DECISION **2024 NSUARB 149**
M11538

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

IN THE MATTER OF AN APPLICATION by **THE WEST HANTS REGIONAL MUNICIPALITY,** on behalf of the existing two water utilities (Windsor and West Hants) to amalgamate the two utilities into one utility named the West Hants Regional Water Utility and for approval of a new Schedule of Rates and Charges for Water and Water Services and a Schedule of Rules and Regulations

BEFORE: Stephen T. McGrath, K.C., Chair
Steven M. Murphy, MBA, P.Eng., Member
Bruce H. Fisher, MPA, CPA, CMA, Member

APPLICANT: **WEST HANTS REGIONAL MUNICIPALITY**
Gerry Isenor, P.Eng.
G.A. Isenor Consulting Limited

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

Mark Phillips
Chief Administrative Officer

Todd Richard
Director of Public Works

Carlee Rochon
Director of Finance

HEARING DATE: May 23, 2024

FINAL SUBMISSIONS: June 6, 2024

DECISION DATE: **September 3, 2024**

DECISION: **Application to consolidate the Windsor Water Utility and the West Hants Water Utility into the West Hants Regional Water Utility is approved. The Schedule of Rates and Charges and Schedule of Rules and Regulations are approved as amended by the Utility in response to the Undertakings.**

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1.0 INTRODUCTION

[1] The West Hants Regional Municipality (Municipality) applied to the Nova Scotia Utility and Review Board on behalf of the existing two water utilities of Windsor and West Hants (utility or applicant) to be amalgamated as the West Hants Regional Water Utility. The Municipality also applied for approval of the Schedules of Rates and Charges for Water and Water Services and the Schedule of Rules and Regulations for the newly formed utility (application). The application is made under the *Public Utilities Act*, R.S.N.S. 1989, c. 380 (*Act*).

[2] The existing Board approved Schedule of Rates and Charges for Water Services for each of the Windsor and West Hants water utilities have been in effect since April 1, 2017, and April 1, 2021, respectively. The existing Schedule of Rules and Regulations have been in effect since October 1, 2015, and July 1, 2019, respectively. The West Hants Water Utility was formed in 2019 through the Board approved amalgamation of the Municipality's three utilities of Falmouth, Hantsport and Three Mile Plains/Wentworth.

[3] The application was supported by a rate study dated January 18, 2024, which was prepared by G.A. Isenor Consulting Limited, in association with Blaine S. Rooney Consulting Limited, and was submitted to the Board on January 25, 2024. Information Requests (IRs) were issued to the utility by Board staff on March 8, 2024, to which responses were received on April 2, 2024. The applicant filed an amended rate study dated April 2, 2024, to make corrections that were identified as part of the IR responses. It showed that in the first test year West Hants utility ratepayers would see increases ranging from 13.4% to 23.6% and Windsor utility ratepayers would see increases ranging from 37.4% to 69.6%. The applicant became aware of further issues

related to some depreciation rates and the loan repayment schedule used in the rate study and filed a revised rate study, dated May 7, 2024.

[4] The Board held a public hearing on May 23, 2024, at the Council Chambers in Windsor after public notice was advertised in the *Valley Journal Advertiser* and posted on the Board's website. Gerry Isenor and Blaine Rooney represented the utility, along with West Hants Regional Municipality staff: Mark Phillips, Chief Administrative Officer; Todd Richard, Director of Public Works; and Carlee Rochon, Director of Finance. The Board received 18 letters of comment and two requests to speak at the hearing. The focus of the comments was on the proposed rate increase, in particular for existing Windsor Water Utility customers, and on the proposed amalgamation in general.

[5] The revised study dated May 7, 2024, was reviewed at the public hearing. The Board requested that an updated rate study be filed as an undertaking to address corrections and issues discussed during the hearing. These items include:

<u>Capital Spending</u>

2023/24

- $505,000 Road Construction project added to Source of Supply Structures 2024/25

2024/25

- $300,000 Service Replacement project added to Services (IR-27u)
- Purification Upgrade Project Design ($300,000) included in 2024/25
- Purification Upgrade Project construction moved to 2025/26

2025/26

- Purification Upgrade Project construction added with budget adjustment to $4,400,000

<u>Operating Budgets</u>

- Principal and interest payments for 2023/24 and 2024/25 loan reduced to 50% of total on Schedule B-1 in the first year to reflect timing of works/loan
- Transfer from Operating Surplus to Capital changed from Operating Surplus to Non-Operating Revenue for rate design purposes
- Regulatory fees on Schedule 2a/b/c/d/e revised
- Audit fees on Schedule 2a/b/c/d/e revised

- Allocation of Water Treatment Plant changed to 85% to General Service and 15% to Fire Protection in 2026/27 on Worksheet B-5 to match other test years
- Worksheet D-1 revised to separate customers currently served by the two separate utilities based on average flows of the separate utilities

[6] The Board also suggested that a revised rate study show the impact of using at least $550,000 from an operating surplus to offset expenses in the test years.

[7] The Board further requested an undertaking for the utility to provide updated expense numbers for 2023/24 and updated principal and interest payment numbers for 2023/24.

[8] A revised water rate study was provided by the Municipality in its response to undertaking U-6, dated June 5, 2024. This is the final study referred to in this decision, unless noted otherwise. It is projected that at current rates, expenditures will increasingly exceed revenues, resulting in an accumulated operating deficit for the amalgamated utility of $2,347,271 in 2026/27.

[9] The rate study provided in the undertakings identified rate increases for the amalgamated utility for the fiscal years 2024/25, 2025/26 and 2026/27 (test years). In the original application, which was used in the public notice advertising the hearing, the proposed water bills were shown for each of the existing water utilities using the average consumption figures for the various meter sizes for each utility in the first test year (2024/25). In the subsequent test years, the combined average consumption was used to show the proposed water bills for the amalgamated utility.

[10] For a 5/8” meter residential customer in the existing Windsor Water Utility, based upon an average quarterly consumption of 37 m^3 in 2024/25, which is projected to decrease to 36 m^3 in each of 2025/26 and 2026/27, the estimated quarterly water bill increases are 21.0%, 18.3% and 7.5%, respectively. For all other Windsor Utility metered

customers, based upon the average quarterly consumption of each meter size, the estimated bill increases are between 28.3% and 43.0% in 2024/25, 16.9% to 18.7% in 2025/26 and 7.7% to 8.0% in 2026/27.

[11] For a 5/8" residential customer in the existing West Hants Water Utility, based upon an average quarterly consumption of 35 m^3 in 2024/25 and 2025/26, which is projected to decrease to 34 m^3 in 2026/27, the estimated quarterly water bill is projected to decrease by 1.5% in 2024/25, and increase by 18.4% and 7.5%, in the other two test years, respectively. For all other West Hants metered customers, based upon the average quarterly consumption of each meter size, the rates are estimated to decrease between 3.5% and 1% in 2024/25 and increase by 17.4% to 21.0% in 2025/26 and between 7.8% and 8.4% in 2026/27.

[12] The application also proposed amendments to the annual public fire protection charge to be paid to the utility for the provision of water for fire protection service to various areas. In the application, the projected 2023/24 annual fire protection charges by each of the existing water utilities of Windsor and West Hants to the Municipality, along with the public fire protection charge to each of the Municipality of the County of Kings, and the Glooscap First Nation, have an estimated combined total of $1,085,409. It is proposed to increase to $1,308,754 (a 21% increase) in 2024/25; $1,558,926 (a 19% increase) in 2025/26; and $1,736,224 (an 11% increase) in 2026/27.

[13] The Board finds that utilities function more as separate divisions or departments inside of the Municipality and that their operations are already integrated. Furthermore, the Board finds that a more integrated management of the physical infrastructure will result in significant capital savings in the short term and will likely lead

to some efficiencies in the longer term as well. While amalgamation will not eliminate existing costs of the two utilities, the future costs of the amalgamated utilities should be lower than they would if they remained as separate utilities.

[14] The Board is concerned with the rate shock that ratepayers will experience, especially in the first year. By using the accumulated surplus, lower bill increases for all customers can be achieved in the first two test years and a smoother increase in bills for Windsor Water Utility customers can be achieved. In the third test year, however, all costs are fully reflected in rates, so the ultimate bill increase by the end of the test period is not affected. While these increases result in higher bills, the Board notes that average quarterly bills for residential customers in some utilities in the province are higher (with some exceeding $200 each quarter), and there are several utilities who have not had rate increases in several years who will likely file rate applications soon.

[15] As set out in this decision, the Board approves the utility's requested Schedule of Rates for Water and Water Services and Schedule of Rules and Regulations, as amended in response to the undertakings.

2.0 BACKGROUND

[16] The Windsor Water Utility's source of supply is Mill Lakes, a series of four lakes, which are impounded into a single lake by an earthen dam constructed in 1945. The source water discharges into an impoundment reservoir from which the raw water is pumped to the utility's water treatment plant. At the treatment plant the raw water receives conventional treatment with clarification using dissolved air floatation technology, pH adjustment, corrosion control adjustment and gas chlorination, before leaving the plant.

The system serves the Windsor area and sells bulk water to the West Hants Water Utility's Three Mile Plains system.

[17] The West Hants Water Utility consists of three separate systems for Falmouth, Hantsport and Three Mile Plains/Wentworth.

[18] The Falmouth Water Utility sources water from the French Mill Brook impoundment, created by a dam constructed approximately two kilometres west of Falmouth. The raw water is pumped from the impoundment to a water treatment plant. The treated water is stored in a standpipe which feeds the distribution system by gravity.

[19] The Hantsport system's water source is Davison Lake, which supplies water to the areas of Hantsport, Hants Border and Glooscap First Nation. The raw water flows by gravity through the transmission main to the water treatment plant located near Glooscap First Nation where it is treated through micro filtration. The treated water is pumped to a steel reservoir prior to distribution. The system's distribution system consists of piping ranging from 4" to 12" in diameter. The utility has been actively replacing the 4" diameter mains which do not provide adequate fire protection. The water for Glooscap First Nation is pumped from the treatment plant to a small underground reservoir within the Community.

[20] The Three Mile Plains/Wentworth water system purchases water from the Windsor Water Utility through several metered connection points, with the main connection at Windsor Back Road. In 2022/23 there was an overbilling between the two systems, based on an inaccurate recording of water usage, and a credit in the total amount of approximately $295,000 was issued to the West Hants Water Utility.

[21] The Municipality presented the calculated amount of non-revenue water for each of the water systems of Windsor/Three Mile Plains, Hantsport and Falmouth as 27.16%, 39.64% and 37.93%, respectively. Included in the test years' operating and capital budgets are several items related to the Municipality's efforts to reduce the amount of non-revenue water. Examples are expenses related to professional leak detection services, additional staff responsible for the coordination of leak detection and management, the addition of more accurate meters, replacement of aging meters and prioritized water main replacement.

[22] The test years' capital budgets also include costs associated with a distribution system interconnection between the Falmouth and Windsor water systems, which the applicant explained will result in deferring or eliminating many upgrades that would be required in both systems. Through proposed capital investments in the Windsor water treatment facility and the construction of a new water storage tank, the Windsor system will be able to supply additional water to Falmouth to meet peak demand, and comply with regulated water withdrawal limits.

[23] In response to the undertaking U-1, the applicant provided a cost comparison (high level Class "D" estimates) of the capital improvements required for each of the Windsor and Falmouth Water systems as separate systems versus a connected Windsor and Falmouth system. Based upon the analysis presented, the total capital cost associated with the separate systems is $33,250,000 versus $19,625,000 with a connected system. The response indicated that this represents an approximately 69% cost savings associated with connecting the systems. The applicant also noted that the

interconnection will result in lower operating costs, along with improving system reliability and resiliency, and increased water flow for public fire protection.

[24] The applicant explained that as the Town of Windsor and the Municipality of West Hants have previously merged to form the West Hants Regional Municipality, it has applied to the Board to combine the two existing water utilities so there will be one rate structure and one common set of rules and regulations for all customers within the Regional Municipality.

[25] The applicant further confirmed that the proposed amalgamated utility will serve only the areas which are currently served by the existing two utilities. It further stated that there have been no water quality issues associated with the water of the existing two utilities, both of which distribute water which meets the current regulations.

[26] It is projected in the application that the utility will have an annual increase of fifteen residential customers in each of the test years. All the expected growth is associated with the West Hants Water Utility.

[27] The application was presented to the Board based upon the need to adjust the rates to provide funds for projected increases in operating costs and necessary capital improvements. It further provides for standardized rates, rules and regulations, with the proposed amalgamation of the two existing utilities to form the West Hants Regional Water Utility.

3.0 SUBMISSIONS/PUBLIC PARTICIPATION

[28] In addition to the 18 letters of comment received by the Board, two residents of Windsor spoke at the hearing.

[29] Jim Ivey stated that while the proposed amalgamation can be potentially beneficial, he has concerns with some of the items included in the application. He commented on the magnitude of the proposed rate increases, as well as the number of revised rate studies which he said is cause for concern about the validity of the rates proposed.

[30] He referred to the billing error between the Windsor and Three Mile Plains systems, which he described as changing the wholesale rate between the two utilities that is regulated by the Board and distorting the financial results in 2022/23 for the two utilities. He commented that this billing error should be further reviewed. He further questioned the source of supply cost for Three Mile Plains. He also commented on whether the water volume from the Underwood bulk meter was included as part of water consumption volume in the application.

[31] Mr. Ivey also presented differences between the actual 2023/24 utility operating budgets approved by Council, and the operating budgets provided in the three rate studies that were filed by the applicant prior to the public hearing. With respect to the capital budgets included in the application, Mr. Ivey noted the shift in capital projects from 2023/24 to 2024/25, resulting in $15.8 million in capital additions projected for that year, which he felt will not get completed but will be built into the application’s projected rates through the associated depreciation expense.

[32] He also questioned the rate study projected growth rate of 15 residential customers per year, in comparison to an annual growth rate of approximately 150 customers that was used in the model for a recent Board-approved capital expenditure related to an expanded water storage tank.

[33] Mr. Ivey concluded his presentation by suggesting that given the magnitude of the proposed rate increases, rate increases should be phased in over a five-year period.

[34] The other presenter, Rick Smith, agreed with the amalgamation of the utilities, which he believes should create efficiencies. He added, however, that it is essential that accurate information be used in completing the water rate study. His interest in the water utilities stems from an October 2023 Municipal Audit Committee meeting that he watched. From this, his presentation focused on three main concerns.

[35] With respect to the 2022/23 financial statement results for the two separate water utilities, he noted that the Windsor Water Utility's operating results showed a significant negative variance, while the West Hants Water Utility showed a significant positive variance from their respective budgets. He said part of this is explained through the credit issued for the overbilling issue. He also said a further review indicated that several expenses increased for the Windsor Water Utility and decreased for the West Hants Water Utility, with little explanation provided. As a result, in January 2024, Council directed the CAO to engage an independent firm to provide an operational and financial audit of each of the utilities. Mr. Smith suggested that this audit be completed before finalizing the water rate application.

[36] Mr. Smith further noted differences between the 2023/24 operating budget presented in the worksheets of the initial rate study filed with the Board in January 2024 and the operating budgets approved by Council. He added that several other anomalies he discovered appear to have been corrected in the revised rate studies.

[37] Mr. Smith referenced a Water Utility Consumption Report dated December 2023, that was requested by Council, outlining water consumption by quarter for both utilities, for the bulk master meters at Dill Road, Three Mile Plains, Underwood Road and Wentworth Road. He noted discrepancies in consumption between this report and a subsequent report dated February 2024, with no explanation provided. He referenced the significant variance between Three Mile Plains consumption and bulk meter readings, representing unbilled water, noting that this lost water represents additional expenses and lost revenue. He suggested that the meters be read every month to aid in the goal of minimizing lost water and reducing treatment costs.

[38] Mr. Smith's presentation concluded by stating that these issues should be resolved prior to approving water rates to provide confidence to utility customers that the approved rates are correct.

3.1 Findings

[39] The Board has considered the issues described by Mr. Ivey and Mr. Smith, and the letters of comment. While there appears to be no major concerns with the proposed amalgamation, there are a few common issues that have been identified by the residents, specifically with the magnitude of the proposed rate increases. Both the proposed amalgamation and the magnitude of the rate increases will be discussed in separate sections, later in this decision.

[40] Both Mr. Ivey and Mr. Smith expressed concerns related to the Underwood bulk meter which resulted in the Three Mile Plains system, which currently buys water from the Windsor system, being overbilled. A correcting credit was issued by the Windsor system to the Three Mile Plains system. In response to undertaking U-3, the applicant

clarified the issue was with the Back Road Meter and not the Underwood meter. It explained that there were two meter malfunctions from September 2020, and when a new meter was installed in February 2021, an issue with decimal point readings began which was fixed as part of the April 2022 billing. In response to undertaking U-4, the applicant provided the supporting calculations for the credit associated with these errors, which was issued in April 2022 for $294,904 ($24,795+$270,110).

[41] In response to undertaking U-15, the applicant filed the Committee of the Whole report directing the CAO to undertake a detailed operational and financial audit of the utilities. This report, which was referenced by Mr. Smith, refers to the metering issue and notes the significant amount of non-revenue water associated with the Three Mile Plains system.

[42] The rate study is based on an amalgamated system where there are no financial transactions related to the supply of water from Windsor to Three Mile Plains, as both areas will be part of the same water utility. The Board continues to have concerns with the amount of non-revenue water throughout the Municipality's water system, which represents an expense to the utility, with no offsetting revenue. This notwithstanding, the rate study budgets both operating and capital costs in the test years to reduce this water loss.

[43] The Board agrees that the cost projections in the rate application should be based upon the best available information. Given the time it typically takes to prepare the rate study, submit it to Council for approval, submit it to the Board, and prepare and respond to IRs as part of the Board's process, more up to date information often becomes available by the time of the hearing date. Also, the application review process may identify

typos and errors, which may result in the filing of a revised rate study, as happened in this matter.

[44] During the hearing, other items were identified, some of which were noted by Mr. Ivey and Mr. Smith. In response to undertaking U-14, the applicant acknowledged an error in the rate study in reporting the 2022/23 operating results. The applicant also updated the operating expense amounts for 2023/24, noting that:

> … The Utility budget included in the attached revised rate study have been presented and approved by Municipal Council at the May 29, 2024, Council Meeting. See Revised Rate Study.
>
> [Exhibit W-9, Response to undertaking U-11]

[45] The consumption volumes from the Water Utility Consumption Report were provided in response to undertaking U-2 and the final consumption volumes by meter size for each of two utilities were provided in response to undertaking U-9. Based on this information, the consumption figures in the rate study filed with the undertaking responses were updated accordingly. Another concern is that the utility's projected annual growth of 15 customers may be understated. The applicant noted that projected growth is based upon average historical growth, and it is unable to know specifically what the new number of customers will be. No detailed planning information was filed to support a significantly higher growth rate over the three test years of the rate application. The actual number of customers will be the basis of subsequent rate reviews. The Board further notes that the utility has an aggressive capital budget over the test years. If it collects additional revenue due to higher than projected customer numbers, this may reduce reliance on other funding sources.

[46] In response to the undertakings, the capital expenditures projected in the test years were revised. However, the capital budget remains significant in 2024/25, at

more than $13.6 million, followed by $7.1 million in 2025/26. The ability to complete all this work was a concern raised by the speakers and is also a concern shared by the Board. This will be discussed later in the decision, through direction to establish a capital reserve fund.

[47] The revised rate study of June 5, 2024, filed in response to undertaking U-6, and reviewed by the Board in this decision, provides updated information and addresses many of the concerns that were voiced by the presenters during the hearing.

4.0 SHOULD THE UTILITIES AMALGAMATE

[48] In a decision dated May 2019, the Board approved the amalgamation of the three utilities operated by the Municipality of the District of West Hants (Falmouth, Hantsport and Three Mile Plains/Wentworth) to form the West Hants Water Utility. On April 1, 2020, the Municipality of the District of West Hants and the Town of Windsor merged to become the Region of Windsor and West Hants Municipality. Since a separate water utility also exists in Windsor, the new municipality currently operates two water utilities, but neither of them is a distinct legal entity. The Municipality wants to formally amalgamate these two utilities.

[49] In the past, the Board exercised its discretion to approve the amalgamation of water utilities for a variety of reasons. Factors that influenced the Board's approvals have included:

- improved administrative efficiency, streamlining processes and reducing the cost and effort of invoicing customers;
- allowing for economies of scale, hence better capital planning and budgeting, staff specialization and possible procurement savings;

- spreading the utility's revenue requirement over a larger customer base, which promotes predictability and stability of rates, and reduces the risk of operating deficits;
- the utilities were physically connected;
- the utilities were essentially one operation sharing the same staff and vehicles;
- one or more of the utilities to be amalgamated was so small as to not be viable;
- minimizing the risk of inappropriate expenditure decisions because of rate considerations in the smaller territories served by utilities in a municipality; and
- consolidation would reduce friction between regions in a municipality served by a utility.

[50] Although the areas served by the West Hants Water Utility in Falmouth, Hantsport and Three Mile Plains/Wentworth are not currently physically interconnected, the infrastructure serving Three Mile Plains/Wentworth is connected to the Windsor Water Utility and the West Hants Water Utility purchases the water it needs to serve customers in Three Mile Plains/Wentworth from the Windsor Water Utility. An interconnection of the Windsor and Falmouth systems is one of the planned capital projects included in this rate application. With that, the systems in Falmouth, Windsor and Three Mile Plains/Wentworth would be interconnected, with only the system in Hantsport remaining as an isolated system.

[51] The water service received by the customers of the utilities is comparable. The Municipality advised that water received by its customers in all areas meets the Canadian Drinking Water Guidelines. Service in some parts of Hantsport does not provide adequate fire protection. The Municipality advised that it has worked to reduce the number of customers currently affected by this problem in the past few years and, at present, 20 customers are affected.

[52] The Municipality does not expect to see any decline in expenses from the proposed amalgamation because the utilities are already being operated in a coordinated fashion and share resources with the Municipality. The Municipality assigns costs for time spent by municipal employees on utility matters and for the use of infrastructure and equipment. This includes related expenses such as maintenance costs, fuel, heat, lights, insurance, and other general administrative costs. There may be slight administrative savings given that record keeping, reporting requirements and inter-utility billing and cost allocation could be reduced.

[53] Significantly, the Municipality noted that the management of assets and infrastructure in a more integrated fashion could produce capital cost savings. Capital investment is one of the most significant cost pressures on rates in this application. The evidence provided to the Board suggests the combined need for capital investments would be greater if the assets of the two utilities were kept as separate systems. In response to IR-32(b), the Municipality noted:

> Capital upgrades are necessary for both utilities however, by taking a consolidated approach along with an interconnection between Falmouth and Windsor water distribution systems many upgrades that would be required on both systems can be deferred and or eliminated. The capital plan invests in Windsor Water Treatment Facility and water control structures, along with a new water storage tank. This will allow the Windsor side to be able to provide additional water supply to Falmouth to meet peak demand and comply with regulated water withdrawal limits. Therefore overall, the consolidation and interconnection of utilities will result in lower capital and operational costs along with improving, system reliability, less system interruptions, greater resiliency and reduce probability of failure and increase water flow for fire protection. [Emphasis added]
>
> [Exhibit W-4, p. 41]

[54] The Municipality noted that, to meet obligations under a water withdrawal permit, the capacity of the dam on the French Mill Brook that is Falmouth's source of water supply would have to be increased at significant cost. There would also be a need for additional water treatment process trains in Windsor and Falmouth to meet filter

redundancy requirements. The proposed interconnection of the Windsor and Falmouth systems that is included in the capital projects for the test years in this application would avoid, or at least delay, the capacity upgrades to the dam and the need for one additional process train. Additionally, increased storage in Windsor could address storage and fire protection needs in both the Windsor and Falmouth systems through an interconnection. As discussed previously, the Municipality estimates that it can achieve a near-term reduction in capital costs of approximately 69% by connecting the Windsor and Falmouth systems.

[55] The Municipality also noted that, upon amalgamation, it would establish common rates for all the Municipality's water customers and a common set of rules and regulations. The need for common rates amongst customers served by a utility is mandated by the *Public Utilities Act*. Subsection 67(1) guides the Board when considering the justness of rates as between customers:

> All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate, and the Board may by regulation declare what shall constitute substantially similar circumstances and conditions.

[56] What constitutes "substantially similar circumstances and conditions in respect of service of the same description" is not defined in the *Act*; however, the Board routinely approves rates that are different for different classes of customers of utilities. In *Re Nova Scotia Power Inc.,* 2006 NSUARB 97, the Board described how rates are allocated to various customer classes of a utility. Although this discussion was in the context of electricity rates, the same general principles apply to the establishment of water rates. In that case, the Board said:

> [85] Electricity rates are set on the basis that the costs incurred by the utility to serve its customers, together with a reasonable rate of return, are recovered from its customers. Customers are divided into customer classes. These classes reflect variations in the

> services required by different customers (e.g., domestic customers and industrial customers) which are received from the utility. Since the services required by each customer class differ, the utility's cost to serve each customer class also differs. For example, in order to serve domestic customers, the utility must have an extensive distribution system. Large industrial customers do not require this infrastructure and, therefore, the costs to serve these two classes of customers are quite different. As a result, the total revenue requirements of the utility must be fairly divided by customer class and allocated accordingly. The requirement for fair allocation of costs ensures that all customers pay for the cost of the service they receive and their rates do not subsidize the rates of other customers.

[57] Despite the grouping of customers into rate classes on a cost-of-service basis, the cost to serve every member of a rate class is not the same. Rate classes may sometimes consist of a small number of customers, or even a single customer who uses a significant amount of the utility's services, but most customers of a utility are grouped into larger rate classes. It is not practical or cost effective for a utility to precisely determine the costs of serving every single customer. Even if the utility could do so, the calculation would not be precise given the need for assumptions about the use of common infrastructure and services. The classification of customers into rate classes is necessary, and as a result, customers in a class pay the average cost of serving a customer in that class.

[58] Grouping customers into classes that receive service under substantially similar circumstances and conditions requires judgment. Many factors influence the exercise of such judgment. In L.R. Nash, *Public Utility Rate Structures* (New York and London: McGraw-Hill Book Company Inc., 1933), p. 273, the author states:

> Discrimination is commonly understood to mean a difference in rates or service conditions relating thereto for service of substantially the same characteristics, taking into account volume, load factor, load density, time of use, character of use, and any other significant factors. Because of the many factors involved in discrimination, its precise definition is necessarily left to the judgment of the regulatory commissions in each case.

[59] In the present case, the transition from separate rates for each existing utility to common rates for the new utility would result in significantly different rate changes

for customers. This is not unprecedented. In at least a couple of cases, amalgamations have resulted in rate increases exceeding 50% for some customers of at least one of the consolidated utilities (*Re Municipality of Annapolis County*, 2009 NSUARB 159 and *Re Municipality of the County of Victoria*, 2009 NSUARB 53).

[60] Focusing on residential customers to demonstrate this point, the Board notes that West Hants Water Utility customers served using 5/8" meters currently pay a quarterly base charge of $62.25 and a commodity charge of $2.45/$m^3$ of water used (i.e., flowing through the water meter). Residential customers of the Windsor Water Utility pay a slightly higher base charge ($69.75) and a 40% lower commodity charge ($1.47/$m^3$). The current rates paid by West Hants customers came into effect on April 1, 2021; however, the current Windsor Water Utility rates have been in place for several years more (since April 1, 2017).

[61] The rate changes, as calculated by the Board for residential customers of each utility, for the rates shown in the rate study the Municipality filed in its undertaking responses [Exhibit W-9], are set out in the table below (calculations show slight discrepancies due to rounding):

	Current	2024/2025		2025/2026		2025/2026		Cumulative
	Base Charge	Base Charge	Increase	Base Charge	Increase	Base Charge	Increase	
West Hants	$62.25	$63.94	3%	$78.81	23%	$85.72	9%	38%
Windsor	$69.75		-8%					23%
	Commodity Charge	Commodity Charge	Increase	Commodity Charge	Increase	Commodity Charge	Increase	
West Hants	$2.45	$2.34	-4%	$2.71	16%	$2.91	7%	19%
Windsor	$1.47		59%					98%

[62] The impact that these rate changes have on a customer's bill will vary depending on how much water they use. In this case, the ability to compare relative changes in bills between the West Hants Water Utility and the Windsor Water Utility

customers is difficult because there were noticeable and sometimes significant differences in the reported average amount of water consumed (actual metered usage) by customers in the same classes in each utility. These differences were calculated by the Board using the reported consumption amounts for each utility for 2023/2024 and the number of customers on March 31, 2024, provided by the Municipality in its responses to undertakings U-2 and U-9. The consumption results are set out in the following table:

Customer Class	West Hants m^3/customer	Windsor m^3/customer	Difference
5/8"	140	146	4.5%
3/4"	137	597	336.0%
1"	592	728	23.1%
1.5"	1,274	1,858	45.8%
2"	2,921	5,231	79.1%
3"	7,310	3,115	-57.4%
4"	1,647	13,276	705.9%

[63] The differences in reported consumption volumes for customers with larger meter sizes is not entirely surprising. There are fewer customers in these rate classes, and the operations of the commercial and industrial customers who make up these classes can vary considerably from each other for water usage. However, even in the case of residential (5/8" meter) customers, who make up the largest customer class and would typically be expected to have similar consumption patterns, there was a difference in average consumption between the two utilities.

[64] As noted in the table above, the Board calculates that average residential consumption for the 2023/2024 fiscal year for the West Hants Water Utility was approximately 140 m^3 compared to usage in the Windsor Water Utility that averaged approximately 146 m^3. The reason for this is unclear.

[65] Although 5/8” meter customers are often characterized as “residential” customers (even in this decision), small commercial customers may also receive water service through the same size meters. The Municipality suggested that the observed higher average consumption in 5/8” meter customers in Windsor, compared to West Hants, may be due to a higher number of these commercial customers.

[66] For comparative purposes, the Board calculated the impact on the quarterly bills for residential customers of each utility who consume 143 m^3 of water each year (the mid point of the approximate average consumption figures for 5/8” customers of the utilities for 2023/2024). The results are set out in the table below (calculations show slight discrepancies due to rounding):

	Current	2024/2025			2025/2026			2026/2027			Cumulative	
		Quarterly Bill	Increase		Quarterly Bill	Increase		Quarterly Bill	Increase		Increase	
			Dollars	%		Dollars	%		Dollars	%	Dollars	%
West Hants	$149.84	$147.60	-$2.24	-1.5%	$175.69	$28.10	19.0%	$189.75	$14.06	8.0%	$39.92	26.6%
Windsor	$122.30		$25.29	20.7%							$67.45	55.2%

[67] While the actual bills received by residential customers would be higher or lower than the amounts in the table above depending on whether they actually use more or less than 143 m^3 of water each year, it is apparent that customers of the Windsor Water Utility will see higher increases in their bills because their bills are currently lower than those of similar West Hants customers and uniform rates would be established for the amalgamated utility.

[68] This is true across all rate classes, as shown in the table below in which the Board has calculated the cumulative rate increase from current rates after the proposed three test year periods (2026/2027), using the quarterly bill amounts in Worksheet D-1 of the Rate Study filed with the Municipality’s undertaking responses [Exhibit W-9]:

	West Hants				Windsor			
	Current	Ending	Increase		Current	Ending	Increase	
Customer Class			$	%			$	%
5/8"	$148.09	$185.61	$37.52	25.3%	$123.55	$190.07	$66.52	53.8%
3/4"	$176.26	$226.63	$50.37	28.6%	$321.34	$561.14	$239.80	74.6%
1"	$515.14	$640.11	$124.97	24.3%	$434.08	$739.32	$305.24	70.3%
1.5"	$1,083.88	$1,343.13	$259.25	23.9%	$1,010.47	$1,767.63	$757.16	74.9%
2"	$2,273.59	$2,789.07	$515.48	22.7%	$2,443.71	$4,469.18	$2,025.47	82.9%
3"	$5,444.29	$6,642.64	$1,198.35	22.0%	$2,181.96	$3,591.63	$1,409.67	64.6%
4"	$2,519.12	$3,269.06	$749.94	29.8%	$6,496.91	$11,726.42	$5,229.51	80.5%

[69] The Board notes that although the base and commodity charges for each utility for the quarterly billing estimates at the end of the period (2026/2027) in this table are the same, the bill amounts vary between the same customer classes in each utility because of different assumptions about average consumption (the average recorded consumption amounts for each rate class for each utility was used).

[70] The numbers in these tables are indicative, and actual results will vary based on the amount of water consumed by each customer. That said, the indicative results show significant increases for customers of both utilities, but with considerably higher increases for Windsor customers. These higher increases are driven by the significantly lower consumption rate that Windsor customers currently pay, and higher average reported consumption in almost all rate classes (in some cases substantially higher).

[71] An assessment of the impact of amalgamating the water utilities was prepared by the Municipality's consultants in November 2023 and was filed with the Board as an attachment to its response to IR-49 [Exhibit W-4]. In this assessment, the rates for both utilities were projected over three fiscal years (ending March 31, 2024, 2025 and 2026). Quarterly bill increases were projected for residential customers under two

scenarios (as separate utilities and as an amalgamated utility). The forecast bill increases for customers if the utilities were kept separate is presented in Table 1 in the report and in Table 2 if the utilities are amalgamated. The two tables from the report are reproduced below:

Table 1

Projected Residential Water Rates with Two Separate Utilities

Location	Existing Quarterly Average Rate	Estimated Average Quarterly Rate	Estimated Average Quarterly Rate	Estimated Average Quarterly Rate
	2022/23	**2023/24**	**2024/25**	**2025/26**
West Hants	$140.62	$165.62	$182.83	$191.41
Windsor	$125.15	$136.36	$172.64	$173.94

Table 2

Projected Residential Water Rates with Combined Single Utility

Location	Existing Quarterly Average Rate	Estimated Average Quarterly Rate	Estimated Average Quarterly Rate	Estimated Average Quarterly Rate
	2022/23	**2023/24**	**2024/25**	**2025/26**
West Hants	$140.65	$141.26	$169.25	$178.13
Windsor	$125.15	$155.55	$169.25	$178.13

[Exhibit W-4, p. 66]

[72] The estimated quarterly bills in these tables are different than those presented in the rate studies filed in this proceeding. Although the studies used to provide the data for the foregoing tables were not provided to the Board, differences would be expected due to the different time periods used, changes in expenses over time, and the likelihood that some different assumptions were used.

[73] However, the benefit of these tables is in the comparison of the impacts on bills for customers under the two scenarios (based on common assumptions across those scenarios). These tables demonstrate an expectation that customers of the West Hants Water Utility would see much larger bill increases if the utilities remained separate than they would if the utilities were combined. The difference for Windsor Water Utility customers was projected to be less significant, with quarterly bills under the amalgamated

utility scenario increasing only slightly more than they would without amalgamation. Based on the data in the tables in the report, the projected bill increases for Windsor Water Utility residential customers were 39% under the separate utility scenario and 42% under the amalgamated utility scenario. Thus, while West Hants Water Utility residential customers were projected to be much better off under amalgamation, Windsor Water Utility residential customers were projected to be in more or less the same situation either way.

4.1 Findings

[74] The Board finds that the circumstances warrant a formal amalgamation of the Municipality's two water utilities. The utilities are not separate legal entities but function more as separate divisions or departments inside of the Municipality. Their operations are already integrated. Furthermore, the Board finds that a more integrated management of the physical infrastructure will result in significant capital savings in the short term and will likely lead to some efficiencies in the longer term as well. While amalgamation will not eliminate existing costs of the two utilities, the future costs of the amalgamated utilities should be lower than they would if they remained as separate utilities.

[75] Combining the utilities would create a single utility, which although still small, would have a larger customer base. This larger customer base would be a better economic foundation for the Municipality for the operation of a water utility. It would also increase the stability of rates for all customers so that the effects of larger capital projects needed to continue to safely operate the utility have a smaller impact on rates. Similarly, changes to consumption patterns over time will have a more muted effect on overall rates.

[76] Given the small size of these utilities in the same municipality, there is little justification for keeping them segregated; doing so results in some inefficiencies and somewhat increases costs for all customers. The quality of the water provided to customers of these utilities is good, and the Board is satisfied that the service is substantially the same for these customers.

[77] The Board is not satisfied that there are circumstances that make amalgamating the utilities premature. The concerns about the metering and billing problems that were recently encountered in the sale of water from the Windsor Water Utility to the Three Mile Plains/Wentworth system are not an impediment to amalgamation. Indeed, eliminating the billing requirements between the utilities is one of the benefits of amalgamation. As with all water utilities in the province, the new West Hants Regional Water Utility will need to be proactive and vigilant in identifying sources of water loss and minimizing the amount of non-revenue water it produces.

[78] While errors made in the rate studies filed, and discrepancies in them to actual audited financial results, do not inspire full confidence around the reasonableness of the proposed rates, the Board does not agree that these problems undermine the compelling case for amalgamating the two utilities. Furthermore, the Board notes that rates for water utilities are set using projections of revenue and expenses. Therefore, actual results in the future period are expected to vary to some extent from what was forecast when the rates were set. In this case, the Board is satisfied that, notwithstanding the errors and multiple versions of the rate study filed, the forecast in the final rate study filed with the Board in the Municipality’s undertaking responses provides a reasonable foundation for setting rates for the amalgamated utility.

[79] Finally, the Board is mindful that the rates are increasing significantly, especially for customers of the Windsor Water Utility. This is to be considered in more detail in the next part of this decision. For present purposes, however, the Board finds that the evidence provided by the Municipality suggests that bills for Windsor Water Utility residential customers would have increased regardless of amalgamation, almost to the same extent. The Board observes that the rates for the Windsor Water Utility were last changed in 2017, while the West Hants Water Utility rates were updated more recently in 2021.

[80] The Board finds that the Municipality's two existing water utilities should be consolidated as proposed.

5.0 MAGNITUDE OF THE PROPOSED INCREASES

[81] The required rates in the rate study the Municipality filed with its undertaking responses [Exhibit W-9] are significant increases for customers of both utilities. For West Hants Water Utility customers, bills are expected to increase by approximately 22% to 30% by 2026/2027 for customers who consume an average amount of water for their rate class. For Windsor Water Utility customers, the range is more than double that for West Hants, with bills for customers with average consumption projected to increase by approximately 54% to 83% by 2026/2027. In terms of dollars, the forecast average annual bill increase for West Hants Water Utility residential customers is approximately $150, while an average Windsor Water Utility residential customer would see an annual $266 bill increase. As noted already, customers who use more than the average amount of water for their rate class can expect to see even higher bill increases.

[82] The Board also notes that the final test year average quarterly bills are generally higher in the rate study filed by the Municipality with its June 5, 2024, undertaking responses than in the versions of the rate study filed with the original application [Exhibit W-2], with the Municipality's IR responses [Exhibit W-4], and with the rate study update dated May 7, 2024 [Exhibit W-9]. For the most part, this was because the final version of the rate study was corrected for some errors and included several capital projects that were omitted from the previous studies. This increased the capital additions included in the rate study, primarily related to the projects outlined below:

- $505,000 was added in 2023/2024 for Mills Lake dam road upgrades that have already been completed.
- $300,000 for service line replacements was added to 2024/2025, consistent with the Municipality's response to IR-27(u) [Exhibit W-4].
- $300,000 in purification upgrades were included in 2024/2025.
- The cost for the third process train at the Windsor Water Plant was increased from $3.05 million to $4.4 million based on the latest estimated cost for that project submitted to the Board by the Municipality.

[83] Almost all the Letters of Comment the Board received expressed concern about the magnitude and suddenness of the proposed increases and some expressed concern about the difference in the relative impacts between customers in West Hants and Windsor. Several commenters suggested there was a lack of transparency about the proposed rate increases. Concerns were expressed about the affordability of these increases combined with increases in other costs and inflation, such as, for example, comments from Alison Clement, the Healthy Beginnings Community Home Visitor at the Family Resource Centre of West Hants in Windsor, who stated:

> I work with many families living in the West Hants area that this will greatly affect, some who own their own homes and others who rent and pay their own utilities. Many of these families are already struggling to make ends meet with the constantly rising cost of living.

> The cost of groceries is at an all time high, gas prices are skyrocketing, mortgage interest rates and the cost of rent remains so high that many people, even those making a living wage, are living paycheck to paycheck and are one missed paycheck away from being unable to pay their bills.
>
> The families I work with have children, and parents are working two, sometimes three jobs in order to put food on the table, clothe their children, and to cover the cost of necessities. Families with infants are dealing with the rising costs of formula, diapers and wipes for their babies.
>
> While an annual increase in the cost of water is to be expected, asking families to pay an additional $60 each time they receive a water bill is simply too much. For these families, this increase may be putting them in a position to choose between making water bill payments on time, and affording groceries for the family that week.
>
> [Exhibit W-5, p. 25]

[84] The Board understands that the Municipality proposes to manage these increases through offsetting decreases from changes to its sewer charges. The Board recognizes the holistic view that the Municipality has taken. If the Municipality is correct, then the impact of the sharp increase in water rates on the utility's customers may be somewhat muted for customers who receive both sewer and water service from the Municipality. According to an assessment done by the Municipality's consultants in the fall of 2023 [Exhibit W-4, Attachment to IR-49], the projected combined increase for consolidated water and wastewater systems between the fiscal years ending March 31, 2023, and March 31, 2026, was approximately 27% over the three-year period for residential customers of both water utilities.

[85] However, the Municipality's sewer system is not within the Board's jurisdiction and the Board has no authority over those rates. Furthermore, not all water utility customers receive wastewater service from the Municipality. The Board must consider issues relating to the water systems on their own merits.

[86] Affordability is a serious concern, but the legislated rate setting process for utilities is based on the cost of providing the service, not the ability of a customer to pay. In this province, the latter issue is left to governments and charitable programs.

[87] This issue was addressed in detail by the Board in its decision in Nova Scotia Power Incorporated's most recent general rate application (2023 NSUARB 12, paras. 31-41 and 217-219). The limits on the Board's ability to address affordability in utility rates was discussed most directly in the following passage from that decision:

> [216] For many, electricity rates are already unaffordable. This was certainly the sentiment expressed by many Nova Scotians who took the time to prepare and send letters of comment to the Board about this application. This concern was also aptly stated in the Affordable Energy Coalition's Opening Statement and Closing Submissions:
>
> > Nova Scotia has one of the highest rates of energy poverty in the country due to our lower incomes and higher energy costs arising from our reliance on oil and coal. Energy services are necessities – for food preparation, winter warmth and as the planet heats up, for summer cooling. Access to energy is a human rights issue. Access is often threatened due to low incomes. Many families struggle with the "heat or eat" challenge especially in this period of high fossil fuel prices.
> >
> > [Exhibit N-105, Opening Statement, p. 2 and Closing Submissions, p. 2]
>
> [217] As noted by the Nova Scotia Court of Appeal in *Dalhousie Legal Aid Service*, the Board's regulatory power under the [*Public Utilities Act*] is not an instrument of social policy. The Board cannot, as noted by the Federal Court of Appeal in *TransCanada Pipelines Ltd. v. Canada (National Energy Board)*, 2004 FCA 149, simply disallow NS Power's reasonable costs to make rates more affordable (discussed in more detail later in this decision). While the Board can disallow costs found to be imprudent or unreasonable (and has), absent such a finding, NS Power's costs must be reflected in the rates paid by customers.
>
> [218] That said, there are regulatory tools available to the Board to mitigate the impact of rate increases. For example, the Board may defer the recovery of costs to a later period, or it may direct the creation of a regulatory asset to be amortized over an extended period rather than be recovered all at once….
>
> [219] There are trades-offs involved with using these tools. Requiring future ratepayers to pay the costs of current customers can create concerns about intergenerational equity. Additionally, the delayed recovery of legitimate costs generally attracts interest or similar carrying costs, which increases the overall amount paid by ratepayers. This was the essence of NRR's comments in its Closing Submissions where it said, "Deferrals can mitigate rate shock to consumers in the short term, but over time the total amount payable is increased because of interest chargeable to ratepayers for financing the deferral."
>
> [2023 NSUARB 12]

[88] While the Board can order the deferred recovery of costs, when contemplating a deferral, the Board must also consider whether the utility would be able to manage the deferral without undue economic harm. A deferral results in the utility incurring costs in the present, but not recovering revenue for those costs until sometime later. As such, the utility must be able to carry what is, in essence, a loan to its customers for the deferral period.

[89] As noted previously, Mr. Ivey urged the Board to consider phasing in the rate increases. In response to a question from the Board about how this might be accomplished, he suggested that the timing of capital investments could be adjusted to reduce the impact of several large capital projects being added all at once.

[90] In the past, the Board has also found that significant rate increases for a group of customers arising from the consolidation of utilities may warrant a phasing-in of rates. In considering the transfer of the assets and undertaking of the Kentville Electric Commission (KEC) to Nova Scotia Power Incorporated in 1998, the Board commented:

> The Board has considered the matter carefully. In addressing this issue, the Board is aware that there are several public utility principles to be balanced, for example, "rates should be just and reasonable" and "rate discrimination should be avoided". As well, "avoidance of rate shock" and "gradualism in the introduction of rates increases" are well recognized rate-making principles.
>
> Section 67(1) of the Act mandates that customers in similar circumstances pay the same rates and charges for similar services. The Board is of the opinion that KEC's residential and small general customers would not be in substantially similar circumstances as would NSPI customers in the same rate classes at the time KEC is sold to NSPI. In view of the very real rate shock which would be experienced by KEC's residential and small general customers if no phase-in were permitted, the Board is of the opinion that it would be just and reasonable to approve the phase-in, in the form requested by NSPI. Given that the Board is of the opinion that the sale should be allowed to proceed, it believes that it should mitigate the impact of the significant rate increase which would otherwise be incurred immediately by the residential and small general customers. The Board is also of the view

> that existing NSPI customers will not be prejudiced by the proposed phase-in. Accordingly, the phase-in is approved.
>
> [*Re Nova Scotia Power Inc.*, 1998 CarswellNS 652, paras. 76-77]

[91] This approach was used when the Falmouth, Hantsport and Three Mile Plains/Wentworth water utilities were merged to form the West Hants Water Utility. In that case, the transition from separate rates for each existing utility to a common rate for the new utility, as proposed, would have resulted in significantly different rate changes for customers. Residential customers of the Hantsport Water Utility served using 5/8" meters would have seen their water bills drop by an estimated 22% in the first year of operations of the new water utility and residential customers of the Three Mile Plains/Wentworth Water Utility would have a seen a 1.1% reduction in water bills; however, customers using the same meter size in the Falmouth Water Utility would have seen a 52.4% increase in their bills.

5.1 Findings

[92] Notwithstanding the magnitude of the proposed rate increases, the Board finds the circumstances do not warrant the imposition of a mechanism to defer the utility's recovery of its costs to a future time. The Municipality's audited financial results show an overall loss for the utilities (combined) of approximately $85,000 in the year ending March 31, 2023. The rate study filed with the Municipality's undertaking responses [Exhibit W-9] shows a projected loss of approximately $32,000 in the year ending March 31, 2024, and, if there is no rate adjustment, increasing losses through the next three test years (with a projected loss of nearly $1.8 million in third test year).

[93] The utility's proposed capital program, while aggressive, is not unreasonable and is largely driven by regulatory requirements. Significant debt will be

incurred to fund capital projects through the test period. Deferring the recovery of costs could compound the utility's difficulty managing its financial circumstances.

[94] However, the Municipality estimates that it has a combined utility operating surplus of nearly $1.4 million as of March 31, 2024. The Board suggested the Municipality apply a significant portion of this surplus to reduce operating costs in the test period in the rate study filed with Exhibit W-9. As a result, the rates proposed in the study are set to under-recover by $100,000 in the first test year and $450,000 in the second test year. This has a similar effect as a deferral in reducing rates, but without the associated future repayment obligation and carrying costs. Additionally, the Municipality projects a further reduction in its surplus of approximately $274,000 in the first test year because the proposed new rates would not be in effect until part way through the year. Even at that, the Municipality's projections assume that new rates would start on July 1, 2024, and since that date has passed, there will be a further erosion of the accumulated surplus.

[95] By using the accumulated surplus, lower bill increases for all customers can be achieved in the first two test years and a smoother increase in bills for Windsor Water Utility customers can be achieved. In the third test year, however, all costs are fully reflected in rates, so the ultimate bill increase by the end of the test period is not affected. While these increases result in higher bills, the Board notes that average quarterly bills for residential customers in some utilities in the province are higher (with some exceeding $200 each quarter), and there are several utilities who have not had rate increases in several years who will likely file rate applications soon.

[96] The Board also considered whether the new rates for Windsor Water Utility customers could be phased in differently to reduce the related rate shock. However, the

Board finds the circumstances make this inappropriate. Unlike the amalgamation of the utilities in the former Municipality of the District of West Hants, there is no sharp decrease in rates contemplated for either of the utilities proposed to be combined. While the rate study the Municipality filed with its undertaking responses [Exhibit W-9] projects slight quarterly bill decreases for West Hants Water Utility Customers in the first test year, the average decrease is only 3.5% or less for all rate classes and is a function of the use of the accumulated surplus discussed above, which results in rates that are set to under-recover the utility's annual costs. Furthermore, based on the assessments filed by the Municipality [Exhibit W-4, Attachment to IR-49], the Board finds that, even without amalgamation, residential customers of the Windsor Water Utility would have faced rate increases almost as high.

6.0 REVENUE REQUIREMENTS

6.1 Operating Expenditures

[97] The operating expenses of the proposed amalgamated utility shown in the application are the expenses of the amalgamated utilities.

[98] The rate study filed in response to the undertakings includes updated operating expense information, as discussed during the hearing. In response to undertaking U-6, the applicant noted that the revised rate study includes a revision to regulatory fees and audit fees in the test years. It further noted in response to undertaking U-14 that there were errors reported for the 2022/23 actual results related to the overstatement of depreciation expense in the amount of $50,011 and the opening operating surplus by $3,204. The rate study filed with the undertaking responses also

includes updates to other non-operating expense and revenue items, as discussed later in this decision.

[99] Based upon the updated rate study, in 2022/23, the combined utility had a deficiency of revenues over expenditures of $85,258, and an accumulated operating surplus balance of $1,374,311. With the amendments filed with the undertaking responses, it is projected that at current rates, expenditures will increasingly exceed revenues, resulting in an accumulated operating deficit for the amalgamated utility of $2,347,271 in 2026/27.

[100] The applicant explained that there are no projected operational efficiencies from amalgamation in the test years, as they are two separate systems not interconnected, except for the water connection for the sale of water between Windsor and Three Miles Plains/Wentworth. Further, the applicant noted that the two existing utilities, in effect, act as an amalgamated utility now. It added that there may be some administrative efficiencies gained through not having to manage two separate utilities, rate structures and sets of rules and regulations.

[101] The applicant provided an explanation for the increase in operating expenses, excluding depreciation expense, of approximately 12%, between 2022/23 and 2023/24. It noted that the primary increases relate to operational labour in water treatment and transmission and distribution, maintenance of equipment and treatment equipment, maintenance of mains and standpipes, maintenance of services (including a capitalized adjustment in 2022/23), maintenance of hydrants, professional services, audit and the rate study. There is also an increase in depreciation expense of approximately 15%, representing the depreciation on the proposed capital additions in 2023/24. Also in

2023/24, the power and pumping expense, which relates primarily to operations labour, decreased to $0, which the applicant explained is due to a reallocation of the expense to water treatment.

[102] The application noted that expenses for the test years are based upon a 3% increase per year or other increases if known. In response to the IRs, the applicant stated that in the first test year, 2024/25, many expenses have increased more than 3% to address a spike in overall costs in recent years due to inflation. The applicant further stated that it is hopeful that the rate of inflation will decrease to the 3% used in the last two test years.

[103] In 2024/25, the source of supply expense is budgeted to decrease from $380,697 to $14,800. This is mainly due to the elimination of the cost associated with the West Hants Utility (Three Mile Plains system) purchasing water from the Windsor Utility, after amalgamation.

[104] To aid in the reduction of non-revenue water, the budgeted transmission and distribution operating expense includes a line item for leak detection in each of the test years.

[105] The applicant explained the budgeting process for the proposed amalgamated utility. Draft budgets are prepared by the Director of Public Works and the Director of Financial Services and are presented to the Committee of the Whole for review. The Committee recommends the budgets to Council for approval. In response to undertaking U-11, the applicant added that the utility's 2024/25 budget was prepared by staff based on their experience and knowledge of the needs for the upcoming year. The

budget included in the revised rate study filed with the undertakings was presented and approved by Council at the May 29, 2024, Council meeting.

[106] In response to an IR, the applicant provided information on the allocation of costs between the Municipality and the proposed amalgamated utility, noting that it has not proposed changing the current allocation methodology with the amalgamation of the utilities. This was further examined during the hearing. The applicant stated that the Municipality charges an administration fee to cover the cost of administration of the utility based on 10% of the overall operating costs of the utility, excluding depreciation. This administration fee is based on the year-end financial information of the utility and can fluctuate from year to year. The administration fee expense line item in the original rate study is budgeted in 2023/24 at $375,867.

[107] During the hearing the Board questioned whether the current methodology recovers the Municipality's actual costs. In response to undertaking U-5, the applicant filed an analysis that compared the water utilities' share of municipal administration costs as direct costs, directly allocated to the utilities, to the present allocation of administration costs based on the 10% formula which is included in the current rate study. It added that currently the 10% formula is used throughout the Municipality to administer various departments. This rough analysis calculated the administration fee to the utility using direct costs as $555,300, which suggests that the utility is underbilled, by $179,433. It is noted that the administrative fee for 2023/24 in the rate study filed in response to the undertakings is $336,769, based upon revisions to the operating expenses.

[108] The depreciation expense projected in each of the test years is based upon the depreciation associated with utility plant in service and capital additions, at rates set

out in the *Water Utility Accounting and Reporting Handbook* (*Accounting Handbook*). For the proposed capital additions that are not specifically identified in the *Accounting Handbook*, the applicant provided information in support of the rates used in the rate study.

[109] The amended rate study filed in response to the undertakings changed the timing and magnitude of some proposed capital expenditures, discussed later in this decision. A correction in a past amount resulted in a slight decrease in the annual depreciation expense in each of the test years.

6.1.1 Findings

[110] In response to the undertakings, the applicant filed a revised rate study, based upon updated information. The operating expenses over the test years are generally based upon an annual increase of approximately 3%, which the Board finds to be reasonable.

[111] Of note is the decrease in the source of supply expense in the test years due to the elimination, resulting from amalgamation, of the expense of the West Hants water utility purchasing water from the Windsor utility. This will have an offsetting decrease in revenue of a combined utility.

[112] Included in the operating expenses are costs related to leak detection to aid in the reduction of non-revenue water. The Board encourages the utility to continue with these efforts to aid in more efficiently operating the water system.

[113] The Board notes that based upon the analysis provided in response to the undertakings, the current allocation of Municipal costs to the water utilities is inadequate for the amalgamated utility. As there is no history of operating the combined

Windsor/West Hants Water Utility, the Board accepts the allocation of costs between the Municipality and the amalgamated utility as presented. However, the Board directs the utility to conduct a detailed analysis of these cost allocations before its next rate application, based upon the new, amalgamated utility structure.

[114] The rate study filed in response to the undertakings uses the most current information as a basis for the projected depreciation, correcting an error in the overstatement of depreciation expense and amending the annual depreciation expense due to changes in timing and costs of budgeted capital projects. The depreciation rates used follow the *Accounting Handbook* guidelines, or explanations have been provided when the asset is not specifically included in the *Accounting Handbook.* The Board accepts the annual depreciation expense in each of the test years, as budgeted in the rate study filed in response to the undertakings.

6.2 Capital Budgets and Funding

[115] The rate study shows the amalgamated utility's 2023/24 capital budget, and the capital budgets in each of the three test years, which totals approximately $27.4 million over that four-year period. In response to the IRs, the applicant provided details of the major projects and funding, based upon the original rate study filed, which showed capital expenditures totaling approximately $24.6 million over the four-year period. Approximately two-thirds of this amount relates to work in the current Windsor Water Utility, with the remaining one-third associated with the current West Hants Water Utility (IR-32c). Included in the capital budgets are costs associated with the Windsor-Falmouth interconnection project.

[116] The proposed capital budget was examined during the hearing, and the revised rate study filed in response to the undertakings includes updated budgets and more accurate information for the 2023/24 capital budget. This results in both an increase in the total budgeted amount during the four-year period, and the shifting of the timing of the proposed capital projects in the test years, due to the following amendments:

2023/24

- $505,000 Road Construction project added to Source of Supply Structures 2024/25

2024/25

- $300,000 Service Replacement project added to Services (IR-27u)
- Purification Upgrade Project Design ($300,000) included in 2024/25
- Purification Upgrade Project construction moved to 2025/26

2025/26

- Purification Upgrade Project construction added with budget adjustment to $4,400,000

No changes were made to the capital budget for the final test year, 2026/27.

[117] The applicant identified unfinished capital projects that are being carried forward into the first test year, 2024/25:

West Hants Water:	
TMP [Three Mile Plains] Service Upgrade	$ 300,000
Falmouth Water Treatment Plant Upgrade	$ 70,000
Falmouth Standpipe Flow Meter	$ 25,000
Riverview Road Rehab, Hantsport	$ 270,900
Windsor Water:	
College Road Rehab, Windsor	$ 390,500
Water Storage Facility	$6,000,000
(Partial approval from the UARB for $3,000,000 in long-term debt borrowing (M10642)	
Mill Lakes Water Control Intake Structures	$ 850,000

[Exhibit W-4, IR-32e)]

[118] A description of the major capital projects in the test years was provided in response to the IRs. Source of supply structures ($850,000) relates to water control structures and intake capital work, required on dams and water intakes to meet fisheries regulations. Distribution mains are budgeted for 2023/24, and in each of the test years,

with costs totaling approximately $7.5 million. The applicant stated that included in this amount are costs related to the interconnection between the Windsor and Falmouth distribution systems, in addition to costs associated with replacement of mains due to age, condition and upcoming road construction. Meter replacement is also included in each of the test years in the amounts of $290,800, $40,800 and $40,800, respectively.

[119] Transmission mains are budgeted in the amount of $4,112,000 in 2024/25 which the applicant described as relating to the interconnection between Windsor and Falmouth, as well as the Hantsport transmission main replacement from the Hantsport water treatment plant to the standpipe.

[120] An amount of $4,400,000 is budgeted in 2025/26 for purification equipment. This relates to providing a third process train at the Windsor water treatment plant to meet regulatory requirements for filter redundancy. As presented in the response to undertaking U-1, this project is necessary regardless of the interconnection between Windsor and Falmouth. However, with the interconnection, a similar project, at the same cost, can be avoided at the Falmouth treatment plant.

[121] Mr. Isenor described the amalgamated utility's capital program as very aggressive, but necessary, because the infrastructure is aging, with new equipment required for several areas. With respect to the utility's capacity to complete these projects, the applicant stated that it will require support from consultants and outside contractors, but staff is confident that it has the experience and expertise to undertake and complete the projects.

[122] From Worksheet B-3 in the rate study in the undertaking response, the proposed funding of the capital budgets in 2023/24 and in the test years is:

Funding	**2023/24**	**2024/25**	**2025/26**	**2026/27**
Outside Funding	60,800	5,116,800	163,025	60,800
Capital out of Revenue	50,000	78,000	58,000	58,000
Depreciation Fund	1,300,000	1,350,000	1,070,000	1,130,000
Long Term Debt	3,117,787	7,112,440	5,814,325	830,775
Total	$4,528,587	$13,657,240	$7,105,350	$2,079,575

[123] In response to the IRs, the applicant explained that outside funding for the water storage tank project has been approved by the Province under the Municipal Capital Growth Program in the amount of $3,074,208. During the hearing, the applicant stated that it had received a portion of the grant budgeted as an outside funding source for the interconnection project. The IR responses also stated that other outside funding sources have not yet been confirmed and if the funding is not available, the utility will reassess the proposed capital works.

[124] In the rate study, a 6.0% interest rate is used for the long-term debt, with a 20-year term.

[125] The issue of completing the capital projects as budgeted was further discussed during the hearing in terms of the timing of debentures.

> **Mr. Fisher:** So with regards to the other debentures that are assumed in here, there's a fair amount of money which is being assumed that it will be debentured, and I guess the bigger question is, Is the capital work going to be completed? Will it be completed, actually, in time to actually get it debentured so that it actually falls due in that capital year? Or are we being a little bit too conservative in budgeting to actually complete all our capital work in one year and have it debentured in one year? Do we have room to actually push out the debenture payments?
>
> …
>
> **Mr. Richard:** Yeah, and we're certainly hopeful. There's three great projects. One is, you know ... kickoff meeting is actually as we speak for the reservoir. So that's been awarded. So that will happen this year. The third process train. So we're in detail design

> with that project right now, and also detail design and competition documents for the interconnection.
>
> So our hopes. We know market conditions and just how busy contractors are kind of, you know ... does kind of reflect getting projects done, but our expectation is yes, we hope to have these projects at least started in this fiscal year, if not early, early next fiscal year.
>
> [Transcript, pp. 154-155]

[126] With the proposed funding in the rate study, the depreciation fund balance at the end of the test years is projected to be $56,347, significantly less than the amounts projected in the previous rate studies.

6.2.1 Findings

[127] The amalgamated utility is projecting major capital works over the test years. The replacement of aging distribution mains and meters will aid in reducing non-revenue water, which is an issue for the utility. The reservoir project, which is the subject of a separate Board matter (Matter M10642) is required to provide additional storage capacity for future development in the area. The purification equipment (process train) and source of supply structures (water control and intake structures) are necessary to meet regulatory requirements. The interconnection project will allow for the elimination of significant future capital upgrades, and results in lower costs along with improving system reliability.

[128] While the need for the proposed capital projects appears reasonable, there seems to be some uncertainties around the timing and funding of the projects. The timing of some of the projects or portions of the projects were moved to future years in the undertakings. The ability to manage and complete the significant projects on the timeline proposed may be difficult. Also, outside funding, which has not been entirely secured, makes up a significant portion of the proposed funding in 2024/25. There are also limited depreciation funds remaining to be used in cases of increased capital costs.

[129] Given the need for the projects, the Board accepts the proposed capital projects and funding. While the Board recognizes that the proposed projects are required, and will produce a significant impact on the rates, it is concerned that the timing of when the projects are completed, and the resulting debentures issued, will not be attained.

[130] The Board considered that the utility might alter its assumptions as to when it would complete and fund the proposed projects, thus lowering the required rates. While this would make the transition to higher rates in the first test year more attractive, it would not eliminate the rate increases, but rather push any rate increases forward into the other test years.

[131] Instead, if projects are unable to fully proceed, the Board directs the utility to deposit any variance for each of the three test years in its depreciation expense and its principal and interest expense to a reserve specifically designated for capital purposes, as opposed to adding it to an operating surplus for a given year. This preserves the funds for the intended purpose. It also provides an opportunity to use these funds to offset some of the costs and funding that will occur when the project does proceed. If project costs come in higher than expected, the reserve might be used to offset those greater costs. The reserve might also be used as a funding source to keep future project debt lower or to pay down the required principal and interest costs from the projects, essentially smoothing out some of these costs.

[132] The utility is directed to establish a capital reserve whose purpose is to accumulate unspent funds for the capital projects included in the rate study during the three test years. This reserve:

- will include unspent variances in depreciation, principal and interest expenses that the rate study identified as required during the year, but that were not expended during that year;
- will continue until such time as the Board directs otherwise;
- will retain all interest and income that is earned on any balance in the reserve;
- at the direction of Council, funds in the reserve may be used:
    - as a capital funding source for these same projects;
    - to pay the principal and interest costs for these same projects,
    - otherwise as approved by the Board; and
- shall be reported in the annual financial statement which shall detail its balance, contributions, withdrawals and earnings.

[133] The Board expects that the utility will closely monitor capital budgets to ensure that timely rate reviews are made.

[134] The Board notes that the inclusion of proposed capital projects in the rate study does not constitute the Board's formal approval of these projects. Separate Board approval is required for projects costing more than $250,000 as set out in s. 35 of the *Act*.

6.3 Non-Operating Revenues and Expenditures

[135] The test years' revenue requirements identified in the rate study include projections of other operating revenue, non-operating revenues and non-operating expenditures.

[136] The other operating revenue consists of sundry, sprinkler service, commercial and revenue from bulk water service, totaling $186,782, $192,040 and $200,306, respectively, in each of the test years. Most of this revenue is projected from bulk water sales, at $166,579, $171,576 and $176,723, respectively. The applicant explained that these amounts are based upon recent sales from the bulk water meter in West Hants.

[137] The non-operating revenue includes interest on customer and other accounts, special service costs, and transfer from operating surplus, totaling $164,122,

$496,122 and $34,995, respectively, in each of the test years. In response to undertaking U-10, the applicant provided clarification on the items interest revenue, special service and other-bank interest revenue, which have been identified as separate non-operating revenue line items beginning in 2023/24. In the original application, capital from operating surplus was proposed as a funding source for the capital budgets in the test years. After further review during the hearing, this was changed to transfer from operating surplus, a non-operating revenue item, in the rate study filed in the undertaking responses.

[138] The rate study includes projected non-operating expenditures for the principal and interest charges on existing debt and on debt related to funding the utility's capital budgets in the test years. The existing debt charges are shown to decrease in each of 2024/25 and 2026/27 due to the retirement of three debt issues of the two existing utilities. The principal and interest payments associated with funding the test years' capital program were revised in the rate study filed in response to the undertakings. In response to undertaking U-7, the changes include a 50% reduction of principal and interest payments for 2023/24 and 2024/25 to reflect the timing of debt funding. The changes also reflect revisions to the capital budgets and funding in each of the test years, as discussed during the hearing. Even with these changes, the increase in principal and debt charges is significant and will total more than $1.5 million in the third test year.

[139] The non-operating expenditures also include amounts related to capital out of revenue and a transfer to the sludge handling reserve. The projected capital out of revenue amounts are $78,000, $58,000 and $58,000, in each of the test years, which the applicant explained as allowances for recurring capital expenses. The applicant explained the sludge handling reserve was set up several years ago to be used to fund the dredging

of backwash sludge that accumulates in the treatment lagoons every few years. An annual amount of $10,000 is projected to be transferred to the reserve in each of the test years.

[140] With the changes from the original application to the non-operating and other revenue, and non-operating expenses, and to the capital expenditures in the years, the return on rate base calculated in the rate study filed with the undertaking response is 1.55%, 2.98% and 3.85%, respectively in each of the test years.

6.3.1 Findings

[141] Given the information presented in this proceeding, the Board accepts the projected non-operating and other revenues, and non-operating expenditures, including the transfer to the sludge handling reserve, as presented in the rate study filed in response to the undertakings. The Board notes that it approved this reserve in the past in relation to the Falmouth water system.

[142] The Board further accepts the calculated return on rate base, as presented in the undertaking response.

7.0 ALLOCATION OF REVENUE REQUIREMENTS

7.1 Public Fire Protection

[143] The allocations used in the rate study in the calculation of the public fire protection charge are generally in accordance with the *Accounting Handbook* and are the same as those used in the previous rate applications for Windsor and West Hants, except for the allocation of the item, water treatment plant.

[144] The *Accounting Handbook*'s guidelines allocate water treatment plants as 90% to general service and 10% to fire protection. In past Windsor water utility rate applications, the water treatment plant has been allocated 80% to general service and 20% to fire protection due to the inclusion of water storage at the plant, that supplements fire protection in the area near the treatment plant. With amalgamation of the two existing utilities, there will be three water treatment plants (Windsor, Falmouth and Hantsport). To acknowledge the larger consolidated area, and the inclusion of water storage, an allocation of 85% to general service and 15% to fire protection is used in each of the test years, as corrected in the rate study filed in response to the undertakings.

[145] The combined public fire protection charge in 2022/23 is $1,070,092 and is estimated to be $1,085,409 in 2023/24. For each of the test years (2024/25, 2025/26 and 2026/27), the proposed public fire protection charge of the amalgamated utility, as filed in response to the undertakings is $1,308,754, $1,558,926 and $1,736,224.

[146] The public fire protection charge is to be allocated among the Municipality, the Municipality of the County of Kings and the Glooscap First Nation, based upon the number of hydrants in each area.

7.1.1 Findings

[147] Amendments to the rate study, including amendments to the utility's expenses, discussed above, impact the calculation of the public fire protection charge.

[148] The rate study filed in response to the undertakings is based upon the most up to date information and proposes public fire protection rates calculated using the *Accounting Handbook* methodology. The Board approves the fire protection charge, as proposed in the rate study filed in response to undertakings.

[149] The Application is based on the public fire protection rate being effective July 1, 2024, and prorated at three months at the current rate and nine months at the new rate for 2024/25. Due to the timing of the application and Board approval, the fire protection charge in 2024/25 will be prorated at six months at the current rate (estimated at $1,085,409) and six months at the new rate ($1,308,754) for 2024/25. Based upon this estimation, the public fire protection charge in 2024/25 will be $1,197,081. This may differ slightly based upon the actual 2023/24 financial results.

7.2 Utility Customers

[150] The remaining revenue requirement, after the allocation to fire protection charges, must be recovered from the customers of the utility. The original rate application explained that all the expense allocations to base, customer, delivery and production charges are consistent with the *Accounting Handbook* except for depreciation and return on rate base. The response to the IRs further explained the differences in allocations in the current application from the previous rate studies of each of the two utilities.

[151] The applicant explained that the changes from the previous rate studies and the *Accounting Handbook* are proposed for rate design purposes with the objective of having approximately 40% of the total revenue from customer base charges. It added that this was done to provide revenue stability for the utility, while also providing the customer with the ability to influence their water bill through reducing consumption. The allocation for depreciation expense was adjusted in the rate study filed in response to the undertakings to maintain the approximately 40% amount after the corrections and updates discussed during the hearing were made.

[152] The application projects an annual increase of 15 residential customers in each of the test years, which was the subject of some discussion at the hearing, as previously noted. During the hearing, Mr. Isenor noted that in preparing the rate application, there was some debate on the projection of customer numbers. He said that although there has been an annual increase of approximately 25 residential customers in recent years, it was decided to be more conservative, and “err on the side of safety”, as potential customers are counted into revenue in the rate study.

[153] The consumption volume in the application is based upon adding the consumption of the two utilities together. The actual 2022/23 consumption volume is used to estimate the 2023/24 consumption volume, which forms the basis for the consumption volume by meter size used in the test years. In addition to the projected increase in customers, the application projects an annual reduction of 1% in residential consumption (5/8” meter size). In response to the IRs, the applicant explained that the magnitude of the 1% reduction in consumption for the amalgamated utility is a best estimate based on historical consumption in Windsor and the current low average consumption in West Hants.

[154] In response to undertakings U-2 and U-9, the actual consumption volumes for 2023/24 were provided by meter size, and the volumes in the rate study were amended accordingly, along with the annual 1% reduction in residential 5/8” meter size consumption.

[155] All the customers of the current two utilities are metered. The application proposes unmetered rates, based upon quarterly consumption of 68 m^3. The applicant noted that although it does not anticipate any long-term unmetered customers, the rate

has been maintained in case of a request for a temporary water connection, where the meter may be subject to damage until a proper location is found.

7.2.1 Findings

[156] The application allocates costs to base, customer, delivery and production charges as set out in the *Accounting Handbook*, except for the allocation of depreciation and return on rate base, as noted above, for rate design purposes. The Board accepts the allocations as proposed.

[157] From the information provided, the Board accepts the projected annual growth of 15 5/8" metered customers. The utility has an aggressive capital plan, with some uncertainty as to the ability to complete the projects as planned, as discussed above. Overestimating revenues may further impact the ability to complete the necessary capital work.

[158] The Board further accepts the projected consumption volumes, as updated in response to the undertakings, and the 1.0% annual decrease in residential consumption volumes, which is consistent with the downward water consumption trend in most water utilities.

[159] The Board approves the customer rates, including the unmetered rate, as presented in the rate study filed in response to the undertakings.

8.0 SCHEDULE OF RATES AND CHARGES

[160] In addition to the rates for water supply to its customers, the application proposes miscellaneous rates and charges, which are based upon the more recently approved West Hants Water Utility's charges. In response to the IRs, a list of the proposed

changes was provided for each of the Windsor and West Hants water utilities. Several changes are proposed to Windsor's miscellaneous charges for consistency with the existing rates in West Hants, including a reduction in the after-hours work rate from $200 to $150. For both existing utilities, it is proposed to change the item "Charge for Non-negotiable Cheques" to "Dishonoured Payments", with no change to the existing $25 administration fee.

[161] Currently there is only one bulk water station in service, as part of the existing West Hants Water Utility. An additional bulk water station is expected to be commissioned in Three Mile Plains during the 2024 construction season. The proposed bulk water rate is included in the Schedule of Rates and Charges, based upon the methodology that was used in the previous West Hants Water Utility rate application. The bulk water rate is calculated in the rate study based on projected utility expenses, and water consumption in each of the test years, both of which were revised in the undertaking responses, resulting in revisions to the application's proposed bulk water rate.

8.1 Findings

[162] The Board approves the utility's Schedule of Rates and Charges, including the bulk water rate, as filed in response to the undertakings.

9.0 SCHEDULE OF RULES AND REGULATIONS

[163] The application proposed a Schedule of Rules and Regulations for the amalgamated utility. The applicant noted that the West Hants Utility's Schedule of Rules and Regulations, the most current of the two existing utilities, was used as the basis for the amalgamated utility. Mr. Isenor explained that in preparing the proposed Schedule,

the applicant used more standardized language for consistency with the other recently approved rules and regulations of water utilities in the province.

[164] The applicant provided a list, with explanations, of the proposed changes in rules and regulations for each of the two utilities. For several of the proposed additions and changes to the regulations identified in the IRs, the applicant responded that it used the Public Service Commission of Bridgewater's Regulations as a basis for the wording changes. The IR responses further noted that a clause in Regulation 41, Extensions, relating to the requirement of Board approval, was omitted in error. This was corrected in the amended rate study filed.

[165] Some of the proposed changes and additions to the regulations were discussed during the hearing. Mr. Isenor noted that in its most recent water rate application approved by the Board, Bridgewater proposed a "stronger" set of rules and regulations, using Halifax Water as an example.

[166] Under Regulation 8, Estimated Readings for Billing Purposes-Metered Customers, the utility proposed to have separate sections relating to each of non-commercial customers and commercial customers. While the estimated readings for non-commercial customers are to be for no more than two consecutive billing periods, for commercial customers it is proposed that the estimated readings can be until the metering issue is resolved. In response to the IRs, the applicant explained the proposed wording is due to commercial customers having larger meters that may be difficult to source, due to supply chain issues that have become more significant since COVID-19. The Board questioned the applicant on the wording potentially allowing estimated readings to continue indefinitely before resolving the issue. The applicant explained they would try to

avoid that. It said by removing the “two consecutive billing periods” clause, the proposed wording provides flexibility to estimate both less than two quarters, or more than two quarters, depending upon meter replacement availability.

[167] With respect to Regulation 14, Location of Meters, the Board questioned the general nature of “alteration to a building” which would trigger the need for the customer to be responsible to relocate the meter inside the building and a meter reading device on the exterior of the building at the customer’s expense. In the Schedule of Rules and Regulation filed with the undertaking responses, the applicant added wording to Regulation 14 that this action by the customer would be required by the utility “acting reasonably”.

[168] The applicant explained the proposed changes to Regulation 25, Service Pipes will result in increased costs to new customers served by the Windsor Water Utility, which (unlike West Hants Water Utility customers) currently receive these services at no cost. New clauses are proposed to the regulation, including clauses relating to the change in use of premises, resulting in increased occupancy, and the abandonment of a water service connection. The abandonment clause includes wording on the utility’s possible requirement of the property owner to provide a maintenance bond “to ensure performance of such abandonment”. The Board questioned the feasibility of requiring a maintenance bond for residential customers. The applicant explained that this most likely would not be needed for every residential customer, which is why the wording states that the utility “may” require the bond. In response to undertaking U-13, the applicant confirmed that the proposed changes to Regulation 25, Service Pipes, were taken from Regulation 24 from

the Public Service Commission of Bridgewater Regulations and Regulation 51 from the Halifax Water Regulations.

9.1 Findings

[169] The Board finds that the proposed Schedule of Rules and Regulations is reasonable and is generally consistent with those of other water utilities. The Board approves the Schedule of Rules and Regulations, including Regulations 8, Estimated Readings for Billing Purposes - Metered Customers, Regulation 25, Service Pipes, and the amendment to Regulation 14, Location of Meters, filed with the undertaking responses.

10.0 CONTINGENCY PLANNING

[170] In response to Board IRs, the applicant provided general information on its efforts about contingency planning and emergency preparedness for the utility. It noted that emergency preparedness plans are in place for each of the utility's dams, with dam safety reviews completed for both Mill Lakes and French Mill Brook dams, and plans are in place to bring the Mill Lakes Dam up to standards. A list of current contingency plans was provided, which are reviewed annually as part of the review of each facility's operations manual. Source water protection management plans are reviewed annually, with watershed committee meetings held semi-annually.

[171] The applicant stated that a positive outcome of the 2020 Windsor/West Hants amalgamation is that it currently operates as a combined integrated utility, with utility staff cross-trained in utility operations. It noted that the proposed capital plan for the consolidated utility, including distribution connection, increased water storage, adding a

third process train and control structure upgrades, will decrease risks by increasing resiliency and redundancy. The applicant added that amalgamation will better equip the utility to share resources in the event of an emergency and will allow risk assessment and emergency preparedness planning to be done as a consolidated utility using a consistent approach without duplication.

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

11.0 CONCLUSION

[173] The Board has considered the information presented and approves the amalgamation of the Windsor and West Hants water utilities to form the West Hants Regional Water Utility.

[174] The Board approves the Schedule of Rates and Charges for Water and Water Services provided by the applicant in the rate study filed in response to the undertakings, with effective dates of October 1, 2024, April 1, 2025, and April 1, 2026, with an amendment to the public fire protection charge. As the rates are approved effective October 1, 2024, and not July 1, 2024, as proposed, the approved public fire protection rate in Schedule “A” of the Schedule of Rates and Charges is based on six months at the existing rate and six months at the proposed rate.

[175] The Board directs the utility to establish a capital reserve in which will be deposited any unspent variances in depreciation, principal and interest expenses that the

rate study identified as required during the year, but that were not expended during that year.

[176] The Board also directs the Municipality to study the allocation of costs between the Municipality and the utility before its next rate application.

[177] The Board further approves the Schedule of Rules and Regulations as amended and proposed in the response to the undertakings, with an effective date of October 1, 2024.

[178] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 3rd day of September, 2024.

Stephen T. McGrath

Steven M. Murphy

Bruce H. Fisher