DECISION **2025 NSRAB 142**
M12257

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

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

BEFORE: Roland A. Deveau, K.C., Vice Chair
Julia E. Clark, LL.B., Vice Chair
Richard J. Melanson, LL.B., Member
Bruce H. Fisher, MPA, CPA, Member
Marc L. Dunning, P.Eng., LL.B., Member

APPLICANT: **HALIFAX REGIONAL WATER COMMSSION**
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Melanie Gillis, Counsel
Liana Rintoul, Counsel

INTERVENORS: **CONSUMER ADVOCATE**
David J. Roberts, Counsel
Michael Murphy, Counsel

PROVINCE OF NOVA SCOTIA:
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DEPARTMENT OF MUNICIPAL AFFAIRS
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KILLAM APPARTMENT REIT
Philip Fraser

RENTAL HOUSING PROVIDERS NOVA SCOTIA
Kevin Russell
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Peter Polley

BLUE MOUNTAIN – BIRCH COVE LAKES
Mary Ellen Donovan (not appearing)

HALIFAX REGIONAL MUNICIPALITY
Kelsey Nearing (not appearing)

LABATT BREWING COMPANY LTD.
Wade Keller (not appearing)

BOARD COUNSEL: William L. Mahody, K.C.

HEARING DATES: September 15-18, 2025

CLOSING SUBMISSIONS: November 4, 2025

DECISION DATE: **December 16, 2025**

DECISION: **Halifax Water's general rate application is approved, but the Board has directed several disallowances and adjustments to the proposed revenue requirements. The revised rates will be reflected in Compliance Filing for rates and regulations effective January 1, 2026, and April 1, 2026. The Board has also made several directions as outlined in the decision.**

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1.0 SUMMARY

[1] The Halifax Regional Water Commission (Halifax Water) is a regulated public utility that provides water, stormwater and wastewater services in the Halifax Regional Municipality. It has requested approval of amendments to its Schedule of Rates, Rules and Regulations for its water, public and private fire protection, wastewater services, and stormwater services.

[2] For 5/8” water meters used primarily by residential customers, the proposed increases for water and wastewater services total 15.8% on January 1, 2026, and 17.1% on April 1, 2026, for a combined, compounded increase of 35.6%. Proposed increases for all other meter sizes for water and wastewater services range from 19.9% to 23.3% on January 1, 2026, and from 20.6% to 24.5% on April 1, 2026.

[3] For stormwater services, the proposed annual increase for residential property customers ranges from $5 to $28 on January 1, 2026, with a further annual increase ranging from $6 to $40 on April 1, 2026.

[4] The application described the reasons for the rate increases, based upon the projected revenue requirement for each of the two test years (2025/26 and 2026/27). The budgeted expenses and items which make up the revenue requirements were reviewed by the Board. The Board finds that the magnitude of the proposed rate increases, implemented over the first three months of 2026, constitutes “rate shock” for its customers. For residential customers, the combined, compounded rate increase was proposed to be 35.6% from January 1 to April 1, 2026. While Halifax Water provided a reasonable explanation about the need to increase rates to cover some of its higher costs due to inflation and other cost pressures, the Board finds that other requested costs were not justified or that the utility overestimated some of those costs.

[5] Halifax Water's application proposed to increase its annual revenue requirement from $169.5 million last approved by the Board in 2022 for the 2023/24 test year to $211.5 million in 2025/26 and to $231.0 million in 2026/27. This is a proposed increase of $42 million in the revenue requirement for the first test year and a further $19.5 million for the second test year, which represents a total of $61.5 million.

[6] These proposed increases were based on projected revenue requirements for the 2025/26 test year (effective January 1, 2026) and the 2026/27 test year (effective April 1, 2026). This proceeding canvassed Halifax Water's requested revenue requirements for both test years. The revenue requirements are compiled using budgeted costs and other assumptions. Based on its review, the Board approves Halifax Water's application, but it finds that adjustments must be made to the revenue requirements in both test years that will result in a significant reduction to the overall rate increases proposed by Halifax Water.

[7] The most significant disallowance results from how Halifax Water presented its application. Each test year covers the period from April 1 to March 31st of the following calendar year. Halifax Water projected its revenue requirement for the 2025/26 test year over the 12-month period from April 1, 2025, to March 31, 2026. However, because there was a delay in filing its rate application, the proposed test year revenue requirement for the first test year (2025/26) would only start to be recovered in rates on January 1, 2026. This would result in there being a 9-month period (April 1, 2025, to December 31, 2025) during which existing rates would not be sufficient to recover the budgeted revenue requirement for that period. Halifax Water proposed to recover this revenue shortfall (deficit elimination) in the second test year revenue requirement starting April 1, 2026.

The Board has deferred the recovery of the “deficit elimination” in the second test year. This results in a cost reduction of about $24.5 million in test year 2, which will be deferred for recovery in later years. Halifax Water is to file a proposal in its next general rate application for the recovery of this deferral amount over a number of years. This finding alone, without other adjustments, would reduce the proposed rate increase on April 1, 2026, from 17.1% to 7.0% for the second test year relating to water and wastewater services for residential customers.

[8] Other disallowances or adjustments to the revenue requirements and Board directions include:

- The projected amounts for the debentures issued in the 2026/2027 test year are reduced from $150 million to $90 million;
- The projected increase in consumption levels for both test years shall be adjusted from 1% to an overall average consumption level of 1.82%;
- The assumed interest rates on debentures issued in 2025 (test year 1) are reduced from 4.0% to 3.73% on the spring debenture and to the actual interest rate on the fall debenture;
- The revenue requirements will be reduced by the adjustments in depreciation identified in Undertakings U-4 and U-27, namely by $1,286,684 for 2025/26 (test year 1) and by $1,072,334 for 2026/27 (test year 2);
- Chemicals costs are to be set in test year 1 at $9,788,000 and test year 2 at $10,032,000, increases of 2.5% per year. This represents a reduction of about $740,000 in test year 1 and about $1 million in test year 2 as compared to the original application;
- The revenue requirements for staffing and salaries are reduced by an amount equal to 20% of:
    - New staff as budgeted for test year 1 - 2025/26 ($500,000 reduction);
    - New staff as budgeted for test year 2 - 2026/27 ($1,170,000 reduction); and
    - With the full year cost of new staff hired in the two test years not to exceed $5,400,000;
- Budgeted vacancies are to be increased from 2% of gross staffing costs to 4%, with an additional estimated savings of $1,200,000 for each test year;

- The dividend component of the payment under the Grant in Lieu of Taxes/Dividend Agreement with HRM is excluded from the revenue requirement in the first test year. Figure 18 of the application shows that the amount allocated to the wastewater/stormwater dividend is $1.078 million;
- The proposed stormwater charges, including the Right of Way (ROW) Charge for the Province, are approved (subject to excluding the "deficit elimination" in test year 2). However, Halifax Water is to explore a new rate design for the ROW Charge; and
- Halifax Water is directed to explore with HRM whether the municipality would limit future rate increases by absorbing some, or all, of the revenue shortfall amount ("deficit elimination") contributing to the accumulated deficit and also whether the municipality will provide relief of a larger portion of the payments under the Grant in Lieu of Taxes/Dividend Agreement to further alleviate the proposed rate increases. Halifax Water is to report on the results of these discussions in the next general rate application.

[9] The Board also directs Halifax Water to conduct various studies, and update others:

- To file an update on its Rate Affordability Study and its H2O Program. These updates are to be filed with the next general rate application;
- To work with the Nova Scotia Government to review options for longer terms on debt instruments, to include scenarios on longer amortization periods in the update to its financing strategy, and to provide a report with options and a recommendation in its next general rate application;
- To update its debt strategy and develop stronger operating and rate strategies. These updated strategies are to be filed by June 30, 2027, with a progress report provided in the next general rate application; and
- To develop a "business case" approach for added staff as part of the 2026/27 Human Capital Management Report and to include it in the next Institutional Capacity Assessment Update.

[10] The Board denies the following proposed amendments to Halifax Water's Regulations:

- The proposed change to the timing of collection of the Regional Development Charge (RDC) fee;
- The proposed changes to the Customer of Record provision for existing accounts related to the Automatic Landlord Program. However, the proposed revision is approved for new accounts, effective six months from the Board's Order; and
- The proposed stormwater complaint fee.

[11] A more detailed listing of the Board's disallowances and directions are described at the end of this decision in the Summary of Major Findings and Directives. The new rates will take effect on January 1, 2026, for first test year (2025/26) and on April 1, 2026, for the second test year (2026/27). The final rates and regulations based on the above adjustments will be confirmed in a Compliance Filing to be provided by Halifax Water.

2.0 BACKGROUND

[12] Halifax Water applied to the Nova Scotia Regulatory and Appeals Board on May 5, 2025, to approve amendments to its Schedule of Rates, Rules and Regulations respecting water, public and private fire protection, wastewater and stormwater services.

[13] The proposed range of rate increases depends upon the customer water meter size and the volume of water consumed. For a 5/8" meter, used primarily by residential customers, with an average annual water consumption of 163 m^3 in 2025/26 and 164 m^3 in 2026/27, the proposed increases for water and wastewater services total 15.8% on January 1, 2026, and 17.1% on April 1, 2026, for a combined, compounded increase of 35.6%. Proposed increases for all other meter sizes for water and wastewater services range from 19.9% to 23.3% on January 1, 2026, and from 20.6% to 24.5% on April 1, 2026.

[14] For non-residential property customers receiving stormwater service, the current site related flow charge per m^2 of impervious area of $0.173 is proposed to increase to $0.216 on January 1, 2026, and to $0.277 on April 1, 2026.

[15] For residential property customers receiving stormwater service, the site related flow charge is based upon an impervious area tiered rate structure. The proposed annual increase in the tiered rates ranges from $5 to $28 on January 1, 2026, with a further annual increase ranging from $6 to $40 on April 1, 2026.

[16] These respective increases are based on projected revenue requirements for the 2025/26 test year and the 2026/27 test year.

[17] The application also proposes various fee adjustments and administrative changes, including changes to provisions in Halifax Water's *Regulations*. The fee adjustments include amendments to fire protection charges, and the stormwater Right of Way (ROW) Charge, which is charged to Halifax Regional Municipality (HRM), the Province and the Halifax Dartmouth Bridge Commission.

[18] Halifax Water's most recent general rate application (GRA) was held in 2022 and set rates for the 2022/23 and 2023/24 test years: see Matter M10468, 2022 NSUARB 163 (2022 GRA).

[19] By Hearing Order dated May 9, 2025, the Board established a timeline for the filing of interventions, the exchange of Information Requests (IRs) and the hearing. A publicly advertised Notice of Public Hearing invited interventions from interested parties. Notices of Intervention were received from the Consumer Advocate; Department of Municipal Affairs; Department of Public Works; Department of Energy; Urban Development Institute; Killam Apartment REIT; Rental Housing Providers Nova Scotia; Blue Mountain – Birch Cove Lakes (Blue Mountain); HRM; and Labatt Brewing Company Ltd. (Oland Brewery). The hearing was held at the Board's offices on September 15-18, 2025, with the Consumer Advocate's and Board Counsel's consultants testifying by

videoconference. Blue Mountain, Oland Brewery and HRM did not participate in the hearing. An evening session for public comment was held on September 15, 2025.

3.0 ISSUES

[20] The Board established an issues list that addressed the matters raised in the application. The issues were canvassed in the evidence of Halifax Water, the intervenors and the Board Counsel's consultants, through Information Request (IR) responses, and in the parties' closing submissions. The issues are addressed by the Board in the following sections of this decision. Some of the issues have been combined or reordered in the discussion and include topics arising from these issues.

4.0 ANALYSIS AND FINDINGS

4.1 Overview of proposed revenue requirement and rates

[21] Halifax Water's proposed rate increases are significant. An initial rate increase is proposed for January 1, 2026, followed by another rate increase three months later, on April 1, 2026.

[22] To illustrate the magnitude of these proposed rate increases, the Board refers to the proposed increases for 5/8" water meters, which are used primarily by residential customers. The proposed increases for water and wastewater services total 15.8% on January 1, 2026, and a further 17.1% on April 1, 2026, for a combined, compounded increase of 35.6%. There are also proposed increases for stormwater charges for residential customers on January 1, 2026, and again on April 1, 2026. Even larger increases are proposed for all other meter sizes for water and wastewater services,

ranging from 19.9% to 23.3% on January 1, 2026, and from 20.6% to 24.5% on April 1, 2026.

[23] These proposed rate increases are based on projected revenue requirements for the 2025/26 test year (effective January 1, 2026) and the 2026/27 test year (effective April 1, 2026). Halifax Water forecasts the revenue requirements using budgeted costs and other assumptions. The application forecasts significant increases in the revenue requirements compared to what was approved in the 2022 GRA. Halifax Water proposes to increase the revenue requirement last approved in the 2022 GRA for the 2023/24 test year from about $169.5 million to $211.5 million in 2025/26 and to $231.0 million in 2026/27. This is a proposed increase of $42 million in the revenue requirement for the first test year and a further $19.5 million for the second test year, which represents a total of $61.5 million over the 2022 GRA Board-approved amount for 2023/24. This is a 36.3% increase over the 2022 GRA revenue requirement. These increases are set out in the following table compiled by the Board from the information provided by Halifax Water in Undertaking U-20 (this includes the revenue requirements for water, wastewater and stormwater):

Continuity of Revenue Requirements from 2023/24 (2022 GRA) to Test Year 1 and Test Year 2

	2025/26	2026/27
Revenue Requirement (Starting)	**$169,469,843**	**$211,537,188**
Salaries and benefits	$12,506,525	$3,964,416
Training and development	(127,177)	33,900
Contract services	4,972,921	603,322
Electricity	1,228,549	423,129
Materials, supplies and services	4,183,661	2,423,399
Professional services	274,470	99,600
Fleet	1,843,919	210,351
Chemicals	1,976,215	526,513
Applied overheads and other allocations	953,786	(118,736)
Depreciation	9,612,911	2,367,395
Principal and Interest on Debt	2,217,188	8,301,069
Dividend/ grant in lieu of taxes	364,373	447,305
Waste Water Rebate	1,867,380	132,620
Other Revenues	(279,139)	69,881
Other expenditures adjustment/recoveries	471,764	22,221
Total	**$42,067,346**	**$19,506,385**
Revenue Requirement (Test Years)	**$211,537,188**	**$231,043,572**

Source: calculated from U20. For simplicity, some expense categories in U-20 have been combined.

[24] Halifax Water notes that it suppressed rate increases in its last two general rate applications in 2020 and 2022. It filed the 2020 GRA as the COVID-19 pandemic was starting and tapped into its reserves and accumulated surpluses in the amount of $12.2 million in 2020 to suppress rate increases in that GRA. The utility stated that it again accessed its reserves and accumulated surpluses in its 2022 GRA when the average rate increase for residential customers was approved at 3.6% in 2022 and 3.6% in 2023. The rate increases did not fully cover water and stormwater deficits in the 2022 GRA to the

tune of $8.4 million, which were not sufficient to meet Halifax Water's updated revenue requirements for the test years in that matter (2022 NSUARB 163, at para. 224).

[25] Halifax Water said that inflation, cost increases and increases to interest rates on new debt issues, along with "ongoing challenges associated with growth, aging infrastructure, and regulatory requirements have created an environment that requires increases to rates to ensure the long-term viability of the utility". The utility also said it had significant turnover of its executive team level throughout 2023 and 2024. According to Halifax Water, these leadership changes, the transition to the Enterprise Resource Planning system, and other institutional capacity factors, also contributed to its inability to address the financial situation. Halifax Water operated with an annual budgeted deficit of $18.7 million in 2024/25 and budgeted an annual deficit of $34.1 million for 2025/26. Despite this being its third general rate hearing since 2020, Halifax Water has had deficits each year since 2020/21.

[26] Accordingly, while Halifax Water had an accumulated surplus over time of $38.1 million in April 2020, that had reversed to a projected accumulated deficit of almost $7 million by March 31, 2025. Absent the rate increases requested in this application, Halifax Water stated that the projected revenue requirements would result in worsening accumulated deficits of $44.1 million as of March 31, 2026, and up to about $100 million as of March 31, 2027 (see Figure 12 in the application). However, in evidence received during the hearing, the accumulated deficit at the end of March 2025 was lower than originally projected (i.e., $3.9 million instead of $7 million).

[27] Nevertheless, the application would result in two significant rate increases three months apart. While Halifax Water forecasted its revenue requirement for the entire

first test year (2025/26), due to the timing of the application, the proposed new rates would only start recovering the related costs for that period on January 1, 2026, nine months after the test year started. This would result in there being a 9-month period (April 1, 2025, to December 31, 2025) during which existing rates would not be sufficient to recover the budgeted revenue requirement for that period. Halifax Water has proposed to recover the resulting $24.5 million shortfall from the first test year by carrying it over into the second test year revenue requirement starting April 1, 2026, which was referred to by Halifax Water in its application as the “deficit elimination”. This carry-over of the “deficit elimination” from the first test year into the second test year causes a much larger rate increase in the second test year than it otherwise would have been if the amount was not carried over. Without the carry over, the rate increase for residential customers in the second test year for water and wastewater services would have been 7.0%, but adding the “deficit elimination” increases the proposed rate increase to 17.1% in the second test year.

[28] The breakdown of the rate increases for water and wastewater services across all rate classes is outlined in Figure 30 of the application for both 2025/26 and 2026/27:

Scenario #3 - No change in Base charge/change in consumption only plus deficit elimination

Halifax Regional Water Commission
Consolidated Rate Studies - Water and Wastewater Services
Bill Comparisons
2025/26

Meter Size	Monthly Base Charge			Monthly Commodity Charge			Monthly Combined Bill			Quarterly Combined Bill		
	Current	2025/26 Proposed Rates	% Change	Current	2025/26 Proposed Rates	% Change	Current	2025/26 Proposed Rates	% Change	Current	2025/26 Proposed Rates	% Change
5/8" - 15mm	$27.00	$27.00	0.0%	$46.02	$57.52	25.0%	$73.02	$84.52	15.8%	$219.05	$253.55	15.8%
3/4" - 20mm	$38.00	$38.00	0.0%	$152.30	$190.22	24.9%	$190.30	$228.22	19.9%	$570.89	$684.67	19.9%
1" - 25mm	$62.00	$62.00	0.0%	$304.49	$380.68	25.0%	$366.49	$442.68	20.8%	$1,099.46	$1,328.03	20.8%
1.5" - 40mm	$119.00	$119.00	0.0%	$716.79	$895.06	24.9%	$835.79	$1,014.06	21.3%	$2,507.36	$3,042.19	21.3%
2" - 50mm	$188.00	$188.00	0.0%	$1,752.24	$2,189.27	24.9%	$1,940.24	$2,377.27	22.5%	$5,820.72	$7,131.82	22.5%
3" - 80mm	$376.00	$376.00	0.0%	$3,732.15	$4,674.41	25.2%	$4,108.15	$5,050.41	22.9%	$12,324.45	$15,151.23	22.9%
4" - 100mm	$585.00	$585.00	0.0%	$6,566.48	$8,201.93	24.9%	$7,151.48	$8,786.93	22.9%	$21,454.44	$26,360.80	22.9%
6" - 150mm	$1,168.00	$1,168.00	0.0%	$18,555.52	$23,144.96	24.7%	$19,723.52	$24,312.96	23.3%	$59,170.57	$72,938.89	23.3%
8" - 200mm	$2,100.00	$2,100.00	0.0%	$17,000.67	$21,248.62	25.0%	$19,100.67	$23,348.62	22.2%	$57,302.01	$70,045.86	22.2%
10" - 250mm	$3,498.00	$3,498.00	0.0%	$36,670.87	$45,828.00	25.0%	$40,168.87	$49,326.00	22.8%	$120,506.62	$147,977.99	22.8%

Halifax Regional Water Commission
Consolidated Rate Studies - Water and Wastewater Services
Bill Comparisons
2026/27

Meter Size	Monthly Base Charge			Monthly Commodity Charge			Monthly Combined Bill			Quarterly Combined Bill		
	2025/26 Proposed Rates	2026/27 Proposed Rates	% Change	2025/26 Proposed Rates	2026/27 Proposed Rates	% Change	2025/26 Proposed Rates	2026/27 Proposed Rates	% Change	2025/26 Proposed Rates	2026/27 Proposed Rates	% Change
5/8" - 15mm	$27.00	$27.00	0.0%	$57.52	$71.98	25.1%	$84.52	$98.98	17.1%	$253.55	$296.94	17.1%
3/4" - 20mm	$38.00	$38.00	0.0%	$190.22	$237.17	24.7%	$228.22	$275.17	20.6%	$684.67	$825.52	20.6%
1" - 25mm	$62.00	$62.00	0.0%	$380.68	$476.41	25.1%	$442.68	$538.41	21.6%	$1,328.03	$1,615.23	21.6%
1.5" - 40mm	$119.00	$119.00	0.0%	$895.06	$1,107.04	23.7%	$1,014.06	$1,226.04	20.9%	$3,042.19	$3,678.12	20.9%
2" - 50mm	$188.00	$188.00	0.0%	$2,189.27	$2,718.38	24.2%	$2,377.27	$2,906.38	22.3%	$7,131.82	$8,719.13	22.3%
3" - 80mm	$376.00	$376.00	0.0%	$4,674.41	$5,881.31	25.8%	$5,050.41	$6,257.31	23.9%	$15,151.23	$18,771.94	23.9%
4" - 100mm	$585.00	$585.00	0.0%	$8,201.93	$10,323.26	25.9%	$8,786.93	$10,908.26	24.1%	$26,360.80	$32,724.77	24.1%
6" - 150mm	$1,168.00	$1,168.00	0.0%	$23,144.96	$29,109.92	25.8%	$24,312.96	$30,277.92	24.5%	$72,938.89	$90,833.75	24.5%
8" - 200mm	$2,100.00	$2,100.00	0.0%	$21,248.62	$26,753.38	25.9%	$23,348.62	$28,853.38	23.6%	$70,045.86	$86,560.15	23.6%
10" - 250mm	$3,498.00	$3,498.00	0.0%	$45,828.00	$57,696.56	25.9%	$49,326.00	$61,194.56	24.1%	$147,977.99	$183,583.68	24.1%

[Exhibit H-1, PDF p. 43]

[29] The allocation of the revenue requirement among the rate classes relating to water and wastewater services for both test years is outlined in Figure 36 of the application for both 2025/26 and 2026/27:

COMBINED WATER AND WASTEWATER	2025/26					2026/27				
	Scenario 1 Cost of Service Revenue	Scenario 2 Current Base Rate	Scenario 3 Volumetric plus Deficit Elimination	Scenario 1 to Scenario 3 Difference		Scenario 1 Cost of Service Revenue	Scenario 2 Current Base Rate	Scenario 3 Volumetric plus Deficit Elimination	Scenario 1 to Scenario 3 Difference	
	$	$	$	$	%	$	$	$	$	%
Calculated Revenues										
Unmetered 5/8"	$700,224	$664,602	$664,618	($35,605)	(5.1%)	$760,141	$710,375	$762,683	$2,543	0.3%
Unmetered 3/4"	$3,186	$3,242	$3,242	$55	1.7%	$3,418	$3,496	$3,732	$314	9.2%
Unmetered 1"	$42,222	$43,471	$43,473	$1,251	3.0%	$45,531	$47,263	$52,509	$6,977	15.3%
Unmetered 3"	$33,639	$35,826	$35,826	$2,188	6.5%	$36,204	$39,133	$41,994	$5,790	16.0%
5/8" - 15mm	$84,257,380	$81,686,413	$81,691,207	($2,566,174)	(3.0%)	$92,092,584	$87,907,420	$96,358,137	$4,265,553	4.6%
3/4" - 20mm	$2,872,216	$2,895,330	$2,895,534	$23,318	0.8%	$3,121,133	$3,162,907	$3,526,227	$405,094	13.0%
1" - 25mm	$8,342,185	$8,563,683	$8,564,309	$222,123	2.7%	$9,055,651	$9,374,219	$10,487,057	$1,431,405	15.8%
1.5" - 40mm	$14,871,211	$15,384,331	$15,385,468	$514,257	3.5%	$16,161,772	$16,895,907	$18,935,676	$2,773,903	17.2%
2" - 50mm	$24,356,653	$25,013,138	$25,015,085	$658,431	2.7%	$26,440,415	$27,552,412	$31,026,625	$4,586,209	17.3%
3" - 80mm	$18,835,737	$19,352,065	$19,353,628	$517,891	2.7%	$20,438,763	$21,311,121	$24,049,774	$3,611,011	17.7%
4" - 100mm	$7,535,812	$7,739,419	$7,740,024	$204,212	2.7%	$8,175,520	$8,526,711	$9,611,922	$1,436,402	17.6%
6" - 150mm	$9,609,159	$9,794,776	$9,795,595	$186,436	1.9%	$10,429,341	$10,813,593	$12,243,774	$1,814,433	17.4%
8" - 200mm	$6,598,963	$6,837,139	$6,837,672	$238,709	3.6%	$7,157,135	$7,516,030	$8,459,587	$1,302,452	18.2%
10" - 250mm	$1,149,287	$1,183,824	$1,183,916	$34,628	3.0%	$1,246,660	$1,303,671	$1,468,669	$222,020	17.8%
	$179,207,874	$179,197,259	$179,209,596	$1,722	0.0%	$195,164,258	$195,164,258	$217,028,364	$21,864,108	11.2%
Fire Protection	$13,285,842	$13,285,842	$13,285,842	$0	0.0%	$14,437,228	$14,437,228	$17,032,330	$2,595,103	18.0%
Total	$192,493,716	$192,483,101	$192,495,437	$1,722	0.0%	$209,601,486	$209,601,486	$234,060,694	$24,459,211	11.7%
Revenue Requirement per Rate	$192,495,437	$192,495,437	$192,495,437			$209,601,486	$209,601,486	$209,601,486		
Adjustment To Revenue Requirement	($1,722)	($12,337)	$0			$0	$0	$24,459,209		

[Exhibit H-1, PDF p. 47]

[30] In addition to the increases to the water and wastewater rates above, there are also proposed increases to stormwater rates.

[31] While Halifax Water recognizes the requested rate increases are significant, it asserts that the rate increases are needed to maintain and improve the current level of service to customers and address significant investments in its infrastructure. The utility asserts that the budgets and revenue requirements were "developed on a 'break-even' basis to ensure the lowest reasonable cost for its ratepayers". However, as described in more detail later in this decision, Halifax Water applied a outdated rate affordability study that uses the median household gross income (median household income) for Halifax of $86,788 in 2024 as its affordability measure. Halifax Water noted that its application satisfied a 2% affordability threshold. However, as noted by the Consumer Advocate, Halifax Water did not assess the impact of its proposed rate increase on households that earn less than the median household income. There was little or no mention about

affordability in the remainder of its application, which, repeatedly stressed the financial benefits for the utility.

[32] Kenda MacKenzie, the utility's General Manager, acknowledged at the hearing that the proposed increases amount to "rate shock", considering the magnitude of the increases and the three-month period over which they will be applied. In questioning by the Board, Halifax Water witnesses referred to various projected costs as being reasonable but explained that if their estimates proved to be too high any surplus would simply be applied to mitigate future rate increases.

[33] While there is no clear definition of "rate shock", the proposed rate increases in this application clearly fall within the scope of what is understood as "rate shock", as was acknowledged by Halifax Water at the hearing. The proposed increases are "sudden and significant" and the Board may consider their impact on customers in deciding how Halifax Water is to recover its costs (including a phase in of costs or recovery over a longer period), provided the utility is compensated for the economic impact of deferring its recovery: see *ATCO Gas and Pipelines Ltd. v Alberta (Utilities Commission)*, 2015 SCC 45 at footnote 10; *TransCanada Pipelines Ltd. v National Energy Board*, 2004 FCA 149, 319 N.R. 171, at para. 43; *Re Nova Scotia Power Incorporated*, 2002 NSUARB 59 at paras. 284-287 and 297; and *Town of Mahone Bay*, 2023 NSUARB 66 at para. 136.

[34] The intervenors requested that the Board address the impact of these rate increases on consumers. The Consumer Advocate submitted:

> The Consumer Advocate submits the Board should take all reasonable measures available to it to reduce the rate increases Halifax Water has proposed for the test years. The magnitude of the increases and the short period of time within which they would be implemented constitute "rate shock" that will test the limits of affordability for many customers of the Utility.
>
> The Board should direct Halifax Water to take steps aimed at reducing its revenue requirement for the test years and it should, where appropriate, order that the recovery of

> expenditures that are necessary be spread out over a longer period of time to reduce the immediate burden on customers.
>
> [Consumer Advocate, Closing Submission, p. 1]

[35] The Department of Municipal Affairs echoed this point:

> Given HRWC's lack of consideration and analysis with respect to affordability and the impact of the proposed rate increase on ratepayers, the Department of Municipal Affairs respectfully requests that the Board bear these issues in mind and issue directions that it deems appropriate in the circumstances.
>
> [Dept. of Municipal Affairs, Closing Submissions, p. 3]

[36] Killam Apartment REIT submitted that a balance must be struck between the needs of the utility and affordability:

> This proceeding is not only about infrastructure and cost recovery, but also about fairness. A fair and sustainable approach must consider both the long-term needs of the utility and the immediate realities faced by the community it serves. We once again ask the Board to significantly scale back or phase in rate increases more gradually. We recognize that maintaining and upgrading water infrastructure is necessary, but the burden must be balanced against the impact on ratepayers.
>
> [Killam Apartment REIT, Closing Submissions, p. 1]

[37] While the Board recognizes that the utility is entitled to recover its reasonable and prudent expenses, the Board considers that the utility, and ultimately this Board, must strike an appropriate balance between just and reasonable rates and the level of spending necessary to maintain the required level of service. It is incumbent on it to carefully review all of its services and expenses, and to "sharpen its pencil" to ensure that the costs that it is requesting are necessary and the least cost for ratepayers. The Board has reviewed the present application on this basis.

4.2 Affordability

[38] Affordability is an issue in this application because of the magnitude and timing of the rate increases three months apart as proposed by Halifax Water.

[39] To put the proposed increases in perspective, consider the impact on the average residential (5/8" water meter) customer. That customer currently pays

approximately $914 per year combined for water, wastewater and stormwater services. Halifax Water seeks to increase those rates on January 1, 2026, and again on April 1, 2026, for a total increase of 35.6% over three months such that as of April 1, 2026, that customer will pay approximately $1,249 per year, an increase of $335 [Exhibit H-1, Figure 41].

[40] The proposed increases for larger meter customers are even more significant, ranging from 44.6% to 53.5% for water and wastewater services combined [Exhibit H-1, Figure 30].

[41] The Board received over 2,000 letters of comment from individuals, households, seniors, persons on fixed income, landlords, tenants, business improvement districts and business owners, all of whom raised concerns about affordability. Many of the intervenors in this application, including the Department of Municipal Affairs, Rental Housing Providers Nova Scotia, Killam Apartment REIT and Oland Brewery also raised concerns about affordability and it was the primary focus of the evidence and submissions of the Consumer Advocate.

[42] In cross-examination by the Consumer Advocate, Halifax Water's General Manager admitted that the proposed increases constitute "rate shock" given their amount and the short period of time over which they are proposed to be implemented (Transcript, September 15, 2025, pp. 86-87).

[43] Halifax Water says that affordability must be considered in light of various factors including: the need to maintain, repair and replace critical infrastructure, including upgrades to the JD Kline and Lake Major water supply facilities and the Mill Cove Wastewater Treatment Facility; external influences including the COVID-19 pandemic,

inflation, increased borrowing costs and increased labour and material costs; and that in its last two rate applications, during and immediately following the pandemic, Halifax Water intentionally suppressed rates to reduce the impact on customers by relying on its reserves and accumulated surpluses, which have now been exhausted.

Measuring Affordability

[44] Halifax Water measures affordability based on the percentage of median household income that rates represent compared to a benchmark of 2%. This metric comes from a 2012 “Study of An Efficient Funding Mechanism for Halifax Water”, last updated in 2018, and a 2017 “Rate Affordability Measures for Halifax Water Services” report (2017 Rate Affordability Study). Halifax Water says that its current and proposed average bills for 5/8” meter customers compare favourably to this benchmark:

> Median household income in the Halifax Census Metropolitan Area is $83,100 based on Statistics Canada, Canadian Income Survey 2006-2022. The median household income, if increased by CPI, would be expected to be $86,788 in 2024. The average residential customer currently pays $914.20 for water, wastewater and stormwater Service. The average bill equates to 1.05% of median household income, ... With the proposed increase for 2025/26, the average residential bill will amount to $1,062.21, would equate to 1.22% of median household income for all services, and for 2026/27, a bill amount of $1,248.77, would equate to 1.44% of median household income. As of the most recent benchmarking in 2024/25, the average residential bill for combined water, wastewater and stormwater service for the 14 benchmarked cities was $1,135.30 (including Halifax).
>
> [Exhibit H-1, lines 322-33; 342-363]

[45] In response to Undertaking U-2, Halifax Water provided a spreadsheet showing the percentage of household income that current and proposed rates represent for income levels below the median household income. In its closing submission, Halifax Water states:

> … the response to Undertaking U-2 demonstrates the proposed increases for the 2026/27 Test Year, if approved, would be below the 4% industry standard (for all three services) assuming a household income of in the range of $32,000, which is $55,000 below the median household income for Halifax used in the Application. Using the more aggressive Halifax Water Benchmark of 2%, the proposed increases for the 2026/27 Test Year, if

> approved, would be met assuming a household income level in the range of $62,000, which is approximately $25,000 below that median household income.
>
> [Halifax Water, Closing Submission, p. 7]

[46] Undertaking U-2 suggests that when income is below $45,710, Halifax Water's current rates exceed 2% of household income. Further, when income is below $62,439 the proposed rates will exceed 2% of household income. This means that the income level at which proposed rates will exceed 2% of household income will increase by $16,729 or approximately 37%, from $45,710 to $62,439, in only three months.

Rate Affordability Study

[47] The 2017 Rate Affordability Study found that, "at the community level residential rates are affordable when using the standard measure of average bill as a percentage of MHI [median household income]". The study makes eight recommendations, largely focused on enhancing outreach and financial assistance to low-income customers through Halifax Water's Help to Others (H2O) Program. The study also identifies areas that, "warrant a closer look with respect to rate affordability", including where median household income is 25% or less below the municipal average and where there is a combination of low household income and high service disconnections [Exhibit H-6, Response to NSRAB IR-33(e)].

[48] Halifax Water has implemented most of the eight recommendations including increasing the threshold income requirements and financial benefits for its H2O Program; increasing awareness of the program; and, through its advanced metering project, providing billing and collection options to low-income customers, access to usage information and water conservation tips [Response to Undertaking U-16].

[49] The H2O Program is administered by the Salvation Army and provides up to $275 every two years to customers meeting certain income thresholds, currently $21,000 for individuals and $39,000 for a family. This program is not paid for by ratepayers and is funded through non-regulated revenues and donations from Halifax Water employees that are matched by Halifax Water. In 2024/25 the program assisted 47 customers. In most years the program funding is not fully utilized. In the last two years, over half of the customers that applied were rejected because their income exceeded the program's threshold limits [Exhibit H-14, RIR-4(d) CA]. At the hearing, Halifax Water testified that it is looking at revising the income thresholds and doing more to make customers aware of the program.

[50] The 2017 Rate Affordability Study has not been updated and is now over eight years old. In cross-examination by the Nova Scotia Department of Municipal Affairs, Halifax Water agreed to "accelerating" the update process (Transcript, September 15, 2025, p. 153). Halifax Water has not carried out any work in the areas the study identified as warranting a closer look - where median household income is 25% or less below the municipal average and where there is a combination of low household income and high service disconnections (Transcript, September 15, 2025, pp. 114-120).

Board Authority to Address Affordability

[51] The Board's role in a rate application is to ensure that the utility is complying with its obligations under the *Public Utilities Act*, RSNS 1989, c 380 (*Act*). Section 52 of the *Act* states that, "Every public utility is required to furnish service and facilities reasonably safe and adequate and in all respects just and reasonable." This obligation includes charging rates that are just and reasonable.

[52] There are often competing interests at play in a rate application. It is the Board's role to strike an appropriate balance between, among other things, rate increases and the additional spending necessary to maintain the required level of service. For example, Halifax Water must be able to complete required repairs and maintenance, replace aging infrastructure and carry out capital projects, otherwise, serious safety and service issues could arise. As the Board explained in *Amherst (Town), Re*, 2006 NSUARB 85:

> [14] … in setting rates, it is not the Board's role to provide the cheapest rates possible for minimal service. Rather, it is the Board's role to ensure that the rates are sufficiently robust to enable the Utility to provide reasonable, adequate and safe service.

[53] The Board has various tools at its disposal that it can use to address affordability, including deferring recovery of costs to a later period, directing a regulatory asset to be amortized over an extended period rather than recovered all at once, refusing recovery of expenses that should not be borne by ratepayers, and other options discussed elsewhere in this decision. However, there are trade-offs to using these tools. Requiring future ratepayers to pay the costs of current customers can create concerns about intergenerational equity and delaying recovery of legitimate costs generally attracts interest or similar carrying costs, which ultimately increases the amount paid by ratepayers over the long term: *Nova Scotia Power Inc. (Re)*, 2023 NSUARB 12, at paras. 218-219.

[54] There are also some things the Board cannot do. For example, it cannot set lower rates for customers with lower incomes because it does not have the legislative authority to do so: *Dalhousie Legal Aid Service, Re*, 2005 NSUARB 27, aff'd 2006 NSCA 74, leave to appeal to the Supreme Court of Canada refused, [2006] SCCA No. 376.

Findings

[55] The Board finds that the total proposed increases implemented over a period of just three months will constitute “rate shock” for customers.

[56] Although Halifax Water’s analysis shows that proposed rates will not exceed its affordability metric of 2% of median household income, the Board finds that it is not appropriate to rely on a single metric and that affordability must be considered in a broader context taking into account all of the evidence filed in this application. The Board’s role is to balance affordability concerns with the significant costs for infrastructure maintenance, repair, replacement and capital works to ensure that Halifax Water will be able to meet its statutory obligation of providing customers with safe and adequate service. It is through this lens that the Board has considered the various issues raised in the application.

[57] The Board directs Halifax Water to update the 2017 Rate Affordability Study, which must include an analysis of the appropriateness of the affordability metric including a review of alternatives, and the areas that the study identified as warranting a closer look, including where median household income is 25% or less below the municipal average and where there is a combination of low household income and high service disconnections. The Board directs Halifax Water to consider after tax income as its measure to provide a more realistic assessment of affordability. The Board also directs Halifax Water to examine affordability metrics for multi-unit building owners and tenants, as well as businesses.

[58] In most years the H2O Program is not fully utilized. This is regrettable considering the objectives of the program. The Board accepts Halifax Water’s commitment to review its H2O Program with a view to making customers more aware of

the program and increasing the income eligibility limits and the amount and frequency of funding to reflect up-to-date affordability data.

[59] At the hearing, Halifax Water committed to filing its next rate application before September 2026. The Board directs Halifax Water to file an update on the rate affordability study and the H2O Program as part of that application.

4.3 Projected Consumption and Water Demand Analysis

[60] Halifax Water's application explains that from 2001/02 to 2024/25 overall water consumption by utility customers had decreased by 20%, an average decline of just under 1% per year. However, due to "customer growth and conversion to new, more accurate meters", consumption had recently started to increase. In 2022/23 it rose 1.2%, in 2023/24 by 2.5% and in 2024/25 by 3.6%. Consumption increased in all customer classes except for industrial customers.

[61] In test year 1 and test year 2, Halifax Water assumed that consumption would increase by 1% in each year. This assumption applies to water and also to wastewater discharge, under the assumption that wastewater discharge is directly related to water consumption. The application assumes there are 570 new water customers in each year and 531 new wastewater customers in each year.

[62] Halifax Water contracted A&N Technical Services to carry out an econometric study on water consumption. In April 2025 it produced the final report entitled "Halifax Water 2024 Demand Analysis: Econometric Water Demand Estimation". The study used 20 years of water consumption data to estimate long-term trends, short-term shocks and price elasticity. The authors developed an econometric model and used it to forecast water consumption and revenues for 2024/25, 2025/26 and 2026/27.

[63] The study recommended price elasticities of -0.128 for residential customers and -0.20 for non-residential and commercial customers, meaning that for a 10% price increase, demand would fall 1.28% for residential customers. The revenue forecasts also used assumptions on account growth and on consumption growth. The assumptions on consumption growth were based on "professional judgement" except for residential consumption, that was based on econometric information. Using these "working assumptions", the model forecast revenue growth, for existing rates, for 2024/25, 2025/26 and 2026/27 of 1.02%, -1.75% and 0.26%.

[64] In preparing its application, Halifax Water did not use the econometric model, rather it assumed that consumption would grow by 1.0% in each test year for all customer classes. In explaining that the higher rates would lower consumption demand, Louis de Montbrun, Halifax Water's Director of Corporate Services/CFO, said that a rate increase "in the range of what we're proposing would have an increase on a downward pressure on consumption. So, we reduced our consumption estimate to 1 percent." When asked why their application used a flat 1% growth rate and did not differentiate amongst classes, he stated that the utility looked at the available information and determined "a 1 percent increase was a reasonable amalgamation of the various sources of information we had." He was asked at the hearing if this estimate was too conservative:

> … part of our challenge is the -- when I'm looking at consumption, is we have -- some of our data is related to that COVID time period where, if I can say the world changed, in terms of our approaches. I think we are coming to the point where we -- have establishing what we can consider a new normal. There is a risk if we overestimate consumption, because what that would [do] is that would lower the rate that customers would be charged; if consumption comes in above that, that would provide -- it would help balance off, but if consumption comes in below that estimate, we would have a further revenue shortfall. So we're looking for that, if I can say that happy medium, that happy point where we can say that number appears to be reasonable. The impact of using something that is too optimistic is the -- if I can say, we create even additional hardship going forward into the -- going forward. If we are pessimistic in the 1 percent that we've used and our growth is higher than that, what that would do is it would provide an incremental amount of revenue and would offset some of the -- it would provide, if everything else is equal, a bit of a surplus

> that we can use to start putting money into our accumulated surpluses that we can use in future years to offset and to smooth rates so that the risk to Halifax Water of being too optimistic on consumption is higher than being more pessimistic.
>
> [Transcript T1975, pp. 599-600]

[65] Evidence on consumption was also filed by Andrew McLaren, of InterGroup Consultants, who was qualified as an expert and provided evidence on behalf of the Consumer Advocate. He pointed out that Halifax Water's application showed "its rolling 4-year average of consumption indicates an average annual increase of 1.82%". In his evidence he stated that:

> There are a number of issues with Halifax Water's proposed revenue forecast. First, Halifax Water has appeared to recently experience higher than forecast increases in consumption. Second, Halifax Water indicates that if customers reduce consumption, it would reduce Halifax Water's revenues and states that was why it reduced its estimated growth from the 3% seen in 2024/25 to 1% in each of the test years. Based on this description it appears Halifax Water has adopted what it views as a conservative consumption forecast, possibly to mitigate potential adverse revenue impacts of its preferred rate design. The Board should not approve an unnecessarily pessimistic consumption forecast simply to insulate Halifax Water from potential adverse revenue impacts. InterGroup recommends the Board direct Halifax Water to update its consumption forecast to use the rolling 4-year average of 1.82% shown in Figure 13 of the application. [Footnotes omitted]
>
> [Exhibit H19, p.10-11]

Findings

[66] The Board has reviewed the evidence and the testimony on consumption levels. Halifax Water has assumed a 1% increase across all ratepayer classes. Mr. McLaren has stated that he believes 1.8% would be a reasonable estimate, also testifying that the Board should consider any updated projections.

[67] Information from Undertaking U-25 shows that consumption for the first four months of 2025/26 (to July 31st) has increased 4.2% relative to the first four months of 2024/25 (see table below). The number of customers has grown by 560 since the same time in 2024/25. As any rate increase would not take effect until January 1, 2026, these amounts presumably do not reflect the full effect of any elasticity from a rate increase. Mr.

de Montbrun testified that he expected "some customers will begin to adjust their consumption starting now, or in May when the rates were originally proposed" and that "voluntarily restrictions and now mandatory restrictions on customers will have an impact on our revenues for the first nine months."

Consumption by Customer Class (m3)

	2025/26	2024/25	m3 Change	% Change
Commercial	**2,375,116**	2,260,009	115,107	5.10%
Industrial	**569,450**	579,577	(10,127)	(1.7%)
Institutional	**1,465,512**	1,316,360	149,152	11.30%
Multi-residential	**2,996,124**	2,787,186	208,938	7.50%
Residential	**4,576,699**	4,561,250	15,448	0.30%
	11,982,902	11,504,383	478,519	4.20%

Based on billed consumption

[Exhibit H-44, Undertaking U-25, p. 6]

[68] The Board observes that Halifax Water is concerned with overestimating consumption due to "hardship" on its financials but sees no downside to underestimating consumption. Rather it sees underestimation leading to "a bit of a surplus" while the impact to the "residential customer as a result is minimal".

[69] Due to the trend in actual consumption, the Board concludes that the 1% consumption level increase assumed by Halifax Water is too conservative. The Board accepts Mr. McLaren's evidence and directs Halifax Water to use an overall average consumption level increase of 1.82%, prorated by customer class using the consumption data in the above table.

[70] Given the uncertain state of Halifax Regional Municipality's population growth rate, it would be prudent for Halifax Water to undertake an analysis of consumption by meter size at the rate class level each year. Understanding the basics of average use

will help the utility plan for change in consumption as the population fluctuates and as businesses and industrial sectors change operations in response to economic conditions.

[71] Further, the Board encourages Halifax Water to develop an understanding of the forecast methods from the “Halifax Water 2024 Demand Analysis: Econometric Water Demand Estimation” and apply the findings as appropriate. Otherwise, the Board considers that the utility should avoid contracting studies if there is no intention of using the findings in a meaningful way.

4.4 Debt Financing, including assumed interest rate

[72] Halifax Water has proposed a 5-year capital plan totalling $1.364 billion. The plan includes $133 million for 2025/26 and $208.6 million for 2026/27. Funding for the plan includes external grants, debt, depreciation funding, and the RDC.

[73] In the current GRA, debt payments for 2025/26 (test year 1) were $32.8 million. This is an increase of $2.2 million or 7.2% over the required amount for the 2022 GRA and represents roughly 5% of the total increase in the revenue requirement for test year 1. In 2026/27 (test year 2), debt payments rose to $41.1 million, a further increase of $8.3 million or 25.3%. This represents over 40% of the additional total revenue requirement increase in test year 2. The increases in debt costs are due not only to higher interest rates but are also due to the issuance of additional debt, including $68 million in expected new debt in 2025/26 and $150 million in new debt in 2026/27.

[74] Halifax Water’s debt service ratio as of July 31, 2025, is 17.15%. Its debt is guaranteed by HRM provided the debt service ratio is under 35%. If the proposed rate increases are approved in full the ratio will decline to 16.1% in 2026/27. If the application is denied the ratio would rise to 23.7%.

[75] Depreciation and the RDC also fund the capital budget. In the Board's accounting guidelines, depreciation funding is essentially reserve funding and is entirely different from depreciation in the traditional accounting sense. Rather, under the Board's accounting guidelines, a capital reserve called "Depreciation" must be funded and the funds may only be used for capital projects. Depreciation and the RDC are a major source of funding for Halifax Water's capital budget. Both items are discussed in separate sections of this report. The option to substitute debt for depreciation, however, is discussed below.

[76] The capital plan and debt were both the subject of discussion in the GRA. Mr. McLaren recommended that the Board direct Halifax Water to revise its depreciation and debt costs to reflect 2024/25 capital spending and to reduce capital spending in 2025/26 and 2026/27 by 20%. As an option, he also suggested that the April 1, 2026, rate increase could be conditional, being allowed if Halifax Water "successfully completed the capital work planned for 2025/26". He observed that:

> Given Halifax Water's historic difficulty in completing the volume of capital work it has forecast, the substantial increase in capital spending contemplated in the test years, and that a number of the staffing positions Halifax Water says it added to assist with delivering on its capital plan remained unfilled at the time Halifax Water responded to information requests, the Board should be concerned about Halifax Water's ability to complete the ambitious capital plan.
>
> The Board is in a difficult position on this front, both because Halifax Water needs to considerably increase its capital spending to address the needs outlined in the IRP and because Halifax Water has no reserves remaining. However, asking ratepayers to pay substantial rate increases today to support capital spending that seems unlikely to fully materialize would not be reasonable.
>
> [Exhibit H-19, p.15]

[77] Debt was also discussed by Philip Fraser, CEO of Killam Apartment REIT, who suggested financing more "upgrades through long-term debt".

[78] Interest costs were discussed with Mr. McLaren recommending that Halifax Water “use the most recent interest rates available to it”. He suggested the rate be set at 3.73%.

Findings

[79] Of immediate importance in this rate hearing are the assumptions around capital and debt financing. In considering this area the Board will discuss five major issues:

- What is the impact of the 5-year capital plan?
- How much additional debt can reasonably be issued in the test years?
- Should debt costs be accrued or cash-flowed?
- What interest rate should be assumed for additional debt?
- Is it beneficial for Halifax Water to issue additional debt?

4.4.1 What is the impact of the 5-year capital plan?

[80] The 5-year capital plan provided by Halifax Water includes expenditures of $133 million in the 2025/26 fiscal year. Only the first year of the plan is approved by the Halifax Water board of commissioners. The Nova Scotia Regulatory and Appeals Board reviews this plan every year.

[81] Halifax Water’s 5-year capital plan is shown in Figure 1 from Exhibit H-1. Funding for the 2025/26 capital budget includes debt, depreciation, external funding and the RDC:

Figure 1 – Five-Year Capital Plan for Water, Wastewater, Stormwater, and District Energy System

	Budget 2025-26	Budget 2026-27	Budget 2027-28	Budget 2028-29	Budget 2029-30	Total 2025/26 to 2029/30
Water	52,442,233	74,656,166	129,187,166	212,536,168	209,972,000	678,793,733
Wastewater	51,409,424	100,670,833	158,552,285	141,620,434	103,642,500	555,895,476
Stormwater	29,144,284	31,776,000	19,771,500	22,287,900	17,335,500	120,315,184
District Energy System		1,500,000	4,500,000	3,000,000		9,000,000
Total Expenditures	132,995,941	208,602,999	312,010,951	379,444,502	330,950,000	1,364,004,393

[82] In this hearing there was considerable discussion about the size of the proposed capital plan and Halifax Water's ability to deliver on that plan. Halifax Water has had difficulty in delivering on its capital projects. However, the Board's acceptance of the capital budget filed by Halifax Water is not an approval of an overall spending plan. The budget is only a statement of general and preliminary intention, which does not require Board approval.

[83] In the case of the general rate application, the Board wishes to determine whether the general intent of the capital plan aligns with the broader application. The Board must therefore ensure that, to the extent it is consistent with the application, the capital funding within the plan is prudent and reasonable. This exercise is complicated by the fact that debt costs lag capital funding and are often spread out over multiple years following the budget's approval. The Board will consider the reasonableness of these costs in the sections on debt costs and depreciation.

[84] The capital plan was filed separately with the Board as Matter M12287. Under that matter the Board reviewed 10 routine capital items for Halifax Water's ongoing operations, at a total cost of $27,380,000 for 2025/26. Some of these capital items had already been approved, in full or in part, in separate Board matters. The Board panel under M12287 approved the outstanding items for the full $27,380,000. The Board

indicated that it would review the remaining capital budget under Halifax Water's general rate application.

[85] Board approval is required for capital projects exceeding $1 million (s. 35 and 35A of the *Public Utilities Act*). The necessity and justification for a project must be demonstrated at the time of application for approval. Once a project is approved by the Board, Halifax Water is still responsible for ensuring that the project is well-managed and that actual expenditures are prudently incurred.

4.4.2 How much additional debt can reasonably be issued in the test years?

[86] Testimony from Halifax Water confirmed that debt is issued after a capital project is substantially complete. Because of this, the debt issued in any single fiscal year funds projects for multiple years. Many, if not most, of these projects are from previous fiscal years. The repayment of debt payments (both principal and interest costs) is funded through Halifax Water's rates, as part of its revenue requirements. Interest is set at the time the debt is issued.

[87] Halifax Water issues its debt through the Provincial Government. Multiple debt issues are outstanding with terms as long as 30 years. Halifax Water detailed its specific debt issues in CA IR-07. That response showed that the cost of existing debt (before additional debentures are issued in the test years) was declining in test year 1 (by $3.9 million) and test year 2 (by an additional $900,000). The Board has summarized this information in the table below (Debenture Assumptions). A good portion of this decline was due to one debenture issued in September 2004. In 2024/25, the debt costs for this issue were $5.6 million but in 2025/26 it was fully paid off and there were no costs associated with that debenture.

Debenture Assumptions for 2024/25 and Test Years 1 and 2 (IR-07CA)

	2024/25	2025/26	2026/27
Existing Debentures	$33,598,091.34	$29,688,370.77	$28,831,439.08
May 2025 Debenture - $34 Million	-	2,077,777.78	2,470,666.67
November 2025 Debenture -$34 Million	-	1,038,888.89	2,470,666.67
May 2026 Debenture - $90 Million	-	-	5,500,000.00
November 2026 Debenture - $60 Million	-	-	1,833,333.33
Total	**$33,598,091.34**	**$32,805,037.44**	**$41,106,105.75**

[88] Mr. de Montbrun testified that debentures are normally issued by the Provincial Government at two times of the year: the spring and the fall. In the spring of 2025, Halifax Water issued a new $34 million debenture. Similarly, he testified that it expected to issue a second $34 million debenture in the fall of 2025. The issuance of such debentures are approved by the Board through separate filings. The spring debenture (for 30 years) was issued for $34 million through Matter M12215 and the fall debenture was approved, also for $34 million and for 30 years, through Matter M12496.

[89] Halifax Water's application also assumed that it would issue two 30-year debentures in 2026. The spring debenture would be for $90 million and the fall debenture for $60 million. This would represent the debt portion of capital projects that have been completed. As discussed, these projects may be ones that were approved in previous years (not necessarily the test years) and have now been completed. Mr. de Montbrun confirmed at the hearing that debentures can be issued once construction or purchase is complete or substantially complete.

[90] Mr. de Montbrun explained how Halifax Water cash flowed capital activities, saying that it had completed or close to substantially completed capital projects that it had chosen not to debenture when it otherwise could have, hence reducing the interest expense charged to customers. While Halifax Water would lose interest revenues using such an approach, they also defer the repayment of debenture interest and principal, thus

improving their cash flow position. Mr. de Montbrun was unable to say how much capital spending was deferred.

[91] The Board is satisfied that Halifax Water's assumptions for its two 2025 debentures of $34 million are reasonable. The Board, however, is not convinced that its assumptions of $60 million and $90 million are reasonable for the 2026 debentures. The $150 million total amount is far in excess of debentures issued in previous years and Halifax Water has presented no supporting evidence that suggests that amount of debt will be issued.

[92] The Board is aware that there is tremendous pressure for capital projects and that, with additional staff, Halifax Water should be able to achieve a higher level of annual capital spending. However, looking at annual capital spending patterns to date, as shown in the table below, it is difficult to see a trend that would support $150 million in debentures for 2026/27. The past three completed years showed a spend of $93 million, $98 million and $118 million, while the 5-year average is just under $90 million. This is the total spend including cost sharing and reserves; not all of this would require debt.

Actual Capital Spend by Fiscal Year

Year	Total Actual Spend
2020/21	60,491,374
2021/22	65,307,758
2022/23	93,498,245
2023/24	98,218,680
2024/25	118,422,974
2025/26 YTD	26,700,000

[Source: IR NSRAB 25c)I; 2025/26 is as of July 31, 2025, see T1975, p.224]

[93] Against this spending pattern, Halifax Water (refinancing aside) debentured $79 million in 2024/25 and $68 million in 2025/26. Current spending for 2025/26 appears

low at the end of July at $26.7 million, although the Board acknowledges this would not represent the full trend for the year. A debenture requirement similar to the previous two years ($68 million to $79 million) seems likely although the Board acknowledges it could be somewhat higher due to the higher level of staff or (as Mr. de Montbrun pointed out) capital spending that was not previously debentured might now be issued. Halifax Water did not provide sufficient evidence to support its aggressive debt issuance of $150 million for 2026/27. In the absence of such evidence, the Board must determine an appropriate level of debt issuance based on the most recent 5-year average. The Board thus feels it is reasonable to assume (refinancing aside) that each of the spring and fall 2026 debentures would be for $45 million. A more sophisticated analysis by Halifax Water might produce a different level of debenture requirement – but this was not available to the Board. Such an analysis is expected in the next GRA.

4.4.3 Should debt costs be accrued or cash-flowed?

[94] At the hearing, Halifax Water described how its debentures are issued and how the timing of payments lag the issue date. Debentures are issued twice a year, and the principal and interest payments are also made twice a year (spring and fall) but lag into the next fiscal year. Based on the testimony and the response in Undertaking U-26, the Board understands that a debenture issued in the spring would have a single interest payment in November but no principal payment until the following spring, in the next fiscal year. A debenture issued in November would have its principal and interest payments start in the following spring, i.e., in the next fiscal year.

[95] For instance, in the case of the spring 2025 $34 million debenture, there would be a single interest payment in the fall of 2025 for $654,557. The first principal payment would occur in the spring of 2026 for $1,133,333, during the 2026/27 fiscal year.

The cash method would record the expense exactly as the cash is paid with no principal in 2025/26. The accrual method would try to spread the principal and interest payments out over the 10-month period after the debenture was issued. As the debenture was issued two months into the fiscal year, the accrual method would attribute 10 months of principal and interest to 2025/26.

Debt payment comparison between cash and accrual basis and impact on revenue requirements
2025 Spring Debenture ($34 Million)

	Test Year #1 2025/26 Budget	Test Year #2 2026/27 Budget
Accrual		
Principal	944,444	1,133,333
Interest	1,133,333	1,322,222
Total	**2,077,778**	**2,455,556**
Cash		
Principal	-	1,133,333
Interest	654,557	1,293,700
Total	**654,557**	**2,427,033**
Difference	1,423,221	28,522
Impact		**$1,451,743**

Information from U-26

[96] The total impact of the difference between the two methods for the rate application is significant. It is almost $2.5 million in 2025/26 and $5.5 million in 2026/27 for a total of $8 million.

Debt payment comparison between cash and accrual basis and impact on revenue requirements

2025 and 2026 Debentures ($218 Million)

	Test Year #1 2025/26 Budget	Test Year #2 2026/27 Budget
Accrual		
Principal	1,416,667	5,600,000
Interest	1,700,000	6,663,333
Total	**3,116,667**	**12,263,333**
Cash		
Principle	-	2,266,667
Interest	654,557	4,455,201
Total	**654,557**	**6,721,868**
Difference	2,462,110	5,541,466
Impact		**$8,003,576**

Information from U-26

[97] Essentially, Halifax Water is proposing to raise the 2025/26 rates in part to collect $2.5 million for estimated principal and interest payments, however those payments will not occur until 2026/27. Likewise, it would raise the 2026/27 rates in part to collect a net $5.5 million for estimated principal and interest payments. However, any payments will not occur until 2027/28, which is not in the period considered in this rate application. The Board further notes that not raising the rates for the payments could cause cash flow challenges for Halifax Water if it must start payments in the spring of 2027 and its rates do not yet reflect those payments. This latter issue will depend on whether Halifax Water has successfully applied for a rate change in 2027/28 as it intends to do.

[98] Rate calculations are at the heart of this issue. Revenue requirements are used to determine the amount of funds that are required to be recovered in rates. The Board has concluded that the proper calculation of a rate should identify the cash flow required during that time period to sustain the operations of the utility. Including non-cash items (that do not involve receipt or payment of cash), when the timing issues are material,

may inadvertently lead to the rate being too high or too low. The Board does not consider it appropriate to include amounts in rates for such non-cash items. Revenue requirements are essentially a projected cash flow statement. Except for Halifax Water, the water utilities regulated by the Board all treat principal and interest payments on a cash basis. The Board considers this to be the expected treatment.

[99] The Board directs Halifax Water to include principal and interest payments for debentures issued in 2025, 2026 and all future years to be accounted for on a cash basis in its revenue requirements and to be included when the principal and interest payments are made or expected to be made.

[100] The Board recognizes that debentures prior to 2025/26 may have been accrued and not recorded on a cash basis. The Board's conclusions are that, because the significant difference in such treatment occurs in the first year or two of issue, that such past treatment may not currently be material in nature. The Board also recognizes the complexity of dealing with past transactions that span many years. As such, the Board does not require any adjustments or restatements for debenture issues prior to 2025.

4.4.4 What interest rate should be assumed for additional debt?

[101] Halifax Water assumed an interest rate of 4% on the debt that it planned to issue in 2025 and 2026. After filing its rate application, the spring 2025 debenture was issued for $34 million at a rate of 3.73%.

[102] When questioned at the hearing about lowering the interest rate to 3.73%, Mr. de Montbrun testified:

> It would lower the revenue requirement -- it would reduce the revenue requirement by $125,000, which would translate to about a 0.04 percent change in our annual residential bill.
>
> …

> we had budgeted an estimated four before that debt issue was received.
>
> We still believe that four is a reasonable number. And in terms of the impact of moving from 3.73 to 4, it's not a significant impact, so our proposal is to maintain the number at 4 percent.
>
> [Transcript T1975, pp. 559-560]

[103] In his evidence Mr. McLaren recommended that the interest rate be reduced to 3.73%, saying that "Halifax Water should use the most recent interest rates available to it". At the hearing he was asked if he still believed the rate should be lowered, and about the relevance of recent Bank of Canada interest rates reductions. He confirmed the latter provided him "comfort", saying that:

> … So the view in the July Monetary Policy Report that I referenced was -- there didn't seem to be indication that there's much risk that it would be higher, but sort of signalling that some time in the coming months, as soon as this fall, that that rate could be going down.
>
> [Transcript T1976, p. 929]

[104] In contrast to Mr. McLaren's recommendation, Carollo Engineers Canada Ltd., Board Counsel's consultant, recommended a more conservative approach to the interest rate, saying Halifax Water should "include a more conservative interest rate such as 5.0% in the Application if it has not locked in an interest rate."

[105] While the Board acknowledges that the difference between the 4.0% rate and the 3.73% rate is minimal, it agrees that the change to 3.73% should be made in Halifax Water's assumptions for the 2025 spring debenture. The more recent debenture issue represents a more accurate estimate of interest costs. Moreover, this is a relatively simple change for Halifax Water to make. The 2025 fall debenture's actual interest rate is to be reflected in the Compliance Filing for its assumptions. Keeping in mind that the funds involved otherwise belong to ratepayers, the Board considers it important that a rate application be as accurate as possible. The large rate increase requested by Halifax Water makes the need for accuracy even more compelling.

4.4.5 Is it beneficial for Halifax Water to issue additional debt?

[106] The Board notes that Halifax Water carries considerable debt on its balance sheet but that it is still within its debt servicing ratio. Debt is roughly $287 million, a substantial increase of over $80 million from the previous year. The Board considered whether Halifax Water could reduce its proposed rates by issuing more debt. The Board has concluded that there are two ways rates might be decreased through the issuance of debt.

[107] The first approach is to issue debt for terms longer than 30 years. Halifax Water raised this as a possibility in its application:

> As capital investment increases, Halifax Water will investigate using a longer amortization period to more closely match the estimated useful life of the assets. This will result in the annual principal payments related to new debt decreasing. However, as is the case whenever the repayment period is extended, the total amount of interest paid will increase. Issuing debt over a longer amortization period could be an effective strategy to smooth the financing costs of these assets. Halifax Water will continue to work with the Nova Scotia Department of Finance and Treasury Board to investigate issuing debt over longer periods.
>
> [Exhibit H-1, lines 781-788]

[108] Mr. de Montbrun noted in the hearing that their analysis of a $150 million debenture showed that if the amortization period is extended from 30 years:

> … to 40 years, the actual interest cost would increase by $30 million. So there is an impact of reducing the impact in the short term to the utility. It significantly increases our cost, our borrowing cost, but it does spread that increased cost over a longer period of time.
>
> [Transcript T-1973, pp. 146-147]

[109] Mr. McLaren commented on this issue in his report, and recommended that the Board direct Halifax Water "to review options for longer terms on debt instruments and provide a report at the time of the next GRA":

> Halifax Water notes it has typically amortized new debt over 30 years and proposes to continue this practice in the test years. However, Halifax Water notes the average useful life of its assets is 56.4 years and confirmed that the use of a 30-year debt amortization period will on average result in assets have useful service life remaining once the associated debt is fully retired. Halifax Water notes this may result in intergenerational inequities. Halifax Water notes issuing debt over a longer amortization period could be an

> effective strategy to smooth the financing costs of these assets. This would result in annual principal payments related to new debt decreasing, but the total amount of interest paid over the life of the debt instrument would increase. [Footnotes omitted]
>
> Given the sizeable increase in capital spending anticipated going forward, it would be prudent to examine the merits and feasibility of better matching the term of debt instruments with the average useful life of assets. The Board should direct Halifax Water to work with the Nova Scotia Department of Finance to review options for longer terms on debt instruments and provide a report at the time of the next GRA.
>
> [Exhibit H-19, p. 19]

[110] Halifax Water has accepted the recommendation of Mr. McLaren. The Board agrees with Mr. McLaren that this issue deserves serious consideration. While interest costs will likely rise should 40-year debt be issued, there would be a stronger alignment with the age of the assets and with intergenerational equity. As capital costs are expected to increase significantly in the coming years, such an approach could help smooth the cost of future rate increases. This change cannot be done immediately. It needs to be acceptable in the financial markets and requires provincial support to succeed. The Board, however, agrees that it needs to be studied.

[111] The Board directs Halifax Water to work with the Nova Scotia Government to review options for longer terms on debt instruments, to include scenarios on longer amortization periods in the update to its financing strategy, and to provide a report with options and a recommendation in its next GRA.

[112] The second way rates might be decreased through issuing more debt is to replace depreciation funding with higher debt levels. The possibility of replacing it with additional debt was not discussed at the hearing. However, depreciation itself was raised at the hearing by Mr. Fraser who referred to depreciation as a discretionary, non-cash item. As previously discussed, this is not the case for Halifax Water.

[113] For Halifax Water, depreciation funding is essentially reserve funding and is used to fund capital assets. It is entirely different from depreciation in the traditional accounting sense, which Mr. Fraser appeared to be alluding to in his questioning. It is not discretionary, as its purpose is capital funding and may only be used for other purposes with the Board's approval. Nor should it be described as a non-cash item as it represents a funding source that is segmented on the balance sheet. It is best thought of as a capital reserve.

[114] Under Board requirements, annual depreciation contributions are required each year by water utilities, with the amounts set aside to fund capital replacements. This strengthens the financial positions of utilities, especially smaller ones, many of which have aging asset bases. The depreciation requirements that the Board has imposed on Halifax Water are less stringent than for others. Their depreciation on contributed assets is frozen at 2024/2025 levels, pending the utility's updated Financial Plan and Debt Strategy directed elsewhere in this decision.

[115] The issue of reducing depreciation in favour of increasing debt is one that the Board has dealt with in various matters. There is value in this approach, to manage rate shock. However, it may not be a sustainable solution to maintaining long-term affordable rates, as it pushes the cost pressure further out. The issue of the best mix of funding was examined in Halifax Water's 2012 debt strategy (included in Exhibit H-6, NSRAB IR 29 a)) which recommended that capital expenditure on asset renewal "be funded through depreciation and grants". The study noted:

> Two of the approaches to financing infrastructure are pay- as- you- go (capital from operating revenues or if applicable, depreciation funds generated) and pay-as you-use (through debt service charges on long term borrowing) with the third option being a combination of the two. The hybrid approach addresses the intergenerational equity issue by borrowing for large scale projects such as water and sewage treatment plants that occur

> infrequently and financing ongoing capital expenditures such as water, wastewater, and stormwater line replacements and system upgrades and improvements through depreciation funds and capital out of revenues from current taxes and rates.
>
> [Exhibit H-6, PDF, p. 65. Page 6 of the study in IR-29 a)]

[116] In discussing the benefits of this approach, the strategy notes that:

> … system replacements and upgrades which are carried out on an ongoing basis should be financed from depreciation funds and capital out of revenue within a set and acceptable annual range of capital expenditures. There are two benefits that accrue from the second point; i.e. as this expenditure amount is similar from year to year there is compliance with intergenerational equity criteria, and debt service costs, which can be significant in high interest rate environments, are not incurred.
>
> [Exhibit H-6, PDF, p. 88, Page 29 of the study in IR-29 a)]

[117] Mr. McLaren touched on this issue when he discussed reserves in general, recommending that there should be a 5-year plan "to rebuild its reserves at the time of its next GRA" and the "need to balance achieving a reasonable reserve balance with the associated bill and rate impacts on customers".

[118] In considering this issue the Board is concerned with the impact on future rates from a one-time decrease of depreciation contributions. The benefit is less pressure on rates in this general rate application. However, a shift from depreciation into debt raises principal and interest costs in the future where it will impact upcoming rate applications. No updated studies have been conducted as to the current benefit versus the future cost. Therefore, while the Board is willing to consider this issue, it is not prepared to direct Halifax Water to make such a change without the utility first undertaking an update of the debt strategy and its various scenarios. The Board has directed such an update in the sustainability section below.

4.5 Depreciation

[119] In the current GRA, depreciation payments for 2025/26 (test year 1) were $43.3 million. This is an increase of $9.6 million or nearly 30% over the required amount

for the 2023/24 test year approved in the 2022 GRA. It represents roughly a quarter of the total increase in the revenue requirements for test year 1. In 2026/27 (test year 2), depreciation payments rose to $45.7 million, a further increase of $2.4 million or 5.5%. This represents over 10% of the additional total increase in test year 2. The increases in depreciation costs are due to the addition of new assets, including contributed capital.

[120] In the Board's *Water Utility Accounting and Reporting Handbook*, depreciation funding is essentially reserve funding and is entirely different from depreciation in the traditional accounting sense. Under those guidelines, a capital reserve called "Depreciation" must be funded and the funds may only be used for capital projects, unless otherwise authorized by the Board. Depreciation and the RDC are a major source of funding for Halifax Water's capital budget. The option to substitute debt for depreciation is discussed in the debt section of this decision.

[121] Depreciation is essentially a reserve to recognize the "using up" of the related capital assets and to put cash aside to pay to replace the related assets when their useful lives are over. It is used as a cash contribution for capital replacement, but not to expense assets against income. The Board acknowledges the purpose of these differences may not be immediately clear, but they are important for the functioning of regulated water utilities in Nova Scotia.

4.5.1 Capital Additions in Test Years

[122] In its rate application Halifax Water calculated the funded assets that had, or would be completed, and brought into service during test years 2025/26 and 2026/27. It included depreciation on these additions to its rate base in its revenue requirements.

During the hearing the Board requested two undertakings from Halifax Water (Undertakings U-4 and U-27) asking for supporting evidence on its estimates.

[123] Halifax Water reviewed its assumptions on additions to funded assets brought into service for 2024/25, 2025/26 and 2026/27. After reviewing in-service dates, it concluded in Undertaking U-4 that its additions to funded assets for test year 1 were overestimated by $38.1 million and that test year 2 was underestimated by $15.6 million. It has recalculated the increase to depreciation as being too high by $1,122,740 for 2025/26 (test year 1) and by $908,390 for 2026/27 (test year 2).

[124] In Undertaking U-27, Halifax Water reviewed the 2024/25 additions to service by comparing their estimated to actual values. It concluded that those assets were overvalued by $25.9 million or almost 20%. It has recalculated the increase to depreciation as being too high by $163,944 for both test years, 2025/26 and 2026/27.

[125] The Board acknowledges that decreases in depreciation means there may be an addition to debt costs as that funding was being used for capital projects. The Board, however, considers it important that the revenue requirements be as accurate as possible.

[126] The Board directs Halifax Water to reduce its revenue requirements by the adjustments in depreciation identified in Undertakings U-4 and U-27, namely by $1,286,684 for 2025/26 (test year 1) and by $1,072,334 for 2026/27 (test year 2).

4.5.2 Contributed Capital

[127] In addition to assets it has constructed, Halifax Water takes ownership of assets from new developments, such as the underlying pipes and other infrastructure that have been constructed by developers to service new buildings. As Halifax Water is required to maintain and eventually replace these assets, the Board's *Water Utility*

Accounting and Reporting Handbook mandates depreciation funding. The Board, however, has directed that the depreciation on these assets can be phased in. In the test years for the 2022 GRA there was no depreciation on contributed capital for water and wastewater. Only 25% of stormwater's contributed assets were depreciated.

[128] Halifax Water had proposed to increase the levels of depreciation by 1% per year, starting in 2024/25. Accordingly, the phase in of the depreciation rates for water, wastewater and stormwater in 2024/25 would have been 1%, 1% and 26%; in 2025/26 (test year 1) 2%, 2% and 27%; and, in 2026/27 (test year 2) 3%, 3% and 28%. The additional cost in the rate application for this change is $288,000 in 2025/26 and $432,000 in 2026/27.

[129] The Board recognizes that, in the past, it has encouraged Halifax Water to phase in depreciation on contributed capital. This was in the context that rate increases would not constitute rate shock. Considering the magnitude of the proposed rate increases, the Board has determined that Halifax Water should not make these additional contributions for the 2025/26 and 2026/27 test years, and the amounts should be removed from the revenue requirements and reflected in the Compliance Filing. Any contribution Halifax Water may have made in 2024/25 is unaffected. The amount of contributed capital subject to depreciation for the test years will remain at 0%, 0% and 25% for water, wastewater and stormwater, respectively. The Board also directs that this issue be reviewed in the update to Halifax Water's debt strategy.

[130] The Board directs Halifax Water to maintain the depreciation rates on contributed capital that were in place as of 2023/24 (test year 2 of the 2022 GRA) at 0% water, 0% wastewater and 25% stormwater. The update to the debt strategy should

consider the extent to which contributed capital should be depreciated and any related phase in approach.

4.6 Staffing and Salaries (Institutional Capacity and Vacancies)

[131] In the 2022 GRA, compensation costs (salaries, wages and benefits) totaled $43.9 million for the second test year (2023/24). In the current GRA, compensation costs for 2025/26 (test year 1) had risen to $56.4 million, an increase of $12.5 million or 28.5% over the 2-year period between the two rate applications. The $12.5 million represents roughly 30% of the total increase in the revenue requirements. In 2026/27 (test year 2), compensation costs are projected to be $60.4 million, a further increase of 7.0% over test year 1. This represents 20% of the total increase in test year 2. Over the two test years, compensation comprised over one-quarter of the total increase in revenue requirements.

[132] The increases in compensation costs are due to increases in staffing, higher salary amounts and other compensation costs. A significant portion of Halifax Water's staff is unionized, therefore compensation increases are negotiated and contractually agreed to.

[133] During the GRA, Halifax Water supplied a considerable amount of information on both total and individual positions and full-time equivalents, both by calendar and fiscal year. In a separate matter, the Board has also required Halifax Water to file annual reports on their Institutional Capacity (now called Human Capital Management Report M12360), including its staff resources. Annual headcount levels, including proposed amounts for the two test years, are:

Headcount by Fiscal Year

	Total	Change
2021/22	547	
2022/23	555	8
2023/24	591	36
2024/25	624	33
2025/26	658	34
2026/27	690	32

[Source: Compiled using IR-8(a), Undertaking U-21]

[134] In 2025/26 and 2026/27 Halifax Water is proposing the addition of 34 and 32 new positions. Individual positions would be staggered to start at different times of the year.

[135] As shown in the table below, in 2025/26 new positions would cost $2.5 million but the full $3.5 million cost of the 2025/26 positions would not be realized until 2026/27. Likewise, the full cost of the 2026/27 positions would not happen until 2027/28. By test year 2 the cost of both years would be just over $5.8 million. Some positions would be capitalized, so not all of the $5.8 million would be included in salary costs. Rather, a portion of the cost would show up over time in the cost of the assets. Hence the exact impact on rates of the new positions cannot be easily discerned.

Proposed Positions and Salary and Benefit Costs

	2025/26 Fiscal Year		2026/27 Fiscal Year				2027/28
Department	New Positions in 2025/26	**Total Cost in 2025/26**	New Positions in 2026/27	Cost of 2026/27 Positions	Full Cost of 2025/26 Positions	**Total Cost in 2026/27**	**Total Cost in 2027/28**
Administration Services	4	238,280	3	206,263	360,010	566,273	746,759
Corporate Services	13	1,052,587	9	670,059	1,373,035	2,043,094	2,267,159
Engineering Services	7	579,204	1	70,892	765,758	836,650	907,660
Health, Safety & Environment	3	194,951	5	329,030	304,053	633,083	746,379
Wastewater / Stormwater	3	195,673	7	524,542	300,594	825,135	951,768
Water	4	245,655	7	501,365	442,039	943,404	1,135,046
Total	**34**	**2,506,349**	**32**	**2,302,150**	**3,545,489**	**5,847,640**	**6,754,772**

Salary and benefit costs have been summarized as they were presented in U-21.

[136] Ms. MacKenzie discussed the process for vetting requests for new positions, saying that managers make business cases to their directors on new staff and that it could involve service standards and the volume of requests, that it could be a new program or a program expansion, or the delivery of capital programs. She said "there's a lot of different factors that go into it" and that:

> … everybody comes together with their lists and business cases, and then we evaluate those based on how much money we feel we have available in the budget, what are the risks of not hiring that person, those types of things…. And so there's those types of factors that are going into how we determine our staffing requirements.
>
> [Transcript T1975, pp. 497-498]

[137] At the hearing, Halifax Water staff discussed the issues driving some of the requests for additional positions:

- The volume of regulatory work in preparing applications and information requests led to a request for a regulatory manager.
- The cyber security program faced requests from the Auditor General but also "continued program support as well as some of the delivery like the data analytics and the data management to inform some of the decisions going forward. So there will be efficiencies there."
- Additional engineering staff to "prepare and deliver our annual capital budget" and to "stay on track with the planning so that we can deliver the projects that are required based on that 30-year [integrated resource] plan."
- "There's a significant administrative piece to environmental approvals, regulatory approvals, land acquisition. … we were deficient in a number of those areas."
- "an emergency management coordinator to oversee and improve emergency responses, documenting of processes and making sure that everything's in place for that program. "
- "we may have had a supervisor that was overseeing two facilities and, from a sustainability perspective, we've determined that's not practical."
- "An electrical safety program coordinator to support the safety program given the amount of electrical equipment in our facilities and in our pump stations that we need to have a stronger safety program with that."
- "So it was more deficiencies from not making sure we had the right level of staffing over the years and also introducing … some midrange supervisors from the lead process and the lead operator as well as a millwright, which in some cases we would outsource that to a third party, but if we can bring it in-house, we can have

more direct input onto the repairs that are needed and the maintenance needed at our facilities."

- "with an increasing workforce, the people that support them have to have some resources as well."

[138] Halifax Water acknowledged in response to the NSRAB IR-8(a) that it has had significant turnovers in staff with a rate of 9.5% in 2024/25. Likewise, CA IR-6d)iii shows that the vacancy rate, which was high, was relatively stable although decreasing from 5.82% in 2024 to 4.45% in 2025. Halifax Water included in its revenue requirements a 2% vacancy factor for salaries, essentially reducing compensation costs. Mr. de Montbrun stated that if vacancies were higher, this would:

> … result in a savings that can be used to either offset other cost pressures or, as we talked about earlier, would flow through the -- to the bottom line as a surplus and would go into our accumulated surpluses.
>
> [Transcript T1976, pp. 698-699]

[139] Halifax Water capitalizes portions of compensation, essentially adding them to the cost of various capital projects. Hence all of the additional salary costs are not immediately added to the revenue requirements. Rather, a certain portion is allocated to various capital projects and the remainder is added directly to the revenue requirements. Such capital projects are often funded through debt, with the principal and interest costs recovered in the revenue requirements over the term of the debt, often 20 years. Hence, capitalized salary costs may also be recovered over a 20-year timeframe. Conversely, to the extent a capital project is funded through external grants, the embedded salary costs for that year may never flow through the revenue requirements. The capitalization rate for salaries and benefits was 17.2% in 2024/25.

[140] Intervenors provided a range of comments on costs including salaries and staffing. Of particular note are the comments made by Mr. McLaren. He reviewed annual

expense information provided by Halifax Water and observed that "the largest share of the increase in each year relates to salaries and benefits ($4.6 million in 2025/26 and $4.0 million in 2026/27)." He expressed a concern that Halifax Water's "2025/26 and 2026/27 salaries and benefits budgets may be overstated" saying that:

> 1. A number of the budgeted positions for 2025/26 appeared not to have job descriptions developed at the time Halifax Water responded to information requests.
>
> 2. Of the 7 FTEs Halifax Water indicated were primarily related to improving capital spend for the 2025/26 budget, only one of them had been hired at the time Halifax Water replied to information requests and several of them had timelines for hiring in Q3.
>
> 3. Halifax Water was asked to provide the salary capitalization ratio for each year in Figure 18 of the application, but provided only a single number of 17.2% for 2024/25. Given the volume of capital work Halifax Water has planned compared to prior years and that a number of the proposed new staff positions are justified on the basis of improving the timely delivery of capital projects, it would be reasonable to assume that the capitalization ratio for salaries and benefits would increase in 2025/26 and 2026/27 compared to prior years.
>
> [Exhibit H-19, p. 22]

[141] While acknowledging that it was "difficult to know what a reasonable adjustment to salaries and benefits would be based on the material currently on the record" he recommended that:

> The Board should consider reducing Halifax Water's forecast salaries and benefits increases by 20% in each test year subject to Halifax Water providing better justification for its forecasts or revising its forecasts to reflect more realistic vacancy rates and capitalization ratios.
>
> [Exhibit H-19, p. 22]

[142] Halifax Water's Rebuttal Evidence disagrees with Mr. McLaren's recommendations, referring to the budgeted vacancy number and the staggered hiring dates. When asked by the Consumer Advocate about Mr. McLaren's recommendation, Mr. de Montbrun testified that he thought the increases were reasonable:

> **A.** (de Montbrun) Halifax Water, in preparing its budget for the test years, looked at a number of new positions that we deemed to be required to support the organization. Through that process, Halifax Water estimated when the positions would be able to be hired and be employees of Halifax Water and reduce that overall ask into what we would describe as a full-time equivalent position. So we started at

> about 33 new positions in year one of the first test year, reduced to 23 positions based on full-time equivalencies. So we have considered the impact on timing of positions in our rate Application. So we believe that that is a reasonable approach.
>
> [Transcript T1973, p.132]

[143] In testimony, however, Mr. McLaren clarified that he was still not satisfied with the information provided by Halifax Water, referring to its rebuttal information as "telling me and not showing me."

[144] Mr. Brown and Mr. Goldstein, Board Counsel's consultants, were also asked about the McLaren recommendations and how best to "balance the request for institutional capacity improvement resulting from this Application … with the regulatory compliance that must be done by Halifax Water." Mr. Brown testified that

> … Halifax Water has many challenges. Obviously, they've just gone through some leadership transition. No small challenge to get new people -- people assume new roles, people fill their roles, in the midst of many, many initiatives beyond just operating this big utility. They have massive asset renewal programs, trying to understand exactly what the needs are and prioritize those. They have the IRP-driven Capital Improvement Plan. They have -- they're just commissioning a multi-million-dollar IRP update, which requires a tremendous amount of Halifax Water staff. They have numerous multimillion, some over $100 million construction projects coming that take project management resources. Our fear is certainly the institutional capacity gains is creating extra labour costs, but it's going to hopefully allow a much more efficient execution of these very big initiatives, that if they're executed poorly or inefficiently, the costs go up by a whole lot more than the labour that we're adding to manage them properly.
>
> So I think they have their hands full. That's one recommendation from the Consumer Advocate that we weren't -- we don't support. And I mean, the reality is how many they hire will probably be more about the market than what their target is. I hope they can achieve their target, because I think it's important for their institutional capacity. They really do have their hands full, and I think having those resources is important to efficiently executing those initiatives.
>
> [Transcript T1977, pp. 989-990]

[145] In their closing submission, the Department of Municipal Affairs noted that they were:

> … not persuaded by HRWC's justification of the efficiency and necessity of new hires, including considerations such as full-time versus temporary/term positions and the performance of existing staff. HRWC has hired a large number of staff in the recent past despite growing operational deficits, and it is not clear from the utility's evidence how the new positions support the utility's work while adding value to ratepayers. Clearer justification for new positions should be developed. The Department of Municipal Affairs

> respectfully requests that the Board direct an update on the impact of HRWC's hires on overall institutional capacity and the value being returned to ratepayers.
>
> [Dept. of Municipal Affairs and Housing, Closing Submissions, pp. 3-4]

Findings

[146] The Board has carefully considered the proposed budget for compensation. The Board acknowledges that Halifax Water faces significant pressure to deliver capital projects and that it suffers from serious institutional capacity issues. The delivery of those projects will require additional staff. The Board is mindful of the message delivered by Mr. Brown and Mr. Goldstein that capital projects which are poorly executed may cost significantly more than the added staff.

[147] At the same time, however, not all of the proposed positions are critical for direct capital delivery. For example, only five of the FTEs in 2025/26 were identified for direct capital delivery although other positions may support capital projects. Other positions, such as in operations or cyber security, appear to have elements of a reasonable business case. However, the Board is concerned that Halifax Water may not be reviewing the business cases for positions holistically and that its approach to prioritization encourages the organization to review managers' requests for new staff in an overly favourable light. The added positions were evaluated against "how much money we feel we have available in the budget", but the Board questions whether there was money truly available. Halifax Water has been in a serious deficit position for some time and any substantial increase in staff likely requires a rate increase to achieve that budget.

[148] The Board would have expected new positions to be heavily weighted towards implementing the Integrated Resource Plan (IRP), but it is not clear that this is the case. The Board needs to see a much more robust approach to adding staff. Business

cases should review added staff positions against various factors including efficiencies and cost offsets that can be documented and captured; existing funded positions that are foregone in favour of the new position; service standards; and significant risk factors. These business cases should be reviewed against the available funds, with the rate assumptions clearly spelled out. In short, the Board expects much stronger prioritization, and an evaluation as to how such additions will affect available funds and future rates. The Board directs Halifax Water to develop such an approach as part of its 2026/27 Human Capital Management Report and include it in the next Institutional Capacity Assessment Update. The Board may not review individual business cases, but it wishes to ensure that proper evaluation and review procedures are in place.

[149] The immediate challenge for the Board is to determine the revenue requirements for 2025/26 and 2026/27. The Board shares Mr. McLaren's concerns about staffing requirements and accepts his recommendation of reducing the staffing costs by 20% in each test year. Based on the evidence, the Board is not convinced that Halifax Water can fill all the positions that it proposed in the test years. In the context of the proposed application and the resulting rate shock, the Board therefore directs Halifax Water to:

- Reduce its revenue requirements by an amount equal to 20% of:
    - New staff as budgeted for test year 1 - 2025/26 ($500,000 reduction),
    - New staff as budgeted for test year 2 - 2026/27 ($1,170,000 reduction),
    - With the full year cost of new staff hired in the two test years not to exceed $5,400,000.
- Increase its budgets for vacancies from 2% of gross staffing costs to 4%, with an additional estimated savings of $1,200,000 for each test year.

[150] The Board is not providing direction on any specific positions although it assumes that Halifax Water will prioritize the addition of staff for capital delivery and to focus on the delivery of the IRP. Irrespective of the above targets, Halifax Water may want to consider adding additional positions where the costs are offset through the elimination of a similar valued position. The Board notes that 2024/25 turnover in Halifax Water was 9.5%. This should provide the opportunity to add critical positions without eliminating staff by substituting one position for another.

[151] Halifax Water is directed to report in its next Human Capital Management Report on the revised staffing positions and costs, essentially updating Undertaking U-21 for the revised staffing costs, but also updating the cost to show which positions are expected to be capitalized and at what amounts.

4.7 Other Costs (including chemicals, electricity, etc.)

[152] Other than salaries and wages, there have been significant cost increases in such operational items as contract services, electricity, materials and supplies, and chemicals. These four categories represent $12.4 million in increased costs since the 2022 GRA. Together with other services and supplies they comprise just over one-third of the additional revenue requirement in year 1. In test year 2, an additional $4 million is added for these items.

[153] In its application Halifax Water explained that inflation is one of the “key drivers” of operating costs, with the consumer price index increasing on average 2.73% per year from 2015 to 2024.

[154] Halifax Water explained some of the water related increases in NSRAB IR-98 a)

a) The projected 135% increase in the materials, supplies, and services expense line for 2025/26 is attributed to a combination of operational and market-driven factors. A significant portion of the increase is due to rising vendor pricing for licensing and managed services. Additionally, tools and equipment to support ongoing operations, along with personal protective equipment (ppe) to meet enhanced safety standards. Vehicle-related expenses, including acquisition, maintenance, and fuel, have also risen. On the technology front, investments in updated computer equipment and infrastructure are necessary to support evolving business requirements. Furthermore, software licensing costs have increased due to both inflation and expanded usage across the organization. Together, these elements contribute to year-over-year growth in this budget category.

[Exhibit H-6, pp. 343-344]

[155] With respect to electricity, Halifax Water stated in NSRAB IR-54 b)i that the increases are based on the “most recent General Rate Application, the average actual increases by rate class (as applicable for Halifax Water) over the previous 5-year term (2021 to 2025), and the weighted average increase across all Halifax Water facilities and rate classes”.

[156] Halifax Water stated in its application that chemical costs are budgeted to increase by 5% per year in both 2025/26 and 2026/27. In NSRAB IR-54 a) it explained that it uses annual contracts with the option to extend. Because Halifax Water purchases many types of chemicals from different suppliers the “price increase for individual chemicals can vary significantly from one chemical to another”, hence an increase of “5% has been used historically as a conservative estimate for most chemicals.”

Findings

[157] The Board agrees that inflation has been a key driver of operating costs increases. The Board notes that most of these other costs for the 2025/26 test year are comparable or less than the 2024/25 actuals. However, the actual chemical costs in 2024/25 (about $9,549,000) were well under both the 2024/25 budget and the 2025/26 test year. The 2024/25 budget for chemicals was $10,492,056, almost $1 million over the 2024/25 actual. While the increase to test year 1 was just over $38,000, for a budget of

$10,530,252, in test year 2 the application allowed for a 5% increase to $11,056,765. The trend in chemical costs is not clear to the Board. Actual costs appeared to rise in 2023/24 only to fall in 2024/25, stay flat in the test year 1 budget, and rise in test year 2. The Board directs Halifax Water to budget in test year 1 for $9,788,000 and in test year 2 for $10,032,000, increases of 2.5% per year.

[158] Halifax Water is encouraged to track and explain the actual costs of items when developing its budget. The Board is concerned that some items may be budgeted too conservatively, on the assumption that a short-term trend will extend into future years.

4.8 Financial Sustainability

[159] Financial sustainability was not raised directly in the evidence or testimony for the GRA but was evident in some of the discussion that took place. There was considerable discussion about the overall financial state of Halifax Water, the extent to which it had incurred deficits, and why it delayed applying for a rate increase.

[160] In NSRAB IR-24 j) Halifax Water stated that it intends to develop a 30-year financial model by the end of 2025/26 that would include revenues and “estimates for all key cost drivers, including the impact of the long-term capital plan and the revised IRP on the debt and depreciation costs.” The model would be updated as assumptions change.

[161] Mr. McLaren recommended that Halifax Water should be directed to propose a 5-year plan to rebuild its reserves at the time of its next GRA.

[162] In his opening statement, Philip Fraser, CEO of Killam, stated:

> Governments and utilities cannot ask households and businesses to absorb costs while exempting themselves from the same discipline. We continue to see increased spending on things like new office spaces and vehicle fleets, and it raises the question about fairness. Halifax Water’s structure of being owned by the City, combined with the way budgets appear to be built around maximum allowable expenses, creates confusion and suggests a lack of efficiency compared to other municipal utility models.
>
> [Exhibit H-31, p. 2]

Findings

[163] In their appearances before the Board, Halifax Water staff were well-prepared, professional and competent. The Board has found no reason to question the day-to-day financial activities and transactions of Halifax Water. Extensive and thorough information was provided. When issues with the quality and consistency of the information arose, Halifax Water staff were able to promptly correct the information or elaborate on the context.

[164] The Board recognizes that water, wastewater and stormwater services are very challenging, complex planning areas. Many parts of the system are interdependent with one change affecting multiple elements. Moreover, such systems are built to serve growing communities and can affect development for multiple years into the future. Sustainable planning depends on understanding these interdependencies and external factors such as the regulatory environment, climate change, inflationary pressures and population growth. These factors all combine leading to an unusually high level of uncertainty and complexity.

[165] In considering the application, the evidence and the testimony, the Board has concluded that maintaining financial sustainability in this environment requires two key elements: strong planning and discipline/focus. The Board will discuss each.

[166] The Board's role in a decision such as the GRA is to allow a utility to have rates that are "just and reasonable". In this case, it means that the Board, when reviewing the application, must consider both the need for safe, available water but also the cost to the ratepayer for each service provided.

[167] The Board has observed that Halifax Water, in its presentations, writings and evidence, has a very strong commitment to safe and quality water, as well as sanitary

and stormwater service. However, the Board has also observed that Halifax Water does not appear to adequately weigh this commitment against the cost to ratepayers, and the community's ability to afford these same services, both in the long- term and short-term. The Board has noted that, despite being in a difficult financial situation, Halifax Water has:

- spent all available surpluses;
- continued running financial deficits over a span of several years;
- made significant financial decisions that, although they could have been moderated or delayed, have deepened their financial challenges; and
- delayed applying for a general rate application, hence intensified its financial difficulties.

[168] The Board has therefore concluded that Halifax Water has paid insufficient attention to its financial health. Halifax Water's financial sustainability must be a top priority. Paying insufficient attention to its financial well-being not only harms its ratepayers but also damages the organization's credibility, its long-term financial capacity, and its efforts to move forward on required capital investments in the IRP.

[169] The Board considers that Halifax Water should conduct more robust financial planning in both the short and long term. For instance, in between applications for a rate increase, Halifax Water has very limited ability to raise revenues. Additional revenues come principally from new customers, higher consumption and miscellaneous revenues. Conversely, there can be considerable pressure during the same time period on operational and other expenditures. In testimony, Halifax Water staff agreed that increases due to inflation, interest rates and depreciation exceeded those new revenues. For instance, in test year 1, revenues grew by $2.5 million over the 2024/25 budget. In the same time period operational expenses grew by $12.5 million and financing costs by an additional $8 million. Hence, every new dollar from growth was overwhelmed by almost

eight dollars in costs. This is a critical consideration for Halifax Water and a serious challenge to their financial sustainability. Yet despite limited revenues and a projected deficit, Halifax Water failed to take steps to offset its financial losses, continued to expand its staffing complement, and delayed its application for a rate increase.

Need for Updated and Expanded Financial Strategies

[170] To guide its long-term finances Halifax Water uses several tools. First, it uses its affordability measure of 2% of household median income for its three services. In 2014 Halifax Water adopted a rate smoothing strategy to "achieve the objectives of the IRP and meet the requirements of asset renewal, environmental compliance, and growth." This strategy set the affordability measure as the "total average residential utility bill at 2% of median household income or less." Their application states the current utility bill for water, wastewater and stormwater is at 1.05% and with the proposed rates will rise to 1.22% in 2025/26 and 1.44% of median household income in 2026/27.

[171] Secondly, Halifax Water has a debt strategy, prepared in 2012 and updated in 2018. The strategy recommended "Alternative Six" which focused heavily on RDC funding. The modelling at the time suggested that, under this option, the affordability measure would peak at 1.68% before declining to 1.39% of median household income in 2041/42. Together with its Cost-of-Service Manual and the IRP, Halifax Water refers to the three as their "Sustainability Framework".

[172] The Board has concluded, however, that there are significant gaps in the financial strategies and models that Halifax Water employs. Its affordability measure is a useful tool that allows benchmarking to other jurisdictions and provides a trend for its own performance. However, its assumption that a 2% target of median household income is

reasonable does not appear to be based on any clear assumptions and seems quite broad, allowing for significant cost increases without any other measures. For instance, its debt strategy showed a 2041/42 affordability measure of 1.39%, giving Halifax Water considerable flexibility to increase expenditures and stay within its broad 2% target. The Board would note that, while considerable IRP capital remains to be undertaken, in test year 2 Halifax Water will exceed the affordability measure of 1.39% that its own debt strategy saw as optimal. Inadvertently, the generous 2% target may encourage inefficiencies.

[173] The Board would further note that while it believes there is value in benchmarking costs relative to median household income, Halifax Water should focus on more than just average household income. Lower income individuals and renters in multi-unit residential have greater affordability challenges. Commercial ratepayers and businesses face competitive challenges distinct from residential ratepayers.

[174] Moreover, Halifax Water‘s debt strategy is outdated. There are significant changes expected in the cost of capital projects under the IRP. In addition, the RDC, which was central to the 2018 update, has been frozen since 2023. Other gaps exist. The Board notes that in testimony Halifax Water referred to future rate increases due to a rapidly expected growth in capital projects yet was unable to provide any indication of their magnitude. Notably, Halifax Water has commissioned an econometric model to forecast revenues but has not used the model.

[175] The Board directs Halifax Water to update its debt strategy using the most up to date information on capital projects and considering recent changes in RDC funding,

the most recent IRP, as well as options and assumptions for external funding, depreciation funding and contributed capital.

[176] In addition, the Board directs Halifax Water to develop stronger operating and rate strategies, using financial modelling as their basis. Models should focus on key operating items such as consumption revenues but also include salaries, contracts, materials and chemicals, as well as financing costs such as debt charges and depreciation. This should include considerations of long-term rate impacts and should be linked to the debt strategy and the 5-year business plan. It should be maintained on an ongoing basis and used to guide Halifax Water decisions including capital funding. The above updated strategies are to be filed by June 30, 2027, with a progress report provided in the next general rate application.

4.9 Retrospectivity – April to December 31, 2025 (revenue shortfall)

[177] According to Figure 36 in the application, in its preferred Scenario 3, Halifax Water seeks to include $24,459,209 in the revenue requirement for the 2026/27 test year to recover a projected revenue shortfall for the period April 1, 2025, to December 31, 2025. This projected revenue shortfall arises because Halifax Water only applied for new rates on May 5, 2025, despite having an operating deficit and having used its entire accumulated surplus of $38 million. Halifax Water had an accumulated operating deficit by the end of the 2024/25 fiscal year.

[178] Halifax Water recognized that the timing of this application meant new rates for the 2025/26 test year could not be in place until at least January 1, 2026. Because the utility’s accumulated surplus had been depleted, the projected revenue shortfall for the period from April 1, 2025, to December 31, 2025, must be accounted for as part of the accumulated deficit. Halifax Water wants to recover the entire amount of this projected

revenue shortfall in the 2026/2027 test year. Recovery of the projected revenue shortfall has been allocated between water services ($17.1 million) and wastewater services ($7.4 million).

[179] Halifax Water knew that it had requested rates that did not entirely cover its revenue requirement in the 2020 and 2022 GRAs. This was done primarily to mitigate the impact of rate increases during the COVID-19 pandemic and its aftermath. In the 2022 GRA, Halifax Water still projected a significant accumulated surplus by the end of the 2023/24 test year. It anticipated filing a GRA application in late 2023 or early 2024 at which time the operating deficit could be addressed. That did not happen.

[180] The reasons for the delay in filing this application were discussed in the application, IR responses and during the oral hearing. Halifax Water went through significant senior management turnover in 2023 and 2024. This included the positions of General Manager, Director of Engineering and Information Technology, Director of Operations, and General Counsel/Director of Governance and Human Resources. Halifax Water was also transitioning to new Enterprise Resource Planning software while facing financial headwinds. At the hearing, Ms. MacKenzie said that "…in our history at Halifax Water, that was a significant number of executives coming and going from the organization at one period of time."

[181] Section 4 of the *Halifax Regional Water Commission Act*, SNS 2007, c 55, says the Halifax Water board of commissioners consists of seven residents of HRM, up to four of which may be members of HRM Council. There is also a non-voting board member from HRM staff. Despite senior level management turmoil, Exhibit H-43 shows that the Halifax Water board of commissioners was made aware of the need for a rate

increase as part of an information package prepared for their February 22, 2024, meeting. The package about the proposed 2024/25 operating budget was submitted by Mr. de Montbrun and approved by Ms. MacKenzie. She was then Halifax Water's acting CEO and General Manager.

[182] The information package showed a projected operating loss of $2,316,000 in 2023/24 based on the approved budget for that fiscal year. The proposed budget projected an operating loss of $18,682,000 for 2024/25. The information package also projected that the operating accumulated surplus would become an accumulated deficit in 2024/25. It provided an overview of the significant cost drivers in each of the water, wastewater and stormwater services. The need for a rate increase was expressed as follows:

> Halifax Water targets to maintain a minimum accumulated operating surplus of 3% of total expenditures to mitigate risk. Accumulated operating surplus can be used to offset operating losses, or to fund future additions to utility plant in service, subject to NSUARB approval. Based on the projected financial position as at March 31, 2024, without an increase in rates there will be a projected accumulated deficit of $8.9 million.
>
> The operating budget will form the basis of a general rate application which is planned to be filed within the next few months. The rate application will utilize the approved budget and the approved cost of service methodology, to develop rates that would cover the full costs of operating the utility.
>
> [Exhibit H-43, PDF p.11]

[183] There were four more Halifax Water board of commissioners' meetings in 2024. No GRA was filed within months of the February meeting. Mr. de Montbrun testified that, to his knowledge, the municipal election in October 2024 was not a reason for the delay. Mr. de Montbrun also said that there were no anticipated extraordinary or unusual expenses in the period April 1, 2025, to December 31, 2025.

[184] Halifax Water's request to include the projected $24,459,209 shortfall in the revenue requirement for the 2026/27 test year is a clear example of retroactive

ratemaking. It involves including expenses incurred prior to the test year in the revenue requirement for that test year. The traditional rule against retroactive ratemaking is that a utility cannot ask a regulator to establish rates retrospectively to allow it to recover losses that have already been crystalized. This type of ratemaking might be more appropriately called retrospective ratemaking. However, the Board notes that in much of the caselaw, retroactive and retrospective ratemaking are used as interchangeable terms. There are very few examples of pure retroactive ratemaking where a regulator makes an order about rates that has an effective date prior to the date of the decision or order. The Board will use the term retroactive ratemaking.

[185] Utility regulators in Canada routinely do not allow retroactive ratemaking. This is because traditional cost of service ratemaking involves estimating future annual utility operating expenses over test years. The revenue requirement for the test years is the sum of the allowed projected operating costs plus a rate of return on the utility's capital rate base. The entire process underpinning proposed rates is prospective. Everyone involved in the process knows that projecting expenses and revenues is not an exact science. While there will invariably be differences between projected and actual figures, provided a utility meets its overall revenue requirement, no rate increases are necessary.

[186] The prohibition against retroactive ratemaking is not absolute. Certain forms of retroactive ratemaking are well recognized. They include retroactive adjustments to interim rates and established true-up mechanisms where projected costs included in rates are trued up, either up or down, after actual costs are known. An example of the latter is NS Power's Fuel Adjustment Mechanism. The rationale underpinning these types of

exceptions to the rule against retroactive ratemaking is that customers are given notice up front that the rate is subject to change.

[187] The Board recently considered the availability of retroactive ratemaking in situations outside the more recognized forms. NS Power sought to recover $26.4 million in operating costs incurred because of Hurricane Fiona (2024 NSUARB 116). The costs had already been incurred at the time of the application, so it was a case of retroactive ratemaking. The Board said:

> [72] The Board is in general agreement with the Alberta Court of Appeal's approach to retroactive ratemaking. Where there is no express statutory prohibition against retroactive ratemaking, it is beneficial for the Board to have some flexibility to address extraordinary or novel situations by relaxing the rule against retroactive ratemaking so that the interests of both the utility and its ratepayers can be considered, without opening the door to endless rate adjustments.

[188] Halifax Water submits that this rationale provides a basis for allowing the recovery of the revenue shortfall in this case. In the *Hurricane Fiona* Decision, the Board outlined factors that should be considered when deciding whether to exercise its discretion and allow retroactive ratemaking where the traditional exceptions were not applicable. In that case, the issue was framed as allowing a deferral account so the Hurricane Fiona operating costs could be collected over time, as opposed to expensing them in the year they were incurred. These factors can be applied to retroactive ratemaking generally. They include:

- Whether the expenses are extraordinary or unusual or result from an event which is unusual or extraordinary.
- Whether the expenses are beyond the utility's control and could not have been reasonably anticipated.
- The expenses must be "significant".
- Whether, if not incorporated in rates, the expenses will have a material impact on the utility's financial condition.
- Whether, if granted, the recovery of expenses that have already crystalized will provide significant benefits to ratepayers.

Findings

[189] There is no doubt that $24.5 million is a significant amount. It represents approximately 14% of Halifax Water's operating revenues for fiscal 2024/25 and approximately 13.5% of its operating expenses for the same period. The impact of disallowing the full recovery of the shortfall amount in the second test year on Halifax Water's financial condition is not apparent. Halifax Water said it would have an impact on cash flow and would mean the utility would have to incur more debt. This impact was not quantified. There is no evidence that not recovering the $24.5 million in the requested test year will materially impair Halifax Water's financial condition.

[190] While the management turmoil Halifax Water experienced may have been unprecedented, this is not a principled reason for departing from the usual rule against retroactive ratemaking. Halifax Water said the operating expenses themselves were not unusual or extraordinary. They did not result from an event that was unusual or extraordinary. It is only the delay in seeking recovery through rates that was impacted by the management changes. Even at that, there is no evidence of instability associated with the Halifax Water board of commissioners, which is ultimately responsible for the management of the utility and approving rate increase applications. Why the board of commissioners did not provide directions to staff about a rate application is unknown. In any event, the expenses incurred from April 1, 2025, were not beyond Halifax Water's control and the expenses and resulting operating deficit were anticipated.

[191] While, in a general sense, ratepayers benefit from a financially sound utility, there is scant evidence outlining how ratepayers will benefit from the inclusion of a $24.5 million shortfall in the second test year. Halifax Water provided general information about the need to increase debt, the cost of which would ultimately be paid by ratepayers.

Halifax Water also warned that delaying recovery of the shortfall would probably cause more rate pressures, given the significant capital expenditures that will be required to upgrade its infrastructure. Specifics are lacking at this stage. When considered in the light of rate increases that amount to rate shock, this factor does not weigh in favour of retroactive ratemaking.

[192] Taking all the factors into consideration, on the record before it, only the amount involved would support the Board exercising its discretion to permit retroactive ratemaking. Leaving aside considerations about the nature of municipal utilities, discussed below, the Board would ordinarily not allow recovery of a revenue shortfall caused by a failure to bring a timely application. The Board must consider whether different considerations apply where the utility does not have the same rate of return structure as privately-owned utilities.

[193] The Consumer Advocate's consultant, Mr. McLaren recommended that the approximately $24.5 million revenue shortfall should be recovered through a rate rider, during the second test year, as opposed to being embedded in rates. When questioned by Board Counsel about any concerns with retroactive ratemaking, he said:

> A. So I have a couple of thoughts on that topic. The first is what you've kind of described as something that one of my colleagues on the consumer side in Manitoba calls the regulator's dilemma, and it particularly applies to government-owned cost of service regulated utilities like Halifax Water and Manitoba Hydro, which is a utility I'm familiar with. And the challenge there is if you have a privately-owned utility that has a return on equity, it's easy for the regulator to say, well, that decision to file late, that's a management decision, you're at risk for that, that comes out of your return on equity.
>
> The situation that utilities like Manitoba Hydro and Halifax Water have is that they don't have that relationship. So if the Board doesn't award the shortfall, it will result in a -- all else being equal, it will result in a bigger accumulated deficit that will need to be paid back eventually at some point. There's not really anywhere else for it to go unless you get to a situation where perhaps the municipal government decides to pay it off for them or something like that.

> So that kind of issue is kind of unique to these types of utilities and sort of informs my thinking on the retrospective element of the shortfall rider.
>
> [Transcript T1976, pp. 906-908]

[194] The Board's historical treatment of water utility accumulated deficits illustrates the "regulator's dilemma" discussed in Mr. McLaren's testimony. Unlike Halifax Water, most municipal water utilities are not separate legal entities from the municipalities in which they offer their services. Accumulated deficits are often the result of an inordinate delay in seeking rate increases because such an application is politically difficult, or due to the capacity issues of small municipal staffs, or a combination of both. These historical factors resonate, to some extent, in this matter.

[195] In some earlier cases, the Board took a strict approach to the issue and would not allow any retroactive recovery of shortfalls incurred prior to new rates being approved. Accumulated deficits remained on the books for years. The Board subsequently modified its approach. Traditionally, most municipal water utilities did not have earnings, above the cost to serve, embedded in rates. In some cases, the Board allowed earnings for the repayment of the accumulated deficit. Some of these cases stipulated that the earnings had to be applied to the accumulated deficit. Other cases allowed earnings based on the general principle that they were allowed for municipal utilities. The Board recognized these earnings would likely be used to pay down accumulated deficits but did not specifically direct it, presumably not wanting to endorse retroactive ratemaking.

[196] Based on the foregoing, Halifax Water is correct that there is Board precedent for allowing recovery of amounts that will be applied to accumulated deficits in prospective rates. The principled basis for resolving the "regulator's dilemma", except

perhaps pragmatism, is somewhat elusive in the reported precedents. Conceptually, municipal utilities are allowed earnings and if, where there is a deficit, the amount is not paid into general revenue, but applied against the deficit, it could be seen as akin to the municipal owner paying down the accumulated deficit. That municipal water utilities have been allowed this mechanism does not mean that it must be done in every case. In this case, Halifax Water is already paying a form of dividend to HRM. Also, the magnitude of the accumulated deficit incurred in such a short period and the request to recover it all in one year make this an unusual situation. In prior cases where accumulated deficits have been considered by the Board, there was often a plan for the elimination of such deficit over several years.

[197] In this case, the significant proposed rate increases in the second year materially contributes to rate shock. The recovery of the shortfall amount is a significant portion of the revenue requirement in the second test year. While recognizing rate shock, Halifax Water has proposed little in the way of mitigating measures. The Board understands there have been recent cases where rate increases that exceed the Halifax Water proposal, on a percentage basis, have been approved. No other water utility has a combined water, wastewater and stormwater system. This means that while Halifax Water has many more customers than other municipal water utilities, the corresponding costs to operate and maintain its large system are of a different order of magnitude.

[198] It is not just the percentage increase, but the actual dollar amount of the increase and the dollar amount of the resulting water bills that is important. Given the dollar amount of the proposed increases, and their impact on affordability for a significant portion of Halifax Water's customer base, the Board finds that it is not appropriate to allow,

in the revenue requirement for the second test year, the recovery of the shortfall amount for the period April 1, 2025, to December 31, 2025, caused by Halifax Water's delay in making this application. The actual shortfall amount will be deferred for recovery in later years. As noted elsewhere in this decision, the Board expects Halifax Water to propose a plan for the recovery of this amount in its next GRA. The Board recognizes that Halifax Water customers have benefited from lower rates than might otherwise have been the case if the utility had made its application earlier. In the circumstances of this case, that is no reason to disregard the rate shock concept on a prospective basis. That is particularly the case where not every potential mitigating avenue has been explored with HRM, the utility's owner, to see if the impact of the accumulated deficit on rates can be mitigated.

[199] This brings the Board to another point Mr. McLaren raised in the excerpt from his testimony cited above. He said ongoing revenue shortfalls must be accounted for as part of the accumulated deficit unless the municipal government owner decides to pay it. Some municipal governments have done this to alleviate the burden on ratepayers. A recent example is discussed in an application by the Municipality of the County of Colchester on behalf of the Tatamagouche Water Utility (see: 2025 NSRAB 96). In that case, involving a much smaller utility and municipal unit, the municipal owner chose to provide a grant to pay down an accumulated deficit of $158,000 to mitigate the impact of rate shock.

[200] On September 8, 2025, Andy Fillmore, HRM's mayor, wrote to the Consumer Advocate expressing "deep concern" about the impact of Halifax Water's proposed rate increases. That letter was forwarded to the Board by the Consumer

Advocate and accepted as a letter of comment. Mayor Fillmore urged that every effort be made “to limit the amount of any increase.” Mayor Fillmore made it clear he was expressing his own views and not those of HRM. This view was expressed, in one way or another, in many letters of comment.

[201] Obviously, the Board has no jurisdiction over HRM’s budget process. However, while it is too late for this application, by not allowing the recovery of the accumulated deficit shortfall in the second test year, Halifax Water will be able to explore the issue with HRM to see if there is any political will to limit future rate increases by absorbing some, or all, of the shortfall amount contributing to the accumulated deficit. The Board directs Halifax Water to explore the issue with HRM prior to the next rate application.

[202] Also, Halifax Water raised the spectre of potentially large rate increases that will be required in future years to pay for needed upgrades to old infrastructure in accordance with its IRP and its Five-Year Business Plan. Halifax Water’s point is that delaying recovery of the shortfall amount will only exacerbate future rate increases. This issue has been raised somewhat in the abstract, without details about what these future increases will be. There is no doubt that considerable effort, involving large capital expenditures, will be required for Halifax Water to maintain a safe and reliable system. The large capital outlays needed to make up for years of deferred refurbishments or replacements have been an issue that has been of concern to the Board and the participants in its proceedings for some time. There have been problems with Halifax Water’s capacity to implement the IRP. There are legitimate concerns about affordability. To approve the recovery of the projected $24.5 million shortfall in the second test year,

without a clear picture of the timing of the future capital expenditure program, and what future rates will look like, appears to be short-sighted. What is needed is a more holistic approach where participants can see what these future rates will be, based on a sound and current analysis of what is needed to provide safe and reliable service, and what, if any, mitigating measures will be needed to make them affordable. The recovery of the actual revenue shortfall amount in future years should be included in this wider analysis which will be considered in the next GRA.

[203] Another aspect of the revenue requirement related to HRM, as Halifax Water's owner, is the annual combined dividend/grant in lieu of taxes the utility pays to HRM. It was discussed during the hearing, and in some post-hearing submissions, as a potential avenue to limit rate increases. Dividends are usually associated with companies with shareholdings. Halifax Water is a corporation without share capital and the Nova Scotia *Companies Act* does not apply to it. Nevertheless, this issue will be explored based on the wording of the agreement between HRM and Halifax Water, and the treatment of earnings for other municipal water utilities without share capital. The Board will proceed with an analysis of this issue in the circumstances of this matter.

4.10 Dividend/Grant in Lieu of Taxes

[204] Halifax Water and HRM have a Grant in Lieu of Taxes/Dividend Agreement effective April 1, 2023 (GLTD Agreement). It was approved by the Board in a letter dated May 18, 2023 (see: M11034). In the May 18, 2023, decision letter, the Board said:

> The Board believes that an appropriate time to review these percentages and the dividend payment is during the general rate application process. Halifax Water has previously indicated to the Board that it anticipates filing its next GRA in late 2024, or early 2025. The Board approves the methodology to calculate the grant in lieu of taxes/dividend payment, as set out in the Agreement, subject to further review by parties as part of Halifax Water's next GRA. A potential item for review at that time is the percentage allocation to each of the water, wastewater and stormwater service in the calculation of the payment, and whether this should more appropriately be based upon cost-of service principles.

[205] This is the first GRA since the Board approved the GLTD Agreement. It provides for an annual payment from Halifax Water to HRM which combines the concepts of a dividend and a grant in lieu of taxes. This is set out in the preamble:

> AND WHEREAS the parties wish to enter into a new agreement (this "Agreement") with respect to the payment by Halifax Water to HRM of an amount calculated in accordance with section 3 below (per section 92(1) and 92(2) of the HRM Charter and sections 20(3), 20(4), 22 and 23 of the Halifax Regional Water Commission Act), which amount represents:
>
> (i) grants in lieu of taxes on taxable assets used to provide water service of Halifax Water within the geographical boundaries of HRM, and
>
> (ii) dividends, **paid from the surplus** of Halifax Water's undertaking for the general purposes of HRM, related to stormwater and wastewater services. [Emphasis added]
>
> [Exhibit H-14, PDF p. 82]

[206] The payment amount is based on the assessed value of Halifax Water's properties as established by the Property Valuation Services Corporation (PVSC). The GLTD Agreement allocates the payment for each service as no more than 1.56% times the water rate base, at least 0.25% times the wastewater rate base, and at least 0.25% times the stormwater rate base. The GLTD Agreement states that if these allocations are not sufficient to fund the payment, as calculated based upon the PVSC assessment and property tax methodology, the allocations for wastewater and stormwater will be increased to a level sufficient to fund the payment. The GLTD Agreement is for a five-year term. The formula establishing the payment is entirely based on the municipal taxes that would be payable by Halifax Water to HRM, except that the amount was discounted by 8% in fiscal 2023/24. The discount is reduced by 2% annually, meaning that in the last year of the term (2027/28), and thereafter, if the GLTD Agreement is renewed, the annual payment equals the amount Halifax Water would pay in municipal taxes.

[207] The payments under the GLTD Agreement go into HRM's general revenue. The GLTD Agreement payments included in revenue in the test years are $ 7.236 million

and $7.683 million, respectively. Also, Halifax Water made the GLTD Agreement payment of $7.031 million to HRM for 2024/25 when the utility ended up incurring an operating deficit and an accumulated deficit of approximately $3.9 million in that year. Mr. de Montbrun testified he had no knowledge or recollection of Halifax Water seeking relief from the GLTD payment for fiscal 2024/25. Mr. de Montbrun also testified that the idea of reducing the GLTD Agreement payments to HRM for the test years was not raised prior to filing this rate application. He indicated that it might not be too late to approach HRM about this possibility, although he cautioned that for the current fiscal year, which coincides with the first test year, the HRM budget has already been approved.

[208] The Consumer Advocate submitted that suspending the payments under the GLTD Agreement would be a reasonable measure to alleviate rate shock. The Consumer Advocate asked for a Board directive:

> The Board should direct Halifax Water to engage in discussions with HRM aimed at reducing or eliminating the grants in lieu of taxes Halifax Water pays to HRM and to reflect any changes in the grants resulting from these discussions in its compliance filing.
>
> [Consumer Advocate Closing Submissions, p. 8]

Halifax Water said it had no objection to this request.

Findings

[209] HRM can levy real property and business occupancy tax against Halifax Water under the *Assessment Act* and s. 92(1) of the *Halifax Regional Municipality Charter (HRM Charter)*. However, s. 92(2) of the *HRM Charter* allows HRM to enter into an agreement with Halifax Water "… providing for the payment of grants in lieu of commercial and business occupancy rates and taxes … in such amounts annually as shall be agreed upon…". The GLTD Agreement creates a grant in lieu of taxes associated with the water service provided by Halifax Water. The dividend component of the GLTD Agreement

relates to the stormwater and wastewater services. The GLTD Agreement says that the dividend component must be "… paid from the surplus of Halifax Water's undertaking…". The word surplus could have different meanings. When the GLTD Agreement was approved by the Board, Halifax Water had an accumulated surplus.

[210] The Board has considered whether the dividend component of the GLTD Agreement should be allowed in the revenue requirement in this application. The Board recognizes that the payment to HRM is not a true dividend in the corporate sense like, for example, under the *Companies Act*. The Board recognizes that the *Companies Act* does not apply to Halifax Water. However, combining the concept of surplus with Halifax Water's undertaking, as opposed to, for example, its operating revenues, or an accumulated surplus, is consistent with the corporate solvency test that a company must meet to issue dividends. This solvency test is usually expressed as an excess of assets over liabilities and the ability to pay current liabilities as they become due. Based on the evidence in this proceeding, the value of Halifax Water's undertaking exceeds its liabilities, including the liability for the HRM dividend. There is no evidence Halifax Water cannot meet its bills as they come due. Therefore, paying the dividend component is permissible under the GLTD Agreement.

[211] That said, the Board retained jurisdiction to revisit the GLTD Agreement in this GRA. The Board has denied dividends for wastewater and stormwater services payable to HRM in the past. In *Halifax Regional Water Commission (Re)*, 2010 NSUARB 244 (CanLII), at para. 53, the Board made the following comments, in denying a dividend component related to stormwater and wastewater:

> [53] The proposed wastewater and stormwater grant in lieu of taxes/dividend is a different issue. The condition of the recently transferred infrastructure to HRWC is such that it requires very significant expenditures to bring it to an acceptable standard and meet

> the appropriate regulations. If HRM had maintained the infrastructure in a reasonable condition before transfer to HRWC, customers of the Utility would not be paying these huge bills now. Under the proposed arrangement, customers are paying millions of dollars for the infrastructure deficit and are also being asked for a dividend, which to the Board seems unreasonable.

[212] Since then, the Board has allowed a dividend because Halifax Water does use municipal services for its stormwater and wastewater services. Also, the cited case was decided when Halifax Water was exempt from municipal taxation. Nevertheless, the infrastructure deficit for stormwater and wastewater remains. The issue concerning the Board is what to do where Halifax Water is in an accumulated deficit position. In the interest of avoiding rate shock, the Board has determined this accumulated deficit should not form part of the revenue requirement in the second test year. Therefore, there will be an accumulated deficit on Halifax Water's books for both test years. The Board has, in the past, denied earnings payable to a municipal owner where there is an accumulated deficit. In *Amherst (Town) (Re)*, 2017 NSUARB 90 (CanLII), at para. 42, the Board said:

> [42] The Utility is cautioned that although the Board approves the dividend to owner in the amounts presented in the Rate Study, the Utility may only pay out the maximum of these approved amounts if the Utility is in an accumulated operating surplus position before the dividend is paid. Any portion of the dividend to owner that will put the Utility into an accumulated deficit position, in any given year, is disallowed.

[213] This is not based on corporate dividend law, but on establishing just and reasonable rates, where the earnings or dividend component is not based on the traditional methodology to establish a rate of return. In the circumstances of this application, HRM has *de jure* control over the Halifax Water board of commissioners that contributed to the delay in filing a rate application. As a rate shock mitigating measure, the dividend component of the GLTD payment should not form part of the revenue requirement in the first test year. Figure 18 of the application shows that the amount allocated to the wastewater/stormwater dividend is $1.078 million. This amount is

excluded from the revenue requirement in the first test year. Given the mitigating measures in this decision that materially lower the rate increases in the second test year, the same rationale does not apply, and the amount of the dividend will be maintained in the second test year. Halifax Water should also approach HRM to see if it can obtain relief for a larger portion of the GLTD Agreement payment to further alleviate the proposed rate increases. While Mayor Fillmore, in his personal capacity, might welcome an initiative to do what is possible to hold rates down, it remains to be seen what HRM Council is able or willing to do. In any event, Halifax Water must report back on that issue in the next general rate application.

[214] The payment under the GLTD Agreement provides another avenue to explore. This potential avenue was raised when addressing the issue of retroactive ratemaking. Some municipal water utilities have requested annual earnings as utility owners to use the proceeds to pay down an accumulated deficit. The Board has allowed this in the appropriate circumstances. Various municipalities have come up with different repayment plans. They usually span several years. Conceptually there is nothing preventing the municipal utility owner from applying these earnings to the accumulated deficit.

[215] Therefore, in a future application, depending on the requested rate increases, it might be possible to have HRM confirm that any dividend will be applied to the accumulated deficit. It might be possible to have a larger portion of the GLTD Agreement payment applied to the accumulated deficit. These comments are made while keeping in mind that HRM councillors form the majority of the Halifax Water board of commissioners yet took no action to have an earlier rate application that might have

alleviated the rate shock proposed in this GRA. The Board directs Halifax Water to explore these options. A plan to deal with the accumulated deficit can be reviewed in the next GRA, all in the context of making every effort to limit the amount of future rate increases.

4.11 Cost of Service Design Manual, including base charges

[216] Halifax Water's 2022 GRA application included updates to its Cost of Service (COS) Manual. The previous update was in Halifax Water's 2020 GRA.

[217] The 2022 proposed revisions included updates to the narrative, percentages, and formulas, based upon current information; adjusted language to provide clear definitions and descriptions; adjustments to reflect the requested changes contained in the application; and housekeeping and cleanup of typographical errors.

[218] In that proceeding, Halifax Water noted that analysis using data from AMI meters may provide sufficient differentiation in daily peaking characteristics by customer class to warrant a max hour as a factor in allocating costs but did not implement this in 2022 as normal consumption patterns were impacted by the COVID-19 pandemic.

[219] In response to an IR from the Consumer Advocate in the 2022 GRA, asking when Halifax Water intends to reconsider differentiation in peaking characteristics, Halifax Water explained that this issue will be a significant part of its next COS Manual update and rate application.

[220] Based on the information presented in the 2022 GRA, the NSUARB accepted Halifax Water's recommendation to defer the consideration of differentiation in peaking characteristics until the next COS Manual update and rate application.

[221] In the current GRA, Halifax Water included the updated water demand analysis report, prepared by A & N Technical Services Inc. in 2024. The report is titled "Halifax Water 2024 Demand Analysis: Econometric Water Demand Estimation". The

Report examined almost two decades of Halifax Water consumption history, including the recent four years of high-resolution AMI measurements, and found minimal variation in peaking factors based on a detailed analysis. The Report therefore recommended that Halifax Water should maintain system-wide rates and charges instead of implementing class-differentiated rates. In response to Board staff IRs, Halifax Water indicated that while it does not have plans to continuously monitor load shape, it intends to solicit a similar study as part of its next rate application.

[222] Halifax Water agreed with the Report's recommendation and submitted the current application based on the existing COS manual and rate structure. This includes a single unit volumetric rate with base charges increasing based on meter size, which is the same methodology used by most water utilities in Nova Scotia.

[223] Halifax Water notes that the requested updates to the COS Manual are routine in nature and reflect changes to allocations based on operating costs and updates to items such as number of customers and, for stormwater, amount of impervious area. The methodology itself for water, wastewater and stormwater rates is not proposed to change.

[224] Halifax Water prepared three scenarios (rate studies) for the calculation of water and wastewater rates, based on the revenue requirements. With regards to water:

a. Scenario 1 is based on the COS manual without any adjustments and results in a decrease in the base charges.
b. Scenario 2 holds the current base charges, and the change in revenue requirement is reflected in the commodity/volumetric charge.
c. Scenario 3 is the same as Scenario 2 but increases the revenue requirement in 2026/27 to recover the estimated shortfall from 2025/26.

[225] Scenario 1 follows the approved COS methodology and results in a decrease in the base charge in year one, followed by an increase in the second test year. Although the base charge increases in the second test year, it would be lower than what is currently in the rates.

[226] Scenario 2, although it uses the same revenue requirements as the first scenario, results in below average water users, in the same customer class and across customer classes, subsidizing those who use more water. This happens as more revenue gets allocated to the base charge than determined by cost of service. This allocation to base lowers the revenue allocated to usage. With the same volume of sales, the lower revenue requirement from the volumetric rate decreases the rate than if the COS manual had been followed.

[227] Scenario 3 is the same as Scenario 2, but in this rate study, the shortfall in revenue from the first test year's rates (because the rates would only be in effect for three months instead of the full year) is being added to the revenue requirement in the second test year, leading to a larger increase in rates than in Scenario 2. In addition, this increase in revenue requirement in the second test year is applied to the commodity charge.

[228] On the wastewater side, the COS manual indicates that the base charges and commodity charge should increase in each of the test years. This is shown in the rate study for Scenario 1.

[229] Scenario 2 on the wastewater side has the opposite effect as it does on water. Although this scenario uses the same revenue requirements as the first, it results in above average water users, in the same customer class and across customer classes, subsidizing those who use less water. This happens as more revenue is allocated to the

usage charge and less to the base charge than determined by cost of service. This lower allocation to base increases the revenue allocated to usage. With the same volume of sales, the higher revenue requirement increases the usage rate above what it would be had the COS manual been followed.

[230] Scenario 3 is the same as Scenario 2, but in this rate study, the shortfall in revenue from the first test year's rates not being in place for the full year (in effect only for one quarter as opposed to four) is being added to the revenue requirement in the second test year, leading to a larger increase in rates than in Scenario 2. This increase in revenue requirement in the second test year is applied to the commodity charge only, further increasing the cross-subsidization, as a portion of revenue not collected in the first test year, under base charges if using the COS calculation in Scenario 1, is being allocated to the second test year's commodity charge.

[231] Because there is an offsetting allocation of base to commodity and commodity to base for water and wastewater, respectively, the effect on most, if not all, customers is somewhat offset.

[232] Under the COS Scenario 1, the combined water and wastewater rate changes range from an increase of 17.3% to 20.6% in 2025/26 and 6.8% to 8.6% in 2026/27, depending on customer class. This compares to Scenario 2's combined water and wastewater rate changes, ranging from 15.8% to 23.3% in 2025/26 and 7.0% to 10.4% in 2026/27, depending on customer class. Scenario 3 sees the same increase as scenario 2, with an increase of between 17.1% and 24.5% in the second test year, due to allocating the shortfall of revenue from 2025/26. It is Scenario 3 that Halifax Water is proposing for approval.

[233] With regards to the base charge allocations, the combined impact for residential customers is favourable, as on average this rate class uses less water. For this rate class, the revenue requirement savings on wastewater more than offsets the revenue requirement increased allocation for water. Based on the annual base charge rates in Figure 27 (shown in the application), the base charge for water under COS Scenario 1 is $24/year lower than current base rates in 2025/26 and $12 lower in 2026/27. Wastewater base charges would be $60 higher in 2025/26 and $84 higher in 2026/27.

[234] The outcome, as shown in Figure 32 of the application, below, shows Scenario 2 as being more favourable to residential customers on average, while at the expense of every other rate class. For the 2025/26 test year, Scenario 3 is the same as 2, but with higher increases for 2026/27.

Halifax Regional Water Commission
Consolidated Rate Studies - Water and Wastewater Services
Quarterly Bill Comparisons 2025/26

Meter Size	Current	Scenario 1 Rate Studies	% Change	Scenario 2 Volumetric only	% Change	Scenario 3 Volumetric with Deficit Elimination	% Change
5/8" - 15mm	$219.05	$261.83	19.5%	$253.55	15.8%	$253.55	15.8%
3/4" - 20mm	$570.89	$679.11	19.0%	$684.67	19.9%	$684.67	19.9%
1" - 25mm	$1,099.46	$1,293.35	17.6%	$1,328.03	20.8%	$1,328.03	20.8%
1.5" - 40mm	$2,507.36	$2,939.92	17.3%	$3,042.19	21.3%	$3,042.19	21.3%
2" - 50mm	$5,820.72	$6,941.26	19.3%	$7,131.82	22.5%	$7,131.82	22.5%
3" - 80mm	$12,324.45	$14,734.74	19.6%	$15,151.23	22.9%	$15,151.23	22.9%
4" - 100mm	$21,454.44	$25,660.05	19.6%	$26,360.80	22.9%	$26,360.80	22.9%
6" - 150mm	$59,170.57	$71,370.28	20.6%	$72,938.89	23.3%	$72,938.89	23.3%
8" - 200mm	$57,302.01	$67,551.78	17.9%	$70,045.86	22.2%	$70,045.86	22.2%
10" - 250mm	$120,506.62	$143,660.93	19.2%	$147,977.99	22.8%	$147,977.99	22.8%

Halifax Regional Water Commission
Consolidated Rate Studies - Water and Wastewater Services
Quarterly Bill Comparisons 2026/27

Meter Size	Scenario 1 Rate Studies	% Change from Prior Year	Scenario 2 Volumetric only	% Change from Prior Year	Scenario 3 Volumetric with Deficit Elimination	% Change from Prior Year

5/8" - 15mm	$284.43	8.6%	$271.19	7.0%	$296.94	17.1%
3/4" - 20mm	$731.02	7.6%	$740.90	8.2%	$825.52	20.6%
1" - 25mm	$1,395.26	7.9%	$1,444.68	8.8%	$1,615.23	21.6%
1.5" - 40mm	$3,140.12	6.8%	$3,283.80	7.9%	$3,678.12	20.9%
2" - 50mm	$7,432.24	7.1%	$7,749.34	8.7%	$8,719.13	22.3%
3" - 80mm	$15,958.11	8.3%	$16,651.92	9.9%	$18,771.94	23.9%
4" - 100mm	$27,837.24	8.5%	$29,041.21	10.2%	$32,724.77	24.1%
6" - 150mm	$77,435.72	8.5%	$80,496.98	10.4%	$90,833.75	24.5%
8" - 200mm	$73,257.67	8.4%	$76,992.41	9.9%	$86,560.15	23.6%
10" - 250mm	$155,831.23	8.5%	$162,958.92	10.1%	$183,583.68	24.1%

[235] In addition to subsidizing residential customers under Scenarios 2 and 3, the relative bill increases for all other customer classes are larger than they are for the residential, whereas using the COS approach, the range of increases between all rate classes is smaller, with residential increases higher than some rate classes and lower than others.

[236] Halifax Water's proposal, as noted above, is to maintain the current base charges for all rate classes and apply the increase in revenue requirement to the volumetric rate only. Halifax Water noted that this was consistent with the 2020 and 2022 rate applications.

[237] Halifax Water noted that one of the factors in determining to hold the base charge was that higher volumetric rates give customers more control to lower their overall bills than if the base charge, which is fixed quarterly, was increased. The more incentives to lower a bill, the more likely a customer would try to consume less.

[238] The Consumer Advocate's consultant, Mr. McLaren, recommended that the Board direct Halifax Water to revisit its rate design proposal to allocate at least a portion of the approved increase to the base charge. One of the issues Mr. McLaren raised with not applying any of the increase to the base charge was that it increases the volatility of Halifax Water's revenue stream.

[239] Halifax Water countered that by indicating that there will always be volatility in revenue based on usage, even if a portion of the increase went to the base charge. Mr. de Montbrun noted that the only way to avoid that impact would be to apply all of the increase to the base charge and agreed that putting the increase fully on the volumetric charge does add some potential volatility to Halifax Water's revenue.

[240] Mr. de Montbrun noted that there has not been a change to the base charge on water as far back as 2015, so any change was before then. On the wastewater side, the last increase to the base charge was in 2016.

[241] Responding to questions by the Board at the hearing about lowering the base charges on water in the first test year and then increasing them in the second test year, Mr. de Montbrun noted that the biggest challenge in doing so would be explaining the changes to customers. Mr. de Montbrun noted:

> … It would be the complexity of explaining to customers that the base charge decreased in one year, the consumption charge went up higher than we are proposing, I believe, or more significantly, and then the following year there's another change where it happens the base charge would go up and there's a corresponding adjustment to the -- to the consumption charge.
>
> [Transcript T1976, p. 708]

[242] Mr. de Montbrun then added that the base charges for wastewater changing differently from the base charge for water, moving in opposite directions, could add more complexity when explaining overall bills. This added complexity has no impact on the revenue requirements of Halifax Water.

[243] When questioned about the base charge changes at the hearing, Jennifer Ivey, of Carollo, noted that she doesn't think it makes sense to have the base charge go down in the first year only to increase in the second test year, but rather to maintain the current base charges for the first test year, then increase the following year.

[244] Ms. Ivey also noted that she does not agree with Mr. McLaren with respect to raising the base charge to maintain equity. She noted that it does not necessarily have anything to do with equity. She noted that:

> … the cost-of-service calculation, it is intended to improve equity. And so those calculations are where you get your equity from; it's not from trying to level out the increases in the bill so that everybody's increase is the same. That takes you away from equity.
>
> The Cost-of-Service Model is -- what it does is -- I typically call it a recalibration so that it gets you back to that point of equity. And sometimes that recalibration results in some customers' bills going up, some customers' bills going down. Maybe they all go up. Some will go up by a small percentage and some go up by a large percentage, but it's all based on getting the rate right sized so that every customer is paying their fair share based on how they're using it.
>
> [Transcript T1977, pp. 962-963]

Findings

[245] Regarding the water demand analysis report, the Board is satisfied with Halifax Water's decision to maintain system-wide rates and charges instead of implementing class-differentiated rates. The Board expects Halifax Water to continue to review this issue as part of its next rate application, to determine if there are changes to its demand load shape that would warrant a re-evaluation of its current system-wide rate structure.

[246] The Board approves the base charges for water and wastewater as proposed in the application. The Board also accepts revisions to the COS Manual. In its next GRA, the Board directs Halifax Water to provide separate tables for the rate impacts by meter size for each of water and wastewater services.

[247] At the hearing, there was a discussion about the density of properties belonging to various classes of customers, in particular multi-unit dwellings, and whether such customers in dense configurations might be inadvertently subsidizing the water and wastewater bills of other customers, in less dense configurations. The Board initially

requested an undertaking breaking down the number of customers, consumption, and the length of distribution pipe by account class and pipe size. Based on that discussion at the hearing, the Board understood that there were technical and interpretative limitations in such data and it did not request the undertaking. The Board wishes to revisit this issue in the next GRA but understands there may be practical and interpretative limitations to the available data. As such, the Board directs Halifax Water to provide an analysis in the next GRA, accompanied by any available data, that would explain whether distribution pipe length differs significantly between customers of various classes and pipe sizes, and whether any such difference might lead to one customer class subsidizing another.

4.12 Fire protection rates

[248] Halifax Water's cost of service-based water rates consist of three rate design components: base rates, volumetric charges, and fire protection.

[249] Fire protection rates are based on a Board-approved model introduced at Halifax Water's 2013 rate hearing. It was recommended by Scott Rubin, the Consumer Advocate's consultant in that matter (see: M05463, 2013 NSUARB 127, paragraphs 154-156). Halifax Water explained the methodology in NSRAB IR-66. The methodology has two elements:

> … First, the maximum percentage increase allowed in private fire protection rates is set at three times the overall percentage increase in revenue requirement. Halifax Water reviews the private fire protection rates according to Cost of Service and compares them to the maximum allowable percentage increase. If the Cost of Service rates do not exceed the maximum allowed, those rates are proposed; if they do exceed it, the rate reflecting the maximum permissible increase is proposed. Second, the remaining amount (after allocating private fire protection charges) is proposed to be recovered through the public fire protection rate …
>
> [Exhibit H- 6, NSRAB IR-66, p. 1]

[250] The cost-of-service studies produced the following results in this matter:

- private fire protection revenue would increase from $1.7 million in 2024/25 to $2.4 million in 2025/26 (an increase of $0.7 million or 38%) and to $3.1million in 2026/27 (an increase of $0.7 million or 28%);
- public fire protection revenue would increase from $8.1 million in 2024/25 to $10.9 million in 2025/26 (an increase of $2.8 million or 35%) and to $11.4 million in 2026/27 (an increase of $0.5 million or 4%); and
- total fire protection revenue would increase from $9.8 million in 2024/25 to $13.3 million in 2025/26 (an increase of $3.5 million or 35%) and to $14.4 million in 2026/27 (an increase of $1.1 million or 9%).

[251] Further, like what was proposed for the effective dates of the water and wastewater rates over a 3-month period on January 1, 2026, and April 1, 2026, respectively, Halifax Water proposes to carry over the shortfall or “deficit elimination” amount for the 9-month period (April 1, 2025, to December 31, 2025) from the first test year (2025/2026) to the second test year (2026/2027).

[252] Halifax Water acknowledged that the proposed increases in the private fire protection charge are significant. It noted that fire protection charges are a flow-through of costs relating to operations and maintenance expenses, allocated indirect expenses, depreciation expenses, and return on rate base. Since all these expenses have increased, it submitted that the fire protection charge must also increase for the utility to maintain appropriate fire protection measures.

Findings

[253] The Board finds that the methodology approved by the Board in its 2013 decision for calculating the fire protection rates remains appropriate. However, given the various adjustments the Board has made in this decision to Halifax Water’s requested total revenue requirements, this will impact the calculation of the private and public fire protection charges. Thus, Halifax Water is directed to file the revised fire protection charges in its Compliance Filing.

4.13 Revenue requirements and customer rates for water services effective January 1, 2026, and April 1, 2026

[254] The application projects revenue requirements from customers for the provision of water service of $89,013,755 in 2025/26 and $97,230,526 in 2026/27.

[255] Halifax Water states that it is focused on eliminating its operating deficit by the end of the second test year, 2026/27. It further notes that for Halifax Water to maintain its current level of service, complete ongoing and approved capital projects, and meet stricter environmental regulations, rate increases are necessary to avoid an ongoing operating deficit.

[256] The application explains that in determining the proposed base and volumetric rates, revenue stability and affordability were considered. With these factors in mind, the application considered three scenarios for the calculation of water and wastewater base and volumetric charges. The application proposes water rates based on changing only the volumetric (consumption) charge, with no change to the current base charges for each of the meter sizes, along with increases to the revenue requirement in 2026/27 to recover the 2025/26 revenue shortfall (Scenario 3 of the application).

[257] On this basis, the application forecasted a revenue requirement level that results in average increases to residential water rates of 26.5% in 2025/26 and 22.8% in 2026/27.

[258] In response to Undertaking U-4, Halifax Water adjusted the capital works estimated to come into service in each of 2025/26 and 2026/27, resulting in decreases in the annual depreciation expense associated with asset additions in each of 2025/26 and 2026/27. For water service, this equates to decreases in depreciation expense of

$562,842 and $493,664, respectively, in each of 2025/26 and 2026/27, reducing the magnitude of the proposed rate increases.

[259] In response to Undertaking U-27, Halifax Water indicated that there would be a further net reduction in the total (water, wastewater and stormwater) depreciation expense of $163,944 in each of 2025/26 and 2026/27, from updating the investment in assets brought into service during 2024/25. For water service, this equates to a reduction of $126,366 in depreciation expense in each of the two test years, further mitigating the proposed rate increases.

Findings

[260] The Board accepts Halifax Water's corrections to the original application, which impact the revenue requirements for water service.

[261] Upon examination during the public hearing, Halifax Water described the magnitude of the proposed rate increases, proposed over a short period of time, as rate shock. As such, based upon the information presented by Halifax Water and the participating parties, as discussed in the decision, the Board has directed that further revisions be made to the application, which will decrease the revenue requirements, and the rates as proposed, for the provision of water service in the test years. These items are to be reflected in the Compliance Filing, discussed later in this decision.

4.14 Revenue requirements and customer rates for wastewater services effective January 1, 2026, and April 1, 2026

[262] The application projects revenue requirements from customers for the provision of wastewater service of $103,481,682 in 2025/26 and $112,370,959 in 2026/27.

[263] Like the water rate changes, the application proposes wastewater rates based on changing only the volumetric (discharge) charge, with no change to the current base charges, along with increases to the revenue requirement in 2026/27 to recover the 2025/26 revenue shortfall (Scenario 3 of the application).

[264] On this basis, the application forecasted a revenue requirement level that results in average increases to residential wastewater rates of 8.9% in 2025/26 and 12.9% in 2026/27.

[265] In response to Undertaking U-4, Halifax Water adjusted the capital works estimated to come into service in each of 2025/26 and 2026/27, resulting in decreases in the annual depreciation expense associated with asset additions in each of 2025/26 and 2026/27. For wastewater service, this equates to decreases in depreciation expense of $379,047 and $340,728, respectively, in each of 2025/26 and 2026/27, reducing the magnitude of the proposed rate increases.

[266] In response to Undertaking U-27, Halifax Water indicated that there would be a further net reduction in the total (water, wastewater and stormwater) depreciation expense of $163,944 in each of 2025/26 and 2026/27, from updating the investment in assets brought into service during 2024/25. For wastewater service, this equates to a reduction of $65,988 in depreciation expense in each of the two test years, further mitigating the proposed rate increases.

Findings

[267] The Board accepts Halifax Water's corrections to the original application, impacting the revenue requirements for wastewater service.

[268] Given the magnitude of the proposed rates, which Halifax Water described as rate shock, the Board has discussed further revisions to be made to the application,

which will decrease the revenue requirements, and the rates as proposed, for the provision of wastewater service in the test years. These items are also to be reflected in the Compliance Filing.

4.15 Stormwater Right of Way charges for the Province

[269] One part of Halifax Water's stormwater charge was established to recognize the benefit provided by stormwater management on street rights-of-way (ROW Charge). It is based on the total amount of impervious area of streets and roadways within Halifax Water's service boundary. The rationale for the impervious area billing determinant was discussed in the 2022 GRA proceeding:

> [117] Impervious surfaces reduce natural water infiltration and provide a reasonable proxy for estimating the amount of stormwater runoff that enters Halifax Water's stormwater system from a particular property. It has therefore been used as a billing determinant in establishing the amount of the stormwater charges.
>
> [2022 NSUARB 163, at para.117]

[270] The imposition of the stormwater ROW Charge has a controversial history. Originally, while recognizing its stormwater infrastructure provided a benefit to roadways, Halifax Water did not seek a ROW Charge from the owners of streets and roads within its service area, such as HRM, the Province, the Halifax-Dartmouth Bridge Commission (HBDC), Canadian National and various federal agencies. The rationale was that the roadways also helped to move stormwater and provided other public benefits. Apparently, this rationale applied in numerous jurisdictions where stormwater management was regulated as a public utility. The Board decided it was contrary to cost of service public utility principles that a major recipient of stormwater services, such as HRM, should be exempt from paying for that service [see: 2013 NSUARB 127, paras. 190-191].

[271] Halifax Water imposed the ROW Charge on HRM. In a subsequent hearing, HRM said it should not be subject to the ROW Charge because it was not a member of

the public, as required by s. 42 of the *Public Utilities Act*. The Board rejected this argument and found HRM was a Halifax Water stormwater customer and was, therefore, subject to the ROW Charge. Halifax Water sought to impose a ROW Charge on the Province and HBDC in the 2022 GRA proceeding. The Province and HBDC said they were not subject to the ROW Charge because the *Public Utilities Act* did not apply to them based on the doctrine of Crown immunity. The Board rejected this argument [see: 2022 NSUARB 163, paras. 115 to 183].

[272] The Board also made the following finding of fact in the *2022 GRA* decision:

> While there is some evidence that portions of the roadways in issue might also create runoff away from the Halifax Water stormwater system, the Board accepts as a fact that some of the runoff from the roadways owned by the Province and HDBC goes into the Halifax Water stormwater system. As such, both these entities are receiving a benefit from this system.
>
> [2022 NSUARB 163, para.134]

[273] In this proceeding, neither HRM nor HBDC challenged the ROW Charge allotted to them. The Province, through the Department of Public Works, did, based on the following rationales:

- Halifax Water has the burden of proof of establishing it provides stormwater service to the Province and has failed to provide any evidence on this point, beyond “bald assertions”, in this application. The Province submits this issue was uncontested in the 2022 GRA proceeding and, since the Board is not bound by its past decisions, it can be revisited based on the record in this proceeding.
- Even if the Board accepts there is sufficient evidence Halifax Water is providing stormwater service to the Province, the ROW Charge is unfair, unjustly discriminatory and unreasonable because Halifax Water uses the entire impermeable service area of provincial roads within its service area as a billing determinant. The Province says much of its roadway network drains away from the Halifax Water stormwater system. The Province submits it should be treated the same as non-residential customers in these circumstances.
- The Province says Halifax Water is using a new methodology than was used in the 2022 GRA. The Province takes issue with the reliability of the mapping and systems Halifax Water uses to establish which provincial roads are within its service territory, and the impermeable area these roads represent. The Province submits the errors uncovered during the hearing, and the corresponding adjustments to the ROW Charge this generated, prove the point.

[274] Halifax Water made the following submissions addressing the Province's position:

- The Board has already determined in the *2022 GRA* Decision that Halifax Water provided stormwater service to the Province. Furthermore, the methodology for determining the amount of the stormwater charge was established in the last GRA proceeding. Therefore, Halifax Water submits it is incorrect to say it bears the burden of proof of establishing these two key premises underpinning the provincial stormwater ROW Charge in every subsequent GRA.
- Halifax Water disagrees with the Province's assertion that the evidence that Halifax Water provided it with stormwater service was uncontested in the last rate hearing. Halifax Water says the Province participated in the 2022 GRA and chose not to contest that part of the application.
- Halifax Water asserts that there has been no change in the methodology used to establish the impermeable area of provincial roadways within its service boundary. Rather, staff used a different and less accurate mapping source when preparing this application. When this was discovered, Halifax Water reverted to what it considers the better data source and amended the information accordingly. Halifax Water asserts that the information in Undertakings U-7, U-8 and U-9 establish parcel ownership and impermeable area in response to any accuracy issues raised by the Province.
- Halifax Water submits that, in the 2022 GRA proceeding, the Board canvassed the underlying rationale for using the entire impermeable area of roadways, whether they discharge into its stormwater system. This is the same treatment as that of residential customers and other ROW Charge customers. It relates to the significant undertaking required to establish how much water flows into the stormwater system from which property, which is why impermeable area is used as a proxy in the first place. Halifax Water suggests that if the Province brings evidence suggesting a change in methodology is required the issue can be revisited.

Findings

[275] In performing its ongoing regulatory function, the Board is not bound by its past decisions. It can revise and reconsider previous determinations. This is important in the ongoing regulation of public utilities where decisions impact many customers. Sometimes parties who did not participate in a prior hearing bring a new perspective that warrants consideration. While the concept of *stare decisis* is not strictly applicable to administrative tribunals, this does not diminish the importance of consistent decision making. Parties

who appear before the Board should know what to expect in similar circumstances. The Board should not depart from its prior decisions without cogent reasons for doing so.

[276] In the *2022 GRA* decision, the Board made a finding of fact that Halifax Water provided stormwater service to the Province. The Province was a party to that proceeding and chose not to participate in that review of the ROW Charge, focusing instead on the Crown immunity issue. In this case, Halifax Water's evidence on the stormwater flow from provincial roadways was limited. The regulatory process operates on a continuum. The Board agrees with Halifax Water that absent new evidence on the topic, the utility does not need to prove in each successive rate hearing that the Province is a stormwater customer.

[277] The Province could have presented new evidence showing it is not a Halifax Water stormwater customer. In fact, that is what the Province tried to do. A few days before the start of the hearing, the Province attempted to introduce written evidence from Dwayne Cross, P. Eng. The deadline for filing evidence had long passed. The Board refused to accept this late-filed evidence indicating written reasons would be issued later. These are those reasons.

[278] This was an opinion from a professional engineer that the provincial road network did not contribute any stormwater to the Halifax Water system. The Province says the changing nature of Halifax Water's evidence on provincial road ownership contributed to the delay in filing the report. The Province should know which roads it owns. The changing evidence on road ownership has no bearing on what is actually expressed in the Cross report. The Board appreciates that during the hearing process, new information comes to light and undertakings are requested that add to the pre-hearing

filings. The Board also attempts to obtain the best evidence. However, the Hearing Order process, with pre-filed evidence filing deadlines, would become inefficient and result in procedural unfairness, if it can simply be disregarded without compelling reasons for a requested late filling on the eve of the hearing. No such compelling reason exists in this case.

[279] Therefore, the Board considers that there is no evidentiary or principled basis for departing from its determination in the *2022 GR*A decision that the Province is a Halifax Water stormwater customer.

[280] The Board is also satisfied that what the Province describes as a new methodology for establishing the ROW Charge is in fact the same basic methodology used in the 2022 GRA matter. It involves determining which provincial roads are located within the Halifax Water service boundary and incorporating it as a billing determinant using the same mathematical formula as before. What changed was the process for determining road ownership. Initially, Halifax Water staff used the HRM street centreline GIS ownership file instead of the Nova Scotia Property Records Database (NSPRD) used in the last GRA. Halifax Water corrected this approach in its Rebuttal Evidence and responses to undertakings. It also used input from the Province. This assisted Halifax Water in coming to a final determination on the provincial roadways within its service boundary and the impermeable area of these roadways. The many changes in the calculation inputs during the hearing process does raise some concerns about Halifax Water's ability to accurately determine the impermeable area of provincial roadways within its service boundary. Nevertheless, the Board is satisfied that the information and data provided in the responses to Undertakings U-7, U-8 and U-9, on the balance of

probabilities, supports Halifax Water's Rebuttal evidence with a corrected ROW Charge. The amount of the provincial ROW charge is $1,622,700 in the first test year and $2,047,238 in the second test year, if the proposed methodology is used.

[281] Halifax Water proposed an amendment to *Regulation* 7.2 which applies to all customers subject to a ROW Charge. The proposed amendment would enable billing adjustments to allow for periodic review of road ownership data and impervious data based on provincial updates to the NSPRD. Road ownership may change. The footprint of roadways may be altered. Errors could potentially be discovered. The Board agrees with Halifax Water that an adjustment mechanism to take account of these types of situations between rate cases is appropriate. Accordingly, the proposed changes to *Regulation* 7.2 are approved.

[282] The issue about potential adjustments depending on how much of the impermeable area of the provincial roadways flows into the Halifax Water stormwater infrastructure, or taking account of any benefits Halifax Water obtains from the provincial stormwater infrastructure requires more analysis. In the *2022 GRA* decision the Board expressly left open the possibility of exploring whether a rate design could be developed that considered provincial roadway flows away from the Halifax Water infrastructure. The Board said:

> [198] It might be possible to quantify the amount of impermeable area that results in flows away from the roadways that are subject to the ROW Charge. It might also be possible to calculate any net benefit derived from water being diverted, if any, from the Halifax Water infrastructure by the roadways owned by the Province and HDBC. Without in any way ruling on the matter, it might be possible to create a rate design that accounts for these items. None of the foregoing was advanced in this hearing. The Board therefore accepts on the evidence before it that the ROW Charge applies to the Province and HDBC in the same manner as HRM. None of the foregoing was advanced in this hearing. The Board therefore accepts on the evidence before it that the ROW Charge applies to the Province and HDBC in the same manner as HRM.
>
> [2022 NSUARB 163, para. 198]

[283] In this proceeding, the Province advanced the concept that Halifax Water's ROW Charge was unreasonable and unjustly discriminatory because it did not take account that the Province, unlike HRM, has its own stormwater management system. The Province says Halifax Water's proposed ROW Charge does not factor in the amount of stormwater from impermeable areas of provincial roadways that flows away from the Halifax Water stormwater infrastructure. The Province suggests that the ROW Charge should take account of the benefits Halifax Water obtains from the provincial stormwater infrastructure. This is not revisiting a factual finding without additional evidence. A fair reading of the *2022 GRA* decision includes a recognition that not all the stormwater from the provincial road network flows into Halifax Water's stormwater infrastructure and no new evidence was introduced in this proceeding to counter that view. What is being requested is a different rate design based on this situation.

[284] In the *2022 GRA* decision, the Board recognized that Halifax Water had used the same rationale as applied to the residential customer stormwater service when applying the entire impermeable area as the billing determinant for the ROW charge. The Board also recognized that there was an adjustment to the Site-Related Flow Charge for the non-residential customers. The Board notes *Regulation* 7(8) says:

> (8) Non-Residential Property Customers may be eligible for a credit not less than 30% but not exceeding 50% of the Site Related Flow Charge if they are undertaking certain qualified Stormwater Best Management Practices that detain their peak flow on an on-going basis in accordance with the parameters and application process set out in the Commission's Stormwater Credit Manual.

[285] For the residential class, the key factors that weigh heavily against impermeable area adjustments based on flow away from the Halifax Water stormwater infrastructure are the tier system and the amount of the Site-Related Flow Charge, combined with the number of residential customers. The provincial portion of the ROW

Charge is more than $3 million in the test years. This amount is exponentially greater than the per customer residential Site-Related Flow Charge. The number of provincial road parcels is much lower than the number of residential parcels within the Halifax Water service boundary. The Province also makes a compelling argument that it is unfair that it is treated the same as HRM, whose roads are next to and clearly use the Halifax Water infrastructure. The provincial road network is not like that of HRM. The HRM road network within the service boundary is generally adjacent to the Halifax Water infrastructure and is not serviced by any other stormwater management system. This is not the case for the provincial road network. The Province has its own stormwater management infrastructure without the same level of direct contact with Halifax Water's stormwater infrastructure. Potential adjustments based on benefits derived from the provincial stormwater system, or consideration of the actual amount of water that enters the Halifax Water infrastructure from the provincial road network, should be less of an administrative burden than consideration of these issues for residential customers.

[286] The Board recognizes that the ROW Charge applies to a different customer class than the Site-Related Flow Charge for residential or non-residential customers. Also, during the 2022 GRA hearing, there was evidence that for those limited jurisdictions with stormwater ROW Charges, which were in the minority, no adjustments were made based on water flow away from stormwater infrastructure. However, the key factors related to administrative overhead when compared to the amount of the charge tend to support the basic proposition that a review of the ROW Charge is warranted. As well, the difference in the relationship between HRM roads and Halifax Water's infrastructure,

when compared to the provincial road network infrastructure, may warrant a different treatment when it comes to the ROW Charge.

[287] The difficulty the Board faces is that it has no evidence upon which to adjust the impermeable area billing determinant, no evidence upon which to quantify the benefit the Province suggests it is providing to Halifax Water, and no proposed rate design which incorporates one or both of these features. The Board has no evidence on how technically feasible it is to design and administer such a rate. Clearly, the stormwater revenue requirement does not change if the methodology for the provincial ROW Charge is changed. If the Province pays a lower amount, the revenue shortfall in the test years will have to be made up by increasing rates for other customers. The non-residential rate design is not directly transferable to the provincial ROW Charge. Without a rate design proposal, the Board has no evidence about how a change in methodology would impact other stormwater customers. It has no way to implement any adjustment mechanisms. Therefore, the Board will maintain the current rate structure for the two test years covered by this application.

[288] The Board directs Halifax Water to explore with the Province a potential new rate design for the ROW Charge. The areas to be investigated by Halifax Water should include

- Obtaining such data as is reasonable and technically available about the water flow from the impermeable area of street ROWs and whether the flows go into the Halifax Water infrastructure. This data is to be shared with the Province. The Province may choose to collect similar data and share it with Halifax Water. If this data shows that no water flows from the provincial roads into the Halifax water infrastructure, then Regulation 9(5) applies and the Province would not be subject to a ROW Charge. Otherwise, rate design based on the impermeable area from which stormwater flows into the Halifax Water system should be considered.

- Seeking data and input from the Province about quantifying benefits, if any, derived by Halifax Water from the provincial stormwater management system.

[289] The goal of the exercise is to see if a ROW Charge can be recommended based on the impermeable area of provincial roads that flows into the Halifax Water stormwater infrastructure, or based on benefits Halifax Water receives, if any, from the provincial stormwater system. If the parties do not reach a mutual understanding by July 30, 2026, then each party can submit evidence and proposed rate designs supported by this evidence in the next GRA anticipated in the fall of 2026.

4.16 Revenue requirements and customer rates for stormwater services effective January 1, 2026, and April 1, 2026

[290] The Board has previously approved a two-part stormwater charge (see: 2013 Stormwater decision, 2013 NSUARB 127, at paras. 36 to 48). Both parts are based on impervious area calculations.

[291] Impervious surfaces reduce natural water infiltration and provide a reasonable proxy for estimating the amount of stormwater runoff that enters Halifax Water's stormwater system from a particular property. It has therefore been used as a billing determinant in establishing the amount of the stormwater charge. One part is the ROW Charge established to recognize the benefit provided by stormwater management on street rights-of-way. The other is a Site-Related Flow Charge, which captures the benefit to individual properties which discharge stormwater runoff, whether directly or indirectly, into Halifax Water's stormwater system.

[292] In its application, Halifax Water noted that stormwater services have been operating at a deficit since 2017/18. In the 2025/26 test year, the deficit for stormwater services is budgeted to be $3.7 million and revenues generated by stormwater services would need to increase by 21.9 % to offset the budgeted deficit. In the 2026/27 test year,

the operating deficit is budgeted to be $6.0 million and revenues generated from stormwater services would need to increase by 37.1% from current levels to offset the budgeted deficit. Absent rate increases, the accumulated deficit for stormwater services is budgeted to be $10.3 million at the end of 2025/26 and $16.3 million at the end of 2026/27. Halifax Water submitted that operating stormwater services at the current rates is not sustainable.

[293] Halifax Water updated the stormwater rate studies using the Board-approved methodology and the current impervious area data. It noted that more accurate data includes information about property ownership (compared to what was available in 2016), the ownership of streets throughout the municipality, and significant updates in 2022 to the stormwater service expansion areas. The utility stated that in 2025 there will be significant updates to the impervious area for all growth areas in the stormwater service boundary that have occurred over the past five years.

[294] For non-residential property customers receiving stormwater service, the current site related flow charge per m^2 of impervious area of $0.173 is proposed to increase to $0.216 on January 1, 2026, and to $0.277 on April 1, 2026.

[295] For residential property customers receiving stormwater service, the site related flow charge is based upon an impervious area tiered rate structure. The proposed annual increase in the tiered rates ranges from $5.00 to $28.00 on January 1, 2026, with a further annual increase ranging from $6.00 to $40.00 on April 1, 2026.

[296] As with other proposed rates, Halifax Water proposes to carry over any shortfall or “deficit elimination” in the stormwater rates from the first test year to the second test year.

Findings

[297] The Board accepts Halifax Water's submission that the accumulated deficit for stormwater services needs to be addressed, at least to some extent in the current matter. The Board finds that the proposed stormwater rates are appropriate for the 2025/26 test year and are approved subject to any adjustments flowing to the revenue requirements in both test years discussed above. Halifax Water is directed to file revised stormwater rates in its Compliance Filing.

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

[298] The application proposed changes to Halifax Water's *Regulations,* which are outlined in Appendix 9 of the application and addressed at pages 25-30 of Halifax Water's closing submissions. The changes include administrative amendments that Halifax Water said will improve clarity and coherence in the *Regulations*, amendments to reflect current policy or staffing obligations, as well as substantive changes to some of the rules.

[299] Halifax Water acknowledged that the amended *Regulations* must align with the *Summary Offence Ticket Regulations,* NS Reg 58/2025, Schedules 38 and 38A. Halifax Water indicated it would address the alignment by developing a table of concordance. Halifax Water requested the Board approve the *Regulations* to be effective for services rendered on and after January 1, 2026.

[300] Other amendments will be required to implement this decision, including updated rates, the fire protection charge, and those related to the stormwater charges and ROW charge issue discussed earlier.

[301] RHPNS objected to the proposed changes to automatically designate a property owner/landlord as the “customer of record” responsible for payment on outstanding accounts of their tenants. The Board requested clarification on other amendments that are addressed in more detail in the following sections.

Findings

[302] The Board agrees with Halifax Water that many of the proposed amendments to the *Regulations* are administrative in nature or “housekeeping” to implement the approved rates and charges and to clarify definitions and other language. In the next sections the Board addresses Halifax Water’s proposals for the substantive changes that were subject to additional discussion at the hearing. Except where specific directions are given in this decision, the Board finds the administrative changes to the *Regulations* reasonable and approves them, subject to a Compliance Filing incorporating the revisions proposed by Halifax Water in its closing submissions and otherwise as directed by the Board.

[303] As part of the Compliance Filing, Halifax Water is to provide a table of concordance identifying the references needed to align the updated *Regulations* with the *Summary Offence Ticket Regulations*.

4.17.1 Customer of Record – Automatic Landlord Program

[304] Halifax Water proposed a change to its *Regulation* 36(5) to list property owners/landlords as customers of record and to disallow tenants to hold service accounts, as they are currently allowed to do.

[305] “Customer of record” is not currently defined in the *Regulations*, though “customer” is identified as a “person who arranges to be or is supplied with Water and/or Wastewater service at a specified location or locations and includes a person receiving

Stormwater Service." The proposed administrative amendments include a revised definition of "customer" and a new definition for "customer of record":

> (r) "Customer" means a ~~person~~Person who is a Customer of Record or ~~arranges to be or~~ is supplied with water and/or Wastewater Service at a specified location or locations and includes a ~~person~~Person receiving Stormwater Service
>
> (s) "Customer of Record" means the Person that applies for Service at a specified location or locations and is identified in the account records of the Commission as the Person responsible for payment of the bill.
>
> [Exhibit H-1, p. 637]

[306] Halifax Water points out that the existing *Regulations* already provide Halifax Water with the discretion to designate the property owner as customer of record on certain accounts. Halifax Water says:

> The proposed change will increase transparency by codifying the intended practice going forward, and is being proposed to protect the interests of the utility and its customers by strengthening the ability to collect on accounts. In the case of a renter that does not own the property, that takes away Halifax Water's ability to force collection by placing a lien on the property to recoup money that will ultimately reduce the amount of uncollectable accounts going forward.
>
> [Halifax Water, Final Submissions, p. 28]

[307] Halifax Water's application proposed to amend the existing *Regulation* 36(5) to make the designation mandatory:

> The Commission shall require any property owner who rents or leases a property, or a self-contained unit within such property, to be the Customer of Record. For greater certainty, any property owner or Landlord who wants to open a new account with the Commission for Service to such property or self-contained unit shall be the Customer of Record. The Commission shall transfer any existing customer accounts in the name of tenants to the property owner or Landlord as the Customer of Record. If a property owner of Landlord becomes the Customer of Record, then the Commission will not thereafter transfer any accounts in the name of the Customer of Record to any tenant.

[308] In its opening statement and during the hearing, Halifax Water indicated that it was open to working with interested parties to phase in the new requirements over a reasonable period of time. In its final submissions, Halifax Water asked the Board to revise its proposed *Regulation* 36(5) as follows:

> "The Commission shall transfer any existing customer accounts in the name of tenants to the property owner or Landlord as the Customer of Record 12 months after providing notice to the property owner or Landlord." [Emphasis in original]
>
> [Halifax Water, Final Submission, p. 28]

Halifax Water says this change would allow an opportunity for property owner/landlords with existing leases to address the pending regulation changes with their tenants prior to becoming the customer of record. Halifax Water proposes to register any new accounts in the name of the property owner/landlord as of the effective date of the amended *Regulations*.

[309] RHPNS urged the Board to "again reject Halifax Water's latest attempt to create an Automatic Landlord Program", consistent with what it said was a previous decision rejecting Halifax Water's request on the same matter. RHPNS says it is unreasonable to "[grant] Halifax Water the power to force landlords to be responsible for tenants being in arrears in cases where tenants have previously agreed to be the responsible party for the customer's account" [RHPNS Opening Statement, p. 2]. RHPNS's presentation highlighted that Halifax Water's 2024 audited financial statements report an allowance for doubtful accounts of $3.016 million." RHPNS says this figure accounts for nearly 2% of the utility's revenues. It argues that the rate increases will "drive up arrears."

[310] In testimony, answering questions from RHPNS, Mr. de Montbrun explained that:

> **A.** (de Montbrun) Currently, in our Regulations, Halifax Water has the discretion to determine who the customer of record is, whether or not it's the tenant or the landlord or the property owner. We propose to make changes that would take away the discretion and place the customer of record as the property owner.
>
> What that has -- the impact that has on Halifax Water currently, if an account is in arrears, one of the tools we use is the ability to lien a property. In the case of a renter that does not own the property, that takes away our ability to force collection per se on those accounts. If the account was in the name of the property owner, we would be

> able to lien a property through HRM and their lien process that they use for managing their revenues, and Halifax Water would recoup that money and will ultimately reduce the amount of uncollectable accounts that we have going forward.
>
> **Q.** But that's certainly going to put an onus on landlords. I mean, you're transferring a debt that you agreed to take on. As a customer, you would have done your due diligence, all your credit checks and everything else and then you're just going to transfer that to the landlord if it doesn't work out. I mean, this would be certainly not reasonable. I would say that that would be very unreasonable.
>
> **A.** (de Montbrun) As Ms. MacKenzie mentioned earlier today, the mechanism that we can use to phase in this requirement, I think that's something that we would be willing to have conversation, negotiation about. So I think that would be one of the mechanisms to ease the impact on the situations you're describing.
>
> **Q.** Well, just for the record, I hope the Board continues with its past decision not to go forward with that because that would be very, very, very difficult for our industry.
>
> [Transcript T1973, pp. 309-311]

[311] The Board also received letters of comment from landlords opposing the proposed changes to the *Regulations* on this issue.

[312] In the past and in this proceeding, Halifax Water has not objected to the practice of submetering by property owners, which the Board addressed briefly in its decision in 2012 NSUARB 71. Submetering is a practice that occurs when water, delivered by Halifax Water, passes through the master meter and owners of multi-unit properties use sub-meters to recoup costs associated with water services based on a tenant's consumption. In that earlier decision, the Board said that submetering (as just described) is not a service to the public and therefore does not meet the definition of "service" in the *Public Utilities Act*.

[313] Halifax Water used to offer a "Landlord-in-Between" program, an optional program that allowed a water account to be automatically transferred to an enrolled property owner once a tenant closed their account and was issued their final bill. The account would then revert to the landlord and could be transferred to a new tenant without a connection fee. In response to a customer complaint (M10419), in a June 2, 2022,

Decision Letter, the Board directed Halifax Water to seek approval to update its *Regulations* with specific provisions addressing the program.

[314] Later that year, Halifax Water did apply to amend the *Regulations* to include rules and regulations for an Automatic Landlord Program (M10942). In its March 5, 2023, Decision Letter, noting concerns about Halifax Water's proposal to hold landlords accountable for any outstanding tenant accounts, the Board refused to approve that aspect of the request.

[315] At the evening session, speaker Ursula Eckhold, a landlord, explained her experience with the impact on landlords that include water bills in their rent. She explained that "typically with new developments, submetering is in place, yes, and then the utilities do not fall under the [rent] cap. However, if you have older properties, like my portfolio, built in the sixties, the affordable housing component, all the utilities are typically included [in rent], yeah." (Transcript, p. 321)

[316] The *Regulations* include a similar provision deeming condominium corporations as the customer of record for account purposes in *Regulation* 36(4). The introduction of that provision was initially rejected by the Board when Halifax Water first proposed it in 2001, because the Board found Halifax Water had not demonstrated that it exhausted all reasonable alternatives. In its subsequent decision in 2006 NSUARB 38, the Board accepted evidence that Halifax Water's efforts to resolve its collection issues for condominium units sharing a single water shut off were not successful. The Board was then convinced that the provision should be approved. At para. 114, the Board says:

> It appears from the evidence presented that the Board's concern with respect to the addition of Regulation 3(C) have been addressed. HRWC has indicated that it reviewed other methods to collect the unpaid bills and believes that the proposal presents the best alternative to resolve the situation. In addition, it appears that significant HRWC resources have been used to collect the amounts in arrears, with any resulting losses spread over its

> entire customer base. Accordingly, the Board approves the addition of item 3(C) as proposed to Regulation 3, “Liability for payment of Water Bill”.

[317] The wording of the amendment approved in 2006 is now contained in *Regulation* 36(4). Until 2021, that section did not allow Halifax Water to exercise any discretion. However, in *Marquee Investments Inc.,* 2021 NSUARB 59, the Board approved the addition of wording allowing Halifax Water to make other billing arrangements for a customer of record for a condominium where it determines “an alternate arrangement to be appropriate.” The Board noted in that decision that Halifax Water had similar discretion to determine when it was necessary to require a landlord be the customer of record on an account, under *Regulation* 36(5). Halifax Water asks the Board to remove that discretion in this application.

[318] In *Feener (Re),* 2023 NSUARB 102, three condominium corporations in the Cowie Hill Village neighbourhood complained that their condominium townhouses should not be treated differently under *Regulation* 36(4) than non-condominium townhouses for the purpose of water billing. The Board upheld the regulation, allowing Halifax Water to continue to deem these townhouse condominium corporations as customers of record, liable for the payment of Service to the condominium units. This practice allowed Halifax Water the option to shut off service when a unit holder account was in default. The Board noted that this is a key collection mechanism, particularly since “most individual overdue accounts are not large amounts which make extensive and expensive collection processes ineffective from a cost-benefit point of view” (*Feener,* para. 21).

[319] Section 13 of the *Regulations* deals with suspension or refusal of service. For customer accounts where a landlord is in default for more than 40 days under the terms of a repayment arrangement, unpaid balances are transferred to HRM with a

request that they be registered as a lien on the property to which service is provided (ss. 13(1), 13(2)). Halifax Water pointed to this process as a key collection mechanism as it ties the debt to the property.

Findings

[320] The Board is persuaded that Halifax Water's request to deem property owner/landlords as customers of record is a reasonable requirement for all new accounts. Given the difficulties in seeking unpaid bill collections from tenants, against whom the utility cannot utilize the tool of a lien on the property, Halifax Water's position is that it does not seek the same discretion to make an exception in "exceptional circumstances" as it did in the case of condominiums.

[321] Nevertheless, the Board is concerned that Halifax Water's implementation proposal, even with the changes proposed in its closing submissions, could create significant issues for landlords with existing leases stipulating that the tenant is responsible for their Halifax Water accounts and water/wastewater is not incorporated into the rental agreements. These concerns were reinforced by submissions from RHPNS and members of the public.

[322] At this stage, the Board has no evidence that Halifax Water's alternate proposal to implement the requirement for existing accounts after allowing one-year notice would address the concern about required amendments to existing lease agreements. The Board is concerned about unintended consequences of this change and is not satisfied that other alternatives have been sufficiently canvassed.

[323] The Board approves the amendment of *Regulation* 36(5) requiring that, effective six months from the date of the Board's Order, the customer of record on all new accounts for rented or leased premises is to be the landlord/property owner. This

requirement is triggered when an existing account is closed, transferred, or a new account opened for the location. This “first step” in amending the customer of record requirement will provide certainty to Halifax Water and property owners that, when an account is closed or changes, the property owner becomes the customer of record going forward.

[324] Halifax Water is to provide revised language for *Regulation* 36(5) reflecting the Board’s direction in its Compliance Filing, including a provision requiring notice to a landlord about the change in the customer of record when a tenant account is closed.

4.17.2 Impact of freeze on development charges

[325] Halifax Water proposed amendments to certain fees and charges in its *Regulations* associated with development-related activities. The Department of Municipal Affairs raised the issue of the current restriction on new or increased fees and charges related to development approvals on development charges (referred to in the proceedings as the “freeze”), implemented in 2023 through amendments to s. 236A of the *HRM Charter*. The Department’s opening statement noted the risk that growth-related costs may be shifted to existing customers, raising concerns of intergenerational equity and fairness. Halifax Water confirmed that the most recent extension of the restrictions was implemented August 28, 2025, when the expiration date was extended to November 9, 2026, through amendments to the *Development Approval Cost Freeze Expiration Date Regulations,* NS Reg 173/2025. Section 236A(4) of the *HRM Charter* allows the Minister the discretion to give written approval for the prohibition on new or increased fees or charges, etc. to not apply.

[326] Mr. de Montbrun testified that the freeze of the RDC, which is collected and kept in a separate fund, as discussed elsewhere, has no impact on this rate application. Halifax Water says that the RDC is used to fund growth-related capital costs. If sufficient

money is not available in the fund because of the freeze, Halifax Water would be required to cover the costs of the planned capital projects. Mr. de Montbrun explained that the projects would be funded either by depreciation or by issuing debt.

[327] The utility is also proposing increases for a suite of other charges, including certain installation, inspection and review charges. However, if those charges are also considered development charges that must remain frozen under the most recent extension, the utility will "have costs that we are not able to cover that will have to be passed on to the rate base." Those other development fees are built into the normal operation of the utility and are normally recovered from the user requiring Halifax Water to do the work that incurs the costs. If those fees are frozen and not permitted to increase, the utility will have a shortfall. Halifax Water's evidence is that, in their entirety, "the increase in those charges would be in the range of a couple hundred thousand dollars." (Transcript, p. 173)

[328] Ms. MacKenzie indicated that Halifax Water has had "high level conversations" with the Province to explain the two sets of development charges – the RDC and then the other subset of fees and charges intended to recover Halifax Water's costs. Halifax Water's next step is to formally ask for clarification from the Minister on whether the specific development charge increases proposed in its *Regulations* would be considered to be included in the rate freeze or could be approved by the Minister under s. 236A(4) of the *HRM Charter*.

[329] In response to Undertaking U-14, Halifax Water indicated that the sections of the *Regulations* that may be impacted by the extension of the restrictions on increases (depending on the direction of the Minister) are: *Regulation 23 – Water Service*

Connection Tapping Connection Fee; *Regulation 24 – Audit Inspections and Review Drawings;* and *Regulation 31 – Commissioning Water Service.* It proposed to seek confirmation from the Minister on the application of the restrictions on increases and expected a response by the end of the year. If the restrictions do apply to those fees and charges, Halifax Water would amend those sections of the proposed *Regulations* to specify that the existing charges will remain in place until the expiry of s. 236A of the *HRM Charter*.

[330] Halifax Water justified these increases and new charges in its response to NSRAB IR-169 and with further information at the hearing. The costs associated with the work have increased. The changes are to account for staff time and associated administrative and operational costs.

[331] Halifax Water explained other increases in charges included in its proposal that do not (in the utility's view) meet the criteria to be restricted under the *HRM Charter*. In its responses to Information Requests and with further information in testimony, Halifax Water justified these increases based on increases in staff hourly rate, administrative and vehicle/equipment costs, and, in some cases, new or different tasks the utility is required to undertake.

Findings

[332] The Board finds the proposed changes to the fees and charges, including those in *Regulations* 23 and 31, and the new fee in *Regulation* 24, to be justified and reasonable. However, the Board understands that the statutory restrictions on development fees and charges may impact whether the utility can implement the changes reflected in *Regulations* 23, 24 and 31.

[333] The Board also accepts Halifax Water's proposals for the changes to the other miscellaneous charges, noting the utility's explanation that the charges for "meter install outside of working hours" in *Regulation* 19(1) must be adjusted to appropriately address staff costs under collective bargaining requirements, as provided in response to Undertaking U-30.

[334] The Board directs Halifax Water to update the *Regulations* in the Compliance Filing to reflect the relevant other development charges that will remain in place, subject to confirmation of an exemption or the expiry of the freeze on development charges. The Compliance Filing must also reflect the other miscellaneous charges as set out in the application, except where the change is required to correct the calculation errors noted in response to Undertaking U-30.

4.17.3 Proposed stormwater complaint fees

[335] Halifax Water proposed a change to *Regulation* 7(9) to establish a fee structure for each stage of the stormwater billing complaint process. The Notice of Objection fee would apply in circumstances where a person complains about whether they are exempt from the stormwater charge. Halifax Water equated this charge to the meter test fee, where a person complaining that their meter is not recording correctly or malfunctioned must pay a fee that partially covers the cost of performing a test on the water meter.

[336] Halifax Water estimated that the proposed complaint fees would potentially generate approximately $26,000, in total over the test years. It did not carry out any analysis on a potential reduction in expenses. As the Halifax Water panel explained:

> **A.** (de Montbrun) The hope that if the fee goes -- is put into place and it reduces the amount of complaints -- reduces the amount of complaints that

are filed, then elevated to the DRO, and then subsequently allocated or elevated to this Board, that there would be a decrease in our costs.

Q. But you haven't done anything to quantify what that may be; is that correct?

A. (de Montbrun) We have not. We have provided information about -- I believe that the relative cost of each -- of somebody going through that process. So to the extent that the number goes down, then we would expect a corresponding reduction in our costs. And the intent would be, certainly in terms of staff time, certainly that the time involved in supporting those processes internally with the DRO and the Board, that would free up time that we would then, in some cases with stormwater, be able to deal with some of the backlog that we've had in the past.

Q. Okay. And in your evidence with respect to complaints, you mention that -- and we don't need to bring this up necessarily -- but you said Halifax Water has received 300 Notices of Objection since 2017 [sic] and approximately 45 of those resulted in changes to the stormwater billing. So it seems to me, you know, certainly at least some of the Notices of Objection are legitimate. I know you talk about the need to try to reduce frivolous complaints, for example. My question is and my concern is, you know, what about people that have legitimate complaints and can't afford the fee? I guess they just can't make a complaint under your new proposed changes? Is that correct?

…

A. (MacKenzie) Oh, sorry, yeah, it's 200 to 300 per year, sorry. So yeah, I thought you were referring to the total number, so it is more than that. So this proposed fee, it doesn't preclude our staff from having a conversation with the customer about the stormwater, and if they raise anything that will trigger us to review their situation, we can still do that without having to go through the formal process. But once you start a Notice of Objection, it starts a formalized process. And so we just want to try and head off some of the ones that -- over the years in dealing with this, a number of people that we have tried to communicate what stormwater billing is and how it works, a lot of people just say, "Well, I'm just going to go through the process of -- the complaint process. I fully understand what you're telling me; I just don't agree with it." And so they will initiate an appeal and go through all the steps just because they're fundamentally opposed to how the charge is applied versus whether or not they receive service. And so we're just trying to minimize some of those complaints if we can, but we know that -- and we'll make changes if we become aware of anything that's changed from a drainage configuration or if, through the nature of a subdivision application, the stormwater system changes because a road is extended or a stormwater system is extended, we will proactively make those changes to a customer's account.

Q. Can I just say those discussions that you've just talked about would be sort of outside of the formal complaint process?

A. (MacKenzie) Yes, we could still be able to have a conversation with the customer and explain what's going on outside of the formal Notice of Objection, and then advance into the DRO process.

[337] Halifax Water's application provided cost estimates associated with processing notices of objections from customers disputing that they receive stormwater service:

> Since the process improvements in 2017, Halifax Water has received approximately 300 notice of objections ("Notice of Objection") per year from Customers disputing the fact that they receive storm water service. Of the filed Notice of Objections, approximately 15% result in a change to the stormwater billing outcome. The estimated cost for Halifax Water, for staff to respond to each Notice of Objection is $900, for an average annual cost of $270,000. If a Customer is unsatisfied with the result of the Notice of Objection, they can file a complaint with the Dispute Resolution Officer (DRO). Approximately 31 stormwater billing complaints per year are referred to the DRO and on average 5% of these referrals result in a change to the stormwater billing outcome. The estimated cost per complaint referred to the DRO, including both Halifax Water staff time and DRO fees, is approximately $2,500, for an annual total cost of $77,500. The third stage in the stormwater billing complaint process is an appeal to the Board. Approximately four stormwater billings complaints are appealed to the Board per year. Only one appeal to the Board, since 2018 has resulted in a change in a determination of service outcome to the Customer. Halifax Water was unable to develop a total cost including Board fees for this process but estimates that the cost to appeal to the Board is at least equivalent to the cost of complaints referred to the DRO, therefore $2,500 per appeal. Therefore, the cost of the stormwater billing complaint process is estimated at $357,500 per year.
>
> [Exhibit H-1, pdf p. 49]

[338] Halifax Water also noted that as stormwater service boundaries are increased, objections increase. Responding to these, as well as non-emergency drainage inquiries, which "tend to spike during significant weather events", have created a backlog of work for the stormwater engineering team. In several recent decisions, the Board reminded Halifax Water to seek improvements to ensure it handles customer complaints promptly. Halifax Water says that, with increasing accuracy in its stormwater billing analysis and the system burden, it is seeking to establish a fee structure at each stage of the complaint process. It recommended implementing a $100 fee at each stage of the complaint process, that is, a $100 fee to file the initial Notice of Objection, a referral to the DRO, and last, if the customer appeals to the Board. If, at any stage, a determination is made that the property does not receive stormwater service, Halifax Water would reimburse the fee.

[339] Board Counsel consultant Carollo reviewed the proposed complaint fee and recommended that the $100 per stage fee be increased to recover the full cost of processing the complaints at each stage and consider analyzing these costs by tier.

Findings

[340] The proposed $100 objection fee and subsequent appeal fees do not cover Halifax Water's costs of investigating and participating in the complaints process. During the hearing the Board expressed concern that the imposition of a $100 fee at each stage of the objection review processes creates a disincentive for objections and a perceived incentive for Halifax Water to deny objections. Halifax Water's admission at the time and in its closing submissions is that the charge is, indeed, intended to discourage what it calls "frivolous" complaints, while keeping the fee below its costs of processing complaints. Halifax Water argued that reducing the complaints would save money and free up staff time to ensure prompt responses to remaining appeals and drainage inquiries.

[341] The Board notes Halifax Water's DRO already has the authority to dismiss complaints that are trivial, frivolous, vexatious or not made in good faith.

[342] A person is only a "customer" if they are a person receiving stormwater service. The *Regulations* are designed so that a property within the stormwater service boundary is subject to the Site-Related Flow Charge, except if they "do not receive stormwater service" from Halifax Water or have an impervious area less than 50m^2. These properties are exempt from the charge. The Board has consistently held that Halifax Water must demonstrate at least a prima facie case that a property is receiving stormwater service. However, where any stormwater from a property drains into the system, the Board has held that property (unless it has an impervious area of less than 50m^2) is not exempt from the Site-Related Flow Charge, as explained by the NSUARB in its decision in 2016 NSUARB 73:

> [128] … In the Board's view, it does not matter how far upstream the water from the property is discharged to the drainage system. This water eventually enters HRWC's stormwater system before entering Halifax harbour. HRWC is required to make provisions to accommodate the flows from all properties which can and are draining into its stormwater system…

[343] The Board is not convinced that the expenses incurred by Halifax Water for review of its response to stormwater complaints are an unreasonable cost for ensuring that ratepayers are charged in accordance with the *Regulations.* Furthermore, customers with complaints and grievances are entitled to a fair and equitable process to challenge their billing in the same way that water and wastewater customers can object to the amounts charged on their bills where they feel they have been incorrectly calculated or the wrong rate applied, and may complain if they feel any service or charge is not being carried out in accordance with the *Regulations*.

[344] The Board was not satisfied, based on the evidence and argument presented at this hearing, that Halifax Water's proposal for these fees is just and reasonable. The Board does not accept the amendments to *Regulation* 7(9) and the consequential amendments to other sections, including the addition of definitions suggested to facilitate those changes. Halifax Water is free to seek other future changes to the stormwater fees or services or how the complaints process is established in the *Regulations*. The Board directs Halifax Water to submit revisions to the *Regulations* in its Compliance Filing, to remove the changes to *Regulation* 7(9) and all other amendments that were included to facilitate the stormwater complaint fee framework.

4.17.4 Other proposed changes to the DRO process

[345] Part XIV of the *Regulations* addresses the Dispute Resolution process and Dispute Resolution Officer. Halifax Water proposed numerous changes to the provisions in this part. It explained the proposals are intended to provide clarity on the customer

complaint and dispute resolution process, including Halifax Water's internal complaint review process. The process applies to complaints related to all Halifax Water services. Halifax Water indicated that it encounters confusion from customers on the complaint process, in part because the internal review process is not directly addressed in the *Regulations*. The other significant change clarifies that complaints are to be received from customers of record.

[346] A new subsection 78E(2) requires the DRO to refuse to review or cease a review where the complaint does not address whether Halifax Water has followed the *Regulations*, or where the complaint is not referred by a customer of record.

[347] No intervenors objected to any of the changes in this section.

Findings

[348] The Board finds that the changes proposed to Part XIV provide clarity on the process and the scope of the DRO's mandate to address complaints. The requirement for a written decision letter that is binding on the customer of record and Halifax Water (subject to appeal to the Board), and other changes, embed some important principles of fairness and transparency in the dispute resolution process. The Board approves these changes.

4.17.5 Proposed changes withdrawn from the Application

[349] After the hearing, where other proposed regulatory changes were canvassed with the parties, Halifax Water's closing submissions indicated that the utility decided to withdraw the following proposed amendments:

a. *Regulation* 40: request to add "water" to the information described in the regulation;
b. *Regulation* 78(H)(1)(e) proposed deletion regarding the scope of the DRO's authority to review the Halifax Water's use of discretionary powers for an improper purpose or irrelevant grounds or failing to give reasons.

Findings

[350] The Board accepts Halifax Water's withdrawal of the proposed changes to the *Regulations* set out in its closing submissions and listed in this section. Halifax Water's draft *Regulations* reflecting the updated proposals are to be submitted as part of its Compliance Filing.

4.18 Other Miscellaneous Issues

4.18.1 Stormwater Quality Management Program (Blue Mountain)

[351] The Friends of the Blue Mountain-Birch Cove Lakes Society (BMBCL) intervened in this proceeding to raise an issue about the Halifax Water stormwater management system within the Bedford West Sub-Areas. BMBCL advised that these Sub-Areas direct their stormwater into Black Duck Brook "…making Black Duck Brook/Keaney Lake the system receiving waters." [Exhibit H-17, p. 3] The Black Duck/Kearney Lake system is part of a series of 23 lakes and waterways within an area that the BMBCL seeks to have designated a National Urban Park by the federal government. BMBCL stated that the area is one of the first six to be considered for this designation. One of BMBCL's goals is the preservation of water quality in the lakes and waterways within the boundaries of the area being considered for designation as a National Urban Park. BMBCL wants the Board to direct that Halifax Water require subdivision developers whose stormwater discharge will flow into the lakes being considered for designation to use stormwater retention ponds rather than detention ponds. Retention ponds are referred to as wet ponds in the Halifax Water Design Guidelines. These types of stormwater management ponds retain stormwater in a confined place for a longer period than detention ponds (referred to as dry ponds in the

Halifax Water Design Guidelines). Detention ponds are more likely to deal with peak flow and not retain the stormwater for a period after a storm. Ms. MacKenzie said this about retention ponds:

> … there's more possibility for contaminants or sediments to settle out. And so they are a best management practice, one of many, that are used in stormwater management, and so that was the premise around that.
>
> [Transcript T1976, p. 652]

[352] Stormwater management systems are built and paid for by the subdivision developers. They are eventually transferred to Halifax Water, assuming they meet the Halifax Water Design Guidelines. Halifax Water incurs no capital costs for the stormwater management ponds. Currently, a 25% depreciation amount would have to be included in rates for stormwater assets once they are transferred to Halifax Water. Ms. MacKenzie testified there was no material difference in operating costs between detention and retention ponds once they are transferred to Halifax Water. She testified that depending how the ponds are configured "…the upfront cost to the developer might be slightly more." The current Halifax Water Design Guidelines do not specify whether wet ponds or dry ponds are required in any particular circumstance. Both Ms. MacKenzie and BMBCL advised that currently Nova Scotia Environment has no water quality parameters for stormwater management. The focus is on maintaining the same stormwater flow quantity before and after development. Ms. MacKenzie advised that Nova Scotia Environment is exploring the possibility of introducing some quality parameters and possibly as early as 2026.

[353] The issue of stormwater management arises primarily when a developer applies to consolidate or subdivide lands under HRM's Subdivision By-law. The ultimate responsibility for approving or rejecting a subdivision application rests with a development

officer, who performs an executory function with limited discretion. The developer proposes a particular stormwater management system, and the development officer seeks input from various sources, including Halifax Water and Nova Scotia Environment. Halifax Water looks at whether the proposed system meets its design standards and whether it will create additional, presumably unacceptable, costs. The utility provides a recommendation based on this assessment. If the stormwater system meets all the Subdivision By-law and Nova Scotia Environment requirements and complies with the specifications in the Halifax Water Design Guidelines, there would likely be no basis for the development officer to refuse a subdivision application.

[354] The Board has no jurisdiction over the subdivision process, except for appeals. The Nova Scotia Court of Appeal has said the Board's predecessor (the Nova Scotia Utility and Review Board) should not insert itself in the subdivision process in the guise of utility regulation (see: *East Hants (Municipality) v Nova Scotia Utility and Review Board*, 2020 NSCA 41). This is primarily a subdivision issue with environmental regulation overtones. The Board finds it should not micro-manage engineering specifications to require a particular type of stormwater management pond, particularly in light of the fact that there are no water quality parameters under environmental legislation. The best way to address this issue is through the legislative process, especially as it appears Nova Scotia Environment may be considering it soon. The Board declines to make the ruling sought by BMBCL.

4.18.2 Collection of Regional Development Charges

[355] Halifax Water has proposed amendments to its *Regulations* in subsections 29(3) and (8) for wastewater, and subsections 30(3) and (8) for water, to change the timing of the collection of the RDC. Currently, the RDC is collected at the time a developer

or contractor applies for a building permit or permit to connect. Halifax Water proposed that payment of the RDC be deferred until there is a request for a water meter installation or an inspection of the new wastewater connection.

[356] The Board refused the same request in 2023. Halifax Water asserted that one of the key factors for the Board's refusal was "the impact of the change to the rate base". Halifax Water stated that the Board identified the cash balance in the RDC account as allowing the utility to reduce the debt the utility was required to issue with respect to its non-RDC capital expenses. In the present application and in prior RDC filings, Halifax Water has explained to the Board that it uses part of the balance in the RDC fund to manage its cash flow for its other capital or operating requirements and to delay the issuance of debt. It confirmed in the application that it pays interest to the RDC fund for any cash used to cashflow its capital or operating requirements. It added that the delayed issuance of debt saves Halifax Water interest charges of about 1.0% to 1.5% per year.

[357] In support of its proposed amendments to the *Regulations*, Halifax Water noted that the funds paid by developers to the RDC fund should be reserved for their benefit:

> … Halifax Water is of the opinion that as the cash balance in the RDC account is a result of payments made by developers, and any changes proposed should first and foremost be to the benefit of the developers paying the charge. While there is a potential; benefit to the general rate base, it should not trump the benefit to the developers making the payments, nor should one customer group subsidize another.
>
> [Exhibit H-1, lines 768-772]

[358] These proposed amendments to the *Regulations* were supported by the Urban Development Institute of Nova Scotia (UDI) and developers who submitted letters of comment in the matter. In its pre-hearing brief, UDI reiterated the utility's view that any amendment to the *Regulations* "must primarily benefit the parties providing these funds".

It noted that for a mid-size development of 500 multi-unit dwellings, serviced by both water and wastewater, the developer would incur combined RDC costs of about $3 million ($2 million for the wastewater RDC and $1 million for the water RDC). It noted that there would be $375,000 in carrying costs for paying the RDC fees when the permit is obtained, assuming the $3 million is financed over a three-year period at a 4% compounded interest rate. It noted developers must bear this financial burden simply due to the timing of the RDC payment. Citing Nova Scotia's ongoing housing crisis, it stated this added cost directly impacts the price of new housing stock, which must be passed on to buyers and tenants and contributes to the escalating cost of housing. It also suggested that the current timing for the RDC collection is unfair:

> While reducing the utility's debt load does offer public benefit, this must not override the principle of fair treatment for developers who are directly funding growth-related infrastructure through RDCs. It is neither equitable nor sustainable for one customer class to shoulder disproportionate financial responsibility for system-wide advantages.
>
> We also consider the timing of the payment of RDC at the time of permitting to be inherently unfair as neither the developer nor their customers or tenants will even be ratepayers for the level of service which triggers the RDC until the project is complete and an occupancy permit is issued. This is a more equitable time to required payment of the RDC when the developer has secured permanent financing. The requirement of payment before issuance of an occupancy permit is a guarantee that payment will be received by the utility.
>
> [UDI Pre-Hearing Brief, July 22, 2025, p. 2]

[359] No other party addressed this issue in their evidence or closing submissions.

Findings

[360] To provide context for this issue, the Board notes that the RDCs do not apply to local or area infrastructure. Given the scope of the RDCs, as implied by their name, the fund is intended to support regional infrastructure. When regional infrastructure is built, it not only serves current customers, but must also be able to serve future customers occasioned by the proposed development subject to the charge. The RDCs

are solely related to serve growth under the principle that “growth pays for growth”. In the absence of development charges like the RDCs, there would be significant intergenerational inequity by making current ratepayers pay for a portion of the infrastructure that is only intended to serve future customers.

[361] The sheer size and scale of this regional infrastructure is evident from the description of this infrastructure in Halifax Water’s *Regulations*. As an example, Regional Wastewater Infrastructure is defined as follows:

> Regional Development Charge for Wastewater Infrastructure
>
> 29. (1) (b) Regional Wastewater Infrastructure” means core regional Wastewater treatment facilities and trunk sewer systems directly conveying Wastewater to, or between, such facilities, including
>
> (i) existing Wastewater treatment facilities (WWTF) that provide a regional Service including the facilities generally known as the Halifax WWTF, Dartmouth WWTF, Herring Cove WWTF, Eastern Passage WWTF, Mill Cove WWTF Beechville/Lakeside/Timberlea WWTF, and Aerotech WWTF,
>
> (ii) trunk sewers and related appurtenances which directly convey Wastewater to regional treatment facilities,
>
> (iii) trunk sewers and related appurtenances which divert Wastewater from one regional treatment facility to another due to environmental concerns, capacity constraints or operational efficiency, and
>
> (iv) inflow and infiltration reduction and/or sewer separation projects for the purposes of gathering capacity within the wastewater system for the benefit of planned growth.
>
> but does not include infrastructure within or directly adjacent to approved or planned development areas which is required to directly support development within an approved or planned development area;

[362] Section 29(2) of the *Regulations* provides that the RDC is intended to ensure the cost impact to Halifax Water is “neutral to the design, construction and financing during construction of capacity expansion to Regional Wastewater Infrastructure related to planned growth”. Subsections 30 (1)(b) and (2) contain similar provisions related to regional water infrastructure.

[363] In terms of regional wastewater infrastructure specifically, the Board's most recent decision for setting the RDC rates, 2020 NSUARB 129 (M09494), noted that significant costs are expected in the coming years. Specifically, new and upgraded infrastructure to the WWTFs is required to meet federal Wastewater System Effluent Regulations (WSER) discharge limits by 2041. At the time of the 2020 decision, the projected RDC-related wastewater costs were expected to be at least $300 million in the following 20 years (i.e., up to 2040). In Halifax Water filings since that 2020 decision, it is evident that the projected costs allocated to the wastewater RDC fund are significantly understated. Regional infrastructure costs are being updated as part of a comprehensive IRP process now being conducted by Halifax Water.

[364] Halifax Water is required to file an annual Financial Status report with the Board to outline the current status of the RDC fund. Normally, the filing of this report is intended to determine whether a change to RDC rates is required because updated assumptions would result in calculated RDCs being projected to change by more than 15% (up or down). In such cases, the Board would initiate a full review to assess the updated assumptions. Further, under the *Regulations*, the RDCs would normally be adjusted annually for the Consumer Price Index (CPI) for Halifax. There has been no RDC review or inflation adjustment in 2024 and 2025. The *HRM Charter* was amended effective November 9, 2023, by adding s. 236A which froze development charges, including RDCs, until November 9, 2025. Further, the Province recently advised Halifax Water that the existing provincial freeze on development charges will be extended to November 9, 2026.

[365] Recent annual Financial Status reports have confirmed that the current RDCs are significantly understated based on updated assumptions:

> In last year's report, the Wastewater RDCs would have remained within the ±15% threshold, but this year's report shows that, absent the freeze on development charges, the Wastewater RDCs would potentially need to increase by 75.7% to recover what the RDC is supposed to collect. The Water RDC is in a worse situation. According to the 2024 Financial Status report, the Water RDCs should have increased by 76.07%. Based on this year's report, the Water RDCs should potentially increase 254.2% from existing RDCs.
>
> [Exhibit H-41, Decision Letter (M12358), September 10, 2025, p. 3]

[366] As noted in Halifax Water's application, the Board refused the same request to defer the collection of RDC fees in a decision letter dated October 5, 2023 (Matter M11159). While Halifax Water claimed that one of the "key factors" in the Board's refusal was "the impact of the change to the rate base" because the utility was using the RDC cash balance to manage cash flow and to reduce the debt the utility was required to issue, this was only one of four reasons cited by the Board. Indeed, the Board observes that the use of the RDC cash balance as a cash flow management tool was a factor first identified by Halifax Water in a prior general rate application. On that basis, the Board repeated this factor in its 2023 refusal of the proposed amendment to the *Regulations*:

> Third, there is evidence that delaying the collection of RDC collection could negatively impact the utility and ratepayers by impacting Halifax Water's management of cash flow, affecting the timing of debt issuance and increasing rate base.
>
> [Decision Letter, Matter M11159, p. 4]

[367] However, the Board identified three other factors in its decision letter:

> First, the collection of RDCs at the time of permitting has been in effect since 2014 when the RDCs were instituted. It is common practice for permit fees of various types to be collected "upfront" before construction begins. The Board was not provided with any examples of permit fees that are deferred for collection until after construction is completed, whether in this province or in another jurisdiction. The current timing of RDC collection is consistent with common practice in the construction industry. While this practice has other benefits described below, it also facilitates the collection of such fees to avoid payment delinquencies.
>
> Second, the Board accepts the CA's submission that there is no compelling evidence that any costs savings accruing to developers from the proposed change will be passed on to Halifax Water's ratepayers. … Regardless of what costs are incurred by developers during

> construction, the Board would expect that developers will sell their completed units based on what the “market” will bear. No explanation was provided about how the savings would be passed on to ratepayers.
>
> …
>
> Finally, the RDCs are designed to account for the timing of collection. As noted in Halifax Water’s Rebuttal Submission, the RDC is designed to provide sufficient funds to build the growth-related infrastructure, and the timing of when the funds are received is considered in the calculation of the RDCs. As such, it appears to the Board that a change in timing of collection of RDC funds could impact the amount of the RDC charges themselves. In the Board’s view, this would be best addressed in the next RDC hearing where a more fulsome and comprehensive analysis, based on all the elements used to develop RDC charges, will be completed. …
>
> [Decision Letter, Matter M11159, pp. 3-4]

[368] No evidence was presented by Halifax Water and UDI to address the above concerns. However, UDI did provide an opening statement at the hearing. Halifax Water’s support for the proposed amendment was limited to its submission that any benefit to the rate base by helping to manage cash flow and reducing the issuance of debt “should not trump the benefit to the developers making the payments, nor should one customer group subsidize another” and that “any changes proposed should first and foremost be to the benefit of the developers paying the charge”. UDI did not file evidence in this matter, nor did it testify at the hearing. The Board was not provided with any evidence about other jurisdictions that depart from the common practice of collecting development charges at the time of permit application; about how deferring the collection would impact potential payment delinquencies; why developers would not sell their completed units based on what the “market” will bear and, if so, how any savings would be passed on to ratepayers; and why the amendment would not more appropriately be considered in the next RDC hearing when a more fulsome and comprehensive analysis could consider how a change in the timing of RDC collection would impact the calculation of the RDCs.

[369] With respect to Halifax Water's submission that any proposed changes should first and foremost be to the benefit of the developers paying the charge and that one customer group should not subsidize another, the Board considers that this can be addressed through Halifax Water's cash flow management and reviewing its debt issuance strategy, as canvassed earlier in this decision. The utility's cash flow management and debt issuance strategy does not have to be reliant on the RDC fund. Depending on how Halifax Water addresses those issues, the claim that one group of ratepayers are benefiting at the expense of another may well be moot.

[370] The Board is mindful that the timing of the collection of RDC fees is an important issue for the development community and that the current *Regulations* do require developers to carry the financing costs of paying the RDC at the time a building permit or permit to connect is requested. In this respect, the Board notes that the current *Regulations* do provide some relief on this issue. Halifax Water has the discretion to approve a deferral of up to 25% of the payment of an RDC where the charge is $100,000 or more. In such cases, the deferral becomes a lienable charge on the property. Neither Halifax Water nor UDI referred to this provision in the hearing process.

[371] In addition to the Board's above view that a change in the timing of RDC collection should be considered as part of a comprehensive review of the RDC which considers all aspects of the RDC and how a change in the timing of RDC collection would impact the calculation of the RDCs, the Board is primarily concerned about maintaining the integrity of the RDC fund so that it is available to support the build-out of significant regional water and wastewater infrastructure in the future. As noted above, this situation is exacerbated by the current freeze on development charges which has resulted in RDC

fees being significantly below what they would be at present because of the outdated assumptions and inputs to the current RDC formula. The RDCs are collected to address the need for regional infrastructure to accommodate growth. In most cases, such regional infrastructure must be built before it is actually needed because that is the most cost-effective and efficient way to build out the infrastructure. If RDC funds are not available when such regional infrastructure must be constructed, there is a risk that these capital projects may be jeopardized or greater rate pressures are placed on future ratepayers, including developers advancing new projects in later years who could be subject to significant increases in RDCs. This raises significant intergenerational inequity concerns. In such circumstances, the Board considers it important that the current RDCs be collected according to the timing that was incorporated in the formula to calculate the RDCs, i.e., to be collected at the time when the building permit or permit to connect is requested.

[372] For the above reasons, the Board denies the proposed change to the *Regulations* to change the time the RDC fees are collected. Keeping the status quo on the collection of the RDC is to be reflected in the Compliance Filing.

5.0 SUMMARY OF MAJOR FINDINGS AND DIRECTIVES

[373] Halifax Water's general rate application proposed significant rate increases for its customers. An initial rate increase is proposed for January 1, 2026, followed by another rate increase on April 1, 2026. Because of how Halifax Water presented its application, this would result in two significant rate increases three months apart.

[374] To illustrate the magnitude of these proposed rate increases, the Board refers to the proposed increases for 5/8" water meters, which are used primarily by

residential customers. Halifax Water's proposed increases for water and wastewater services total 15.8% on January 1, 2026, and 17.1% on April 1, 2026, for a combined, compounded increase of 35.6% over three months.

[375] In summary, the Board approves Halifax Water's proposed revenue requirements for both test years, except for the following adjustments and disallowances which are made to the revenue requirements:

- Given the way Halifax Water has presented its application proposing test year revenue requirements effective on January 1, 2026, followed by another rate increase on April 1, 2026, the proposed test year revenue requirement for the first test year (2025/26) would only start to be recovered in rates on January 1, 2026. This would result in there being a 9-month period (April 1, 2025, to December 31, 2025) during which existing rates would not be sufficient to recover the budgeted revenue requirement for that period. Halifax Water proposed to recover this shortfall in the second test year revenue requirement starting April 1, 2026, which was referred to by Halifax Water in its application as the "deficit elimination". The Board has deferred the recovery of the "deficit elimination" in the second test year. This results in a cost reduction of about $24.5 million in test year 2, which will be deferred for recovery in later years. Halifax Water is to file a proposal in its next general rate application for the recovery of this deferral amount over a number of years, following its discussions with HRM as discussed below. This finding alone, without other adjustments, would reduce the proposed rate increase on April 1, 2026, from 17.1% to 7.0% for the second test year relating to water and wastewater services for residential customers;
- The projected amounts for the debentures issued in the 2026/2027 test year are reduced from $150 million to $90 million;
- Halifax Water shall change its accounting of principal and interest payments for debentures issued in 2025, 2026 and future years from an accrual basis to a cash basis in its revenue requirement;
- Halifax Water's projected increase in water consumption levels for both test years shall be adjusted from 1% to an overall average consumption level of 1.82%, prorated by customer class using the consumption data in the table in Exhibit H-44, Undertaking U-25, p. 6;
- The assumed interest rates on debentures issued in 2025 (test year 1) are reduced from 4.0% to 3.73% on the spring debenture and to the actual interest rate on the fall debenture;
- Halifax Water is to reduce its revenue requirements by the adjustments in depreciation identified in Undertakings U-4 and U-27, namely by $1,286,684 for 2025/26 (test year 1) and by $1,072,334 for 2026/27 (test year 2);

- The depreciation on contributed assets for water, wastewater and stormwater services is frozen at 2023/24 levels, pending the utility's updated debt strategy directed in this decision. In test year 1 (2025/26), Halifax Water had included a 2% increase in the depreciation on contributed assets. This will represent a reduction from what was proposed in rates of $288,000 (water $66,000, wastewater $176,000 and stormwater $46,000). In test year 2 (2026/27), Halifax Water had included a further 1% increase in the depreciation on contributed assets;
- Chemicals costs are to be set in test year 1 at $9,788,000 and test year 2 at $10,032,000, increases of 2.5% per year. This represents a reduction of about $740,000 in test year 1 and about $1 million in test year 2 from what was proposed in the application;
- The revenue requirements for staffing and salaries are reduced by an amount equal to 20% of:
    - New staff as budgeted for test year 1 - 2025/26 ($500,000 reduction);
    - New staff as budgeted for test year 2 - 2026/27 ($1,170,000 reduction); and
    - With the full year cost of new staff hired in the two test years not to exceed $5,400,000;
- Budgeted vacancies are to be increased from 2% of gross staffing costs to 4%, with an additional estimated savings of $1,200,000 for each test year; and
- The dividend component of the payment under the Grant in Lieu of Taxes/Dividend Agreement with HRM is excluded from the revenue requirement in the first test year. Figure 18 of the application shows that the amount allocated to the wastewater/stormwater dividend is $1.078 million. Halifax Water is to report in the next general rate application on its discussions with HRM about whether the municipality will provide relief of a larger portion of the payments under the Agreement to further alleviate the proposed rate increases.

[376] The new rates will take effect on January 1, 2026, for first test year (2025/26) and on April 1, 2026, for the second test year (2026/27). The final rates based on the above adjustments will be confirmed in a Compliance Filing to be provided by Halifax Water.

[377] The Board's findings about other aspects of the application include:

- The proposed revisions to the Cost of Service Manual are approved. The base charges for water and wastewater are approved;
- The private and public fire protection rates are approved, subject to these rates being adjusted in the Compliance Filing to reflect the Board's other adjustments to the total revenue requirements in this decision;

- The water rates and wastewater rates are approved, subject to filing its Compliance Filing to reflect the adjustments noted in Undertakings U-4 and U-27, and other disallowances directed in this decision;

- The proposed stormwater charges are approved, subject to filing its Compliance Filing to reflect other adjustments in this decision. However, Halifax Water is to explore a new rate design for the ROW Charge. If no agreement is reached on this issue by July 30, 2026, the matter can be canvassed in the next general rate application; and

- The Board approves Halifax Water's proposed amendment to Regulation 7.2 to enable billing adjustments to allow for periodic review of road ownership data and impervious data based on provincial updates to the NSPRD.

[378] The Board issues the following directives to Halifax Water:

- To file an update on its Rate Affordability Study and its H2O Program addressing the issues noted in this decision. These updates are to be filed with the next general rate application, which Halifax Water stated would be filed by September 2026;

- To work with the Nova Scotia Government to review options for longer terms on debt instruments, to include scenarios on longer amortization periods in the update to its financing strategy, and to provide a report with options and a recommendation in its next general rate application;

- To update its debt strategy and develop stronger operating and rate strategies. These updated strategies are to be filed by June 30, 2027, with a progress report provided in the next general rate application;

- To develop a "business case" approach for added staff as part of the 2026/27 Human Capital Management Report and to include it in the next Institutional Capacity Assessment Update. This approach should review added staff positions against various factors including efficiencies and cost offsets that can be documented and captured; existing funded positions that are foregone in favour of the new position; service standards; and significant risk factors. These business cases should be reviewed against the available funds, with the rate assumptions clearly spelled out. This should provide for much stronger prioritization and an evaluation as to how such additions will affect available funds and future rates;

- To report in Halifax Water's next Human Capital Management Report on the revised staffing positions and costs (updating Undertaking U-21) for the revised staffing costs, but also updating the cost to show which positions are expected to be capitalized and at what amounts;

- To explore with HRM, prior to the next general application, whether the municipality would limit future rate increases by absorbing some, or all, of the shortfall amount contributing to the accumulated deficit;

- In its next general rate application, to provide separate tables for the rate impacts by meter size for each of water and wastewater services; and

- In its next general rate application, to provide an analysis, accompanied by any available data, that would explain whether distribution pipe length differ significantly between customers of various classes and pipe sizes, and whether any such difference might lead to one customer class subsidizing another.

[379] The Board approves Halifax Water's proposed amendments to its Schedule of Rates, Rules and Regulations, except that the following proposed amendments are denied as outlined in this decision:

- The proposed change to the timing of collection of the RDC fee;
- The proposed changes to the Customer of Record provision for existing accounts related to the Automatic Landlord Program. However, the proposed revision is approved for new accounts, effective six months from the Board's Order; and
- The proposed stormwater complaint fee.

[380] Some of the issues above must be addressed in Halifax Water's Compliance Filing, which is discussed in the following section. Halifax Water must also reflect the calculation errors noted in Undertaking U-30 and confirm the development charges that will be exempted from the freeze by the Province. With the exception of the disallowances and directions made in this decision, other rates, charges and items outlined in Halifax Water's application are approved.

6.0 COMPLIANCE FILING

[381] Halifax Water is directed to file a Compliance Filing based on the Board's findings in this decision no later than one week after the date of this decision. The

Compliance Filing is to include a revised rate study and comparative tables similar to Figures 28, 29, 39 and 41 in the application.

[382] Intervenors will have one week from the date that Halifax Water files its Compliance Filing to provide submissions to the Board. Halifax Water may file a reply within three business days after the Intervenors' submissions.

[383] The rates will be effective as of January 1, 2026, and April 1, 2026, respectively. The amended *Regulations* will be effective as of January 1, 2026.

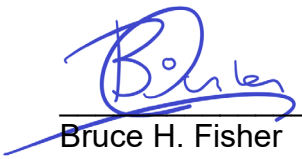
[384] An Order will issue following the Compliance Filing.

DATED at Halifax, Nova Scotia, this 16th day of December 2025.

Roland A. Deveau

Julia E. Clark

Richard J. Melanson



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