REGIONAL DISTRICT OF NORTH OKANAGAN

POLICY NO.
ENG-WTR-002

UTILITY ACQUISITION POLICY (WATER / WASTEWATER SYSTEMS)	
Approval Date:	March 6, 2013

PURPOSE

As a local government, a function of RDNO is to provide services to the public at the request of the service participants. It is not the intention of the RDNO to be in direct competition or provide assistance to the private sector nor is it the ambition of RDNO to expand utility infrastructure for the sake of expansion.

As a result of increasing Federal and Provincial standards and the rising expectation of utility users, RDNO is often approached with requests to either assume the ownership/management of small stand-alone private water/wastewater utilities, provide a connection to currently RDNO owned utilities or to "take over" private utilities.

Having the RDNO own and manage utilities has a number benefits that include:

- Expertise in managing and operating water and wastewater systems;
- Economies of scale;
- Access to government grants (if available);
- Reliable service;
- Long-term utility sustainability;
- Goal of conforming to Federal and Provincial regulations for improved health and environmental safety; and
- Transparency and accountability (democratic governance model).

Assuming ownership of private utilities or utilities with other governance models (see Appendix A) can expose RDNO to considerable liability and risk. Private utilities approaching RDNO for acquisition typically require significant upgrades to meet current RDNO, federal and provincial standards. Requests also often come with unrealistic expectations from system owners that have the misconception that local governments can contribute substantial financial assistance to improve ageing or/and failing utility for no or low costs to the users. In addition, owners often expect to receive financial compensation for their systems.

This policy has been developed to:

- Avoid and mitigate potential liability and risks to RDNO
- Avoid imposition of undue financial burdens on existing users/customers

- Provide a clear understanding to system owners and users of the process required for RDNO acquisition of a utility;
- Provide a consistent and standardized approach to the utility system assessment and acquisition process; and
- Provide adequate information to RDNO, system owner and system users to make an informed decision regarding any potential acquisition.

RDNO reserves the right to refuse acquiring a utility at any point in the process. The following examples are provided as a reference for reasons to refuse to acquire a utility. These examples include but are not limited to the following:

- There is undue risk or legal liability to RDNO; or
- There are capacity constraints of RDNO; or
- The utility does not and/or will not meet RDNO, Federal or Provincial standards; or
- The existing utility does not have a valid water licence; or
- Easements or right-of-ways are not in place to protect critical infrastructure and it is unlikely these can be obtained.

General Information/Background

As a local government, RDNO is to provide reliable, cost effective services to the public that meet Federal, Provincial, RDNO and Industry standards. RDNO is not in the business of expansion and is not interested in taking over utilities without owner and service users consent. As a local government, RDNO will not purchase utilities.

Under the *Local Government Act*, RDNO manages each utility as a stand-alone service. Each established service is self-sustaining utility and must achieve full cost recovery. The economic framework of RDNO is to provide for economies of scale for the benefit of all, not the subsidization of one user group at the expense of another.

System Ownership and Governance Model

The governance of all RDNO services is provided through the Board of Directors. RDNO staff are delegated the authority for the management, operation, maintenance and capital improvements of the services. Community and user input is acquired through correspondence directly with the service users, public meetings as required, or media or other communication.

In order for RDNO to assume ownership, management and operation responsibility of a requesting utility, the following requirements must be met:

- RDNO will be the owner of the requesting system and all existing assets must be transferred to the RDNO for $1.00 free and clear of any and all encumbrances. Assets include, but are not limited to: all infrastructure and appurtenances including associated buildings, property owned by the utility, easements or rights of way, intellectual and engineering information about the utility, water licences, permits, reserves and other financial assets accumulated

- All Commissions of Management (or other management structures), Community Advisory Committees (or other user input groups) must be dissolved when the RDNO assumes ownership; and
- All existing contracts related to the utility must be terminated when the RDNO assumes ownership.

POLICY

1. For the purposes of this policy:

   "Requesting Utility" means the utility proposed to be established as an RDNO service.
2. The acquisition of private, escheated, or other governance model utilities will only be concluded after the Requesting Utility has completed the RDNO Utility Acquisition Process as described in this policy.
3. RDNO will only consider Requesting Utilities located within the RDNO boundary area.
4. RDNO will not consider wastewater utilities located within the City of Vernon and District of Coldstream municipal boundaries.

Acquisition Process:

The following provides an outline of the steps required for the RDNO to acquire a private or escheated utility. This process is also provided in a checklist format in Appendix B.

1. Expression of Interest

An Expression of Interest ("EOI") must be submitted to the RDNO providing proof of:

a) the owners' approval to transfer of the utility to RDNO for the consideration of $1.00;

b) user support via a non-binding survey confirming a minimum of 75% support of property owners;

c) support from Interior Health (IH) and/or other governing bodies; and

d) support from the area representative (elected official(s)).

The EOI may be submitted by either the existing utility owner(s) or the users (property owners) but must include the above documentation.

2. Comprehensive Utility Assessment

If the conditions of the EOI (1) are met, the Requesting Utility must have a Comprehensive Utility Assessment ("CUA") completed by a professional engineer who is registered with the Association of Professional Engineers and Geoscientists of BC.

The objectives of the CUA are to:

a) benchmark the current conditions of the existing water or wastewater utility;

b) identify what improvements (if any) are required to meet current Provincial/Federal standards;

c) identify what improvements (if any) are required to meet current RDNO standards;

d) provide an engineering plan that includes detailed estimates to achieve meeting these standards; and

e) identify the annual operation & maintenance cost required.

Input and approval of the CUA is required by RDNO and applicable Provincial Ministry(ies). The CUA must include a financing plan or financing options detailing all costs of operating the utility, upgrading to current standards and for building infrastructure renewal reserves. All implementation costs, including the CUA preparation, are the responsibility of the Requesting Utility (less any grants that may be available).

Appendix C attached hereto provides the Terms of Reference for CUAs. Please note that while the Requesting Utility is responsible for completing and paying for the CUA, RDNO must approve of the engineering professional and proposed work scope and shall provide input where appropriate.

RDNO may attempt to access funding opportunities through external entities including the Provincial Government. However, the Requesting Utility would still be responsible for any net study costs including any co-payments identified by sourced grants.

3. User Assent/Petition

Provided the CUA (2) is approved by RDNO, the results and the financing plan shall be presented to the users of the Requesting Utility. RDNO will only acquire utilities that are:

a) in compliance with all applicable regulatory standards; or

b) committed to achieving compliance.

For utilities that are found to be not in compliance, the users must agree to the financing plan provided to achieve compliance.

If there is still favourable interest from users, a petition for a service would be initiated in accordance with the requirements described in the Local Government Act/Community Charter.

4. Conversion

If the User Assent/Petition (3) is certified as sufficient and valid by RDNO, then formalization to transfer ownership of the existing utility to RDNO would begin by:

- Execution of an asset transfer agreement;

- Developing a local area service establishment bylaw and a loan authorization bylaw;
- Developing a rates and fee bylaw for stand alone utilities; and
- Obtaining formal approval through the Board of Directors, the Inspector of Municipalities, the participating area and adoption of the associated bylaws.

Following completion of the above steps, the approved engineering plan would be initiated through expense of reserves held by the Requesting Utility and/or loan authorization bylaws that would be repaid through the newly established service.

All outstanding user fees are required to be collected by the Requesting Utility before the asset transfer agreement is executed by the RDNO. All costs associated with the transfer of ownership of the existing utility will be the responsibility of the Requesting Utility, including but not limited to: the preparation of legal documents, transfer of easements and right of ways or lands in fee simple.

5. RDNO Discretion/Risk Mitigation

RDNO reserves the right to elect not to acquire a utility at any point in the process.

APPENDIX A – Existing Governance Models in BC (excerpt from Appendix A of the Central Kootney Regional District Regional Water Management Plan, March 25, 2010)

Community water systems in BC fall into any one the following categories:

Private water systems - A developer wishing to install a water system within a development must apply to the Ministry of Environment for a Certificate of Public Convenience and Necessity (CPCN). A CPCN will be issued to a separate utility company created by the developer, and will acknowledge a satisfactory design, a system of maintenance reserves and a tariff structure. Unfortunately, the weakest link is the creation of the utility company. In BC law, if a company fails to submit an annual report for two consecutive years, it is struck from the Register of Companies. Simply, the utility company ceases to exist and the developer is no longer responsible for the provision of water for domestic or fire purposes. The assets and responsibility of the failed utility "escheat" and fall to the Province (Ministry of Attorney General). Operational responsibility is transferred to the Ministry of Environment. Understandably, the Province is not well equipped to operate rural water systems and those at the greatest risk are the water users.

Escheated systems - These are very marginally operated and typically the system's reserve funds have been depleted and the tariffs are unrealistically low.

Improvement Districts - Like private water systems, this form of governance was created before Regional Districts (pre-1965) to facilitate the provision of water to an established and growing rural community. Boards of Trustees have typically under funded operations and maintenance resulting in marginal success, especially with smaller systems. The Province no longer supports the creation or expansion of improvement districts.

Strata Corporations - Potentially one of the safer governance models, a strata corporation can be charged into perpetuity with the proper operation of its water system and can also levy appropriate fees to meet sustainable operation. Strata corporations are required to carry a valid CPCN.

Water Users Communities (WUC) - A WUC is simply a pooling of existing water licenses to create an aggregate water withdrawal. Originally intended for irrigation purposes, many have evolved into community water systems. Source withdrawal is regulated under the Water Act, however, no one regulates the distribution system and many of these have substandard infrastructure. Interior Heath Authority, wherever it has records of these, has difficulty enforcing its regulations due to a lack of internal resources and limited knowledge of these WUC.

Shared Interest Developments – A member of the highest risk category, the design and construction of water systems in these developments is not regulated because there is no subdivision to trigger any regulation. IH, if notified, is responsible to review design from a health perspective and to issue a permit to construct. Unfortunately, systems are typically under designed which places shareholders and water users at risk.

Abandoned or "Phantom" Systems - These are systems that were installed to service one or two consumers but grew over time to accommodate others. No knowledge of their existence, no engineering and no established governance model place the water users in these systems at risk to either water interruption or waterborne illness.

Local Government Systems - Local governments carry all of the tools required to design, construct, operate, maintain and regulate water systems on a sustainable basis. This is evidenced by systems within municipalities and those within regional districts with a defined water service strategy. These carry the full support of regulatory agencies when operated correctly. Of all types of systems, only local government systems are eligible to apply for senior government planning, transition and infrastructure grants. However, under the Community Works Fund Agreement, eligible projects in WUC may receive some funding.

APPENDIX B – RDNO Utility Acquisition Process

The following checklist provides an outline of the process for acquisition of a small utility by RDNO. The checklist in each section must be completed before the subsequent section of the acquisition process can continue.

1) Expression of Interest

- ☐ Expression of Interest Letter submitted to the RDNO with the following:
- ☐ Informal petition demonstrating at least 75% of user support
- ☐ Commitment of utility owner to transfer to utility to RDNO for $1.00
- ☐ Proof of support of local area representative
- ☐ Proof of support from Interior Health Drinking Water Officer or other governing body

2) System Assessment

- ☐ Report must be completed that fulfils the Terms of Reference for a Comprehensive Utility Assessment (Appendix C)

3) System User Assent

- ☐ Comprehensive Utility Assessment and financing plan are presented to the users
- ☐ Formal petition process undertaken through Local Government Act/Community Charter

4) Conversion Process

- ☐ Signed Asset Transfer Agreement
- ☐ Local Area Service Establishment Bylaw
- ☐ Loan Authorization Bylaw
- ☐ Utility Rates and Fees Bylaw for stand alone utilities
- ☐ Approval and Bylaw adoption by the Board of Directors and Inspector of Municipalities

APPENDIX C - Terms of Reference for a Comprehensive Utility Assessment

The purpose of the Comprehensive Utility Assessment ("CUA") is to provide sufficient information to the RDNO and the requesting utility on the current status of the water or wastewater system and required upgrades to:

a) bring the utility up to RDNO and legislative standards; and
b) identify risks; and
c) outline financial implications.

This information can then be used by participants to make informed decisions about the future of the utility. Assessments must be completed by qualified engineering professionals registered with the Association of Professional Engineers and Geoscientists of BC with relevant expertise in BC.

There are two types of systems that may express interest in being governed under the RDNO:

Type 1) A utility that is close enough to connect to an existing RDNO utility, or

Type 2) A stand-alone utility where RDNO would be required to create a separate function.

Please note that some sections below may not be applicable for Type 1 systems as the focus of the works would be on those sections relevant to connecting to the RDNO utility. However, the final requirements of the scope of work to be provided in this assessment or assessment for Type 1 systems must be approved by RDNO before proceeding with the study.

For stand alone systems (Type 2 systems), all sections of the CUA must be included.

The overall objects of the CUA are to:

- Provide information about the current utility including system history, governance, infrastructure, operations, management and financial health;
- Assess if the utility meets current legislation, Interior Health/Ministry of Environment objectives, RDNO standards, and industry best practices;
- Assess risk implications;
- Determine required upgrades and associated financial implications for both the RDNO and its water or wastewater system users; and
- Assess the financial viability of the system.

The following provides the requirements of the Comprehensive System Assessment:

EXISTING SYSTEM INFORMATION

Overview of Current System

- History (formation, construction, major updates, other relevant history)
- History of ministerial orders (IH boil orders or water quality advisories or MOE pollution abatement orders)– cause, number of incidences, durationLocation of system and locations of main infrastructure with map
- Service area
- Number and type of connections (residential, agricultural, commercial/industrial)
- Population served and potential build-out with actual or estimated demands and system capacity
- Form of governance
- EOCP classification
- Certification of operators

Assets and Risk

- Inventory with value of physical assets including infrastructure, real property, equipment and supplies
- Nature and extent of insurance coverage
- Prior or pending lawsuits or other issues (property, easement, etc.)

System Components and Infrastructure Information

- System design – design engineers and standards used
- Overview of source(s), treatment and disinfection for water systems:
  - ◊ For surface sources provide a description of watershed including existing users, tenures, watershed assessments completed and,
  - ◊ Provide intake information for surface sources that includes description, location, water quality, age, and capacity. For stream intakes, outline if off-stream or on-stream, sedimentation controls or issues. For lake intakes, provide intake depth, screen type, diving or inspection reports and if screen designed to fisheries standards.
  - ◊ For well sources provide locations, age, capacity, water quality, pumphouse configuration (is well in or out of pumphouse), hydrogeological information or reports such as pumping tests or groundwater protection plans.
  - ◊ Indentify primary, secondary, backup sources and abandoned sources.
  - ◊ Treatment and disinfection facilities – type, age, capacity
- Septic field information and wastewater treatment facilities – type, age, capacity
- Water distribution system or sewer mains
  - ◊ Water - Age, type/material, location, sizes and capacity of pipes pumps, PRVs, reservoirs,
  - ◊ Septic - Age, type/material, location, sizes and capacity of sewer pipes, lift stations, pumps, holding facilities, lagoons and fields
  - ◊ Operating pressures
  - ◊ Fire flow requirements for water systems

- Communications systems – is system connected to SCADA, alarming, data recording
- Report should provide all record drawings, design reports, geotechnical reports, structural reports or other relevant information.

Operations and Maintenance Activities

- Provide operation and maintenance manuals, standard operating procedures, equipment manuals and any other relevant operational documents.
- Sampling, testing and reporting protocols with who completes sampling, frequency, locations, methods and parameters.
- Monitoring and maintenance records (i.e. flows, pump hours)
- Water quality records for water systems (Comprehensive, turbidity, residual chlorine)
- Water quality records for wastewater systems (compliance monitoring results)
- Operator logs and operator duties – daily, weekly, yearly and seasonally
- Leakage investigation or inspection,
- Reservoir, lagoon or septic tank cleaning frequency and records
- Hydrant maintenance records
- Flushing frequency and records
- Meters – age, type and condition
- Backflow prevention program
- Emergency response procedures with incident reports
- Standards and specifications for infrastructure and operations
- Maintenance planning and maintenance activities
- Contracting – existing contracts, types of activities contracted out

Permits and Licenses

- Construction permits (IH)
- Operation Permit (IH) – conditions of permit
- Water license(s) (MOE)
- Operation Certificates (MOE)
- Highway Permits (MOT)
- CPCN (if private water utility)
- Easements and right-of-ways

Financial

- Existing costs and debts (administrative, operational, debt service)
- Current annual budget
- Existing rates and rate history
- Sources of revenue and method of cost recovery (taxes, charges, fees, development charges)
- Billing
- Reserves, trusts and other financial assets
- Capital plans or strategic plans

SYSTEM ASSESSMENT

1. Water Utility Source(s) and Infrastructure Assessment

- Capacity assessment of sources to meet current and future demand (for utilities requested to connect to RDNO utilities, the assessment must also address if the RNDO utility has surplus capacity to service the utility requesting to connect)
- Adequacy of watershed protection plans and measures (surface source)
- Adequacy of groundwater protection plan
- Security of sources
- Source vulnerabilities
- Infrastructure design standards compared to RDNO standards and other best practices
- Intake works (intake, pump station) - condition and adequacy of meeting existing and projected future demand and Fisheries requirements
- Condition and adequacy of existing treatment and disinfection facilities including level of treatment achieved and consistency with BC Drinking Water Protection Regulation (DWPR) and Canadian Drinking Water Guidelines
- Condition and adequacy of storage facilities to meet existing and projected future demand
- Condition and ability of pumping facilities and PRVs to provide for existing and projected future demand
- Adequacy of meters and other equipment
- All valves must be exercised and number of turns counted to determined valve size
- Any system greater than 25 years must undergo a pipe condition assessment, including core sampling of pipe and laboratory analysis to determine condition and pipe pressure class rating
- Inspect and flow test all fire hydrants

2. Wastewater Utility Infrastructure Assessment

- Capacity assessment of disposal facilities to meet current and future demand (for utilities requested to connect to RDNO utilities, the assessment must also address if the RNDO utility has surplus capacity to service the utility requesting to connect)
- Hydrogeologic assessments of infiltration fields for wastewater
- Security of facilities
- System vulnerabilities
- Infrastructure design standards compared to RDNO standards and other best practices, condition and adequacy of pumps, pipes and treatment facilities meeting existing and projected future demand
- Condition and adequacy of storage facilities to meet existing and projected future demand
- Adequacy of meters and other equipment
- All valves must be exercised and number of turns counted to determined valve size
- Any system greater than 25 years must undergo a pipe condition assessment, including core sampling of pipe and laboratory analysis to determine condition and pipe pressure class rating

Other System Components

- Determine whether system facilities and pipe lines are protected by required easements and rights-of-way
- Validity of licenses, permits, operational certificates etc.

Compliance to Legislation, Regulations and Other Standards

- For water systems:
    - Compliance with IH conditions on permit
    - Compliance of source water quality with Canadian Drinking Water Guidelines and IH 43210 objectives for Safe Drinking Water. Treatment requirements if water quality does not meet standards.
    - Are well sources in compliance with Ground Water Protection Regulation
    - Risk assessment of wells being *groundwater under the direct influence of surface water* (GWUDI).
- For wastewater systems
    - Compliance with Ministry of Environment Operational Certificate requirements and all other provincial legislation
- Condition and adequacy of operator safety equipment to meet WCB legislation

Operations and Maintenance Requirements

- Recommended resources and skills needed to operate and maintain the system in consideration of current staffing RDNO capacity
- Recommended training program for operator(s)

Financial Assessment

- Overall financial position of system
- Adequacy of rates to recover full cost of operation and continue to contribute to reserves
- Adequacy of reserves and contingencies to fund replacement and repairs
- Estimated costs to bring utility up to RDNO, IH and provincial standards
- Availability of Grants

Engineering and Financing Plan

- An engineering and financing plan must be presented that outlines what is required for the utility to meet regulatory standards, how this will be achieved and how the utility will be financially self sustaining. The plan will include:
    - ◊ Infrastructure upgrade requirements and costs required to meet RDNO standards and specifications, provincial legislation, IH 43210 objectives for Safe Drinking Water and conditions on the Permit to Operate or requirements of MOE Operational Certificate, WCB requirements and other relevant standards.
    - ◊ Connection costs to RDNO utility, including Development Cost Charges (DCC), connection fees, latecomers, allocation fees, etc. (Type 1 utilities only that are requesting to connect to existing RDNO utility)
    - ◊ Costs of operation and maintenance for proposed upgraded system

- ◊ Annual rates and fees, including provisions for an infrastructure renewal reserve
- ◊ Other related costs
- ◊ Timeline for implementation