

UTILITIES CONSUMERS' GROUP  
Box 9300  
29 Wann Road  
Whitehorse, Yukon Y1A 4A2  
email: [rondeau@northwestel.net](mailto:rondeau@northwestel.net)

June 2, 2017

Yukon Utilities Board  
Box 31728  
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Robert Laking, Chair

**Re: ATCO Electric Yukon / Yukon Electrical Company Limited  
2016 / 2017 General rates Application – Phase 1  
UCG Comments on Cost Claims**

Dear Mr. Laking:

The Utilities Consumers' Group (UCG) is in receipt of the cost claims submitted by ATCO Electric Yukon (AEY), the City of Whitehorse, the Yukon Conservation Society, and John Maissan between May 18, 2017 and May 26, 2017.

Following are UCG's comments on the cost claim of AEY for review by the Board.

On a general note, UCG asks the YUB to make a definitive statement regarding how disallowed costs and billings by lawyers and consultants above allowed Scale of Costs rates should be treated by AEY to ensure that these costs are not recovered from Yukon ratepayers.

#### **ATCO Electric Yukon**

UCG submits that the cost claim of AEY again raises considerable concerns with respect to how much in regulatory costs should be recovered through rates charged to Yukon ratepayers, the continued request by utilities for Yukon ratepayers to pay for claimed costs that are not allowed per the YUB's Scale of Costs and on which the YUB has repeatedly denied recovery, and how these disallowed costs are being treated from an accounting and revenue requirement perspective and how transparent this treatment has been.

It appears to UCG that AEY continues its practice of applying to recover costs that the Board has denied in previous proceedings according to the Intervenor Cost Awards Policy and the associated Scale of Costs. UCG does not understand why this utility and its consultants continue to disregard the rulings and determinations of the YUB regarding costs that are not to be recovered from Yukon ratepayers through electricity rates.

UCG submits that the AEY cost claim is incomplete in that it did not include the costs of internal staff and resources used in this application. UCG submits that these costs should be included in a cost claim so that, when a decision by the YUB is issued, all regulatory proceeding costs are amortized over a longer period of time. AEY's practice of expensing internal regulatory costs related to a

proceeding in the year they are incurred simply increases the burden on current Yukon ratepayers and is not consistent with the mediation aspects of amortizing regulatory costs over more than one year.

In UCG's opinion, there should be a formal reporting mechanism stipulated by the Board to ensure that any costs that are disallowed from a utility's cost claim cannot be recovered in any way through rates charged to Yukon ratepayers. UCG submits that along with this mechanism, the utilities should be required to clearly identify in their financial statements how these disallowed costs are being treated. In UCG's view, the Board must be clear in its cost claim order that all costs not allowed to be recovered from ratepayers should be recovered from the utilities' shareholders.

### **Summary of UCG Submission on AEY Cost Claim**

In its cost claim, AEY is asking to recover a total of \$217,639.02 in legal and consultant fees and disbursements. UCG notes that AEY has not accurately filled out the cost claim forms since the GST paid on professional fees and disbursements has not been isolated.

**UCG submits that, at a minimum, a total of approximately \$32,000 should be disallowed from AEY's cost claim and not be recovered from ratepayers.**

### **Costs of Bennett Jones LLP**

AEY is looking to recover an hourly rate of \$350 for the legal services of Deirdre Sheehan, \$320 per hour for the legal services of Blake Williams, \$240 per hour for the legal services of Venetia Whiting and \$140 per hour for articling students (Turecek and De Luca). These are the maximum rates allowed under the YUB's Scale of Costs for lawyers and articling students.

According to the Scale of Costs, the onus is on the claimant to provide sufficient information for the Board to effectively assess its claim.

UCG submits that there has been no information filed to allow the YUB to determine how any of these individuals could qualify for the applied-for hourly rates.

Based on the details provided in AEY's cost claim, the articling students provided what appears to be office support functions. In fact, in a previous proceeding<sup>1</sup>, the Board reduced UCG's cost claim for disbursements related to UCG lawyer's Certificate for Permission to Act because the Board considered these expenses as a necessary expense to practice law in the Yukon and the Scale of Costs does not allow for the reimbursement of membership fees paid to the Yukon Law Society.

21/06/16	A. Turecek	Noting up 28(1) of the Yukon's Public Utilities Act for Ms. Sheehan
29/09/16	F. DeLuca	Ensuring successful completion of Certificate of Permission to Act application for B. Williams

UCG submits that Yukon ratepayers should not be required to pay for the office support functions performed by articling students.

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<sup>1</sup> Board Order 2010-09, page 5

**UCG submits that the \$70.00 included in AEY's cost claim for the legal support provided by articling students should be disallowed from AEY's cost claim and not be recovered from ratepayers.**

UCG notes that there was no evidence provided in AEY's cost claim of actual invoices submitted by Bennett Jones LLP. Without the actual invoices being provided, it is not clear what rates and fees were actually charged by AEY's lawyers. UCG assumes that a majority of the charges actually paid by AEY for the services of Bennett Jones were treated as "non-allowable" for recovery as part of a cost claim but the YUB should still be provided with the actual invoices so that the YUB and other parties will have a reference to ensure that all charges paid by AEY for this proceeding that are not recoverable from ratepayers are indeed not being recovered in electricity rates.

**UCG submits that AEY should be directed to provide all detailed invoices from Bennett Jones related to this proceeding along with calculations showing the amount of above-Scale billing that is to be treated as non-recoverable from Yukon ratepayers.**

With respect to disbursements, the Scale of Costs states that the YUB will consider claims for photocopies or printing charges (10¢ per page). In AEY's cost claim, Bennett Jones has claimed \$642.75 for "external printing" but there are no receipts provided. UCG submits that these costs are distinguished in the AEY cost claim from internal printing which UCG considers an office expense.

**UCG submits that the \$642.75 included in AEY's cost claim for external printing should be disallowed because no receipts were provided and no detail was provided to allow verification that 6,427.5 sheets were printed at 10¢ per page. This cost should not be recoverable from Yukon ratepayers.**

Regarding the hours billed by Bennett Jones, UCG submits it is difficult to determine how much time was spent on various activities. Based on the information provided in the summary documents related to Bennett Jones, UCG submits that time charged for the following activities should not be recoverable from Yukon ratepayers:

20/04/16	D.A. Sheehan	Attending page flip of Application materials <u>in Edmonton – 4 hours travel</u>
06/10/16	R.B. Williams	review issue briefs; Review 2013-15 GRA decision and transcript; <u>Prepare for mock cross examination</u> <u>7.80 hours</u>
07/10/16	R.B. Williams	Internal discussion regarding GRA issues; Review filed and historical Materials in preparation for hearing and <u>mock cross examination</u> ; Review draft reply evidence and email to client regarding same <u>6.60 hours</u>
10/10/16	R.B. Williams	Prepare <u>mock cross examination</u> and prepare materials for hearing <u>5.70 hours</u>
11/10/16	R.B. Williams	Prepare <u>mock cross examination</u> materials; Review proposed application update; <u>Travel to Edmonton from Calgary</u> <u>6.50 hours</u>
12/10/16	R.B. Williams	<u>Attend hearing prep meeting and follow-up regarding same</u> ; Review and discuss application update and other issues / matters <u>11.00 hours</u>

13/10/16	R.B. Williams	<u>Attendance at hearing preparation meeting; Travel from Edmonton to Calgary</u> <u>12.30 hours</u>
17/10/16	R.B. Williams	Draft email to Samsung regarding MOA confidentiality issues; Email client regarding opening statement; <u>Prepare mock cross materials and follow-up from previous mock cross</u> <u>2.90 hours</u>
20/10/16	R.B. Williams	Review revised Application Update; <u>Prepare mock cross; Travel from Calgary to Edmonton</u> <u>5.50 hours</u>
21/10/16	R.B. Williams	<u>Attendance at hearing prep meeting; Travel from Edmonton to Calgary</u> <u>5.50 hours</u>
26/10/16	R.B. Williams	Emails to and from client regarding Samsung and confidentiality provisions; <u>Prepare mock cross examination for hearing prep meetings</u> <u>4.80 hours</u>
27/10/16	R.B. Williams	Prepare direct evidence and prepare hearing materials; <u>Prepare mock cross examination for hearing preparation meetings</u> <u>5.80 hours</u>
30/10/16	R.B. Williams	<u>Attendance at hearing preparation meeting and mock cross</u> <u>8.50 hours</u>

UCG submits that these activities either did not require travel to different locations since this could all be done by conference call and/or video conferencing which is available in all major cities, or involved travel not associated with attendance at the hearing.

Regarding all of the hours put into witness preparation sessions and other preparation for the GRA, which were not detailed, UCG refers to Board Order 2013-08 when similar charges were disallowed from Yukon Energy Corporation's legal cost claim because the Board found those expenses were not reasonable<sup>2</sup>.

**UCG submits that the 4 hours charged as travel time by D.A. Sheehan should not be recoverable from Yukon ratepayers since this time was not associated with the hearing. This equates to a \$700 reduction to the AEY cost claim.**

**UCG submits that at least 80 hours charged by R.B. Williams should be disallowed since it is associated with non-hearing related travel and witness preparation. The related charges of approximately \$25,000 should not be recovered from Yukon ratepayers.**

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<sup>2</sup> Board Order 2013-08 page 14

### **Costs of Concentric Energy Advisors**

Within its cost claim, AEY has included **\$71,556.58** (\$68,223.75 professional fees plus \$3,332.83 disbursements) as costs associated with Concentric's work at hourly rates ranging from \$45 for support staff to \$270 for senior professional staff.

Concentric was hired by AEY to determine whether a risk premium relative to the BCUC Generic Cost of Capital benchmark utility would be appropriate and, if so, what that risk premium should be. Concentric submitted that the premium should be 60 basis points. In response, the YUB determined that the BCUC set a premium for a small size utility at 25 basis points which it deemed reasonable for the Yukon. UCG submits that this simplified analysis of what the BCUC allowed for utilities similar to AEY would have saved AEY and Yukon ratepayers a lot of consultant costs.

According to the Scale of Costs, the onus is on the claimant to provide sufficient information for the Board to effectively assess its claim. UCG submits that there has been no information filed to allow the YUB to determine how any of the Concentric staff individuals could qualify for the applied-for hourly rates.

After reviewing the 9 invoices submitted by Concentric as part of the AEY cost claim, UCG makes the following observations:

- Total charges by Concentric were \$131,525.90 US (approximately \$176,600 Cdn). This amount seems extravagant for a jurisdiction the size of the Yukon for which a simple research effort on what has been allowed in BC for a risk premium would have sufficed.
- Since only Mr. Coyne's resume has been provided and he was the only Concentric staff that testified at the hearing, it is assumed that the other staff charging time to this project were support staff. However, without background on their qualifications, the charged hourly rates cannot be justified.
- There are no receipts provided for the disbursements made on airfare, taxi or accommodation.

According to the Scale of Costs, the time spent by "secretarial or support staff who are not part of the office staff of the consultants, analysts or experts" can be charged to Yukon ratepayers at \$45 per hour. UCG submits that the "project assistants" identified in Concentric's portion of the AEY cost claim are in fact employees of Concentric Energy Advisors and are not entitled to be included in the cost claim.

**UCG submits that the \$348.75 in professional fees claimed that are associated with Merari Perez, Regina Kolb and Wendy Preston included in the Concentric portion of AEY's cost claim should be disallowed and not be recovered from Yukon ratepayers.**

**UCG submits that AEY should be directed to ensure that the difference in allowed vs. charged professional fees for Concentric (approximately \$110,000 if all claimed amounts are allowed) are not recovered from Yukon ratepayers.**

**UCG submits that all disbursements claimed on behalf of Concentric within AEY's cost claim (\$3,332.83) not be allowed given that no receipts were provided to verify amounts charged.**

## **Costs of ATCO Electric Yukon**

The Scale of Costs includes the following regarding costs claimed with respect to meals, accommodation and travel:

### *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.*

### *Accommodation*

*The maximum daily claim for accommodation will be based on the allowable rates for accommodations as specified in the most current Accommodation and Car Rental Directory published by Public Works and Government Services Canada (or a renamed successor document). Claims for accommodation are restricted to the duration of an oral hearing. Receipts must accompany all claims for accommodation.*

### *Travel*

*The Board will recognize claims for airfare at economy rates or less. Claims for airfare are restricted to an oral hearing. Receipts are required and must clearly identify the date of departure and arrival.*

While AEY's cost claim included a table showing the rates used by the Yukon Government for meals and incidental expenses effective April 1, 2016, no receipts were provided for any meals so it is unknown what was actually spent on meals by the 6 people listed on page 61 of the PDF of AEY's cost claim nor if they were out of pocket for any meal expense.

UCG submits that while the Government of Yukon has identified a daily limit, this is simply the summation of the spending limits for 3 meals plus incidentals and should not be assumed as an allowed per diem that is automatically paid out. There is no provision in the YUB's Scale of Costs for incidentals and there is a requirement for receipts for any expense claimed.

**UCG submits that the \$1,682.40 included in AEY's cost claim for meals for staff and consultants during the hearing should be disallowed from AEY's cost claim because of the lack of required receipts and not be recovered from Yukon ratepayers.**

With respect to accommodations, AEY's cost claim includes \$1,826.40 for the hotel stays for 4 staff during the oral hearing. The receipts provided indicate that the actual accommodation costs for these individuals totalled \$4,666.76 because they actually paid a higher daily rate than is allowed to be recovered from Yukon ratepayers and the hotel accommodations were provided for more days than just the oral hearing.

**UCG submits that AEY should be directed to exclude the \$2,840.36 identified as accommodation costs above the allowed Scale amounts from the costs recovered through rates charged to Yukon ratepayers.**

With respect to travel expenses, AEY's cost claim includes the costs of two airline tickets for both James Gratton and Doug Tenney. The second tickets show them travelling before the hearing.

**UCG submits that \$222.17 included in AEY's cost claim for additional travel before the hearing be disallowed from AEY's cost claim and not be recovered from Yukon ratepayers.**

Within its cost claim, AEY has included \$31.50 for services provided by Office Supply Centre. No receipt was provided.

**UCG submits that the \$31.50 included in AEY's cost claim for services provided by Office Supply Centre should be excluded from any amounts allowed to be recovered from Yukon ratepayers.**

Yours truly,

Roger Rondeau  
Utilities Consumers' Group