



qathet REGIONAL DISTRICT

SECTION 3 FINANCIAL POLICIES

POLICY 3.15

SUBJECT WATER/WASTEWATER UTILITY ACQUISITION POLICY

ADOPTED APRIL 28, 2022

1. POLICY STATEMENT

There are utilities within the electoral area boundaries of the qathet Regional District (qRD) that are not owned and operated by the qRD or other local governments. These systems have various ownership structures including Improvement Districts, non-profits, private systems and other arrangements.

qRD staff have been approached by owners and operators of these systems asking to transfer them to the qRD. The qRD wishes to have a policy that sets out the guidelines and process for handling these requests.

2. PURPOSE

To establish a consistent and transparent approach to addressing water and wastewater utility system acquisition requests, system assessments and the acquisition process.

3. SCOPE

This policy applies to drinking water and wastewater utility systems in the qRD's electoral areas operated by public or private owners, serving residents within the qRD's electoral area geographic boundaries.

4. RESPONSIBILITY/AUTHORITY TO ACT

The following is an outline of the roles and responsibilities for the delivery of this policy:

4.1 Board

The Board may, by resolution:

- a) Approve utility assessment funding through available grants and funding sources;
- b) Approve or disapprove any utility system acquisition; and
- c) Identify issues, suggest policy updates and adopt revisions.

4.2 Chief Administrative Officer and Staff

The Chief Administrative Officer and staff will:

- a) Administer the policy;
- b) Make recommendations to the Board on the acquisition of any utility; and
- c) Identify issues and suggest policy updates to the Board.

5. DEFINITIONS

5.1 Asset Management – An integrated approach involving planning, finance, engineering, operations and emergency functions to effectively manage existing and new assets in order to maximize benefits, reduce risk and provide satisfactory levels of service to community users in a socially, environmentally, economically and culturally sustainable manner.

5.2 Board – The qRD Board of Directors.

5.3 Drinking Water Conservation Plan – A community-specific solution for the conservation of drinking water developed through technical and stakeholder engagement. A mandatory requirement to apply for provincial infrastructure grants.

5.4 Improvement District – The corporation into which the residents of an area are incorporated as an improvement district under the *Local Government Act* or its predecessors, or the geographic area of the improvement district corporation.

5.5 Liquid Waste Management Plan – A community-specific solution for wastewater management developed through technical and stakeholder engagement that meets or exceeds existing solutions and is approved by the Minister of Environment and Climate Change Strategy.

5.6 New Development – A development of one or more buildings, structures or portions thereof that are designed and used for human habitation.

5.7 Petition for Electoral Area Service – Owners of parcels in an electoral area may sign a petition for a local area service in all or part of that electoral area, as outlined in the *Local Government Act* and *Community Charter*, and submit it to the qRD Board.

5.8 Point of Entry/Use Systems – Systems that involve the localized installation of drinking water treatment equipment on the main incoming water line (Entry) or individual faucets (Use).

5.9 Requesting Utility – The Utility making the application to be acquired by the qRD. This may be an Improvement District, society, limited partnership, corporation or other form of ownership/governance.

5.10 Utility – A drinking water treatment and distribution system or wastewater treatment system.

5.11 Utility Transfer Agreement – A legal agreement between the qRD and Requesting Utility to effect the transfer of the Utility and its assets.

6. POLICY

6.1 Acquisition Fee

As a local government, the qRD's mandate is to provide reliable, cost-effective services to the public that meet federal, provincial, qRD and industry standards. The qRD is not in the business of Utility acquisition and will not pay more than one dollar (\$1) to acquire a Utility.

6.2 Right of Refusal

The qRD reserves the right to refuse to acquire a Utility at any point in the process. Reasons to refuse include, but are not limited to:

- Excessive risk or legal liability to the qRD.
- qRD staff and/or budget capacity constraints.
- The Requesting Utility does not and/or cannot meet federal or provincial standards.
- The Requesting Utility does not have a valid licence or required permits and is unlikely to obtain them.
- Easements or right-of-ways are not in place to protect critical infrastructure and it is unlikely these can be obtained.
- System users do not give consent to the acquisition.

6.3 Self-Sustaining Service

Under the *Local Government Act*, the qRD will manage each Utility as a discrete service. Each established service must be self-sustaining and must achieve full cost recovery. The economic framework of the qRD does not allow for the subsidization of one user group at the expense of another.

6.4 Participating Area Approval

The qRD will only acquire a Utility upon successful completion of a participating area approval process. The process will address establishment of the service area boundaries and the projected fees and charges and any required borrowing.

6.5 Types of Utilities

Following the process outlined in Section 7 of this policy, the following are the types of Utility systems the qRD may acquire:

- a) Existing Utility Systems

The qRD will consider requests to assume ownership of an existing Utility from the Utility's customers, owners or provincial authorities.

The qRD can initiate a Utility acquisition process itself (with user consent) if such an acquisition would:

- i. Result in measurable improvements to Utility service provision (i.e. quality and reliability, or compliance with federal or provincial regulations);
- ii. Be supported by the users of that Utility;
- iii. Realize economies of scope or scale resulting in cost savings compared to the Utility meeting the same standards on their own;
- iv. Support broader qRD objectives as per Official Community Plans (OCPs) and other relevant policies and plans.

b) New Development Utility Systems

The qRD will consider requests to assume ownership of a New Development Utility from developers where:

- i. the infrastructure is built to any qRD, provincial and/or federal standards;
- ii. the required deficiency and reserve funding is provided (Section 6.11);
- iii. the development is in compliance with any provincial land use regulations, qRD OCP objectives, and other relevant policies and plans.

c) Agreements with Other Local Governments and First Nations

The qRD will consider agreements with other local governments and First Nations by special agreement, engagement and negotiations.

6.6 Prioritizing Systems for Acquisition

The qRD may prioritize the acquisition of any Requesting Utility that poses risks to customers and the environment (i.e. unsafe drinking water, faulty or leaky wastewater treatment). The qRD may also consider the financial position of the Requesting Utility and the potential to secure grant funding.

6.7 Compliance with Provincial and Federal Legislation

The qRD will operate, maintain and upgrade its Utility systems to be in compliance with required provincial and federal legislation, regulations, directives and best practices.

6.8 Permits and Licences

The Requesting Utility must have all of the valid licences and permits required to own, operate and maintain the Utility. These licenses must be transferable to the qRD.

The qRD, at its discretion, may not acquire or assume responsibility for Utilities that substantially risk being unable to meet required permits, licences or registrations.

6.9 Rights-of-way, Easements and Ownership of Lands

The qRD, at its discretion, may not assume ownership of Utility where major facilities, mains, and other capital works are not located within registered rights-of-way or easements held by the owners of the system or within a legal parcel owned or leased by the owner.

For a New Development Utility, all major infrastructure must be located on lands to be transferred to the qRD.

6.10 Servicing Standards for Existing Utilities

A Requesting Utility may have been designed and constructed to previous, lower standards, may not meet current regulatory requirements, and may be nearing or at the end of its serviceable life. Over time, if funding becomes available, the qRD will bring non-compliant acquired Utility systems into compliance with the required regulations.

The qRD will discourage Point-of-Entry or Point-of-Use (to an individual dwelling) devices as a means of treating water supplied by a drinking water Utility. Existing Point-of-Use or Point-of-Entry systems in a Requesting Utility should be decommissioned or maintained by the property owner.

Any wastewater Utility must establish a Liquid Waste Management Plan. The qRD will not engage in pump-and-haul to another location as a method of removing wastewater from a wastewater Utility for treatment and disposal.

6.11 Servicing Standards for New Development Utilities

As a condition of acquisition, all New Development systems must meet design standards and construction specifications outlined in the required provincial and/or federal regulations.

All design works must be carried out by a suitably qualified professional and the qRD must have access to the preliminary and detailed design information and construction drawings.

As a condition of acquisition of a New Development Utility system, the qRD will require the developer to provide five percent (5%) of the value of the tangible capital assets to establish a reserve fund for long-term capital replacement.

As a condition of acquisition of a New Development Utility system, the qRD will require the developer to provide a deficiency bond in the amount of ten percent (10%) of the value of the tangible capital assets for a two-year warranty term.

6.12 Emergency Response Plan

A Requesting Utility should have an emergency response plan in place. If there is no plan in place, or the qRD deems it to be insufficient, funding for a plan must be provided. The cost of producing this plan must be included in the financial section of the Comprehensive Utility Assessment (CUA).

6.13 Conservation Plans and Metering

A Requesting Utility should have conservation plans in place. If necessary, the qRD will develop and implement a Drinking Water Conservation Plan for a drinking water Utility and Liquid Waste Management Plan for a wastewater Utility. The cost of producing these plans must be included in the financial plan section of the CUA.

A Requesting Utility should be metered or funding for metering must be provided. The cost of adding metering to an existing Utility must be included in the financial plan section of the CUA.

6.14 Supervisory Control and Data Acquisition (SCADA)

Requesting Utility systems should have SCADA telemetry systems installed on all core infrastructure or accommodate the future installation of SCADA. This is to ensure emergency response is timely, safe and efficient. Core infrastructure includes wells, chlorination stations, pump stations, lift stations, booster stations, and water and wastewater treatment facilities.

If the Requesting Utility does not have SCADA, the cost to add this must be identified in the financial plan section of the CUA.

6.15 Accessing Senior Government Grants

From time to time various senior government grants become available that may be suitable to support planning, feasibility studies and capital projects for an acquired Utility. Where possible and appropriate, the qRD may submit applications for suitable grants for qRD purposes or on behalf of the Requesting Utility.

6.16 Loan Authorization Bylaw Where Borrowing Required

Where capital improvements are required for an acquired Utility, the qRD will submit an application for any available, suitable senior government grants. Should any awarded grant not be sufficient to cover the costs of Utility upgrades, borrowing may be required. The qRD will not proceed with any loan authorization bylaw until it is known if the grant application has been successful.

The loan authorization bylaw for the value of the capital improvements, net of secured grant funding, will accompany the service area establishment bylaw.

6.17 Rates and Fees

The qRD will establish rates and fees to recover the full cost of providing the Utility service including, but not limited to, capital, operations and maintenance, and contributions to reserves for the long-term sustainability of capital assets.

The qRD will establish user rates based on metering using an increasing block rate system.

The qRD will submit the initial rate and fee schedule for elector approval at the same time as the service area establishment bylaw.

6.18 Acquisition Cost Recovery

All costs accrued by the qRD throughout the Utility acquisition process, including but not limited to staff time, professional studies and legal fees, will be repaid by the newly established service.

All outstanding accounts receivable must be collected by the Requesting Utility prior to Utility acquisition.

All outstanding debts owed by the Requesting Utility must be discharged prior to executing the Utility Transfer Agreement.

7 ACQUISITION PROCESS

The following provides an outline of the steps required for the qRD to acquire a Utility. The framework of this process is also provided in a checklist format in Appendix A.

7.1 Expression of Interest (EOI)

An EOI must be submitted to the qRD Manager of Asset Management and Strategic Initiatives. The EOI may be submitted by either the existing Utility owner(s) or the users (property owners within the Utility boundary) and should include the following documentation:

- The owner's approval to transfer of the Utility to qRD for one dollar (\$1).
- Confirmation from the owner that the Utility is free of any legal entanglements and that the required permits, easements and statutory rights of way are in place.
- A list of assets and financial obligations.
- A map of the service area boundary and the number of connections.
- Support from the local health authority and/or other governing bodies.
- The EOI has been shared with the area representative (elected official(s)).
- Confirmation from the owner of their commitment to lead the Petition for Electoral Area Service process.

qRD staff will prepare a report to the Board that:

- Confirms the criteria of the EOI have been met.
- Assesses the scheduling, financial and staff resources required to integrate the acquisition process into budget and work plans.
- Describes any circumstances concerning the urgency for an acquisition.
- Provides options for funding the CUA.

The Board may deny, defer or approve the application for the next step. Depending on available funding and staff resources, an evaluation process may not begin within the calendar year in which the application has been made.

7.2 Comprehensive Utility Assessment (CUA)

If the Board approves the application for next steps, the qRD will have a CUA prepared by a qualified professional as described in the Required Elements of the CUA (Appendix B).

The Requesting Utility is responsible for paying for the CUA. The qRD, at its sole discretion, may attempt to access funding opportunities for the CUA on behalf of the Requesting Utility.

Additional funding can be requested through the Electoral Area Feasibility Reserve Fund or the Regional Feasibility Reserve Fund (for regional systems only). If approved, these funds will be used to engage a firm to complete the CUA.

In the case of a New Development joining an existing Utility service area, a CUA must be funded entirely by the developer and carried out by the qRD.

The qRD will limit the number of CUAs for a Utility, provided staff resources are available, to one per year.

The objectives of the CUA are to:

- Benchmark the current condition of the Requesting Utility.
- Provide information about ownership structure, governance, operations, management and financial health.
- Identify what improvements are required to meet current regulatory and any qRD standards.
- Provide an engineering plan that includes detailed cost estimates to meet these standards.
- Provide a financial plan identifying costs of required upgrades, annual operation and maintenance costs, replacement costs, reserves required, required borrowing, an opinion on user rates, and fees and grant funding opportunities.

Staff will share the findings of the CUA with the Utility owners and provide a report to the Board. The report to the Board will also contain options for user assent. The Board may deny, defer or approve the application for next steps.

7.3 Participating Area Approval

If the Board has approved the Requesting Utility for the next steps, the Requesting Utility will then lead the process for the Petition for Electoral Area Service, including electoral approval for any required borrowing.

If for some reason the Requesting Utility is unable to fulfill their commitment to lead a process to provide a valid Petition for Electoral Area Service, including electoral approval for any required borrowing, the qRD may consider conducting alternate means of public approval as per legislation and Board approval. If borrowing is not needed, a public engagement process in accordance with provincial legislation and qRD Policy 2.9 – Public Communication and Engagement will take place.

Upon receipt of a positive vote for dissolution and any approval of a borrowing bylaw, qRD staff will prepare a report to the Board of Directors to determine if the qRD will acquire the Utility or not. In the case of an Improvement District, the report will contain a motion for the Province to dissolve the Letters Patent and transfer ownership to the qRD.

7.4 Conversion Process

If the Board has approved the Requesting Utility for acquisition, a formal transfer of ownership would proceed with:

- A Utility Transfer Agreement between the owner of the Utility and the qRD. The agreement will be drafted specifically for the Utility acquired.
- Adoption of a local area service establishment bylaw, a loan authorization bylaw (if required), a rates and fees bylaw, and any other bylaws deemed to be required or desirable.
- Obtaining formal approval through the Board, provincial authorities, the participating area and adoption of all associated bylaws.

Upon successful completion of the above steps, the preparation and execution of a detailed engineering plan would be initiated through expense of reserves held by the Requesting Utility and/or grant money and/or loan authorization bylaws that would be repaid through the newly established service.

7.5 Implementation

All activities related to the management, operation and maintenance of the acquired Utility will be carried out by qRD staff or its contractors. The qRD will coordinate its Utility services for service delivery objectives with Operational Services and integrate the Utility assets into the Asset Management program.

APPENDIX A

WATER/WASTEWATER UTILITY ACQUISITION PROCESS CHECKLIST

This checklist provides an outline of the process for acquisition of a Utility by qRD. Each section must be completed before the subsequent section of the acquisition process can continue.

1) Expression of Interest

- The owner's approval to transfer of the Utility to qRD for \$1.
- Confirmation from the owner that the Utility is free of any legal entanglements and that the required permits, easements and statutory rights of way are in place.
- A list of assets and associated financial obligations.
- A map of service area boundary and the number of connections.
- Support from the local health authority and/or other governing bodies.
- The EOI has been shared with the area representative (elected official(s)).
- Confirmation from the owner to lead the Petition for Electoral Area Service process.
- Board to evaluate and approve for next steps.

2) Comprehensive Utility Assessment

- Obtain funding for CUA if the Requesting Utility does not have funds in place.
- Request for Proposal for CUA and award contract.
- Qualified professional prepares CUA.
- Staff shares the CUA with the Utility owners and provides a report to the Board.
- Board evaluates and approves next steps.

3) Participating Area Approval

- Requesting Utility conducts public engagement and provides the qRD with a valid Petition for Electoral Area Service, including authorization for any borrowing.
Or
- Formal petition or approval process undertaken through *Local Government Act/Community Charter*.
- Staff Report with a motion from the qRD Board for the Province to dissolve the Letters Patent of the Improvement District and move ownership to the qRD.
- Board to evaluate and approve acquisition.

4) Conversion Process

- Signed Utility Transfer Agreement.
- Adopt Local Area Service Establishment Bylaw.
- Adopt Loan Authorization Bylaw.
- Utility Rates and Fees Bylaw.
- Transfer licenses, easements, rights of way to the qRD.

5) Implementation

- Develop an Operations and Maintenance Plan.
- Proceed with recommendations made in the CUA and engineering plan.
- Integrate into Asset Management Program.

APPENDIX B

REQUIRED ELEMENTS OF A COMPREHENSIVE UTILITY ASSESSMENT (CUA)

The CUA must be carried out by a qualified professional who has an understanding of the type of Utility to be assessed. The following list is not exhaustive and in some cases may not be applicable to some Utilities. The CUA is intended to assess the condition of the Utility, identify risk, financial implications and the feasibility of successful acquisition.

The assessment process is complex and may be limited by lack of information including operations, records and plans. This can be compounded if the Utility governance has dissolved. The Requesting Utility, qRD staff and the assessment provider will make all reasonable efforts to work together to provide a thorough assessment.

SYSTEM REVIEW

Overview of Current System

- Service area, location of system and infrastructure with map.
- Number and type of connections (residential, agricultural, commercial/industrial).
- List of staff and stakeholders.
- Population served and potential build-out with actual/estimated demands and capacity.
- Ownership structure, form of governance, bylaws, leases and Letters Patent.
- History (formation, construction, major updates, other relevant history).
- History of ministerial orders (boil orders or water quality advisories or pollution abatement orders) – cause, number of incidences, duration, actions taken.
- Environmental Operators Certification Program (EOCP) classification and certification of current operators.

Assets and Risk

- Inventory list with a condition assessment and present day value of physical assets including infrastructure, real property, equipment and supplies.
- A detailed assessment to determine if the system meets current legislation, regulatory requirements and best practices.
- Nature, extent and status of insurance, including Worksafe BC coverage.
- Prior or pending lawsuits or other issues (property, easement, etc.).
- Determine whether system facilities and pipe lines are protected with required easements and rights-of-way.

Financial

- Existing costs and debts (administrative, operational, debt service).
- Current annual budget.
- Existing rates and fees and history.
- Sources of revenue and method of cost recovery (taxes, charges, fees, development cost charges).
- Outstanding accounts receivable.
- Present value and replacement value of assets.

- Audits and tax returns.
- Reserves, trusts and other financial assets.
- Capital plans or strategic plans.

System Components and Infrastructure Information

- System design – design engineers and standards used, record drawings.
- Drinking water systems – overview of source(s), treatment and disinfection:
 - Intake information for sources that includes description, location, water quality, age, and capacity.
 - Surface sources: description of watershed including existing users, tenures, watershed assessments completed.
 - Stream intakes: outline of off-stream or on-stream, sedimentation controls or issues.
 - Lake intakes: provide intake depth, screen type, diving or inspection reports and if screen designed to fisheries standards.
 - Well sources: locations, age, capacity, water quality, pump-house configuration (well in or out of pump-house), hydrogeological information or reports, pumping tests, groundwater protection plans.
 - Identify primary, secondary, backup sources and any 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, 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 – SCADA, alarming, data recording.
- Record drawings, design reports, geotechnical reports, structural reports or other relevant information.

Drinking Water Utility Source(s) and Infrastructure Assessment

- Capacity assessment of facilities to meet current and future demand (Utilities requesting to connect to qRD Utilities must address available surplus capacity).
- Adequacy of applicable conservation, groundwater or watershed protection plans and measures.
- Security of sources and vulnerabilities.
- Infrastructure design standards compared to regulatory standards and best practices.
- Intake works; condition and adequacy to meet existing and future demand.
- Existing treatment and disinfection facilities; condition and adequacy including level of treatment achieved and consistency with provincial/federal regulations.
- Condition and adequacy of meters, storage, pumping facilities and other equipment to meet existing and projected future demand.
- All valves must be exercised and number of turns counted to determined valve size.
- Systems older than 25 years must undergo a pipe condition assessment, including core sampling and laboratory analysis to determine condition and pipe pressure class rating.
- Inspect and flow test fire hydrants if any.

Wastewater Utility Infrastructure Assessment

- Capacity assessment of facilities to meet current and future demand (Utilities requesting to connect to qRD Utilities must address available surplus capacity).
- Hydrogeologic assessments of wastewater infiltration fields.
- Security of facilities and system vulnerabilities.
- Infrastructure design standards compared to regulatory standards and best practices.
- Condition and adequacy of meters, pumps, pipes, storage facilities, treatment facilities and other equipment meeting existing and future demand.
- All valves must be exercised and number of turns counted to determined valve size.
- Systems older than 25 years must undergo a pipe condition assessment, including core sampling and laboratory analysis to determine condition and pipe pressure class rating.

Operations and Maintenance

- Operation and maintenance manuals, standard operating procedures, equipment manuals and any other relevant operational documents.
- Sampling, testing and reporting protocols including who completes sampling, frequency, locations, methods and parameters.
- Monitoring and maintenance records (i.e. flows, pump hours).
- Water quality records for drinking water systems (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 records.
- Reservoir, lagoon or septic tank cleaning frequency and records.
- Fire hydrant maintenance and flushing frequency records.
- Meter locations, ages, type and condition.
- Backflow prevention program.
- Emergency response plan with incident reports.
- Standards and specifications for infrastructure and operations.
- Maintenance planning and maintenance activities.
- Existing contracts, types of activities contracted out.

Permits and Licenses

- Copies and status of the following:
 - Construction permits.
 - Operation Permit – conditions of permit.
 - Water license(s).
 - Operation Certificates.
 - Highway Permits (if required).
 - Certificate of Public Convenience and Necessity (private water Utility).
 - Registered easements and right-of-ways.

Compliance to Legislation, Regulations and Other Standards

- Compliance with local health authority conditions on permit.
- Compliance with required provincial and/or federal legislation and regulations.
- Worksafe BC status.
- Condition and adequacy of operator safety equipment to meet Worksafe BC legislation.

EVALUATION AND RECOMMENDATION

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:

- A summarized evaluation of the current state of the infrastructure.
- A summarized evaluation of the current financial position of the system including the adequacy of rates and fees to recover the full cost of current operations and contribution to reserves.
- A recommendation for infrastructure upgrade requirements and a Class D estimate of all costs required to meet all relevant provincial and federal requirements and standards.
- Costs of operation and maintenance for proposed upgraded system.
- Projected annual rates and fees to ensure sustainable level of service, including provisions for an infrastructure renewal reserve.
- Recommendation for connection costs to qRD Utility, including potential Development Cost Charges (DCC), connection fees, latecomer's fees or charges, allocation fees, etc.
- Other related costs (i.e. preparation of conservation plan, emergency response plan).
- Timeline for upgrade implementation.
- Potential sources of grant funding.

Operations and Maintenance Requirements

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