

March 13, 2025

VIA EMAIL (Pamela.McGarrigle@novascotia.ca)

Ms. Pamela McGarrigle, Clerk of the Board
N.S. Utility and Review Board
3rd Floor, Summit Place, 1601 Lower Water Street
P. O. Box 1692, Postal Unit M
Halifax, NS B3J 3S3

Re: Regional Development Charge

Dear Ms. McGarrigle:

We are writing with respect to the timing of the filing of the next Regional Development Charge ("RDC") review application. In its decision letter dated July 24, 2024, letter in Matter M11617, the Board stated as follows:

"The Board considers it is important that the RDCs be reviewed and updated to the extent possible on consistent five-year cycles from the date of the last application (rather than from the date of the prior Order). This is especially so when updates to the RDCs require significant increases, like in the present case with the Water RDC. Any delay in updating the RDCs increases the under-recovery. The next RDC rates should become effective as soon as the rate freeze expires, which would result in a six-year interval since Halifax Water's application in M09494. Thus, to provide enough lead time for the Board's hearing process, Halifax Water is directed to file its next RDC review application with the Board by March 31, 2025."

Halifax Water will be submitting an application for funding to the Federal Canadian Housing Infrastructure Funding (CHIF) program.

The CHIF is a significant initiative aimed at addressing the housing crisis in Canada. It provides **\$6 billion over 10 years**, starting in 2024-25, to support the construction and upgrading of essential infrastructure such as drinking water, wastewater, stormwater, and solid waste systems, which are crucial for enabling housing developments. Applications for funding are due by **March 31, 2025**, and the fund is designed to incorporate climate hazards into infrastructure planning. This fund is part of Canada's broader strategy to promote sustainable development and increase housing availability.

Halifax Water has had a series of meetings with the Halifax Regional Municipality (“HRM”) and NS Municipal Affairs to review eligibility and potential projects to submit. Halifax Water currently intends to submit the projects below for funding, which if granted would help offset the RDC (growth) component of the projects:

- Windsor Street Exchange
- J.D. Kline Water Supply Plant - Clearwell, Reservoir and Storage
- Lake Major Low Lift Pump Station
- Lucasville Road Water Main Twinning (Phase 2 TBD)
- New Timberlea Wastewater Pumping Station
- Maynard Lake and Clement Street Wetland Separation

Importantly, a condition of accepting the CHIF is to agree to a 3-year freeze to development charges, commencing April 2024, as levied by both Halifax Water and HRM.

The current development charge freeze is for two years between November 9, 2023, to November 9, 2025. It is being proposed that the federal government consider the existing freeze as part of the conditions. Depending on the federal government’s acceptance of this start date, the development charge freeze could continue for an additional year to ensure CHIF eligibility: November 9, 2023, to November 9, 2026. Alternatively, the federal government may not consider the start date of November 9, 2023, and would require the freeze to be in place from April 2024 to April 2027 as a condition of the funding.

The amendment to the Halifax Charter passed on November 9, 2023 states as follows:

No increase to development approval cost

236A (1) Notwithstanding any other provision of this Act or any other enactment, for a period of two years after this Section comes into force,

(a) no change may be made to any fee, infrastructure, capital or similar charge;

(b) no change may be made to the formula or rate used in the calculation of any fee, infrastructure, capital or similar charge;

(c) subject to subsection (3), no new fee, infrastructure, capital or similar charge may be created;

(d) no change may be made to an incentive or bonus zoning agreement; and

(e) subject to subsection (3), no new incentive or bonus zoning agreement may be created,

that would have the effect of increasing the cost to applicants for development approvals beyond the cost that would have been chargeable immediately prior to the coming into force of this Section.

(2) For greater certainty, development approvals referred to in subsection (1) include subdivision approvals, development agreement approvals, development permits, building permits, plumbing fees and any other fee or charge imposed or payable in connection with development under an enactment policy, resolution or otherwise, and includes fees and charges for water and wastewater infrastructure levied by the Halifax Water Commission.

(3) A new incentive or bonus zoning agreement, capital cost contribution agreement or local improvement charge may be created if the formulas and methods for calculating charges used in the agreement are

- (a) the same as those in effect at the time this Section comes into force; or
- (b) in accordance with formulas approved by the Minister.

(4) The prohibition under subsection (1) does not apply if the Minister gives written approval for the change made to a fee or charge or incentive or bonus zoning agreement.

On March 5, 2025, the Province introduced Bill 68, the *Financial Measures (2025) Act*, on, which passed second reading the following day.¹ As per the Explanatory Note, Clause 18 “amends the Halifax Regional Municipality Charter to allow a freeze on development costs to be extended to a date set by the Minister of Municipal Affairs in the regulations.” Specifically, clause 18 provides:

(1) Subsection 236A(1) of Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, as enacted by Chapter 18 of the Acts of 2023, is amended by striking out "for a period of two years after this Section comes into force" and substituting "until the later of November 9, 2025, and the date prescribed by the regulations for the expiration of this Section".

(2) Section 236A of Chapter 39, as enacted by Chapter 18 of the Acts of 2023, is further amended by adding immediately after subsection (4) the following subsections:

(5) The Minister may make regulations

- (a) prescribing a date for the expiration of this Section;
- (b) respecting any matter the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(6) The exercise by the Minister of the authority contained in subsection (5) is a regulation within the meaning of the Regulations Act.

¹ <https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-65-session-1/bill-68>.

Halifax Water understands the purpose of the legislation is to allow the Minister to enact Regulations to extend the freeze past November 9, 2025, to support eligibility and delivery of the CHIF program funding. Based on discussions with the Province, Halifax Water understands that the timing of such Regulations is not likely to occur prior to March 31, 2025, in advance of the outcome of the CHIF funding application. That said, the passing of this specific legislation provides a strong indication of the Province's intention to extend the freeze beyond November 2025.

As noted above, the Board has set a March 31, 2025, deadline for Halifax Water's application to update the Regional Development Charges. This would allow the NSUARB to approve any changes to the RDC in advance of the development charge freeze being lifted and allow the changes to become effective as soon as the rate freeze expires. However, should Halifax Water be selected to receive Federal CHIF funding, the freeze on the development charges will be extended for a minimum of an additional year.

We are mindful of the time and expenses associated with a Hearing by Halifax Water, the NSUARB and Impacted Parties, and we believe it would be more beneficial to await the outcome of the CHIF program funding decisions before completing and submitting an application to initiate a formal public Hearing process. Given the current uncertainty of the dates that a freeze would remain in place on development charges, Halifax Water is requesting the submission date for the RDC be extended. Halifax Water proposes to update the Board on July 4, 2025, once there is more certainty on the success of its application to the CHIF program and any associated conditions, at which point a new date for filing could be confirmed by the Board.

Should the Federal and/or Provincial Government(s) extend the freeze on development charges, Halifax Water suggests the following:

Freeze period extended to November 2026 – RDC submission by March 31, 2026

Freeze period extended to April 2027 – RDC submission by October 31, 2026

If a hearing is held while the freeze is in place, it should be noted that section 236 A (a) and (b) of the Halifax Charter, would not permit the amount of the charge to be changed. In addition, the formula used to calculate the charge would not be permitted to change. This would prevent the RDC changing in both the amount and methodology related to the ICI rate.

The way in which the RDC is structured, if the charges are not increased, any shortfalls would be "contained" within the RDC Reserve. The freeze in charge results in future year developers subsidizing today's developers. A freeze in charge does not affect the general rate base. Should the applied-for CHIF funding be approved, Halifax Water anticipates that this would outweigh the costs associated with the extension of any "losses" due to no increase from CPI estimates during the freeze.

Other **miscellaneous development related charges** (i.e. meter, inspection charges) would be considered within 236 A (2). These are scheduled to be updated as part of the General Rate Application (GRA).

The way in which these charges are structured, any shortfalls would be subsidized by the general rate base. In its discussions with the provincial government, Halifax Water is proposing that these charges be excluded from any freezes per section 236 A(4).

In conclusion,

1. Halifax Water is requesting to defer the filing of the RDC five-year review application to the RDC as directed by the NSUARB, and delay the setting of a new date for filing until more information is known on the CHIF program outcomes and conditions.
2. Halifax Water will formally request the Minister of Municipal Affairs to exclude the miscellaneous development related charges from the extension of a development charge freeze.
3. Halifax Water will update the NSUARB on the above on or before July 4, 2025, at which time it would propose a new date for filing an updated RDC review application based on the updated information available at that time.

Thank you for your consideration of this request.

Respectfully submitted,

Signed by:

Kenda MacKenzie, P.Eng.
General Manager/CEO