



**John F. Maissan – President**

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November 28, 2011

Yukon Utilities Board  
Box 31728  
Whitehorse, Yukon  
Y1A 6L3

Attn: Mr. Bruce McLennan, Chair

Dear Mr. McLennan:

**Re: Yukon Utilities Board review of Scale of Costs and Rules of Practice**

Thank you for the opportunity to provide comments on the Yukon Utilities Board's (the Board) Scale of Costs and Rules of Practice review. The research provided by the Board was very helpful in this process. The following are my comments and suggestions.

Scale of Costs

1. With respect to lawyer's fees the maximum rate for a senior lawyer should be \$325 per hour and for a junior lawyer \$175 per hour.
2. With respect to Analysts and Consultants the maximum rate for a senior analyst or consultant should be \$275 per hour and for a junior analyst or consultant \$125 per hour.
3. Support staff maximum rates should be \$50 per hour.

Factors in my consideration include the rates paid in other jurisdictions and also the Board's preparedness in the past to reduce the hourly rate and billed hours charged by lawyers and consultants as it considers appropriate. In the past the Board has exercised its judgment in determining the prudence of the hours billed (as well as the rates) and the effectiveness of the lawyer or consultant.

As an alternative to the above the Board could fix Yukon's Scale of Costs relative to the Alberta Utilities Commission rates (or any other commission's rates) for lawyers and consultants.

4. The rates for meals and vehicle mileage disbursements should be fixed to Yukon Government (YG) rates in effect at the time of the proceeding. Should the Board consider these to be excessive they could be set at a percentage of the YG rates.

5. Accommodation rates in Yukon seem to vary by season, so the Board could set the rate at an average of the corporate rate of a single economy room at three local hotels of acceptable quality (say Gold Rush, High Country, and Westmark) at the time of the hearing. For private accommodation the YTG rate could be applied.
6. Given the distance most lawyers and consultants need to travel to appear at a hearing, accommodation and meals for the hearing days **plus one day** should be reimbursable.

There is one final comment I wish to make with respect to costs claimed by Yukon Energy and The Yukon Electrical Company Ltd. (YECL). Generally the operation and regulation utilities are complex matters, and there are few intervenors that have the staff and consultants to fully understand all of the complexities and their implications for Yukon consumers in the short and long term. From my perspective it is thus important that Yukon Energy and YECL should not be discouraged from intervening against each other because each understands the operations of the other better than most intervenors. High quality, knowledgeable interventions are important as they are the alternative to open market competition for regulated utilities. I believe some past Board intervenor cost decisions have, at least to a degree, discouraged inter-utility interventions.

7. The Board should approve attendance allowances at hearings for individual intervenors who represent themselves and fully participate in the hearing process, and should approve an attendance allowance for a second person for any intervenor who is otherwise represented in a hearing by only one lawyer or consultant.

In past hearings UCG interventions have been less effective than they may have been because the lawyer was on his own and had no one to assist him and no one from his client to confer with.

### Rules of Practice

1. Clause 25 of the Rules of Practice should be expanded to allow those with Observer Status at hearings to submit comments to the Board up to the same date as Written Argument is due.

Leading Edge started asking for intervenor status (following two or more hearings in which Observer Status was obtained) because of an inability to provide the Board with important information. During the last hearing Leading Edge participated in as an Observer the Applicant provided to the Board information that was, in our view, misleading, and there was no opportunity to set the record straight because Observers had to make their presentations (one evening) before the hearing was complete rather than at the end. The opportunity to provide the Board with written comments and observations after the hearing is complete and up to the same time as Written Argument is due would be helpful to some with Observer Status (and may allow Leading Edge to reduce its participation to Observer Status). Currently I feel there is no option but to ask for Intervenor Status as otherwise I would have no opportunity to make meaningful comments.

2. Clause 26, Presentations, should be updated to allow interested persons to also make their views known to the Board in writing following the hearing up to the date that Written Argument is due.

In my view public participation needs to continue to be encouraged. In recent hearings there have been no advertised opportunities for the public to provide their comments to the Board either orally or in writing at a specific time and place. I would like to see public participation encouraged more than it has been.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "John Maissan".

John Maissan