



**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
*Financial Planning, Administration and Policy Division*

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	August 15, 2018
<b>SUBJECT/REPORT NO:</b>	Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	John Savoia (905) 546-2424 Ext. 7298
<b>SUBMITTED BY:</b>	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That the amended Water and Wastewater / Storm Consecutive Estimated Accounts Policy, attached as Appendix “A” to Report FCS18074, be approved;
- (b) That the following user fees be approved and that the City Solicitor be authorized and directed to prepare for Council approval all necessary by-laws to add the fees to the 2018 Water and Wastewater / Storm Fees and Charges By-law:
  - (i) Non-compliance Administration: \$20.00 plus HST
  - (ii) Non-compliance Notification Posting: \$25.00 plus HST
  - (iii) Non-compliance Turning Water Off: \$76.50 (HST exempt)
  - (iv) Non-compliance Turning Water On: \$76.50 (HST exempt)
- (c) That the City Solicitor be authorized and directed to prepare all necessary by-laws to implement the Water and Wastewater / Storm Arrears Policy set out in Recommendation (a) of Report FCS18074 which may include necessary amendments to be made to the Waterworks By-law R84-026.

## **EXECUTIVE SUMMARY**

Pursuant to the Waterworks By-law R84-026 of the City of Hamilton (the “Waterworks By-law”), billing for the supply of water in the City of Hamilton is, in part, based on the consumption registered on the water metering equipment. Where no water meter has been installed, billing is based on a non-metered or flat-rate basis (based on 1m<sup>3</sup>/day or multiples thereof). The Waterworks By-law requires customers to provide access to the City to the water meter and related equipment for the purpose of meter reading, installation, inspection, maintenance or repair. Where access to the water meter and related equipment is not provided and actual water consumption cannot be obtained by the City, water consumption is billed by the City’s billing agent, Alectra Utilities Corporation (“AUC”), based on estimated consumption amounts. This practice is reflected in the current Water and Wastewater / Storm Consecutive Estimates Policy (“Policy”). Typically, the consumption estimate is based on the prior historical average usage for the account reflecting a similar period of time. Where no historical consumption exists for the account, estimated readings may be made using consumption of metered accounts of the same customer rate class. Where the failure or refusal to provide access to the metering equipment persists, consecutive estimated accounts are rendered.

The City and AUC undertake several actions with the view of obtaining access to the metering equipment and addressing the issue of consecutively estimated accounts. The Policy provides for the option of invoicing on a “double-flat rate” billing (2m<sup>3</sup>/day) and “triple-flat rate” (3m<sup>3</sup>/day) billing basis as a staged progressive approach commencing after three consecutive estimated billings, until such time as access is granted to ensure ongoing actual water meter reads and billings based on those actual reads. This double and triple-flat billing provision has, in most cases, proven to provide an effective incentive for customers to allow access to the water metering equipment to obtain the required actual consumption readings. Additionally, increased estimated billings helps to minimize “catch-up” billings that can result from a period of increased consumption following estimated billings. The attempts of the City and AUC to address consecutively estimated accounts have achieved a level of success. However, there continues to be many properties that consistently remain unresolved on the consecutively estimated accounts list notwithstanding efforts made by the City and AUC to resolve the issues by obtaining access.

Depending on the facts of the case, the ability of the City to collect water and wastewater / storm revenue for accounts estimated for a period longer than two years can be jeopardized by the applicability of a two-year limitation period prescribed by the *Limitations Act, 2002*. The City’s practices regarding Water and Wastewater / Storm Utility Back-Bill Adjustments take into consideration the *Limitations Act, 2002* and therefore, the ability to collect under-billed amounts may be limited when the City is faced with aged consecutive estimated accounts.

The need to address consecutively estimated accounts has been identified in previous internal audits where the auditor noted that the more consecutive times an account is billed, the more likely there will be an over / under billing situation that creates billing adjustments with under-billings affecting revenue collection. The audits noted that generally the underlying issue for the long-term estimates has been the inability for the City to repair remote reading devices (touchpads) due to inability to obtain access to make such repairs.

The purpose of this Report is to recommend an amendment to the Policy to address those situations where the staged progressive estimated billing provisions have not proven to be effective in securing access to the water metering equipment and resolving consecutively estimated billings. There have been several examples where accounts have been on increased estimated billings for several years. In some cases, the increased billings simply go unpaid and are transferred to the property tax roll. Additionally, some long-term estimated properties are vacant with active water service despite a requirement under the Waterworks By-law for property owners of vacant properties to call the City to shut the water service off at the property line.

Staff proposes to amend the Policy to incorporate the option of service disconnection as a last resort when the other means provided for by the Policy have failed to encourage the customers to provide access for the purpose of obtaining actual reads. Service disconnection is employed by other Ontario water utilities to address various situations such as when the customer refuses access to the residential premises for a necessary inspection / maintenance of utility property, including but not limited to the reading of meters.

***Alternatives for Consideration – Not Applicable***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Water and wastewater / storm revenue recovery related to unbilled consumption due to ongoing consecutive estimates may be enhanced with the proposed Policy amendments.

**Staffing:** Hamilton Water and / or contracted staff will turn off water service and subsequently turn on the water service once access to the water metering equipment is provided for the purpose of meter reading, installation, inspection, maintenance or repair. The City will cost recover for the administration and disconnection / restoration of water service by applying the related user fees as proposed in Recommendation (b) of Report FCS18074.

**Legal:** With the approval of the recommendation of Report FCS18074, staff will have authority to employ service disconnection to address situations where a customer refuses to provide access to the residential premises for a necessary inspection / maintenance of utility property, including but not limited to the reading of meters.

## **HISTORICAL BACKGROUND**

The Waterworks By-law, as amended, provides that billing for the supply of water is based, in part, on the consumption registered on the water meter. In the uncommon event where no meter has been installed, billing is made on a non-metered or flat-rate basis (based on 1m<sup>3</sup>/day or multiples). Typically, in order for water meters to be read, there is the need for a remote reading device (“touchpad”) to be installed which requires access to be provided to the City or its authorized agents for this purpose.

The City or its agent is on occasion unable to obtain a water meter reading for billing purposes for a variety of reasons including:

- Touchpad missing / damaged / not reading
- Site conditions such as snow / construction / mud impeding access to the touchpad
- Locked / frozen gates preventing access to touchpad
- Issues related to access keys utilized by meter readers
- Vacant properties with no access for meter readers
- Dog / animal posing a safety hazard for meter readers

The City and its water and wastewater / storm billing agent, AUC, exercise due diligence in the usual practice of water meter reading. In circumstances where a water meter read cannot be obtained due to access issues, an estimated reading is used to render a water and wastewater / storm invoice. Where the inability to obtain access continues, the City and AUC issue consecutive estimated accounts until such time as access is provided.

The City and AUC undertake a number of actions to address the issues of access and consecutively estimated accounts, primarily focused on communicating with account holders to obtain necessary co-operation for access to resolve the issue(s) that contribute to ongoing consecutively estimated billings.

Customer Communications:

- When unable to obtain a meter read, the meter readers leave a meter read request door hanger for the customer to call in / return read card with an actual consumption read from their water meter.

- AUC will issue letters to customers where access prevents the meter readers from obtaining meter reads.
- An invoice which is based on estimated consumption does indicate to the customer that the related consumption reading is based on an “Estimate.”
- AUC issues work orders to the City Meter Operations Group to resolve touchpad issues that results in Meter Operations and / or contracted staff contacting customers both by phone and mail to make arrangements for access to perform the necessary maintenance work to allow for ongoing actual meter reads.

Depending on the facts of the case, the ability of the City to collect water and wastewater / storm revenue for accounts estimated for a period longer than two years can be jeopardized by the applicability of a two-year limitation period prescribed by the *Limitations Act, 2002*. For that reason, the amended Policy introduces another tool in the form of service disconnection, with the view of achieving timely compliance of the customer and access to the water metering equipment with the ultimate view of obtaining actual consumption reading for billing purposes.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Sections 9 and 10 of the *Municipal Act, 2001* authorize the City to pass by-laws necessary or desirable for municipal purposes, and in particular, authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of City, the safety and well-being of persons, services that it is authorized to provide, and the protection of persons and property.

Section 81 of the *Municipal Act, 2001* provides that a municipality may shut off the supply of a public utility by the municipality to land if fees or charges payable by the owners or occupant of the land for the supply of the public utility to the land are overdue. Section 81(3) of the *Municipal Act, 2001* requires the municipality to provide reasonable notice of the proposed shut-off to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the property. The required notice would presumably act as an incentive to achieve compliance and access prior to the date indicated for shut-off.

Section 18(4) of the Waterworks By-law R84-026 requires the owner of any premises having a water service that become vacant, to contact the City within twenty-four (24) hours of vacancy to notify, in writing, to shut-off the water at the street line and owner must pay the water shut-off user fee.

The Water / Wastewater User Service Fee and Charges Policy requires identification of both the cost of services provided and the fees / charges to recover such cost with the intent that full cost recovery is achieved.

## **RELEVANT CONSULTATION**

Corporate Services – Legal Services and Risk Management Divisions have been consulted in the preparation of this Report.

Alectra Utilities Corporation has been consulted and supports the adoption of this Report's recommendation.

Public Works – Hamilton Water Division has been consulted and has indicated it can support the implementation of the recommendations in this Report.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

As part of the review of the City's current practices regarding Water and Wastewater / Storm Consecutive Estimated Accounts, staff conducted a literature review. The review found that issues resulting in consecutive estimated accounts are common for all utilities. However, there are different approaches to dealing with the issue.

For some Canadian water utilities, notably (Prince Edward Island and Nova Scotia) and several utilities under the oversight of state Public Service Commissions that regulate water, gas, electric and telecommunication utilities in the United States, they are required, by their respective regulatory bodies, to not utilize estimated reading for more than two consecutive billing periods. If an estimated bill is rendered for two consecutive billing periods, the utility is required to notify the customer that arrangements must be made for the utility to obtain a meter reading and / or perform related maintenance work to allow for ongoing readings, and failing such arrangements, the utility may suspend service until such arrangements are made.

Several Ontario municipalities including Windsor, Stratford and Richmond Hill, utilize service disconnection to address ongoing estimated billings with some differences as to when such action may be undertaken.

In lieu of service disconnection, another approach taken by some utilities is to change the basis of estimated consumption from estimated metered consumption to a flat rate basis. For example, Halton Region, where after a third consecutive estimate, a letter is issued to the customer indicating that if compliance is not obtained, the account's estimated consumption will be moved to a flat rate basis that is based on the Region's average residential consumption usage of 1m<sup>3</sup>/day.

The City's current Policy incorporates a similar approach as adopted by Halton Region. "Double-flat rate" billing based on 2m<sup>3</sup>/day and "triple-flat rate" billing on 3m<sup>3</sup>/day has been utilized as a staged progressive approach after three consecutive estimated billings until such time as access is granted to ensure ongoing actual water meter reads and billings based on those actual reads.

While the Policy with increased estimated billing has generally served as an effective incentive to resolve consecutive estimated billings, the limited situations where compliance is not achieved within reasonable time support service disconnection as a final option to resolve the issue of access and resulting ongoing estimated accounts.

A review of accounts currently on 2m<sup>3</sup>/day and 3m<sup>3</sup>/day estimated billings reflects that as of May 2018, there are approximately 130 accounts that have been on increased estimated billings for a period of time exceeding 12 months. Over the same timeframe, over \$60K in unpaid arrears have been transferred to the tax roll from 90 properties on increased estimated billings. Single residential accounts and, to a much lesser degree, commercial accounts, comprise the accounts exceeding 12 months and / or have had estimated arrears tax roll transfers. Generally, multi-residential, industrial and institutional accounts resolve issues relating to estimates of accounts on a more timely basis.

Staff proposes that service disconnection be considered for residential properties (except multi-residential) to address situations involving consecutive estimates where any of the following conditions exist:

1. Access, satisfactory to the General Manager of Public Works (or designate), is not provided to the premises or the water metering equipment for the purpose of meter reading, installation, inspection, maintenance or repair, for at least 12 consecutive calendar months;
2. Following notice from the City or its agents, an obstruction that prevents meter reading, installation, inspection, maintenance or repair was not removed by the customer to the satisfaction of the General Manager of Public Works, or its designate, for at least 12 consecutive calendar months;
3. Premise is determined to be vacant and at least three consecutive estimated invoices were issued;
4. At least two increased consecutive estimated invoices (either 2m<sup>3</sup>/day or 3m<sup>3</sup>/day) remained unpaid resulting in arrears transfer to the property tax roll.

The intent is for service disconnection to be utilized only as a last resort when the other existing means within the Policy have failed to encourage compliance from the customers. Reasonable notice of the planned shut-off will be provided to the owners and occupants of the affected premises by email or telephone messaging in addition to notice by prepaid mail required by the legislation. If there is no response to this notice, a notification will be posted on the premises in a conspicuous place.

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The intent under the Policy is to issue a notice of pending non-compliance water shut off by registered mail and if there is no response a non-compliance notification will be posted at the property. These two notification measures exceed the minimum service disconnection notification requirements as prescribed by the *Municipal Act, 2001* as noted in the Policy Implications and Legislated Requirements section of this Report.

Residential tenants would be aware of estimated water readings by the presence of meter read request door hangers that are left by AUC's meter readers when they are unable to obtain a water meter reading from the remote reading device. Additionally, the non-compliance notification postings will typically be on the premise front door at least two days prior to service disconnection.

Recommendation (b) of Report FCS18074 seeks approval of new user fees as outlined below for cost recovery related to the administration and disconnection / restoration of water service associated with service disconnection under the Policy:

	<b>2018 Proposed Fee</b>	<b>HST (Y/N)</b>	<b>2018 including HST (if applicable)</b>
<b>General Administration Fees</b>			
Non-compliance Administration Note: includes cost of registered letter	<b>\$20.00</b>	<b>Y</b>	<b>\$22.60</b>
Non-compliance Notification Posting Note: cost to post non-compliance letter on door	<b>\$25.00</b>	<b>Y</b>	<b>\$28.25</b>
<b>Non-Compliance Water Off or On</b> Note: Turning water off at the curb due to non-compliance with the Waterworks Bylaw. Water turned on once access is provided to address non-compliance issue(s).			
Non-compliance Water Turn Off	<b>\$76.50</b>	<b>N</b>	<b>\$76.50</b>
Non-compliance Water Turn On	<b>\$76.50</b>	<b>N</b>	<b>\$76.50</b>

It should be noted that the non-compliance fees will be charged to property owners even where there are legacy tenant-held water accounts as water accounts are transferred from tenants to owners prior to any change to 2m<sup>3</sup>/day and 3m<sup>3</sup>/day estimated billings.

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*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*



Service disconnection will not be utilized for multi-residential, industrial, commercial and institutional accounts due to concerns that such action would disable private fire protection systems that typically are required. Additionally, service disconnections will not be used to address consecutive estimated billings of sub-meters commonly referred to as satellite meters. With the exception of vacant properties, service disconnections would occur only between May and November.

The water service will not be reactivated until the customer permits the City or its agents, to install, inspect, maintain or repair utility property. Where conditions are found that do not allow for the utility work to be performed, the City, at its sole discretion, may turn on the water service where the customer makes arrangements within a specified timeframe to permit the work to be completed. The customer must adhere to these arrangements, failing which, the water service may again be disconnected and applicable fees will be applied.

The recommended Policy amendments should significantly reduce the risk to the City's water and wastewater / storm revenues of long-term consecutively estimated accounts as it is expected that fewer accounts will be consecutively estimated beyond two years in the future under the recommended Policy.

#### **ALTERNATIVES FOR CONSIDERATION**

N/A

#### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

##### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

##### **Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

#### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – City of Hamilton Water and Wastewater / Storm Estimated Accounts Policy

JS/dt