DECISION **2019 NSUARB 124**
M09173

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

IN THE MATTER OF AN APPLICATION of the **TOWN OF OXFORD**, on behalf of its **WATER UTILITY**, for Approval of Amendments to its Schedule of Rates and Charges for Water and Water Services and its Schedule of Rules and Regulations

BEFORE: Stephen T. McGrath, LL.B., Member

APPEARING: **TOWN OF OXFORD WATER UTILITY**

Gerry Isenor, P.Eng.
G.A. Isenor Consulting Limited

Blaine Rooney, CPA, CA
Blaine S. Rooney Consulting Limited

Rachael Jones
Chief Administrative Officer

Wes Adshade
Director of Public Works

HEARING DATE: August 13, 2019

DECISION DATE: **September 26, 2019**

DECISION: **Schedule of Rates and Charges approved**

I SUMMARY

[1] The Town of Oxford, on behalf of its water utility (Utility), applied to the Nova Scotia Utility and Review Board (Board) to amend the Utility's Schedule of Rates and Charges for Water and Water Services (Rates and Charges) and its Schedule of Rules and Regulations (Regulations). The Utility's existing Rates and Charges have been in effect since April 1, 2017, and its Regulations have been in effect since October 11, 2017. The application was made pursuant to the *Public Utilities Act*, R.S.N.S. 1989, c. 380 (*Act*). G.A. Isenor Consulting Limited, in association with Blaine S. Rooney Consulting Limited, prepared a rate study dated April 6, 2019, which supported the application. The application was presented to the Board based upon a need to adjust rates due to increased operating costs and to fund the Utility's projected capital program. The rate study proposed rate increases for the fiscal years 2019/20, 2020/21, and 2021/22 (Test Years or Test Period). The Utility also requested an amendment to its two-block structure, to increase the volume of water charged under the first block.

[2] The proposed increases in each of the Test Years are 1.3%, 3.3%, and 3.3% respectively, for 5/8" metered customers. For all other metered customers, the proposed adjustment to rates ranges from -4.1% to 11.5% in 2019/20, 0.1% to 4.0% in 2020/1, and 2.4% to 3.6% in 2021/22. The estimated rate changes for metered customers is based upon the average quarterly consumption of each meter size. For unmetered customers, the current quarterly rate is $101.64 and is proposed to decrease by 5.1% in 2019/20 before increasing by 3.0% and 3.3% in 2020/21 and 2021/22 respectively.

[3] The Utility also proposed amendments to the annual charge paid by the Town for the provision of water for fire protection service. The total annual public fire protection charge is proposed to increase by 8.9%, 11.1%, and 12.7%, resulting in

charges of $125,720, $139,714, and $157,059 in 2019/20, 2020/21, and 2021/22, respectively.

[4] In the course of this proceeding, Board staff issued Information Requests (IRs) to the Utility. In its IR responses, the Utility filed an updated rate study. The updated rate study included an additional expense line item, which increased quarterly customer bills and fire protection charges for the Test Period. References to the rate study in this decision are to this updated study unless otherwise noted.

[5] A public hearing was held at the Town's Council Chambers on August 13, 2019. There were no formal intervenors in the proceeding, and the Board did not receive any letters of comment or requests to speak at the hearing. Following the hearing, the Utility responded to undertakings requested by the Board.

[6] The Rates and Charges and the Regulations filed on September 13, 2019, are approved.

II INTRODUCTION

[7] The Utility sources its water supply from four groundwater wells in Leicester that have been in operation since 2001. Disinfection is provided by a gas chlorination system. The main transmission line runs approximately 10 km into town. The water system has a 350,000 imperial gallon storage reservoir. Approximately 95% of the Town of Oxford is served by the Utility's distribution system. There have been no changes to the system since the last rate application.

[8] The Utility noted, in response to IR-32, that it currently complies with Nova Scotia Environment's regulations as they relate to drinking water.

[9] The Utility currently serves 530 customers. This is less than the 543 customers included in the rate study for the Utility's last rate application, but the Utility is

projecting that its customer base will remain stable over the Test Period. The Utility also noted that accounts for some apartments that had been treated as separate customers were merged so that only the apartment building was the customer now. The vast majority of its customers (511) are residential (5/8" meter size) customers. However, the Utility's largest customer, Oxford Frozen Foods Ltd., accounts for approximately 85% of the Utility's water consumption.

[10] In response to IR-4, the Utility advised that the amount of non-revenue water in its system is approximately 13% of total production, up from 8% during the previous rate application. Although the water loss, expressed as a percentage is among the lowest for water utilities in Nova Scotia, the volume of water that is lost is large. In fact, more water is lost than is sold to all of the Utility's customers combined, excluding its largest customer, Oxford Frozen Foods Ltd. The Utility said it has had a large number of water main breaks thus far in 2019.

III REVENUE REQUIREMENTS

(A) Operating Expenditures

[11] The rate study estimates the Utility's revenues will exceed its expenses by $16,498 in the 2018/19 fiscal year, and that its accumulated operating deficit will decline to $74,337. Without a rate adjustment, the Utility is expected to have an annual deficiency in revenue that is projected to increase to $94,858 in the final Test Year, and its accumulated deficit is projected to grow to $276,562 at the end of 2021/22.

[12] The Utility's budgets for the Test Years are based upon its estimated 2018/19 results, with annual increases of 3% applied to all expenses except depreciation. The depreciation expense is based on the Utility's current amount for depreciation adjusted for capital additions during the Test Period. The depreciation rates used for the

various asset classes are in accordance with the *Water Utility Accounting and Reporting Handbook (Accounting Handbook)*. It is noted, however, that the depreciation expense associated with the Utility's proposed capital spending for distribution piping in 2019/20 is deferred until 2020/21, for rate smoothing purposes.

[13] In response to Board IR-14, the Utility described its budgeting process as follows:

> Staff prepare budget estimates in February and March of each year. These are reviewed at a further staff/council level and the approved budget amounts are passed by Resolution of Council usually in May of each year. Due to changes in staffing and expertise, this is expected to be completed by mid-July this year.
>
> [Exhibit O-3, p. 7]

[14] The Utility noted that there has been a change to the allocation of shared expenses between the Town and the Utility. In response to IR-15, the Utility stated:

> A new payroll tracking system has been implemented to better track work related to the Water Utility, which will help to ensure that the allocation of expenses are properly allocated.
>
> [Exhibit O-3, p. 7]

Findings

[15] The Utility projects that its accumulated operating deficit balance will steadily increase without an amendment to its rates, leading to an accumulated deficit of $226,561 by the end of the Test Period. The Board has reviewed the Utility's various operating expenses and considered the explanations for the budgeted amounts provided in the Utility's IR responses and at the hearing.

[16] The majority of the proposed operating expenses over the Test Years are based upon an annual increase of 3%, which is consistent with other rate applications recently approved by the Board. The Board accepts the annual 3% increase adjustments as reasonable.

[17] The Board accepts the allocation of expenses between the Town and the Utility and notes that the implementation of the new payroll tracking system will enhance these allocations.

[18] The Board accepts the depreciation expense in each of the Test Years, as projected in the rate study, including the phasing in of the depreciation expense related to distribution piping work in 2019/20.

(B) Capital Budget and Funding

[19] The rate study includes capital additions for 2018/19 totaling $150,000, and for each of the Test Years in the amounts $1,105,500, $20,000, and $602,000, respectively. This includes expenditures of $5,000 per year for water meter replacements; $5,000 per year for service replacements, and $10,000 per year on Distribution mains in the final two Test Years. The first Test Year also includes expenditures of $10,000 for a new generator and $10,000 for the application.

[20] The proposed capital budget includes two larger projects that may not be completed in the year in which they are included in the capital budgets. These are the distribution main replacements in 2019/20 and the reservoir replacement included in the 2021/22 Test Year. The Utility also proposes to spend $16,000 in 2019/20 to extend the life of the existing reservoir until it is replaced.

[21] The rate study sets out the proposed funding of the capital budget as:

	2018/19	2019/20	2020/21	2021/22
Outside Sources	$ 90,000	$ 468,085		$ 291,000
Depreciation Fund	$ 60,000	$ 346,000	$ 20,000	$ 135,000
Long Term Dept		$ 291,415		$ 176,000
Total	**$ 150,000**	**$ 1,105,500**	**$ 20,000**	**$ 602,000**

[22] In response to IRs, the Utility noted that the outside funding is to come from the Building Canada Fund. These funds had not been secured at the time of the IR responses, though it is expected the applications for such will be approved.

[23] The proposed funding from the depreciation fund, which has an estimated balance of $324,681 for the year ending March 31, 2019, is expected to result in a fund balance of $70,368 at the end of the Test Period.

Findings

[24] The Board accepts the Utility's explanation of its asset replacement program and its continuing management practices to reduce the amount of non-revenue water in the system through replacement of the Utility's aging and problem distribution mains. The Board finds the proposed capital budget and associated funding to be reasonable and accepts it as presented.

[25] The Utility is reminded that the inclusion of proposed capital projects in the rate study does not constitute Board approval of these projects. Separate Board approval is required for projects exceeding $250,000, as set out in s. 35 of the *Act*.

(C) Non-Operating/Other Revenues and Expenditures

[26] The rate study projects the Utility's revenue requirements for the Test Period, including estimates of non-operating revenues and non-operating expenditures. The only source of non-operating revenue projected in the rate study is for interest on arrears, which is budgeted for $4,000 in each Test Year. The projected non-operating expenditures in the rate study for the 2018/19 base year are estimated to total $106,075. For the 2019/20, 2020/21, and 2021/22 Test Years, the projected non-operating expenditures total $147,248, $143,248, and $154,020, respectively.

[27] The Utility's non-operating expenditures include debt charges on existing and new debt associated with capital additions over the Test Period. The Utility noted that its existing debt relates to debentures that funded several upgrades including, the Main Street water line, water meters, and general upgrades to the distribution system. One of the debt payments will be retired in 2020/21 and another in 2026/27. The rate study includes actual interest paid for existing debt and uses an interest rate of 6% for new debt.

[28] The Utility's non-operating expenditures also include a provision for earnings of $17,000, $15,000, and $13,000 for the Test Years 2019/20, 2020/21, and 2021/21, respectively. In response to IR-12, the Utility noted that its proposed earnings decrease in each of the Test Years to keep rate increases in the 2-3% range each year. The proposed earnings are projected to significantly reduce the existing accumulated deficit by the end of the Test Period, and eliminate it within five years.

[29] The Utility calculates its return on rate base using its non-operating expenditures less non-operating and other revenue. Using the assumptions and projections in the rate study, this amounts to 3.30% in 2018/19, and 3.83%, 3.71%, and 3.70% in each of the Test Years, respectively.

Findings

[30] The Board finds the Utility's non-operating revenue to be reasonable and accepts it as presented in the rate study for the Test Period. The Board also finds the non-operating expenditures for earnings in each of the Test Years to be reasonable and accepts them as presented. The Board notes that the interest rate included in the rate study of 6% on new debt over the test years is consistent with other rate applications recently approved by the Board and only applies to new debt. The Board accepts the

non-operating expenditures related to new and existing debt in each of the Test Years, as presented in the rate study. The Board finds the Utility's proposed return on rate base over the Test Years to be reasonable.

IV REVENUE REQUIREMENT ALLOCATION

(A) Public Fire Protection

[31] The allocation of utility plant in service to public fire protection in the rate study is 22.0%, 23.5%, and 25.2% in each of the Test Years, respectively. The fire protection charge is proposed to increase from the current figure of $115,407 to $126,462 in 2019/20, $140,439 in 2020/21, and $157,773 in 2021/22.

[32] The methodology used in the rate study to determine the public fire protection charge is in accordance with the *Accounting Handbook,* except for the allocation of transmission mains and distribution mains. The proposed allocations are the same as the previous two rate applications, both approved by the Board.

[33] The rate study notes that distribution mains are allocated 55%/45% to general service/fire protection, while transmission mains are allocated 75%/25% respectively. The *Accounting Handbook* indicates that both of these asset classes are to be allocated 40/60 to general service/fire protection. The allocations for both types of mains were the subject of IR-22. In response to this IR, the Utility explained its rationale and provided the calculations used to determine the allocations as follows:

> The allocation of the distribution mains on worksheet B-5 as 55% to general service and 45% to fire protection and the transmission main 75% to general service and 25% to fire protection was done to recognize the significant draw that Oxford Frozen Food places on the system. At peak demand Oxford Frozen Foods draws approximately 900 imperial gallons per minute (igpm) or approximately 75% of the total transmission main capability (1200 igpm) of the Utility. The allocation of the Transmission main has been adjusted to reflect this demand. The distribution allocation has also been adjusted to reflect this

> significant peak demand which when added to the calculated peak demand for the remaining customers (200 igpm) yields a max demand of 1100 igpm. Based on fire flow in the Town of 2000 igpm this represents approximately 55% of the total flow for general service and 45% for fire protection.
>
> [Exhibit O-3, p. 10]

Findings

[34] The Board accepts the methodology used to determine the allocation of costs to general service and public fire protection as set out in the rate study. This includes the allocation of the distribution and transmission mains as presented, which differ from the *Accounting Handbook* due to the large demands placed on the system by Oxford Frozen Foods. The Board also accepts the fire protection charges as calculated in the rate study for the Test Years, with the actual amount for 2019/20 to be prorated for the portion of the year the old and new rates are effective.

(B) Utility Customers

[35] The remaining revenue requirement, after the allocation to fire protection charges, is to be recovered from the Utility's customers. The methodology used in the rate study to allocate the remainder of the revenue requirement to determine the base, customer, delivery, and production charges is consistent with the methodology used in the last rate application. These allocations are also the same as indicated in the *Accounting Handbook,* with the exception of depreciation, which is proposed to be allocated 100% to the base charge as opposed to 40% to base, 30% to Delivery, and 30% to production. In its responses to IR-24, the Utility explained its reason for doing so:

> The only deviation is the allocation of the Depreciation which is allocated 100% to Base Charge. This allocation maintains the Utility's revenue from the Base Charge in the 45% range to maintain income stability at the current level.
>
> [Exhibit O-3, p. 11]

[36] The Utility has fewer customers than it did at the time of its previous application (530 customers compared to 543). Of its 530 current customers, 511 are 5/8"

metered customers. The Utility projects no change in the number of customers during the Test Period.

[37] The Utility also noted that it is projecting lower annual consumption over the Test Period. The Utility is projecting that its 5/8" customers will reduce their average consumption by 1% in each of the Test Years, with no changes to consumption for any other meter sizes.

[38] The Utility currently has a two-block rate structure, but only Oxford Frozen Foods consumes enough water to make it subject to the second block. The two-block rate structure is difficult to justify on a cost of service basis. The Utility proposes to increase the volume of water that is subject to charges in the first block from 45,000,000 imperial gallons per year per customer to 140,000,000 and as a result, most of the water consumed by Oxford Frozen Foods will be now be charged under the first block.

[39] The change in the two-block rate structure is more consistent with cost of service principles, and the Utility submits that it balances the increases in water rates for Oxford Frozen Foods as a result of this application so the they are similar to the increases for other customers on a percentage basis. The change to the two-block rate structure may also facilitate the removal of that structure in a future rate application.

Findings

[40] The Board accepts the methodology used in the rate study to allocate expenses to the base, customer, delivery and production charges, including the allocation of the deprecation expense 100% to the base charge to ensure some form of revenue protection for the Utility. The Board notes that this change has the effect of transferring

some costs from higher volume users to lower volume users, but accepts that it is important for the Utility to have additional revenue stability and security.

[41] The Board also finds the projected decrease of 1% of consumption per year for 5 /8" metered customers to be reasonable, and approves the changes to the two-block rate structure to increase the volume included in the first block to 140,000,000 imperial gallons per customer per year.

V MISCELLANEOUS RATES AND CHARGES

[42] The Utility did not propose any amendments to its Schedule of Rates and Charges, other than to the rates charged to its customers and the fire protection charges. As part of the Utility's response to IR-33, the Utility reiterated this point:

> There are no new/revised changes in the proposed Schedule of Rates.
>
> [Exhibit O-3, p. 18]

[43] The Board noted that the Rates and Charges submitted with the rate study do not reflect the proper dates for the fire protection charges to be paid by the Town to the Utility, as such the Utility provided the Board with revised Schedules A, B, and C with the correct dates, on September 13, 2019. In the revised Schedules A, B, and C, the dates for the payment of fire protection charges were amended to October 1, 2019, September 30, 2020, and September 30, 2021, respectively.

Findings

[44] The Board notes that, other than the rates charged to its customers and for fire protection, the Utility did not request any other amendments to its Rates and Charges.

[45] The Board accepts and approves the revised Schedules A, B, and C, as filed on September 13, 2019.

(D) Schedule of Rules and Regulations

[46] In response to Board IR-34, the Utility listed the proposed amendments to its Regulations:

> • Regulation 7 (c) – Adjustment of Bills
>
> The proposed change limits the time for customer over billed to a maximum of five years.
>
> • Regulation 36 – Extensions
>
> This a proposed new Regulation to give clarity to the owners of property situated on a street or highway not currently served by the Utility's main system.
>
> • Regulation 37 – Deposits in Advance
>
> This is a proposed new Regulation to give clarity to customers who request the Utility to do work for which they are required to pay for.
>
> • Regulation 38 Curb Stop/Control Valve Service Box
>
> This is a proposed new Regulation to address the issue of Curb Stop/ Control Valve Service Box being buried or obscured by customers making access for the Utility difficult and time consuming and costly. The rationale for the addition of this Regulation is to make the customer responsible for the cost of uncovering the control valve/ service box that is on the public property and has been made inaccessible or difficult to find. This addition has been approved for other utilities in the Province.
>
> • Regulation 39 – Water Conservation Directives
>
> This is a proposed new Regulation to give the Utility the ability to shut off water for those customers who do not adhere to Water Conservation Directives.
>
> [Exhibit O-3, p. 18]

[47] In response to IR-35, the Utility attempted to explain how Regulation 7(c) works with regards to overbilling, but it was still unclear how a billing error going back five years could be brought forward in light of Regulation 7(a), which only allows a customer to question a bill for 30 days after it is issued. At the hearing, the Board requested an Undertaking (Undertaking U-4) for the Utility to provide alternate language for Regulation 7(a) and/or (c), but the Board finds that the proposed new language still does not clearly carry out the intention of the Utility to allow customers to recover amounts that they have been overbilled for up to 5 years.

[48] In a recent water rate application for another utility, the Utility's consultants, Mr. Gerry Isenor and Mr. Blaine Rooney proposed similar changes to regulations for that utility. At the hearing of that matter, that utility agreed to amended language for their

proposed new provision that began with the phrase, "Notwithstanding 7(a) above." In this case, Schedule D was resubmitted on September 13, 2019 with the same revised wording for Regulation 7(c) as follows:

> (c) Customer Over billed – Notwithstanding Regulation 7 (a) above, in the event a customer has been billed in error for a Service they did not receive, the Utility will reimburse such customer the amount billed to and paid by the customer, together with interest calculated as simple interest paid on savings accounts by the Utility's bank, respecting the period during which the customer was incorrectly billed by the Utility, such period not to exceed five years.
>
> [Exhibit O-6, p. 11-12]

Findings

[49] The Board finds that the proposed amendments to the Regulations to be reasonable and approves the Regulations as filed on September 13, 2019, with an effective date of October 1, 2019.

VI CONCLUSION

[50] The Board approves the Rates and Charges, effective October 1, 2019, April 1, 2020, and April 1, 2021, as shown in Schedules A, B, and C, received by the Board on September 13, 2019. The public fire protection charge in 2019/20 is to be prorated as six months at the new rate ($126,462) and six months at the current rate ($115,407).

[51] The Board approves the Regulations as filed on September 13, 2019, effective October 1, 2019.

[52] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 26th day of September, 2019.

Stephen T. McGrath