

YUKON UTILITIES CONSUMERS' GROUP

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August 5, 2021

Yukon Utilities Board

Box 31728

Whitehorse, Yukon Y1A 6L3

Attention: Deana Lemke, Executive Secretary

Re: Yukon Energy Corporation - Battery Energy Storage System (BESS)
Energy Project Certificate and Energy Operation Certificate Application
UCG Comments on YEC Cost Claim

Dear Ms. Lemke:

In accordance with the YUB Scale of Costs #5, the Utilities Consumers' Group (UCG) offers the following comments on Yukon Energy Corporation's (YEC) cost claim dated July 30, 2021 in this proceeding.

In its cost claim, YEC is asking to recover a total of \$116,634.53 in legal and consultant fees and disbursements. UCG submits that, at a minimum, a total of at the very minimum \$63,252 + GST should be disallowed from YEC's cost claim and not be recovered from ratepayers.

Intergroup Consultant Professional Costs

For reasons known only to YEC, InterGroup Consultants were yet again hired by YEC to assist with the preparation of the BESS application and be the background regulatory advisor of YEC. Ms. Milosjvic, from her seat at the table, was more than obviously capable of providing such paper work. The YEC also have personnel in the regulatory field as well as planning and regulatory.

Yukon ratepayers deserve to be spared the excessive costs that YEC feels are

a cost of doing business when more practical and less expensive alternatives are sitting at their desks in Yukon Energy offices.

What is particularly disturbing is that both Mr. Osler and Ms. Smith charged YEC for attending the hearing (57.75 hrs.), when they did not say one word. The panel of professionals was left to the capable hands of Ms. Milojevic and Ms. Zuliani (who also charged attendance fees) of Hatch. Charging ratepayers for the consultants to virtually sit in is a clear breach of the boards prior ruling on Scale of Costs which demonstrated clearly that simply attending a hearing will not result in a cost claim allowance.

YEC and its consultants continue to disregard the rulings and determinations of the YUB regarding costs that are not to be recovered from Yukon ratepayers through electricity rates:

- In Board Order 2011-09, the YUB disallowed YEC's costs for recovery for the professional fees of any InterGroup analysts other than Mr. Osler and Ms. Pollitt-Smith because "the services of other analysts and researchers were duplicative of the services provided by these two consultants." The YUB also found that the hours claimed by Mr. Osler and Ms. Pollitt-Smith were excessive because some of these services were duplicative so the YUB reduced the number of hours of each of these consultants by 20%.
- In its Board Order 2013-08, the YUB disallowed the professional fees of any analysts other than Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov because the services of other analysts were duplicative of the services provided by these three consultants. The YUB also determined that some of the services provided by Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov were duplicative, so the YUB exercised its discretion and reduced the total fees claimed for each of these consultants by 25% of the hours claimed.
- In its Board Order 2014-12, the YUB again disallowed the professional fees of InterGroup's support analysts and administration staff because the services of these analysts were duplicative of the services provided by the main consultants. The YUB also determined that some of the services provided by InterGroup's consultants were duplicative, so the YUB exercised its discretion and reduced the total f

fees claimed for each of these consultants by 15% of the hours claimed.

- In its Board Order 2015-04, the YUB adopted its views in Board Order 2013-08 and Board Order 2014-12 that disallowed the costs related to the excessive amounts of analysts, research analysts and other staff that InterGroup involved in the proceeding because of the duplication of work of the main consultants (Mr. Osler and Ms. Pollitt-Smith). The YUB also reduced the total number of hours claimed by InterGroup's main consultants by 25% for each consultant because they were excessive.

- In its Board Order 2018-08, the YUB disallowed the professional fees of "any researcher or other analyst because the Board is not satisfied that these services were needed since the consulting services were provided by Mr. Osler and Ms. Pollitt-Smith. In addition, the YUB considered that document production staff are not consultants, analysts or experts within the meaning defined in the Scale of Costs. In this case, the document production staff work for InterGroup so their costs were not allowed to be claimed. The YUB also exercised its discretion and reduced the number of hours of each of Mr. Osler and Ms. Pollitt-Smith by 40% because their claims were excessive.

- In its Board Order 2018-09, the YUB again repeated its position by disallowing the professional fees of "any researcher or other analyst because the Board is not satisfied that these services were needed given the consulting services provided by Mr. Osler and Ms. Pollitt-Smith. In addition, the YUB considered that document production staff are not consultants, analysts or experts within the meaning of the Scale of Costs. Document production staff is more akin to support staff and the Scale of Costs only permits claims for support staff who are not part of the office staff of the consultants. In this case, the document production staff work for InterGroup; therefore, the YUB disallowed the consulting costs claimed for InterGroup's document production staff". The YUB also exercised its discretion to reduce the number of hours of each of Mr. Osler and Ms. Pollitt-Smith by 60% because they were excessive.

- In its Board Order 2019-03, even though InterGroup limited its charges to those of Mr. Osler and Ms. Pollitt-Smith for the ERA portion of the application, the YUB still found significant overlap in the efforts of these two consultants. The YUB found that there was insufficient

evidence as to why both consultants would both need to complete the tasks described in the invoices, and it was reasonable to conclude that duplication occurred between consultants. The YUB exercised its discretion to reduce the amounts claimed for each of these consultants by 20%.

For the GRA part of the application, the YUB again found that the hours claimed by InterGroup for 11 consultants and one document production staff to be excessive. The YUB reaffirmed its position that InterGroup's document production staff were not consultants, analysts or experts within the meaning of the Scale of Costs and disallowed the consulting costs claimed for InterGroup's document production staff. On top of that, the YUB reduced the consultant fees claimed for InterGroup by another 40% because of duplication of effort and excessive hours being claimed.

UCG submits that YEC's cost claim submissions continue to absolutely ignore these previous determinations by the YUB regarding the fees charged by InterGroup. UCG questions when the YUB will do more than simply continue its disallowance of claimed costs and penalize YEC more directly for shamefully making a mockery of the cost claim process with its attempts to have Yukon ratepayers pay for their lavish spending practices.

YEC's cost claim for InterGroup for this current proceeding includes 491.50 hours (\$88,407.50) broken down as follows:

- C. Osler 194.00 hours
- J. Gordon 18.25 hours
- M. Pollitt-Smith 130.50 hours
- R. Connon 0.50 hours
- H. Najmidinov 133.75 hours
- Admin / Clerical 14.50 hours

As has been determined in previous proceedings, YEC cannot be allowed to recover the costs of InterGroup's support staff so costs claim related to J. Gordon, R. Connon and Admin / Clerical (33.25 hours, \$2,291.25 + GST) should be disallowed completely.

UCG submits that any time claimed by InterGroup for virtual attendance at

the oral hearing held on May 4-6, 2021 should be disallowed. None of the InterGroup consultants contributed during the oral hearing and they could easily have gained insight on the hearing by reading the transcripts or getting debriefed by YEC and their legal counsel. Based on YEC's cost claim (Table B-6), it appears that Intergroup claimed a total of 57.75 hours (\$10,756.25 + GST) to listen in to the oral hearing. UCG submits that this was a completely unnecessary, for which ratepayers should not be responsible for.

Given the duplication of descriptions of tasks undertaken, UCG submits that there is an enormous amount of duplication of effort between InterGroup's consultants has continued again for the BESS application. UCG submits that this is an ongoing problem with YEC's costs claims with no end in sight. UCG submits that, at a minimum, 50% of the hours claim by InterGroup's consultants outside of the hearing process (i.e., 50% of 400.50 hours) should be disallowed from YEC's cost claim. This equates to approximately \$37,680 + GST.

Another issue that UCG wants to raise is the costs that InterGroup incurred related to the BESS application that were charged to YEC and not included in YEC's cost claim. UCG submits that these costs were incurred by InterGroup staff that would not be allowed to be recovered from ratepayers through the Scale of Costs process and all of these costs should not now be allowed to be recovered from ratepayers as a charge against YEC's O&M or capital budgets. This issue should be addressed by the YUB as part of the current rates proceeding so that YEC is clear on how unclaimed costs should be treated.

- Disallowance of Witness Preparation Session Costs
Included in YEC's cost claim are what appear to be attempts to recover costs associated with hearing witness panel preparation sessions.
- DLA Piper May 27, 2021 Invoice
 - 04/23/21 Prepare for and attendance at prep session; review issue briefs. 3.00 hours
 - 04/29/21 Work on witness prep. 1.50 hours
 - 04/30/21 Prepare for and attend witness prep session 4.00 hours
- DLA Piper June 18, 2021 Invoice
 - 05/01/21 Review issues for witness preparation on Sunday 1.50

hours

05/02/21 Review of issue briefs and attendance at witness preparation session 3.00 hours

- Intergroup April 30, 2021 Invoice

Najmidinov, Hamid

April 27, 2021 Prepare for and participate in hearing prep call 2.50 hours

April 30, 2021 Hearing prep call 5.00 hours

Osler, Cam

April 23, 2021 Hearing prep session with YEC and Landry 2.50 hours

April 30, 2021 Mock cross prep notes for John, hearing prep session with YEC panel 6.50 hours

Pollitt-Smith, Mona

April 23, 2021 Prep issue briefs and send out. Attend prep session; follow-ups 4.50 hours

April 30, 2021 team prep session 4.50 hours

In its Order 2009-11 regarding cost claims associated with a previous GRA proceeding, the YUB disallowed costs associated with witness preparation sessions:

a) “In addition, the Board disallows all disbursements related to the witness preparation session as the need for such a session was not substantiated and the Board finds these expenses were not prudent or reasonable based on the following. The witnesses for YEC in the Application are experts and have appeared before the Board on numerous occasions. Also, YEC had experienced counsel to guide and prepare its witnesses.” (Order 2009-11 dated December 8, 2009, page 11)

b) In its Order 2013-08 regarding cost claims from YEC’s most recent GRA proceeding, the YUB again disallowed costs associated with witness preparation sessions: “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.” (Order 2013-08 dated September 13, 2013, page 14)

While YEC and its consultants are trying to use different words to describe their witness preparation sessions, they are not only trying to recover costs associated with preparation sessions of experienced staff, they are loading in the costs of an excessive number of expensive legal and regulatory consultants. Why should Yukon ratepayers continually be put in a position to be asked by YEC to cover these costs? When will YEC pay attention to YUB determinations denying the recovery of the costs of witness preparation sessions? All the costs associated with time put into these sessions should not only be disallowed, but should now be penalized further. UCG estimates this ridiculous cost to be at least \$12,525 + GST.

If there are any questions concerning the contents of this submission, I would ask that they be directed to me by email at rrondeau@northwestel.net or by phone at 633-5210.

Yours truly,

Roger Rondeau
Utilities Consumers' Group
cc (by email): Yukon Energy Corporation