

MANITOBA ) Order No. 93/07  
 )  
THE PUBLIC UTILITIES BOARD ACT ) July 17, 2007

BEFORE: Graham Lane, CA, Chairman  
Monica Girouard, CGA, Member

THE TOWN OF MINNEDOSA  
REVISED WATER AND SEWER RATES  
EFFECTIVE OCTOBER 1, 2007

**Executive Summary**

By this Order, which follows a public hearing held in Minnedosa, the Public Utilities Board (Board) approves on an interim basis and as of a billing date to be set by the Town of Minnedosa (Town), revised water and sewer rates.

With the implementation of this Order, the Town's rate schedule will be:

<b>Per cubic meter, Quarterly</b>	<b>Existing Rates</b>			<b>Rate Blocks Quarterly</b>	<b>Proposed, Quarterly Rates</b>		
	Water	Sewer	Total		Water	Sewer	Total
First 22,000	\$0.69	0.37	1.06	First 100	\$0.79	0.46	1.25
Over 22,000	\$0.45	0.37	0.82	Next 350	\$0.65	0.46	1.11
				Next 1,800	\$0.51	0.20	0.71
				Special > 2,275	\$0.42	0.20	0.62

Concurrent with the effective date of the rate schedule amendments, to be determined by the Town, the bulk water rate will increase from \$0.85 per cubic meter to \$1.15. Quarterly minimum bills are based on meter size; residential minimum quarterly bills will increase to \$33.25. Town By-law No. 2477, which reflects these changes, also sets out the particulars for billings, penalties and disconnection - all provisions accepted by the Board.

The Board expects the Town to review the adequacy of the now approved interim rate schedule no later than 2009. The current rate study is to be updated and filed with the Board no later than September 30, 2009, to follow at least one year of experience after Husky Oil's (Husky) expanded ethanol plant and the Town's upgraded water treatment plant are in operation.

Also to be filed at that time, are a report on the Town's utility capital expenditure plans, then-current operating results, and the Utility operating budget for 2009 and 2010.

### **Introduction**

The Board held a public hearing of the Town's application in Minnedosa on July 4, 2007. The hearing followed Notice of Hearing, which was published in the Minnedosa Tribune and posted in several prominent locations throughout Town.

Rates were last revised in 2003. Since then, considerable change has occurred, including and in particular revised water supply requirements of Husky, recognition of the effects of an aging utility infrastructure, inflation and increased provincial water and sewer standards.

The Town advised that the major upgrade to one of its two water treatment plants, currently expected to cost in the range of \$4.25 million, was necessitated not only to meet the requirements of an expanded Husky plant but also to ensure adequate quality water to serve all of the Town's customers.

The Town reported that the existing plant has been constructed forty years ago, with a then-expected service life of 20-25 years, and being well beyond its service life expectancy, was in "dire if not emergency need of upgrading or replacement."

In short, the Town advised the Board that "... regardless of Husky's (expansion), the plant required upgrading".

## **Application**

In advance of completion of Husky's major expansion of its Minnedosa ethanol plant, and the concurrent completion of a major upgrade to one of the Town's two water treatment plants (WTP#2) to meet that increased demand, the Town made application for revised water and sewer rates to the Board on March 28, 2007. Husky's expansion will require considerably more water from the Town's utility than currently is the case, projected Husky consumption is forecast to increase from 280,000 cubic meters (cu.m.) per annum to 1.2 million cu.m. - a volume that would represent approximately 70% of the total water produced by the Town.

The Town supported its application with By-Law 2477, read for a first time on March 27, 2007, and a rate study, prepared by Genivar (previously known as Cochrane Engineering Ltd.) Genivar's rate study proposed the rate schedule adopted by the Town in its application to the Board.

The forecasted increased water supply to Husky, projected by Genivar to reflect only 75% of Husky's estimated requirement at plant capacity, will increase overall Town consumption from 630,000 cubic meters to 1.6 million cu.m. per annum. The proposed new rate schedule, which was based on the projected increase in consumption, was forecast to result in an annual increase in utility revenues of approximately \$350,000, such as to be sufficient to produce more or less balanced annual operating results through to 2011.

### **Operating Cost Forecasts**

Forecasted annual utility operating costs also represent an anticipated operating "cost" increase of \$350,000, again to result from the WTP#2 upgrade and the proposed higher water consumption by Husky. Also included in the estimate was an increase in wastewater costs of 10%, again largely dependent on the Husky expansion being in operation - Husky's contribution to effluent flow is expected to be at the rate of only 25% of its expected increase in water consumption.

The Town, based on Genivar's rate study, project annual operating cost increases of 1% per annum from 2008 through to 2011, to account for expected inflation and modest non-Husky increased consumption.

Included in the forecast of higher operating costs is a \$10,000 increase to annual utility contingency provisions (to \$50,000), and annual \$100,000 contributions to the Utility Reserve, up from \$15,000.

Excluding those factors, and also included in the forecast of increased operating costs, general operating costs (labour, materials, chemicals, etc.) were expected to rise by 25% with the increased production of water, ongoing inflation and increased provincial water and effluent discharge standards.

The Town projected annual operating expenses, upon the completion of upgrades to WTP#2 and the supply of increased

water to Husky, of \$523,360, to which was added the provision of \$100,000 for the Utility reserve and \$50,000 for contingencies.

Overall annual operating costs, including contingency provisions, reserve contribution and debenture debt servicing excluding existing debenture debt were projected at approximately \$1 million up to 2011, with small operating deficits forecast for the early years of the forecast period.

The Town has existing annual debenture debt costs of \$136,903 being recovered by property taxes. The Town proposed to recover the new annual debenture debt costs of \$244,279 related to WTP#2 in rates and in the rate calculations. The full cost was included in the special rate calculation.

New Town debt of approximately \$2.0 million was expected to arise with the expansion of WTP#2, the new borrowing approved by the Municipal Board. The Town also advised that Husky's expansion would result in a significantly increased tax assessment and annual tax payments.

#### **Risk to Balanced Budgets**

With respect to the forecasts of relatively balanced operating results through to 2011, the Town advised the main risk to the forecast was the reliance on projections of water consumption and associated revenue related to Husky's expansion. If the forecast volumes of consumption are not realized, deficits would likely arise, and in an effort to mitigate that risk the Town, in proposing its rate schedule, projected revenues from Husky based on lower production than the capacity of Husky's expanded plant provides for.

#### **Unaccounted for Water**

Unaccounted for water is the difference between water produced and water sold, and has been attributed, in part, to leaking pipes, water main breaks, meter inaccuracies, hydrant/sewer flushing and fire fighting. Constant maintenance is required to restrict the level of unaccounted for water, and this is a costly undertaking.

The Town advised of current annual losses of 11.5% of water produced, but an expectation that the loss rate will be reduced to 6.6% with continuing enhanced maintenance. Reduced unaccounted for water will assist with conservation objectives and, to some degree, assist in holding down water processing and distribution costs.

#### **Rate Design Changes**

To facilitate the Husky expansion and provide for the potential for the location of spin-off industries in the Town following the expansion, the Town proposed amending its rate schedule design, from a two-step to a four-step design.

The first two steps of the new design were expected to address the consumption requirements of residential and most commercial and institutional utility customers. The third step would serve as an inducement to potential new industry that may be attracted to Minnedosa upon completion of Husky's expansion and the increased production of usable by-products.

The fourth step of the rate schedule would provide revised rates for Husky, combined with the expected consumption volumes sufficient to meet the incremental costs associated with the increased consumption.

The Town advised it expected that changing to a four-step rate schedule design would not significantly affect residential customers; in other words, the increased bills residential customers would incur would be related to factors other than the Husky expansion.

The Town forecasted that larger users, local Parks, the hospital, and a seasonal farm equipment business, are expected to benefit from the second and third step, but that the savings are not expected to change operational and water consumption practices and experience. Volumes billed falling within the new rate blocks would be at lower prices. For particulars related to these matters, the Town should be contacted.

Per cubic meter	Existing Rates				Proposed, Quarterly Rates		
	Water	Sewer	Total		Water	Sewer	Total
First 22,000	\$0.69	0.37	1.06	First 100	\$0.79	0.46	1.25
Over 22,000	\$0.45	0.37	0.82	Next 350	\$0.65	0.46	1.11
				Next 1,800	\$0.51	0.20	0.71
				Special > 2,275	\$0.42	0.20	0.62

The Town also proposed that the bulk water rate increase from \$0.85 per cubic metre to \$1.15, and that the quarterly customer service charge increase from \$16.00 to \$16.20. By-law No. 2477, filed with the application, also sets out the particulars for billings, penalties, disconnection, etc.

Based on the various meter sizes of its customers, the Town proposed to adjust minimum quarterly bills. Under the Town's proposal the 5/8" meter size (mainly residential customers) minimum quarterly bill would increase from \$30.46 to \$33.25 (a 9.16% increase), and includes 13.64 cubic meters of water consumption per quarter.

The quarterly minimum bills for meter sizes of 1 1/2" and greater would have quarterly consumption allowances in excess of 100 cubic meters, and would be projected to incur commodity charges above the first step of the proposed new schedule. For particulars of the minimum bill increases by meter size and projected bill increases for customers at various levels of water consumption in excess of minimum quarterly allowances, the Town should be contacted.

#### **Capital Expenditure Plans**

The Town reported on plans for significant additional utility infrastructure upgrades and enhancements other than the current treatment plant upgrade, those being:

- a) water main renewal, at \$50,000 per year from 2008 through to and including 2013 - to be funded from the Utility Reserve - the Town reported having replaced ten blocks of water mains since 2001, and plans to replace two blocks in 2007 and each subsequent year;

- b) hydrant renewal at \$5,000 per year - to be funded by annual utility rate-based revenue; the Town reported having replaced two old hydrants each year, along with upgrades to other hydrants;
- c) acidizing and upgrading of the wells at a cost of \$25,000 over each four year period - to be funded by the Utility Reserve fund and/or rate-based revenue;
- d) sewer main flushing at a cost of \$20,000 over a five year period beginning in 2008 - to be funded by rate-based revenue;
- e) new filter system for 2008, at a cost of \$100,000 - to be funded by the Utility Reserve and/or borrowing;
- f) lift station enhancements in 2010, to involve migrating from the current single pumping system to a duplex approach, at an estimated cost of \$150,000 - to be funded by the Utility Reserve and/or borrowing;
- g) replacement of the force main to the lagoon, - major costs are forecasted yet no date or funding plans have been established;
- h) sewer and water expansion to the industrial park and new development areas - no timelines, costs or funding source plans have been established to date; and
- i) repairs to the other water treatment plant (plant #1, constructed in 1999) at a cost estimated to be between \$750,000 and \$1 million, yet to be scheduled - to be funded

by the Utility Reserve and senior government/Manitoba Water Services Board (MWSB) grants.

**Other matters**

The Town advised of a December 31, 2006 Utility Reserve balance of \$1.136 million, of which \$905,000 was liquid. The Town indicated the Reserve would meet the anticipated costs of repairing water treatment plant #1, as noted above, and given grant(s) from the Manitoba Water Services Board, address other capital expenditure plan requirements.

With respect to the Town's conservation initiatives, the Town reported involvement in a pilot project with Green Manitoba, exploring various conservation methods. The Town indicated that a forecast of increasing water needs upon the Husky expansion prompted Green Manitoba and the Province to initiate discussions with the Town on conserving local area water resources. The Town reported on-going water level studies involving provincial agencies, which are concerned not only with the needs of Minnedosa but also those of other nearby communities.

The Town reported passing a 2007 resolution to partner with Green Manitoba on water conservation initiatives, and on the outcome of a community stakeholder workshop held in March 2007, which included expressed concern about the sustainability of clean water and a strong community interest to participate in water conservation.

**Review by the Board**

In reviewing the Town's application and arriving at its conclusions and directions, the Board provided particular attention to:

- 1) Husky's requirements, an agreement entered into between the Town and Husky, and the Town's expectations of social and economic benefits to arise from Husky's expansion;
- 2) the general condition of current infrastructure, and the projected cost of enhancing, upgrading and repairing the infrastructure;
- 3) issues of water quality and the adequacy of current effluent treatment;
- 4) the current level of unaccounted for water (water produced but not sold), suggestive of leaks and/or other infrastructure problems requiring remedial attention;
- 5) capital spending plans, and the proposed sources of funding;
- 6) projected future utility operating expense levels, including adequate contingency and reserve provisions;
- 7) adequacy of the current and proposed rate structure, with implications for customers;
- 8) assurance of fairness with respect to the sharing of expenses between the Town's General Operating Account and Utility Account; and
- 9) conservation issues and compliance with provincial water standards.

### **Husky Agreement**

The Town provided the Board with the agreement between the Town and Husky pertaining to the supply of water and sewer services to Husky. The agreement was necessitated because of Husky's major expansion of its Minnedosa ethanol plant.

In the agreement, Husky commits to meeting a portion of the Town's costs in upgrading one of its treatment plants, provides assurances, both with respect to the volumes of water expected to be drawn by Husky upon the expansion being completed and to future utility revenue expectations. Husky also agrees to abide by such water and sewer rates as may be applied for by the Town and approved by the Board.

At Husky's insistence, the Town sought the Board's concurrence to retain in confidence certain financial information contained in the agreement. The Board sought permission to place the full agreement on the public record, with the intention of referring to the specific financial terms in the Board's Order to follow the hearing and the Board's review of the application.

The Town was not in a position to support placing the full agreement on the public record. However, the Town filed an abridged version of the agreement for the public record, a version that while omitting detailed financial terms does provide for an understanding of the intent of the arrangement and the means by which the Town assured itself of the security of the arrangement.

The Town defended public non-disclosure of the financial terms of its agreement with Husky, by indicating:

- a) disclosure could harm Husky's competitiveness;
- b) the information not contained in the abridged version of the agreement is financial in nature;
- c) Freedom of Information and Personal Privacy Act (FIPPA), section 33 states, in part:

*"The head of a public body shall refuse to disclose to an applicant, information that would reveal ...*

- b) commercial, financial information the disclosure of which could reasonably be expected to:
  - i) harm the competitive position of a third-party;*
  - ii) interfere with contractual or other negotiations of a third party;*
  - iii) result in significant financial loss or gain to a third party."**

The Town advised that it had entered into the agreement with Husky for the benefit of the entire community, and that:

*"... hundreds of workers (are) at the site who contribute to the local community. Upon completion of the plant we will have a stable workforce and an expanded tax base. Council worked hard to retain Husky and to develop this Agreement. It is an excellent agreement and a good deal for our ratepayers who, without Husky selecting this community ... would pay a much higher cost not only for the construction of the (water treatment) plant but ongoing maintenance etc. through higher rates. The capital contribution from Husky lowered the amount of the long term debt to which the ratepayers would have been exposed to. In addition, the amount of long term debt would have drastically reduced any other development and infrastructure repairs that this Town would have been able to carry out for many years to come."*

In addition, the Town indicated a strong belief in transparency, in circumstances:

*"when it is necessary, for example, to show that a company is a good corporate citizen and that a municipal corporation has not sold the "farm."*

The Town concluded that Husky had proven itself to be a good corporate citizen and that transparency with respect to the financial terms of the agreement were neither necessary nor beneficial.

*"We want to be able to welcome new business... Council is elected to work on behalf of its citizens to do certain things. There are some times when the ratepayers may not be able to be privy to all information, especially sensitive financial information, which release may be damaging to a business or industry. Tax grants, free land and other municipal benefit must be transparent and be made open public information. However, the agreement was negotiated in good faith ... part of the agreement dealt with confidential issues. We respectfully ask the (Public Utilities Board) to hold those financial issues confidential; however ... consider them in your deliberations. It can only benefit our ratepayers while respecting Husky's concerns about making the financial aspects of the agreements public could hurt the corporation."*

The Town responded to Board questions at the hearing by outlining anticipated immediate and future economic benefits to arise from the Husky expansion - jobs, a financial contribution to the treatment plant upgrade, increased annual utility rate-based revenue, higher municipal tax assessment and tax revenue, and the possibility of other industry locating in the Town to utilize Husky by-products.

At the hearing, no one present objected to the Town supporting Husky's request that the Board consider the full agreement in confidence.

If the Board rejected the request to hold the financial terms of the Husky/Town agreement in confidence, the Board would have been obliged to allow the Town to withdraw the filing of the agreement containing full financial terms. The Board would have been left with Genivar's rate study and the Town's application on which to reach its determinations.

The Board concluded that if the Town withdrew the full agreement, the Board would not be able to approve the Town's application, and if new rates were not established the Town's utility and ratepayers would be at risk and disadvantaged. The Board also concluded that by accepting the agreement, with the detailed financial terms, it would be able to reach a conclusion on the Town's application, and that reaching a conclusion would be in the public interest.

### **Background**

The Town has approximately 1,030 water and sewer customers, with a few large customers including Husky, the provincial government, the Rural Municipality of Odanah, and Redfern Farm Equipment.

The Town's water comes from three wells, and the Town operates two water treatment plants. The second plant, the subject of the current upgrades, was constructed circa 1967 to serve the

ethanol plant and the Town. The other plant, which serves only non-Husky consumers, was built in 1999.

Because of elevation, the Town requires 7 lift stations for its water and sewer system, resulting in substantial electricity costs - electricity rates have increased approximately 10% since the Town's last utility rate increase.

The Town's population has been relatively stable, and was projected in Genivar's rate study to remain marginally lower in 2011 than 1971's population.

While water consumption figures have fluctuated over recent decades, mainly due to weather factors, and leaving aside Husky production and plans, there has not been a steady increase. Water consumption billed in 2004 was 580,826.9 cubic meters, in 2005, 593,838.8.

Funding the cost of the WTP #2 upgrade was reported to include contributions from the Canada-Manitoba Infrastructure Program (federal and provincial governments to contribute equally for an overall grant of approximately \$1 million), the issuance of Town debentures and a contribution from Husky.

With respect to Husky's water consumption, uses were reported to include the boiler, cooling tower, manufacturing process, office heating and cooling, and domestic purposes such as drinking water, showers, toilets, sinks and safety showers. Again, only approximately 25% of the water consumed is projected to result in effluent.

### **Board Findings**

The Board will accept as confidential the filing of the Husky agreement. The Board will hold the agreement, with financial terms indicated, in confidence, and will not place it on the public record of this proceeding.

That said the Board has relied in part on the agreement, including its financial terms, in reaching these findings and in approving the rate application on an interim basis.

The Board does so following careful reflection of the issues before the Board, including the wishes for confidentiality of the Town and Husky, and taking into account the importance of the rate application for the Town's ratepayers and utility customers, one of which is Husky.

Had the Board been unwilling to accept the abridged agreement without the financial terms being on the public record, and the Town had subsequently withdrawn the original agreement, the Board expects it would not have been able to now establish new rates and rate schedule. An absence of a determination on the proposed new rate schedule would have caused detrimental effects to the interests of the community.

However, the Board does not agree that agreements committing a municipality to significant obligations and risks, involving terms pertaining to utility rates and tax levies to be made on other ratepayers and utility customers should be withheld from the public record, even when the party at issue is a good

corporate citizen making a bona fide contribution to the community. Furthermore, the Board does not agree that FIPPA prevents the confidential financial information from being put on the public record.

Accordingly, the Board expects the Town to continue to review this matter with Husky and, if and upon securing Husky's agreement, to advise the Board when the full terms of the agreement may be placed on the public record.

Faced with a dilemma upon the request for confidentiality, the Board acts to resolve the quandary so as to be in a position to review and decide on the Town's application, and thereupon establish new water and sewer rates, albeit on an interim basis.

In determining to accept the information in confidence and to use that information in its deliberations, the Board notes:

1. the abridged agreement that is now on the public record contains the terms of the understanding between the Town and Husky, albeit without the "numbers";
2. Genivar's rate study, a major support for the Town's proposal, relies on the agreement, including the "numbers", and is on the public record;
3. no Town ratepayer or utility customer appeared at the public hearing to object to the Board considering the application, with the request that some information be held in confidence and remain off the public record;

4. the parties to the agreement accept the Board's mandate and authority with respect to setting just and reasonable rates to meet the public interest; and
5. the agreement was entered into by the Town for the benefit of the community, and the agreement and attendant expansion is expected to provide material and sustainable economic benefits to the community.

Following the completion of Husky's expansion and the water treatment plant upgrade, and the passage of at least one year of operations at new water consumption levels, the Town will be expected to provide the Board with:

- a) an update of the recent rate study, and commentary related to the Husky agreement, taking into account the experience then to date of higher water consumption levels;
- b) an opinion from the Town as to the then-adequacy and expected future adequacy of the rates now set;
- c) the utility operating budget for that year and the next fiscal year; and
- d) an update of the Town's planned future capital plans, indicating estimated costs and proposed funding sources.

Basically, the Board wants to be able to consider the actual results of the first year of utility operations at the higher volumes envisioned under the Husky agreement, thus to be able to review the adequacy and fairness of the rates now set, and also

the likely rate implications for all utility customers as additional capital expenditures are undertaken.

Based on the information available, including the confidential financial information, and based on reasonable assumptions that remain to be tested by experience, the Board finds the Town's proposal acceptable.

The Board accepts that the upgrades to WTP #2, which support the application, and the Town's intended and related debenture issue with tax implications for ratepayers, have not been undertaken solely for the purpose of meeting Husky's increased water requirements.

The plant required upgrades after forty years in operation. In this, the Board finds further comfort in that the Canada/Manitoba Infrastructure Program is providing funding support, and The Municipal Board has approved the Town's required debenture issue.

That said the Board is concerned with one signal being sent with the new rate schedule, that being that higher volumes of consumption come at a decreasing cost to the consumer.

Even if the nature of Husky's operation, and possibly other commercial customers of the Town's utility, now and in the future, do not support a rate structure that involves higher rates as volumes increase, at least for residential, commercial and institutional customers such a rate schedule should be contemplated.

Water is a precious resource, and the signal to consumers provided by the to-be-implemented rate structure now being approved on an interim basis by the Board, is not one conducive to conservation. The Board notes the Town's report of ongoing research into the long-term implications of additional water demands on the current supply.

Conservation has become an increasingly important factor in rate design for municipal water and sewer utilities, yet many communities in Manitoba continue to use a multiple step rate system providing for decreases in rates at higher consumption levels.

Generally, the Board favours a single step rate schedule, as it provides for a greater appreciation of the value of water and encourages conservation. However, and as noted above, the Board also understands the reality of the marketplace and the need for communities to have an economic base. And, the Board anticipates that Husky's expanded plant will not waste water, regardless of the price at which it comes.

The Board also notes increasing provincial interest in nutrient renewal - phosphorus and nitrogen. It is understood that the Town has not received any instructions or direction from the Province on this matter to date, but the Board expects that the topic will arise in the future and notes that nutrient removal comes with an economic price.

The Board notes with favour that the Town has developed a longer-term outlook of its capital expenditure requirements. By

initiating a comprehensive long-term planning process, the Town can take an integrated approach to community and ecological sustainability.

Combined action on water efficiency, energy conservation and waste reduction, supported by ongoing education and outreach initiatives, will pay "dividends" in the long-term. Green Manitoba proposes to support sector-based pilot programs in the residential, municipal and small business commercial areas to realize short-term objectives within the context of longer term community sustainability planning. The Board supports the Town's involvement with Green Manitoba.

Following the receipt of the information required by directives of this Order, the Board will either finalize or amend the rates and rate schedule now set on an interim basis.

To avoid undue regulatory costs, the Board currently envisions a 2009 review will be by way of paper process, and that a full public hearing in Minnedosa will not be required. The Board will reconsider this preliminary view following receipt of the information to be supplied by the Town in 2009.

**IT IS THEREFORE ORDERED THAT:**

1. By-law No. 2477 of the Town of Minnedosa BE AND IS HEREBY APPROVED on an interim basis, and the rate schedule and rates set out in the by-law may be implemented at the discretion of the Town.
2. The Town advise the Board upon implementing the interim rates.
3. On or before September 30, 2009, the Town of Minnedosa file with the Public Utilities Board:
  - a) Utility financial statements for the year ended December 31, 2008;
  - b) An updated rate study;
  - c) A review of outstanding and ongoing capital expenditure projects;
  - d) A report considering an amended rate structure, so as to provide for increased rates for higher volumes of consumption for at least some rate categories; and
  - e) Utility budgets for 2009 and 2010.

4. By way of bill inserts, the Town provide utility customers an explanation of the amended rates and rate structure, the rationale for the amendments, and prior to issuance, provide a draft of the bill inserts to the Public Utilities Board for review.

Fees of \$1,250.00 are payable with respect to the Board's proceeding and due upon receipt. An additional charge related to Public Utilities Board legal disbursements will be levied in due course.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."  
Chairman

"G. O. BARRON"  
Acting Secretary

Certified a true copy of  
Order No. 93/07 issued by The  
Public Utilities Board

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Acting Secretary