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

Review of
Yukon Utilities Board Cost Orders 2007-07 and 2007-08

BEFORE:	**W. Shanks, Chair**	**)**	**December 11, 2008**
	R. Hancock	**)**	
	J. Woodland	**)**	

BOARD ORDER 2008-18

WHEREAS:

A. On February 13, 2008, the Yukon Utilities Board (Board) issued Board Order 2008-1 granting a Review Application filed on behalf of the Utilities Consumers' Group (UCG) respecting certain cost awards reflected in Board Order 2007-07, as amended by Board Order 2007-09, and Board Order 2007-08 (Cost Orders);

B. In Board Order 2008-1, the Board determined that a Review Proceeding was to be held in relation to only the following:
   a. The fees awarded to Yukon Energy Corporation (YEC) in Board Order 2007-08;
   b. Photocopying costs awarded to YEC in the Cost Orders; and
   c. Miscellaneous service and supply costs awarded to YEC in the Cost Orders;

C. Board Order 2008-1 varied the fees referred to in paragraph (a) above by reducing the fees awarded to YEC by $17,705;

D. On March 5, 2008, the Board issued Board Order 2008-2 providing Reasons for Board Order 2008-1;

E. In Board Order 2008-3, the Board initiated a written Review Proceeding respecting the above-noted paragraphs (b) and (c) and set out a schedule for submissions and reply;

F. YEC and UCG filed submissions in the Review Proceeding on May 15 and 16, 2008, respectively;

G. UCG filed a reply in the Review Proceeding on June 3, 2008.

NOW THEREFORE, for the reasons set out in the Appendix, the Board orders as follows:

1. With respect to the photocopying costs awarded to YEC, the Board confirms the cost award of $7,775.54 to YEC.
2. With respect to the miscellaneous service and supply costs awarded to YEC, the Board varies the Cost Orders by reducing the costs awarded to YEC by $7,054.62 which is the total of $5,379.15 awarded in Board Order 2007-07, as amended by 2007-09, and $1,675.47 awarded in Board Order 2007-08.
3. The Board orders YEC to adjust its Hearing Reserve Account accordingly.

DATED at the City of Whitehorse, Yukon, the 11th day of December 2008

BY ORDER



Wendy Shanks
Chair

Yukon Utilities Board

Reasons for Decision

Board Order 2008-18

A. BACKGROUND

On February 13, 2008, the Yukon Utilities Board (Board) issued Board Order 2008-1 granting the Review Application filed on behalf of the Utilities Consumers' Group (UCG) respecting certain cost awards reflected in Board Order 2007-07, as amended by Board Order 2007-09, and Board Order 2007-08 (Cost Orders). In Board Order 2008-1, the Board determined that a Review Proceeding was to be held in relation to the photocopying costs and miscellaneous service and supply costs awarded to YEC in the Cost Orders, as the Board had varied the fees awarded to YEC by reducing the amount by $17,705.00 in that Order.

In Board Order 2008-3, the Board initiated a written Review Proceeding in relation to photocopying costs and miscellaneous service and supply costs awarded to YEC in the Cost Orders and set out the schedule for written submissions and reply from all parties.

B. Submissions and Reply

In its submission of May 15, 2008, YEC confirmed, as requested by the Board, that the photocopying costs submitted as internal photocopying charges were in fact costs paid to their external legal counsel and regulatory consultants in the amount of $7,775.54. With respect to the miscellaneous costs, YEC provided a breakdown of the services and costs of each service included in the category of miscellaneous services in its Summaries of Disbursements Claimed which was filed with the Board.

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In its submission of May 16, 2008, UCG submitted that the Board should not allow YEC to explain its costs and must deny the photocopying costs and the miscellaneous cost. UCG argued that the Board must make its findings on the evidence YEC provided in its original cost claim application. In support of its argument, UCG cites Board Order 2008-2 in which the Board states that it made its findings and determinations in the Cost Orders on the UCG cost claims on the information submitted by UCG. In its reply of June 3, 2008, UCG reiterates its submissions.

C. Discussion

The Board has considered the above-mentioned submissions of the parties. The Board notes that the photocopying costs and miscellaneous costs submitted by YEC which are the subject matter of this Review Proceeding were approved by the Board in the Cost Orders. The issue before the Board is whether the Cost Orders should be varied in relation to these costs.

With respect to the photocopying costs, the Board made a decision on the information in the YEC cost claims. In Appendix A to Board Order 2008-2, the Board states:

> However, from a review of YEC's cost claims, it appears to the Board that these photocopying costs are, in fact, internal costs of YEC's legal counsel and consultants. It does not appear to the Board from the Review Application that the UCG was questioning the disbursements paid by YEC to its external professionals, including any of their photocopying costs.
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> In approving these photocopying costs in the Cost Orders, the Board determined that they were, like the other disbursements approved for YEC's external professionals, reasonable and necessarily incurred in the proceeding. Therefore, the Board is not persuaded that there is a real error in the Cost Orders in this respect. However, as these facts and determinations are not readily apparent from the Cost Orders, the Board considers it appropriate to review the Cost Orders in this respect in order to clarify them. [1]

Therefore, the Board is not allowing YEC an opportunity to explain their costs after the fact as argued by UCG. Rather the Board, through the Review Proceeding, is seeking confirmation that the photocopying costs were those of YEC's external consultants. YEC has provided such a confirmation. As a result, the Board has determined that the photocopying costs awarded in the Cost Orders do not need to be varied.

Regarding the miscellaneous costs, the Board notes that YEC has provided in its submission of May 15, 2008, a listing of the miscellaneous costs referred to in its cost claims. The Board is of the view that the costs in question do not fall within section 2(a) to (c) of the Scale of Costs. For the most part, the costs relate to facility and equipment rentals and to services such as audio or graphics; therefore, these are not part of the normal overhead component of professional fees. The only services which appear to fall within the normal overhead component are those identified as miscellaneous office supplies and services in the amount of $1947.12. The Board finds that YEC did not provide supporting information in its cost claims respecting the miscellaneous costs. As a result, the Board varies the Cost Orders by reducing the costs awarded to YEC in Board Order 2007-07 as amended by 2007-09, by $5,379.15, and in Board Order 2007-08 by $1,675.47, for a total of $7,054.62.

D. Conclusion

For the above-noted reasons, the Board:

(a) confirms the amount awarded to YEC in the Cost Orders in relation to the photocopying cost; and
(b) varies the Cost Orders by reducing the amount awarded to YEC for miscellaneous costs by $7,054.62, which is the total of $5,379.15 awarded in Board Order 2007-07, as amended by 2007-09, and $1,675.47 awarded in Board Order 2007-08.

[1] Appendix A Board Order 2008-02 (Reasons for Decision to Board Order 2008-01) at pages 7 and 8