

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

IN THE MATTER OF AN APPLICATION by **HALIFAX REGIONAL WATER COMMISSION** for approval of amendments to its Schedule of Rates and Charges and approval of its Regulations respecting Rates and Charges for the provision of water, public and private fire protection, and wastewater services.

BEFORE: Peter W. Gurnham, Q.C., Chair
Stephen T. McGrath, LL.B., Member
Jennifer L. Nicholson, CPA, CA, Member

APPLICANT: **HALIFAX REGIONAL WATER COMMISSION**
John MacPherson, Q.C.
Heidi Schedler (Counsel)

INTERVENORS: **CONSUMER ADVOCATE**
William L. Mahody, Q.C.
Emily Mason (Counsel)

BOARD COUNSEL: S. Bruce Outhouse, Q.C.

FINAL SUBMISSIONS: July 9, 2020

DECISION DATE: **August 27, 2020**

DECISION: **The application is approved, as amended by Halifax Water.**

TABLE OF CONTENTS

1.0	INTRODUCTION	3
2.0	BACKGROUND	3
3.0	ISSUES.....	5
3.1	Five-year Business Plan.....	5
3.1.1	Findings.....	7
3.2	Consistency with the updated Integrated Resource Plan (IRP), including funding	8
3.2.1	Findings.....	11
3.3	Projected consumption levels.....	13
3.3.1	Findings.....	13
3.4	Cost containment actions by Halifax Water.....	13
3.4.1	Findings.....	16
3.5	Board approval of the use of reserves.....	16
3.5.1	Findings.....	18
3.6	HRM Dividend	18
3.6.1	Findings.....	20
3.7	Unregulated activities	21
3.7.1	Findings.....	25
3.8	Fire protection rates	27
3.8.1	Findings.....	27
3.9	Planning for wastewater plants	27
3.10	Revenue requirements and customer rates for water services effective September 1, 2020 and April 1, 2021, including affordability	28
3.10.1	Findings.....	28
3.11	Revenue requirements and customer rates for wastewater services effective September 1, 2020 and April 1, 2021, including affordability	29
3.11.1	Findings.....	30
3.12	Regulations for the provision of water, wastewater, public and private fire protection	30
3.12.1	Findings.....	32
3.13	Enhancements to the existing lead service line program in the Regulations	32
3.13.1	Findings.....	34
4.0	COMPLIANCE FILING.....	34

1.0 INTRODUCTION

[1] The Halifax Regional Water Commission is a regulated public utility, which provides water, stormwater and wastewater services within the Halifax Regional Municipality. It has applied for approval of amendments to its Schedule of Rates and Charges and its Regulations respecting Rates and Charges for the provision of water, public and private fire protection, and wastewater services.

[2] Halifax Water amended its application due to the ongoing impact of the worldwide COVID-19 pandemic.

[3] After reviewing the evidence, the Board approves Halifax Water's application as amended.

2.0 BACKGROUND

[4] Halifax Water applied to the Nova Scotia Utility and Review Board on February 13, 2020, for approval of amendments to its Schedule of Rates and Charges and its *Regulations* respecting Rates and Charges for the provision of water, public and private fire protection, and wastewater services.

[5] In the original application, the proposed range of rate increases depended upon the meter size and the volume of water consumed depended on meter size. For a 5/8" meter, primarily residential customer, with an average annual consumption of 160 m³, the proposed increases for water and wastewater services total 5.8% in 2020/21, and 5.8% in 2021/22. Proposed increases for all other metered sizes for water and wastewater services range from 5.8% to 9.4% in 2020/21, and from 5.8% to 9.1% in 2021/22.

[6] The application further proposed various fee adjustments, administrative changes to Halifax Water's *Regulations* and changes to some existing programs. Included in these proposed changes are enhancements to the existing lead service line program to permit the replacement of private lead service lines, with Halifax Water bearing 100% of the cost in certain situations.

[7] By evidence dated May 25, 2020, Halifax Water amended its application in light of the worldwide COVID-19 pandemic. Halifax Water revised its application to propose the following:

- (i) No increases in water rates.
- (ii) No increases in wastewater rates until April 1, 2021. A reduction in the requested volumetric rate increase for wastewater on April 1, 2021, from \$2.097 per cubic meter in the application to \$2.073.
- (iii) Deferral of increases to other miscellaneous fees and charges requested in the application to April 1, 2021.
- (iv) To extend the current COVID-19 customer relief mechanisms to August 31, 2020.
- (v) Approval of proposed non-financial amendments to the *Rules* and *Regulations* effective the date of the order from the Nova Scotia Utility and Review Board.

[8] By order dated February 14, 2020, the Board established a timeline for processing the application. A publicly advertised notice of the application invited interventions from interested parties. Only one Notice of Intervention was received, it was from the Consumer Advocate (CA).

[9] The Board approved the extension of the customer relief mechanisms by letter dated July 29, 2020.

3.0 ISSUES

3.1 Five-year Business Plan

[10] Halifax Water included its Five-Year Business Plan for fiscal years 2020/21 to 2024/25 in an appendix to its application (Exhibit H-1, Appendix 5). This Business Plan was approved by the Halifax Water Board on January 30, 2020. The test years in Halifax Water's rate application are the first two years of this five-year plan and its budgets for the test years were prepared in conjunction with the Five-Year Business Plan.

[11] The Business Plan addresses the major aspects of Halifax Water's operations. It provides an overview of its current services and rate structures, the regulatory regimes under which it operates, and five-year capital and operating budgets. Looking forward, the plan discusses opportunities for business and process improvements, and identifies business risks and mitigation strategies.

[12] A significant challenge facing Halifax Water, addressed in the Business Plan, is the pressing need to replace aging water, wastewater and stormwater infrastructure identified in Halifax Water's 2019 Integrated Resources Plan (IRP). Halifax Water said addressing these needs will require it to increase its capital and operating budgets to meet and maintain the level of infrastructure investment suggested in the IRP.

[13] Halifax Water's historical and current level of capital funding is less than the amount recommended in its IRP. It said that a primary driver for its rate application was a need to increase capital funding to meet the level of capital spending recommended in the IRP. The Five-Year Business Plan includes many major capital projects such as upgrades to Halifax Water's Pockwock and Lake Major water supply plants, upgrades to its Mill Cove wastewater treatment facility, and the next phase of its Sullivan's Pond stormwater project.

[14] Halifax Water proposed to gradually increase its level of capital investment to meet its IRP requirements. It noted that its Five-Year Business Plan proposes capital expenditures of \$708.5 million over the next five years, which is lower than the \$815.7 million recommended in the IRP. For water and wastewater facilities, capital expenditures in the Business Plan are \$646 million over the next five years compared to \$782 million in the IRP. Annually, Halifax Water's proposed budget for capital expenditures for water and wastewater is \$87.4 million in 2020/21 and \$147.2 million in 2021/22. Including stormwater expenditures, Halifax Water's overall capital funding increases to \$96.5 million in 2020/21 and \$159 million in 2021/22.

[15] The revised proposal submitted by Halifax Water in its amended application contemplates an additional deferral of capital spending in the first test year, but Halifax Water said that most of its proposed capital spending was maintained. In post-hearing submissions, Halifax Water summarized the reasons for this and emphasized the importance of proceeding with its capital program despite current economic and social uncertainty:

One of the principal tenets of the five-year business plan is a gradual increase in capital spending to meet the target levels found in the Integrated Resources Plan ("IRP") to address Halifax Water's outstanding infrastructure deficit. Although there will be a deferral of some capital spending in the first test year as a result of the postponement of some joint capital projects with HRM, Halifax Water has been able to put forward a Revised Proposal which maintains most of its proposed capital spending.

This issue was addressed by Mr. Hannam during the hearing:

A. (Hannam) Mr. Outhouse, pleased to address that. Just like it was with the original application, the revised calculations as detailed in the rebuttal still stay focused on delivering the full capital program with the noted exceptions around some of the HRM projects such that we can continue to endeavor to deliver the capital necessary in the spirit of the foundational direction of the integrated resource plan, so that we continue to close those gaps and further invest in capital for the long-term integrity of our infrastructure. Any subsequent reduction in capital we've seen would have a negative effect on, you know, broadening that gap and further impacting our ability to close that gap.

So, our current approach and our funding proposal is consistent with delivering the balance of the capital program this year consistent with that foundational direction of the integrated resource plan.

(Evidence of Jamie Hannam, Transcript page 66, [lines] 6-21)

Halifax Water sees continued investment in its infrastructure as important for a number of reasons. First and foremost, it ensures that Halifax Water is able to continue providing its essential services at an acceptable level. It also allows Halifax Water to continue to progress towards the goal of increasing infrastructure spending to the levels recommended by the IRP. By undertaking capital works, Halifax Water is able to retain and gainfully employ its highly trained workforce. Halifax Water also uses numerous contractors to construct capital infrastructure projects. This provides an overall benefit to the local economy of Halifax which is of particular significance during this time of uncertainty due to the pandemic.

Halifax Water notes that the Board Counsel's consultants support a higher level of investment in asset renewal as it relates to the goals in the Integrated Resource Plan. (Evidence of Goldstein & Brown, Transcript page 192, lines 4-7.)

[Exhibit H-20, p. 18]

[16] In its response to NSUARB IR-5 (Exhibit H-7), Halifax Water noted that the consequences of proposing to spend significantly less in 2021/22 than recommended in the IRP was that Halifax Water will be exposed to increased risk of operational issues, or compliance and capacity constraints. Halifax Water advised that these “risks are mitigated through continued efficient operation of the water and wastewater systems, and close monitoring of indicators of growth, compliance and asset renewal drivers.”

3.1.1 Findings

[17] The Board accepts Halifax Water’s approach to gradually increase the level of its capital investments and understands that Halifax Water will be closely monitoring its facilities to ensure that no problems arise as a result. The Board also notes that the revised proposal put forward by Halifax Water in its amended application contemplates a delay in some capital projects. However, Halifax Water’s plan continues to be to increase capital investment in the direction required by the IRP with most of its capital program intact, notwithstanding its revised proposal in its amended application.

3.2 Consistency with the updated Integrated Resource Plan (IRP), including funding

[18] An updated IRP was completed by Halifax Water in 2019 with the assistance of Board Counsel consultants, James Goldstein and William Brown. Halifax Water advised that the update builds on the previous plans to address three primary drivers: growth, asset renewal, and regulatory compliance. The IRP produced a comprehensive 30-year capital investment program. Halifax Water further described the updated IRP as follows:

Several important initiatives aimed at filling data gaps have been completed or initiated since the first IRP in 2012, and more information is available in the Five-Year Business Plan in Appendix 5.

The IRP update features a review of demand- and supply-side management activities Halifax Water has been or could be involved in. Further, it uses a systematic approach to reviewing integration opportunities for outputs of the predecessor plans (Compliance Plan, Asset Management Plans and Infrastructure Master Plan).

The resulting IRP update recalibrates the long-term investment to an estimated \$4.1 billion over 30 years with an anticipated review every 5 years as part of Halifax Water's long-term planning cycle.

Asset renewal expenditures represent approximately 68% of the 2019 IRP; growth represents 14%; and regulatory compliance expenditures represent approximately 18%.

...

[Exhibit H-1, p. 7]

[19] The principal focus at the hearing related to concerns raised by Board Counsel consultants with regard to the planning process undertaken by Halifax Water and the appropriate role of Board Counsel consultants in that process.

[20] Both Halifax Water and Board Counsel consultants asked that the Board provide some guidance. Board Counsel consultants' concerns are summarized in their evidence:

The key points and recommendations are summarized below and are discussed in detail in Sections 3 through 6. For convenience they are grouped to correspond to the sections of our detailed evidence.

Halifax Water Planning Studies Foundational to the Rate Application

- 1) The 2019 IRP Update, including its component studies and the Five-Year Business Plan, reflect significant advancement in HW's planning and provide the best available information on capital project needs for the Rate Application.
- 2) The discrepancy in the cost estimate between the Five-Year Business Plan and the 2019 IRP Update for the Biosolids Processing Facility Upgrade should be clarified.
- 3) To provide more confidence in the accuracy/reasonableness of the capital cost estimates moving forward, Halifax Water's planning process needs to continue to evolve to become more comprehensive and integrated.

Remaining Information Gaps in the 2019 IRP Update

- 4) Important data gaps remain in the 2019 IRP Update including: wastewater treatment facility needs, performance-based asset condition assessments, sub-sewershed level analysis of wastewater demand management options including private I/I reduction and low-impact development opportunities, and an assessment of climate change impacts on existing infrastructure.
- 5) Halifax Water's recent efforts have identified plans for addressing many of these gaps, but not for the wastewater treatment facility needs.
- 6) Given the complexity of the WWTF challenges, and the lead-time that may be required to address these challenges, Halifax Water needs to develop a strategy for addressing the WWTF needs within the next five-year IMP/IRP planning cycle.
- 7) The UARB should continue to monitor HW's progress in filling the remaining information gaps.

Proposed Capital Projects Requiring Additional Study

- 8) Halifax Water has proposed a number of near-term capital projects that require additional study before they proceed. These include: Mill Cove WWTF Upgrades; Biosolids Processing Facility Upgrades; Dalhousie University Wastewater Research Program Pilot; Dartmouth WWTF Project Ballasted Flocculation Pilot; various sewer separation projects; and inflow and infiltration (I/I) reduction projects.
- 9) The additional studies required should be reviewed by the UARB before these near-term projects move forward.

Halifax Water's Proposed Investments in Asset Renewal

- 10) Asset renewal represents the largest share (68%) of HW's proposed 30-year capital plan.
- 11) Informed by the 2019 IRP Update, the current Rate Application includes an increased level of investment in asset renewal relative to the 2012 IRP. We support this higher level of investment.

12) Halifax Water needs to continue to advance its asset management program through implementation of enhanced asset condition assessments as well as systems for prioritizing renewal investments based on risk and criticality considerations. These efforts could result in further refinement in the proposed level of asset renewal investment.

[Exhibit H-10, pp. 9-10]

[21] Mr. Hannam, on behalf of Halifax Water, in speaking to the planning process, drew a clear distinction between individual capital projects and long-term master plans. He advised it would be appropriate to collaborate with Board Counsel consultants in the development of long-term master plans such as the IRP and associated documents. However, Halifax Water's process has not been, and in his view should not be, to include Board Counsel consultants on a specific project.

[22] The evidence of Board Counsel consultants was a little confusing on that point. Mr. Goldstein agreed there was a distinction:

A. (Goldstein) Well, I'll take the first part and if Bill wants to chime in, he can. **I guess I think it's important to distinguish between IRP level planning and individual capital project proposals.** And we're talking about the former here. And that process, in my view, our view, is incomplete.

There has been excellent progress made. I don't want to say otherwise. But there are still significant holes. And it seems to me that it would be difficult for us to make an independent evaluation of a particular capital project, such as a wastewater treatment facility upgrade, at this point without that planning level analysis, and the options all reviewed.

And so, on those types of projects where the information is inadequate, I believe our response would have to be that there isn't adequate information for the Board to make a decision. And we would suggest they go back to the planning phase. So, our comments are to attempt to have that not happen. So, the planning is complete before projects come, before individual projects come for capital approval. [Emphasis added]

[Transcript, pp. 216-217]

[23] Mr. Brown, however, appeared to suggest an approach that would have Board Counsel consultants delve into individual projects:

... We brought up -- brought up a lot of industry references to show what the industry best practices are, which is this matrix that has been developed. We want -- **we have strongly suggested that we have some involvement with the first few applications of this new process. So, that we can confirm that we are all on the same page.**

There's many ways to do this and there's kind of the industry standard approach. Our goal is to be able -- when a project goes to the Board, to be able to say we've looked at it and,

yes, we're confident this is the most cost effective, and sustainable way to reduce the amount of infiltration inflow that they have to do to achieve their growth accommodation goals. [Emphasis added]

[Transcript, p. 211]

3.2.1 Findings

[24] In approving the amended revenue request the Board has taken into account the unique circumstances presented by the COVID-19 pandemic. The Board approves Halifax Water's plans to maintain most of the proposed capital spending as called for in the IRP in the longer term.

[25] With respect to the involvement of Board Counsel consultants, the Board observes that the IRP process has been a critical improvement in the planning process undertaken by Halifax Water since the first plan was created in 2012. There was some initial resistance to the IRP planning process by Halifax Water at that time. It has now clearly embraced the IRP concept as beneficial.

[26] In the Board's view, the active involvement of Board Counsel consultants has been an important component to the success of the IRP.

[27] The Board is reluctant to set rules for Board Counsel consultants' involvement. The Board would much rather see Halifax Water and those consultants approach these issues collaboratively, trying to leverage the best result from the planning process.

[28] Having said that, Mr. Goldstein, in particular, was complimentary of the progress Halifax Water has made over the course of the last number of years.

[29] While the Board understands the concerns of Mr. Brown, the Board sees a clear distinction between planning processes such as the IRP and the planning and execution of individual projects which require Board approval. The IRP is a Halifax Water

document. Although the Board assists in overseeing the process to achieving the IRP, the Board does not have a hearing or specifically approve it. On the other hand, under s.35 of the *Public Utilities Act*, Halifax Water must apply to the Board for approval of any capital expenditure over \$1 million. It is then up to the Board to approve, reject or amend it.

[30] The traditional work of Board Counsel consultants, in connection with capital work order approvals, under s.35, is to provide the Board with an independent opinion as to whether the project is worthy of approval, should be rejected, or should be approved with modifications. This process does not only apply to Halifax Water but to Nova Scotia Power and the other utilities regulated under the *Public Utilities Act*. Often, with respect to major capital projects, other interested parties become involved, such as the CA or certain industrial or commercial customers, as intervenors in the process.

[31] The Board would be very concerned about the optics and transparency of the process if Board Counsel consultants, on a specific application, were sitting at the table with Halifax Water and conceiving and planning the project which resulted in the application. In the Board's view, that would disqualify Board Counsel consultants from participating in the approval hearing itself.

[32] It is difficult for the Board to draw a bright line between where planning ends and project specific "implementation" begins. For example, the planning phase may investigate the suitability of four or five technologies or options before a final project is decided upon. If there are gaps or inadequate analysis in the planning process then, with the assistance of Board Counsel consultants, those should be rectified. If Halifax Water requires expert assistance on individual project applications, then that assistance would

have to come from other consultants. The Board hopes that, with the general principles stated above, Halifax Water and Board Counsel consultants Goldstein and Brown can approach the next phase in a collaborative way, seeking to leverage the most benefit, including the least long-term cost, from the planning process.

3.3 Projected consumption levels

[33] In the original application, Halifax Water used several methods to forecast water consumption for fiscal years 2020 and 2021. In general, the exponential forecast method produced the best fit for most customer classes, and for overall system consumption and therefore was the method chosen.

[34] Based on this method, consumption was forecast to remain consistent with fiscal year 2019.

[35] Halifax Water provided revised consumption estimates due to COVID-19 in its amended application. In the seven-week period from March 29 to May 6, 2020, consumption decreased 2.46%. Based on this result, Halifax Water forecasts an annual decrease in consumption in FY 2020 of 1.4% assuming that consumption returns to pre-COVID-19 levels by September 2020.

3.3.1 Findings

[36] The Board accepts Halifax Water's revised consumption forecast as presented.

3.4 Cost containment actions by Halifax Water

[37] Halifax Water said that most of its operating expenses have increased at levels comparable to or lower than increases in the Consumer Price Index. Halifax Water is projecting a 3.75% increase in water and wastewater operating expenses from its

2019/20 budget to its projected budget for 2021/22 (Exhibit H-1, p. 15). Halifax Water noted that expenses relating to depreciation, grant in lieu of taxes to the Halifax Regional Municipality and debt servicing all increased at levels higher than the Consumer Price Index because they are driven by capital investment in new infrastructure.

[38] Through the course of this proceeding, Halifax Water was questioned about some of its expenses that appear to exceed inflationary levels by a considerable amount. These were the subject of several information requests and questions at the hearing, including a series of questions from the Board, which resulted in additional information being provided by Halifax Water in Undertaking U-6. Halifax Water's responses to these questions noted, in some cases, the influence of annual variability; changes in expenses resulting from the implementation of programs such as the AMI program; increases in salaries and benefits; and, accounting errors and year-end adjustments.

[39] In post-hearing submissions, the CA submitted that there were additional opportunities for cost savings that should be factored into Halifax Water's revenue requirement for the test period:

COST CONTAINMENT

In compliance with previous directions from this Board, Halifax Water regularly files cost containment updates. Those updates are helpful in tracking cost containment efforts and results achieved by Halifax Water.

However, based on the record in this proceeding, it is apparent that additional opportunities for costs savings exist at Halifax Water. The Consumer Advocate notes the following:

- In its rebuttal evidence, Halifax Water has reduced its annual water service revenue requirement by little more than \$1 million. Annual water costs are in the range of \$60 million so the identified savings amount to approximately 1.8% of water service costs.
- In its rebuttal evidence, Halifax Water has reduced its annual wastewater costs by \$840,000-\$955,000. These represent cost savings of little more than 1%.
- In questioning by the Chair, the Halifax Water panel was directed to several examples where significant increases were proposed in several budget line items. In response to

Undertaking U-6, Halifax Water provided a more detailed response. Notably, Halifax Water's response in U-6 provided:

- no explanation for the identified 192% projected increase in training and development;
- that the increase in professional fees had been overstated and should only increase by 52%,
- that regulatory services have an anticipated year over year increase of 29%.

Overall, Halifax Water's response to U-6 has not convinced the Consumer Advocate that all available efforts are being made to reduce costs at this important time.

- According to Exhibit H-1 App 5 page 40, the costs of resolving disputes at Halifax Water are estimated to be approximately \$5,800 per complaint (Transcript, p. 159).
- For the year ended March 31, 2020, Halifax Water had budgeted a deficit of approximately \$8.3 million. Actual results were substantially better, reducing the deficit to \$1.5 million (Transcript, p. 168).

Based on all of the above, the Consumer Advocate is left with the impression that additional opportunities exist for cost savings at Halifax Water and that the budgeting process has allowed several instances of significant spending increases to incur. As pointed out by Mr. John Walker during his presentation, "Halifax Water needs to try to do more with less. That is my reality." Halifax Water should conduct its budgeting and operations in a manner consistent with the cost containment realities faced by its customers. All opportunities for cost savings should be aggressively pursued.

[Exhibit H-21, pp. 4-5]

[40] In its post-hearing rebuttal, Halifax Water reviewed ongoing cost containment initiatives. It said its overall cost increases compared well to the rate of inflation even though some of its costs exceeded inflation and it had added customers and infrastructure. It said that its prudent financial management and cost containment initiatives have played an important role in constraining costs.

[41] Halifax Water also noted that, under its revised proposal, the rate increases for water and wastewater services originally proposed were only avoided and reduced because of a combination of cost cutting and the extraordinary use of accumulated surpluses and special reserves. It said this "has resulted in Halifax Water accepting a level of risk in excess of that which it would normally incur."

3.4.1 Findings

[42] Like the CA, the Board is left with questions about additional opportunities for cost savings, but finds that, overall, the evidence in this proceeding is not sufficient to justify any specific reduction in Halifax Water's revenue requirement. The Board also acknowledges that Halifax Water has taken additional measures in its revised proposal to maintain rates and reduce increases in light of the COVID-19 pandemic. The Board encourages Halifax Water to continue to find reasonable ways to constrain costs, particularly given the prevailing social and economic climate.

[43] Additionally, to provide for even greater transparency and facilitate comparing trends in actual costs to test year projections, the Board directs Halifax Water to compare its projected costs to at least three years of actual costs in future rate applications. In the present application, most costs were compared to only one year of actual costs in 2018/19. Comparisons to expenses for the fiscal year 2019/20 were to Halifax Water's budget. It is the Board's expectation that additional information about Halifax Water's actual historic costs will better highlight actual trends, reduce questions about year-over-year volatility, and will provide a better basis for comparing actual costs to proposed budgets.

3.5 Board approval of the use of reserves

[44] Halifax Water proposed to meet its adjusted revenue requirement for water and wastewater through a combination of expense reductions and drawing on reserves and surpluses. For water service, Halifax Water intends to draw on existing surpluses. For wastewater, Halifax Water proposes to draw on a special reserve fund. Halifax Water

summarized the changes in revenue requirement for water and wastewater in its amended application as follows:

42. The table below summarizes proposed changes to revenue requirements for water and wastewater services in the two test years.

	Water		Wastewater	
	2020/2021	2021/2022	2020/2021	2021/2022
Revenue Requirements (per Rate Application - Figures 24 and 25)	60,461,568	65,207,475	78,049,120	81,793,280
Proposed reductions (increases) to costs				
Introduction of Vacancy Management factor	(500,000)	(500,000)	(500,000)	(490,420)
Reduction in Training and Development - including conferences	(134,000)	(100,000)	(134,000)	(100,000)
Reduction in Contract Services	(100,000)	(100,000)	(100,000)	(100,000)
Reduction in Materials, Supplies and Services	(50,000)	(50,000)	(50,000)	(50,000)
Reduction in Fleet	(50,000)	(50,000)	(50,000)	(50,000)
New debt costs (interest) reduced from 4% to 3%	(307,000)	(552,000)	(93,000)	(240,000)
Increase in Bad Debt Expense	45,000	45,000	45,000	45,000
Increase in Insurance costs	35,000	35,000	35,000	35,000
Reduction in Capital to be Funded by Depreciation	-	-	(1,000,000)	1,000,000
Funding from Reserves to fund Wastewater Costs at Transfer	-	-	(5,039,722)	-
Funding from Accumulated Surplus	(2,664,194)	(6,502,388)	-	-
Adjustments to Revenue Requirements (per Rebuttal)	(3,725,194)	(7,774,388)	(6,886,722)	49,580
Final Revenue Requirements	56,736,374	57,433,087	71,162,398	81,842,860

* A vacancy management factor recognizes the savings in salary costs resulting from the short-term vacancy of positions due to employee movement.

[Exhibit H-14, p. 10]

[45] Halifax Water is able to draw on its accumulated surplus to fund operations without specific Board approval. Indeed, it has done so in past years.

[46] For wastewater, Halifax Water proposed to fund the \$5,039,722 amount by drawing on special reserves for wastewater. These reserves were created pursuant to an agreement between HRM and Halifax Water whereby HRM transferred wastewater and stormwater assets to Halifax Water. The amount would be funded from two components: \$3.6 million would come from a special purpose reserve for wastewater transferred from HRM pursuant to that agreement; and the second would come from dividends Halifax Water was permitted to retain at the time of transfer.

[47] Ms. O'Toole noted, in her testimony, that it had been the intent of Halifax Water to, over time, draw down and eliminate the special purpose reserves.

3.5.1 Findings

[48] As noted, Halifax Water does not need specific Board approval to draw on its surpluses to fund its operations; however, in approving the rates applied for in its amended application, the Board is implicitly accepting Halifax Water's proposal to use surplus funds. Under the Board's Accounting Manual, Halifax Water does need Board approval to utilize the special reserves to fund wastewater operations. The Board approves Halifax Water's request to use those reserves to fund operations in the two test years.

3.6 HRM Dividend

[49] Halifax Water is exempt from municipal property taxes and instead pays a grant in lieu of taxes as an annual dividend based on 1.56% of water utility plant in service. The formula is contained in an agreement with HRM, which expired March 31, 2020. Halifax Water proposed renewal of that arrangement for a new five-year term, ending in March 2025, based on the existing formula of 1.56% of water utility plant in service, plus 0.25% for wastewater utility plant in service, and 0.25% for stormwater utility plant in service. Importantly, the proposed agreement includes a provision that caps the future growth in water, wastewater, and stormwater dividends to 1% per year.

[50] The budgeted dividend for proposed test year 2020/21 is \$6,113,000; and for test year 2021/22 is \$6,638,000.

[51] In response to ECI IR-6, Exhibit H-5, Halifax Water provided a history of the formula for dividends to HRM. The current formula has been in place for the past 13 years.

[52] In 2009/10 HRM and Halifax Water proposed a dividend for wastewater and stormwater based on 0.5% of the respective rate bases. The Board, at the time, disallowed the dividend on wastewater and stormwater assets, noting that the condition of those assets was poor and appeared to be non-compliant with environmental regulations. The Board stated, at the time, that significant expenditures were required to bring those assets to an acceptable standard.

[53] Halifax Water cited a number of factors and justification for imposing a dividend on wastewater and stormwater assets.

1. The wastewater treatment plants are now in compliance with regulations and operating under transitional authorities.
2. Halifax Water has better information on the condition of the wastewater and stormwater assets and has completed important foundational pieces of work to establish the Integrated Resource Plan, asset management plans, and funding strategies.
3. Halifax Water consumes municipal services. For example, the provision of wastewater and stormwater service benefits from activities and services from Halifax business units such as Planning and Development, Fire, Police, Finance and Asset Management, Transportation and Public Works, and services from the RCMP.
4. Halifax Water is growing. The number of customers served, value of assets and number of employees has increased since 2009, and therefore the amount and value of municipal services consumed has increased.
5. Other utilities pay for municipal services through property taxes or grants in lieu of taxes.
6. In 2014, stormwater became a separate service, with separate rates; therefore, a combined wastewater and stormwater dividend would not be appropriate. There should be a dividend calculation for each service.

[Exhibit H-5, IR-6 ECI, p. 3]

[54] Halifax Water noted that the dividend will increase, based on the proposed formula, as increased capital spending is undertaken to meet the substantial levels

recommended in the IRP. That would put additional pressure on utility rates, therefore, Halifax Water has proposed the cap.

[55] The CA argued that the circumstances which applied in 2009/10, leading to the refusal to approve a dividend for wastewater and stormwater services, continues to apply. The CA referenced the response to Undertaking U-1, where Halifax Water advised additional expenditures are required to bring wastewater and stormwater assets to an acceptable standard. The CA argued that, in the circumstances, the imposition of a dividend payment on those assets is unreasonable.

[56] Halifax Water stated that the wastewater treatment facilities have been brought into compliance to meet appropriate regulations. Halifax Water noted that the amounts anticipated to be spent on capital construction, as shown in Undertaking U-1, do not solely relate to the renewal of assets received in 2009/10 from HRM. It also includes achieving the strategic initiatives outlined in the IRP.

3.6.1 Findings

[57] The Board accepts Halifax Water's rationale for imposing 0.25% of rate base as a dividend for stormwater and wastewater services. Halifax Water does consume municipal services, as noted in its response to ECI IR-6.

[58] The Board approves the dividend arrangement as proposed by Halifax Water including, importantly, the provision that caps future growth of the water, wastewater, and stormwater dividend at 1% per year. This should assist significantly in cost containment.

3.7 Unregulated activities

[59] Halifax Water engages in activities considered to be unregulated because they are not required for it to provide water, wastewater and stormwater services under the *Public Utilities Act*. These activities have included: third party contracts for water and wastewater treatment operations; septage tipping fees; the treatment of airline effluent; leases for telecommunications facilities; leases for residential property incidentally acquired by Halifax Water as a result of watershed protection and development activities; and the production of energy from wind turbines and hydrokinetic turbines placed inside facilities such as control chambers where water pressure is reduced. The evidence in this proceeding also suggests that Halifax Water may engage in additional activities in the future such as, the development of a 75 kilowatt solar photovoltaic project that would see the installation of solar panels on the roof of the Halifax Water wastewater treatment facility, and the extraction of resources and energy from wastewater (including biosolids).

[60] Halifax Water has been openly engaged in many of these activities for several years and has been open about its involvement in these activities. It has made the Board aware of them and has identified them separately in rate applications to the Board and in its financial statements.

[61] In its decision on Halifax Water's rate application in 2012 [2012 NSUARB 71], the Board directed Halifax Water to establish accounts tracking unregulated income or loss on an annual basis and an appropriate accounting procedure to track the accumulation of unregulated income. Additionally, the Board directed Halifax Water to report, on an annual basis, that its unregulated activity was not carried out to the detriment of its ratepayers.

[62] In its 2013 rate application, Halifax Water proposed the following principles to guide its unregulated activities:

1. The rate base cannot be exposed to undue financial risk associated with capital financing.
2. Unregulated expenses must be funded by unregulated revenues.
3. Cost causation principles must be employed and there should be no subsidization of unregulated activities from regulated activities.
4. There should be a net return/benefit to the rate base from unregulated activities.

[63] In its decision [2013 NSUARB 127], the Board wanted to ensure that Halifax Water's unregulated projects were not being subsidized by regulated activities. The Board directed Halifax Water to review its projected revenues for unregulated activities to ensure that they are on a full cost recovery basis and to report its finding to the Board by September 30, 2013.

[64] In a report dated September 19, 2013, Halifax Water indicated that, to further refine the segregation of costs between its regulated and unregulated operations, it would adopt new policies and procedures. These would be designed to better distinguish between regulated and unregulated business, educate individuals on the necessity and importance for segregation and assist in the tracking of costs. Halifax Water included attachments setting out its five-year unregulated budget and an undertaking response relating to its calculation of overhead. Halifax Water clarified, in a letter dated December 19, 2013, that its figures for overhead costs included salaries and benefits only and that, effective April 1, 2014, it would charge an additional 1% mark-up

to salaries and benefits to recoup miscellaneous expenses such as office supplies, photocopying, telephone and similar costs.

[65] In the Board's decision on Halifax Water's 2015 rate application [2015 NSUARB 71], the allocation of costs to unregulated activities was again considered. Halifax Water was asked why its allocation to unregulated activities was not based on fully loaded costs. In addition to the information provided during the hearing, Halifax Water provided an undertaking response that provided calculations for allocating fully loaded costs which included maintenance costs for two buildings. In its findings, the Board was of the view that the cost allocation to unregulated activities seemed low compared with the cost allocation used by other utilities and directed Halifax Water to fully explore this issue in preparing its next general rate application.

[66] In the present application, Halifax Water acknowledged the direction from the Board in the 2015 rate application and provided the following update:

Update: Following the 2015 rate application, Halifax Water implemented a new time tracking tool to ensure the time and costs associated with employees working on unregulated activities are charged to the unregulated activity or project. In the 2014/15 fiscal year, Halifax Water started allocating an additional 1% mark-up to salaries and benefits charged to unregulated activities to recoup miscellaneous expenses such as office supplies, photocopying, telephone, etc. The 1% was based on the fact that unregulated revenues represented approximately 1% of total revenues; and overhead expenses incurred aside from salaries and benefits are minimal. Unregulated revenues as a percentage of total revenues are currently 1.1% as of 2019/20. Therefore, Halifax Water is of the view that no adjustment is required at this time.

[Exhibit H-1, p. 28]

[67] In response to ECI IR-14 (b), which asked Halifax Water to expand on the rationale that no adjustment was required at this time, the utility simply stated that, in its view, the mechanisms currently in place respecting unregulated activities and recording revenue, tracking costs and applying overhead were sufficient to explain their cost

allocation. It added that unregulated business has been decreasing in proportion to regulated business.

[68] Halifax Water provided additional information in response to questions from the Board during the hearing. In its response to Undertaking U-4, Halifax Water provided a copy of a March 24, 2017, report to the Halifax Regional Water Commission Board relating to “Unregulated Business Process and Authority.” It also provided a copy of the Halifax Regional Municipality’s Administrative Order Number 2018-001-ADM, which included provisions relating to unregulated business activities.

[69] In its response to Undertaking U-5, Halifax Water advised that the costs of providing unregulated activities are the direct costs of providing the service and it did not allocate a portion of rate base assets used to provide the unregulated activity. In its view, the portion of the rate base assets that would be attributed to unregulated assets would be minimal. Given the accumulated surpluses from unregulated activities already available to benefit the rate base, Halifax Water said it did not consider that additional administrative cost to perform this allocation was required.

[70] Notwithstanding the information provided by Halifax Water in its undertaking responses, the CA submitted that it was not clear that ratepayers were receiving full and appropriate benefit. As an example, the CA noted that Halifax Water leases a portion of its land for use by cell towers. Noting that Ms. O’Toole described this as a “very passive type of business,” the CA said it was “not clear why revenue from cell tower leasing should be diluted or reduced by the cost of other unregulated activities of Halifax Water.” The CA went on to suggest that Halifax Water needs to undertake additional work to identify the policies or procedures implementing its guiding principles for unregulated activities.

[71] In its rebuttal submission, Halifax Water stated:

Halifax Water has filed its policies and procedures in regard to unregulated activities. As clearly stated during the hearing, the unregulated activities of Halifax Water have regularly and consistently been of benefit to the customers of the utility, and as reported in Undertaking U-5, has contributed over \$2 million to water services and a further \$7 million to wastewater services.

The alternative is for Halifax Water to not engage in any unregulated activities. This will result in the loss of programs such as the H2O program, scholarships and bursaries for minority groups and other items funded through the revenue generated by unregulated activities. This in turn would be an overall detriment to both the utility and its customers.

The proposal of Consumer Advocate will introduce unnecessary administrative burden and expense in relation to the unregulated activities of the utility which comprise less than 1% of the overall budget.

[Exhibit H-22, pp. 4-5]

3.7.1 Findings

[72] The Board notes that Halifax Water said it engages in unregulated activities to reduce costs for its ratepayers. Furthermore, under s.7(3) of the *Halifax Regional Water Commission Act*, S.N.S. 2007, c.55, Halifax Water may only engage in such activities if they are carried out without subsidy from any of its regulated operations in providing water, wastewater and stormwater services to customers located within the Halifax Regional Municipality.

[73] The Board does not interpret the CA's request to be that Halifax Water not engage in unregulated activities. It is also not clear to the Board why the alternative to the CA's request for additional work in relation to the implementation of Halifax Water's guiding principles for unregulated activities is for Halifax Water to not engage in them. Furthermore, while the size of the accumulated surpluses relating to unregulated activities suggests that the utility's customers have received a significant benefit from Halifax Water's unregulated activities, there is merit in a more precise allocation of costs between Halifax Water's regulated and unregulated activities.

[74] As the Board has noted in past decisions, it has no authority over how Halifax Water spends unregulated revenue or how it uses its unregulated surplus. Without a more precise allocation of costs between Halifax Water's regulated and unregulated activities, the Board's ability to ensure that Halifax Water's unregulated activities are not, in the future, subsidized by its regulated activities, is somewhat constrained.

[75] Halifax Water can and does use unregulated revenues for purposes other than reducing costs to its regulated customers. It uses unregulated revenues for sponsorships, donations and promotions, for example. It also uses unregulated revenue to fund unregulated activities, some of which may be capital intensive, particularly in the early stages of development, as was noted by Halifax Water in the Cost of Service Manual it filed with its application:

HRWC also has various energy projects underway to explore expansion of business opportunities, deemed to be unregulated activities by NSUARB, and include wind energy, generation of electricity using in-line turbines in the water system, and combined heat and power generation using bio-solids or methane. The projects will be financed through unregulated revenues with the objective of increasing Non-Operating Revenues to reduce future revenue requirements from rate-regulated activities. Initially, financing any projects that proceed will result in some reduction of Non-Operating Revenues available to reduce rate-regulated activities.

Net proceeds from unregulated businesses will be allocated in whole or in part back to the Services whose assets were employed in their generation.

[Exhibit H-1, Appendix 3, p. 30]

[76] In the Board's view, the net proceeds from unregulated businesses can only be determined after appropriate costs on the regulated side have been recovered, including costs relating to the use of regulated assets. Furthermore, what might be appropriate in terms of the costs for the use of the assets may or may not be as minimal as Halifax Water suggests. As highlighted in the CA's closing submission, there may be room for debating what portion of revenue should be allocated to the regulated and

unregulated businesses, particularly where the revenue that is derived is more passive in nature and involves little more than Halifax Water making a rate-regulated asset available for use by a third party. In the Board's view, these are appropriate matters that should be brought forward in the context of a formalized process. Halifax Water has said that it intends to initiate a separate cost of service and rate design proceeding before requesting any further adjustments in its rates. Therefore, the Board directs that the appropriate allocation of costs to unregulated activities be brought forward as an issue in that proceeding.

3.8 Fire protection rates

[77] Halifax Water cost of service-based rates consist of three rate design components. These are base rates, volumetric charges and fire protection.

[78] Fire protection rates are based on a Board approved model introduced at the 2015 rate hearing. Halifax Water proposes to increase public fire protection rates to \$7,597,747 for 2020/21 and \$7,627,564 for 2021/22. Private fire protection rates will increase to \$1,073,907 for 2020/21 and \$1,268,580 for 2021/22. Public rates for 2020/21 will be prorated based on the date of the Board Order.

3.8.1 Findings

[79] The Board accepts the proposed fire protection rates as submitted by Halifax Water.

3.9 Planning for wastewater plants

[80] Section 3.2 of this decision highlights Board Counsel consultants' concerns with Halifax Water's level of planning with regards to future wastewater plants. The consultants accept that Halifax Water has recently made plans to address many

information gaps identified in the 2019 IRP but have not addressed future wastewater treatment facility needs.

[81] These concerns were reiterated in the Halifax Water Regional Development Charge hearing (M09494) held June 11th and 12th. As this topic is more pertinent to future Regional Development Charges, the Board will address this issue in that forthcoming decision.

3.10 Revenue requirements and customer rates for water services effective September 1, 2020 and April 1, 2021, including affordability

[82] Halifax Water initially forecasted a revenue requirement level that resulted in an average 5.8% rate increase for residential water customers in each of the two test years, and increases ranging from 5.8% to 9.4% in 2020/21, and from 5.8% to 9.1% in 2021/22 for all other metered sizes.

[83] In its rebuttal Halifax Water took a multi-faceted approach to reduce the revenue requirement and eliminate the need for a water rate increase for both years. This included reductions in many expense categories as discussed earlier in this decision that resulted in a reduction in operating costs of \$1,061,000 in 2020/21 and \$1,272,000 in 2021/22. Any revenue shortfall is proposed to come from accumulated surplus.

[84] The Board understands that the revised application provides relief to customers over the next two years, but cautions that this may result in a larger rate increase in future years once deferred capital projects begin.

3.10.1 Findings

[85] The Board accepts the revenue requirements and customer rates for water services as submitted by Halifax Water.

3.11 Revenue requirements and customer rates for wastewater services effective September 1, 2020 and April 1, 2021, including affordability

[86] Halifax Water initially forecasted a revenue requirement level that resulted in an average 5.8% rate increase for residential wastewater services in each of the two test years, and increases ranging from 5.8% to 9.4% in 2020/21, and from 5.8% to 9.1% in 2021/22 for all other metered sizes.

[87] In its rebuttal Halifax Water took a multi-faceted approach to reduce the revenue requirement and eliminate the need for a wastewater rate increase in 2020/21 and reduce the increase in 2021/2022. This included reductions in many expense categories as discussed earlier in this decision.

[88] For wastewater, operating costs were reduced by \$847,000 in 2020/21 and \$950,000 in 2021/22. In addition, a temporary decrease in capital funded by depreciation is forecast due to a delay in the Cogswell redevelopment project.

[89] The remaining deficit is to be funded by special reserves transferred by Halifax Regional Municipality in support of wastewater and stormwater operations. This transfer was approved by the Board earlier in this decision.

[90] Halifax Water is proposing an increase in the volumetric charge for wastewater in 2021/22 of \$2.073 per cubic meter. This is a reduction from \$2.097 as requested in the original application and results in a 4.97% increase in the average residential bill.

[91] The Board understands that the revised application provides relief to customers over the next two years, but cautions that this may result in a larger rate increase in future years once deferred capital projects begin.

3.11.1 Findings

[92] The Board accepts the revenue requirements and customer rates for wastewater services as submitted by Halifax Water, effective the requested dates.

3.12 Regulations for the provision of water, wastewater, public and private fire protection

[93] The application proposed several changes to Halifax Water's *Regulations*, including amendments to miscellaneous fees, administrative changes, and changes to some existing programs. Proposed enhancements to the existing lead service line program (s.51A of the *Regulations*) are discussed as a separate issue, below.

[94] The application included explanatory notes for the proposed amendments to the *Regulations*, many of which are described as housekeeping and a cleanup of typographical errors. Halifax Water provided supporting information for several of the proposed increases in miscellaneous charges in response to information requested by the CA and the Board.

[95] Halifax Water proposes to amend s.45A, AMI Meters, to make AMI installation mandatory in cases where a customer's water usage is measured through RF technology. It further proposes a \$50 per meter read fee applied to any customer who refuses the AMI meter installation. Currently the \$50 fee applies only to new customers who refuse an AMI meter installation. Ms. O'Toole explained that the \$50 fee is based upon the cost associated with sending an employee in a truck to read the meter. She added that when Halifax Water moves to monthly billing, the manual reads would continue on a quarterly basis for residential customers

[96] In its amended application, Halifax Water proposed to defer the proposed increases to miscellaneous fees and charges requested in the application to April 1, 2021.

It further requested the approval of non-financial amendments to the *Regulations* effective the date of Board Order.

[97] At the hearing, Ms. O'Toole clarified that it is proposed that the manual meter read fee in s.45A be effective the date of the Board Order. She noted that while this is not a new fee, the proposed wording amends to whom the fee is applicable. She further explained that if the Board approves the amendment, Halifax Water would communicate with the remaining customers who have not converted to the AMI meter, informing them of the approved changes and giving them the opportunity to have an AMI meter installed, or be subject to the manual meter read fee.

[98] Mr. de Montbrun, for Halifax Water, explained during the hearing that in addition to changes to the fire protection charge, Halifax Water's revised proposal resulted in a change to the bulk water rate, which was not reflected in its amended application. The bulk water rate in 2021/22 should be reduced to \$2.35 per m³, from the previously proposed \$2.40.

[99] In response to Undertaking U-2, Halifax Water provided an updated table of explanatory notes for the proposed amendments to the *Regulations*. The response further provided a copy of the *Regulations* as proposed to be effective the date of the Board Order, and a copy of the *Regulations* as proposed to be effective April 1, 2021. It noted that in addition to the non-financial revisions proposed, amendments are proposed to certain sections of rates, effective the date of the Board Order. These include: s.23, *Water Service Connection Tapping Connection Fee*; s.49(3), *Damage to Water Meters*; s.33, *Public Fire Protection Rate*; and s.35, *Building Fire Protection Systems*.

[100] Halifax Water explained that the fees associated with s.23 and s.49(3) are currently being collected on a cost recovery basis and it is proposed to update these sections effective the date of the Order to provide transparency, clarity and fairness to customers. The public fire protection rate for fiscal year 2020/21 is based upon prorating the new rate, effective the date of the Board Order, with the current rate. The appropriate rate is to be added to the *Regulations* once the date of the Order is known. The building fire protection systems rates will be further updated effective the date of the Board Order.

[101] ECI noted in its evidence that it found the proposed changes to the *Regulations* to be reasonable. The CA did not express any concerns with the *Regulations* as proposed.

3.12.1 Findings

[102] The Board notes that there was no opposition to the proposed *Regulations*, and the associated proposed effective dates, including the proposed manual meter read fee in s.45A.

[103] The revised *Regulations* were submitted in response to U-2. It appears that the bulk water rate and fire protection rate were not revised as discussed during the hearing. The Board approves the *Regulations* as outlined in the post-hearing submission, with the change to the bulk water rate, effective April 1, 2021, and prorating the public fire protection charge for 2020/21, based upon the effective date of the Order.

3.13 Enhancements to the existing lead service line program in the Regulations

[104] Section 51A, *Lead Water Service Connection Replacement*, of the *Regulations*, proposed enhancements to the existing lead service line program to permit Halifax Water to pay 100% of the cost of private lead service line replacement in certain

situations. The application included Halifax Water's *Lead Service Line Replacement Report*, which sets out the background and analysis for the proposed amendments. The costs associated with the proposed enhancements are included in the application's revenue requirements.

[105] Halifax Water proposed that reimbursement of the full cost of the lead service line replacement would occur in cases where the customer: resides within the bounds of an HRM paving program (s.51A (5)); successfully applies to Halifax Water based upon program criteria such as sensitive populations (s.51A (6)); and is captured by a targeted program developed by Halifax Water which has determined that the replacement should be done on a priority basis (s.51A(4)). In response to Board Counsel's examination, Ms. O'Toole noted it is her understanding that the parameters and criteria for defining sensitive populations for the purposes of the program are still being developed.

[106] Currently, Halifax Water has the authority to offer a rebate of 25% of the cost of private lead service line replacements, up to maximum of \$2,500, as approved in a Board Order effective August 22, 2017. This provision remains in the proposed s.51A (7). Halifax Water anticipated that there will be customers who do not qualify in any of the categories proposed for full reimbursement but wish to replace their lead service laterals at their own expense. It is proposing that it is reasonable to keep the 25% rebate as it currently exists for these customers.

[107] Both the CA and ECI confirmed their support for the proposed lead service lateral replacement program.

[108] Halifax Water stated that if the proposed enhancements are approved by the Board, the changes to the lead service line program would apply at the effective date of the Board Order.

3.13.1 Findings

[109] The Board notes that there was no opposition to the proposed enhancements to the lead service line replacement program. The Board approves the *Regulations* as proposed, effective the date of the Order.

4.0 COMPLIANCE FILING

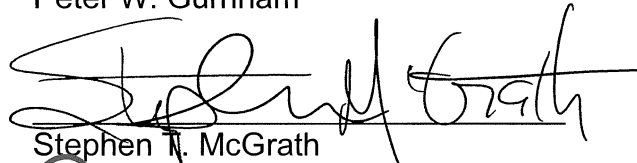
[110] Halifax Water is directed to file a compliance filing, including all amended Rates and *Regulations*, on or before September 10, 2020.

[111] An Order will issue accordingly.

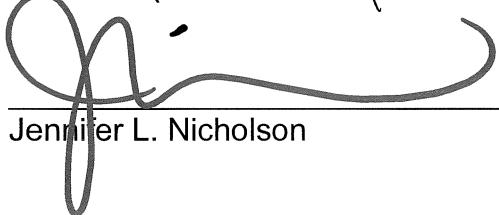
DATED at Halifax, Nova Scotia, this 27th day of August, 2020.



Peter W. Gurnham



Stephen T. McGrath



Jennifer L. Nicholson