

September 12, 2025

Ms. Colleen Henry, Executive Secretary
Yukon Utilities Board
Box 31728, Whitehorse, YT Y1A 6L3

Dear Ms. Henry:

Re: Consultation on Yukon Utilities Board's Revised Rules of Practice - Yukon Energy comments

Yukon Energy Corporation (Yukon Energy or YEC) thanks you for the opportunity to provide feedback on the Yukon Utilities Board's (Board) draft Revised Rules of Practice (Rules).

The Yukon Government (YG) has also initiated a discussion on potential amendments to the *Public Utilities Act* (PUA). A discussion document issued by YG outlines potential changes it is considering, including, but not limited to the mandate of the Board, increased use of settlement processes, an efficient regulatory process, and other matters. It may be advantageous for the Board to postpone the revision of the Rules until the amendments, if any, are made to the PUA so that any PUA amendment can be fully captured in the Rules. Alternatively, the Board may decide to revise the Rules again once PUA amendments are completed.

1. Comments About the Provisions in the Draft Rules

- **Rule 1 Definitions – “electronic filing”.**
 - Yukon Energy suggests adding file sharing in the proposed new definition of “electronic filing” as not all files are deliverable by email due to size limitations. For example, Yukon Energy provided the 2025-27 GRA IR responses through file sharing.
 - “electronic filing” means filing an application or any other document in a proceeding by email, through file sharing, or as otherwise directed by the Board;
- **Rule 1 Definitions – “intervenor”.**
 - Yukon Energy recommends that the Board include a qualification requirement for intervenors, such as a requirement that a person applying for intervenor status must have experience dealing with utility regulation or utility business and must comply with the Rules. Alternatively, legal representation should be acquired with the opportunity to be reimbursed through the cost claim process.

- Under Rule 4 (4), the Board may require that intervenors with similar interests present a joint intervention and may issue directions with respect to time limits for the joint intervention. Yukon Energy requests that the Board use this authority regularly when granting intervenor status.

- **Rule 11 Information Requests**

- Yukon Energy suggests adding the following under Rule 11 to provide an efficient regulatory process:
 - Information Requests shall be relevant to the issues within the scope of the application.
 - Information Requests shall reference the specific subject/issue included in the Application, including section or page numbers, that the question relates to.
 - The Board may limit the maximum number of Information Requests.
 - Information Requests should be limited to the facts within the application and shall not include unsubstantiated opinions or unnecessary commentary.

- **Rule 12(1)(c) Response to Information Requests**

- Yukon Energy's understanding is that this was included in the current Rules to clarify whether the response is provided by a subject matter expert or consultant that was retained to deal with the specific issue in question. However, has not been usual practice in the Yukon to identify the individual or individuals who were responsible for preparing particular responses. In reality, any particular response is usually the product of a combined team effort primarily internally within the utility, and all responses should be assumed to be provided this way. However, certain information request responses may be directed initially to an external subject matter expert. Therefore, Yukon Energy proposes replacing Rule 12(1)(c) with the following requirement:
 - "When an external subject matter expert has been primarily responsible for preparing a response to a question in an information request, that external subject matter expert should be identified in the response."

- **Rule 18 Motions**

- This rule appears to require all motions to be made formally in writing, submitted by electronic filing, and served on all parties, even if the motion arises during the course of an oral hearing. This appears to remove the flexibility that currently exists under existing Rule 19(6) for the Board to modify the procedures that apply to a motion

made during the course of an oral hearing. Yukon Energy suggests that a provision similar to existing Rule 19(6) be preserved as part of the new revised Rule 18.

- **Rule 26 Aids to Question a Witness at an Oral Hearing**

- Yukon Energy agrees that this would assist the Applicant in being more prepared to respond to questions.

- **Rule 30 Complaints**

- There appears to be a cross-referencing error in revised Rule 30, which refers to complaints made “under section 47 of the Act” instead of “under section 44 of the Act”. Section 47 gives the Board authority to endeavour to settle a complaint, but the complaint is made under section 44.

- **Rule 36(2) Costs Claims; Appendix A, Section 1(2) Claims for Professional Fees**

- Proposed Rule 36(2), combined with section 1(2) of Appendix A, indicate that a participant seeking to recover professional fees as part of a costs claim should submit detailed statement(s) of account, including “[a] description of the activity undertaken with sufficient detail to allow the Board to understand the nature of the activity and how it relates to the issues being advanced by the participant.” However, in the case of a statement of account for legal services, the detailed content contemplated by these provisions may be subject to lawyer-client privilege.
- Yukon Energy suggests that these provisions should be revised to specifically authorize a participant to redact or withhold information that is subject to lawyer-client privilege, subject to further direction from the Board, in order to preserve the confidentiality of that information and to protect against waiver of privilege.

2. Scale of Costs

In the letter sent to the Board on April 11, 2024, Yukon Energy and ATCO Electric Yukon (AEY) noted that the utilities are facing upward pressure as the gap between the maximum allowable hourly rate under Scale of Costs and actual invoiced hourly rates has been increasing due to ongoing hourly rate increases as well as the increasing inflation rates which have a compounding impact. This in turn has been increasing the disallowed amounts in the cost claims and impact on utility earnings.

Yukon Energy respectfully requests the Board to review the Scale of Costs as indicated in the April 11, 2024 letter (a copy is attached).

3. Cost Awards

The fact that the Yukon Utilities Board considers and awards costs in accordance with criteria set out in the Scale of Costs does not make a difference to Yukon Energy's decision as to whether to participate in a proceeding before the Board.

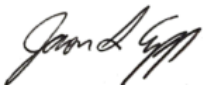
4. Other Participation Factors

There are no other factors in the Board's practice that make a difference to Yukon Energy's decision as to whether to participate in a proceeding before the Board. The Board could encourage more public participation, perhaps by direct communication with relevant parties such as First Nations and community groups.

5. Other Matters

Yukon Energy strongly recommends the *Rules of Practice* should address **Participant Conduct**. The Board should consider including a rule that requires professional, responsible, appropriate and respectful behaviour from all participants. The new rule should also provide disciplinary measures.

Yours truly,



Jason Epp,
Vice President, Finance and CFO