

**IN THE MATTER OF the *Public Utilities Act***

**and**

**Review of Yukon Utilities Board Order 2014-11 and  
Appendix A – Reasons for Decision**

**BEFORE:**                    B. McLennan, Chair            )            November 20, 2014  
                                  R. Laking, Vice-chair        )  
                                  A. Fortin                        )

**BOARD ORDER 2014-14**

**WHEREAS:**

- A. On August 25, 2014, the Yukon Utilities Board (Board) received an application from the Utilities Consumers' Group (UCG) requesting a review and variance of Board Order 2014-11 (Decision). The Decision issued on August 5, 2014 contains the Board's costs awards to the interveners and applicant for the Yukon Electrical Company Limited application for approval of a forecast revenue requirement for the 2013, 2014 and 2015 test years (Proceeding).
- B. In summary, the grounds on which the review and variance request is based are as follows. UCG alleged that the Board made an error of fact and law in determining the amount of costs awarded to UCG for fees claimed by its legal counsel. It argued that the reduction of travel time from 23.24 hours to 11.60 hours and the reduction of 25% of the total hours claimed for legal services were wrong in fact and failed to achieve the goal set out in section 2.2 of Schedule 1, Scale of Costs, to the Board's *Rules of Practice* (Schedule1).
- C. With respect to the reduction in the total hours claimed of 76.66 for legal counsel, it argued that its legal counsel performed additional tasks to the legal counsel for the City of Whitehorse in that UCG asked more information requests in the Proceeding and conducted a longer cross-examination during the oral hearing. Also, although the Board reduced the hours claimed by legal counsel because of the tasks performed by the UCG consultant, the Board also reduced the hours claimed by the UCG consultant. With respect to travel time of legal counsel, UCG contended that its counsel should have been awarded all of the travel time claimed because it was supported by the travel itinerary.
- D. UCG submitted that it met the first stage of a review and variance and that no further process was needed to vary the Decision in the second phase of the process. The Board should review and vary Board order 2014-11 as requested in the review and variance application.

- E. On September 3, 2014, the Board issued a letter inviting comments from parties to the Proceeding and affording the applicants for review an opportunity to respond to any comments filed. No comments were received.
- F. Section 31 of the Board's *Rules of Practice* states that the Board will use a two-phase system for applications for review. The first phase is the initial screening phase where the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Board. In the case of an alleged error, in order to advance to the second phase of the process, the applicant for review must show that the claim of error is substantiated on a *prima facie* basis and the error has significant material implications.
- G. The Board has considered the request for a review and variance from UCG in light of the test set out in section 31 of the Board's *Rules of Practice*. With respect to the UCG review and variance request, the Board has decided that UCG has not shown on a *prima facie* basis that the Board committed substantial errors of law or fact in its costs award to the UCG. Therefore, the Board has determined that the review and variance application will not advance to the second phase of the process.

**NOW THEREFORE, for the reasons set out in the attached Appendix A, the Board denies the UCG application for the Board to review and vary Board Order 2014-11.**

**DATED** at the City of Whitehorse, Yukon, the 20<sup>th</sup> day of November 2014.

**BY ORDER**



Bruce McLennan  
Chair