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File Reference: SM6089.47

February 2, 2018

DELIVERED BY HAND

Doreen Friis
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
Halifax NS B3J 3S3

Dear Ms. Friis:

Re: Complaint by Halifax International Airport Pursuant to Section 83 of the Public Utilities Act Regarding the Actions of Halifax Regional Water Commission

I enclose a complaint signed by Halifax International Airport Authority and five of its employees in relation to certain practices and acts of the Halifax Regional Water Commission in connection with the wastewater system.

I am providing a copy of this complaint to Jim Spurr, solicitor for Halifax Regional Water Commission who is aware of the issues underlying the Complaint.

I look forward to hearing from the Board regarding the next steps to be taken in connection with this complaint.

Yours very truly,

Robert G. Grant

RGG/sd
Enclosure

c: client,
Jim Spurr

NOVA SCOTIA UTILITY AND REVIEW BOARD

In the matter of: *The Public Utilities Act* R.S.N.S. 1989 c. 380

- and -

In the matter of: A complaint by the Halifax International Airport Authority et al. pursuant to Section 83 regarding the actions of Halifax Regional Water Commission

COMPLAINT

1. TAKE NOTICE that the complainants listed below hereby bring a complaint against the Halifax Regional Water Commission ("HRWC") pursuant to Section 83 of the *Public Utilities Act*.
2. The complaint relates to the insistence of HRWC that the Halifax International Airport Authority ("HIAA") undertake oversight, enforcement and compliance responsibilities respecting wastewater quality from HRWC's customers receiving service from that portion of the wastewater system infrastructure operated and maintained by HRWC and located within airport lands (the "Airport Wastewater Infrastructure"). HRWC has refused to undertake enforcement of the HRWC Regulations ("Rules and Regulations") with respect to its customers receiving service through the Airport Wastewater Infrastructure. These tasks are part of its service responsibility as the water utility and activities for which it is compensated in rates.
3. These practices or acts of HRWC are unreasonable, insufficient or unjustly discriminatory.
4. These practices or acts are also contrary to the agreement dated November 5, 2014 between HRWC, HIAA and the Halifax Regional Municipality ("HRM"). This agreement (the "2014 Settlement Agreement") was approved by the Board in a decision dated October 31, 2014 (2014 NSURB 181).
5. These actions by HRWC represent a failure to undertake its responsibilities and exercise its powers under the Rules and Regulations.
6. HIAA is the lessee of the lands ("Airport Lands") commonly known as the Halifax Robert L. Stanfield International Airport ("the Airport") pursuant to a ground lease between Her Majesty the Queen in right of Canada ("the Crown") and HIAA made as of February 1, 2000.
7. An agreement was executed on June 30, 1987 ("1987 Agreement") among the Crown, the Municipality of the County of Halifax ("County") and the Halifax County Industrial Commission, predecessor organizations of HIAA, HRM and HRWC, with respect to the provision of water and sewer services for the Airport Lands and the Aerotech Business Park. The Crown owned the Airport Lands and held water rights to the nearby lake water supply for the area. The County owned the Aerotech Lands on which water and sewer systems were being constructed. The parties deemed it beneficial to integrate the Airport and Aerotech water and sewer systems.
8. Effective April 1, 1996 upon amalgamation, HRM assumed responsibility for the County's obligations under the 1987 Agreement. This Agreement required the County to provide sewer and water services to

the Airport including the operation and maintenance of the Airport Wastewater Infrastructure as well as for the water systems.

9. In its 2006 general rate application, HRWC requested Board approval to acquire the Aerotech water system from HRM. In its Decision dated May 1, 2006, [2006 NSURB 38], the Board approved the acquisition but directed that the system including that serving the Airport be operated separately with separate rates from that of the Urban Core.

10. By a Decision dated July 26, 2007, the Board approved HRWC's application for the transfer of the Aerotech sewer system and sewer treatment plant facilities from HRM to HRWC. HRWC assumed the responsibilities of HRM under the 1987 Agreement respecting Airport Wastewater Infrastructure.

11. By a Decision dated October 31, 2014, the Board approved the consolidation of the Urban Core water, wastewater and stormwater systems with the water, wastewater and storm water systems it operated and maintained at the Airport and the Aerotech Park. The Board also approved the 2014 Settlement Agreement (2014 NSURB 181).

12. Article 3.2 of the 2014 Settlement Agreement contained HRWC's agreement to provide operation and maintenance services for water and Airport Wastewater Infrastructure on Airport Lands as then currently provided to HIAA to the level specified in the Agreement.

13. Water distribution and wastewater collection infrastructure on the Airport Lands are (for the most part) owned by the Crown and leased to HIAA. These systems are operated and maintained by HRWC as required under the 2014 Settlement Agreement. Tenants who connect directly by way of laterals to these systems are customers of HRWC. They are metered by HRWC and billed separately directly by HRWC with no involvement of HIAA. Inland Technologies is an example of such a tenant of HIAA which is also a customer of HRWC.

14. HIAA is itself a customer of HRWC receiving wastewater services from HRWC using the Airport Wastewater Infrastructure System including piping owned by the Crown, leased to HIAA and located on Airport Lands.

15. In some cases (most notably for the air terminal building), HIAA is HRWC's customer and receives services which it extends to HIAA's tenants. In these cases, HIAA is responsible to HRWC for payment of rates and compliance with the Rules and Regulations on its part and by its tenants who have no direct dealings with HRWC and who utilize piping located within HIAA buildings to receive their services. This Complaint does not relate to HRWC's acts and practices in relation to HIAA's tenants who receive services through HIAA as a customer of HRWC.

16. This complaint relates to HRWC's refusal to undertake oversight, enforcement and compliance responsibilities respecting wastewater quality from HRWC's customers receiving service from the Airport Wastewater Infrastructure. Many of these customers receive the service from laterals for which they are responsible connecting them to the Airport Wastewater Infrastructure.

17. Air carriers and ground handlers are also direct customers of HRWC in respect of wastewater services provided through the LAV Waste Discharge Station. The LAV Waste Discharge Station is located within the security fence of the Airport. It allows air carriers and ground handlers to discharge the contents of the wastewater containers from aircraft lavatories into the Airport Wastewater Infrastructure. The LAV Waste Discharge Station was built by HIAA in consultation with HRWC. Each discharge by an air carrier or ground handler is metered by HRWC which bills the air carrier or ground handler directly as its customer with no

involvement of HIAA. HIAA does not have free access to the LAV Waste Discharge Station. It is accessed by the air carriers and ground handlers by key card entry monitored and logged by HRWC.

18. By a letter dated June 26, 2017 HRWC advised HIAA that non-compliant wastewater was determined to have emanated from the LAV Waste Discharge Station. In response, HIAA made considerable investments so that Lav Waste may be diverted from the Lav Waste Discharge Station and the Airport Wastewater Infrastructure System to storage and eventual trucking to another HRWC sewage treatment plant for treatment.

19. HRWC takes the position that HIAA is responsible for the quality of wastewater effluent at the point where it leaves the Airport Wastewater Infrastructure (owned by the Crown and leased to HIAA) and enters the HRWC owned infrastructure. HRWC takes the position that it has no oversight, enforcement and compliance responsibilities with respect to wastewater from its customers on Airport Lands because they are tenants of HIAA and HRWC does not own the Airport Wastewater Infrastructure.

20. HIAA considers the policing of compliance by its tenants with wastewater quality standards to be the responsibility of HRWC except where the tenants are located within an HIAA building served by a sewer lateral with HIAA as HRWC's customer. In these circumstances HIAA recognizes it is responsible in the same way as a commercial landlord of a shopping centre, for example, would be for its tenants who are not customers of the utility.

21. HIAA has worked to increase awareness by its tenants including those who are customers of HRWC of the need to meet HRWC's wastewater quality rules. HIAA does not, however, have the full array of enforcement mechanisms available to it which HRWC has pursuant to the Rules and Regulations. HIAA is limited to taking steps to terminate the lease of a tenant who fails to comply with the Rules and Regulations.

22. HIAA is concerned that HRWC's failure to enforce the Rules and Regulations against individual tenants has placed in uncertainty the continued operation of both the Airport and its tenants. Under HRWC's current actions and practices, a compliant tenant of HIAA receiving service directly from HRWC as a customer of HRWC may face enforcement sanctions including the denial of services because of the actions of another customer of HRWC who is a tenant of HIAA. This could occur when another tenant of HIAA (even if it is also a direct customer of HRWC) has discharged into the system noncompliant wastewater which places the entire discharge from the Airport Wastewater Infrastructure owned by the Crown out of compliance with the Rules and Regulations.

23. By way of example, HIAA has an important tenant Inland Technologies. Inland Technologies provides an essential service to the Airport. It collects, treats and recycles glycol used for de-icing aircraft. Wastewater is a byproduct of its operations. Inland Technologies is a customer of HRWC and disposes of treated wastewater from its operations through the Airport Wastewater Infrastructure System.

24. In a letter dated June 9, 2017 HRWC advised HIAA and Inland Technologies that there were high volumes and/or concentrations of glycol entering the wastewater system. It indicated that HRWC would no longer accept extraneous wastewater from Inland Technologies for treatment within the system after September 30, 2017.

25. Inland Technologies has worked cooperatively with HRWC to address the concerns of HRWC with respect to the quality of the wastewater effluent from their operations. HRWC is not currently prohibiting the receipt of extraneous wastewater from Inland Technologies. HRWC continues to assert, however, that HIAA is responsible for compliance by Inland Technologies with the Rules and Regulations as well as compliance by all of HRWC's other customers using the Airport Wastewater Infrastructure. This

interpretation places in jeopardy Inland Technologies' continued right to use the system in the event that the quality of effluent from other tenants using the Airport Wastewater Infrastructure is non-compliant even if effluent from Inland Technologies remains compliant.

Relief Sought

26. HIAA requests that the Board declare unreasonable, unjust and unfairly discriminatory the practice of HRWC of refusing to take responsibility for the oversight, enforcement and compliance of its customers located upon Airport Lands. It requests the Board to clarify that HIAA is not responsible for waste water quality at the point at which the Airport Wastewater Infrastructure meets the HRWC owned infrastructure. It also requests that the Board direct HRWC to take responsibility for the oversight, enforcement and compliance of its customers located upon Airport Lands

Address for Service upon the Complainants




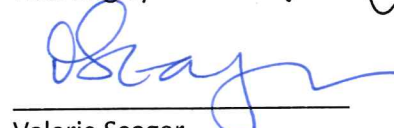

27. The Complainants are represented by Robert G. Grant, Q.C. upon whom service on behalf of the Complainants may be effected at the following address:

Robert G. Grant, Q.C.
Stewart McKelvey
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900 - 1959 Upper Water Street
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Halifax, NS B3J 2X2

Dated at Halifax, Nova Scotia this 29th day of January, 2018.

Halifax International Airport Authority

per: 
Joyce Carter

Paul Baxter

Paul Brigley

Valerie Seager

MICHAEL RANTALA