

1993-9

YUKON UTILITIES BOARD

DECISION 1993-9

NOVEMBER 24, 1993

RE: INTERVENOR COSTS
1992 CAPITAL HEARING

YUKON UTILITIES BOARD

DECISION 1993-9

FRIDAY, THE 26TH DAY OF NOVEMBER, 1993

IN THE MATTER OF the Public Utilities Act, being Chapter 143 of the Revised Statutes of Yukon, 1986, as amended;

AND IN THE MATTER OF submissions made by the Yukon Electrical Company Limited and Yukon Energy Corporation to the Yukon Utilities Board for approval of Capital Plans pursuant to Order in Council 1992/92:

AND IN THE MATTER OF applications made by intervenors for an award of costs.

BEFORE:

THE YUKON UTILITIES BOARD

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The Yukon Energy Corporation and the Yukon Electrical Company Limited filed Capital submissions pursuant to Order in Council 1992/92 with the Yukon Utilities Board. The submissions requested the Board to approve major capital projects and contract commitments through to AD 2001.

The Board held pre-hearing conferences on August 8, 1992 and September 25, 1992. The following intervenors were recognized by the Board:

- the City of Whitehorse;
- Friends of Aishihik & Associates;
- New Era Electrical Corporation;
- Richie Outfitters Limited;
- the Whitehorse Chamber of Commerce;
- the Yukon Chamber of Mines; and
- the Yukon Conservation Society.

Section 56 of the Public Utilities Act (Chapter 143) states:

The board may order to whom or by whom any costs incidental to any proceeding before the board are to be paid, and may fix costs to be paid.

The Board prepared and issued a paper entitled Intervenor Costs in June, 1991 which fixed the criteria the Board will use in awarding intervenor costs for interventions which are an assistance to the Board.

In Board Decision 1993-4, intervenor costs were awarded to:

- Friends of Aishihik;
- New Era Electric Corporation; and
- the Yukon Conservation Society.

The City of Whitehorse is the sole outstanding applicant for intervenor costs from the Capital Hearing.

In considering requests for intervenor funding it must be remembered that the purpose of regulating utilities is to attempt to replace free market forces in situations where competition is not available or practical.

The public hearing process is a review of applications for capital projects or rates and obtains a wider perspective by public input through interventions. Interventions may be presented by individuals or groups. They may present a particular point of view or a view of a section of society through a special interest group. No matter who is presenting an intervention, its purpose must be to assist the Board in its deliberations.

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The public hearing process is expensive and time consuming . Where interventions or parts of them clearly exceed the jurisdiction of the Board, they will be ruled to have no relevance. No cost can be recovered for such interventions.

The Board is well aware that most intervenors are concerned citizens who are devoting their own time to preparing and presenting interventions. The Board's purpose in establishing an Intervention Cost Policy was to attempt to reduce the out-of-pocket expenses for intervenors. The Board is also mindful that intervenor costs are added to the Utilities' general revenue requirement; hence, paid for by ratepayers.

These comments met with both positive and negative reaction. After careful consideration, the Board has decided to continue to comment on intervention. The Board believes Administrative Law and Board Practices and Procedures are relatively new areas of law which are continuing to grow and evolve. The Board has determined that it is only by making comments that intervenors can learn how to best assist the Board.

COSTS AWARD

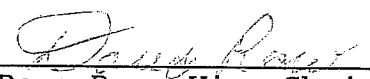
The City of Whitehorse coordinated a professional intervention that was of great value to the Board. The presentations by Mr. Sully and Mr. Davies were particularly well researched and of assistance to the Board.

City of Whitehorse claimed \$101,995.46

Costs allowed:

- Transcripts	\$ 4,747.59 @ 100%	4,747.59
- P. Sully - Fees	36,968.50 @ 75%	27,726.38
- Disbursements	8,000.35 @ 75%	6,000.26
- B. Marcus - Fees	31,886.55 @ 50%	15,943.28
- Disbursements	1,664.76 @ 50%	832.38
- M. Davies - Fees	18,005.96 @ 75%	13,504.47
- Disbursements	681.75 @ 100%	681.75

Total costs awarded by the Board \$ 69,436.11


Doug Row, Vice Chair
Yukon Utilities Board

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IN THE MATTER OF the Public Utilities Act, being Chapter 143 of the Revised Statutes of Yukon, 1986, as amended;

AND IN THE MATTER OF submissions made by the Yukon Electrical Company Limited and Yukon Energy Corporation to the Yukon Utilities Board for approval of Capital Plans pursuant to Order in Council 1992/92:

AND IN THE MATTER OF applications made by intervenors for an award of costs.

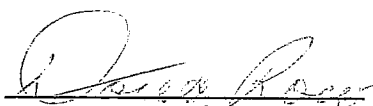
BEFORE:

THE YUKON UTILITIES BOARD

ORDER:

IT IS HEREBY ORDERED THAT the Yukon Electrical Company Limited and the Yukon Energy Corporation shall pay the City of Whitehorse the awarded intervenor costs totalling \$69,436.11 and such payment shall be forthcoming within 30 days of the issuance of this order.

Dated at Whitehorse, Yukon this 26th day of November, 1993.


Doug Row, Vice Chair
YukonUtilitiesBoard

YUKON UTILITIES BOARD DECISION

DECISION 1993-10

NOVEMBER 30, 1993

RE: COMPLAINT OF
JESSIE SCARFF and LEO LEGACE

YUKON UTILITIES BOARD

DECISION 1993-10

TUESDAY, THE 29TH DAY OF NOVEMBER, 1993

IN THE MATTER OF the *Public Utilities Act*, being Chapter 143 of the Revised Statutes of Yukon, 1986, as amended;

AND IN THE MATTER OF a complaint of Jessie Scarff and Leo Legace with respect to the provision of service by Yukon Electrical Company Limited ("YECL").

On November 23, 1993, Stephen Walsh, solicitor for Jessie Scarff ("Scarff") and Leo Legace ("Legace") filed a complaint with this Board pursuant to section 44(1) of the *Public Utilities Act* (the "Act").

The complaint included the following:

1. A letter dated November 23, 1993 from Stephen Walsh.
2. Photocopies of photographs.
3. Government of Yukon - Certificate of Inspection.
4. Government of Yukon - Electrical Inspection Service Connect Permit for house 21 and house 100
5. Sketch.
6. City of Whitehorse - Property Assessment Notice.
7. Government of Yukon - Memo from Vern Toews.
8. Letter from Mr. Walsh dated October 4, 1993 to Vern Toews and Lynn Lambert.
9. Correspondence dated October 6, 1993 from Vern Toews to Stephen Walsh.
10. Letter dated October 5, 1993 from Lynn Lambert to Stephen Walsh.

Pursuant to section 44(2) of the Act, a copy of the complaint filed with the Board was served on YECL.

Letter from Harvey Kerslake to the Yukon Utilities Board dated November 24, 1993.

On November 29, 1993, the Board received the following:

1. Letter dated November 29, 1993 from Ken Steele, Lands Manager with the White Pass Yukon Corporation Limited.
2. Survey sketch dated 29 November 1993.

The Board met on November 29, 1993, to consider the complaint.

As a preliminary matter, under section 45 of the Act, the Board, found that it had the jurisdiction to deal with the matter before it. The Board further found under section 45(3) of the Act that the facts upon which the complaint is based did not occur more than six months before the complaint was filed.

The Board is of the understanding that the complaint pertains to the provision of electricity to a house located in the ship yards area of Whitehorse, being an area in which YECL provides a service as defined by section 1 of the Act.

Section 106 of the Act states:

That all companies having the privileges conferred by this part shall supply the utility controlled by them to all persons within the area covered by the privilege except in such cases where the company may lawfully refuse to supply such utility.

Section 58(1) of the Act states:

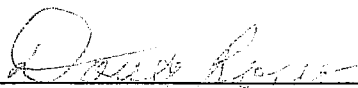
The Board may order any person to do anything that such person is or may be required to do under this Act and may forbid the doing of anything that is contrary to this Act.

YECL, as a company, having the privileges conferred by the Act, shall supply the utility controlled by it to all persons within the area covered by the privilege except in such cases where YECL may lawfully refuse to supply such utility.

ORDER

IT IS HEREBY ORDERED THAT YECL shall supply electricity to Jessie Scarff and Leo Legace for house 21 and house 100 as described in the Connect Permits, within 14 days on the condition that Jessie Scarff and Leo Legace comply with the normal requirements of YECL for security and the opening of an account, unless within the said 14 days YECL applies to this Board for a stay of this Order on the grounds that YECL may lawfully refuse to supply electricity.

Dated at Whitehorse, Yukon this 30th day of November, 1993.



Vice Chair, Yukon Utilities Board