

IN THE MATTER OF the *Public Utilities Act*

And

**an Application by Yukon Energy Corporation for
an Energy Project Certificate and an
Energy Operation Certificate
regarding the Proposed Whitehorse Diesel
to Liquefied Natural Gas Conversion Project**

BEFORE: B. McLennan, Chair) August 8, 2014
 R. Laking, Vice-Chair)
 A. Fortin)
 R. Boisvert)
 N. Prasad)

BOARD ORDER 2014-12

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 December 30, 2013, the Board received a letter and terms of reference from the Yukon Minister of Justice (Minister) directing the Board to carry out a review and prepare a report with recommendations in accordance with the terms of reference respecting Yukon Energy Corporation’s (YEC) Whitehorse Diesel to Natural Gas Conversion Project which was designated in OIC 2013/200 as a regulated energy project under Part 3 of the Act;
- C. The Minister’s terms of reference state that the Board shall hold a public hearing as required in relation to the application submitted to the Minister by YEC on December 9, 2013, under Part 3 of the Act for an energy project certificate and an energy operation certificate regarding the project (Application);
- D. The Whitehorse Diesel to Natural Gas Conversion Project is described in the terms of reference as a project to modernize the existing YEC Whitehorse thermal generating station to meet growing requirements for reliable and flexible thermal generation on the Yukon grid, including the replacement of two diesel

generating units (9.1 MW total capacity) scheduled for retirement by 2015 with up to three new modular natural gas-fired generating units (13.1 MW total capacity) supplied by liquefied natural gas (LNG), and the installation of LNG truck offloading, storage, vapourization, and related infrastructure;

- E. On January 14, 2014, the Board issued Board Order 2014-01 regarding the Application, which proposed a proceeding schedule with a hearing to commence on March 31, 2014;
- F. In Board Order 2014-01, the Board also requested that parties intending to participate in this proceeding were to register in writing with the Board by January 31, 2014. In their submissions, interested parties were to indicate the nature of their interest and the issues of interest in relation to the Application;
- G. The Board received requests for intervener status from the Yukon Electrical Company Limited (YECL), the Utilities Consumers' Group (UCG), the City of Whitehorse (CW), Donald Roberts, and the Yukon Conservation Society and John Maissan (YCS/Maissan), which was a joint intervention request;
- H. On February 3, 2014, the Board issued Board Order 2014-02 granting intervener status to YECL, UCG, CW, Donald Roberts, and YCS/Maissan jointly;
- I. On March 31, 2014, the Board commenced an oral public hearing in the City of Whitehorse, Yukon. The Board presiding over the hearing was comprised of Bruce McLennan, Chair, and members Bob Laking, Andre Fortin, Robert Boisvert and Naresh Prasad;
- J. The Board heard oral argument and reply argument at the end of the evidentiary portion of the oral hearing;
- K. On May 14, 2014, the Board issued its report regarding the Application which it sent to the Minister;
- L. Following the release of the report, the Board reminded participants of the filing of costs claims;
- M. The Board received costs claims from:
 - 1. CW,
 - 2. UCG,
 - 3. YCS/Maissan, and
 - 4. YEC;
- N. On June 20, 2014, the Board received comments from UCG on the costs claim of CW, YCS/Maissan, and YEC;

- O. The Board has reviewed all the costs claims and comments of the participants;
- P. 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; and
- Q. After careful consideration, the Board has exercised its discretion, and has made the adjustments set out below based on the criteria set out in the Scale of Costs, 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 2007-06, and Board Orders 2005-16, 2005-17, 2007-07, 2007-08, 2007-09, 2009-6, 2009-11, 2010-09, 2011-08 and 2013-08.

NOW THEREFORE, the Board orders as follows:

INTERVENER COSTS

1. City of Whitehorse

City of Whitehorse claiming:

Brownlee LLP (Fees, GST and Disbursements):	\$ 7,776.80
Russ Bell & Associates Inc. (Fees and GST):	<u>\$ 3,883.31</u>

Total costs claimed: **\$11,660.11**

Comments

CW was represented by Brownlee LLP, legal counsel. It also retained Russ Bell & Associates Inc. as its technical and regulatory analyst.

In its cost claim, CW contended that its participation was effective and relevant to the issues at hand. CW participated in this proceeding by reviewing and assessing YEC's Application and submitting Information Requests (IRs) to YEC. CW obtained permission to file written argument and did not attend the hearing. CW submitted that its costs were reasonably and prudently incurred.

The hourly rate claimed for Kristjana Kellgren of Brownlee LLP was \$280.00 per hour. Ms. Kellgren has five years of experience at the bar. The hours claimed for Ms. Kellgren are 20.25 for preparation and seven for final argument and reply argument. The total claimed for Ms. Kellgren was \$7,630.00. An additional 0.25 hour was claimed for Thomas D. Marriott, senior counsel with Brownlee LLP., in the amount of \$87.50. Disbursements were claimed for Brownlee LLP in the amount of \$59.30.

CW claimed 18.42 hours of preparation and one hour to review final argument at a rate of \$200.00 an hour for Mr. Bell. It stated that Mr. Bell has over 20 years of experience in regulated industries, representing both utilities and customers, and has

the relevant knowledge and expertise necessary to effectively and efficiently represent the City of Whitehorse in the Application. The total amount claimed for Mr. Bell was \$3,883.31.

In its letter of June 20, 2014, UCG submitted that charges by Brownlee LLP of \$360.26 for professional fees incurred in May 2014 after the hearing concluded should be disallowed because these charges were only beneficial to CW and not Yukon ratepayers.

Board costs award

The Board notes that the hours claimed for Brownlee LLP include 0.50 hour for review of the Board report. The legal fee for this 0.50 hour is disallowed because the fees were incurred after the close of the proceeding and were not for the purpose of the proceeding. Therefore, the legal fees claimed are reduced by \$140.00 plus \$7.00 in GST.

The hours claimed for Mr. Bell total 19.25 hours based on his invoices. Included in these hours are four hours for review of the Board's decision in the YECL 2013-15 General Rate Application. The Board disallows these four hours as these hours do not pertain to the proceeding for which the costs are claimed. As a result the Board reduces the consultant fees claimed in the amount of \$800.00 plus \$40.00 in GST.

Otherwise, the fees and disbursements claimed are in accordance with the Scale of Costs and are reasonable.

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

Legal Services provided by Brownlee LLP

Legal Fees and GST:	\$ 7,629.80
Disbursements:	\$ 59.30

Consulting Services provided by Russ Bell & Associates Inc.

Professional Fees and GST:	<u>\$ 3,010.00</u>
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Total costs awarded:	\$10,699.10
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2. Utilities Consumers' Group

UCG claiming:

Legal Services Provided by PIAC (Fees, Disbursements, HST):	\$33,067.83
PaTina Energy Consultants (Fees and HST)	<u>\$11,865.00</u>

Total costs claimed:	\$44,932.83
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Comments

UCG was represented by Michael Janigan, legal counsel from the Public Interest Advocacy Centre (PIAC) and UCG employed Pat McMahon of PaTina Energy Consultants as a consultant.

UCG noted that Mr. Janigan has 33 years of experience and qualifies for an hourly rate of \$350.00. The hours claimed for Mr. Janigan are 25 for preparation, 22.25 for attendance, and 14.15 for final argument and reply argument. For travel, 26 hours at \$175.00 per hour were claimed. Disbursements were claimed at \$2,585.59. The total claimed for Mr. Janigan was \$32,197.73.

A further 5.5 hours for preparation were claimed for Jennifer Simpson, an articling student at PIAC, at an hourly rate of \$140.00. The total amount claimed for Ms. Simpson including HST was \$870.10.

UCG submitted that Mr. McMahon was a skilled consultant, noting that under the Ontario Energy Board tariff, a consultant with similar qualifications would be entitled to a rate of \$330.00 per hour. Moreover, absent Mr. McMahon's participation, PIAC would have likely provided a consultant to work with Mr. Janigan who would have sought at minimum \$270.00 an hour. Given these circumstances, UCG submitted that Mr. McMahon's requested rate of \$125.00 per hour is more than justified. The hours claimed for Mr. McMahon are 73.5 for preparation and 10.5 for final argument and reply argument. The total fees including HST claimed for Mr. McMahon were \$10,500.00.

Board costs award

The Board has considered the legal fees claimed for Mr. Janigan and is of the view that the total number of hours claimed is not reasonable for the following reasons. The travel hours claimed is excessive. The Board reduces the number of hours claimed for travel time to 12 hours at a rate of \$175.00. Further, the Board considers the hours claimed for attendance and argument and reply of 61.40 hours are not reasonable in light of the fact that the length of the hearing was three days, including oral argument and reply argument, and in light of the tasks performed by Mr. Janigan. As a result, the Board reduces these fees by 20% and awards 29.12 hours at \$350.00 an hour. In consideration of the number of hours claimed by Mr. Janigan for preparation, the Board denies the costs claimed for the articling student. The Board awards legal fees in the amount of \$12,292.00 plus HST of 13% in the amount of \$1,597.96.

Respecting Mr. McMahon's consulting fees, Mr. McMahon is presented as a consultant with extensive knowledge of and experience in electrical proceedings in the Yukon. Considering the nature of the Application and the issues raised by UCG, the Board is of the view that the costs claim of 84 hours for preparation and argument and reply is not reasonable. Further, in light of the hours claimed by legal counsel for oral argument and reply argument, the Board exercises its discretion by reducing the

preparation hours claimed by 30% and awards consulting fees in the amount of \$7,350.00 plus HST of \$955.50.

Although the Scale of Costs provides for airfare at economy rates, it does not allow for booking fees. The Board has reduced the airfare costs claimed by \$50.85. The other disbursements claimed are in accordance with the Scale of Costs. The Board awards disbursements including HST in the amount of \$2,534.74.

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

Legal Services Provided by PIAC (Fees, Disbursements, HST):	\$16,424.70
PaTina Energy Consultants (Fees and HST):	<u>\$ 8,305.50</u>
Total costs awarded:	\$24,730.20

3. Yukon Conservation Society/Maissan

YCS/Maissan claiming:

John Maissan (Fees, Disbursements and GST):	\$16,803.36
Yukon Conservation Society (Fees, Disbursements and GST):	<u>\$74,363.39</u>

Total costs claimed:	\$91,166.75
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Comments

YCS/Maissan filed a joint intervention in this proceeding. For accounting purposes, YCS and John Maissan prepared their costs claims individually. However, they submitted that all common costs such as legal counsel and copying of documents are included in the YCS costs claim. They state that they decided to partner and share the costs involved with retaining experienced legal counsel to represent them jointly. Mr. Maissan and JP Pinard acted as technical consultants to legal counsel for this proceeding.

Mr. Maissan stated that he is a registered professional engineer in the Yukon with a permit to practice from the Association of Professional Engineers of Yukon (APEY) and has held senior engineering positions for about 14 years with YEC. He added that he has broad familiarity with the regulated electrical utilities of the Yukon and their technical issues in particular. Since 2003, Mr. Maissan has also participated in and observed a number of Board hearings. Mr. Maissan included an hourly rate of \$140.00, noting that the Board's Scale of Costs allow for consulting fees up to \$270.00 per hour for experts with Mr. Maissan's experience. The hours claimed are 108.25 for preparation and 5.75 for final argument and reply argument.

YCS claimed costs for Anne Middler, the YCS Energy Coordinator and JP Pinard, energy consultant. The hourly rate of \$75.00 was claimed for Ms. Middler. YCS noted that according to the Board's Scale of Costs, a represented intervener with her years

of experience would be eligible to claim \$160.00 per hour. Ms. Middler has been in her position with YCS since June 2008 and has participated in a number of Board proceedings and hearings. Ms. Middler contended that she is an effective intervener and was of integral technical support to counsel in this proceeding. The hours claimed are 83.5 for preparation and 10 for final argument and reply argument. YCS claimed \$7,012.50 for Ms. Middler's participation.

YCS claimed \$140.00 per hour for Mr. Pinard due to his expertise and experience. Mr. Pinard is a professional mechanical engineer registered with APEY and has a PhD on the wind climate of the mountainous Yukon. The hours claimed for Mr. Pinard are 32 for preparation and six for final argument and reply argument. YCS claimed \$5,320.00 for Mr. Pinard's participation.

YCS and Mr. Maissan submitted that they specifically selected David Austin as legal counsel for their joint intervention because of his extensive experience and knowledge in utilities, finance, and oil and gas. Mr. Austin is counsel at Clark Wilson LLP and has more than 30 years at the bar as well as extensive experience appearing before regulatory tribunals. The rate claimed was \$475.00 per hour. Although this hourly rate exceeds the maximum rate in the Scale of Costs, YCS/Maissan argued that honouring the full cost of one lawyer shared by two interveners is more economical than the cost of two separate lawyers for each intervener. YCS and Mr. Maissan acknowledged that the fees are ultimately approved by the Board and are entirely at the Board's discretion. Mr. Austin claimed 87.4 hours for preparation, 20 hours for attendance, and 12 hours for final argument and reply argument. The total claimed for Mr. Austin is \$59,550.75.

Disbursements were claimed by YCS at \$2,301.74 and Mr. Maissan at \$43.20.

In its letter of June 20, 2014, UCG submitted that the following costs should be disallowed. The costs claimed for Ms. Middler of \$7,363.13 because YCS was represented by a consultant as well as a lawyer and this claim is not allowed under the Scale of Costs. It pointed to the direction in the Scale of Costs which states that "An intervener who has not hired legal counsel or a consultant may claim for the number of hours spent in preparing its evidence and submissions in a proceeding." [emphasis added]

UCG also contended that awarding Mr. Austin's full legal fees is not justified simply because more parties use a lawyer's service. It added that sharing only serves to cut down on duplicative billed hours not the rate charged. UCG noted that no evidence was provided relating to Mr. Austin's claimed 35 years of experience. UCG submitted that the YCS/Maissan costs claim should be reduced by \$15,671.25 in accordance with the maximum allowable for legal fees under the Scale of Costs.

UCG also noted that while the margins on the Form 2 submitted by YCS suggests that the legal support provided by Angela Lane is not applicable under the Scale of Costs, YCS has nonetheless included the fees for Ms. Lane in its total cost claim on

Form 1. UCG submits that the YCS/Maissan cost claim should be reduced by \$58.80 in accordance with the Scale of Costs, which does not allow recovery of support staff costs.

UCG further submitted that the YCS/Maissan costs claim for disbursements should be reduced by at least \$466.77 in accordance with the Scale of Costs, which does not allow for reimbursements on meals claimed outside of the hearing date, flights that do not pertain to the hearing, accommodations extending beyond the date of the hearing, and other unnecessary costs identified in its letter. UCG submitted that, at minimum, a total of \$23,559.95 should be disallowed from the YCS/Maissan costs claim.

Board costs award

The Board notes that YCS and Mr. Maissan filed a joint intervener request and were awarded intervener status jointly. YCS/Maissan filed one set of IRs, cross-examined the applicant and submitted one final argument and reply argument. The filing of separate costs claims is not in keeping with the joint nature of the intervention. Accordingly, the Board considers the costs claims submitted as one costs claim for purposes of assessing the costs award for the joint intervention.

Regarding the legal costs claimed, the Board is not persuaded that the legal fees claimed for Mr. Austin should be awarded an hourly rate in excess of the maximum rate for legal counsel of 35 years at the bar. The fact that YCS and Mr. Maissan joined together does not entitle Mr. Austin to a higher legal hourly rate. He was representing one group, YCS/Maissan; therefore, the Board denies the request for a rate higher than \$350.00 an hour.

The Board notes that 119.4 hours in total were claimed for Mr. Austin. The Board considers that the number of hours is not reasonable in light of the nature of the Application, the issues raised by the intervener, the number of hours claimed by other counsel for similar tasks, and that no evidence was filed on behalf of the intervener. The Board reduces the total hours claimed for Mr. Austin by 35%, for a total number of hours of 77.61. The Board awards fees in the amount of \$27,163.50 plus GST of 5% in the amount of \$1,358.17. No fees were claimed for Ms. Lane.

The Board reviewed the costs claimed for Mr. Maissan, Ms. Middler, and Mr. Pinard in light of the Scale of Costs. Section 4.3 of the Scale of Costs states that an intervener who has not hired legal counsel or a consultant may claim fees for preparing its evidence and submissions. The Board considers that Section 4.3 of Scale of Costs only allows the payment of costs to an intervener who is not represented by legal counsel or a consultant.

YCS/Maissan hired legal counsel to represent them in the proceeding. Ms. Middler is a staff member of YCS, Mr. Pinard is a member of YCS, and Mr. Maissan is a ratepayer.

Ms. Middler is an employee of YCS and she provided instructions to legal counsel during the proceeding. The Board agrees with UCG that it is not appropriate to allow Ms. Middler, as an YCS employee, to receive compensation. Ms. Middler is therefore not entitled to recovery of costs under Section 4.3 of the Scale of Costs and the Board denies all costs claimed for Ms. Middler. The Board grants Ms. Middler an honorarium of \$300.00 for attendance at the hearing.

Mr. Pinard and Mr. Maissan, as interveners, are also subject to Section 4.3 of the Scale of Costs. They did provide some technical support in preparation of YCS/Maissan's joint intervention. The extent of Mr. Pinard and Mr. Maissan's involvement as technical support is not clear to the Board based on the costs invoices received. However, Mr. Pinard and Mr. Maissan's hours claimed include hours for preparing IRs and reviewing information responses. Under Section 56 of the Act, the Board has discretion to consider to whom and by whom any costs incidental to a proceeding before the Board are to be paid, and the Board may set the costs to be paid.

The Board is prepared to exercise its discretion under Section 56 of the Act, as an exceptional circumstance, because the representations of YCS/Maissan in the proceeding on the risks and costs of the project, and the intervention on the alternatives available to YEC other than the LNG conversion, warrant an award for Mr. Pinard's and Mr. Maissan's preparation time. Accordingly, the Board will allow costs for Mr. Pinard and Mr. Maissan for hearing preparation time on a one-time basis.

Mr. Pinard spent 12 hours reviewing the Application, preparing IRs and reviewing information responses. Mr. Pinard's hourly rate is reduced from \$140.00 to \$75.00 per hour for preparation time, for a total of \$900.00. The additional 26 hours related to meetings or review of the hearing transcript are denied. The Board also grants Mr. Pinard an honorarium of \$300.00 for attendance at the hearing.

With respect to the hours of Mr. Maissan, the Board is of the view that the 114 hours claimed for the hearing is not reasonable. Mr. Maissan's hours for activities, including review of the Application, drafting IRs, and reviewing information responses are excessive. As a result, the Board reduces Mr. Maissan's preparation time to 41.25 hours, and the hourly rate is reduced from \$140.00 to \$75.00 per hour. The Board awards fees in the amount of \$3,093.75 plus GST of 5%, for a total of \$3,248.44. The Board also grants Mr. Maissan an honorarium of \$300.00 for attendance at the hearing.

The Board considers that exercising its discretion for YCS/Maissan does not affect the application of the Scale of Costs to interveners participating in future proceedings. Intervenors represented by legal counsel will be subject to the recovery of their costs in accordance with the Scale of Costs.

Except for \$30.00 claimed for file opening and closing, the Board awards disbursements as claimed in the amount of 2,436.70, as these are in accordance with the Scale of Costs.

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

Clark Wilson LLP (Legal fees and GST):	\$28,521.67
YCS/Maissan (Disbursements including Clark Wilson LLP):	\$ 2,436.70
Hearing preparation (Mr. Pinard, Mr. Maissan, plus GST):	\$ 4,148.43
Hearing attendance (Ms. Middler, Mr. Pinard, Mr. Maissan):	<u>\$ 900.00</u>
Total costs awarded:	\$36,006.80

APPLICANT COSTS

4. Yukon Energy Corporation

YEC claiming:

Davis LLP (Fees and Disbursements):	\$ 45,077.38
InterGroup Consultants (Fees and Disbursements):	\$168,171.50
YEC Misc. Supplies & Services (Disbursements):	<u>\$ 8,008.66</u>

Total costs claimed: \$221,257.54

Comments

YEC stated that, as in past hearings and regulatory processes, it retained Davis LLP as legal counsel, with P. John Landry providing the legal services required related to the proceeding. Davis LLP provided assistance to YEC in relation to the preparation, filing and review of the Application. The hours claimed for Mr. Landry are 94 hours for preparation and 29 hours for hearing attendance, including oral argument and reply argument, at a rate of \$350.00 an hour.

YEC submitted that it retained InterGroup Consultants Ltd. (InterGroup), which acted as primary regulatory consultants. It added that InterGroup assisted YEC with the preparation and the filing of the Application and the review process before the Board. YEC explained that InterGroup was heavily involved in the preparation of the Application in that InterGroup produced preliminary and final drafts of materials and provided professional services for the production of final documents. In addition, InterGroup was involved in preparing interrogatory responses and other submissions required prior to the oral hearing process. InterGroup also provided oral testimony and assistance with undertakings, as required, while attending the oral hearing.

The costs claimed for InterGroup's professional fees are primarily for Cam Osler, principal and consultant with over 20 years of experience; Mona Pollitt-Smith, consultant with over eight years of experience; Hamid Najmidinov, research consultant with over eight years of experience; and Yadili Okwumabua-Gbakima,

research consultant with over four years of experience. The hours claimed are 936.75 for preparation and 60 for hearing attendance, including oral argument and reply argument.

YEC claimed in total \$17,682.04 in disbursements comprised of \$2,027.38 for Davis LLP, \$7,646 for InterGroup, and \$8,008.66 for Miscellaneous Supplies & Services for YEC.

YEC referred to the 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 has previously allowed for such costs because "The Board was satisfied that YEC has not made provision for these costs in its revenue requirement..." YEC also stated that airline travel was at economy rates where available, and for the most part, was booked using flight passes.

In its letter of June 20, 2014, UCG submitted that YEC appears to be applying to recover costs the Board has denied in previous proceedings under the Intervener Cost Awards Policy and the associated Scale of Costs. UCG contended that at a minimum, a total of \$63,610.00 should be disallowed from YEC's costs claim. UCG added that the YEC cost claim is incomplete in that it did not include the costs of internal staff and resources used in this Application, thus avoiding being transparent on actual costs to be recovered from ratepayers through rates.

UCG submitted that it estimated above-scale billing for Davis LLP to be \$5,315.00 and that \$1,050.00 should be disallowed from YEC's cost claim for travel time. The costs claim should also be reduced by a further \$538.78 related to travel disbursements by Davis LLP.

UCG further submitted that \$8,750.00 for disbursements related to witness preparation sessions and \$258.43 related to catering service charges incurred by Davis LLP should be disallowed.

UCG contended that YEC's costs claim should be reduced by \$45,828.00 for unjustified and unwarranted professional consultant fees charged by InterGroup. UCG noted the Board has a practice of disallowing costs associated with the support staff, and cited Board Order 2009-11 to support its submission. UCG added that YEC's cost claim should also be reduced by \$2,059.74 related to disbursement costs incurred by InterGroup to attend witness-preparation sessions in Vancouver, noting that InterGroup consultants both flew in business class and charged \$52.76 per night in excess of the highest hotel room rate allowed by Public Works and Government Services Canada for March 2014. Further, UCG submitted that YEC's costs claim should be reduced by \$1,119.33 related to disbursement costs incurred by InterGroup for hotel and meal charges incurred outside of the oral hearing. In addition, another \$500.00 in disbursement costs incurred by InterGroup should be reduced for excessive printing and photocopying charges.

Board costs award

The Board notes that YEC in its letter regarding the costs claim states, “YEC hearing panel preparation sessions held in Vancouver [March 12-13, March 19-20 and March 26-27], with YEC counsel, consultants and utility staff in order to prepare for the oral hearing.”¹ In relation to the Davis LLP costs claim, the Board has reviewed the Davis LLP invoices for these dates, which state that Mr. Landry on March 13, 2014 prepared for and attended YEC team meeting for eight hours; on March 14, 2014, he attended a LNG meeting and prepared issues briefings for five hours; on March 21, 2014, he prepared for and attended a meeting for eight hours; and on March 27 and 28, 2014 he prepared for and attended a LNG Part 3 meeting and a pre-hearing preparation session for nine hours and eight hours respectively.

There is a discrepancy between the dates referred to in YEC’s letter and the Davis LLP invoices. The Board relies on the Davis LLP invoices from which it appears that the meetings in question were aimed at preparing issues briefings and discussions in relation to the Application. There is no mention of witness preparation in the invoices. The Board considers that the 38 hours listed above are part of the 94 hours in total claimed for preparation. Since there is no specific item for witness preparation in the invoices and there were no disbursements incurred for counsel in relation to these meetings, the Board finds that the 94 hours claimed for preparation for the tasks performed in relation to the Application are reasonable and need not be reduced. Further, the Board is of the view that the hours claimed for Davis LLP for attendance, including oral argument and reply argument, are reasonable. Also, the legal fees claimed are in accordance with the Scale of Costs. As a result, the Board does not accept the UCG submissions respecting the legal fees claimed and awards legal fees for Davis LLP in the amount of \$43,050.00.

Regarding the disbursements claimed for Davis LLP, the disbursements are in accordance with the Scale of Costs. The Board awards disbursements in the amount of \$2,027.38, as claimed on Form 3 of the costs claim.

For the consultant costs claimed for InterGroup, the Board considers that the costs claimed are those set out on Form 2 of the costs claim, and there is some discrepancy between Form 2 and the invoices, in that there are fees noted on the invoices which are not being claimed as part of the costs claim. The Board notes that there were fees claimed for financial and other support staff as well as administration clerical staff. These are tasks performed by employees of InterGroup. The Scale of Costs states that a consultant may claim fees for “secretarial or support staff who are not part of the office staff of the consultants, analysts or experts”. As a result, the Board has disallowed the costs claimed on Form 2 for J. Gordon, and S. Zhang and admin/clerical production related only, and has reduced the fees claimed by InterGroup by a total of \$2,117.00.

¹ YEC letter dated June 13, 2014 page 8

Further, the Board considered that 936.75 hours of preparation time were claimed for consultants or research consultants. Although research consultants are being used, a total of 663 hours is claimed for the main consultants. The Board is of the view that there is some duplication in the tasks performed by the consultants and the research consultants. Further, the Board has taken into account that there were three different meetings for hearing preparation. As a result, the Board reduces the total costs claimed for preparation time by the consultants and research consultants by 15% and awards a total of \$125,218.60 in fees for preparation. As noted above, the hearing preparation meetings do not appear to be for purposes of witness preparation; therefore, the Board has not reduced any of the preparation hours on this basis. The Board considers the consulting fees claimed for attendance are reasonable, including oral argument and reply argument and awards an additional \$11,092.50. Accordingly, the Board awards \$136,311.10 in fees for InterGroup.

Regarding disbursements for InterGroup, the Board is of the view that the travel costs (airfare, accommodation and meals) for InterGroup are not reasonable. There is little explanation provided for holding numerous hearing preparation meetings for which travel costs were incurred. Although the Board allows travel costs for an applicant respecting an application, these costs have to be reasonable. Therefore, the Board has reduced travel disbursements by 20% and awards travel disbursements in the amount of \$5,318.54 plus telephone and printing, in the amount of \$997.82, for a total of \$6,316.36 awarded to InterGroup for disbursements.

Regarding disbursements for YEC, for the same reasons set out in the previous paragraph, travel costs for hearing preparation are reduced by 20%. The Board awards travel costs for YEC in the amount of \$2,872.31; and the advertising and the miscellaneous supplies and services, which include transcript costs, as claimed. The Board awards disbursements for YEC in the total amount of \$7,290.58

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

Davis LLP (Fees and disbursements):	\$ 45,077.38
InterGroup (Fees and disbursements):	\$142,627.46
YEC (Disbursements):	<u>\$ 7,290.58</u>
Total costs awarded:	\$194,995.42

BOARD COSTS

5. Yukon Utilities Board

The Board costs with respect to the YEC Proposed Whitehorse Diesel to Liquefied Natural Gas Conversion Project 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 the Government of Yukon in the amount of \$158,537.62.

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	\$ 10,699.10
UCG	\$ 24,730.20
YCS/Maissan	\$ 36,006.80
YEC	\$194,995.42
Government of Yukon (Board costs)	<u>\$158,537.62</u>
Total costs awarded	\$424,969.14

Dated at the City of Whitehorse, Yukon, the 8th day of August 2014.

BY ORDER



Bruce McLennan
Chair