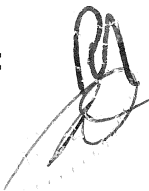


NOVA SCOTIA UTILITY AND REVIEW BOARD**IN THE MATTER OF THE PUBLIC UTILITIES ACT****- and -**

IN THE MATTER OF AN APPLICATION by the **HALIFAX REGIONAL WATER COMMISSION** for approval of amendments to the Halifax Regional Water Commission Regulations to provide for the appointment of a Dispute Resolution Officer

BEFORE:  Peter W. Gurnham, Q.C., Chair
Murray E. Doehler, CA, P.Eng., Member

ORDER

WHEREAS the Halifax Regional Water Commission ("HRWC") filed with the Nova Scotia Utility and Review Board ("Board") on July 8, 2016, an Application for approval of amendments to the HRWC *Regulations* to provide for the appointment of a Dispute Resolution Officer ("DRO");

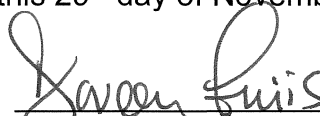
AND WHEREAS by Order dated August 8, 2016, the Board determined that the matter would be reviewed as a paper hearing and set out the timetable to apply to the proceeding;

AND WHEREAS the only intervenor in the proceeding was the Consumer Advocate who provided comments on October 12, 2016, which were responded to by HRWC on October 19, 2016;

AND WHEREAS the Board issued a Decision dated November 9, 2016, providing direction to HRWC and laying out eight (8) principles to guide the appointment of the HRWC DRO;

IT IS ORDERED that the amended HRWC *Regulations*, Part XIII A, reflecting the appointment of a DRO, attached hereto as Schedule "A", are approved effective January 1, 2017.

DATED at Halifax, Nova Scotia, this 29th day of November, 2016.



Clerk of the Board

Appendix 'A'



Amendments to the Halifax Regional Water Commission Regulations made by the Nova Scotia Utility and Review Board under Section 65 of Chapter 380 of the Revised Statutes of Nova Scotia 1989, the Public Utilities Act

1. The Halifax Regional Water Commission Regulations made by the Nova Scotia Utility and Review Board by Order dated April 21, 2015 in Matter No. M06540, as amended, are further amended by adding immediately following Section 78 thereof the following:

PART XIII

Dispute Resolution Officer

78A(1) There is established an officer for investigations respecting Service, to be called the Dispute Resolution Officer (DRO).

(2) The DRO shall be appointed by the Commission.

(3) The DRO shall not be a current or former employee of the Commission, a current or former member of the Commission, or a family member of a current employee or member of the Commission.

(4) The DRO shall not divulge any information received under these Regulations except for the purpose of giving effect to these Regulations.

(5) The DRO shall be compensated for hours worked and reasonable disbursements according to an hourly rate to be established by the Commission in consultation with the DRO and to be monitored with reference to rates for consultants and professionals with similar qualifications and experience.

(6) The DRO shall submit to the Commission on a monthly basis invoices for services and claims for expenses and reimbursable disbursements in accordance with the Commission's expense reimbursement policy.

(7) The costs and expenses incurred by the DRO may be paid from the rate regulated revenues of the Commission.

Term of Office

78B(1) Unless the DRO office becomes vacant sooner, the DRO shall hold office for five years from the date of his appointment under Section 78A and, if otherwise qualified, is eligible to be re-appointed.

(2) The DRO may resign by notice in writing to the General Manager of the Commission

Removal or Suspension

78C With the approval of the Board, the Commission may remove or suspend the DRO from his office for cause or incapacity.

Extent of Disclosure in Report of DRO

78D Despite subsection (4) of Section 78A, the DRO may disclose in a report pursuant to these Regulations any matters which are necessary to disclose in order to establish grounds for any conclusions and recommendations.

Refusal or Cessation of Investigation

78E(1) The DRO may refuse to investigate or may cease to investigate a complaint if:

- (a) an adequate remedy or right of appeal already exists (not including a direct appeal to the Board) whether or not the complainant has availed himself or herself of such remedy or right of appeal;
- (b) the complaint is trivial, frivolous, vexatious or not made in good faith;
- (c) having regard to all the circumstances of the case, further investigation is unnecessary
- (d) the complaint relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than one year before complaining;
- (e) the complainant does not have sufficient personal interest in the subject matter of the complaint; or
- (f) upon a balance of convenience between the public interest and the complainant the DRO is of the opinion that the complaint should not be investigated.

(2) Where the DRO decides not to investigate, or to cease to investigate a complainant, the complainant and any other interested person shall be informed of such decision and may state reasons therefor.

Notification of Investigation

78F Where the DRO intends to investigate a complaint under these Regulations, the Director of Corporate Services at the Commission shall be notified.

Nature of Investigation

- 78G(1) Every investigation under these Regulations is to be conducted in private.
- (2) The DRO may hear or obtain information from any person and make inquiries.
- (3) The complainant and the Commission shall respond to all reasonable requests of the DRO for information which the DRO considers relevant to his investigation.
- (4) The DRO may, at any time during or after an investigation, consult the General Manager or a Director at the Commission or the complainant in the matter of the investigation.

Report of DRO

78H(1) By investigation the DRO shall inquire into a valid customer complaint that the Commission administered or is administering these Regulations in respect of Service:

- (a) unreasonably, unjustly, oppressively or in a discriminatory manner, or pursuant to a rule of law, enactment or practice that so results;
 - (b) under mistake of law or fact, in whole or in part;
 - (c) wrongly;
 - (d) contrary to law;
 - (e) by using a discretionary power for an improper purpose, or on irrelevant grounds, or by taking irrelevant considerations into account, or by failing to give reasons for the use of discretionary power when reasons should have been given.
- (2) Where, upon investigation pursuant to subsection (1), the DRO is of the opinion that
- (a) the complaint should be referred to the Commission for further consideration;
 - (b) an omission should be rectified;
 - (c) a decision should be cancelled or rectified;
 - (d) a practice by reason of which the complaint arose or may arise should be altered;
 - (e) a provision of these Regulations by reason of which the complaint arose or may arise should be reconsidered;
 - (f) reasons should be given for the use of a discretionary power; or
 - (g) other steps should be taken,

the DRO shall report to the complainant and the Commission , the reasons therefor and any recommendations for resolution of the complaint.

(3) Upon receipt of the DRO's report referred to in subsection (1) the Commission shall provide such report to the Manager of Customer Service and the Director of Corporate Services to act upon the DRO's recommendations, within 45 days of receipt thereof, should the Commission consider that any such action is warranted.

Order of Dispute Resolution Officer

78I(1) Where, after investigating a matter, the DRO determines that the complainant and the Commission are unlikely to settle the complaint by mediation, or the Commission refuses to follow a recommendation, the DRO shall, within fourteen days, make an order to adjudicate the complaint.

(2) An order of the DRO under subsection (1) shall be binding on the complainant and the Commission

Appeal from Order of Dispute Resolution Officer

78J(1) Despite subsection 78I(2), the complainant or the Commission may appeal within thirty days of any order of the DRO to the Board.

(2) The Board shall inquire into the matter *de novo* and make such inquiries and receive such information as the Board deems appropriate.