

IN THE MATTER OF the *Public Utilities Act*

And

**An Application by Yukon Electrical Company Limited for
Approval of Revenue Requirements for 2016 and 2017**

BEFORE: R. Laking, Chair) August 24, 2017
B. King, Vice-Chair)
A. Fortin)
M. Hannam)
P. Fitzgerald)

BOARD ORDER 2017-07

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 11, 2016, Yukon Electrical Company Ltd., carrying on business as ATCO Electric Yukon (AEY), filed an application with the Yukon Utilities Board (Board), pursuant to the Act, and Order-In-Council 1995/90, requesting an order approving a forecast revenue requirement for 2016 and 2017 (Application);
- C. The Board issued Board Order 2016-01 on May 27, 2016 regarding the Application in which the Board set out a process schedule, pending ministerial approval;
- D. On June 17, 2016, 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 July 4, 2016, the Board issued Board Order 2016-03 granting intervener status to Yukon Energy Corporation (YEC), Utilities Consumers’ Group (UCG), City of Whitehorse, Yukon Conservation Society (YCS), and Mr. John Maissan;
- F. On November 1, 2016, the Board held an oral public hearing in the City of Whitehorse, Yukon. The Board was comprised of Robert Laking, Chair, and members Bonnie King, Andre Fortin, Meagan Hannam, and Philip Fitzgerald. The hearing concluded on November 3, 2016. On April 27, 2017, the Board issued Board Order 2017-01 approving the Application for the reasons set out in Appendix A to that order;

- G. Following the release of Board Order 2017-01, the Board reminded participants respecting the filing of costs claims;
- H. The Board received costs claims from:
 - 1. City of Whitehorse;
 - 2. UCG;
 - 3. John Maissan;
 - 4. YCS; and
 - 5. AEY;
- I. The Board received comments from UCG on the cost claim of AEY in a letter dated June 2, 2017 and AEY replied to UCG's comments on its costs claim in a letter dated June 16, 2017;
- J. The Board has reviewed all the costs claims and comments of the participants;
- K. Costs claimed by the 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
- L. 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 2013-08 and 2014-11.

NOW THEREFORE, the Board orders as follows:

INTERVENER COSTS

**1. City of Whitehorse
City of Whitehorse claiming:**

Brownlee LLP (Fees, Disbursements and GST):	\$23,113.61
Russ Bell & Associates Inc. (Fees, Disbursements and GST):	<u>\$15,817.69</u>

Total costs claimed: \$ 38,931.30

Comments

City of Whitehorse retained Brownlee LLP as legal counsel, and regulatory analyst, Russ Bell of Russ Bell & Associates Inc., for the purpose of examining the Application, preparing Information requests, reviewing information responses, preparing intervener evidence, responding to information requests, reviewing the applicant's updated information, attending the hearing, and submitting argument and reply argument.

In its costs claim, 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 and that it was diligent and efficient in its presentation of its position.

City of Whitehorse was represented by Thomas D. Marriott and Adina Preda of Brownlee LLP. Mr. Marriott has 20-plus years of experience, is senior counsel, and charged the hourly rate of \$350.00. The hours claimed for Mr. Marriott are 39.20 for preparation, 18 for attendance and two for argument and reply. The total claimed for Mr. Marriott is \$20,720.00.

City of Whitehorse claimed the hourly rate for Ms. Preda of \$320.00 Ms. Preda has 10 years of experience. The hours claimed for Ms. Preda are 2.25 for preparation. The total amount claimed for Ms. Preda is \$720.00.

City of Whitehorse submitted that Mr. Bell has extensive experience in regulated industries in Alberta, Northwest Territories and Yukon. In its costs claim, City of Whitehorse claimed \$200.00 per hour for Mr. Bell. The hours claimed are 53 for preparation and 19 for attendance. The total claimed for Mr. Bell is \$14,400.00.

Disbursements were claimed for Brownlee LLP in the amount of \$1,673.61 and for Russ Bell & Associates Inc. in the amount of \$1,417.69. GST was included in the invoices of Brownlee LLP and Russ Bell & Associates Inc.

Board Cost Award

The Board considers that City of Whitehorse participated fully in all aspects of the Application and the proceeding and its intervention was of assistance to the Board in making its decision. Mr. Marriott attended the hearing and cross-examined the AEY witness panel. Considering the hours claimed for Mr. Marriott and Ms. Preda, it appears that there was no duplication in the legal services provided by Mr. Marriott and Ms. Preda. The legal fees claimed are within the Scale of Costs and are reasonable. Accordingly, legal fees are awarded as claimed.

With regard to the consultant fees claimed for Mr. Bell, the fees are within the Scale of Costs. The Board finds the costs to be reasonable and are awarded as claimed.

Regarding the disbursements submitted, these are in accordance with the Scale of Costs and the Board finds the disbursements reasonable.

In summary, the Board awards costs to the City of Whitehorse as follows:

Legal Services Provided by Brownlee LLP

Legal Fees and GST	\$21,440.00
Disbursements:	\$ 1,673.61

Consulting Services Provided by Russ Bell & Associates Inc.

Professional Fees and GST	\$14,400.00
Disbursements:	<u>\$ 1,417.69</u>

Total costs awarded **\$38,931.30**

2. Utilities Consumers' Group

UCG Claiming:

PaTina Energy Consultants (Fees, Disbursements and HST)	\$38,194.00
Roger Rondeau: \$100.00/hour x 18 hours	<u>\$ 1,800.00</u>

Total costs claimed: **\$39,994.00**

Comments

UCG employed Pat McMahon of PaTina Energy Consultants. UCG stated that Mr. McMahon supported the intervention of UCG by providing extensive consulting services without the assistance of legal counsel. UCG submitted that Mr. McMahon has relevant general knowledge of the utility industry and in particular has an extensive background in the history of the Yukon energy sector. UCG added that Mr. McMahon provided expert services that assisted the quality and efficiency of the proceeding as a whole. UCG further submitted that, given the nature and complexity of the proceeding, the costs incurred were reasonable and were directly and necessarily related to UCG's effective participation. It added that it acted responsibly and contributed to a better understanding of the issues to be decided by the Board. The hours claimed for Mr. McMahon are 118 for preparation and 51 for argument and reply at \$200.00 per hour.

UCG submitted a claim for Mr. Rondeau of UCG for his attendance and participation in the oral hearing process, including cross examination of all panels on behalf of UCG.

Board costs award

The Board notes that Mr. McMahon is presented as a consultant with extensive knowledge of and experience in utility proceedings in the Yukon. The Board further notes that in previous proceedings, UCG requested a rate of \$125.00 for Mr. McMahon and it is now claiming a rate of \$200.00 per hour; no explanation is provided for the increase in Mr. McMahon's hourly rate. An increase in a consultant's hourly rate appears to suggest that the consultant's experience has increased to such an extent to warrant a \$75.00 per hour increase in the consultant's hourly rate. Although the \$200.00 claimed is within the Scale of Costs, the Scale of Costs emphasizes that the maximum allowable hourly rate will not be awarded as a matter of course. The Board considers that the additional experience gained by Mr. McMahon in utility proceedings in the Yukon since UCG's last cost claim does not warrant the requested hourly rate. As a result, the Board has chosen to exercise its discretion and award an hourly rate of \$150.00 per hour.

Considering Mr. McMahon's expertise, the 118 hours claimed for preparation and 51 hours argument and reply are excessive considering that Mr. McMahon has been retained by UCG in previous AEY proceedings, and the issues are similar to those raised in past proceedings and are no more complex. Also, UCG did not file evidence or present witnesses. Further, although Mr. McMahon is not a lawyer, he is claiming for providing advice on the Board's process. As such advice is not within Mr. McMahon's area of expertise, the fees claimed are reduced. In addition, the Board considers that the numerous hours claimed for discussions and correspondence between Mr. McMahon and UCG is not reasonable. The Board also observed that the total number of hours claimed for Mr. McMahon is much higher than those of other consultants for other interveners. For these reasons, the Board exercises its discretion by reducing the hours claimed by 35 percent and awarding fees in the amount of \$16,477.50 plus HST of \$2,142.07.

With respect to UCG's claim for Mr. Rondeau, the only detail provided is that \$100.00 per hour is being claimed for attendance and participation in the hearing, including cross-examination of panels. The Board notes that Mr. Rondeau is the president of UCG, as stated on the Consultant Services Agreement between Mr. McMahon and UCG, submitted as part of the cost claim. Sections 4.3 and 4.4 of the Scale of Costs state:

4.3 Fees and Honorarium of Unrepresented Intervener

An intervener who has not hired legal counsel or a consultant may claim for the number of hours spent in preparing its evidence and submissions in a proceeding. The hourly rate of an intervener shall not exceed \$100 per hour and will be determined by the Board when assessing the costs claim.

4.4 Attendance Honorarium

An unrepresented intervener may claim an honorarium of \$50 for each half day of attendance at an oral hearing.

The Board is of the view that Mr. Rondeau as president of UCG is acting as the unrepresented intervener. Since UCG was represented by a consultant, accordingly, Mr. Rondeau is only eligible for an attendance honorarium of \$300.00.

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

Consulting Services Provided by PaTina Energy Consultants

Mr. McMahon Professional Fees and HST	\$18,619.57
Attendance honoraria	<u>\$ 300.00</u>
Total costs awarded	\$18,919.57

3. John Maissan, resident of the City of Whitehorse

Mr. Maissan claiming:

Consulting fees	\$6,125.00
-----------------	------------

Attendance honoraria \$ 300.00

Total costs claimed: **\$6,425.00**
Comments

In his costs claimed, Mr. Maissan stated that he is well-qualified to be an effective intervener because he was a former registered professional engineer in the Yukon with more than 25 years of experience in matters related to the electricity sector. Mr. Maissan added that he has a broad familiarity with the regulated electrical utilities of Yukon and with their technical issues in particular. Mr. Maissan stated that he addressed issues related to the Application including O&M expenses, return on equity, equity thickness, the cost of debt, various capital projects including the Watson Lake bi-fuel project, LED street lights, the proposed renewable energy studies, and the proposed joint AEY Yukon Energy Smart Grid study. The review noted that he coordinated his efforts with YCS so as not to duplicate each other's perspectives where they were aligned. Also, he did not repeat cross-examination by other interveners who addressed subjects that covered issues of interest to him.

Mr. Maissan included an hourly rate of \$100.00 and acknowledged the rate is at the Board's discretion. The hours claimed are 32.25 for preparation and 29 for argument and reply. Mr. Maissan also claimed a \$50.00 honorarium for six half days of hearing attendance, totalling \$300.00.

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 \$50.00 or \$75.00 per 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 finds that Mr. Maissan's submissions were 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 of \$75.00 per 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:

Unrepresented intervener fees including attendance honoraria: \$4,893.75

Total costs awarded **\$4,893.75**

4. Yukon Conservation Society

YCS claiming:

Fees:

Professional fees	\$2,250.00
Attendance honoraria for Ms. Middler:	<u>\$ 250.00</u>
Total costs claimed:	\$2,500.00

Comments

YCS stated that the purpose of YCS's intervention was to give the environmental perspective on energy and climate issues and to help all parties understand public policy objectives for climate change mitigation, and how parts of the Application are not compatible or aligned with them. It added that its main area of interest in the Application was the Watson Lake bi-fuel project which it opposed because it would result in a significant ratepayer investment to expand fossil fuel reliance. It contended that this project was counter to many stated public policy goals. YCS noted that Ms. Middler communicated with Mr. Maissan to avoid duplication.

YCS claimed costs for Anne Middler, the YCS Energy Coordinator. The hourly rate claimed by Ms. Middler was \$100.00. Ms. Middler has been in her position with YCS since June 2008. The hours claimed are 9.5 for preparation and 13 for final argument and reply argument. Ms. Middler also attended the hearing for five half days, and YCS claimed \$250.00 for her attendance.

Board costs award

The Board considers that Ms. Middler was intervening as a member 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. A member of YCS is not eligible to claim professional fees as a consultant. The Board notes that YCS is claiming \$100.00 per hour in the current cost application for Ms. Middler. In the past, the Board has awarded YCS for Ms. Midler \$35.00 per hour. 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 considers that an hourly rate for Ms. Middler of \$50.00 is reasonable, considering that the YCS intervention mainly addressed one issue in relation to the Application. The Board considers that the hours claimed by YCS are reasonable.

The Board accepts the honoraria claimed for Ms. Middler to attend the hearing, as it is in accordance with the Scale of Costs.

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

Fees:

Unrepresented intervener fees including attendance honoraria: \$1,375.00

Total costs awarded \$1,375.00

5. ATCO Electric Yukon

AEY claiming:

Bennett Jones LLP (Fees and Disbursements)	\$138,700.68
Concentric Energy Advisors Inc. (Fees and Disbursements)	\$ 71,556.58
ATCO Electric Yukon (Disbursements)	<u>\$ 7,381.76</u>

Total costs claimed: \$217,639.02

Comments

In its costs claim, AEY highlighted that it reviewed its historical forecast accuracy and forecast methodology and completed additional analysis to determine a forecast methodology that reflects the current conditions in which the company operates. It stated that it had responded to 674 information requests. AEY was claiming legal costs, costs for its consultants, and 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, AEY retained Bennett Jones LLP to represent it in this proceeding. Professional fees were charged at \$350.00 for Deirdre Sheehan, a partner with more than 12 years at the bar, \$320.00 for Blake Williams, a partner with eight to 12 years at the bar, \$240.00 for Venetia Whiting, an associate with one to four years at the bar and \$140.00 for two articling students. Ms. Sheehan claimed 42.90 hours for preparation and four hours for travel. The total claimed for Ms. Sheehan was \$15,715.00. Mr. Williams claimed 227.70 hours for preparation, 31.30 for attendance, and 102.10 hours of final argument and reply argument. In addition, 16 hours were claimed for travel time, eight which were for attendance at the oral hearing. The total claimed for Mr. Williams was \$118,112.00. Ms. Whiting claimed 4.40 hours for preparation. The total claimed for Ms. Whiting was \$1,056.00. The articling students claimed 0.50 hours for preparation.

AEY claimed costs for Concentric Energy Advisors Inc. (Concentric) for preparing the part of its application relating to justification of its risk premium, responding to the 104 ROE-related IRs received and assisting in writing the ROE-related sections of AEY's argument and reply argument. James Coyne attended the hearing as an expert witness on the risk panel. John Trogonoski and Meredith Stone were both actively involved in the preparation of the evidence filed with the Application and assisted Mr. Coyne in

preparing for the hearing and technical support in responding to the IRs. Three project assistants were also involved.

The hourly rate claimed for James Coyne was \$270.00 per hour, the fee for consultants with 12-plus years of experience. For Mr. Coyne, AEY claimed 56.75 hours for preparation, seven hours for attendance, and 5.50 hours for final argument and reply argument. The total claimed for Mr. Coyne was \$18,697.50.

For Mr. Trogonski, a rate of \$270.00 was claimed due to his 12-plus years of experience. The hours claimed are 136.25 for preparation and five for final argument and reply argument. The total claimed for Mr. Trogonski was \$38,137.50.

An hourly rate of \$120.00 was claimed for Meredith Stone, a consultant with one to four years of experience. The hours claimed are 92 for preparation. The total claimed for Ms. Stone was \$11,040.00.

An hourly rate of \$45.00 was claimed for three project assistants, Merari Perez, Regina Kolb and Wendy Preston. The hours claimed are 7.75 for preparation. The total claimed for the project assistants was \$348.75.

Disbursements were claimed for Bennett Jones LLP in the amount of \$3,747.68, for Concentric Energy Advisors Inc. in the amount of \$3,332.83, and for AEY in the amount of \$7,381.76.

UCG Response

In its letter of June 2, 2017, UCG submitted that the AEY cost claim is incomplete because it did not include the costs of internal staff and resources used in this application. UCG contended that these costs should be included in a cost claim so that, when a decision by the Board 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. UCG added that the onus was on AEY to provide sufficient information for the Board to assess its cost claim.

In particular, UCG stated that Bennett Jones LLP did not provide information to justify claiming legal fees for Ms. Sheehan, Mr. Williams, Ms. Whiting and two articling students. UCG took issue with the rates claimed for legal counsel and the rates paid by AEY. UCG further submitted that the hours claimed by counsel for non-hearing travel time and witness preparation be disallowed. UCG also contended that the articling students provided what appeared to be office support functions and that the Board should disallow the time claimed for the articling students. In support of its submission, UCG cited Board Order 2010-09 in which the Board reduced UCG's costs claim for disbursements related to UCG lawyer's Certificate for Permission to Act because the Board considered these expenses as a necessary expense to practise law in the Yukon and the Scale of Costs does not allow for the reimbursement of membership fees paid to the Yukon Law Society. UCG requested that AEY be directed to provide all detailed invoices from Bennett Jones LLP related to the proceeding.

Respecting the fees claimed for Concentric, UCG noted that Concentric submitted that the premium should be 60 basis points, but the Board determined that the BCUC set a premium for a small-size utility at 25 basis points which it deemed reasonable for the Yukon. UCG argued that this simplified analysis would have saved AEY and Yukon ratepayers a great deal of consultant costs. UCG also asked that the Board disallow any consultant fees claimed for consultants other than Mr. Coyne because no resumés were provided for other consultants from Concentric and only Mr. Coyne testified at the hearing. It contended that without background on their qualifications, the claimed hourly rates could not be justified and it assumed that these consultants were support staff. Also, the fees claimed for project assistants of \$348.75 should be disallowed other staff because they are employees of Concentric and are not entitled to be included in the costs claim.

Regarding the disbursements claimed, UCG argued that some of the disbursements claimed by Bennett Jones LLP, Concentric and AEY were outside of the Scale of Costs. UCG argued that AEY's claims for meals were not accompanied by receipts, and that the claim for air travel included additional travel before the hearing. UCG submitted that Yukon ratepayers should not have to pay for additional travel before the hearing.

AEY Reply

AEY contended that, although UCG submitted that, at a minimum, approximately \$32,000.00 should be disallowed from AEY's cost claim, UCG had provided no support for such a disallowance. AEY reiterated its position that the total amount of costs claimed are reasonable given the number and complexity of the issues addressed in the Application, and it filed 90 pages of explanation and back-up information in support of its cost claim. AEY argued that the comments of UCG that this back-up information is insufficient in part, appears to result from a misunderstanding on the part of UCG of how certain costs are treated and have been included in this cost claim. AEY added that its costs incurred for the Application process that are not included in the cost claim (including amounts in excess of the Scale of Costs) are not included in AEY's revenue requirement; therefore, are not recovered from ratepayers. This was further incentive for AEY to ensure that the hours charged by consultants and actual incidental costs are reasonable, given that shareholders pay for the amounts that are in excess of the Scale of Costs.

In response to UCG's response regarding witness preparation legal fees, AEY 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 and, as such, resulted in a more efficient hearing. In particular, it noted that the number of undertakings during the hearing was significantly lower than the 2013-15 GRA hearing which it attributed to its witnesses being prepared. AEY contended that witness preparation held remotely by electronic means, was not effective since the actual hearing could not be simulated by such means.

AEY also contended that recovering costs related to witness preparation is both reasonable and practical. In addition, AEY noted that removing the hourly rate of Bennett Jones' staff is common practice in other jurisdictions. The actual hourly rates

are irrelevant because they exceed the Scale of Costs. In support of its position, AEY stated that this practice is consistent with the practice utilized and accepted by the Alberta Utilities Commission. In that, it filed a letter from legal counsel confirming that the actual hourly charges are in excess of the hourly rates claimed.

Regarding the use of junior staff by Bennett Jones LLP (A. Turecek and F. De Luca) and Concentric (Merari Perez, Regina Kolb and Wendy Preston), AEY submitted that it would be inefficient and not cost effective to expect that the senior staff from the firms employed would complete all the work required. Junior staff were utilized to prepare analysis and research, under the direction of the senior staff, and at a lower rate. AEY submitted this was a reasonable approach.

Regarding the disbursements claimed, AEY submitted that it claimed the allowable amount for the period consistent with Section 4.2(b) of the Scale of Costs and that costs in excess of the Scale of Costs were not included in the costs claim. With respect to the flights that occurred before the hearing, AEY submitted that the exact dates were irrelevant, as Mr. Tenny and Mr. Grattan were required to travel to participate in the hearing.

Board costs award

Respecting legal fees and disbursements claimed for Bennett Jones LLP, the Board will not require the filing of invoices from Bennett Jones LLP detailing the above-scale hourly rates charged because the legal fees claimed above the Scale of Costs are not included in AEY's revenue requirement and are not recoverable from ratepayers. The Board considers reasonable the practice of removing the hourly rate of legal counsel and other staff from Bennett Jones LLP and filing a letter from legal counsel confirming that the actual hourly rates charged are in excess of the hourly rates claimed. The Board considers that the legal fees are in accordance with the Scale of Costs.

The Board notes the total hours claimed for legal fees include 287.50 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

¹ Board Order 2013-08, pages 14 and 15.

The Board is not persuaded by the arguments put forward by AEY that witness preparation resulted in a more efficient hearing or that there was a correlation between witness preparation and the number of undertakings in the hearing. In addition, the Board's hearing process is not complex and AEY witnesses had prepared different parts of the Application and responded to IRs or a prepared expert report and should be able to respond to questions in cross-examination. Therefore, the Board continues to be 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. The hours spent on witness preparation including mock cross-examination materials, attendance at hearing preparation meetings and mock cross-examination span the month of October 2016 and the specific hours spent on these tasks is interspersed with other tasks recorded in relation to the Application such as review of the Application update and hearing preparation. The hours claimed in October of 2016 which include work related to witness preparation total 114.5 hours which include travel time for two trips from Calgary to Edmonton (eight hours) and travel to the hearing (four hours). The Board has reduced the legal fees claimed for witness preparation by disallowing eight hours of travel time at \$160.00 and 40 hours at \$320.00. The Board further reduces the fees claimed by 1.40 hours at a rate of \$240.00 claimed for V. E. Whiting on November 1, 2016 for research on Rules of the Court of Appeal of Yukon regarding intervener status as it does not appear to relate to the Application. Accordingly, legal fees are reduced by a total of \$14,416.00 and the Board awards legal fees in the amount of \$120,537.00.

Regarding disbursements claimed for Bennett Jones LLP, the Board reduces the claim for travel expenses for the witness preparation by \$1,100.00 of the travel costs of \$1,540.71 set out in the invoice of October 2016. The Board awards disbursements in the amount of \$2,647.68.

Regarding the consulting fees claimed for Concentric, the Board notes that 284 hours of preparation were claimed for three consultants. The rate of \$270.00 per hour is claimed for Mr. Coyne and Mr. Trogonoski as senior consultants and \$120.00 per hour for Ms. Stone as a junior consultant. The Board considers that the total number of hours claimed is not reasonable. Considering that a total of 192 hours is claimed for two senior consultants, the need for a junior consultant has not been shown. Furthermore, the use of a junior consultant did not result in costs savings, in light of the hours claimed for the senior consultants. In the Board's view, there is also some duplication in the services provided by the consultants. For example, one senior consultant assisting the other, who was as conversant with the evidence, with hearing preparation and both claim for hearing preparation. In making the costs award, the Board also considered the following factors. The expert report in part was of limited assistance to the Board in making its determination on ROE risk premium. The submission that the consultants responded to numerous information requests on the ROE risk premium was also considered. Accordingly, the Board reduces the consultant fees claimed for Concentric by 20 percent and awards \$54,579.00 for consulting fees for Concentric.

Except for airfare, the disbursements claimed for Concentric are reasonable and in accordance with the Scale of Costs. The claim for airfare is \$2,233.12. Without a receipt, the Board is unable to determine that the airfare was for economy class or less.

Therefore, the Board reduces the claim for airfare by 40 percent and awards disbursements of \$2,439.58.

Disbursements claimed by AEY are reasonable and in accordance with the Scale of Costs. The Board notes that receipts for airfares and accommodation for the hearing were included in the cost claim. Accordingly, the board awards \$7,381.76 as claimed.

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

Bennett Jones LLP (Fees and Disbursements):	\$123,184.68
Concentric (Fees and Disbursements):	\$ 57,018.58
AEY (Disbursements):	<u>\$ 7,381.76</u>
Total costs award:	\$187,585.02

BOARD COSTS

6. 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 \$280,419.59

NOW THEREFORE, the Board Orders as follows:

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

City of Whitehorse	\$ 38,931.30
UCG	\$ 18,919.57
John Maissan	\$ 4,893.75
YCS	\$ 1,375.00
AEY	\$187,585.02
Government of Yukon (Board costs)	<u>\$280,419.59</u>

Total costs awarded: \$532,124.23

Dated at the City of Whitehorse, Yukon, the 24th day of August 2017.

BY ORDER



Robert Laking
Chair