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January 6, 2020

Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Robert Laking, Chair

**Re: Yukon Energy Corporation
2017-2018 General Rates Application Compliance Filings
UCG Comments on YEC Cost Claim**

Dear Mr. Laking:

The Utilities Consumers' Group (UCG) offers the following comments on Yukon Energy Corporation's (YEC) cost claim dated **December 23, 2019 in this proceeding.**

UCG submits that the above dated cost claim of YEC yet again confirms the status quo message UCG gave the administration of YEC and the Board during cross examination and argument during the last hearing proceeding. It clearly demonstrates the flagrant usage of consultants and legal, while invoking that they have significantly lowered regulatory costs to ratepayers since the Board ordered, during the 2013 hearing for the YEC to look at alternatives; i.e. doing more of the work in-house.

This YEC cost application continues to raise concerns with respect to how much in regulatory costs should be recovered through rates charged to Yukon ratepayers (both in such cost application processes but also revenue requirement costs), the continued request by YEC for Yukon ratepayers to pay for claimed costs that are not allowed per the YUB's Scale of Costs and on which the YUB has repeatedly denied recovery, and how these disallowed costs are being treated from an accounting and revenue requirement perspective and how transparent this treatment has been.

It is particularly disturbing that Mr. Mollard's sworn affidavit (Form 4) dated December 20, 2019 states that *"I confirm that the fees and disbursements claimed on behalf of the Claimant's lawyer(s), expert(s), or consultant(s) are reasonable and in accordance with the Scale of Costs"*, when it is so obvious that some of these claimed costs are not allowed per the Scale of Costs as from the YUB's past rulings. UCG submits that it is appalling that YEC's own Chief Financial Officer is not aware of what is allowed to be recovered from Yukon ratepayers and then make legal proclamations as such. It is also noted that this document does not have an official notary seal.

Legal Professional Costs

As has transpired for every regulatory proceeding that YEC has been involved, YEC provided invoices for legal fees at an hourly rate in excess of the rate allowed in the Scale of Costs. Based on information contained within Appendix A to YEC's cost claim, DLA Piper charged \$550 per hour + 5% GST to YEC for Mr. Landry's work.

Even though YEC has not claimed legal fees in excess of the Scale of Costs in this particular cost claim application, UCG submits that all of the legal fees that were charged by Mr. Landry at above-

board-sanctioned scale for hourly rates should not be recovered in any way through rates charged to Yukon ratepayers.

The YUB has determined that the hourly rate limits for professional fees were established at levels that were fair to be recovered from Yukon ratepayers for services rendered as part of a regulatory proceeding.¹

Accordingly, UCG submits that the Board place as a condition that the YEC to indicate exactly how these extra invoiced DLA Piper's costs, which are above the YUB prescribed Scale of Costs, are handled in the YEC accounting perspective.

The ongoing charging by YEC's lawyer at rates well above the Scale of Costs levels remains a significant issue for Yukon ratepayers since we are left paying for all costs incurred by YEC (either through electricity rates or tax bills). All of these costs work against the affordability of services being provided in the Yukon, including electricity.

Intergroup Consultant Professional Costs

UCG submits that YEC and its consultants continue to disregard the rulings and determinations of the YUB regarding costs that are not to be recovered from Yukon ratepayers through electricity rates:

- *In Board Order 2011-09, the YUB disallowed YEC's allowed cost recovery for the professional fees of any InterGroup analysts other than Mr. Osler and Ms. Pollitt-Smith because "the services of other analysts and researchers were duplication of the services provided by these two consultants." The YUB also found that the hours claimed by Mr. Osler and Ms. Pollitt-Smith were excessive because some of these services were duplication so the YUB reduced the number of hours of each of these consultants by 20%.*
- *In its Board Order 2013-08, the YUB disallowed the professional fees of any analysts other than Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov because the services of other analysts were duplication of the services provided by these three consultants. The YUB also determined that some of the services provided by Mr. Osler, Ms. Pollitt-Smith and Mr. Najmidinov were duplication, so the YUB exercised its discretion and reduced the total fees claimed for each of these consultants by 25% of the hours claimed.*
- *In its Board Order 2014-12, the YUB disallowed the professional fees of InterGroup's support analysts and administration staff because the services of these analysts were duplicative of the services provided by the main consultants. The YUB also determined that some of the services provided by InterGroup's consultants were duplicative, so the YUB exercised its discretion and reduced the total fees claimed for each of these consultants by 15% of the hours claimed.*
- *In its Board Order 2015-04, the YUB adopted its views in Board Order 2013-08 and Board Order 2014-12 that disallowed the costs related to the excessive amounts of analysts, research analysts and other staff that InterGroup involved in the proceeding because of the duplication of work of the main consultants (Mr. Osler and Ms. Pollitt-Smith). The YUB also reduced the total number of hours claimed by InterGroup's main consultants by 25% for each consultant because they were excessive.*
- *In its Board Order 2018-08, the YUB disallowed the professional fees of "any researcher or other analyst because the Board is not satisfied that these services were needed since the consulting services were provided by Mr. Osler and Ms. Pollitt-Smith. In addition, the Board considers that document production staff are not consultants, analysts or experts within the meaning defined in the Scale of Costs. Document production staff is more akin to support staff and the Scale of Costs only permits claims for support staff who are not part of the office staff*

1 Yukon Utilities Board Scale of Costs— Approved by Board Order 2012-09, October 17, 2012 2. Application of Scale of Costs and Purpose 2.1 This Scale of Costs applies to applicants and interveners participating in a proceeding commenced after April 1, 2012. 2.2 This Scale of Costs represents a fair and reasonable tariff to provide any participant with adequate, competent, and professional assistance in making an effective submission before the Board.

of the consultants. In this case, the document production staff work for InterGroup". The YUB also exercised its discretion and reduced the number of hours of each of Mr. Osler and Ms. Pollitt-Smith by 40% because their claims were excessive.

• In its Board Order 2018-09, the YUB disallowed the professional fees of "any researcher or other analyst because the Board is not satisfied that these services were needed given the consulting services provided by Mr. Osler and Ms. Pollitt-Smith. In addition, the Board considers that document production staff are not consultants, analysts or experts within the meaning of the Scale of Costs. Document production staff is more akin to support staff and the Scale of Costs only permits claims for support staff who are not part of the office staff of the consultants. In this case, the document production staff work for InterGroup; therefore, the Board disallows the consulting costs claimed for InterGroup's document production staff". The YUB also exercised its discretion to reduce the number of hours of each of Mr. Osler and Ms. Pollitt-Smith by 60% because they were excessive.

• In its Board Order 2019-03, the YUB noted that there was insufficient evidence as to why both Mr. Osler and Ms. Pollitt-Smith would both need to complete the tasks described in the invoices and it was reasonable to conclude that duplication occurred between consultants. The YUB also determined that the total number of hours claimed by InterGroup was not reasonable and that it was not apparent that the use of two senior consultants as well as other consultants and analysts was necessary for preparation of YEC's GRA.

UCG submits these prior rulings by the YUB clearly demonstrates a tendency for Yukon Energy attempt to hold Yukon ratepayers responsible for InterGroup consultant costs that are not allowed per the Scale of Costs, as well as claimed hours which are routinely duplicative or excessive.

YEC's cost claim for InterGroup for this 2nd compliance proceeding includes 246 hours, broken down as follows:

C. Osler	108.75 hours
M. Pollitt-Smith	78.50 hours
H. Najmidinov:	49.75 hours
J. Gordon:	2.50 hours
Admin / Clerical	6.50 hours

As has been determined by the YUB in past proceedings, the services and costs incurred by InterGroup staff other than Mr. Osler and Ms. Pollitt-Smith be disallowed. This results in disallowance of \$6,696.25 + GST in the above hourly invoices

UCG submits it is also apparent that it is unnecessary for two consultants as well as all the YEC management personnel attend regulatory proceedings, thus adding unnecessary significant costs. For this particular cost application, by example, Osler and Pollitt-Smith personally attended the technical session in October when telephone connections were clearly available and used by others. It was also apparent from this and other sessions that Yukon Energy personnel were/are very capable of doing these jobs, so there is also duplication here.

Given the descriptions of tasks undertaken in this proceeding, UCG submits that there is still an unexplained amount of duplication in the efforts of these two consultants.

Disbursements

YEC submitted a claim to recover \$2,719.70 in disbursements related to airfare, hotel accommodations, meals, long distance phone calls, internal photocopying and miscellaneous charges for this proceeding. Again, in attempt to recover costs from ratepayers which are not recoverable pursuant to the Scale of

Costs, which is very clear that claims for meals, accommodations and airfare are restricted to the duration of an oral hearing.²

This was a technical session. There was no oral hearing related to the 2nd compliance filing thus any meal costs claimed (\$91.60) by YEC should be disallowed and not be recoverable from Yukon ratepayers. The Scale of Costs is also very clear that airfare, taxi, parking and hotel costs claims are restricted to an oral hearing and that all receipts relating to a claim for disbursements must be legible and clearly identify the date upon which the receipt was issued.³ UCG submits that all of the \$1,813.50 in travel costs claimed by YEC on behalf of InterGroup should therefore be disallowed for the same reasons as meal costs.

UCG submits that the YUB needs to step up and warn YEC that any further attempts to circumvent the rules contained in the Scale of Costs will result not only in dis-allowance, but also in future penalty. At the same time, UCG submits that it is very important that all regulatory disallowed costs and professional overcharge costs be clearly identified in YEC accounting linear perspective, so that YEC not be allowed to simply hide such regulatory costs in its' revenue requirement.

Accordingly, UCG submits the YUB state specifically in the decision related to the costs in this proceeding that any costs invoiced to YEC above what is allowed to be recovered from Yukon ratepayers be at the expense of YEC's shareholders and not Yukon ratepayers or taxpayers. If the shareholder is made responsible for these costs, it is more likely that the boards may be more diligent in having this corporation evolve into a truly independent Yukon entity with the administration doing the work they are highly paid to do and not rely on outside professionals.

If there are any questions concerning the contents of this submission, I would ask that they be directed to me by email at rrondeau@northwestel.net or by phone at 633-5210.

Yours truly,

Roger Rondeau
Utilities Consumers' Group

cc (by email): Yukon Energy Corporation

2 Yukon Utilities Board Scale of Costs— Approved by Board Order 2012-09, October 17, 2012 b. Personal expenses The Board will consider claims for the following personal expenses that are incurred during an oral hearing: Meals, Accommodation, Travel, Taxi, Parking

3 Ibid

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