IN THE MATTER OF the *Public Utilities Act*
Revised Statutes of Yukon, 2002, c. 186, as amended

and

An Application by Yukon Energy Corporation (YEC) for approval of Rate Schedule 39 – Escalation of Demand and Energy Charges per Order-in-Council 2007/94

BEFORE:	B. McLennan, Chair	)	June 27, 2011
	B. Laking	)	
	R. Hancock	)	
	J. Woodland	)	
	K. Avery	)	

BOARD ORDER 2011-07

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 fix the costs to be paid";

B. On November 30, 2010, Yukon Energy Corporation (YEC) filed an application with the Yukon Utilities Board (Board) seeking an Order from the Board for approval of amendments to Rate Schedule 39;

C. OIC 2007/94 provides for escalation of Demand and Energy charges, once per calendar year, starting January 1, 2010, based on the latest percentage increase in the 12-month implicit chain price index for gross domestic product at market process for Canada as reported by Statistics Canada;

D. The existing Rate Schedule 39 was approved in Board Order 2008-13, pursuant to OIC 2007/94. In the proceeding that resulted in that Board Order, YEC committed to file for approval of the Board any changes to this rate schedule arising from the escalation of Demand and Energy charges under the OIC;

E. YEC submitted that the most recent data available from Statistics Canada is for the Third Quarter of 2010 and, based on that latest data, there is a requirement pursuant to OIC 2007/94 to escalate the Demand and Energy charges for Rate Schedule 39 by 2.8%, for rates effective January 1, 2011;

F. The Board issued Board Order 2010-12 which set out a process schedule and requested that parties intending to participate in the review process register in writing with the Board Secretary no later than January 17, 2011;

G. On December 31, 2010, the Board approved an escalation in the Demand and Energy charges in Rate Schedule 39 by 2.8% effective January 1, 2011, in Board Order 2010-15, on an interim refundable basis.

H. The Board received requests for Intervenor status from John Maissan of Leading Edge Projects Inc. and the Utilities Consumers' Group (UCG). The City of Whitehorse requested Observer status;

I. On January 26, 2011, the Board issued Board Order 2011-02 granting Intervenor status to John Maissan and UCG for the proceeding and Observer status to the City of Whitehorse. Board Order 2011-02 also determined that the scope of the proceeding was limited to the escalation of the Demand and Energy charges in Rate Schedule 39;

J. On February 21, 2011, UCG filed a Notice of Motion requesting the Board issue an Order requiring YEC to provide adequate responses to certain questions submitted by UCG;

K. In Board Order 2011-03, the Board denied UCG's motion and set dates for Final Argument for March 17, 2011 and Reply Argument for March 23, 2011;

L. On April 6, 2011, the Board issued Order 2011-04 granting the request by YEC to escalate the Demand and Energy charges for Rate Schedule 39 by 2.8% effective January 1, 2011. In reaching their decision, the Board considered the evidence and the written Argument and Reply Argument of the Parties respecting the Application;

M. The Board received applications for cost awards from:

1. John Maissan
2. UCG;

N. At the time of issuing this order, no application for costs was received from YEC;

O. The Board has reviewed all applications for costs of the Parties based on the criteria set out in Schedule 1 to the Board's *Intervenor Costs Award Policy* (Scale of Costs), established by section 33 of the Board's Rules of Practice, Board Order 1995-02 dated November 10, 1995, as well as the principles relating to cost awards set out in previous Board Orders — in particular, Appendix A to Order 2007-6, and Board Orders 2005-16, 2005-17 2007-7, 2007-8, 2007-9, 2009-06, 2009-11 and 2010-09;

P. Costs claimed by Parties are subject to stringent scrutiny by the Board, as costs are awarded against a utility and charged to the customers of the utility through the utility's rates; and

Q. After careful consideration, the Board has assessed the cost applications on the principles outlined above and has awarded costs as set out below.

NOW THEREFORE, the Board awards costs as follows:

INTERVENOR COSTS

1. Utilities Consumers' Group

UCG Claiming:

Consulting Services Provided by Patrick McMahon (Fees and HST)	$ 2,576.40
Total Costs Claimed	**$ 2,576.40**

Comments

UCG was represented by Patrick McMahon, consultant. In its cost award application, UCG submitted that Mr. McMahon was a skilled consultant with relevant general knowledge of the industry and an extensive background in the history of the Yukon energy sector in support of the requested rate of $60/hour.

The hours claimed for Mr. McMahon are 7.5 for preparation, 18 for development of information requests and review of information responses, and 12.5 for argument, reply and follow up. This amounts to a total of 38 hours.

The Board has reduced Mr. McMahon's hourly fee to $50/hour seeing the straightforward nature of the application. Also, the Board finds that some of UCG's information requests were out of scope of the application; therefore, the Board reduces the hours claimed by 10 hours.

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

Patrick McMahon Fees: $50/hour x 28 hrs	$ 1,400.00
HST: 13% of $1,400.00	$ 144.20
Total Costs Awarded to UCG	**$ 1,544.20**

2. John Maissan, Resident of City of Whitehorse

John Maissan, Resident of City of Whitehorse, claiming:

Consulting Services (Fees and GST)	$	358.31
Total Costs Claimed	**$**	**358.31**

Comments

Mr. Maissan's cost application was evaluated as that of an Intervenor under section 3 of the Scale of Costs and the applied for costs are being considered on the basis that he is a resident of the City of Whitehorse. In his cost application, Mr. Maissan stated that he is a registered professional engineer in the Yukon and held senior engineering positions with YEC for about 14 years. Mr. Maissan, as an Intervenor, "studied the Application, the supporting materials, the legislation governing Rate Schedule 39, reviewed the Interrogatory Requests and responses on the Application, prepared and submitted Written Argument, and prepared and submitted Reply Argument."

For "illustrative purposes" Mr. Maissan included an hourly rate of $35/hour and acknowledged that the rate is subject to the Board's discretion. The hours claimed are 5 for preparation and 4.75 for argument and reply.

The Board finds that Mr. Maissan's consulting fees are reasonable for the work done and award the full cost request. The Intervenor submissions were of assistance to the Panel in testing this application, especially in terms of the escalation factor. However, seeing the straightforward nature of this application the Board awards an hourly fee of $35.

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

Under Scale of Costs section 3:

John Maissan Fees: $ 35/hr x 9.75 hrs	$	341.25
GST	$	17.06
Total Costs Awarded to Mr. Maissan	**$**	**358.31**

3. Yukon Utilities Board

The Board costs with respect to the YEC Rate Schedule 39 proceeding 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 Government of Yukon in the amount of $23,950.00.

Total Costs Awarded to Government of Yukon	**$23,950.00**

NOW THEREFORE the Board Orders as follows:

YEC shall pay the following amounts to Intervenors identified and the Government of the Yukon within 30 days of the issuance of this Order. The Board directs YEC to amortize these hearing-related costs.

Utilities Consumers' Group	$ 1,544.20
John Maissan	$ 358.31
Government of Yukon (Board costs)	$23,950.00
Total Costs Awarded	**$25,852.51**

Dated at the City of Whitehorse, in the Yukon Territory, the 27th day of June 2011.

BY ORDER



Bruce McLennan
Chair