

DECISION

**NSUARB-W-NMIN-R-07
2008 NSUARB 25**

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

IN THE MATTER OF AN APPLICATION of the **New Minas Water Commission** for
Approval of Amendments to its Schedule of Rates for Water and Water Services

BEFORE: John A. Morash, C.A., Member

APPEARING: **NEW MINAS WATER COMMISSION**

Terry Silver
Clerk Treasurer

George C. Baker, BSc., PhD, P.Eng.
Hiltz and Seamone Co. Ltd.

D. A. (Dave) Bell, P.Eng.
Hiltz and Seamone Co. Ltd.

HEARING DATE: November 23, 2007

FINAL SUBMISSIONS: December 4, 2007

DECISION DATE: **March 28, 2008**

DECISION: **Schedule of Rates and Charges Approved, as Amended**

Schedule of Rules and Regulations Approved

SUMMARY

[1] The New Minas Water Commission (the "Applicant", the "Utility") applied to the Nova Scotia Utility and Review Board (the "Board") for amendments to its Schedule of Rates for Water and Water Services pursuant to the *Public Utilities Act* (the "Act"), R.S.N.S. 1989, c. 380. The existing Schedule of Rates for Water and Water Services has been in effect since April 1, 2003. The Application did not initially propose any amendments to the Schedule of Rules and Regulations. However, upon further review, the Applicant requested approval of an amendment to one of the existing regulations dealing with suspension of service for non-payment of bills. The existing Schedule of Rules and Regulations has been in effect since April 1, 2003.

[2] A Rate Study to support the Application, prepared by Hiltz and Seamone Co. Ltd. and dated August 2007, was submitted to the Board on August 31, 2007 (Exhibit N-1). A revised Rate Study, which amended some minor errors in the original study, was filed as part of the Utility's response to the Board information requests received on November 16, 2007 (Exhibit N-4). The rates included in the revised study differ slightly from those proposed in the Application. A revision to one of the revised rate study schedules pertaining to current financial information and not affecting the rates contained in the revised study was filed with the Board at the public hearing , as Exhibit N-6. It is the rates proposed in the original Rate Study (Exhibit N-1) which were contained in the Notice of Public Hearing (Exhibit N-5).

[3] The Application proposes rates effective January 1, 2008 and April 1, 2008, based upon the average costs over the test years of 2008/09, 2009/10 and 2010/11. Based upon the original filing (Exhibit N-1), the proposed increase in the quarterly base charge for residential (5/8" metered) customers is from \$19.50 to \$25.40, or a 30.3% increase. The proposed increases for the other metered base charges (3/4" to 4" meter sizes) are between 9.9% and 28.6%. The consumption rate is proposed to increase 50.0% from \$0.428 per cubic metre to \$0.642 per cubic metre for all levels of consumption. These increases are proposed to be effective January 1, 2008.

[4] As a result of the revised filing (Exhibit N-4), the base rates for the 3/4" and 1" customers are increased slightly. The proposed quarterly base rate for the 3/4" customer in the original application is \$36.00, which is amended to \$37.00 in the revised filing. The proposed quarterly base rate for the 1" customer in the original application is \$56.00, which is amended to \$58.00 in the revised filing. All of the other base charges and the consumption charge are not amended in the revised filing.

[5] The Application also proposes amendments to the formula used to calculate the annual public fire protection charge to be paid by the Village of New Minas (the "Village") and the Municipality of the County of Kings (the "Municipality, the "County") to the Utility. The total fire protection charge is apportioned between the Village and the County based upon the number of hydrants in each jurisdiction. Due to administrative difficulties associated with changing the fire protection charge during a fiscal year, it is not proposed to amend the existing formula at the time of the proposed rate increases for water rates on

January 1, 2008. The fire protection formula is proposed to be amended April 1, 2008. The proposed amendment results in a decrease in fire protection charges. For example, for the year ended March 31, 2009, the current formula calculates a public fire protection charge of \$397,825, whereas the proposed formula calculates a public fire protection charge for the same period of \$288,532, or a 27.5% decrease.

[6] The revised filing (Exhibit N-4) contains minor amendments to the proposed fire protection formula which results in a slight decrease to the fire protection charge calculated for the year ended March 31, 2009 to \$284,206.

[7] The public hearing was held at the New Minas Civic Centre on November 23, 2007, after due public notice. The Utility was represented by Terry Silver, Clerk Treasurer of the Village; as well as D.A. (Dave) Bell, P.Eng.; and George Baker, BSc., PhD, P.Eng.; both of Hiltz and Seamone Co. Ltd., the Utility's consulting engineers who prepared the Rate Study and the revised filings supporting the Application. Prior to the hearing, the Board received correspondence from four of the Utility's customers, as well as responses from the Utility with respect to the concerns outlined in the letters. Another letter of comment from a customer of the Utility was filed during the hearing. These letters of comment and replies from the Utility were filed as Exhibit N-7.

[8] A rate increase is approved, as amended from the Application. The requested change to the Schedule of Rules and Regulations is approved.

INTRODUCTION

[9] The Utility's source of supply is groundwater through nine cased and gravel packed wells of an average depth of 105 metres, which are located within the Village. A tenth well was constructed in 2006/07, but was not yet in service at the time of the Application. Water from the wells is pumped to two reservoirs, each having a capacity of 4,545 cubic metres (1 million gallons) which are connected by a transmission main. The water is then distributed to the Utility's customers.

[10] The Utility currently serves approximately 1,460 customers, of which 121 are located outside of the Village. All of the Utility's customers are metered. The portion of the Utility's distribution system which is located outside of the Village's boundary consists of donated assets which were constructed by the County in 2004 and handed over to the Utility. The donated assets, consisting of distribution mains, laterals, hydrants, valves and fittings were constructed to extend the Utility's service to the Greenwich area and to the Canaan Heights Subdivision development.

[11] In order to comply with the provisions of the Nova Scotia Department of Environment and Labour's ("NSEL") *A Drinking Water Strategy for Nova Scotia (Drinking Water Strategy)*, the document - 'System Assessment Report Village of New Minas, Kings County, Nova Scotia' ("System Assessment") was prepared by Hiltz and Seamone Co. Ltd. and W.G. Shaw and Associates Ltd. in December 2004 and filed as part of Exhibit N-4. The System Assessment identified deficiencies in the current system's infrastructure, which need to be addressed by April 1, 2008. The majority of the items identified have been

dealt with, or are in the process of being completed. The proposed asset additions and funding are included in the Application.

[12] The Application was presented to the Board based upon the need to adjust the rates due to the Utility's present financial requirements, related in particular to increasing operating costs and the capital costs associated with compliance with Provincial Regulations.

[13] Unless otherwise noted, the references in the decision to the Application will refer to the original submission (Exhibit N-1).

RATE REVIEW

A. OPERATING EXPENSES

[14] The Utility's 2007 audited financial statements (Exhibit N-2) indicate that the Utility had an excess of revenue over expenditure for the year ended March 31, 2007 of \$10,565, and an accumulated operating deficit as at that date of \$226,565. The Application indicates that the accumulated operating deficit as of that date is actually \$482,800. The Rate Study explained the following changes which were made to the audited financial statements:

(1) - In the 2004/05 annual report the transfer of \$135,000 from capital fund to operating fund was recorded as operating revenue and deducted from the accumulated depreciation in the capital fund. For present purposes these entries have been reversed and the transaction shown as a loan of \$135,000 from capital to operating, as originally recorded in the Utility accounts.

(2) - In 2005/06 a similar transfer of \$35,450 [sic - revised in IR-17, Exhibit N-4 as \$53,450] was also adjusted.

In the operation statements for both 2005/06 and 2006/07 the total fire protection charge was correctly shown as public fire protection while the share of fire protection costs charged to the Municipality of Kings was included as other revenue, a duplication of about 20 percent of the charge. The 2006/07 error has been corrected in the exhibit.

[Exhibit N-1, p. 5]

- [15] The Utility provided a reconciliation of the operating deficits indicated in the financial statements and the Application in response to Undertaking U-3:

Year	04/05	05/06	06/07
	\$	\$	\$
Per Audited Statement	391,761	237,130	226,565
Revenue reduction, (a) above	135,000	135,000	135,000
Revenue reduction, (b) above		53,450	53,450
Fire Protection charge overbilled			63,929
Interest charge duplicated	-----	-----	<u>3,856</u>
Total additions to deficit	135,000	188,450	256,235
Deficit adjusted as above	526,761	425,580	482,800
Deficit per Exhibits 4 and 12	526,761	425,580	482,800

Due to the duplication of the interest charge, the deficit shown in the exhibits from 06/07 onward is \$3,856 higher than it should be.

- [16] Based upon these adjusted figures, the Application projects that at current rates, there will be an excess of expenditure over revenue for each of 2008/09, 2009/10, and 2010/11 of \$34,210, \$30,918 and \$31,011, respectively, which results in projected accumulated operating deficits for each of those years of \$560,325, \$591,244 and \$622,254, respectively. As noted above, there were revised filings (Exhibits N-4 and N-6) to the Board which made some minor corrections to the original filing. The projected excess of expenditure over revenue in the revised filings, at current rates, for each of 2008/09, 2009/10 and 2010/11 is \$39,615, \$39,669 and \$37,251, respectively, which

results in projected accumulated operating deficits for each of those years of \$574,105, \$613,774 and \$651,026, respectively.

[17] At the proposed rates (Exhibit N-1) there is a projected accumulated operating deficit of \$503,315 in 2008/09, \$479,807 in 2009/10 and \$452,209 in 2010/11, which is indicated in the revised filings (Exhibit N-4) to be \$510,110, \$487,619 and \$460,992, respectively. During the hearing, the Board noted that in the Utility's last rate application in 2002/03, it was projected that there would be an accumulated operating deficit as at March 31, 2007 of \$167,000 and questioned why the deficit is actually approximately \$500,000. Mr. Baker noted that his opening comments addressed this issue. He stated that since the last application, the Utility has obtained qualified superintendents and it was noticed that there was a backlog of maintenance. He added that the compliance with NSEL Regulations which has been put in place since preparing the 2002 application has been costly. A further additional cost which he identified is the treatment required to address the aggressive quality of the water being supplied. In response to Undertaking U-5, the Utility indicated that the additional effect on the statement of operations imposed as a direct result of NSEL Regulations is a total of \$333,000 over the period of 2005/06 through 2010/11, or about \$56,000 per year on average in operating costs and an additional \$7,700 annually from 2007/08 onward due to capital costs.

[18] The Board questioned the Utility with respect to concerns over the significant operating deficit:

Mr. Baker: Mr. Chairman, could I say one more thing on that topic?

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I think the Utility and Review Board would always be nervous about the ability of a utility to provide continuity of service, but I don't think that's prejudiced at all in the case of New Minas by a deficit of a half a million dollars.

If you look at the utility as a whole, it's got a surplus of, oh, I don't know, 3.5 million, four million dollars.

Chair: You're looking at your capital fund.

Mr. Baker: Absolutely. Now, you know, if it were an unregulated business, it would look pretty good. It's regulated and, to a certain extent, the accounting rules of the Board tend to make, tend to make the path between the revenue fund and the capital fund a bit of a one-way street, so - and justifiably so. I'm not complaining about it.

But the financial wherewithal of the village and the Utility wouldn't give me a moment's concern.

[Transcript, p. 78]

Mr. Baker added that with the proposed rates the deficit will shrink over time and that if the time period was shortened, "...you're going to be into a rate shock thing again" [Transcript, p. 75].

[19] The Utility's projected operating costs, which assume annual inflation at 3%, were reviewed by the Board. The Rate Study noted that since the time of the last rate application in 2003, the Utility has taken over the billing function from the Municipality with an annual savings of about \$30,000 and a shortening of the collection time by two months. [Exhibit N-1, p 3].

[20] One of the largest projected increases is in salaries and benefits, which are projected to increase from \$117,967 in 2006/07 to \$170,597 in 2007/08. The Utility explained the proposed increase:

There are four reasons for this:

1. In the past, the salary for the Admin Assistant/Accountant for the Village, was split between the Water Utility and the Village Commission in a 20/80 ratio. It was determined in 2007/2008 that this split was not appropriate since these two

individuals in particular spend a great deal of time working on the water bills due to the fact that the Village now produces and collects utility billings. It was changed as a 50/50 split.

2. The non-management staff of the Village and Water Utility are covered under the IUOE contract, and in 2006/2007, although the contract was up for negotiation, that process did not take place. In budgeting for 2007/2008, an amount was budgeted in anticipation of retro-active pay to April 1, 2006.
3. Casual administrative personnel has been hired for the public works/water/parks departments to carry out necessary administrative functions. Those functions for the Water Utility are specific to new reporting requirements under provincial regulations which are above and beyond those duties carried out by regular staff (eg. recording SCADA results in a spreadsheet for use by the Village's Engineers and Hydrologist and for reporting to Department of environment). Also, part of the Utility's on-going program for location and documentation of its infrastructure requires constant updating to the data bank. The cost for the water portion of these programs is charged to the utility.
4. The Village of New Minas has a Payroll Policy which includes reviewing the salary scales for non-unionized staff every three years. Anticipated increases due to this review had to be budgeted for in 2007/2008.

[Exhibit N-4, IR-25]

[21] The Board further questioned the Utility as to whether any of the projected operating costs could be deferred. Ms. Silver stated:

...I, personally, think we have bare bonesed [sic] the expenses and have - we have some very accurate, precise information that we used to calculate these expenses. It would be difficult.

[Transcript, p. 64]

[22] The depreciation rates set out in the Application are generally consistent with the *Water Utility Accounting and Reporting Handbook* (the "Handbook"), with the exception of the pump house at 40 years, as opposed to the 50 years specified in the *Handbook*, and distribution mains at 50 years, as opposed to the 75 years specified in the *Handbook*. The Utility explained these deviations:

- (a) the rate applicable to wells allows for a redevelopment at 25 years and a total life of 40 years. The useful life of any structure associated with a well would necessarily be the same.

(b) distribution mains would probably last longer than 50 years but would be expected to tuberculate to the extent that they would no longer provide design fire flows in this system.

[Exhibit N-4, IR-13]

The Application requests Board approval of a depreciation rate for SCADA at 10%, which is not specifically identified in the *Handbook*.

[23] The Application calculated a figure of 32.54% as lost and unaccounted for water. It further states:

... It is thought that losses and unsold water probably account for not more than 15 percent of production and that meter troubles account for the remainder of the apparent losses.

[Exhibit N-1, p. 3]

The basis for the 15% figure was explained by the Utility:

This is an estimate by the Utility's engineers based on the size, type and age of pipe in the system; the fact that pipe breaks in the past have been readily detected by the presence of surface water while such indications are absent at present; and the experience of other utilities in the district.

[Exhibit N-4, IR-6]

[24] The water loss was further discussed during the hearing:

Mr. Baker: The 15 percent is not necessarily a good figure, but we're, we're hopeful that we can narrow down the, narrow down the scope of possibilities to the point where some action can be taken to do something about it.

Chair: So are you - did I understand you're saying that you're fixing the problem? Are you replacing the meters?

Mr. Bell: There have been new meters put in in each of the new - each of the well heads have new...

Chair: Each of the well heads have...

Mr. Bell: ...different technology meter that's much more reliable than what was there in the past. They were aging meters.

Chair: Well, I don't think at this point, then, there's any point in talking about - you have to do this step by step, don't you? You have to start at the wells.

Ms. Silver: That's right.

[Transcript, p. 49]

Findings

[25] The Board is concerned with the level of the Utility's operating deficit. The March 31, 2007 audited financial statements for the Utility indicate an accumulated operating deficit of \$226,565. With the adjustments explained by the Utility, the actual deficit is currently approximately \$500,000, which is significantly higher than that appearing in the audited 2007 financial statements. The Board has insufficient information to comment definitively on the validity of the adjustments. The Board notes that the deficit adjustments proposed by the Utility do not affect the proposed rates, and that the deficit is projected to be reduced by approximately \$50,000 by 2010/11. The Board understands that, in addition to the adjustments set out above, this deficit is due in part to costs associated with regulatory compliance and the Utility has stated that attempting to reduce the deficit at a faster pace will result in further rate increases. Given the information presented, the Board accepts the Utility's projected operating expenses as filed in the original Application (Exhibit N-1). The Board further accepts and approves the requested depreciation rate of 10% for SCADA, which is consistent with the rate used recently in other applications. The Board also approves the Utility's depreciation rates with respect to the pump house and the distribution mains.

[26] The Board is concerned with the Utility's high water losses and encourages the Utility to continue to investigate and reduce the losses. The costs to treat and distribute

water to the Utility's customers is a significant portion of its operating expenses and reducing the 'waste' of this water, will have a positive impact on the Utility's financial health, and ultimately the rates payable by the Utility's customers.

B. PROPOSED CAPITAL BUDGET

[27] The Application includes the Utility's projected capital additions, totalling \$692,263 in 2007/08, \$248,110 in 2008/09, \$252,430 in 2009/10 and \$13,225 in 2010/11. The capital projects are mainly required to meet NSEL Regulations as set out in the System Assessment Report. The following is a breakdown of the projects, costs and funding:

2007/08			
Meters	\$15,363		
Test Wells	\$37,071		
Production Wells	\$34,089		
Well Renovations	\$58,667		
Monitoring Wells	\$38,787		
Water Mains	\$32,375		
Autoflush	\$3,103		
SCADA	\$207,000	MRIF Grants	\$304,356
UV System	\$230,000	Gas Tax	\$168,369
Miscellaneous	<u>\$35,808</u>	Utility's portion	<u>\$219,539</u>
	\$692,263		\$692,264
2008/09			
Meters	\$12,240		
Test Wells	\$18,527	MRIF Grants	\$ 95,644
SCADA	\$207,000	Gas Tax	\$ 70,113
Well House	<u>\$ 10,343</u>	Utility's portion	<u>\$ 82,353</u>
	\$248,110		\$248,110
2009/10			
Meters	\$12,630	Gas Tax	\$ 79,933
Water Mains	<u>\$239,800</u>	Utility's portion	<u>\$172,497</u>
	\$252,430		\$252,430
2010/11			
Meters	\$13,225	Utility's portion	\$ 13,225

[28] In a letter dated October 25, 2007, the Board approved projects totalling \$743,326, with funding as follows:

MRI Funding	\$400,000
Gas Tax Funding	\$129,890
Depreciation Fund	<u>\$213,436</u>
	\$743,326

The letter noted the following:

It is the Board's understanding that the majority of the above noted projects are necessary in order to comply with the requirements set out in the Provincial Environmental Regulations which come into effect on April 1, 2008. A review of the Utility's financial statements for the year ended March 31, 2007 indicate that the Utility had an accumulated operating deficit as of that date of \$226,565. The Board notes that the Utility has recently filed a rate application, and a public hearing is scheduled on November 23, 2007.

This is to advise that the Board approves the above noted request with the understanding that the funding for these projects is included in the Utility's recent rate application.

[Board's letter dated October 25, 2007]

[29] The approval of the external funding was discussed at the hearing:

- ____ Chair: So they've all been approved. So, in other words, the 472 plus the 165, that totals about...
- Mr. Baker: Yes.
- Chair: ...630,000.
- Mr. Baker: Yes.
- Chair: So those are now approved.
- Mr. Baker: I would call the, I would call the, what is it, the MRIF...
- Mr. Baker: Yes.
- Mr. Baker: ...grants approved completely, you know. But with the, with the tax grants, I think they're approved in principle, but then they're not finally approved 'til we submit the invoices for the work.
- Chair: Okay. So...
- Mr. Baker: With all intents and purposes, I think they're approved.
- Chair: Yes. So you're comfortable with leaving them there.

Ms. Silver: Yes, I do. Definitely.

Chair: Thank you.

[Transcript, p. 106]

Mr. Baker further explained that although the external funding has been approved, there may be some timing differences between the receipt of the invoices for work done and the receipt of the external funding from the gas tax rebate, noting that the Utility will have to look at short term financing.

[30] With respect to the Utility's portion of the funding of the capital projects, the Applicant stated:

The Utility portion of capital expenditures is assumed to be paid entirely from the Capital Fund as shown in Exhibit 4, page 3; "Financial Activities of the Capital Fund":

YEAR	08/09	09/10	10/11
AMOUNT	\$82,352	\$172,497	\$13,225

[Exhibit N-4, IR-12]

It is indicated in the Application, both in the original (Exhibit N-1) and in the revised filing (Exhibit N-4) that with the proposed use of depreciation funds to fund the Utility's portion of the capital projects, the Utility will have a depreciation fund balance of \$575,336 at the end of the test period, 2010/11, and a balance of \$804,954 at the end of 2011/12. Mr. Baker further commented on the depreciation fund balance:

And I think that the thing we postulated is - gives us the least financing costs. Now, I know the Board was worried about the drain on depreciation funds, but they're going to be - they're projected to be in excess of \$800,000 at the end of the test period and going up at 225,000 a year after that. And they should - that should be adequate.

So I don't think we're, I don't think we're robbing the future to absolutely minimize the financing cost at present.

[Transcript, p. 69]

[31] The Application had requested Board approval to use the Utility's Special Reserve Fund to assist in the purchase of the engine-generator set scheduled for purchase in 2007/08. In response to an information request (Exhibit N-4, IR-55a), the Utility indicated that it is no longer asking for approval to use the Special Reserve Fund at this time.

Findings

[32] The Board notes that the majority of the capital items identified in the Application for the test period are necessary in order to comply with NSEL Regulations. A significant portion of the proposed funding is to come from external sources, with the balance coming from the Utility's depreciation fund. The Board is generally concerned about the impact of significant withdrawals from a utility's depreciation fund on the ability to fund future capital projects. However, in this case it appears that the Utility will retain a healthy depreciation fund balance after considering the proposed withdrawals.

[33] The Board finds the proposed capital budgets contained in the Application to be reasonable. However, the Utility is reminded that the inclusion of the proposed capital projects in the Rate Study does not constitute Board approval of these projects. Separate Board approval is required for projects in excess of \$25,000, which were not previously approved in the Board's letter dated October 25, 2007, as set out in s. 35 of the *Act*.

C. NON-OPERATING EXPENDITURES AND REVENUE

[34] Included in the revenue requirements of the Rate Study for the test years are projections of non-operating expenditures of debt repayment, term debt interest, and bank interest. The non-operating revenue consists of interest and amortization of deferred assistance, as well as the transfer of funds from the depreciation fund to be used towards debt repayment.

[35] The Application states the following recommendation:

The Utility and Review Board (the Board) should be petitioned to approve use of depreciation funds (a) to pay the final three installments of outstanding term debt, and (b) the Utility portion of funding for the capital expenditures projected herein.

[Exhibit N-1, p.8]

The Utility further explained the rationale for the proposed \$25,000 transfer from the depreciation fund for each of 2007/08, 2008/09 and 2009/10:

- (a) Repaying debt incurred for purchase of plant from depreciation funds rather than revenue enables greater reduction of bank charges at a given level of rates and was therefore the chosen strategy.
- (b) If the board grants permission to follow the method of financing proposed in the rate study including the above use of depreciation funds, the depreciation cash is expected to exceed \$800,000 at March 31, 2012, increasing at about \$225,000 per year. This should be more than ample to fund any foreseeable replacement of present plant in service. If it should in the future become in the public interest to make a major expansion to provide service to additional areas of the County, then grants or capital contributions would, in the Utility's opinion be financially necessary and in any case essential to preserve equitable rates for existing customers.

[Exhibit N-6, IR-16]

The other items included in non-operating revenue are minor, consisting of interest revenue of \$748 and \$2,992 in each of 2009/10 and 2010/11, respectively, and annual amounts of \$689 as amortization of deferred assistance.

[36] In addition to the principal debt repayment of \$25,000 in each of 2007/08, 2008/09 and 2009/10, which is proposed to be funded by the depreciation fund, the non-operating expenses consist of interest payments on the existing debt of \$5,000 in 2007/08, \$3,344 in 2008/09 and \$1,672 in 2009/10. The Utility is projecting no debt payments after 2009/10. The other non-operating expense item is bank interest in the amounts of \$6,942, and \$4,897 in 2007/08 and 2008/09, respectively and -\$7,029 in 2010/11. The Utility explained the negative figure as being due to net bank interest being projected as interest income.

[37] The revised filing (Exhibit N-4) amends the non-operating expense item bank interest to \$5,483 from \$4,897 in 2008/09 and to \$-6,416 from -\$7,029 in 2010/11. All of the other non-operating revenue and expense items remain unchanged from the original filing.

[38] The Application is based upon a return on rate base of \$18,991. In response to the Board's questions with respect to this figure, the Applicant explained:

Mr. Chairman, that was a judgment figure. We, we have a model of the - a financial model of the Utility's system, and we can plug in any return we like and see what the effect is on the bottom line. And the \$19,000 figure was going to give us a minimal reduction, but nevertheless, a positive reduction of the operating fund indebtedness.

[Transcript, p. 17]

[39] The Utility provided a calculation of the Utility's return on rate base for the test year in response to Undertaking U-1. Based upon a test year operating profit of \$18,848, as contained in the revised filing (Exhibit N-4), the calculated return on rate base is 0.3468%. The original filing (Exhibit N-1) indicates an operating profit of \$18,991, which results in a return on rate base of 0.349 %.

Findings

[40] The Board notes that there is no new debt included in the Application, as the Utility has decided to fund its portion of the capital projects from the depreciation fund. As noted above, the Utility projects that it will continue to have a healthy depreciation fund balance with the withdrawal of funds, both for capital funding and for the proposed repayment of debt. Accordingly, the Board approves of the transfer of depreciation funds in the annual amount of \$25,000, with the final transfer during the 2009/10 year.

[41] The other non-operating expense and revenue items are minor and the Board accepts them as presented in the Application.

[42] The Board has considered the Utility's return on rate base of approximately \$19,000 which allows for a minimal reduction in the Utility's accumulated operating deficit. As noted above, any increase in return on rate base will have the effect of further increasing rates which are already proposed to have significant increases. Accordingly, the Board approves the rate of return on rate base, as presented, of 0.35% .

D. ALLOCATIONS OF REVENUE REQUIREMENT

i) Public Fire Protection

[43] The Utility provides public fire protection to both the Village and the Municipality. Currently there are 139 hydrants in the Village and 35 in the Municipality. The Applicant has indicated that these numbers are not expected to change in the near

future. [IR-34, Exhibit N-4]. During the hearing, Mr. Baker confirmed that the fire flows throughout the system are reasonable.

[44] The methodology used in the determination of the public fire protection charge is generally consistent with the Board's *Handbook*, with the exception of higher than usual allocations of demand assets to fire protection. The *Handbook* allocates demand assets at 60% to fire protection. The Rate Study allocates distribution reservoirs, transmission mains and distribution mains to fire protection at 78.93%, 90.7% and 82.23% respectively. The Utility provided a calculation supporting the allocation of the distribution reservoirs:

The calculations are based on a required storage capacity for consumers of 700,000 gallons with the remaining 1,300,000 gallons of storage devoted to supply of fire flows in New Minas and Greenwich. The first tank was too remote to deliver fire flows in Greenwich. The costs used in the calculations are initial costs.

	First reservoir	Second reservoir	Totals	Factor
(a) Cost, \$	321,621	1,130,747	1,452,368	1.0000
(b) Consumer storage	600,000 gals	100,000 gals	700,000	
c) Fire flow	400,000 gals	900,000 gals	1,300,000	
Demand responsibility				
a*b/1,000,000	192,973	113,075	306,048	0.2107
Fire responsibility	128,648	1,017,672	1,146,320	0.7893
(a)*(c)/1,000,000				

[Exhibit N-4, IR-37]

[45] The Applicant explained the higher than usual allocations of the transmission and distribution mains to fire protection:

The village has the largest assemblage of commercial, industrial or institutional fire risks in Western Nova Scotia, spread out along Commercial Street from a point near the Kentville boundary in the west to Old Orchard Inn and the new Horton District High School at Greenwich in the east. This creates a need for greatly oversizing many distribution mains and is the sole underlying reason for a large transmission line.

[Exhibit N-4, IR-39]

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[46] During the hearing the Board, referring to the response to the above-noted information request, further questioned the Utility with respect to the allocations to fire protection of the transmission and distribution assets:

Well, it - the answer, I believe - the response, I believe, is germane to the question. It may not be the whole thing. Really, those figures exclude by the fact that the second reservoir had to be placed far to the east of the first one in order to get the required fire flows for the new Horton District School and the hotel that's located on the same street.

And that required the construction of a transmission line between the two reservoirs to keep the water level in both of them, and apart from fire considerations, if we needed another reservoir, it could have gone 100 feet from the first one and saved two miles of expensive transmission line.

And when you, when you figure that in, the transmission goes a way up and then, if you look at the, at the distribution mains, you're - you have four miles where you have to keep the - where you have to produce various fire flows. And that puts the distribution a way up as well, so we don't think they're unreasonable.

[Transcript, p. 37]

[47] The Application proposes a total fire protection charge based upon the following formula, effective April 1, 2008:

The sum of (a), (b), and (c), where:

(a) = 36.25% of the depreciation charged to expense by the New Minas Water Utility in the immediately preceding fiscal year.

(b) = 34.40% of the operating expense excluding depreciation incurred by the New Minas Water Utility in the immediately preceding fiscal year.

(c) = 0.174% of the rate base of the New Minas Water Utility as at March 31 of the immediately preceding fiscal year.

The current fire protection charge is based upon the following formula:

The sum of (a), (b), and (c), where:

(a) = 43.98% of the depreciation charged to expense by the New Minas Water Utility in the immediately preceding fiscal year.

(b) = 28.48% of the operating expense excluding depreciation incurred by the New Minas Water Utility in the immediately preceding fiscal year.

(c) = 2.321% of the rate base of the New Minas Water Utility as at March 31 of the immediately preceding fiscal year

The fire protection charge is apportioned between the Village and the Municipality based upon the number of hydrants in each jurisdiction. Due to the minor amendments filed in the revised Rate Study (Exhibit N-4), it proposes the following formula:

The sum of (a), (b), and (c), where:

(a) = 38.2% of the depreciation charged to expense by the New Minas Water Utility in the immediately preceding fiscal year.

(b) = 33.1% of the operating expense excluding depreciation incurred by the New Minas Water Utility in the immediately preceding fiscal year.

(c) = 0.18% of the rate base of the New Minas Water Utility as at March 31 of the immediately preceding fiscal year

[48] In response to Undertaking U-4, the Applicant filed the actual fire protection charges, based upon the revised filing (Exhibit N-4). For 2008/09, 2009/10, 2010/11 and 2011/12, the rates based upon the current formula are \$400,828, \$410,438, \$415,762 and \$415,419. The rates based upon the revised formula for the same time period are \$284,206, \$297,269, \$309,500 and \$311,481, respectively. The fire protection charges calculated in the revised filing (Exhibit N-4) are slightly less, on average, than those which would be calculated using the formula proposed in the original study (Exhibit N-1).

[49] The proposed formula results in a significant decrease in the fire protection charge which Mr. Baker explained as:

....the cost of providing fire protection services has gone down, gone down about \$100,000. Not because those - there are less hydrants or anything like that, but because the water related - the production-related costs have gone up.

So we need another 155 or 160 thousand dollars extra from consumers, \$55,000 to cover the increase in utility costs and \$100,000 to replace what would be collected in fire protection charges. So that is the basis, and that's why we're faced with such a large increase for consumers.

[Transcript, pp. 11-12]

[50] The reduction in the fire protection charge and its effect on rates was further discussed during the hearing:

Chair: Just - I just have one question right now, Mr. Baker. And you mentioned the 55,000 for costs and then you mentioned the extra 100,000 for a total of 155,000. What was that 100,000? What is the - what does that represent?

Mr. Baker: That is because the, the income from the fire protection charge is - has got to go down by \$100,000.

Chair: So that has to be made up.

Mr. Baker: By consumers.

Chair: Yes. And that comes out of your cost of service study.

Mr. Baker: Yes.

Chair: Yes.

Mr. Baker: And I, I may say that the, the figures are based on an exact costing, and the Board may want - may or may not want to put all the, all the costs of reducing the fire protection rate on the consumer rates at once. I don't know.

But we have - in the cost of service study, we have allowed for an immediate correction. Not perhaps quite immediate because you can't - it's administratively almost impossible to change the fire rate in the middle of a fiscal year, so we're proposing that the fire be changed the 31st of March, 2008, whereas the consumer rates would be changed at December 31st, if the Board can make that timetable.

[Transcript, pp. 13-15]

[51] During the rate hearing, the Board questioned the Applicant as to whether it had considered phasing-in the proposed decrease in the fire protection charge in order to smooth out the proposed increases in customer rates. Mr. Baker responded that he didn't think that would be allowed, so that scenario was not considered.

Findings

[52] The Board has reviewed the methodology used to determine the fire protection charge. Some of the allocations used differ from those presented in the *Handbook*. The Board notes that if the fire protection allocations were lowered to those contained in the *Handbook*, there would be a further reduction in the fire protection charge which would have to be recovered by further increases in the rates to the Utility's customers. The Utility has provided an explanation for the increased allocations which appear to be reasonable. The Board, therefore, accepts the methodology used by the Applicant. The Board directs the Utility to review, and revise, if necessary, the allocations prior to the next rate application.

[53] While the Board accepts the methodology used to determine the public fire protection charge, the Board does not believe that it is reasonable to propose such a significant decrease in the charge at one time, albeit cost based, while the customer charges are proposed to significantly increase at the same time. Accordingly, the Board approves the decrease in the fire protection charge to be phased-in over two periods. In the first period, the fire protection charge will be approved as a fixed charge, based upon increasing the calculated public fire protection charge by \$55,000, with a corresponding decrease in the revenue requirement from Utility customers of \$55,000. In the second period, the fire protection charge formula and the revenue requirement from Utility customers, as proposed, will come into effect. This will allow the Utility to meet its revenue requirement, while phasing-in the significant decrease in the fire protection charge.

[54] The Board has approved the fire protection formula as contained in the original filing.

ii) Utility Customers

[55] The methodology used to allocate the expense items to the various categories is generally consistent with the *Handbook*, with a few exceptions. In the *Handbook* the expense items are directly allocated to base, customer, production and delivery. In the Application, the allocations of the expense items are made to demand, production and consumer. After the allocations are made, the demand amount is allocated at 75% to consumer and 25% to production. The Application explained this adjustment:

Water use would create least demand on the system if it consisted of a continuous unvarying flow. In that case the demand requirement would be set by the average flow. Where the flow is varying or intermittent the demand for a given amount delivered is higher. In this system the average demand is about a quarter of peak demand and in recognition of this 25% of demand costs are attributed to average flow and charged to consumption. Note that this is the least demand at which actual use can be met. The balance of demand costs are added to customer costs for collection of the base charge.

[Exhibit N-4, IR-46(b),(c)]

[56] The Application calculates the base charge using a capacity cost and a consumer cost, which was described:

The criterion for separating customer costs into the categories 'per customer' and 'per unit capacity' as set out in section 7 of the rate study report can be paraphrased as follows: Per customer costs are independent of the size of the customer's service, meter or consumption while per unit capacity costs are affected by such factors. Perhaps these criteria can be made clearer by consideration of some examples. Depreciation charges do indeed depend on the capacity of any given meter. The charge is greater for a two inch meter than a .625 inch meter. Therefore meters belong in the per unit capacity category. By contrast billing costs are not affected by size or consumption. It takes the same time and cost to read any given meter regardless of size. Thus meter reading and billing costs belong in the 'per customer' category.

[Exhibit N-4 , IR-47]

[57] The proposed base charges as presented in the Application (Exhibit N-1) are based upon 'rounding' the calculated base charge. The Rate Study notes:

... Some rounding is applied to the calculated costs. The charge for 5/8 inch meters is reduced to make the rate increase slightly less onerous for small users while the charge for larger sizes is increased slightly.

[Exhibit N-1, p.7]

In response to Board questions, Mr. Baker further explained the process:

What we did, Mr. Chairman, was to round up on the base charge and round down on the - we rounded up the base charge for the higher meters and rounded down on the - slightly on the, on the water rate. And that is not a cost-based rounding at all. It's a rounding to try to reduce the impact on people in - on small users in stricken circumstances, people living on the Old Age Pension and so on and so forth.

And the - we, we try to soften the blow on - slightly on people who would be using through 5/8 inch meters a very small amount of water.

[Transcript, p. 39]

The Board further questioned the Applicant with respect to any difficulties in the modifications from a cost based rate. Mr. Baker noted:

I - Mr. Chairman, I guess the only answer to that is that if you look at Bonbright, the desirable attributes of rates, you would see a number of things, and you try to satisfy as many as you can. But we're really sticking quite close to costs here.

[Transcript, p. 41]

[58] The revised filing (Exhibit N-4) uses the same rounding process in the determination of base rates and proposes no changes to the base rates as presented in the Application (Exhibit N-1), with the exception of the rates for 3/4" and 1" meters. The 3/4" quarterly base rate in the Application is \$36.00 and it is proposed as \$38.00 in the revised filing. The 1" quarterly base rate is \$56.00 in the Application and is proposed as \$58.00 in the revised filing. The proposed increases in the base rates range from between 9.88% for a 4" meter to 30.26% for a 5/8" meter.

[59] The calculation of consumption rates in the Application (Exhibit N-1) is based upon annual consumption over the test year of 601,814 cubic metres, which is associated with an annual increase of approximately 1% of the Utility's current customer base of 1457 customers. Both the original Rate Study and the revised filing propose a consumption rate of \$0.642 per cubic metre, based upon slightly lowering the calculated figure through 'rounding'. The proposed rate represents an increase of 50% over the current consumption rate of \$0.428 per cubic metre

[60] Given the proposed percentage rate increase, the Board questioned the Utility as to whether it had considered phasing-in the customer rates over a period of time. Mr. Baker explained that:

...if we phased in, we would have to end up with a higher rate, and I think there's something to be said for keeping the - well, facing the bad news when it comes. We have a large revenue fund deficit.

If we phase in, we're allowing that deficit to get worse, we're adding interest costs to the money that has to be recovered, so we have to take more out of the customers in the end.

[Transcript, pp. 54-55]

[61] With respect to whether the proposed rates could be described as 'rate shock', Mr. Baker noted:

Well, it depends. It - for the ordinary consumer, the ordinary domestic consumer, I don't believe it's rate shock. It may be rate shock for domestic consumers on - in stricken circumstances, and it may be close to rate shock for very large users. But I - it isn't that I don't have any sympathy for their problems, but they have, they have ways to modify their usage.

[Transcript, p. 56]

He further confirmed that, in the case of the proposed overall increase for domestic customers of 40%, he does not consider this to be rate shock, based upon the magnitude of the dollar amount involved, from \$40.90 to \$57.50 per quarter.

[62] In terms of whether the proposed rate increases ensure the Utility's future financial stability, Mr. Baker explained:

To a small degree, it's a holding pattern. I - we thought that we would make some progress toward cleaning up the deficit and getting the operating fund in proper financial shape, but if we are losing 30 percent of the water, then we have, we have perhaps a chance to save, let us say, 20 or 30 thousand dollars in pumping costs and treatment costs every year.

And to the extent that that was in the offing, this is, this is just holding. But if that comes out, if we can save anything on the water question, then these rates have to be pretty good for quite a while.

[Transcript, pp. 72-73]

[63] When questioned by the Board, Mr. Baker, Mr. Bell and Ms. Silver each stated that they believed the proposed rates to be just and reasonable.

Findings

[64] The Board has considered the Rate Study's methodology used in the allocation of the various expense items to the base and consumption categories. While the overall methodology differs somewhat from that presented in the *Handbook*, the Board finds the methodology to be reasonable. The Board further accepts the rationale behind the 'rounding' used.

[65] As noted above, the Board is concerned with the Utility's operating deficit. In this regard, the Applicant has stated that the control and reduction of the loss of water is an important issue in determining if the proposed rates will ensure financial stability. The

Board again urges the Utility to increase its efforts to reduce the high amount of non-revenue water.

[66] As the rates proposed in the Application (Exhibit N-1) were the only rates advertised and the corrections contained in the revised filings do not significantly affect rates, the Board accepts the rates as proposed in the original filing.

[67] However, the Board finds that the proposed customer rate increases are too high and that one of the reasons for the customer rate increases is the significant reduction in the fire protection rate, which is proposed to decrease from \$353,775 in 2007/08 to \$282,997 in 2008/09. While the Board is not disagreeing with the methodology used to determine the revised fire protection rate and the customer rates, it believes that the adjustments are too large to implement in one year. Accordingly, and as set out above, the Board believes there should be a phasing-in process in order to smooth out the increases in rates, as well as the decrease in fire protection rate. The Applicant has noted that this was not done as it would increase the deficit. However, through combining a phasing-in of the increase of customer rates with a phasing-in of the decrease in the fire protection rates over a two year period, the proposed revenue requirement should be met, and without any increase in the deficit. Accordingly, the Board has calculated the proposed customer rates for the first year, based upon a reduction of the revenue requirement from customer rates by \$55,000. The reduction to the revenue requirement to each of the base and customer charges is based upon the proportions contained in the Rate Study. For the second year, the Board accepts the rates as proposed in the Application.

E. SUBMISSIONS

i) Correspondence Received Prior to the Hearing

[68] Prior to the public hearing, the Board received four letters from customers of the Utility. In an email to the Board dated October 22, 2007, one customer opposed the rate increases, noting that the rates are "astronomical" now and questioned why the increases are necessary. The correspondence further referred to the increase in property taxes which have not resulted in repairs to potholes in the street.

[69] Karen Wilder, a customer of the Utility, expressed her concerns with the proposed increases in a letter to the Board dated October 24, 2007. She suggested that instead of increasing rates, the Utility should consider the issues of: validating the number of meters billed, which she believes is low in the Rate Study; stepping up monitoring efforts with respect to the amount of water loss which could potentially decrease the need for additional wells in the future; and reviewing the salary costs for water operation.

[70] Ken Smiley provided the Board with his comments in a letter dated October 30, 2007. He focussed on water consumption, suggesting that consumption rates should be higher with higher usage. He further noted that educational material and incentives should be made available to promote water conservation and that all new developments should be required to submit for approval a plan for low water usage.

[71] In a letter to the Board dated November 14, 2007, David Etter posed a series of questions. He asked why the proposed increases are necessary, if different rates were considered for industries and when the proposed increases will take effect, if approved. He questioned what the additional yield in revenue will be if the rates as proposed are

approved and how the additional revenue is to be used, for operating or capital purposes, and if it is for capital purposes, was consideration given to borrowing from the Municipal Finance Corporation. He further questioned the increase in customers since the last application's public hearing in 2003 and requested information with respect to a comparison in the number of employees in the Public Works Department from 2003 to the present.

ii) Presentations During the Hearing

[72] Kevin Carter, a customer of the Utility, spoke during the hearing, expressing his concerns with respect to the Utility's high operating deficit. He questioned why the proposed consumption charges are not based upon incremental increases related to usage, noting that there is water wastage. He further expressed his concerns with the proposed decrease in the fire protection charge, questioning how this will affect his tax bill.

[73] Karen Wilder spoke during the hearing, reiterating her concerns which were submitted in earlier correspondence to the Board. She commented that in her opinion the proposed rates represent rate shock and she suggested that the Utility look into the areas identified in her earlier correspondence.

[74] Wayne Marriott expressed his concerns with the Application, referring to two incidents with the Utility. He noted that on one occasion he was informed that the Utility had shut off the wrong valve in doing work to the water system. He added that his water bill increased when the Village took over preparing the bills from the County. He questioned the Utility's expansion of the system outside of the Village and how this was

funded. He further explained that one of his main concerns relates to communication and the lack of information with respect to the Utility.

[75] Bill Boudreau, a representative of Killam Properties, spoke during the hearing. He questioned why there is a one-time proposed rate increase of 40% to 50% at this time as opposed to smaller increases phased-in over a number of years, given that the Utility was aware in 2002 of the requirement to comply with NSEL's *Drinking Water Strategy* by April 1, 2008. He further questioned whether the proposed increases are related to capital or operating expenses.

iii) Utility's Response

[76] The Applicant responded in correspondence to the Board dated November 20 and November 22, 2007, with respect to the concerns expressed in the letters of comment to the Board. With respect to the increase in property taxes noted in the correspondence dated October 22, 2007, the Utility noted that it has no jurisdiction over street repairs, which is the responsibility of the Provincial Department of Public Works.

[77] In response to the issues noted by Karen Wilder, the Utility noted that the number of meters contained in the Rate Study are actual meters and that the meters are read by Utility personnel. It was further noted that at the time that the Utility billing function was transferred to the Village from the County, there was verification of customer accounts. With respect to the issue of stepping-up monitoring efforts, the Utility indicated that it intends to "spend whatever is technically justified and economically practical to reduce water losses." In response to the issue to review the salary costs for water operations, the

Utility provided a summary of duties carried out by staff noting that the issuing of quarterly bills is only one of the many Utility related functions performed.

[78] With respect to the consumption related issues identified by Ken Smiley, the Applicant responded:

We disagree that we should differentiate between large and small consumers because our costs would be unaffected.

Generally, in response to a., b. and c. i. ii., and iii., [of Mr. Smiley's letter], unless and until there is a known environmental benefit to using less water in this area, there is no reason for the Water Utility to spend its customer's money to reduce its consumption of water. Customers, for personal, economical reasons, could individually make these decisions within their means.

[Utility's response dated November 22, 2007]

[79] The Utility responded to each of the issues raised by Mr. Etter in correspondence to the Board dated November 20, 2007. It was explained that the proposed increases are necessary as the Utility is currently operating at a loss, noting that there have been increased costs due to compliance with Government Regulations as well as gradual increases in supplies and services. The Utility noted that it did not consider different rates for industries as rates must reflect the cost of service, which is dependent upon the customer's service size and consumption, not occupation. It was further explained that although the rate increases are proposed to be effective January 1, 2008, they will become effective on the date approved by the Board in its Order.

[80] The Applicant noted that approximately \$53,000 in additional costs are included in the proposed rates and that the large increase in customer rates is due to the fact that the fire protection charge is proposed to be reduced by a little more than \$100,000 as the current fire protection charge exceeds the cost of providing this service. This

reduction in the fire protection charge also has to be recovered in the customer rates. The Utility explained that the majority of the proposed increases are due to operating costs, with the capital costs funded mainly by grants, with no need for borrowing. With respect to the number of customers, the Utility indicated that there has been an increase of approximately 3% since the last rate increase in April 2003. The Applicant explained that at the time of preparing the last rate application in 2002, there was one full-time Water Systems Operator and one full-time Assistant Water Systems Operator. In 2003 there was a restructuring of the Village. The Water Systems Operator's duties became that of the Superintendent of Public Works and the Assistant was reclassified as the Assistant Superintendent of Public Works. It was further noted:

In summary, We have our Supt of Public Works, whose salary is now split between Water, Parks and Public Works, our Assist. Of Public Works, whose salary is entirely costed to the Water Department except when he is fulfilling the duties of the Supt in his absence, we have designated 50% of the Admin Assistant/Accountant's salary to water since we started issuing and collecting water bills in-house, and other parks/public works personnel wages are itemized to water on an as-needed basis.

[Utility's response dated November 20, 2007]

[81] The Applicant further responded to a number of the issues raised by the Utility's customers during the hearing. With respect to the complaint that there was an increase in water bills at the time that the Village took over the billing process, Ms. Silver explained:

The - when the County of Kings issued our bills, they merely did the issuance of those bills. Nothing in the process leading up to who printed the bills changed when we did that.

We just - over the years, the Village had decided they didn't want to do the physical printing of the bills or the collection of the money, so how billed you should not have changed at all.

And if one of our Commissioners or whatever gave you the wrong information, I do apologize for that, but we would never have put additional charges on there....

[Transcript, pp. 92-93]

[82] With respect to the question as to why the rate increases associated with compliance with NSEL Regulations were not initiated sooner, Ms. Silver noted:

First of all, when the rate study was started in 2002 - now, I wasn't here, but I know we've been a year working on this, this rate study. There were rumours and our staff had gotten some - a little bit of, you know, sort of on the street information that Department of Environment were going to regulate some stuff, but at that time when that rate study was done, I don't believe anything was firmed up to the magnitude of what we would be facing.

You know, we had absolutely no idea that we were going to have to build all these test stations and put this very expensive equipment in our test stations just to, you know, test the water at that particular source, plus pay \$45,000 a year just to have a company do the water tests and that type of thing.

And so when the rate study was over and the rates were set effective April 1st, 2003, it was from the time that the hearing happened, basically, until probably mid year 2003, that's when we started getting the information 'cause I came here in November of '03 and we were just then getting information from Department of Environment saying, "This is probably what you're going to have to do. We're regulating this."

And we're still getting new information, you know, monthly, almost, on the new things that we have to do.

So I don't really think at the time of the study the consultant or the Village Commission or the New Minas Water Commission had any idea what the impact would be.

[Transcript, pp. 95-96]

She further explained that there is time involved in the rate application approval process.

Findings

[83] The Board has considered the issues raised during the hearing and the responses provided by the Applicant. The Board is also concerned with the magnitude of the proposed increases to the rates for water service, especially in view of the decrease

in the proposed fire protection charges, as noted above. The Board notes that even at the rates as proposed, the Utility's rates will continue to be among the lowest in the Province. However, this notwithstanding, the Board does not find the proposed rate increases to be acceptable and is adjusting them to allow a phase-in period, as is discussed below in Section G "Schedule of Rates and Charges".

[84] The Utility's rate structure, consisting of a base charge which is based upon meter size and a uniform consumption charge is standard among most water utilities in the Province. Some utilities have block consumption rates, in which higher levels of consumption past a certain threshold are charged a lower rate. Recently many utilities have proposed, and the Board has approved the elimination of these block rates in favour of a uniform rate, often in the interest of promoting conservation. The Board further believes that, based upon the information provided, the information used by the Utility, in terms of the number of metered customers, appears to be reasonable.

[85] The Board is also concerned with the Utility's water loss which appears to be high, but is difficult to quantify due to metering issues. Given the increase in operating costs as outlined in the Application, a solution to decrease the amount of treated water lost should be a priority. The Board encourages the Utility to take steps to rectify this problem.

[86] The Board has further considered the accumulated operating deficit of the Utility, which has been calculated by the Applicant to be \$482,800 as at March 31, 2007, whereas the Audited Financial Statements of the Utility as at March 31, 2007, stated that the accumulated operating deficit was \$225,565.

[87] In Undertaking U-3, the Applicant explained the reasons for the adjustments to the reported deficit to bring it to the corrected balance of a deficit of \$482,800 as at March 31, 2007.

[88] The Board has considered the adjustments and, as indicated above, it has insufficient information to conclusively comment on the validity of the adjustments made by the Applicant. However, based on the Board's understanding, in 2005 and 2006 the capital fund transferred amounts of \$135,000 and \$53,450, respectively, to enable the operating fund to pay for capital expenditures. Apparently, the funds, for some reason, were not used for this purpose, and thus the amount of the funds transferred served to increase the profit from operations, or served to reduce the loss from operations. Either way, the net result was a decrease in the accumulated operating deficit of the Utility. The Applicant is of the view that these two transactions must be reversed, thereby increasing the recorded operating deficit by \$188,450, being the sum of the two transfers.

[89] Based on the Board's understanding of the transactions, the Board is not convinced that it is necessary to make these two adjustments. Moreover, if these adjustments are made, as suggested by the Applicant, the reported deficit of the Utility will be increased by a significant amount, and as indicated above, the Board is concerned about the size of the Utility's accumulated deficit.

[90] With respect to the other proposed adjustments, they appear to be required because of errors in billing by the Utility, and if this is so, they would be in order.

[91] Should the Utility not make any adjustment to the deficit account with respect to the transfers from the capital fund to the operating fund, as discussed above, and only

records the adjustments for the accounting errors, also as discussed above, the revised deficit would be \$294,350 (\$226,565 plus \$67,785).

[92] In the Board's view, the Utility has a sizable deficit which will have to be dealt with. Accordingly, the Board directs the Utility to prepare a financial plan which will contain a proposal setting out how the deficit can be eliminated over a reasonable period of time. The Board further directs that this plan be filed with the Board by December 31, 2008.

F. MISCELLANEOUS RATES AND CHARGES

[93] In addition to the rates for water supply and the fire protection charges, the Application proposes to increase the annual sprinkler rate from \$0.25 per sprinkler head to \$0.35 per sprinkler head.

[94] The Application indicated that unmetered use of the Utility's water consists of hydrant flushing, fire department use and water sold to truckers (Exhibit N-1, p. 2). The Utility explained the rate used in the sale of water to truckers as:

The rate is \$25.00 for 4,000 gallons and \$10.00 for each 1,000 gallons in excess of 4,000 gallons.

[Exhibit N-4, IR-7]

[95] During the hearing, the Board noted that it has no record of approving a rate for the sale of water to truckers, to which the Utility responded:

Mr. Baker: But in this case, there's no, there's no compulsion for the Utility to provide such service. I think the Utility thought that, on that account, it was not a regulated thing. And it's - there's not only no onus on the Utility to supply these truckers, the truckers don't come if it's, if it's a wet summer. And the Utility has invested nothing in it, so I don't know.

But if the Board says it's a Utility rate...

Chair: Well...

Mr. Baker: ...certainly we can apply for it.

[Transcript, pp. 22-23]

[96] In response to Undertaking U-2, the Utility indicated that there is no need to apply for such a rate:

The Village of New Minas and the New Minas Water Commission has reviewed the *Potable Water Hauler Guidelines* as issued by Nova Scotia Environment and Labour, revised June 28, 2005, and have made a decision based on these guidelines.

Only one trucker has requested to purchase water from the Utility and has been permitted to do so in the past. A decision was made some time ago that no new truckers would be permitted to purchase bulk water from the Utility. Any water being released from the Utility's system falls under the authority of the New Minas Water Commission and the License of its operators, in particular that of the Superintendent of Public Works.

After a complete review of the guidelines, the Superintendent of Public Works is not satisfied that a hauler would be able to meet all those guidelines. A decision has been made by Village management, and by the Superintendent of Public Works who holds the license for water distribution, that the Village will [no] longer provide water to the one hauler for this purpose.

Therefore, there will be no requirement for an application for approval of a rate.

[Response to Undertaking U-2]

Findings

[97] The Board has reviewed the proposed sprinkler rate contained in the Schedule of Rates and Charges and finds it to be reasonable. The Board accepts the Utility's explanation with respect to the sale of water to truckers and expects that this service will be suspended immediately. Accordingly, there is no need for the Board to approve a rate for the sale of bulk water to truckers.

G. SCHEDULE OF RATES AND CHARGES

[98] The Board has reviewed the proposed Schedule of Rates and Charges. The information contained in the later filings (Exhibits N-4 and N-6) corrects a number of errors which were identified in the responses to the information requests (Exhibit N-4), and has a minor effect on rates. The information contained in Exhibit N-6 replaces a Schedule in Exhibit N-4 which had some missing information. The information contained in Exhibit N-6 does not affect the rates calculated in the revised study (Exhibit N-4).

[99] As outlined above, the Board is concerned with the proposed revisions to the formula to calculate the public fire protection charge which results in a significant decrease to that charge, which must be recovered by the rates applied to the Utility's customers for the provision of water. The Board is not questioning the methodology used to arrive at the proposed rates. However, it is Board's opinion that the proposed decrease to the fire protection charge should be phased-in over a longer period in order to smooth out the proposed increases in rates for water service.

[100] The Applicant has indicated that it needs approximately an additional \$55,000 in annual revenue to cover the projected costs over the test period. The Board does not dispute this figure. This has been proposed to be recovered through an increase of approximately \$155,000 from customer rates to compensate for the proposed decrease of approximately \$100,000 in the fire protection charge. The Board does not find this shift in revenue requirement, all at one time, to be reasonable, given the significant one-time increase in rates proposed to the Utility's customers.

[101] Accordingly, the Board has adjusted this shift in the revenue requirement to be phased-in over two years. In the first year, the revenue requirement proposed for the fire protection charge is to be increased by \$55,000, with a corresponding decrease in the revenue to be recovered from the rates for water service to the Utility's customers. Thus, In the first year, the fire protection charge is to be a fixed amount of \$348,586 and the customer rates have been calculated based upon the same methodology proposed in the Application, but with the lower revenue requirement. In the second year, the rates as proposed, with the proposed formula for the public fire protection charge is acceptable. The Board notes that rates as proposed in the original filing (Exhibit N-1) were the only rates advertised and the amendments in the revised filings did not significantly affect these proposed rates. Thus, it is the rates as contained in the original filing which are approved for the second year. The Board notes that even with the proposed increases, the Utility's rates will be among the lowest in the Province.

[102] Given the timing of the hearing, and the Utility's inability to prorate bills for rate changes effective between billing periods, as confirmed by the Utility during the hearing, it is not possible to apply a rate increase effective January 1, 2008. Therefore, this first amendment in rates will be effective April 1, 2008. The final rate increase, which is as proposed in the Application, is approved effective April 1, 2009. The approved rates are attached hereto as Schedules "A" and "B".

H. SCHEDULE OF RULES AND REGULATIONS

[103] The Application, which did not originally propose any changes to the existing Schedule of Rules and Regulations, noted the following in its recommendations:

The Utility's existing regulations should be reviewed and if changes are required, the Board should be petitioned for approval as part of the rate proceeding.

[Exhibit N-1, p. 8]

[104] The Utility indicated in response to an information request (Exhibit N-4, IR-3) that upon review, approval is requested to amend Regulation 10 'Suspension of Service For Non-Payment of Bills' to increase the associated fees from \$10 to \$25. During the hearing, in response to the Board's questions, the Applicant confirmed that the proposed wording of Regulation 10 is as follows:

SUSPENSION OF SERVICES FOR NON-PAYMENT OF BILLS

The Utility shall have the right to enter into customer's premises within reasonable hours to suspend service to customers whose bills remain unpaid for more than forty days after date rendered. The customer shall pay the sum of \$25.00 for reconnection after each suspension. Such connection shall not be made until all arrears are paid. If, after final notification of shut off is given, field staff visit the customer's premises with shut off orders and effect payment of all arrears the same or following business day, a charge of \$25.00 shall be levied against the subject customer's account.

Findings

[105] The Board notes that the proposed increase in fees associated with Regulation 10 'Suspension of Service For Non-Payment of Bills' is similar to the fees charged by many other water utilities in the Province. The Board has examined the proposed change to the Utility's Schedule of Rules and Regulations and finds it to be reasonable. Accordingly, the approved Schedule of Rules and Regulations, is attached hereto as Schedule "C" and is effective April 1, 2008.

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[106] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 28th day of March, 2008.

John A. Morash

SCHEDULE "A"

NEW MINAS WATER COMMISSION

SCHEDULE OF RATES FOR WATER AND WATER SERVICES

(Effective for water and water services rendered on and after April 1, 2008)

R A T E S

Bills are due within 30 days of the date rendered as shown on the bill.

When payment is made after 30 days from the date rendered as shown on the bill, an interest charge of 1.5% per month will be applied to the amount in arrears.

1. RATES FOR METERED SERVICE

(a) Base Charges

Meter Size	Quarterly
5/8"	\$ 24.07
3/4"	32.34
1"	48.88
1 1/2"	90.25
2"	139.88
3"	272.23
4"	421.13
6"	834.75

(b) Consumption Rate

\$0.594 per thousand litres

2. PUBLIC FIRE PROTECTION SERVICE

The Village of New Minas and County of Kings shall pay to the Commission for Public Fire Protection Services for the fiscal year ended March 31, 2009 a total amount of \$348,586.

The total Fire Protection charge shall be divided between the Village and the County of Kings based on the following formulas:

$$\text{Village Share} = \frac{\text{Total Fire Protection Charge}}{\text{Total number of hydrants in the Village and County}} \times \text{Total number of hydrants in the Village}$$

$$\text{County Share} = \frac{\text{Total Fire Protection Charge}}{\text{Total number of hydrants in the Village and County}} \times \text{Total number of hydrants in the County}$$

3. SPRINKLER RATES

\$0.35 per year per sprinkler head.

SCHEDULE "B"

NEW MINAS WATER COMMISSION

SCHEDULE OF RATES FOR WATER AND WATER SERVICES

(Effective for water and water services rendered on and after April 1, 2009)

R A T E S

Bills are due within 30 days of the date rendered as shown on the bill.

When payment is made after 30 days from the date rendered as shown on the bill, an interest charge of 1.5% per month will be applied to the amount in arrears.

1. RATES FOR METERED SERVICE

(a) Base Charges

Meter Size	Quarterly
5/8"	\$ 25.40
3/4"	36.00
1"	56.00
1 ½"	100.00
2"	156.00
3"	302.00
4"	467.00
6"	923.00

(b) Consumption Rate

\$0.642 per thousand litres

2. PUBLIC FIRE PROTECTION SERVICE

The Village of New Minas and County of Kings shall pay to the Commission annually for Public Fire Protection Services a total amount defined by the following formula:

The sum of (a), (b), and (c), where:

(a) = 36.25% of the depreciation charged to expense by the New Minas Water Utility in the immediately preceding fiscal year.

(b) = 34.40% of the operating expense excluding depreciation incurred by the New Minas Water Utility in the immediately preceding fiscal year.

(c) = 0.174% of the rate base of the New Minas Water Utility as at March 31 of the immediately preceding fiscal year.

The total Fire Protection charge shall be divided between the Village and the County of Kings based on the following formulas:

$$\text{Village Share} = \frac{\text{Total Fire Protection Charge}}{\text{Total number of hydrants in the Village and County}} \times \text{Total number of hydrants in the Village}$$

$$\text{County Share} = \frac{\text{Total Fire Protection Charge}}{\text{Total number of hydrants in the Village and County}} \times \text{Total number of hydrants in the County}$$

3. SPRINKLER RATES

\$0.35 per year per sprinkler head.

SCHEDULE "C"

NEW MINAS WATER COMMISSION

**RULES & REGULATIONS
GOVERNING THE SUPPLY OF WATER AND WATER SERVICES
BY NEW MINAS WATER COMMISSION**

(Effective April 1, 2008)

1. In these Rules and Regulations, unless the context otherwise requires:
 - (a) the expression "Commission" or "Utility" shall mean the New Minas Water Commission;
 - (b) the expression "Secretary" shall mean the secretary of the New Minas Water Commission;
 - (c) the expression "Consumer" shall mean the owner, occupier, or tenant of any space or area, including but not limited to a dwelling house, apartment, flat, shop, office, hotel, store or warehouse, etc., which is equipped with one or more fixtures for rendering water service separate and distinct from other consumers.
2. **CONTRACTS**

No water service shall be furnished until a regular application form has been signed by the prospective consumer.
3. **LIFE OF CONTRACTS**

Standard contracts shall be for a period of one year and shall be self-renewing from year to year, expiring on one month's written notice by either party.
4. **DEPOSITS**

When required, each applicant for service, other than the owner of the premises sought to be connected, shall deposit with the Secretary a sum equivalent to approximately three months water rates for such premises. The deposit is to be held by the Utility as collateral security for the payment of the bills for water service rendered by the Utility. When the consumer ceases to use the service and has paid all bills, the deposit is to be returned to him with interest at the rate of 8% per annum, or the deposit may be returned, at the discretion of the Utility, at any time.

5. BILLING

Bills shall be rendered quarterly for meter rate and fixture rate service, provided that bills to metered service customers whose average consumption exceeded 50,000 gallons per month in the preceding 12 months, may be billed monthly. All bills shall be payable when mailed by the Utility to the consumer and shall be paid within thirty (30) days after the date shown on the bill. If the contract is entered into or terminated at any time other than a regular billing date, the amount to be charged to the consumer shall be the pro-rata proportion to the next month of the regular base charge for the billing period, plus the consumption charge, if any.

6. PAYMENT OF BILLS

Bills are due within 30 days of the date rendered as shown on the bill.

When payment is made after 30 days from the date rendered as shown on the bill, an interest charge of 1.5% per month, or part thereof, will be applied to the amount in arrears.

7. ESTIMATING WATER METER READINGS

In the case of metered service customers who are billed quarterly, meters shall be read in at least two of the four quarters; normally, the second and fourth; and subject to Regulation 8, each billing for these quarters shall be based upon the meter reading with adjustment for any earlier estimated reading. The Commission may, at its option, estimate the reading in the alternate quarters based on the actual consumption in the previous quarter. In the case of metered service customers who are billed monthly, meters shall be read monthly.

8. ESTIMATED READING FOR BILLING PURPOSES

If the Commission is unable to obtain any meter reading required for billing purposes, after exercising due diligence in the usual practice for meter reading, the bill for that service shall be estimated in accordance with the best data available, subject, however, to the provision that in no circumstances will an estimated reading be used for more than three consecutive billing periods. The Commission shall notify the customer by registered mail that arrangements must be made for the Commission to obtain a reading and failing such arrangements, the Commission may suspend service until such arrangements are made. When the meter reading has been obtained, the previous bill or bills shall be adjusted accordingly.

9. ADJUSTMENT OF BILLS

Any consumer desiring to question his bill must do so in writing to the Administrator within the thirty day period allowed for payment of bills

10. SUSPENSION OF SERVICES FOR NON-PAYMENT OF BILLS

The Utility shall have the right to enter into customer's premises within reasonable hours to suspend service to customers whose bills remain unpaid for more than forty days after date rendered. The customer shall pay the sum of \$25.00 for reconnection after each suspension. Such connection shall not be made until all arrears are paid. If, after final notification of shut off is given, field staff visit the customer's premises with shut off orders and effect payment of all arrears the same or following business day, a charge of \$25.00 shall be levied against the subject customer's account

11. RESUMPTION OF SERVICE

In all cases where water has been turned off at the request of the consumer for non-payment of bills, or for any other reason, it shall not be turned on again until the sum of \$10.00 has been paid to the Secretary, together with all arrears of water rates.

12. SERVICE CONNECTIONS

When application has been made in due form for a water service connection on a street in which a water main is laid, the Utility shall install a service pipe from the water main to the street line. All such pipes shall be 5/8" or 3/4" in diameter, unless the Utility deems a larger size necessary or desirable or if the consumer desires a larger size. If a service of larger size is installed, the consumer shall pay the difference between the 3/4" size and the cost of the larger size.

13. SPRINKLER SYSTEM

In the case of a larger service pipe being required for sprinkler systems or other means of fire protection, the Utility shall, in the same manner as in the preceding paragraph, provide and lay the same from the main to the street line and be responsible for the upkeep.

14. SEASON FOR LAYING MAINS

The Utility shall not be required to lay any service pipe at any season of the year which, in the opinion of the Secretary, is not suitable for the performance of the work.

15. RESTRICTIONS AND PRIVILEGES

No consumer shall supply or permit water to be supplied from any of the fixtures installed in the premises owned or occupied by him to any other premises without the approval of the Utility.

16. IMPROPER USE OF WATER

No consumer shall permit the improper use or waste of water.

17. INSTALLATION OF WATER PIPES IN PREMISES

Every water pipe or fixture hereafter installed in any premises shall be placed as far as possible from any external wall so as not to be exposed to the action of frost or to other injury, and generally shall be installed to the satisfaction of the Utility.

18. METER SERVICE

The Utility shall have the right to meter all services. All meters shall be the property of the Utility.

19. ACCESS TO CUSTOMER'S PREMISES

Representatives of the Utility shall have right of access to all parts of a customer's property or premises at all reasonable hours for the purpose of inspecting any water pipes or fittings, or appliances, or discontinuing service, or for the purpose of installing, removing, repairing, reading, or inspecting meters. The Utility shall have the right to suspend service to any customer who refuses such access.

20. FROST-PROOF BOX

When the premises of a customer are of such nature that a meter cannot be properly installed, or if the premises are not sufficiently frost-proof to guarantee the safety of the meter, the Utility may order the construction of a suitable frost-proof box in which the meter can be installed, the cost of same to be billed to the owner of the premises.

21. METER TESTING

Meters shall be tested by the Utility upon the request of a consumer. If the test shall establish the accuracy to be within 3% either way, the consumer shall pay the Utility the expense of making such test. If the test shall establish there is an error greater than 3% either way, the Utility shall bear all the costs of making the test.

22. INSTALLATION OF METERS

Meters shall be installed and removed only by employees of the Utility and no other person shall install, alter, change, or remove a meter without the written permission of the Utility. The connections for such meters shall be installed to the approval of and without expense to the Utility.

23. DAMAGE TO METERS

Where any damage is caused to a meter by the negligence of the consumer, the same shall be paid for by the consumer.

24. EXTENSIONS

Upon request of the owner of any property situated on any street or highway in which no water main has been laid, for the extension of the water service thereto, such extension shall be subject to payment of a capital contribution by or on behalf of the owner of the property.

The amount of the capital contribution shall be calculated as the total capital cost, less the portion thereof (a) attributable to public fire protection; (b) supported by municipal services and other grants; and (c) shall be calculated as eight times the estimated revenue from service supplied through the extension during the first year of operation.

Where more than one owner will be served by the extension, the capital contribution shall be apportioned equally between them.

The capital contribution shall be refundable to the extent that revenues in subsequent years increase above the initial estimate of first year revenues. Calculation of refunds shall be made annually up to and including the fifth year of operation of the extension. The refund shall be calculated as eight times the excess of the revenue derived from metered service supplied through the extension during the current year over the corresponding revenue for the previous year or, in the case of the first year's review, over the initial estimate of annual revenue. In no case, however, shall the sum of the refunds exceed the initial capital contribution.

Where there is more than one owner, the refunds shall be apportioned between all the owners or their assigns, in proportion to the capital contribution of each owner.

25. **BACK-FLOW PREVENTERS**

When any customer's water system includes a pump or other device capable of producing pressures on the system, the customer will install a back-flow preventer valve. All costs so incurred initially and for maintenance will be the responsibility of the customer.