

IN THE MATTER OF the *Public Utilities Act*
and
An Application by Yukon Electrical Company Limited for
Approval of Revenue Requirements for 2013 through 2015 inclusive

BEFORE: B. McLennan, Chair) August 5, 2014
 A. Fortin)
 R. Boisvert)
 N. Prasad)

BOARD ORDER 2014-11

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 May 27, 2013, Yukon Electrical Company Ltd. (YECL or Company) filed with the Board, pursuant to the Act, and Order-In-Council 1995/90, an Application requesting an order approving a forecast revenue requirement for the 2013, 2014 and 2015 test years, an interim refundable rate rider effective July 1, 2013, approval for the continued use of deferral accounts listed in the application, approval to discontinue purchasing third party distribution line insurance after July 1, 2014 and approval of the updated depreciation parameters (Application);
- C. On June 6, 2013, the Board issued Board Order 2013-02 regarding the Application which proposed a proceeding schedule with a hearing to commence on November 4, 2013;
- D. On June 20, 2013, the Minister of Justice authorized the Board to incur the expenses necessary to conduct a public hearing into the Application pursuant to Section 50 of the Act;
- E. On June 25, 2013, the Board issued Board Order 2013-05 granting intervener status to the City of Whitehorse, John Maissan, Leading Edge (LE), Utilities Consumers’ Group (UCG), Yukon Conservation Society (YCS), Yukon Energy Corporation (YEC) and Town of Watson Lake (WL);
- F. On November 4, 2013, the Board held an oral public hearing in the City of Whitehorse, Yukon. The Board was comprised of Bruce McLennan, Chair, and members Andre Fortin, Robert Boisvert and Naresh Prasad. On April 23, 2014, the Board issued Board Order 2014-06 approving the Application for the reasons set out in Appendix A to that order;

- G. Following the release of Board Order 2014-06, the Board reminded participants respecting the filing of costs claims;
- H. The Board received costs claims from:
1. City of Whitehorse,
 2. LE,
 3. UCG,
 4. YCS,
 5. WL, and
 6. YECL;
- I. The Board received comments from UCG on the cost claim of WL, YECL, LE and YCS in letters dated June 2 and June 3, 2014;
- J. YECL replied to the UCG's comments on its costs claim in a letter dated June 18, 2014;
- K. The Board has reviewed all the costs claims and comments of the participants;
- L. 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
- M. 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 and 2013-08.

NOW THEREFORE, the Board orders as follows:

INTERVENER COSTS

1. City of Whitehorse

City of Whitehorse claiming:

Brownlee LLP (Fees, Disbursements and GST):	\$25,431.92
Russ Bell & Associates Inc. (Fees, Disbursements and GST):	<u>\$24,687.31</u>

Total costs claimed:	\$50,119.23
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Comments

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

In its cost claim, the City of Whitehorse submitted that its participation was effective and relevant to the issues at hand. It added that it was a full participant in the proceeding and believed that its participation was warranted and beneficial. City of Whitehorse contended that its costs were reasonably and prudently incurred.

City of Whitehorse was represented by Thomas D. Marriott and Kristjana Kellgren of Brownlee LLP. Mr. Marriott has 20-plus years of experience, is senior counsel, and charged the hourly rate of \$350. The hours claimed for Mr. Marriott are 11.85 for preparation. The total amount claimed for Mr. Marriott is \$4,147.50.

City of Whitehorse claimed the hourly rate for Ms. Kellgren of \$280. Ms. Kellgren has five years of experience. The hours claimed for Ms. Kellgren are 43.25 for preparation, 18.5 for attendance, and 6.25 for argument and reply. The total claimed for Ms. Kellgren is \$19,040.

City of Whitehorse submitted that Mr. Bell has extensive experience in regulated industries, representing both utilities and customers. In its costs claim, City of Whitehorse claimed \$200 an hour for Mr. Bell. The hours claimed are 91.75 for preparation, 13 for attendance, and 12.5 for argument and reply. The total claimed for Mr. Bell is \$23,450.

Disbursements were claimed for Brownlee LLP in the amount of \$2,244.42 and for Russ Bell & Associates Inc. in the amount of \$1,237.31. GST was included in the invoices of Brownlee LLP and Russ Bell & Associates Inc.

Board Cost Award

The Board considered that the City of Whitehorse participated fully in all aspects of the Application and its intervention was of assistance to the Board in making its decision. The Board notes that there was no duplication in the legal services provided by Mr. Marriott and Ms. Kellgren. The Board considers that the hourly rate claimed is within the Scale of Costs. The hours claimed are reasonable and directly related to the proceeding, except for the following fees. In April 2014, Ms. Kellgren claimed 2.5 hours for reviewing and preparing a summary of the Board's decision on the Application. The legal fees for these hours are 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 \$700 plus \$35 GST.

With regard to the consultant fees claimed for Mr. Bell, the fees are within the Scale of Costs. The Board notes that Mr. Bell claimed four hours to review the Board decision on the Application and prepare a summary. The consultant fees for these hours are disallowed because the fees were incurred after the close of the proceeding and were not for the purpose of the proceeding. Therefore, the consultant fees claimed are reduced by \$800 plus \$40 GST.

Regarding the disbursements submitted, 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 \$157.50 (\$105 for Ms. Kellgren and \$52.50 for Mr. Bell) for booking fees. In addition, there appears to be two return flights charged for Ms. Kellgren and Mr. Bell; therefore, the Board has reduced the airfares claimed by \$635 (\$390 for Ms. Kellgren and \$245 for Mr. Bell). All other costs 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:	\$22,452.50
Disbursements:	\$ 1,749.42

Consulting Services Provided by Russ Bell & Associates Inc.

Professional Fees and GST:	\$22,610.00
Disbursements:	<u>\$ 939.81</u>

Total costs awarded	\$47,751.73
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2. John Maissan, resident of the City of Whitehorse

Mr. Maissan claiming:

Consulting (Fees and GST):	\$ 6,168.75
Hearing Attendance:	<u>\$ 400.00</u>

Total costs claimed:	\$ 6,568.75
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Comments

In his costs claimed, Mr. Maissan stated that he is well-qualified to be an effective intervener because he is a registered professional engineer in the Yukon with more than 20 years of experience in matters related to the electricity sector. Mr. Maissan added that he has broad familiarity with the regulated electrical utilities of the Yukon and their technical issues in particular. Mr. Maissan stated that he addressed issues related to the Application including the Fish Lake unit 1 hydro plant rebuild, O&M expenses, return on equity, equity thickness, Watson Lake Bi-Fuel Project, the AMR project, and DSM. The review noted that he coordinated his efforts with YCS so as not to duplicate each other's anspectives where they were aligned. Also, he did not repeat cross-examination by other interveners who addressed subjects that covered issues of interest to him, in accordance with Section 3.1(iv) of the Scale of Costs. Mr. Maissan participated in all aspects of the proceeding.

Mr. Maissan included an hourly rate of \$100 and acknowledged the rate is at the Board's discretion. The hours claimed are 27 for preparation and 31.75 for argument and reply. Mr. Maissan also claimed a \$50 honorarium for eight half days of hearing attendance, totaling \$400. He noted that, under section 4.3 of the Scale of Costs, the hourly rate of an unrepresented intervener shall not exceed \$100 an hour and will be determined by the Board when assessing the costs claim. However, a consultant with similar experience is allowed an hourly rate of \$270.

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. He is not eligible to claim professional fees as a consultant. The Board notes that in the past it has awarded Mr. Maissan \$50 or \$75 an hour. 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 found Mr. Maissan's submissions to be useful in addressing a number of the issues before the Board in the Application. As a result, the Board has chosen to exercise its discretion and award Mr. Maissan an hourly rate to \$75 an hour. 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. 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.

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

Consulting (Fees and GST):	\$4,626.56
Hearing Attendance:	<u>\$ 400.00</u>

Total costs awarded:	\$5,026.56
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3. Utilities Consumers' Group

UCG claiming:

Public Interest Advocacy Centre (PIAC):	
Legal Fees, Disbursements and HST):	\$37,135.55
PaTina Energy Consultants (Fees and HST):	<u>\$24,436.25</u>

Total costs claimed:	\$61,571.80
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Comments

UCG was represented by Michael Janigan, legal counsel from PIAC, and it employed Pat McMahon of PaTina Energy Consultants. UCG noted that Mr. Janigan qualifies for a rate of \$330 an hour in accordance with the Ontario Energy Board tariff, having been called to the Ontario Bar in 1980, but requested the Board allow recovery of \$350 an hour, in accordance with the Board's Scale of Costs.

UCG stated that Mr. McMahon took the lead in preparing UCG's registration as an intervener and UCG's submission on proposed interim rates, UCG's Information Requests (IRs) to YECL, UCG's response to YECL's request for an extension on information responses, UCG's motion for more complete information responses from YECL and UCG's related response to YECL comments on the motion, UCG's cross-examination questions and book of cross-examination materials, and UCG's final

argument and reply argument. It contended that this approach saved ratepayers from paying additional regulatory costs given the difference between the claimed hourly rates of Mr. Janigan and Mr. McMahon and affirmed that Mr. McMahon's requested rate of \$125 an hour and the hours claimed on his behalf are more than justified. UCG added that in view of the nature and complexity of the proceeding, the costs incurred by UCG were reasonable and were directly and necessarily related to UCG's effective participation. UCG also acted responsibly and contributed to a better understanding of the issues to be decided by the Board.

The hours claimed for Mr. Janigan are 32.52 for preparation, 25 for attendance, 23.24 hours for travel to the oral hearing, at \$175 an hour, and 19.14 for argument and reply. The hours claimed for Mr. McMahon are 122 for preparation and 51 for argument and reply.

Board costs award

The Board has considered the legal fees claimed for Mr. Janigan and considers that the total number of hours claimed is not reasonable in light of the tasks performed by Mr. McMahon. The Board notes that 76.66 hours were claimed for preparation, attendance and argument and reply as well as 23.24 hours of travel time. The Board also took note of the hours claimed by other counsel in this proceeding to perform similar legal tasks and the effectiveness of their participation and UCG's participation. As a result, the Board reduces the legal fees claimed by 25% and travel time by 50%, and awards legal fees in the amount of \$20,123.25 plus travel time in the amount of 2,033.50 and HST of 13%, in the amount of \$2,880.37.

Respecting the consulting fees claimed for Mr. McMahon, Mr. McMahon is presented as a consultant with extensive knowledge of and experience in electrical proceedings in the Yukon. Considering the hours claimed by other parties for their consultants who performed similar tasks as Mr. McMahon, the Board is of the view that the 122 hours claimed for preparation and 55 hours for final argument and reply are excessive. The Board exercises its discretion by reducing the hours claimed by 40% and awarding fees in the amount of \$13,275 plus HST of \$1,725.75.

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 \$2,169.96.

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

Legal Services Provided by PIAC (Mr. Janigan)

Legal Fees and HST:	\$25,037.12
Disbursements and HST:	\$ 2,169.96

Consulting Services Provided by PaTina Energy Consultants

Mr. McMahon Professional Fees and HST: \$15,000.75

Total costs awarded: \$42,207.83

4. Yukon Conservation Society

YCS claiming:

Fees:

Anne Middler: \$35/hour x 49 hours \$ 1,715.00

JP Pinard: \$100/hour x 32 hours \$ 3,200.00

Hearing Attendance for Ms. Middler and Mr. Pinard: \$ 800.00

Total costs claimed: \$5,715.00

Comments

YCS stated that the purpose of YCS's intervention was to question the applicant about actions taken or not taken to reduce reliance on and consumption of fossil fuels that are environmentally costly to extract, process, transport and burn. It added that it opposed the Watson Lake Bi-Fuel Project because LNG requires fracking and argued that LNG is not a solution when renewable alternatives exist. YCS also appeared before the Board because it wanted to cross-examine the joint YECL/YEC witness panel about its Demand Side Management (DSM) plan which it argued did not go far enough to reduce waste and fossil-fueled electricity generation in that it did not address the major loads of space and water heating, nor did it include actions to reduce peak demand. It submitted that its costs were reasonable and it reviewed the Application and DSM plan, prepared IRs, undertook cross-examination, and filed argument and reply. YCS noted that Ms. Middler and Mr. Pinard communicated with Mr. Maissan to avoid duplication.

YCS claimed costs for Anne Middler, the YCS Energy Coordinator, and JP Pinard, energy consultant. The hourly rate claimed by Ms. Middler was \$35. Ms. Middler has been in her position with YCS since June 2008. The hours claimed are 32 for preparation and 17 for final argument and reply argument. Ms. Middler also attended the hearing for four days, and YCS claimed \$400 for her attendance. In addition, YCS claimed \$100 an hour for Mr. Pinard due to his expertise and experience. The hours claimed are 17 for preparation and 15 for final argument and reply argument. Mr. Pinard also attended the hearing for four days, and YCS claimed \$400 for his attendance. The total claimed for Mr. Pinard was \$3,600.

In its letter of June 3, 2014, UCG submitted that YCS should be limited to cost recovery for one individual attending the hearing. UCG also submitted there continues to be no documentation provided regarding a retainer/contract or qualifications related to Mr. Pinard which would qualify him to recover \$100 an hour for his services from Yukon ratepayers. Concerns were also raised by UCG

regarding the hours billed by Ms. Middler. UCG submitted that since no specific dates were provided, it is unknown how much duplication of effort is included in the cost claim with the description provided.

Board costs award

The Board considers that Ms. Middler, and Mr. Pinard were intervening as members of YCS. The YCS cost application was evaluated as that of an intervener under section 4.3 of the Scale of Costs and the applied-for costs are being considered on the basis that YCS is comprised of ratepayers in the Yukon. The members of YCS are not eligible to claim professional fees as consultants. Further, the Board notes that there is no evidence that Mr. Pinard was hired as a consultant; therefore, he is not eligible for consultant fees. The Board considers that an hourly rate for Ms. Middler of \$35 and for Mr. Pinard of \$75 are reasonable.

The Board also asked YCS to provide statements of time spent on the various tasks in support of the hours claimed. On May 30, 2014, the Board received additional information regarding the hours claimed. The Board has taken into account the additional information because it assists the Board in making its decision on the costs claim. The Board considers that there was duplication in the tasks performed by Ms. Middler and Mr. Pinard. In addition, as stated in its costs claim, YCS only raised a few issues in relation to the Application. As a result, the Board reduces the hours claimed by 15%. As a result, the Board awards YCS, for Ms. Middler the amount of \$1,457.75 and for Mr. Pinard, the amount of \$2,040.

The Board accepts the honoraria claimed for Ms. Middler and Mr. Pinard to attend the hearing, as these are in accordance with the Scale of Costs.

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

Fees:

Ms. Middler, including attendance honoraria:	\$1,857.75
Mr. Pinard, including attendance honoraria:	<u>\$2,440.00</u>

Total costs awarded: **\$4,297.75**

5. Town of Watson Lake

Town of Watson Lake claiming:

Professional Fees Stantec Consulting Ltd.	\$12,184.25
GST:	<u>\$ 609.21</u>

Total costs claimed: **\$12,793.46**

Comments

In its costs claim, Town of Watson Lake stated that it retained Stantec Consulting Ltd. to act as its representative during the YECL 2013-15 General Rate Application (GRA) proceeding. It indicated that Joe Acorn was the only Stantec person on the project, with the exception of a small amount of administrative support from Jennifer Chalker for preparation. Mr. Acorn is a registered professional engineer with 16 years of experience. He has served as a Board member of the NWT Public Utilities Board for over 10 years where he oversaw numerous GRA processes and has taken many training courses on various aspects of utility regulation.

The Town of Watson Lake submitted that it is a major user of electricity on the Yukon electrical grid and the purpose of its participation in this proceeding was to act in the interests of the Town and its residents to help ensure that the Yukon electricity grid is regulated in a manner that produces reliable and cost-effective electricity. The Town of Watson Lake added that it was actively involved up until the submission of IRs. Upon reviewing the extent of the participation of other interveners in the process, as indicated by the volume of IRs, the Town of Watson Lake decided to rely to the extent possible upon the submissions and activities of other interveners while monitoring the proceeding. It did not attend the public hearings but reviewed the hearing transcripts and final argument. It decided to weigh in on several issues in reply argument. The Town of Watson Lake submitted that by taking this approach it avoided duplication.

Town of Watson Lake claimed 47.5 hours for preparation and 18.5 for reply argument with an unspecified additional two hours for Mr. Acorn of Stantec Consulting Ltd. and four hours for Ms. Chalker of Stantec for administrative support. The rate claimed for Mr. Acorn was \$178 an hour for 64 hours and \$186 an hour for the two additional hours. For Ms. Chalker, the rate of \$102 an hour was claimed for 2.25 hours and \$109 an hour for 1.75 hours.

In its letters of June 2, 2014 and June 3, 2014, UCG submitted that the information provided for Town of Watson Lake's costs claim for Stantec Consulting did not meet the requirements to qualify for recovery from ratepayers. The claim for costs did not provide details as to what tasks Mr. Acorn and Ms. Chalker undertook. These details are required under section 3 of Schedule 1, Scale of Costs, to determine why the costs submitted are reasonable and the validity of the activities undertaken.

The Town of Watson Lake responded to the UCG's comments on July 7, 2014. It provided additional details regarding Mr. Acorn's qualifications and experience respecting regulatory proceeding and the dates, hours and tasks performed in relation to the Application.

Board costs award

As the costs claim submitted by Town of Watson Lake did not have invoices attached which detailed the hours spent, dates and tasks undertaken by Mr. Acorn, the Board asked the Town to file the information required under section 3 of the Scale of Costs. An invoice was filed but it did not provide an explanation of the time spent, the dates or the tasks performed. Additional details were provided in its letter of July 7, 2014, but not detailed invoices. At least this letter allowed the Board to assess the time spent on the various tasks. The Board also notes that the letter submitting the costs claim described the tasks carried out for Town of Watson Lake in this proceeding. Further, Town of Watson Lake filed IRs on various aspects of the Application and submitted a brief reply argument on three issues, which were of assistance to the Board.

The Board exercises its discretion to award costs for the tasks performed in this proceeding for Town of Watson Lake. The Board cautions participants that if supporting invoices are not filed, the Board may reject a costs claim.

On the basis of the tasks performed and considering the preparation time spent by other participants in this proceeding, the Board awards the 45.5 hours spent in preparation. However, it reduces the hours claimed for final argument and reply argument by 40% as these hours were not reasonable. The Board denies the two hours spent on reviewing the Board's decision in this matter, as these fees do not relate to the proceeding. The rate claimed for Mr. Acorn is based on the fact that he is a professional engineer and has experience in rate matters gained while he was the Chair and CEO of the NWT Public Utilities Board. The Board is of the view that Mr. Acorn's expertise as a professional engineer was not called upon in this proceeding. The Board considers a rate of \$150 an hour to be reasonable. The Board awards for Mr. Acorn fees in the amount of \$8,494 plus GST in the amount of \$424.50.

With regard to the rate claimed for Ms. Chalker, the Board notes that the administrative costs for an employee of the consultant cannot be claimed. The Board disallows the hours claimed for Ms. Chalker.

In summary, the Board awards costs to the Town of Watson Lake as follows:

Professional Fees and GST, Stantec Consulting Ltd.:	\$8,918.50
Total costs awarded:	\$8,918.50

APPLICANT COSTS

6. Yukon Electrical Company Ltd.

YECL claiming:

Bennett Jones LLP (Fees and Disbursements):	\$136,003.63
ICF Consulting Canada Inc. (Fees and Disbursements):	\$ 23,446.00
Gannett Fleming Canada ULC (Fees and Disbursements):	\$128,012.32
ATCO Electric Ltd (Disbursements):	\$ 686.19
YECL (Disbursements):	<u>\$ 11,786.25</u>

Total costs claimed: \$299,934.39

Comments

In its cost claim, YECL highlighted that it had prepared a detailed and comprehensive Application for the three-year test period. It stated that it had responded to 1,126 IRs which required a concentrated effort of more than six weeks and generated nearly 5,000 pages of record in this proceeding. YECL was claiming legal costs, costs and costs for its depreciation and DSM consultants, as well as disbursements. It submitted that it made every effort to conduct itself in the most cost-effective manner possible. The costs incurred were reasonable, in line with the scope, nature and complexity of the proceeding, and in accordance with the Board's Scale of Costs.

Regarding its legal costs, YECL retained Bennett Jones LLP to represent it in this proceeding. Professional fees were charged at \$320 an hour for Allison Sears, an associate, with eight to 12 years at the bar and \$280 an hour for Sebastien Gittens, a junior associate, with five to seven years at the bar. Ms. Sears claimed 282.4 hours for preparation, 32 hours for attendance, and 71.1 hours for final argument and reply argument. In addition, 32 hours were claimed for travel time, eight of which were for attendance at the oral hearing. The total claimed for Ms. Sears was \$128,448. Mr. Gittens claimed 0.7 hours for preparation. The total claimed for Mr. Gittens was \$196. Disbursements in the amount of \$7,359.63 were claimed for Bennett Jones LLP.

In its letters of June 2, 2014, UCG stated that Bennett Jones LLP did not provide information to justify claiming legal fees for Mr. Gittens. UCG took issue with the rates claimed for legal counsel and the rates paid by YECL. It also contended that the Board should not award travel time, other than for purposes of the oral hearing, and time spent on witness preparation. In support of its submission, UCG cited Board Order 2013-08 in which the Board disallowed YEC's legal costs for witness preparation and some travel costs.

In response, YECL reiterated that it kept its legal fees as low as possible even though there was a high number of complex issues associated with the Application and a higher witness preparation time as each panel included first-time witnesses. It argued that witness preparation is a vital step in the process of preparing for a hearing as it ensures that witnesses are fully aware of the hearing process and what will be expected of them, which makes the hearing process as efficient and effective as possible. It contended that recovering costs related to witness preparation is both reasonable and practical.

YECL claimed costs for ICF Consulting Canada Inc. for the development of the five-year DSM plan. Costs incurred for these services were shared equally between YECL and YEC. ICF Consulting Canada Inc. was also engaged to respond to DMS-related IRs and in writing the DSM-related sections of YECL's final argument and reply argument. YECL claimed costs for several consultants within the firm. Judy Simon and Paul Robillard attended the hearing as expert witnesses on the DSM panel. Katelyn Brunskill and Vincent Dufresne were both actively involved in the detailed development of the DSM program and assisted Ms. Simon and Mr. Robillard in the preparation of the hearing and technical support in responding to the IRs. The costs claim only includes YECL's share of the costs, which is one-half of the costs set out below.

The hourly rate claimed for Judy Simon was \$270 an hour, the fee for consultants with 12-plus years of experience. For Ms. Simon, YECL claimed 64.5 hours for preparation, eight hours for attendance, and four hours for final argument and reply argument, as well as 18 hours travel time for preparation and 18 hours for attendance at the oral hearing at \$135 an hour. The total claimed for Ms. Simon was \$12,757.50, which is one-half of \$25,515.

For Mr. Robillard, a rate of \$270 was claimed due to his 12-plus years of experience. The hours claimed are 24 for preparation and eight for attendance. For travel, 18 hours for attendance at the oral hearing were claimed at \$135 an hour. The total claimed for Mr. Robillard was \$5,535, which is one half of \$11,070.

YECL also claimed for ICF Consulting Canada Inc. a rate of \$150 an hour for Vincent Dufresne, a consultant with eight to 12 years of experience. The hours claimed are 22.5 for preparation and 6.5 for final argument and reply argument. The total claimed was \$2,175, which is one-half of \$4,350. The hourly rate claimed for Katelyn Brunskill, a consultant with one-to-four years of experience, was \$115 an hour. Ms. Brunskill claimed six hours for preparation. The total claimed for Ms. Brunskill was \$345, which is one-half of \$690.

YECL engaged Gannett Fleming, an expert in depreciation, to prepare and update its depreciation study and to research and provide an assessment of the reasonableness of including a request to end the pause in including negative salvage in the depreciation rate calculations. YECL submitted that the increase in costs of \$51,880 from the 2008-09 GRA is mainly due to inflation between 2008 and 2013, a site visit to the Yukon which is widely considered an integral requirement of

the completion of depreciation studies, the preparation of additional evidence on the Use of Net Salvage Estimates in the Calculation of Depreciation Rates, and additional time incurred in responding to the increased number of IRs. YECL claimed costs for the following consultants from Gannett Fleming in the amounts noted.

For Larry King, a consultant with 12-plus years of experience, two different hourly rates were claimed. Mr. King claimed 151 hours for preparation at \$250 an hour and eight hours for travel associated with this preparation at \$125 an hour. These hours were completed from December 14, 2012 to June 17, 2013. Mr. King also claimed 109 hours for preparation, four hours for attendance, and nine hours for final argument and reply argument at \$260 an hour, with eight hours for travel associated with this attendance, at \$130 an hour. These hours were completed from August 16, 2013 to January 22, 2013. The total claimed for Mr. King was \$71,510. In addition, one hour was claimed for Gilles Fournier, a consultant with 12-plus years of experience for preparation at \$200.

For Gary Mah, an associate analyst with 12-plus years of experience, two different hourly rates were claimed: 285.50 hours for preparation at \$140 an hour for hours completed from December 14, 2012 to June 17, 2013 and 58.50 hours for preparation at \$150 an hour for hours completed from August 16, 2013 to January 22, 2013. The total claimed for Mr. Mah was \$48,745. In addition, two different rates were claimed for Hilary Carlucci, a junior analyst with one to four years of experience: \$105 an hour for 39 hours for preparation completed from December 14, 2012 to June 17, 2013 and \$110 an hour for three hours for preparation completed from August 16, 2013 to January 22, 2013. The total claimed for Ms. Carlucci was \$4,425.

Disbursements were claimed for Bennett Jones LLP in the amount of \$7,359.63, for ICF Consulting Canada in the amount of \$2,633.50, for Gannett Fleming in the amount of \$3,132.32, ATCO Electric in the amount of \$686.19, and YECL in the amount of \$11,786.25.

In its letter of June 2, 2014, UCG criticized the expertise of ICF Consulting Canada Inc. and the DSM plan put forward in the proceeding. It asked that the Board disallow any consultant fees claimed for any junior associates or other staff because they were duplicative of the services provided by the consultants who appeared at the oral hearing. It cited Board Orders 2009-11 and 2013-08 in support of its submission. It also argued that travel time and disbursements related to preparation should be disallowed because these claims are not related to the oral hearing and not allowed under the Scale of Costs.

UCG also submitted that Gannett Fleming had not provided sufficient detail of the activities undertaken by the individuals named in the invoices to allow the Board to understand the nature of their contributions to YECL's Application or the duplicative nature of their work. Further, it contended that there were no formal contractual terms of reference for the services provided by Gannett Fleming and the lack of

terms of reference left YECL open for an unlimited amount of charges. It added that any claims for junior staff were not supported and appeared to be for administrative or support staff as no qualifications of the junior staff were submitted. UCG took issue with the number of hours claimed by Gannett Fleming as well as with travel time and said that disbursements related to preparation should be disallowed because these claims are not related to the oral hearing and are not allowed under the Scale of Costs.

YECL stated that UCG's positions on the services provided by the consultants appear to indicate that the consultants were inefficient in the work completed or, at worst, overbilling for hours not incurred. YECL submitted that there was no evidence to support a conclusion that the number of hours charged was unreasonable and YECL did not believe that this is the case. It added that YECL carefully reviews the hours billed to ensure that they are in line with the expected amounts and, if discrepancies occur, will follow up with the consultant. This was evidenced by the fact that Gannett Fleming charges were reduced after discussions with YECL.

Regarding the use of junior staff by Bennett Jones (Mr. Gittens), ICF Marbek (Katlyn Brunskill and Vincent Dufresne) and Gannett Fleming (Hilary Carlucci, Garry Mah and Gilles Fournier), YECL argued that it would be inefficient and not cost-effective to expect that the senior and most expensive staff from the firms employed by YECL in this proceeding would do all of the work required. Junior staff were used to prepare analyses and research under the direction of the senior staff and at a lower rate, which reduces the amount paid by ratepayers. YECL submitted this was a reasonable approach.

YECL contended that witness preparation held remotely, either by telephone or videoconference, was not effective given that it is meant to simulate the actual hearing. As such, UCG's claim that costs related to witness preparation should not be recoverable is neither reasonable nor practical. YECL added that the locations of the witness preparation sessions held for the hearing were chosen specifically to minimize the amount of travel required. In the case of the DSM panel, witness preparation sessions were held in Whitehorse, for which UCG disputes the costs for both Bennett Jones and ICF Marbek. The witnesses for both YECL and Yukon Energy were based in Whitehorse, so having the two witnesses for ICF Marbek travel from Ottawa to Whitehorse and Ms. Sears travel from Calgary was the most efficient and cost-effective method of ensuring that the DSM witness panel was prepared for the hearing.

Regarding the disbursements claimed, UCG submitted that Yukon ratepayers should not have to pay for flights, accommodations and meals for the Manager, Financial Reporting & Accounting from ATCO Electric to attend the oral hearing as support staff for witness panels. It argued that such support could have been handled by telephone and e-mail or by local YECL staff. UCG also contended that accommodation and meal charges in excess of the Government of Yukon's rates should be disallowed.

In response to UCG's submission that that the travel costs for the Manager, Financial Reporting & Accounting should not be allowed, YECL stated that this manager played a principal role in the preparation of the Application and the preparation of responses to IRs. As a result, this position was chosen as the most capable to provide support to witnesses in the hearing room, including tracking and responses to undertakings and subject to checks.

Board costs award

Respecting legal fees and disbursements claimed for Bennett Jones LLP, the Board considers that the legal fees are in accordance with the Scale of Costs. The Board notes the total hours claimed include 307 hours for preparation. The preparation hours include time spent on witness preparation and travel. In Board Order 2013-08, the Board stated the following:

Costs claimed for witness-preparation sessions and other preparation for the GRA, which were not detailed, are disallowed, as the Board finds these expenses were not reasonable considering the witnesses in question had appeared before the Board in other proceedings and had prepared the Application.

...

With respect to disbursements, the Board in the past has exercised its discretion by allowing for the recovery of travel expenses claimed by a utility for the preparation of its application if these costs were reasonable. The Board has reviewed the travel costs for meetings claimed by Davis LLP, InterGroup and YEC, which amount to \$42,956.16. These costs also include travel related to three witness-preparation sessions. The Board has reviewed the travel costs for meetings claimed by Davis LLP and finds that, aside from travel costs associated with the October 2012 witness-preparation session, these costs are reasonable. Therefore, the Board reduces the travel expense claim for Davis LLP by \$1,517.24 for the witness preparation sessions.¹

The Board is not convinced by the arguments put forward by YECL that witness preparation results in a more effective and efficient hearing. Although some witnesses were appearing before the Board for the first time, the Board's hearing process is not complex. Further, the YECL witnesses had prepared different parts of the Application and responded to IRs or prepared expert reports and should be able to respond to questions in cross-examination. Therefore, the Board remains 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. As the hours spent on witness preparation in September and October 2013 were not specified, the Board has reduced a portion of the total hours claimed in those two months based on all the tasks described. As a result, the Board disallows 40 hours in witness preparation at a rate of \$320 an hour and 16 hours of travel time at a rate of \$160 for a reduction in legal fees in the amount of \$13,360. The Board awards the amount claimed for Mr. Gittens as he is

¹ Board Order 2013-08, pages 14 and 15

legal counsel and there does not appear to be any duplication in tasks seeing the amount claimed in fees. The Board awards legal fees in the amount of \$115,284 for Bennett Jones LLP.

Regarding disbursements claimed for Bennett Jones LLP, the Board reduces the claim for travel expenses for the witness preparation by \$3,763.73, travel costs set out in the invoices of September and October 2013. The Board awards disbursements in the amount of \$3,595.90.

Regarding the consulting fees claimed for ICF Consulting Canada Inc., for the reasons set out above, the Board disallows the fees and disbursements claimed for witness preparation for Ms. Simon. The Board reduces the hours claimed for Ms. Simon by 10 hours and travel time by eight hours, for a reduction in the amount of \$3,780. Seeing the number of hours claimed for the senior consultants from ICF Consulting Canada Inc., the Board considers that, in this case, the use of junior consultants resulted in cost savings and there appears to be little duplication in services. Further, the Board considers that the evidence provided by ICF Consulting Canada Inc. was of assistance to the Board in making its decision on the DSM program. Accordingly, the Board awards for ICF Consulting Canada Inc. the consultant fees, with the reduction for witness preparation, in the amount of \$17,032.25. The Board has reduced the amount of \$1,220.77 from the amount of disbursements claimed for ICF Consulting Canada Inc. The Board awards disbursements for ICF Consulting Canada Inc. in the amount of \$1,412.73.

Regarding the fees claimed for Gannett Fleming, the Board notes that of the 665 hours of preparation were claimed, which was comprised of time spent by various consultants. Mr. L. Kennedy, senior consultant, spent 260 hours plus eight hours of travel time for preparation. Another 344 hours of preparation were included for Mr. G. Mah, associate analyst. The Board considers that 665 hours for the preparation of the *Depreciation Study, Calculated Annual Depreciation Accrual Rate Applicable to Plant in Service as of December 31, 2011*, dated April 8, 2013, are excessive, considering the expertise of Gannett Fleming and its familiarity with YECL assets, as it conducted previous depreciation studies for YECL. In this case, it does not appear that junior analysts were used to reduce the time spent by the associate analyst or the senior analyst. The Board notes that the depreciation study done by Gannett Fleming in the 2008-09 YECL GRA cost approximately \$73,000. The Board considers that the difference in costs of approximately \$52,000 for the depreciation study is not acceptable. The Board reduces the overall costs claimed for Gannett Fleming by 25%. The Board awards fees in the amount of \$93,660. The Board awards the disbursements as claimed because the travel was for the purpose of preparation of the report and the Board has previously allowed some travel for the preparation of an application. The Board awards disbursements of \$3,312.32 for Gannett Fleming.

Regarding the disbursements claimed by ATCO Electric and YECL, the Board awards the disbursements as claimed. The Board considers that having the Manager, Financial Reporting & Accounting in attendance at the oral hearing to provided assistance to the YECL witnesses was of assistance to the Board in that undertakings were responded to and facts were checked quickly seeing the manager's familiarity with the Application. The Board considers that the disbursements claimed are in accordance with the Scale of Costs and awards the amount of \$12,472.44.

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

Bennett Jones LLP (Fees and disbursements):	\$118,879.90
ICF Consulting Canada Inc. (Fees and disbursements):	\$ 18,444.98
Gannett Fleming (Fees and disbursements):	\$ 96,972.32
ATCO Electric (disbursements):	\$ 686.19
YECL (disbursements):	<u>\$ 11,786.25</u>
Total costs awarded:	\$246,769.64

BOARD COSTS

7. Yukon Utilities Board

The Board costs with respect to the Application 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 \$232,795.14.

NOW THEREFORE, the Board Orders as follows:

YECL 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 YECL to record these hearing-related costs in its hearing costs reserve account.

City of Whitehorse	\$ 47,751.73
John Maissan	\$ 5,026.56
UCG	\$ 42,207.83
YCS	\$ 4,297.75
Town of Watson Lake	\$ 8,918.50
YECL	\$246,769.64
Government of Yukon (Board costs)	<u>\$232,795.14</u>

Total costs awarded **\$587,767.15**

Dated at the City of Whitehorse, Yukon, the 5th day of August 2014.

BY ORDER



Bruce McLennan
Chair