



PUBLIC INTEREST ADVOCACY CENTRE

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September 10, 2014

Yukon Utilities Board
Box 31728
Whitehorse, Yukon
Y1A 6L3

Attention: Mr. Bruce McLennan, Chair

Dear Mr. McLennan:

Re: Comments of the Utilities' Consumers Group
Re: YCS-LE Application for Review and Variance of Board Order 2014-12

We are counsel for the Utilities Consumers Group (UCG) that has also made application to review the above noted order. While UCG clearly has an interest in the review of the order, there are several observations which UCG wishes to make that we hope are helpful to the deliberations of the Board in the within application.

Both regulated utilities in the Yukon are small in customer size, but present difficult and complex issues associated with the delivery of energy in an environment that has a unique set of challenges. This includes an obvious commitment by the citizens of the Yukon and customers of the utilities to preserve the natural ecosystems of the territory.

Counsel and the counsel team acting for intervenors are aware of the challenge of attempting to alter the recommendations of the regulated utilities to be congruent with the positions advanced by their clients on key value for money or environmental concerns. One of the most pressing challenges is the necessity to tailor the intervention within realistic regulatory cost expectations and, at the same time, do what has to be done to do a reasonable job. Counsel generally do not have the benefit of some common regulatory tools that help to abbreviate the time spent on a proceeding. There are usually no issues lists, no settlement conferences, no Board sponsored independent witnesses nor a framework of performance based regulation in place to reduce counsel time. Instead, the main thrust of the representation must be a testing of the company evidence and the use of cross examination and the Company's own evidence to draw different conclusions. While there is the possibility of eliciting opposing independent expert evidence, the cost and risk of the same are almost always prohibitive.

At the end of the day, the reasonableness of the costs incurred by participant counsel must be considered in light of the above, as well as the necessity of counsel and the counsel team to be sufficiently prepared to deal with the expert panels of the Company. The panel witnesses generally have a career's worth of experience in dealing with the issues in play together with a considerable Company investment in witness preparation.

UCG are not suggesting that the cost claims of intervenor counsel or the counsel team should be immune from scrutiny, but comparisons between work done by participating counsel should be carefully applied and butcher-block cost reductions avoided. Most importantly, any reductions must not leave the amount allowed for representation outside the envelope of the time required by reasonable counsel of equivalent experience and/or the counsel team. The end result of this order seems to be an outlier compared to amounts allowed in other boards and tribunals with which UCG counsel is familiar. For the intervenor funding process to successfully function, it must be frugal, but it cannot generate results that present too large a risk for counsel, particular experienced counsel, to take on in future Board proceedings

Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Michael Janigan". The signature is fluid and cursive, with a prominent horizontal stroke at the end.

MichaelJanigan
Counsel for UCG