

IN THE MATTER OF the *Public Utilities Act*

and

**An Application by Yukon Energy Corporation
for Approval of Revenue Requirements for 2012 and 2013**

BEFORE: B. McLennan, Chair) September 13, 2013
R. Laking)
N. Prasad)
A. Fortin)

BOARD ORDER 2013-08

WHEREAS:

- A. Pursuant to Section 56 of the *Public Utilities Act* (Act), the Yukon Utilities Board (Board) may “order to whom or by whom any costs incidental to any proceeding before the board are to be paid, and may set the costs to be paid”;
- B. On April 27, 2012, Yukon Energy Corporation (YEC) filed with the Board an Application, pursuant to the *Public Utilities Act* and Order-in-Council 1995/90, for approval of its forecast revenue requirements for the 2012 and 2013 test years, approval of interim retail rates for 2012, changes to update and reactivate the Diesel Contingency Fund (DCF) as of January 1, 2012, related rate adjustments to Rate Schedule 42, and required updates and changes to depreciation rates and planning cost accounting policies;
- C. On May 4, 2012, the Board issued Board Order 2012-03 regarding the Application which proposed a proceeding schedule for the Application with a hearing to commence on September 17, 2012;
- D. On May 22, 2012, the Minister of Justice authorized the Board to incur the expenses necessary to conduct a public hearing into the Application pursuant to Section 50 of the *Public Utilities Act*;
- E. On May 22, 2012, the Board issued Board Order 2012-04 granting intervener status to Yukon Electrical Company (YECL), John Maissan, Utilities Consumers’ Group (UCG), Yukon Conservation Society (YCS), and the City of Whitehorse;
- F. On November 12, 2012, the Board held an oral public hearing in the City of Whitehorse, Yukon, and issued on March 25, 2013, Board Order 2013-01 approving the Application for the reasons set out in Appendix A to that order;

- G. Following the release of Board Order 2013-01, the Board reminded Parties respecting the filing of application for cost awards;
- H. The Board received applications for cost awards from:
1. City of Whitehorse,
 2. UCG,
 3. John Maissan,
 4. YECL,
 5. YCS, and
 6. YEC;
- I. The Board received comments from UCG on the cost claim of the City of Whitehorse in a letter dated April 23, 2013, and comments on the YECL and YEC cost claims in a letter dated May 7, 2013;
- J. The Board has reviewed all applications for costs and comments of the parties based on the Scale of Costs set out in Schedule 1 to the Board's Rules of Practice, as well as the principles relating to cost awards set out in previous Board Orders — in particular, Appendix A to Order 2007-6, and Board Orders 2005-16, 2005-17, 2007-7, 2007-8, 2007-9, 2009-06, 2009-11, 2010-09 and 2011-08;
- K. Costs claimed by parties are subject to stringent scrutiny by the Board, as costs awarded are charged to the customers of the utility through the utility's rates;
- L. After careful consideration, the Board has assessed the cost applications on the principles outlined above and has made the adjustments set out below.

NOW THEREFORE, the Board orders as follows:

INTERVENER COSTS

1. City of Whitehorse

City of Whitehorse claiming:

Brownlee LLP (Fees and Disbursements)	\$40,545.52
Garbutt Consulting Inc. (Fees and Disbursements)	\$26,838.92
GST	\$3,369.23

Total costs claimed **\$70,753.67**

Comments

The City of Whitehorse was represented by Brownlee LLP (Brownlee), legal counsel. It retained Garbutt Consulting Inc. (GCI), technical and regulatory analyst, and GCI used the assistance of Keith Dannacker of Municipal and Regulatory Consulting Inc. (MARCI), technical and regulatory analysts.

In its cost claim application, the City of Whitehorse submitted that its participation was reasonable and effective in assisting the Board in determining the issues. The City of Whitehorse was a full participant in the proceedings. It made submissions on all four applications: an interim rate application for 2012 as part of its general rate application of April 22, 2012, and interim rate application for 2013 dated October 11, 2012, an application to serve Whitehorse Copper Tailings dated November 6, 2012, and the GRA Application itself. The City of Whitehorse further submitted it was diligent in the efficient presentation of its position.

The City of Whitehorse stated the hourly rate for Kristjana Kellgren of Brownlee increased from \$200.00 per hour to \$240.00 per hour, and the hourly rate for Thomas Marriott increased from \$250.00 per hour to \$350.00 per hour. The increased legal rates were implemented following the issuance of Board Order 2012-09 on October 17, 2012, which adopted the Rules of Practice and Scale of Costs. The hourly rate for James Lambert, articling student, was \$140.00 per hour. The hours claimed for Ms. Kellgren are 30.55 for preparation and 1.05 for argument and reply. The hours claimed for Mr. Marriott are 38.50 for preparation, 18.00 for attendance and 30.35 for argument and reply. The hours claimed for Mr. Lambert are 7.15 for argument and reply; Mr. Lambert assisted Mr. Marriott where appropriate.

The City of Whitehorse submitted the hourly rate for Keith Dannacker, \$180.00 per hour, is less than the Board's maximum for consultants with Mr. Dannacker's experience. The hours claimed for Mr. Dannacker are 77.25 for preparation, 18.00 for attendance and 35.24 for argument and reply.

In its letter of April 23, 2013, UCG submitted that, at a minimum, a total of approximately \$15,160 from this cost claim should be disallowed and not recovered by Yukon ratepayers. UCG outlined the following reasons for making this submission: the issuance by the Board of an updated Scale of Costs was not intended to cause legal, utility and regulatory consultants to charge more for their services; it was inappropriate for Mr. Marriott to arbitrarily increase the cost of his services; and the costs for Mr. Marriott's time should be limited to \$250.00.

UCG noted that, in Board Order 2011-08, issued June 28, 2011, the Board allowed Brownlee's Kristjana Kellgren to recover an hourly rate of \$130.00 based on her limited experience, and Ms. Kellgren started working on this proceeding with just one more year of experience. UCG submitted the legal fees recovered for Ms. Kellgren should be limited to an experience-based increase to the previously approved rate. UCG submitted a more reasonable rate would be \$150.00 per hour.

UCG stated the Board reiterated in the revised Scale of Costs that the maximum allowable hourly rates will not be awarded as a matter of course. UCG submitted that the articling student (James Lambert) should not be paid more than \$75.00 per hour.

UCG also requested that the Board reduce the costs claimed for disbursements appearing on invoices from Brownlee by \$1,017.69 because there is either not enough detail provided or no receipt or explanation provided. UCG listed a number of other reductions to the costs claimed for disbursements.

Board cost award

Regarding the legal hourly rate in the cost claim, the Board considers that the costs claimed are within the new Scale of Costs. The previous orders referenced by UCG are in relation to the costs awarded under the old Scale of Costs. The Scale of Costs was amended because the rates were outdated. The Board also notes that, in its cost claim, legal counsel for UCG claimed \$350 according to the new Scale of Costs. The Board does not accept the submissions of UCG regarding the rates claimed.

The Board considered that the City of Whitehorse participated fully in all aspects of the YEC GRA and the intervention was of assistance to the Board in making its decision. However, the Board is of the view that the services of the articling student were not needed since the City of Whitehorse was represented by two legal counsel. Therefore, the Board denies the fees claimed for the articling student in the amount of \$1,001.00. In addition, the Board considers that the total number of hours claimed for preparation were not reasonable seeing that the City of Whitehorse did not present any evidence. The Board reduces the legal fees claimed by 10% of the total fees claimed for preparation, which is an amount of \$1,965.20.

Regarding the consulting fees claimed by Garbutt Consulting Inc. for Mr. Dannacker, the Board considers that the total number of hours for preparation and argument and reply are not reasonable considering that the Application was not complex and the issues did not warrant the amount of hours claimed. The Board reduces the total claimed by 20%, which is a deduction of \$5,022.00.

The Board finds that the disbursements submitted by the City of Whitehorse are reasonable and supported by receipts contrary to the submission of the UCG that receipts were not filed.

In summary, the Board awards costs to The City of Whitehorse as follows:

Legal Services provided by Brownlee LLP

Legal Fees:	\$34,861.30
Disbursements:	\$2,718.02

Consulting Services provided by GCI

Professional Fees:	\$20,088.00
Disbursements:	\$1,728.92

Total costs awarded to the City of Whitehorse	\$59,396.24
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2. Utilities Consumers' Group

UCG claiming:

Legal Services Provided by PIAC (Fees, Disbursements and HST)	\$31,292.62
PaTina Energy Consultants (Fees and HST)	\$16,907.63

Total costs claimed	\$48,200.25
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Comments

UCG was represented by Michael Janigan, legal counsel from PIAC and employed Patrick McMahon of PaTina Energy Consultants as a consultant. UGC noted that Mr. Janigan qualifies for a rate of \$330.00 per hour in Ontario, and requested the Board allow recovery of the maximum rate of \$350.00 per hour. UGC submitted that Mr. McMahon was a skilled consultant with relevant general knowledge of the industry and an extensive background in the history of the Yukon energy sector in support of the requested rate of \$75.00 per hour.

The hours claimed for Mr. Janigan are 29.65 for preparation, 23.30 for hearing attendance, and 20.90 for argument and reply. Disbursements submitted for Mr. Janigan are for airfare, hotel, taxi fares and photocopying. Total disbursements claimed are \$1,917.70. The hours claimed for Mr. McMahon are 138.50 for preparation, and 61.00 for argument and reply, for a total of 199.50 hours.

Board cost award

The Board finds that Mr. Janigan's professional fees are reasonable and accepts them as submitted. Regarding the consulting services of Mr. McMahon, the Board considers that the hours claimed are excessive because the Application was not complex and the issues raised did not warrant the amount of hours claimed. UCG was also assisted by experienced legal counsel and it is not reasonable for its consultant to claim 61 hours for argument and reply. For these reasons, the Board reduce the hours submitted by Patrick McMahon by 40%.

The Board finds that the disbursements claimed by UCG to be reasonable.

In summary, the Board awards costs to UCG as follows:

Legal Services provided by PIAC

Legal Fees:

Mr. Janigan:	\$25,847.50
Disbursements: \$1,917.70	\$1,917.70
HST/GST: \$3,360.18 + \$167.24	\$3,527.42

Consulting Services provided by PaTina Energy Consultants

Professional Fees:

Mr. McMahon: \$75.00 x 120 hours	\$9,000.00
HST/GST: 13% of \$9,000.00	\$1,170.00

Total costs awarded to UCG **\$41,462.62**

3. John Maissan, Resident of City of Whitehorse

John Maissan, Resident of City of Whitehorse, claiming:

Consulting	\$13,200.00
GST	\$660.00

Total costs claimed **\$13,860.00**

Comments

In his cost application, Mr. Maissan states that he is a registered professional engineer in the Yukon and has held senior engineering positions for about 14 years with YEC. He added that he has a broad familiarity with the regulated electrical utilities of Yukon and their technical issues. Mr. Maissan participated in all aspects of the hearing process. He “reviewed Yukon Energy’s application, participated in the GRA Workshop (May 30, 2012), participated in Yukon Energy’s requests for interim refundable rates (both for 2012 and for 2013), prepared and submitted Information Requests on the Application, cross-examined Yukon Energy during the oral hearing, prepared and submitted Written Argument, and prepared and submitted Reply Argument.”

For “illustrative purposes” Mr. Maissan included an hourly rate of \$100.00 and acknowledged the rate is at the Board’s discretion. The hours claimed are 98.25 for preparation, 30.75 for argument and reply. Mr. Maissan also claimed a \$50 honorarium per half day of attendance, totalling \$300.00.

He added that under section 4.3 of the Scale of Costs, the hourly rate of an unrepresented intervener shall not exceed \$100 per hour and will be determined by the Board when assessing the costs claim. Pursuant to section 4.4 of the Scale of Costs, an unrepresented intervener may claim an honorarium of \$50 for each half day of attendance at an oral hearing. Mr. Maissan also noted the discrepancy in the maximum hourly rate for unrepresented interveners as opposed to the rate for consultants, in that a consultant with greater than 12 years of experience has a maximum hourly rate of \$270.

Board cost award

Mr. Maissan’s cost application was evaluated as that of an intervener under section 4.3 of the Scale of Costs and the applied for costs are being considered on the basis that he is a resident of the City of Whitehorse. He is not eligible to claim professional fees as a consultant. The Board notes that in the past it has awarded Mr. Maissan an hourly rate of \$50.00 an hour. Under the Scale of Costs, the Board has the discretion to set the hourly rate for interveners, taking into account the value of the intervention in helping the Board come to its decision. The Board found Mr. Maissan’s submissions to be useful in addressing a number of the issues before the Board in the application. The Board has chosen to exercise its discretion and adjust Mr. Maissan’s hourly rate to \$75.00 an hour. The Board notes, however, that each intervention is evaluated on an individual basis and the hourly rate awarded in this instance does not constitute a guarantee that future interventions will be valued at the same rate.

Although the intervention was of assistance to it, the Board considers that the number of hours claimed to be unreasonable in light of the fact the application did not raise complex issues. The Board reduced the number of hours claimed by 25%.

In addition the Board awards an attendance honorarium of \$300.00 for the hearing.

In summary, the Board awards costs to Mr. Maissan as follows:

John Maissan Fees: \$75.00/hour x 96.75 hours	\$7,256.25
John Maissan Hearing Attendance: 3 days x \$100/day	\$300.00
GST: 5% of \$7,256.25	\$362.81
Total costs awarded to Mr. Maissan	\$7,919.06

4. Yukon Electrical Company Ltd.

YECL claiming:

Bennett Jones LLP (Fees and Disbursements)	\$32,451.20
ATCO Electric Ltd. (Disbursements)	\$556.14
YECL (Disbursements)	\$732.34
GST	\$2,514.04
Total costs claimed	\$36,253.72

Comments

In its cost claim, YECL noted it actively participated in the proceeding, and the areas covered by YECL had a clear link to YEC's proposed 2012-13 revenue requirement. YECL submitted that all costs were incurred in order to represent the interest of the ratepayer.

YECL retained Bennett Jones LLP to represent it in this proceeding and the professional fees were charged at \$320.00 per hour. The hours claimed for Allison Sears are 30.40 for preparation, 24.00 for attendance, and 42.90 argument and reply (total 97.30 hours). Disbursements were claimed by Bennett Jones LLP, ATCO Electric and YECL.

In its letter of May 7, 2013, UCG submitted that, at a minimum, a total of approximately \$13,621 from YECL's cost claim should be disallowed. UCG noted that, according to the Scale of Costs, \$320 per hour is the maximum rate for legal counsel with eight to 12 years at the bar. UCG noted YECL did not provide information regarding the years of experience of Ms. Sears, and less than two years

ago, in Board Order 2011-08, Ms. Sears was described as “junior legal counsel”. UCG submitted Ms. Sears’ fee claim should be reduced to an hourly rate of \$225.00.

UCG submitted there was a discrepancy between YECL’s Affidavit of Fees and Disbursements and the Summary of Total Costs Claimed (Form 1). The total claimed on YECL’s Affidavit is \$36,253.72 (\$33,739.68 plus \$2,514.04 GST). YECL’s total on Form 1 is \$33,739.68 (including GST). UCG noted the GST level on the Affidavit is incorrect, as 5% of \$33,739.68 is \$1,686.98. UCG submitted that once the Board determines the total allowable fees and disbursements 5% GST should be added to the reimbursable amount.

Concerns were raised by UCG regarding the hours billed by Ms. Sears. UCG submitted it was difficult to determine how much time was spent on various activities and whether Ms. Sears included travel time in her billing. UCG also noted time spent by Ms. Sears on December 20, 2012 had nothing to do with the YEC GRA application. UCG submitted Ms. Sears’ fee claim should be reduced by five hours.

UCG submitted that disbursements claimed by Bennett Jones LLP were unsubstantiated and should be disallowed. UCG noted Yukon ratepayers should not pay costs of an ATCO staff member (Antonio Martino) attending the hearing as “Mr. Martino was not actively involved in the oral hearing nor has YECL provided information regarding his value.” UCG submitted the claimed disbursements associated with Mr. Martino’s travel should be disallowed.

Board cost award

Regarding the legal hourly rate claimed by YECL for Ms. Sears, the Board notes that \$320 an hour is the maximum allowable rate for a lawyer who is eight to 12 years at the bar. Ms. Sears is eight years at the bar, so the legal hourly rate claimed is within the Scale of Costs. The Board considers that the number of hours claimed for argument and reply are not reasonable in light of the issues addressed by YECL. In addition, the Board agrees with UCG that the time claimed by Ms. Sears on December 20, 2012 should be disallowed as the proceeding closed on December 12, 2012. The Board reduces the legal fees claimed for December 20, 2012. However, 18.90 hours over six dates in December were claimed, and it is not clear how many hours were claimed on December 20, 2012. As a result, the Board reduces the total legal fees claimed by 10%, in the amount of \$3,113.60.

With regard to YECL’s disbursements, the Board finds the disbursements claimed are reasonable and substantiated by receipts.

In summary, the Board awards costs to YECL as follows:

Legal Services provided by Bennett Jones LLP

Legal Fees:

Ms. Sears: \$320/hour x 87.57 hours \$28,022.40
[97.30 hours – 10% (9.73 hours): 87.57 hours]

Disbursements: \$1,315.20
GST: 5% of \$29,337.60 \$1,466.88

ATCO

Disbursements: \$556.14
GST: 5% of \$556.14 \$27.81

Yukon Electrical Company

Disbursements: \$732.34
GST: 5% of \$732.34 \$36.62

Total costs awarded to YECL \$32,157.39

5. Yukon Conservation Society

Yukon Conservation Society (YCS) claiming:

YCS (Fees and GST) \$19,810.00

Total costs claimed \$19,810.00

Comments

YCS claimed costs for the following: Anne Middler, YCS Energy Coordinator; JP Pinard, Energy Consultant; and Sally Wright, Energy Expert. YCS noted it met with John Maissan to ensure areas of mutual interest were not duplicated, and YCS submitted its cost claim was reasonable.

The hourly rate claimed for Ms. Middler, who has been in her position with YCS since June 2008, was \$35.00. The hours claimed are 54 for preparation and 36 for argument and reply. Ms. Middler also attended the hearing for 2.5 days, and YCS claimed \$250.00 for her attendance. YCS claimed \$3,400.00 for Ms. Middler's participation.

YCS claimed \$270.00 per hour for Dr. Pinard due to his expertise and 17 years of experience. The hours claimed are nine for preparation and 24 for argument and reply. Dr. Pinard also attended the hearing for three days, and YCS claimed \$300.00 for his attendance. The total claimed for Dr. Pinard was \$9,210.00.

The hourly rate claimed for Ms. Wright was \$230.00 due to her expertise and eight years of experience. The hours claimed are 20 for preparation and 10 for argument and reply. Ms. Wright attended the hearing for three days, and YCS claimed \$300.00 for her attendance. The total claimed for Ms. Wright was \$7,200.00.

Board cost award

The Board considers that Ms. Middler, Dr. Pinard and Ms. Wright were intervening as members of YCS. The YCS cost application was evaluated as that of an intervener under section 4.3 of the Scale of Costs and the applied-for costs are being considered on the basis that YCS is comprised of ratepayers in the Yukon. The members of YCS are not eligible to claim professional fees as consultants. The Board notes that Dr. Pinard and Ms. Wright were not hired as consultants and are not eligible for consultant fees. The Board considered the number of hours claimed in total by YCS and considers that the number of hours is excessive since YCS only raised a few issues in relation to the YEC Application. The main issue raised was the use of wind-powered generation, which was a very small part of the Application. The Board observes that YCS was an unrepresented intervener. As a result, the Board awards YCS, for Ms. Middler, the hourly rate claimed of \$35.00, and for Dr. Pinard, the hourly rate of \$75.00 an hour. The hours claimed by Ms. Middler are reduced by 50% and those of Dr. Pinard by 40%. The Board denies the hours claimed for Ms. Wright, as her contribution to the YCS intervention was not evident to the Board and therefore was not of assistance in making its determination of the Application.

The Board accepts the honorarium claimed for Ms. Middler and Dr. Pinard to attend the hearing, as these are in accordance to the Scale of Costs. Ms. Wright's hearing attendance is disallowed.

In summary, the Board awards costs to YCS as follows:

Professional Fees:

Ms. Middler: \$35/hour x 45 hours	\$1,575.00
Dr. Pinard: \$75/hour x 19.8 hours	\$1,485.00

Hearing Attendance:	
Ms. Middler: 2.5 days at \$100/day	\$250.00
Dr. Pinard: 3 days at \$100/day	\$300.00
Total costs awarded to YCS	\$3,610.00

APPLICANT COSTS

6. Yukon Energy Corporation

Yukon Energy Corporation claiming:

Davis LLP	\$166,815.00
Disbursements	\$7,783.24
InterGroup Consultants	\$508,704.25
Disbursements	\$31,426.06
KPMG LLP	\$63,333.50
YEC – Misc. Supplies & Services	\$47,315.21
Total costs claimed	\$825,377.26

Comments

YEC stated that, as in past GRAs and recent regulatory processes, it retained Davis LLP as legal counsel with P. John Landry providing the legal services required. Davis LLP provided assistance to YEC in relation to the preparation, filing and review of its Application and that the professional fees in the cost award application for legal services do not exceed \$350.00 per hour. The hours claimed are 398.20 for preparation, 30.00 for hearing attendance, and 48.50 for argument, reply, and follow-up.

YEC submitted that it retained InterGroup Consultants Ltd. (InterGroup), who acted as primary regulatory consultants. It added that InterGroup assisted YEC with the preparation of the filing and the review process before the Board. YEC explained that InterGroup produced preliminary and final drafts of the Application materials and provided professional services for production of final documents. In addition, InterGroup was involved in responding to information requests and other activities or submissions required prior to any oral hearing process. InterGroup claimed professional fees primarily for Cam Osler, Mona Pollitt-Smith, and Hamid Najmidinov. The hours claimed are 3,591.00 for preparation, 86.75 for hearing attendance, and 280.00 for argument, reply, and follow-up.

YEC submitted that it retained KPMG to complete a depreciation study of certain tangible asset classes of YEC. YEC noted that the Board in its order accepted the depreciation study. KPMG claimed professional fees primarily for Vimal K. Patel, John D. McMann, Brian T. Zimmerman, and James Cook. The hours claimed are 371.00 for preparation.

YEC claimed in total \$86,524.51 in disbursements. YEC referred to Reasons for Decision in Board Order 2008-1 to support its claim for travel costs related to the preparation of its Application. YEC stated that the Board had allowed for such costs in that case because “the Board was satisfied that YEC had not made provisions for these costs in its revenue requirement.” YEC states, “travel costs include airfare, accommodation, taxis/train/rental, and parking, but do not include costs for meals. Airfare was at economy rates, where available. For the most part, airfare was booked using flight passes.”

UCG submitted that the YEC appears to be applying to recover costs the Board has denied in previous proceedings according to the Intervener Cost Awards Policy and the associated Scale of Costs. UCG submitted that, at a minimum, a total of approximately \$407,345.00 from YEC’s cost claim should be disallowed and not recovered from Yukon ratepayers. UCG noted that many receipts provided by YEC lack necessary details as to who actually incurred or paid the cost itemized on the receipt.

UCG submitted the costs charged by Davis LLP at rates above maximum hourly rates allowed by the Scale of Costs should not be recovered. UCG estimated the above-Scale billing to be \$13,950.00.

UCG submitted the claims for \$46,149.00 for time and \$6,261.27 for disbursements related to witness-preparation sessions should be disallowed. UCG noted the Board has consistently denied costs related to witness-preparation session, and cited Board Order 2009-11 to support this submission.

UCG submitted that only three consultants (Cam Osler, Mona Pollitt-Smith and Patrick Bowman) should claim costs as all other consultant costs should be considered as support staff. Therefore, \$149,950.25 should be disallowed.

UCG submitted that \$6,190.57 claimed by YEC for other disbursements should be disallowed. UCG noted YEC’s claim includes meals and catering services and does not include details regarding photocopies. UCG submitted various costs claimed for airfare, accommodation, meals, and taxi should also be disallowed.

UCG submitted that none of the fees charged by KPMG should be recoverable due to the lack of detail provided in the cost claim.

Board cost award

Regarding the professional fees claimed by Davis LLP, the Board considers that the legal fees claimed are in accordance with the Scale of Costs. Total hours claimed include: Preparation, 398.20; Hearing Attendance, 30.00; Argument, Reply and follow-Up, 48.50. The Board finds the 398.20 hours for preparation to be excessive. Costs claimed for witness-preparation sessions and other preparation for the GRA, which were not detailed, are disallowed, as the Board finds these expenses were not reasonable considering the witnesses in question had appeared before the Board in other proceedings and had prepared the Application. The Board reduces the legal fees claimed for preparation by 15% (59.73 hours) seeing that the Application was not complex and involved few legal issues. As a result, the Board reduces the hours claimed for preparation to 338.47 hours by Davis LLP.

As stated in Board Order 2009-11, the Board will not allow the fees claimed by InterGroup for administrative services including clerical, administrative and production staff. Under section 4.1(b) of the Scale of Costs, the Board will not consider claims for overhead, as such costs are included in the hourly fee paid to a professional under section 4.1(b) of the Scale of Costs. Accordingly, the Board denies the 95.50 hours included for administrative support (\$5,723.00).

In addition, the Board disallows the professional fees of any analysts other than Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov because the services of other analysts are duplicative of the services provided by these three consultants. The Board notes that Mr. Osler expensed 770 hours at an hourly rate of \$230 to \$236, for a total of \$178,612.00; Ms. Pollitt-Smith expensed 1,207 hours at an hourly rate of \$120 to \$127, for a total of \$146,754.50; and Mr. Najmidinov expensed 816 hours at an hourly rate of \$85 to \$91, for a total of \$70,039.25. The total amount claimed for the three above consultants is \$395,405.75.

There were hours claimed for InterGroup for witness-preparation sessions and preparation for the GRA, which were not detailed on the invoices. Some of the services provided by Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov were duplicative, so the Board has exercised its discretion and reduces the total fees claimed for each of these consultants by 25% of the hours claimed at the higher rate.

In summary, the hours and fees claimed for Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov are reduced as follows:

Cam Osler: 25% of 770 hours: 192.50 hours x \$236.00 = \$45,430.00
Mona Pollitt-Smith: 25% of 1,207 hours: 301.75 hours x \$127 = \$38,322.25
Hamid Najmidinov: 25% of 816 hours: 204.00 hours x \$91 = 18,564.00
Total reduction in consultant fees: \$102,316.25

Total consultant fees for InterGroup awarded: \$293,089.50
(\$395,405.75 - \$102,316.25)

Regarding professional fees claimed for KPMG, the Board notes that 371 hours (\$63,333.50) were claimed for preparation of the depreciation study. The Board finds the hours claimed are excessive considering the report submitted. The Board also considers that certain duplication occurred in the work performed, as several individuals were involved in the preparation of the report. Accordingly, the Board reduces the amount claimed by 15% (371 – 15% = 55.65 hours), at an average hourly rate of \$170.71 (\$63,333.50 / 371) totalling \$9,500.01, and awards the amount of \$53,833.49 in fees for KPMG.

With respect to disbursements, the Board in the past has exercised its discretion by allowing for the recovery of travel expenses claimed by a utility for the preparation of its application if these costs were reasonable. The Board has reviewed the travel costs for meetings claimed by Davis LLP, InterGroup and YEC, which amount to \$42,956.16. These costs also include travel related to three witness-preparation sessions. The Board has reviewed the travel costs for meetings claimed by Davis LLP and finds that, aside from travel costs associated with the October 2012 witness-preparation session, these costs are reasonable. Therefore, the Board reduces the travel expense claim for Davis LLP by \$1,517.24 for the witness-preparation sessions. The Board is of the view that the travel costs claimed by InterGroup of \$25,113.68 and by YEC of \$12,641.53 are excessive and unreasonable with regard to the number of meetings attended. As a result, the Board reduces the travel costs claimed by InterGroup and YEC by 50%, or \$12,556.84 and \$6,320.77 respectively.

Section 4.2(b) of the Scale of Costs indicates the Board will consider claims for meals incurred during an oral hearing. YEC claimed costs for several meals not incurred during the hearing and it is unclear who incurred the costs and how many people were present at each meal during the oral hearing. Therefore, the Board has reduced the amounts claimed for meals and incidentals (\$4,801.95) by 50%, in the amount of \$2,400.97. The Board awards the other disbursements as claimed, as these costs are reasonable.

In summary, the Board awards costs to YEC as follows:

Davis LLP

Legal Fees: \$350/hour x 416.97 (338.47 + 30.00 + 48.50)	\$145,939.50
Disbursements: \$7,783.24 - \$1,517.24	\$5,700.90

InterGroup

Professional Fees:	\$293,089.50
Disbursements: \$31,426.06 - \$12,556.84	\$18,869.22

KMPG

Professional fees:	\$53,833.48
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Yukon Energy Corporation

Disbursements: \$47,315.21 – \$8,721.74 (\$6,320.77 + \$2,400.97)	\$38,593.47
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Total costs awarded to YEC	\$556,026.07
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BOARD COSTS

7. Yukon Utilities Board

The Board costs with respect to the YEC GRA proceeding are costs that more appropriately belong to the utility, and ultimately the utility ratepayer, than to the Yukon taxpayer. Therefore, all hearing-related costs of the Board are allowed as utility regulatory costs.

The Board directs an award of costs to Government of Yukon in the amount of \$236,213.27.

NOW THEREFORE, the Board Orders as follows:

YEC shall pay the following amounts to interveners identified and the Government of the Yukon within 30 days of the issuance of this Order. The Board directs YEC to amortize these hearing-related costs.

City of Whitehorse	\$ 59,396.24
Utilities Consumers' Group	\$ 41,462.62
John Maissan	\$ 7,919.06
Yukon Electrical Company Ltd.	\$ 32,157.39
Yukon Conservation Society	\$ 3,610.00
Yukon Energy Corporation	\$556,026.07
Government of the Yukon (Board costs)	<u>\$236,213.27</u>
Total Costs Awarded	\$936,784.65

Dated at the City of Whitehorse, in the Yukon Territory, the 13th day of September 2013.

BY ORDER



Bruce McLennan
Chair