

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

LANDRIE LAKE WATER UTILITY has applied for approval of amendments to its Schedule of Rates and Charges for Water and Water Services and amendments to its Schedule of Rules and Regulations

BEFORE: Steven M. Murphy, MBA, P.Eng., Member

APPLICANT: **LANDRIE LAKE WATER UTILITY**

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

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

Brian Marchand, Board Chair

TOWN OF PORT HAWKESBURY

Erin MacEachen, Director of Finance
Jason MacMillan, Manager of Engineering and Public Works

HEARING DATE: September 22, 2020

DECISION DATE: **November 13, 2020**

DECISION: **Application is approved.**

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SUMMARY

[1] The Landrie Lake Water Utility (Utility) applied to the Nova Scotia Utility and Review Board (Board) for an Order approving amendments to its Schedule of Rates for Water and Water Services and its Schedule of Rules and Regulations pursuant to the *Public Utilities Act*, R.S.N.S. 1989, c. 380 as amended (*Act*).

[2] The ownership of the assets and the operation of the Landrie Lake Water System, which were not previously regulated by the Board, were transferred from the Province of Nova Scotia (Province) to the Municipality of the County of Richmond (County) and the Town of Port Hawkesbury (Town) on April 1, 2019. The Municipality and Town subsequently established the Utility. In an Order dated March 29, 2019 (M09116), the Board approved the service area of the Utility, an Interim Schedule of Rates for Water and Water Services, effective April 1, 2019, and an Interim Schedule of Rules and Regulations, also effective April 1, 2019. The Order further directed the Municipality and the Town to file a general rate application with the Board by October 1, 2019, for final approval of the Utility's Schedule of Rates and Charges and Rules and Regulations.

[3] The Utility requested an extension to the October 1, 2019, filing date to allow for more time to collect and analyze financial data. The Board approved the extension request. A further extension request, due to the ongoing COVID pandemic, was subsequently approved by the Board.

[4] A rate study (Rate Study), dated June 16, 2020, prepared by G.A. Isenor Consulting Limited, in association with Blaine S. Rooney Consulting Limited, was submitted to the Board on June 25, 2020, with the Application. Information Requests (IRs) were issued by Board staff on July 27, 2020. In response to the IRs, the Utility filed

a revised Rate Study (Revised Rate Study). The Revised Rate Study incorporated a grant in the amount of \$400,000 from the Province, a part of the transfer agreement of the Landrie Lake Water System, to fund the proposed capital projects. The grant funding replaced long-term debt and depreciation funding proposed in the original Rate Study.

[5] The Application proposed rates for fiscal years 2020/21, 2021/22, and 2022/23 (Test Years, Test Period), based upon the average consumption of the various customer meter sizes. Of the Utility's five existing customers, two have a 4" meter, one has an 8" meter, and two have a 10" meter. The Application proposed rate amendments in 2020/21 for the 4", 8" and 10" meter size customers of -14.0%, 8.0% and 14.6%, respectively. The rate increases proposed for the Utility's customers range from 6.8% to 8.9% in 2021/22, and 5.1% to 6.2% in 2022/23.

[6] The Revised Rate Study proposed rate amendments in 2020/21 for the 4", 8" and 10" meter size customers of -16.0%, 6.2% and 12.9%. The rate increases proposed for the Utility's customers range from 5.7% to 7.3% in 2021/22, and 5.2% to 6.4% in 2022/23. Unless otherwise indicated, it is the Revised Rate Study which is referenced in this Decision.

[7] The Utility does not have fire protection capability; therefore, no rates for public fire protection were proposed.

[8] Due to the COVID-19 pandemic, the public hearing of the matter was held by GoToWebinar videoconferencing on September 22, 2020, after due public notice. Gerry A. Isenor, of G.A. Isenor Consulting Limited, and Blaine S. Rooney, of Blaine S. Rooney Consulting Limited, represented the Utility. The Utility was also represented by Brian Marchand, the Utility's Board Chair. As well, Erin MacEachen, Director of Finance,

and Jason MacMillan, Manager of Engineering and Public Works, both members of Town staff, appeared on behalf of the Utility.

[9] There were no formal intervenors in the matter. The Board received no requests to speak or letters of comment about the matter.

[10] The Schedules of Rates, are approved, as amended and requested by the Utility.

[11] The Schedule of Rules and Regulations are approved, as amended and requested by the Utility.

INTRODUCTION

[12] The Landrie Lake Water System was constructed by the Province in the late 1960's to provide raw, untreated water to industrial customers in the Point Tupper area of Cape Breton. The system includes a reservoir, regulated by an uncontrolled concrete spillway. Two man made dams, referred to as the Landrie Lake Main Dam and the Landrie Lake Auxiliary Dam were built during the reservoir construction. A pumping system is controlled by pipeline pressure. It was upgraded in 2016, when four submersible pumps were installed. The 2016 upgrade also included installation of a pressure relief valve and associated piping. The system has a back-up generator in case of a power failure at the pumping station. The system also includes a 900mm high pressure ductile iron transmission main (installed in 2003) that conveys water to customers.

[13] The Province, the Municipality and the Town applied to the Board on March 6, 2019, in a Letter of Understanding (LOU), dated March 5, 2019, for an order approving

the service boundaries for establishment of the public water utility, and approval of Interim Schedules of Rates, Rules and Regulations. The proposed Interim Schedule of Rates incorporated the rates charged by the Province, effective April 1, 2012. The proposed Interim Schedule of Rules and Regulations was based upon the Schedule of Rules and Regulations used by the Province, effective June 1, 2010.

[14] The LOU set out actions to finalize the transfer of the Landrie Lake Water System. These included a provision that the Province pay the Municipality and the Town a one-time lump-sum grant of \$400,000. The LOU also provided for additional funding of up to \$300,000 for any major capital repairs relating to the Water System within a three-year period following the asset transfer, for costs exceeding the initial \$400,000 grant. Within the LOU, the Province also provided a description of the Landrie Lake Water System, which indicated that it had an asset value of \$2,109,000 at the end of the 2018/19 fiscal year.

[15] The Board approved the Utility's Interim Schedule of Rates for Water and Water Services, effective April 1, 2019, Interim Schedule of Rules and Regulations, effective April 1, 2019, and service area, in an Order dated March 29, 2019. These Schedules are the Utility's current Schedules which are proposed to be amended in this Application.

[16] The Board's Order dated March 29, 2019, directed the Utility to file a general rate application with the Board for final approval of its Schedule of Rates and Charges, and Schedule of Rules and Regulations. The Application is based upon the need for the Utility to implement rates to meet its projected financial requirements.

[17] Since April 1, 2012, (the date which the Utility's current rates are based), there have been no new customers added to the system, and one customer has left the Utility. The Utility's current customers include: 4" meter size customers, NuStar Energy and Tupper Industrial Developers Ltd.; Nova Scotia Power, serviced with an 8" meter; and 10" meter size customers Port Hawkesbury Paper and the Town. The consumption volume associated with the 10" meter size customers represents over 80% of the Utility's total volume of water sold. No growth in the number of customers is expected over the Test Period. Additionally, the Utility's projected total water consumption is expected to remain constant throughout the Test Years.

REVENUE REQUIREMENTS

(A) Operating Expenditures

[18] In its first year of operations, after system assets had been transferred to the Municipality and the Town, the Utility had an excess of revenues over expenses (and accumulated operating surplus) of \$85,043. Using current rates, the Revised Rate Study projected an excess of expenditures over revenues in 2020/21 of \$27,340, and an accumulated operating surplus of \$57,703. The Utility projected that in the absence of rate adjustments, its operating surplus balance will reach an accumulated operating deficit balance of \$48,739 in 2022/23, which Mr. Isenor noted, is the reason for the proposed rate increases.

[19] In addition to depreciation expense, the Utility's operating expenses consist of two line items: Pumping, Transmission and Distribution; and Administration and General. Generally, a Board regulated water utility's operating expenses are more refined with separate line items for Source of Supply; Power and Pumping; Transmission and

Distribution; Water Treatment; and Administration and General. Mr. Isenor stated that the Utility's budgeting process, which was inherited from the Province, is somewhat different than what would typically be used by a regulated water utility. The Utility explained that its source of supply expenses are included within the Pumping, Transmission and Distribution cost category, and that some of the expenses within the cost categories were consolidated by the Province. The Application broke down some of these consolidated expense items to provide detail more typical of a regulated water utility.

[20] In the first Test Year, significant increases are proposed to expenses for Pumping, Transmission and Distribution, and Administration and General expenses, at 27% and 35%, respectively. Mr. Isenor noted that initially, as knowledge and experience is gained in running the new utility, the budgeting changes may be more dramatic than what would be anticipated at a normal utility.

[21] With respect to the projected increase in 2020/21 in the Pumping, Transmission and Distribution expense, the Utility explained that there were reducing adjustments to the electricity bills received for the time period before the water system was transferred. In consideration of this, power costs were budgeted higher. It was further noted that staffing positions which have a portion of their time allocated to the Utility have been filled since 2019/20.

[22] The Utility explained that the projected increase in the Administration and General expense is due to administrative and financial tasks associated with the new regulated Utility, such as performing a separate audit, coordinating with the Utility's Board of Directors, and obtaining a separate insurance policy for the Utility.

[23] The operating expenses for the remaining Test Years of 2021/22 and 2022/23 are projected to increase annually by 3%. The Utility stated that its budgeting process begins with a review of the Utility's consumption patterns and rates, with an assessment of any upcoming capital and operating needs. Changes to contracts, salaries and utility rates are reviewed and incorporated into the draft budget, which is presented to the Board of Directors for approval.

[24] The Utility explained the allocation of costs from the Municipality and the Town to the Utility, noting that the primary costs of salaries are allocated based upon the average amount of time staff spends at the Utility. Invoices specific to the Utility are billed separately to the Utility. It was further noted that the Application includes an allocation of \$3,000 budgeted in 2020/21 to cover miscellaneous administrative costs, such as postage, information technology and office supplies.

[25] The projected depreciation expense in the Test Years is based upon the proposed capital additions during the Test Years plus the addition of calculated depreciation based upon the asset values provided by the Province at the time of the transfer of the water system. The depreciation rates used for the proposed capital additions are generally consistent with the rates in the *Water Utility Accounting and Reporting Handbook (Accounting Handbook)*. The Utility explained that the depreciation rates used for the proposed capital additions that are not specified in the *Accounting Handbook* are based upon the useful life of the related asset.

[26] When the Landrie Lake Water System was owned by the Province, depreciation was not charged as a part of the rate structure. The Application proposes to phase-in the calculated depreciation, based upon the system's asset value provided

by the Province at the time of the transfer. The phasing is based upon adding 75%, 10% and 15% of the calculated depreciation of \$57,817, respectively, in each of 2020/21, 2021/22 and 2022/23.

[27] The Utility explained that the phase-in of depreciation is intended to smooth the impact on rates of adding the \$57,817 depreciation expense. Mr. Isenor further explained that in preparing the Application, consideration was given to the two 10" meter size customers who consume 80% of the water sold by the Utility. He noted that without the proposed phase-in, those size customers would see an average rate increase of approximately 18% in the first Test Year, compared with the 13% proposed in the Revised Rate Study.

[28] As an Undertaking, the Utility filed a Worksheet showing the rates calculated for each of the meter sizes in the Test Years without the phase-in of depreciation. The response confirmed an 18.1% rate increase for the 10" meter size customers in 2020/21, as well as an increase for the 8" meter size customers of 11.6% in 2020/21, compared with the 6.2% proposed in the Revised Rate Study. The 4" meter size customers still had a rate decrease in the first Test Year, although it was shown to be reduced from a 16.0% decrease in the Revised Rate Study to 9.8% without the proposed depreciation expense phase-in.

[29] The Utility also provided the calculation to show how the \$57,817 depreciation expense associated with the Utility's asset value provided by the Province at the time the transfer was determined. In response to the Board's question about the amount, the Utility filed an Undertaking, which recalculated the amount as \$58,361. During the hearing, Mr. Rooney explained that the difference in calculated depreciation

rates is most likely due to the number of decimal places carried in the calculation associated with the 75 year useful life of the pipeline asset included in the transfer. The Utility further filed a Worksheet showing the rates calculated for each of the meter sizes in the Test Years without the phase-in of depreciation, and the amended depreciation of \$58,361. The Worksheet showed increases in 2020/21 of 18.3% for the 10" meter size customers, and 11.8% for the 8" meter size customers, and a decrease of 9.6% for the 4" meter size customers.

Findings

[30] The Landrie Lake Water Utility has operated one full fiscal year as a utility regulated by the Board. The Utility inherited a budgeting system that did not follow the suggested cost categories and level of detail recommended in the *Accounting Handbook*. It appears from the information filed that the Utility is working to bring its budgeting practice more in line with those of other Board regulated water utilities. This has resulted in projected increased operating expenses in the first Test Year, followed by 3% projected annual increases, which is more typical of the projections seen for other Board regulated water utilities.

[31] The Board finds the 3% annual increase in the operating expenses over the final two Test Years to be reasonable, and further accepts the explanations given for the proposed increases in the first Test Year.

[32] The Board accepts the allocation of costs from the Municipality and the Town to the Utility.

[33] The Board generally has concerns when a utility does not take full depreciation of its assets, due to the potential impact on the utility's ability to adequately fund its depreciation reserve for asset replacement. In this case, the Utility received a

grant provided by the Province at the time of the asset transfer. The grant is intended to fund the Utility's capital work. The amended calculated depreciation expense associated with the water system's asset value at the time of transfer has little impact on the rates. The Board has considered the rates calculated with and without the proposed phase-in of depreciation and accepts the phase-in as proposed in the Revised Rate Study.

(B) Capital Budget and Funding

[34] The Application included the Utility's capital budgets in each of the three Test Years of 2020/21, 2021/22 and 2022/23, totalling \$50,000, \$85,000, and \$6,500, respectively. In 2020/21, the Utility's capital budget includes the purchase of a $\frac{3}{4}$ ton plow truck (\$50,000). The 2021/22 capital budget consists of: the construction of a roof over the Utility's electrical control room (\$36,000); electrical equipment for one of the Utility's pumps (\$30,000); new aluminum hatches on the Landrie Lake intake dock (\$12,500); and the engineering inspection and load test of the crane jib structure on the intake dock (\$6,500). The 2022/23 capital budget consists of as built drawings (\$6,500).

[35] The Revised Rate Study proposed to fund the entire Test Years capital budgets, totalling \$141,500, using the \$400,000 grant provided by the Province at the time of the transfer of the system assets. In response to Board IRs, the Utility explained that, as not all of the \$400,000 grant money will be used to fund the Test Years' capital budgets, it is not projected that the Utility will receive the additional \$300,000 over the grant amount, as set out in the LOU. Mr. MacMillan further confirmed that there are no other significant capital requirements foreseen for the Utility.

[36] The Board questioned the Utility with respect to meeting the Canadian Dam Association guidelines on its dam/spillway structures. In an Undertaking, the Utility

explained that the most recent Canadian Dam Safety inspection was completed in 2020 and was part of a dam safety review exercise commissioned by the Province as a part of the asset transfer agreement. The Utility further noted that it is currently procuring services for the creation of a Dam Safety Management Program.

[37] The depreciation fund balance at the beginning of the Test Years is indicated to be \$0. The Utility explained that this is due to no depreciation being factored into the interim rate structure transferred from the Province.

[38] The projected depreciation fund balance in the Revised Rate Study at the end of Test Years is \$175,510. This is based upon the proposed funding from the Provincial grant, the phasing-in of the depreciation of the value of the transferred assets, and the addition of the depreciation associated with the assets included in the Test Years' capital budgets. Mr. Isenor commented that the projected depreciation fund balance, in combination with the remainder of the Provincial grant, leaves the Utility in good shape with respect to the availability of future capital funding.

Findings

[39] The Board accepts the capital budgets in the Test Years, and funding from the grant provided by the Province as proposed in the Revised Rate Study.

[40] The Board understands that the Utility has recently completed an inspection of its dam/spillway structures and that it is in the process of creating a Dam Safety Management Program.

[41] With the proposed depreciation phase-in approved, it appears that the Utility's depreciation fund balance projected at the end of the Test Period will be adequate. For future applications, the Board reminds the Utility of the importance of maintaining a healthy depreciation fund balance for future asset replacement requirements.

[42] Although there are no capital projects in excess of \$250,000 included in the proposed Test Years' capital budgets, the Board reminds the Utility that separate Board approval is required for projects in excess of \$250,000, as set out in s. 35 of the *Act*.

(C) **Non-Operating Revenues and Expenditures**

[43] The Application shows a 2019/20 non-operating revenue item of Amortization of Deferred Contribution in the amount of \$57,817, which offsets the depreciation expense in the same amount. The Utility explained that this relates to the capital contribution of assets from the Province. There is no Amortization of Deferred Contribution in the Test Years as the Utility proposed to phase-in the depreciation and not reduce it through the inclusion of the amount as non-operating revenue. The Utility noted that this approach allows it to generate funds from the depreciation on these assets to be used for funding asset replacements.

[44] With the proposed phasing-in of depreciation of the contributed assets, there is no non-operating revenue or other operating revenue projected in any of the Test Years. There are no non-operating expenditures due to the funding of the projected capital in the Test Period through the Provincial grant, as opposed to long-term debt.

[45] Given that there is no non-operating and other revenue, and no non-operating expenditures in the Test Years, the return on rate base is calculated as zero. Mr. Isenor commented that this situation is unique, and that it represents a new Utility regulated by the Board, but he expects with time the return on rate base will grow.

Findings

[46] Given the information presented in this proceeding, the Board accepts the projected non-operating and other operating revenues, and non-operating expenditures

as presented in the Revised Rate Study. The Board further accepts the calculated rate of return on rate base, as presented in the Revised Rate Study.

(D) Allocations of Revenue Requirement - Utility Customers

[47] Since the Utility does not provide public fire protection, its projected revenue requirement is to be recovered solely from customer rates.

[48] The Application noted that the allocations used for the base, customer, delivery, and production charges are consistent with the guidelines set out in the *Accounting Handbook*. Mr. Isenor noted that although this results in the base charge being allocated only approximately 18% to 20% of the revenue requirements, he is not concerned about the sale of water, which impacts the ability to recover the remainder of the revenue requirement through the consumption rates. This is due to the Utility being only a supply Utility, with limited customers.

[49] The annual consumption volume of the Utility's five customers is projected to remain stable over the Test Years, at approximately 425.7 million gallons. Mr. Isenor stated that a review of the Utility's consumption history over the past four years, including the current year, indicated annual consumption volumes varying from 420 million to 515 million gallons sold. He noted that the volume is largely dependent upon the paper mill, one of the 10" meter size customers. He added that as one customer so heavily sways volumes, it was felt that there was no reason to project a consumption volume decline.

[50] Based upon the assumptions of the Revised Rate Study, the proposed rate amendments in the first Test Year range from a decrease of 16% for the smallest meter size customers to an increase of 12.9% for the larger meter size customers. Mr. Isenor explained that the reason for these significant differences between the meter sizes is due

to the current rates, which are the same rates used when the Province owned the water system, being based upon practices which are not in compliance with the *Accounting Handbook*. He added that after the first Test Year, when the proposed rates are based upon the *Accounting Handbook* guidelines, there is less of a variation in percentage increases among the different meter sizes.

Findings

[51] The Board accepts the methodology used by the Utility to allocate the revenue requirements to base and consumption charges, which is consistent with the guidelines set out in the *Accounting Handbook*. The Board further accepts the annual projected consumption volumes, and the rationale for not projecting a decrease in the volume of water sold over the Test Period.

[52] The Board accepts the rates as proposed in the Revised Rate Study, which includes the phase-in of the calculated depreciation associated with the assets transferred by the Province.

(E) Schedule of Rates and Charges

[53] In addition to the rates for water supply to its customers, the Application proposed several miscellaneous rates and charges, all of which were not part of the interim rates. Mr. Isenor explained that the miscellaneous charges have been updated to be comparable with other water utilities in the Province. He noted that the proposed charges are the same as those of the Port Hawkesbury Water Utility, as it is primarily the Port Hawkesbury Water Utility staff that are running the Utility.

[54] In response to Board IRs, the Utility noted an error in the proposed miscellaneous rates which included rates for Sprinkler Service and Private Hydrants. As

the Utility does not provide fire protection, these two charges were removed in the Schedule of Rates and Charges filed with the Revised Rate Study.

Findings

[55] The Board finds that the proposed miscellaneous charges are reflective of those of other Nova Scotia water utilities and accepts them as filed in the Revised Rate Study for each of the Test Years.

(F) Schedule of Rules and Regulations

[56] The Application included a proposed Schedule of Rules and Regulations, which Mr. Isenor explained is based upon those approved for other Nova Scotia water utilities.

[57] In response to Board IRs, the Utility confirmed that Clause 32 “Sprinkler Service Mains and Hydrant System” was included in error. The Schedule of Rules and Regulations filed with the Revised Rate Study removed this clause, as well as Clause 27 “Private Fire Protection”.

Findings

[58] The Board finds that the proposed Schedule of Rules and Regulations are reasonable and generally consistent with those of other Nova Scotia water utilities. The Board accepts the Schedule of Rules and Regulations as filed in the Revised Rate Study.

(G) Contingency Planning

[59] In response to Board IRs, the Utility provided general information concerning its efforts related to contingency planning and emergency preparedness. It noted that it has adopted the general practices of the Province with respect to risk assessment and contingency planning and it has been provided with a copy of the

Emergency Preparedness Plan (EPP) prepared for the Province in 2011. Mr. MacMillan stated that Utility staff have reviewed the EPP and are in the process of engaging a consultant to update the EPP with current standards and current Utility staff contact information.

[60] The Board reminds the Utility of the importance of maintaining and updating its contingency and emergency preparedness strategies and the associated communication plans.

CONCLUSION

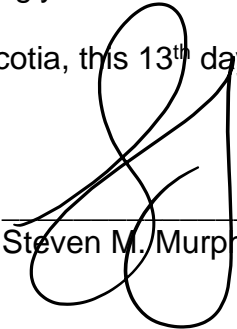
[61] In response to Board IRs, the Utility filed a Revised Rate Study which incorporated the grant provided by the Province at the time of the transfer of the water system's assets to fund the proposed capital additions in the Test Years. The Revised Rate Study further included amendments to the Schedule of Rates for Water and Water Services, and the Schedule of Rules and Regulations to delete sections related to the provision of fire protection.

[62] The Board approves the Schedule of Rates for Water and Water Services, effective December 1, 2020, April 1, 2021, and April 1, 2022.

[63] The Board approves the Schedule of Rules and Regulations as proposed, and amended in the Revised Rate Study, with an effective date of December 1, 2020.

[64] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 13th day of November 2020.



Steven M. Murphy