

**UTILITIES CONSUMERS' GROUP**

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April 17, 2009

Yukon Utilities Board  
Box 31728  
Whitehorse, Yukon  
Y1A 6L3

Attention: Deana Lemke, Board Secretary

**2008/09 Yukon Electrical Company Limited General Rate Application**

Dear Deana:

UCG would like to submit the following regarding the above.

**Background**

UCG requests the Board review our March 30, 2009 submission regarding general cost claim applications, which was within the ten day period assigned to make comments on cost applications, as per Board memo of March 4. In this letter UCG points out two facts:

1. Although it is important to have individual local participation, there is precedent set in prior cost claims' adjudication that individuals intervening on their own behalf or sole- business interest cannot recover their costs.

2. UCG petitions the Board apply consistency and fairness in their determination for the recovery of costs to all parties. The Court of Appeal qualified that the utilities or applicants must follow the same rules and policy protocol advanced by the Board for determining cost claims as does all other parties.

UCG respectfully submits, we recognize the Board is provided with discretion to award costs under Section 56 of the *Public Utilities Act*. The Board, as such, established a Scale of Costs and Costs Policy under the Board's Rules of Practice to exercise it's statutory obligations. This was, along with clarifying procedural protocol, to ensure consistency in their application basic to avoid the appearance of prejudicial or discriminatory practices.

**Board not Allowing Evidence after Due Date**

Yukon Electrical was given prior notice by the Board (as was all parties to this matter) March 4, 2009 for the necessity to submit all applications for cost claims to the Board within 30 days from the Board's decision, in which a deadline of Monday, March 23, 2009 was appropriately given.

Yukon Electric failed to document such evidence to the Board on or before this required date.

In Board Order 2008-1 Reason for Decision the Board concludes: ***“Neither the Act, the Scale of Costs nor the Costs Policy provide for an iterative process in which parties have an unlimited opportunity to justify their cost claims.”***

In this Order the Board denied UCG the opportunity to submit any cost evidence beyond what was originally submitted on or before the stipulated date set out in Board policy.

In the April 6, 2009 Review and Variance Application by Yukon Electrical their counsel submits: ***“No provisions in the PUA authorize the Board to apply its mandate in a discriminatory fashion that leads to unfair and unequal treatment ... and the same legislative requirements be applied.”*** He continues: ***“Arriving at contradictory Decisions, on the very same facts, reflects an inconsistent, prejudicial and discriminatory application of the Board’s legislative mandate that is inconsistent with the YUA and, as such, can not be permitted to stand.”***

UCG submits that this would include the Rules of Practice and Cost Policy as sanctioned by the Board under section 10(1) of the *Public Utilities Act*.

In conclusion, as the above facts affirm, UCG submits that in applying its statutory requirements in a consistent manner, the Board must deny all of the Yukon Electrical costs for this proceeding, which were provided as evidence after the due date set by the Board. Not to do so would breach the principle of natural justice and fairness provided under the *Act*.

### **Board Allowing Evidence After Due Date**

If the Board in its deliberations finds that it is not unfair practice to allow Yukon Electrical an extension from the protocol established, then UCG would have the following concerns regarding their application:

1. As pointed out in our final argument, UCG submits that the hiring of a professional consultant to present evidence/testimony for return on equity and cost of capital was a waste of all parties time and expense. By using a generic return set out from other jurisdictions as the “starting point” while at the same time hiring a specialist to argue a moot point, caused this part of the process an exercise in futility. Therefore, it is UCG’s submission that any costs associated with Foster Associates be denied cost recovery into the rate case reserve.

2. In the disbursements coupons provided by Yukon Electrical for consultants, UCG would like the Board to review all airfare costs. The Scale of Costs states in #2(a) (3): ***“Airfare, at economy or less, to and from the hearing, applicable only when attendance is required.”*** UCG submits that the non of the airfares submitted by Yukon Electrical did not comply this policy. In one case, a side flight to Juneau was included.

Yukon Electrical knew well in advance the dates of the hearing. Bookings in advance for Air North return from Calgary, Edmonton or Vancouver varies from \$370 to \$460.

By booking with their affiliate sister company, flights were three times this cost, with an additional service fee rendered to ATCO Travel.

As well, all flights from their US consultants certainly were not economy fare.

In adjudicating disbursements as to the Rules, UCG submits all airfares for legal,

affiliate support staff and two consultants beyond the economy class amounts be denied into the rate case reserve.

3. It appears as if the cost claims for ATCO services are double-dipped by Yukon Electrical...i.e. on the books in the YECL monthly accounting (YECL 57, 58,59,60,61,62 and 63) and then in this application to apply all regulatory support costs in the rate case reserve.

Therefore, we submit if these costs are to be included in the rate case reserve, verification is needed to show where it was taken off the YECL revenue requirement.

Respectfully submitted,

Roger Rondeau

C.c. All parties