YUKON UTILITY BOARD

In the Matter of an Application
Under Subsection 47(2) of the *Public Utilities Act*, RSY 2002, c. 186
To Approve a Settlement Agreement
Between
Whitehorse Condominium Corporation No. 275 ("WCC 275")
and
Yukon Electric Company Ltd., carrying on business as ATCO Electric Yukon ("AEY")

BEFORE:

R. Buchan, Chair	)	June 6, 2024
L. McCullough, Vice-Chair	)	
B. King	)	
M. Johnson	)	

ORDER

WHEREAS:

A. On February 11, 2022, WCC 275 submitted to the Board a complaint under section 44(1) of the *Public Utilities Act*, RSY 2002, c. 186 ("the Act"), in which it alleged that it was being unreasonably and unfairly charged utility rates substantially higher than other residential customers of the electrical distribution utility, AEY.

B. AEY is the electrical distribution utility from which WCC 275 purchases electricity, which enters the condominium premises through a single electrical meter. The single-meter configuration is part of a unique overall design scheme by which the building's designer sought to achieve high energy efficiency through an innovative design of the building's electrical infrastructure.

C. As a result of the single-meter arrangement, the electrical rate schedule for the building falls within the definition of rate 2160, General Service, Hydro, Non-Government; whereas WCC 275 submitted that the residential rate, Residential Schedule 1160, Hydro Non-Government would be the appropriate rate schedule to apply in the circumstances of the condominium being a wholly private residential facility.

D. The remedy that WCC 275 sought from the Board was an investigation pursuant to section 46 of the Act with a view to having a fair electrical rate applied to the residential condominium building it owns.

E. On March 1, 2022, the Board issued a letter to AEY and Yukon Energy Corporation ("YEC"), collectively, "the Utilities". In that letter, the Board informed the Utilities of WCC 275's complaint and requested their response to the complaint.

F. On March 11, 2022, the Utilities provided a joint response to the Board in which they explained the basis on which WCC 275 was being charged appropriately according to the terms of Rate Schedule 2160, as set out in the Terms and Conditions of Service, which the Board approved under Board Order 2011 – 05, dated April 28, 2011.

G. Acting pursuant to section 47(1) of the Act, the Board convened a case management meeting on April 20, 2022, between representatives of WCC 275, YEC, and AEY, the purpose of which was to try to effect a settlement of the complaint. At the close of that meeting, WCC 275 and the Utilities undertook to negotiate with a view to finding a satisfactory settlement to address WCC 275's concerns.

H. In due course, the Board received from WCC 275 and AEY ("the Applicants") a document entitled Complaint Settlement Agreement, dated April 24, 2023 ("the Settlement Agreement"), representing a proposed resolution to the complaint subject to the Board's approval under section 47(2) of the Act. A key component of the Settlement Agreement was a Modified Payment Schedule to ensure that WCC 275 would pay rates comparable to those paid by other private, residential customers under Residential Schedule 1160.

I. Between the time it received the Settlement Agreement and October 6, 2023, the Board issued several Information Requests and received the Applicants' information responses and further submissions. These submissions included a request that the Board exercise its jurisdiction under subparagraph 3.2(c) of the Terms and Conditions of Service to approve the Settlement Agreement's waiver or alteration of that part of the Terms and Conditions that would otherwise require WCC 275 to pay General Service rates under Rate Schedule 2160.

J. After due consideration of the Applicants' evidence and submissions, the Board, being comprised of four members on the date of this order, are evenly divided in their opinions about whether to approve or deny the Application, with the Chair and Vice-Chair favouring approval of the Application.

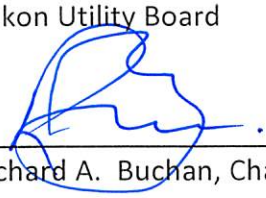
THEREFORE, the Board hereby determines that:

1. The Board has jurisdiction, under section 3.2(c) of the Terms and Conditions of Service, to approve an agreement between the utility and its customer to waive or alter the Terms and Conditions to the extent necessary to achieve a fair and reasonable electrical rate for WCC 275 in relation to that customer's particular circumstances.

2. Following the guidelines to the exercise of the Board's discretion, as set out in the Act and at common law, the Board finds that the Settlement Agreement is fair, reasonable, and materially non-preferential relative to other private residential utility customers in Yukon.

3. By virtue of the Chair's deciding vote under subsection 8(2) of the Act, and pursuant to subsection 47(2) of the Act, the Board hereby approves the Settlement Agreement, dated April 24, 2023, entered into between Yukon Electric Company Limited, operating as ATCO Electric Yukon, and Whitehorse Condominium Corporation No. 275.

Yukon Utility Board



Richard A. Buchan, Chair