or willful misconduct of the Company, its affiliates or their directors, officers, employees, contractors or agents.

The Customer is responsible for all expense, risk and liability with respect to the use by the Customer of the Services and for any loss or damage to the Water System caused by or resulting from the act or omission of the Customer or a Person for whom he Customer is responsible.

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The Customer is responsible for all expense, risk and liability with respect to the facilities and equipment connected to the Water System at the Customer's Premise.

The Customer will indemnify and hold harmless the Company, its directors, officers, employees, contractors and agents from all claims, loss, damage, costs or injury (including death) suffered by the Customer or owner of the Premise or by any Person claiming by or through the Customer or the owner or any third party caused by or resulting from the use of the Services by the Customer or the facilities and equipment connected to the Water System at the Customer's Premise, or from the Customer or Customer's employees, contractors or agents damaging the Water System.

**23. Access to Premises and Equipment**

The Company's agents, contractors and employees shall have, at all reasonable times, free access to the Water System and the Customer's facilities and equipment connected to the Water System at the Customer's Premise to ascertain the method of use of Services, as well as for the purpose of reading, testing, repairing, removing and replacing meters and ancillary equipment, for turning on and off the water, for conducting leak surveys, stopping leaks, and examining and repairing pipes, fittings, connections and other equipment.

**24. Taxes**

The rates and charges set out in the Rate Schedules do not include Social Services Tax or any other tax which the Company may be lawfully authorized or required to add to its rates and charges.

**25. Rental Premises**

As a condition of providing Services to a rental Premise, an owner or operator who wishes the Company to consider dealing directly with the Tenant or Tenants may be required to enter into a rental premises agreement with the Company which provides for responsibilities of the owner or operator in relation to payment for Services used at the Premise. Notwithstanding any rental premises agreement, the Company may, at its sole option, at any time and from time to time, either:

- (a) deal directly with the owner or operator of the Premise as a Customer of the Company with respect to any or all Services to the Premise; or
- (b) subject always to the provisions of any rental premises agreement, deal directly with each Tenant as a Customer of the Company.

Notwithstanding anything contained herein, an owner of a Residential Premise shall at all times remain responsible in relation to payment for Services used in a Residential Premise.

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**26. Conflicting Terms and Conditions**

Whenever anything in these terms and conditions is in conflict with any special terms or conditions provided in any Rate Schedule, the terms or conditions provided in the Rate Schedule shall prevail and whenever anything in these terms and conditions or in any Rate Schedule is in conflict with the terms of any special contract the terms of such special contract shall prevail.

**27. Authority of Agents of the Company**

No employee, contractor or agent of the Company has authority to make any promise, agreement or representation not incorporated in these terms and conditions or in a Service Agreement, and any such unauthorized promise, agreement or representation is not binding on the Company,

**28. Changes to Terms and Conditions**

These terms and conditions and the rates set out in the Rate Schedules attached hereto may be amended from time to time at the sole discretion of the Company, subject to the agreement of the Regulator. The terms and conditions that are in effect at any given time may be inspected during business hours at the Company's office.

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## STANDARD FEES AND CHARGES SCHEDULE

**Account Charge** **\$ 25.00**

The Account Charge is a single initial set up charge payable by each Applicant for each Service.

**Reactivation Charge** (applies to each service reactivated) **\$ 45.00**

**Administrative Charges**

Collection Charge	<b>\$ 45.00</b>
Returned Cheque Charge	<b>\$ 35.00</b>
Late Payment Charge	1.5% per month (19.6% per annum) on outstanding balance
Call Back Charge	<b>\$ 50.00</b>

**Interest on Cash Security Deposit**

The Company will pay interest on cash security deposits at the Company's prime interest rate minus 2%. The Company's prime interest rate is defined as the floating annual rate of interest which is equal to the rate of interest declared from time to time by the Company lead bank as its "prime rate" for loans in Canadian dollars.

Payment of interest will be credited to the Customer's account in January of each year.

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**RATE SCHEDULE 1**  
**RESIDENTIAL SERVICE**

This Rate Schedule is applicable to Services provided to single family residences, and to single-family townhouses and row houses where separate Services are provided to each individual residence.

**Basic Monthly Charge** **\$ 30.60**

**Metered Charge** **on the first 30 cubic metres per month** **\$ 2.42 per cubic metre**  
**volumes over 30 cubic metres per month** **\$ 3.64 per cubic metre**

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## **RATE SCHEDULE 2**

### **SMALL COMMERCIAL**

This Rate Schedule is applicable to Services provided to commercial businesses where separate Services are provided to each individual business.

**Basic Monthly Charge**

**\$ 30.60**

**Metered Charge**

**\$ 2.42 per cubic metre**

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## **SCHEDULE OF FINES**

The following fines will be applied to customers consuming water in violation of Company notification and during emergency situations as determined by the Company and as outlined in section 21 of the Terms and Conditions of Service.

<b>Following notification from the Company</b>	<b>\$ 50.00 per day for up to three (3) days</b>
	<b>\$ 200.00 for each day thereafter</b>