

ORDER NUMBER 2576

PROVINCE OF BRITISH COLUMBIA
OFFICE OF THE DEPUTY COMPTROLLER OF WATER RIGHTS

IN THE MATTER OF

the Water Utility Act and the Utilities Commission Act

and

EPCOR Water (West) Inc.

**For Approval of an
Application for Adjustment
of the
Contribution in Aid of Future Construction Charge**

BEFORE:

Jesal Shah, Deputy Comptroller of Water Rights
PO Box 9340 STN PROV GOVT
Victoria, BC V8W 9M1

ORDER 2576

Dated this 30th day of November 2020

Whereas:

1. The Contribution in Aid of Future Construction (CIAC) charge is collected from developers or new customers applying for water service outside of a utility's authorized service area (including the subdivision of lots within the existing service area). The Deferred Capacity Trust Fund accumulates these one-time charges and the funds are used to pay for future expansion of water system capacity when authorized by the Deputy Comptroller of Water Rights. The CIAC charge is in accordance with the Tariff in effect when the Certificate of Public Convenience & Necessity (CPCN) is issued.
2. On June 23, 2020 EPCOR Water (West) Inc. ("EWW" or "the Utility") submitted an Application with detailed support to increase its Contribution in Aid of Future Construction (CIAC) charge as shown on Schedule B of its Water Tariff No. 5, from \$19,000 to \$21,200 for each unit, along with further increases in future years at a rate of forecast inflation.
3. By Order 2568 the Deputy Comptroller approved, on an interim, refundable basis, the proposed CIAC charge of \$21,200 for each unit effective July 24, 2020. The Utility was instructed to advertise the Application by placing a Notice in the local newspaper and to send a copy to the French Creek Residents Association and the community advisory panel. Copies of the Application, Notice and Order 2568 were also posted on EWW's website.
4. On August 5, 2020, EWW advertised the Application, with a September 11, 2020 deadline for submitting comments to the Secretary to the Comptroller of Water Rights. One submission was received from a developer, Mr. Gerritsen ("the Developer"). The written hearing process continued with Gerritsen participating by providing comments and questions which EWW responded to. The Deputy Comptroller's staff also asked an Information Request to clarify issues.
5. The relevant evidence submitted by the Utility and the Developer in the written hearing process has been reviewed and considered.

NOW THEREFORE, the Deputy Comptroller orders that:

1. **The Interim Tariff Schedule B – CIAC charge, of \$21,200 is confirmed as final effective July 24, 2020. EWW's proposal to increase the CIAC charge annually for forecast changes in CPI to \$21,600 in 2021, \$22,000 in 2022, and \$22,500 in 2023 is approved.**
2. **EWW is to include a reevaluation of the DCTF balances in its 2024 Revenue Requirements Application with recommendations for further adjustments to the CIAC rates going forward, if required. Those recommendations are to include an accounting**

of actual new customer applications and payments into or out of the DCTF, future growth expectations and analysis of future supply costs to determine if any revisions should be made to the CIAC charge after 2026.

- 3. EWW is to comply with all directives in the Reasons for Decision appended to this Order.**

Dated at the City of Victoria, in the Province of British Columbia, this 30th day of November 2020.



Jesal Shah, P.Eng., MBA
Deputy Comptroller of Water Rights

REASONS FOR DECISION

Background

In accordance with Schedule B of its Water Tariff No. 5 approved effective January 1, 2018, EPCOR Water (West) Inc. (“EWW” or “the Utility”) currently collects a Contribution in Aid of Future Construction (CIAC) charge upon receiving an application for an extension of service (including the subdivision of lots within the existing service area). CIAC charges are one-time charges collected from developers or new customers to cover the costs incurred by the utility to provide water service to additional units which utilize or may utilize waterworks capacity in the future. CIAC funds are deposited into EWW’s Deferred Capacity Trust Fund (DCTF) and withdrawals are made to fund projects for future expansion of source capacity upon written authorization of the Deputy Comptroller of Water Rights (the “Deputy Comptroller”).

On June 23, 2020 EWW applied for an adjustment to its CIAC from \$19,000 to \$21,200. The increase represents inflationary changes, using the British Columbia Consumer Price Index (“CPI”), over the 2015 to 2020 period. Further, EWW seeks approval to increase its CIAC charge annually for forecast changes in CPI. Based on current CPI forecasts (February 2020), as shown in Table 1 of the Application, EWW seeks approval to increase its CIAC charge to \$21,600 in 2021, \$22,000 in 2022, and \$22,500 in 2023.

By Order 2568 the Deputy Comptroller approved, on an interim, refundable basis, the proposed CIAC charge of \$21,200 effective July 24, 2020. The Utility was instructed to advertise the Application by placing a Notice in the local newspaper and to send a copy to the French Creek Residents Association and the community advisory panel. Copies of the Application, Notice and Order 2568 were also posted on EWW’s website.

On August 5, 2020, EWW advertised the Application, with a September 11, 2020 deadline for submitting comments to the Secretary to the Comptroller of Water Rights. One submission was received from a developer, Mr. Gerritsen (“Mr. Gerritsen” or “the Developer”). The written hearing process continued with Mr. Gerritsen participating by providing comments and questions which EWW responded to. The Deputy Comptroller’s staff also asked an Information Request to clarify issues.

The Application includes substantial information on the major additions and improvements that EWW has undertaken for both current and future customers. As a result of these large capital improvements to fund future growth, the DCTF has gone from a positive balance to a significant negative balance. It is expected that the negative balance will be recovered over a reasonable time period to return the DCTF to a positive balance. EWW proposes that the negative DCTF

balance be recovered by 2026 when current excess capacity is forecast to be used up by new growth.

Issues

The Developer raised several issues, some of which were followed up on by the Deputy Comptroller's staff in an Information Request. Based on the information provided during the written hearing process, the Deputy Comptroller has identified the following issues for determination:

1. Should the DCTF return to a positive balance by 2026?

It has been a longstanding objective of the Water Utility Regulation Section ("WURS") that the DCTF be in a positive balance to help fund future source supply expansions to accommodate new customers seeking to join the utility. The extensive improvements and expansions to the water system over the past five years, have resulted in a large negative balance in the DCTF. Order 2440 dated December 17, 2015 determined that returning the DCTF balance to zero by 2027 was acceptable.

The water system currently has 2.15 L/s of excess well capacity which will allow EWW to service the equivalent of 116 additional residential lots. Based on forecast customer growth and current well capacity, EWW will have sufficient capacity to service new customers until early 2025 if no additional capacity is added to the system. (Application para. 33)

The Developer is concerned that the resulting CIAC charges are too high and will impede new growth. WURS staff asked EWW to calculate what the required CIAC charges would be if the 85 multi-family units identified by the Developer were realized by 2026. EWW recalculated the CIAC charge under two scenarios, however the Utility is not in favour of reducing the CIAC charge as this would result in a lower return on the DCTF receivable balance (Table EWW-CIAC-02-1).

Deputy Comptroller Determination

Recognizing that the current excess capacity is likely to be used up by around 2026, the Deputy Comptroller determines that moving the DCTF back into positive balance by 2026 is a reasonable objective.

2. Should Multi-Residential units pay a lower CIAC?

The Developer argues that new multi-residential units should pay a lower CIAC charge, recognizing that they consume less water on average than a single-family residential unit. Mr. Gerritsen provided examples of other jurisdictions that offer lower rates for multi-residential units.

In response to Mr. Gerritsen's questions, EWW states that, "The DCTF since inception has never been coupled to flow consumption nor is it intended to be. DCTF is a onetime connection fee and is independent of dwelling type or water usage." And "Metered rates addresses dwelling type and consumption, providing the user the opportunity to self-regulate consumption. Any efficiencies in the design of the dwelling such as capturing precipitation for irrigation use would benefit the home owner, as volume usage and metered charges would be reduced." (EWW-CIAC-01)

Deputy Comptroller Determination

The Deputy Comptroller agrees with the Developer that multi-residential units will, on average, consume less water and thereby require lesser future investments in new water supply per unit compared with single homes. However, the suggestion that each new unit have an individual calculation of capacity requirements is rejected as being too unwieldy, unreliable to the extent that the eventual owners may vary their consumption patterns, and the individual capacity calculations are likely to be contentious.

EWW is directed to prorate its future CIAC charges to recognize that multi-residential units are likely to require 700 igpd while residential units are expected to require 900 igpd.

3. Phased payments

EWW recognizes that allowing a developer to stagger its CIAC payments to coincide with phased development plans may be of assistance in encouraging future growth. The Utility states that, "EWW is not opposed to Gerritsen's proposal to make the CIAC payments at the registration of each phase of a phased building strata under the condition that capacity is only allocated/guaranteed for the number of units registered at each phase. For example, if 29 units (1/3 of project) are planned for phase 1 of the project the developer would make CIAC payments for 29 units and be allocated capacity for 29 units. The project would not be allocated capacity for the full 85 units until the CIAC payment for 85 units is received by EWW, subject to availability of supply.

As EWW currently has a finite supply of capacity (available connections), if EWW were to guarantee capacity for the full development without receiving the full CIAC charges it could have negative impacts on the long term DCTF balance. If the future phases of the development are delayed it could lead to a scenario in which EWW no longer has supply capacity available to accept new customers, while the DCTF balance has not been repaid. This would require EWW to prematurely incur capital costs to increase system supply, increasing the DCTF deficit, and carrying costs incurred on the DCTF.” (EWW-CIAC-02)

Deputy Comptroller Determination

The Deputy Comptroller agrees with EWW’s position that it cannot guarantee capacity for the full/future phases of the development without receiving the full CIAC charges. The developer’s proposal granting him 90 days to pay the additional CIAC charge on any remaining unauthorized lots should another developer/new customer request service would cause undue preferential treatment which is not permitted under the *Utilities Commission Act*. **Therefore, CIAC payments are to be based on the number of units in each phase of the development, subject to a complete CPCN application being submitted for the Deputy Comptroller’s approval and subsequent approval of a CPCN Amendment.**

4. CIAC rates

Determining the appropriate CIAC contribution rate requires balancing several competing objectives. These include returning the DCTF to a positive balance in a reasonable time period, not unduly discouraging development, fairness to new and existing customers, forecasts of future customer growth and forecasts of future supply options and their cost. In his submission, Mr. Gerritsen is concerned that the proposed CIAC charges are too high. EWW is also concerned to not discourage development while not causing the DCTF to have increasing deficits.

EWW states that: “Ideally, EWW would have applied for a higher CIAC charge in order to start rebuilding the fund. However, EWW is concerned that significant increases in the CIAC charge may discourage development in French Creek. The proposal to maintain the 2015 level CIAC charge in real terms (increasing only with inflation) is a compromise seeking to provide predictability and stability in the rate to developers. In the meantime, EWW is actively pursuing options to reduce the long term cost of development in French Creek. A reduction in the CIAC charge would run counter to EWW’s objectives and would create a situation in which the DCTF remains in deficit over the long term.” (EWW Nov. 9, 2020)

In EWW's November 9th Information Response, Table EWW-CIAC-02-1, Scenario 2 indicates that approving the requested CIAC inflation adjusted residential rates and prorating the multi-residential rate would come close to balancing the DCTF by 2026, depending on actual inflation, consumption rates and new customer additions.

Deputy Comptroller Determination

The Deputy Comptroller recognizes that many variables will affect the actual balances in the DCTF, but that reducing the large negative balance before the existing surplus capacity is used up must be a priority. Considering Table 2, Scenario 2, the Deputy Comptroller determines that EWW's request to increase the CIAC charge annually for forecast changes in CPI is approved, along with prorating the CIAC charge for multi-residential additions. **EWW is to include a reevaluation of the DCTF balances in its 2024 RRA with recommendations for further adjustments to the CIAC rates going forward. Those recommendations are to include results to date, future growth expectations and analysis of future supply costs to determine if any revisions should be made to the CIAC charge after 2026.**