

IN THE MATTER OF the *Public Utilities Act*

And

**General Rate Application by Yukon Energy Corporation
for Approval of Revenue Requirements for 2017 and 2018**

BEFORE: R. Laking, Chair) May 23, 2019
B. King, Vice-Chair)
A. Fortin)
M. Hannam)
P. Fitzgerald)

BOARD ORDER 2019-03

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 June 22, 2017, Yukon Energy Corporation (YEC) filed General Rate Application (GRA) with the Yukon Utilities Board (Board), pursuant to the Act, and Order-In-Council 1995/90, requesting an order approving a forecast revenue requirement of \$48.544 million for 2017 and \$49.864 million for 2018;
- C. The Board issued Board Order 2017-04 on July 4, 2017 regarding the GRA in which the Board set out the process schedule, pending ministerial approval;
- D. In Board Order 2017-06, dated August 21, 2017, the Board approved an interim refundable rate rider (Rider J) for 2017 of 16.51 percent for retail firm rates and 12.86 percent for industrial firm rates, which represents an increase of 5.5 percent for retail and industrial customers for all electrical consumption on or after September 1, 2017;
- E. On June 30, 2017, the Minister of Justice authorized the Board to incur the expenses necessary to conduct a public hearing into the GRA pursuant to section 50 of the Act;
- F. On July 27, 2017, the Board issued Board Order 2017-05 which granted intervener status to:
 - ATCO Electric Yukon (AEY);
 - City of Whitehorse;
 - Utilities Consumers’ Group (UCG);
 - Yukon Conservation Society (YCS); and

John Maissan (Mr. Maissan).

- G. In Board Order 2018-02, issued on January 31, 2018, the Board directed that a separate application, Energy Reconciliation Adjustment (ERA) Part 2, would be considered as part of the GRA proceeding;
- H. Between June 26 and 28, 2018, the Board held an oral public hearing in the City of Whitehorse, Yukon. The Board was comprised of Robert Laking, Chair, and members Andre Fortin, Meagan Hannam, Bonnie King, and Philip Fitzgerald;
- I. On December 27, 2018, the Board issued Board Order 2018-10 approving the GRA for the reasons set out in Appendix A to that order;
- J. With respect to the GRA proceeding, the Board received costs claims from:
 - 1. City of Whitehorse;
 - 2. UCG;
 - 3. John Maissan; and
 - 4. YEC.
- K. The Board received comments from UCG on the cost claim of YEC in a letter dated February 4, 2019;
- L. The Board has reviewed all the costs claims and comments;
- M. Costs claimed by the 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
- N. After careful consideration, the Board has exercised its discretion and 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 Board Order 2007-06, and Board Orders 2005-16, 2005-17, 2007-07, 2007-08, 2007-09, 2009-6, 2009-11, 2010-09, 2011-08, 2013-08, 2014-11, 2014-12, 2017-07, 2018-08 and 2018-09.

NOW THEREFORE, the Board orders as follows:

INTERVENER COSTS

1. City of Whitehorse

City of Whitehorse claiming:

Brownlee LLP (Fees, Disbursements and GST):	\$50,062.54
Russ Bell & Associates Inc. (Fees, Disbursements and GST):	<u>\$40,683.94</u>
Total costs claimed:	\$90,746.48

Comments

City of Whitehorse retained Brownlee LLP as legal counsel, and technical and regulatory analyst, Russ Bell of Russ Bell & Associates Inc.

City of Whitehorse was represented by Thomas Marriott and Derek King of Brownlee LLP. Mr. Marriott has 20-plus years of experience, is senior counsel, and charged the hourly rate of \$350.00. The hours claimed for Mr. Marriott are 47.70 for preparation and 9.65 for argument and reply argument. The total claimed for Mr. Marriott is \$20,072.50.

City of Whitehorse claimed the hourly rate for Mr. King of \$350.00. Mr. King has 19 years of experience. The hours claimed for Mr. King are 41.95 for preparation, 24.50 for attendance and 10.50 for argument and reply argument. The total amount claimed for Mr. King is \$26,932.50. Randall Trombley and James Work assisted for a total of 9.5 hours, at the rate of \$140.00 and \$90.00 per hour, respectively. The combined total claimed for Mr. Trombley and Mr. Work was \$955.00.

City of Whitehorse submitted that Mr. Bell has extensive experience in regulated industries in Yukon, Northwest Territories and Alberta. In its costs claim, City of Whitehorse claimed \$200.00 per hour for Mr. Bell. The hours claimed are 164.50 for preparation, 20.25 for attendance and 10.75 for argument and reply argument. The total claimed for Mr. Bell is \$39,100.00.

In its costs claim, City of Whitehorse submitted that its participation was effective and relevant to the issues. It contended that its costs were reasonably and prudently incurred and that it was diligent and efficient in its presentation of its position. It added that it was a full participant in the proceeding and its participation was both warranted and beneficial.

Disbursements were claimed for Brownlee LLP in the amount of \$2,102.54 and for Russ Bell & Associates Inc. in the amount of \$1,583.94. The applicable GST was included in the invoices of Brownlee LLP and Russ Bell & Associates Inc.

Board costs award

The Board considers that City of Whitehorse participated fully in all aspects of the GRA and its intervention was of assistance to the Board in making its decision. Mr. King attended the hearing and cross-examined the YEC witness panel. Considering the hours claimed for Mr. Marriott and Mr. King, it appears that there was limited duplication in the legal services provided, given that the majority of services of each of the counsel were provided at different time periods in the proceeding. However, the Board considers that the hours for preparation are excessive due to the work that each of the senior counsel would have to do to get up-to-date with respect to the GRA, previous Board decisions, and other relevant submissions. Further, the preparation hours by counsel are high, given the City of Whitehorse correspondence and submissions that were filed prior to the hearing. For these reasons, senior counsel's preparation hours are reduced by 15 percent, which results in a total reduction of 13.40 hours or \$4,706.63.

The Brownlee LPP disbursements submitted are in accordance with the Scale of Costs and the Board finds the \$2,102.54 in disbursements reasonable.

With regard to the consultant fees claimed for Mr. Bell, the fees are within the Scale of Costs. However, the Board finds that the fees claimed for these services were unreasonable and excessive because the evidence was general in nature and lacked detail and as a result, in some instances it did not contribute meaningfully to the Board's understanding of the issues or the possible impact on YEC. For example, Mr. Bell's submissions on disruptive technology, as depicted in response to YUB-CW-2(b), were not helpful to the issues pertaining to the GRA. Similarly, in response to YUB-CW-3, Mr. Bell identified divergent trends in loads but failed to provide any insights as to why those trends existed. For YUB-CW-6 and YUB-YEC-7, the Board had to seek a recommended quantitative adjustment for the whole sales forecast and the diesel contingency fund, respectively, as they were not readily evident in Mr. Bell's evidence. The Board finds specific recommendations to specific YEC accounts to be more helpful than high-level observations with general recommendations. For these reasons, the Board finds that the portion of costs claimed for Mr. Bell are not reasonable. As a result, the Board exercises its discretion to reduce the hours claimed for consulting services by 20 percent, for a total reduction of \$7,820.00. Accordingly, the Board awards fees in the amount of \$31,280.00.

Regarding the disbursements for Mr. Bell, airfare was claimed in the amount of \$893.94 while the receipts for airfare and baggage fees total \$871.15.¹ The Board awards \$871.15 for airfare and baggage. The remaining disbursements for meals and accommodation are within the Scale of Costs and are reasonable. Accordingly, the Board awards a total of \$1,561.15 for Mr. Bell's disbursements.

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

Legal services provided by Brownlee LLP	
Legal fees and GST	\$43,253.37
Disbursements:	\$ 2,102.54
Consulting services provided by Russ Bell & Associates Inc.	
Professional fees and GST	\$31,280.00
Disbursements:	<u>\$ 1,561.15</u>
Total costs awarded	\$78,197.06

¹ City of Whitehorse Cost Claim, PDF pages 83-88 (\$325.02 + \$519.88 + \$26.25).

2. Utilities Consumers' Group

UCG claiming:

PaTina Energy Consultants (fees and GST)	\$38,981.25
Roger Rondeau: (\$60.00 x 12 hours, the attendance honorarium)	<u>\$ 920.00</u>

Total costs claimed: \$39,901.25

Comments

UCG retained Patrick McMahon of PaTina Energy Consultants. UCG stated that Mr. McMahon supported the intervention of UCG by providing extensive consulting services without the assistance of legal counsel. UCG submitted that Mr. McMahon has relevant general knowledge of the utility industry, and in particular, has an extensive background in the history of the Yukon energy sector. In addition, Mr. McMahon brings to bear his knowledge of regulatory issues of the natural gas and electricity industries in other jurisdictions. UCG stated the claimed rate of \$225.00 per hour was justified, based on the complexity of the issues addressed and the need for Mr. McMahon to take on a significant role without the assistance of legal counsel. It submitted that, given the nature and complexity of the proceeding, the extensive record and length of the proceeding, the costs incurred were reasonable and were directly and necessarily related to UCG's effective participation.

UCG added that it acted responsibly and contributed to a better understanding of the issues to be decided by the Board.

The hours claimed for Mr. McMahon are 114.00 for preparation and 51.00 for both argument and reply argument, and all hours were claimed at \$225.00 per hour.

UCG submitted a claim for Mr. Rondeau of UCG for his attendance and participation in the oral hearing process, which included cross-examination of all panels on behalf of UCG.

Board costs award

The Board notes that Mr. McMahon is presented as a consultant with knowledge of and experience in utility proceedings in the Yukon and has knowledge of regulatory issues of the natural gas and electricity industries in other jurisdictions. With respect to the payment of costs for relevant Yukon work, Mr. McMahon has been participating in the Board's rate proceedings since 2008-09.

The Board further notes that UCG has claimed a rate of \$225.00 per hour for Mr. McMahon's participation. The Scale of Costs emphasizes that the maximum allowable hourly rate will not be awarded as a matter of course. A rate of \$225.00 per hour for Mr. McMahon was also claimed in Board Order 2018-09 for YEC's Part 1 Application Regarding the ERA. In that decision, the Board reduced his rate to \$160.00 per hour, given the limited scope of the proceeding.

With respect to the current costs claim, the \$225.00 claimed for Mr. McMahon is consistent with the Scale of Costs for a consultant with eight to 12 years of experience in Yukon rate proceedings. The Board has reviewed the activities of Mr. McMahon in the GRA and considers that the hours claimed were commensurate with work undertaken for preparation of the information requests, argument, reply argument and other correspondence. The Board concludes that his activities were directly and necessarily related to the proceeding.

Given the matters raised, the hourly rate is supported, given the complexity of issues and the UCG's submissions with respect to the GRA.

With respect to UCG's claim for Mr. Rondeau, the only detail provided is that \$60.00 per hour is being claimed for eight hours for preparation and participation in the oral hearing and four hours for assisting with the development of argument. No statement of account was provided to support Mr. Rondeau's hours and a statement of account is required by the Scale of Costs. In addition, sections 4.3 and 4.4 of the Scale of Costs state:

4.3 Fees and Honorarium of Unrepresented Intervener

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. The hourly rate of an intervener shall not exceed \$100 per hour and will be determined by the Board when assessing the costs claim.

4.4 Attendance Honorarium

An unrepresented intervener may claim an honorarium of \$50 for each half day of attendance at an oral hearing.

The Board is of the view that Mr. Rondeau is acting as the unrepresented intervener and a consultant was also hired to represent UCG. Since UCG was represented by a consultant, the Board finds that Mr. Rondeau is only reasonably eligible for an attendance honorarium of \$200.00.

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

Consulting services provided by PaTina Energy Consultants

PaTina Energy Consultants professional fees and GST	\$38,981.25
Attendance honoraria	<u>\$ 200.00</u>
Total costs awarded	\$39,181.25

**3. John Maissan, resident of the City of Whitehorse
Mr. Maissan claiming:**

Consulting fees	\$6,105.00
Attendance honoraria	<u>\$ 300.00</u>

Total costs claimed: \$6,405.00
Comments

In his costs claimed, Mr. Maissan stated that he is well-qualified to be an effective intervener because he was a former registered professional engineer in the Yukon with more than 25 years of experience in matters related to the electricity sector. Mr. Maissan added that he has a broad familiarity with the regulated electrical utilities of Yukon and with their technical issues in particular. Mr. Maissan stated that he addressed issues related to the GRA, including long-term versus short-term water forecasts for addressing hydro and thermal requirements, the diesel-LNG generation mix, the diesel contingency fund, deferred costs, vegetation management, the need for capacity focused demand-side management, a number of capital projects including the third LNG generator, the proposed new thermal plant, the proposed battery project and various hydro storage and up-rate projects. Mr. Maissan noted that his cross-examination at the hearing was limited to matters not already covered or not fully covered by other interveners.

Mr. Maissan included an hourly rate of \$60.00 and he acknowledged the rate is at the Board's discretion. The 101.75 hours claimed include 60.75 hours for preparation and 41.00 hours for both argument and reply argument. In addition, Mr. Maissan claimed a \$50.00 honorarium for six half days of hearing attendance, for a total of \$300.00.

Board costs award

The Board evaluated Mr. Maissan's costs claim as that of an intervener, under section 4.3 of the Scale of Costs, and these costs are being considered on the basis that he is a resident of the City of Whitehorse. Accordingly, he is not eligible to claim professional fees as a consultant.

In past proceedings, the Board has awarded Mr. Maissan \$50.00 or \$75.00 per hour, depending on his intervention.

As noted by Mr. Maissan, 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 finds that Mr. Maissan's submissions generally contributed to a better understanding of the issues before the Board with respect to the GRA. As a result, the Board has chosen to exercise its discretion and has awarded Mr. Maissan an hourly rate of \$60.00 per hour. Further, the Board is of the view that the number of hours claimed is reasonable and the attendance honoraria claimed is in accordance with the Scale of Costs.

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.

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

Unrepresented intervener fees, including the attendance honoraria: \$6,405.00

Total costs awarded **\$6,405.00**

**4. Yukon Energy Corporation
YEC claiming:**

For the GRA proceeding:

DLA Piper LLP (fees and disbursements)	\$ 122,487.67
InterGroup Consultants Ltd. (fees and disbursements)	\$ 633,427.83
Yukon Energy Corporation (disbursements)	<u>\$ 11,510.27</u>

Total costs claimed: for GRA proceeding **\$ 767,425.77**

For the ERA Part 2 proceeding:

InterGroup Consultants Ltd. (fees and disbursements)	<u>\$ 26,382.00</u>
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Total costs claimed: **\$ 793,807.77**

Comments

In its cost application, YEC noted the total amount claimed includes \$767,425.77 related to the GRA proceeding and \$26,382.00 related to the preparation of the ERA Part 2 application. YEC submitted that all costs as applied-for are reasonably and necessarily incurred in order to prepare and support its GRA. YEC stated that because the proceeding timeline was extended by over eight months and material additional steps not contemplated by the original process schedule were added, additional complexity and costs resulted. The costs claimed are in accordance with the Scale of Costs.

YEC retained DLA Piper (Canada) LLP as legal counsel, with P. John Landry providing the relevant assistance to YEC in relation to preparing, filing and reviewing the application. Mr. Landry reviewed the draft application, correspondence, information requests and responses to information requests, and argument and reply argument. YEC added that Mr. Landry provided legal advice as required and attended the oral hearing. Morgan Burris assisted with preparation of the application. YEC claimed legal fees for Mr. Landry of 278.50 hours at a rate of \$350.00 an hour for preparation, 30.00 hours for attendance, and 24.50 hours for argument and reply argument; and claimed legal fees for Ms. Burris of 1.60 hours at a rate of \$320.00 an hour for preparation. The total fees claimed for DLA Piper for legal services are \$117,062.00.

YEC claimed costs for InterGroup Consultants Ltd. (InterGroup) of \$633,427.83 for assistance with the GRA and \$26,382.00 for assistance with the ERA Part 2, for a total of \$659,809.83. With respect to the GRA, YEC submitted that InterGroup assisted it with preparation and review of the application and the drafting, co-ordination, review and finalization of interrogatory responses, argument and reply argument.

YEC submitted that the consulting services claimed were primarily provided by Cam Osler who has over 20 years of experience at a rate of \$240.00 an hour, Mona Pollitt-Smith who has over 12 years of experience at a rate of \$168.00 an hour, and Hamid Najmidinov who has over nine years of experience at a rate of \$107.00. YEC added that other senior consultants were relied on to provide specific knowledge or to provide additional resources to ensure activities were completed within required deadlines. In addition, other research staff from InterGroup provided quality assurance review and technical analysis. Costs also include services provided by Jolene Gordon, Production Coordinator, with over 12 years of experience and other staff related to document review, production and process tracking. YEC stated that the hourly rates for all InterGroup are claimed in accordance with the individuals' years of experience under the Scale of Costs. For the GRA proceeding, YEC claimed for InterGroup 2,861.50 hours for preparation, 83.00 hours for attendance, and 342.00 hours for argument and reply argument.

With respect to the ERA Part 2, YEC claimed for InterGroup 127.25 preparation hours.

Disbursements were claimed in relation to the GRA proceeding. For DLA Piper, disbursements of \$5,425.67 were for airfare, accommodation, meals, taxi, telephone charges, and photocopying services. Disbursements claimed for InterGroup of \$25,282.58 were for airfare, accommodation, meals, taxis, telephone, photocopying, and miscellaneous supplies and services. YEC claimed disbursements of \$11,510.27 for airfare, accommodation, meals, courier charges, telephone, external printing, miscellaneous supplies and services, and other charges.

UCG comments

In its letter of February 4, 2019, UCG raised concerns with how much of the costs for regulatory proceedings should be recovered in rates. UCG pointed out that some costs claimed by YEC are not allowed under the Scale of Costs and past Board rulings. Further, YEC's costs claim included fees and disbursements for three witness preparation sessions. UCG contended the entire amount it has calculated for YEC's preparation sessions of \$44,824.68 should be disallowed, consistent with the Board's findings regarding costs for two previous GRA proceedings² in which costs for witness preparation sessions were disallowed.

With respect to legal costs, UCG submitted that the actual hourly rate paid by YEC was over the Scale of Costs, while acknowledging that the maximum hourly cost rate of \$350 per hour was charged by Mr. Landry. It argued that the hourly rate paid by YEC, either through electricity rates or tax bills, work against the affordability of services being provided. It further argued that the task descriptions on Mr. Landry's invoices do not provide the level of detail required to determine if the time charged was related to the GRA proceeding. UCG stated that Ms. Burris' time should not be recovered because there is no information to verify her qualifications or activities and appear to be duplication of effort.

² Order 2013-08, dated September 13, 2013, page 14 and Order 2009-11, dated December 8, 2009, page 11.

In addition, YEC's cost claim for InterGroup included 3,413.75 hours. UCG noted the hours claimed for Mr. Osler and Ms. Pollitt-Smith are excessive and that even if the 88.50 combined hours associated with the witness preparation sessions were removed, 2,656.00 hours remain. UCG submitted there was duplication of efforts of the two consultants as indicated by the duplication of descriptions of tasks undertaken. UCG submitted that only one professional witness "... should be allowed to charge back to ratepayers." The costs incurred by all staff other than Mr. Osler should be disallowed. In addition, the UCG listed recent Board Orders in which fees claimed for "... any researcher or other analyst..." and "... document production staff..." were disallowed and in which Mr. Osler and Ms. Pollitt-Smith's hours were found to be excessive and were reduced. UCG also queried why both Mr. Osler and Ms. Pollitt-Smith had to attend meetings in Whitehorse and Vancouver when teleconferencing is readily available.

Regarding YEC's claims for disbursements, UCG commented that YEC continues to attempt to recover costs from ratepayers that are not recoverable under the Scale of Costs. UCG submitted DLA Piper's claims for meals outside of the oral hearing should be disallowed. Further, DLA Piper's practice of submitting Statutory Declaration Forms rather than receipts does not meet the requirements of the Scale of Costs and all such disbursements should be disallowed. Airfare has similarly been charged for travel outside of the oral hearing. Further, the \$3,997.95 claim for InterGroup's photocopying and internal printing should also be disallowed because it appears to indicate 40,000 pages were photocopied, which is excessive. Finally, YEC's disbursement of \$221.58 listed incorrectly as "External Printing" appears to be for binders, and should be disallowed.

Board costs award

DLA Piper LLP

Regarding the legal fees and disbursements claimed for DLA Piper, the Board considers that the legal fees are in accordance with the Scale of Costs. After reviewing the invoices submitted for the legal services provided by Mr. Landry, the Board finds that the total hours claimed related to the GRA and the ERA Part 2 are reasonable and have been claimed in accordance with the Scale of Costs, except for witness preparation.

Regarding the GRA proceeding, the Board notes the total hours claimed for Mr. Landry and Ms. Burris include 280.10 hours for preparation. UCG has argued that Ms. Burris' time should not be recovered for preparation because there is no information to verify her qualifications or activities. The Board has reviewed Ms. Burris' time and confirms that the 1.60 hours for preparation as legal counsel to YEC are reasonable and directly and necessarily related to the GRA and her activities were in addition to the tasks completed by Mr. Landry.

Mr. Landry's preparation hours include time spent on witness preparation sessions. No travel time was claimed for witness preparation meetings.

In Board Order 2017-07, the Board stated:

“In addition, the Board’s hearing process is not complex and AEY witnesses had prepared different parts of the Application and responded to IRs or a prepared expert report and should be able to respond to questions in cross-examination. Therefore, the Board continues to be of the view that it is not reasonable to claim legal fees for witness preparation or travel for witness preparation and that such preparation is not of assistance to the Board in making its decision on the Application.”

The Board maintains that the hours for witness preparation sessions are generally not recoverable from Yukon customers, given the familiarity of YEC’s witnesses with Board processes and legal counsel’s expertise with the Board’s procedure, oral hearings and YEC’s own application. The Board notes 39.00 legal hours claimed for witness preparation activities.³ The Board determines it is reasonable to award 20 percent of the witness preparation sessions because there were new witnesses on YEC’s panel that would not have been familiar with providing testimony before the Board. In this specific proceeding, it would be expected that legal counsel would have to expend a portion of their time familiarizing new witnesses. Therefore, the Board awards 20 percent of the legal fees for witness preparation, calculated as $0.20 \times (39 \times \$350.00) = \$2,730.00$.

For the reasons above, the total legal fees awarded for DLA Piper is \$106,142.00.

Regarding disbursements claimed for DLA Piper, the airfare for the August 3, 2017 GRA workshop and for the hearings dates are allowed. The Board approves airfare for legal counsel in the amount of \$1,586.46.⁴ The hotel invoices are approved in the amount of \$905.03. Additional meal costs of \$532.87⁵ submitted on DLA Piper’s Statutory Declaration Forms were undated and other receipts not containing a sufficient level of detail for the Board to identify the costs of meals. The amounts in the Statutory Declaration Forms and receipts provided are not approved because the Board was unable to ascertain the actual meal costs. The Scale of Costs requires in section 4.2 b:

4.2 Expenses

The Board will not consider expense claims that are based upon percentages of the fees claimed. All receipts relating to a claim for disbursements must be legible and clearly identify the date upon which the receipt was issued. **Unless otherwise stated, the Board will not request clarification for receipts that do not satisfy these requirements, and the related claim may not be approved.**

³ Witness preparation time was shown in Invoice 1787388 dated May 28, 2018 and Invoice 1792831 dated June 20, 2018. There was 14.00 hours on April 30 and May 1, 2018 and 25.00 hours on May 7, May 17 and May 28-31, 2018 that related to Mr. Landry’s activities for witness preparation.

⁴ The airfare invoices for Mr. Landry are: Aug 2, 2017 Vancouver-Whitehorse of \$351.88, Aug 3, 2017 Whitehorse-Vancouver of \$277.77, June 24, 2018 Vancouver-Whitehorse of \$421.18, June 28, 2018 Whitehorse-Vancouver of \$535.63. Two flight receipts were provided for June 28, 2018 and the Board has accepted the higher receipt amount for DLA Piper’s flight.

⁵ Meal costs totaling \$532.87 include: \$255.99 and \$21.56 for June 27 and 29, 2018 and all meals submitted on undated Statutory Declaration Forms in the total amount of \$255.32.

b. Personal expenses

The Board will consider claims for the following personal expenses that are incurred during an oral hearing:

Meals

The maximum allowable daily claim for meals is in accordance with current Government of Yukon rates. Claims for meals are restricted to the duration of an oral hearing. Tips are not claimable. Receipts are required for all meals claimed, with the date of the meal marked on the receipt.

In lieu of the meal costs claimed, the Board awards per diem dinner and incidental expenses amounts for five days for attendance at the GRA workshop on August 2-3, 2017 and attendance at the oral hearing on June 26-28, 2018 in the total amount of \$379.00.⁶

Taxi charges for the hearing of \$170.96, internal photocopying of \$0.30 and telephone charges of \$3.78 are reasonably related to the legal work by DLA Piper for preparation and attendance of the hearing. The Board awards these disbursements in the total amount of \$175.04. The remaining airfare, accommodation, taxis, and meals and incidentals are denied because they are unrelated to attendance at the GRA workshop or the hearing. For the reasons above, the total disbursements awarded for DLA Piper is \$3,045.53.

InterGroup – ERA Application Part 2 costs

The InterGroup invoices related to the ERA Application Part 2 show that Mr. Osler and Ms. Pollitt-Smith reviewed documents and other material related to the ERA, prepared the application and consulted with YEC to finalize the application. The hourly consulting fees claimed for Mr. Osler and Ms. Pollitt-Smith are within the Scale of Costs.

After reviewing the invoices submitted for consulting services provided by InterGroup for assistance with the ERA Application Part 2, the Board finds that YEC claimed hours for only these two InterGroup consultants. The Board generally finds that the activities and hours billed were commensurate with the complexity of the filing related to the ERA Application Part 2. The Board, however, finds that some of the tasks of Mr. Osler and Ms. Pollitt-Smith appear to overlap based on the descriptions of the invoices. For example, the December 31, 2017 invoice shows that there were overlapping activities of the consultants:

Mr. Osler

Monday, December 04, 2017

...Edits to draft application to address Ed review/comments on Part 2;
subsequent call with Ed to review

Tuesday, December 05, 2017

Responded to ED's edits/comments...internal reviews for finalizing documents

⁶ Per diem amounts as allowed in *Meals and Incidental Expenses for Employees on Travel Status, Rates Effective April 1, 2018*, dinner per diem of \$58.50 and Incidental Expenses per diem of \$17.30. Catering by YEC was provided during the day so an entire per diem rate for meals is not required.

Wednesday, December 06, 2017

Reviewed final edits cover letter, emails and calls with Ed.

Ms. Pollitt-Smith

Monday, December 04, 2017

Call with John and Ed; reviewed and discussed edits to application document.

Tuesday, December 05, 2017

Reviewed and finalized document; edits and other follow-ups; call with Ed Mollard.

Wednesday, December 06, 2017

Reviewed and finalized filing; discussion with Ed re: final edits.

There is insufficient evidence as to why both consultants would both need to complete the tasks described in the invoices, and it is reasonable to conclude that duplication occurred between consultants. Therefore, the Board finds that the hours claimed for preparation of the ERA Application Part 2 do not warrant the hours claimed for Mr. Osler and Ms. Pollitt-Smith. The Board exercises its discretion to reduce the amounts claimed for each of these consultants by 20 percent, which is a reduction for Mr. Osler of \$3,336.00 and Ms. Pollitt-Smith of \$1,940.40. Taking into account this reduction, the Board awards consulting fees \$21,105.60 for InterGroup's participation in the ERA Application Part 2.

InterGroup – GRA costs

After reviewing the invoices submitted for consulting services provided by InterGroup for the GRA, the Board views that the 3,286.50 hours claimed by InterGroup for 11 consultants and one document production staff to be excessive.

In addition, for the reasons set out above for DLA Piper's costs claim for witness preparation above, the Board has similarly reduced InterGroup's consulting fees claimed for witness preparation activities on October 11-12, 2017, May 1, 2018 and May 28-31, 2018 by 80 percent, as the Board finds these costs should not be recovered as reasonably related to the proceeding. The Board awards 20 percent of the witness preparation sessions because there were new witnesses on YEC's panel for this specific hearing that would not have been familiar with providing testimony before the Board. All other witness preparation hours are disallowed. The Board has included the 20 percent of consulting hours for witness preparation in its overall award of InterGroup's costs.

Further, after reviewing the descriptions set out in the invoices of InterGroup, the Board finds that the total hours claimed for Mr. Osler of 1,452.00, for Ms. Pollitt-Smith of 1,165.25, and for Mr. Najmidinov of 367.25 are in excess of what would be expected for the purposes of preparation of YEC's GRA. The Board considers that the total number of hours claimed is not reasonable. Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov incurred almost 90 percent of the hours of InterGroup. In addition, duplication between Mr. Osler and Ms. Pollitt-Smith was evident with one senior consultant assisting the other with reviews of the same application during the information request process, and at the hearing. Both consultants also claimed a number of hours for hearing preparation.

As well, the Board finds that some of the tasks of Mr. Osler and Ms. Pollitt-Smith appear to overlap, based on the descriptions of the invoices. For example, the March 31, 2017 and the September 30, 2017 invoices show that there were overlapping activities of the consultants:

Mr. Osler

Sunday, March 12, 2017

GRA prep – review & edits to Tab 5 text for projects.

Sunday, March 26, 2017

GRA prep – drafting Tab 5 business cases, ...

Monday, September 04, 2017

...Work on IRs, call with Ed.

Ms. Pollitt-Smith

Sunday, March 12, 2017

Review and edit tab 5 write-ups; ...

Sunday, March 26, 2017

Review Tab 5 appendices and Tab 5 notes: ...

Monday, September 04, 2017

Draft and review IRs; call with E. Mollard.

It is not apparent that the use of two senior consultants as well as nine other consultants was necessary for preparation of the GRA. The need for the remaining consultants and analysts has not been shown to the satisfaction of the Board.

Further, the Board considers that document production staff are not consultants, analysts or experts within the meaning of the Scale of Costs. Document production staff is more akin to support staff and the Scale of Costs only permits claims for support staff who are not part of the office staff of the consultants. Therefore, the Board disallows the consulting costs claimed for InterGroup's document production staff. Accordingly, consulting fees are reduced by a total of \$3,690.00.

Accordingly, the Board reduces the consultant fees claimed for InterGroup by 40 percent after the \$3,690.00 for document production staff was removed, which results in costs awarded for InterGroup's consultant fees in the amount of \$362,673.15.

With respect to the disbursements claimed for InterGroup, the Board allows the disbursements for accommodation, meals and taxis for witness preparation sessions, information sessions and for Mr. Osler's and Ms. Pollitt-Smith's attendance at the hearing. Expenses for attendance at all other meetings are disallowed as well as the expenses for Mr. Najmidinov. The Board approves the reasonable costs for airfare of \$9,654.17 for Mr. Osler's and Ms. Pollitt-Smith's attendance at workshops, witness preparation sessions and the hearing. The Board only approves the reasonable costs for accommodation of \$2,467.58,⁷ and taxi charges of \$229.84 for their attendance at the workshops, the witness preparation sessions and the hearing.

⁷ Approval of hotel accommodation was calculated using the night before and nights during the workshops, witness preparation sessions, or hearings.

Mr. Osler and Ms. Pollitt-Smith's actual meal costs were only partially supported by actual receipts. Therefore, in lieu of the meal costs claimed, the Board awards per diem dinner and incidental expenses amounts for the two consultants for six days of attendance at the GRA workshop on August 2-3, 2017, the YECSIM workshop on February 12, 2018 and attendance at the oral hearing on June 26-28, 2018, in the total amount of \$909.60.⁸

Miscellaneous office supplies of \$80.07 is denied because this expense was not accompanied by a receipt and the lack of a detailed explanation of the cost incurred required by section 4.2 a of the Scale of Costs.

Further, given the size of the GRA, the \$3,997.95 for photocopying is unreasonable, given the size of the application and proceeding. Further, it is unclear to the Board whether photocopying charges were billed to YEC at the Board rate of 10 cents per page or another amount. In light of these reasons, the Board awards 40 percent of the disbursements claimed for photocopying and awards \$1,599.18 for photocopying. \$142.26 for telephone charges are approved.

For the reasons above, the total disbursements awarded for InterGroup is \$15,002.63.

YEC disbursements

YEC claimed disbursements of \$2,451.49 for airfare, \$1,730.67 for accommodation, \$1,489.04 for meals, \$168.22 for courier, \$815.98 for teleconferencing calls, \$221.58 for external printing, \$163.99 for binders, and \$4,469.30 for "Other." YEC's claimed disbursements total \$11,510.27. Taxi and transit costs, and parking receipts submitted unrelated to the attendance at the hearing are denied.

The costs of transcripts for Amicus Reporting Inc. was referenced in the costs application but no accompanying receipt was provided. Consistent with section 4.2 a of the Scale of Costs, transcript costs must be accompanied by a receipt and the "Other" costs for transcripts are denied.

The YEC disbursements for accommodation, airfare, meals, courier charges, and teleconference charges are approved only for YEC's involvement in the workshops, witness preparation sessions or employees' attendance at the hearing. The Board approves those disbursements that were reasonably incurred and demonstrated by receipts. For meals, receipts were provided related to the workshops, witness preparation sessions or the hearing.

Accordingly, the Board awards \$2,451.49 for airfare, \$1,730.67 for accommodation, \$271.80 for meals, \$168.22 for courier, \$815.98 for teleconferencing calls, \$221.58 for external printing, \$154.64 for binders based on the actual amount reflected on the receipt, and \$1,391.06 for "Other" charges (conferencing space and catering). For these reasons, the total disbursements awarded for YEC is \$7,205.44.

⁸ Per diem amounts as allowed in *Meals and Incidental Expenses for Employees on Travel Status, Rates Effective April 1, 2018*, dinner per diem of \$58.50 and Incidental Expenses per diem of \$17.30. Catering by YEC was provided during the day so an entire per diem rate for meals is not required.

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

For the GRA proceeding:

DLA Piper LLP (fees and disbursements)	\$109,187.52
InterGroup Consultants Ltd. (fees and disbursements)	\$377,675.78
Yukon Energy Corporation (disbursements)	<u>\$ 7,205.44</u>

Total costs awarded: for GRA proceeding **\$494,068.74**

For the ERA Part 2:

InterGroup Consultants Ltd. (fees)	<u>\$ 21,105.60</u>
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Total costs awarded: **\$515,174.34**

BOARD COSTS

5. Yukon Utilities Board

The Board costs with respect to the GRA 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 \$244,025.32.

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	\$ 78,197.06
UCG	\$ 39,181.25
John Maissan	\$ 6,405.00
YEC	\$515,174.34
Government of Yukon (Board costs)	<u>\$244,025.32</u>

Total costs awarded: **\$882,982.97**

Dated at the City of Whitehorse, Yukon, the 23rd day of May 2019.

BY ORDER



Robert Laking
Chair