
City of Kelowna

MEMORANDUM

DATE: September 29 2004
FILE: 1820-20

TO: City Manager

FROM: Director of Financial Services

RE: **Utility Billing Penalty**

PREPARED BY: Investments & Payroll Manager

RECOMMENDATION:

THAT the City of Kelowna reduce the penalty charged on unpaid prior month's utility charges from the current 10% to 3.75%.

AND THAT the City of Kelowna implement this change on the November 16, 2004 billing of Cycle 1 accounts via a corresponding amendment to section 8.4 of the City's Utility Billing and Customer Care Bylaw.

BACKGROUND:

The City of Kelowna's current practice of charging 10% of the prior month's billing amount as a late payment penalty if not paid by the due date has been the City's policy and practice for over 25 years. This policy and practice has been outlined in City's historic and current utility billing bylaws and was designed solely to encourage on-time payment, thereby relieving utility rate payers from subsidizing those who are non-compliant. The utility billing penalty is the basis for the City's budgetary reliance of \$270,000 in revenue for 2004. Appendix 'A' provides the penalty levies from past years.

The due date on City of Kelowna utility bills is 15 days after each billing date and the City bills approximately 20,000 customers each month over three separate billing dates. On average, penalties are levied on 17% of monthly customer billings. Penalties may be waived by customer service agents on a one-time only basis to accommodate a special customer circumstance or on a customer service basis to encourage a specific customer to enroll in the preauthorized payment plan where the invoice total is paid on the due date via a direct deduction from the customer's bank account.

The City of Kelowna's utility billing processes include a number of practices that promote timely payment of utility invoices, including the return of security deposits to residential customers who have made on time payments for one-year, a preauthorized payment

plan option where the invoice amount is automatically deducted from the customers' bank accounts on the due date, disconnection for nonpayment, and the transfer to tax requirements of the Community Charter.

As a result of a Supreme Court (*Garland v. Consumers' Gas Co.*) decision in April 2004, there is now case law that supports a maximum monthly penalty of 3.75% on the City of Kelowna's monthly utility billings. The City's solicitor has advised that continuing to levy a 10% penalty may be open to future challenge in light of this decision. A penalty reduction from 10% to 3.75% will result in a general revenue reduction of approximately \$200,000 per year.

Paul Macklem

Appendix 'A'

YEAR	Penalty Revenue		YEAR	Penalty Revenue
1987	\$ 135,219		1996	\$333,733
1988	117,173		1997	268,076
1989	129,500		1998	313,266
1990	148,140		1999	277,748
1991	188,046		2000	282,131
1992	202,727		2001	249,273
1993	221,020		2002	257,261
1994	248,215		2003	317,050
1995	270,615		2004*	270,000

* 2004 is budget \$, not actual