

**Whitehorse Condominium Corporation No. 275/ATCO Electric Yukon
A complaint between
Whitehorse Condominium Corporation (WCC) No. 275 (CC275) and
ATCO Electric Yukon (AEY) regarding
electricity rates being charged to members of CC275**

**Yukon Utilities Board
Information Requests Round 2 to
CC275/AEY**

CC275/AEY-YUB-2-001

Reference: CC275/AEY-YUB-001, WCC response, PDF page 1; CC275/AEY-YUB-001, AEY response, PDF page 3

Issue: Rate Schedule, Terms and Conditions for Service (TCS)

Quote: CC275 Response: The agreement was developed to address a unique situation not envisioned by the current rates and TCS. WCC275 filed a Complaint with the YUB in February 2022. As a result of a case management meeting, WCC275 and ATCO Electric Yukon agreed to attempt to negotiate a settlement. This agreement is the result.

This agreement is consistent with Board-approved rates because (a)it establishes a modified pricing scheme only for WCC275, so the prices paid for electricity are on par with rates charged all other residential customers; and (b)it provides that WCC 275 unit owners make a True-Up Cost payment to AEY to equalize the cost of service connection.

Our Complaint is that TCS 4.13 unfairly places the residential customers of WCC275 in a General Service (Non-residential) class (which AEY has interpreted to mean General Service (Non-Government) because General Service (non-residential) does not exist in the TCS) and charges them an unjustified higher rate than other residential class customers, simply because of the unique design and one meter service to the building. The AEY-WCC275 agreement is consistent with subsection 47(2) of the Public Utilities Act and paragraph 3.2(c) of the TCS, both of which contemplate an agreement among parties that can be approved by the Board.

AEY response: (c) The Agreement has been submitted to the Board for approval, following an in-person case-management meeting with the Board and various stakeholders on April 20, 2022, in which AEY agreed to take the matter away in an attempt to negotiate a solution. As mentioned in response to (a), while the spirit and intent of the terms and conditions have been followed during the development of the Agreement, this scenario is atypical and unique.

(d) AEY submits the Agreement is within the Board's jurisdiction, per Section 47 of the Public Utilities Act, and Section 3.2(c) of the TCS.

Preamble: Rate Schedule 1160 states that this schedule is applicable to single-phase electric service at secondary voltage through a single meter, for normal use by a single and separate household. Not applicable to any commercial, industrial or government use... For multiple residence service on one meter, see Rider A.

Rider A states that it is applicable to: Residential customers living in single detached family dwellings whose service covers the needs of more than a single household. Not applicable to apartments or multiple dwelling facilities.

Section 3.2 (c) of the TCS for service states: No agreement can provide for the waiver or alteration of any part of these terms and conditions unless such agreement is first filed with and approved by the Board.

Section 4.13 of the Ts&Cs states: Each individual unit within a Multiple Dwelling will be served as a separate Point of Service and billed individually on the applicable residential rate. The Company and a Customer may agree that one bill will be issued covering all individual units in a Multiple Dwelling and, in such case, the applicable general service (non-residential) rate will apply to the Service.

Section 47(2) of the *Public Utilities Act* states: If a settlement of a complaint is agreed to in writing, signed by the public utility and the complainant, and approved by the board, the settlement binds the parties and its terms are enforceable as an order of the board under this Act. *R.S., c.143, s.47.*

Section 28(1) of the *Public Utilities Act* states: No public utility shall charge any rate for the supply of the service for which it is franchised other than the rate set by the board pursuant to this Act unless, 90 days before it proposes to charge a different rate,

- (a) a statement showing the new rate is filed with the board; and
- (b) a notice showing the new rate is sent by mail or delivered to each municipality in which the service is provided and to the Minister.

Request:

- (a) Given that this agreement does not appear to comply with Rate Schedule 1160 and Rider A, is this agreement intended to supersede this rate schedule and rider? Please explain.
- (b) Is this agreement intended to supersede Section 4.13 of the Ts&Cs? Please explain.
- (c) How is this agreement in compliance with Section 28(1) of the *Public Utilities Act*? Please explain.
- (d) Does Section 47(2) of the *Public Utilities Act* override Section 28(1) of the Act? Please explain.
- (e) Under this agreement, is AEY changing the meter that serves WCC275 at the point of delivery? Please explain.
- (f) If AEY is not changing the meter, is the service provided by AEY effectively the same that existed before the complaint? Please explain.
- (g) If AEY is changing the meter, is the service to WCC275 changing? If the service is changing, please describe how the service is changing.

CC275/AEY-YUB-2-002

Reference: CC275/AEY-YUB-1-004(d), PDF page 5; WCC275/AEY-YUB-02(c), PDF page 6; WCC275/AEY-YUB-1-004(d), PDF page 11; AEY-YUB-1-002 (a & b), PDF page 5

Issue: Common areas

Quote: CC275-1-004(d) Response: As stated in the Complaint, WCC275 is 100% residential and all energy/electricity consumed is for residential purposes, including the common areas. The only common areas of WCC275 that are heated are the garage and social room. Like an attached garage, or other out building on a single-family residential lot, the garage and social room form part of the residence and are as consistent with the description of residential service in the residential service rate schedule as an attached garage or outbuilding.

AEY-1-002(a & b): There is no reference in the TCS for an allowance of an administration fee. However, this fee is necessary to offset costs related to ongoing manual bill adjustments and ensure no preferential treatment from other customers.

AEY-1-002(c) Response: The common areas of the building do not qualify under the residential rate class per se. However, in an attempt to negotiate a solution, consider the existing metering configuration at WCC275, and for administrative simplicity, energy consumption in the common areas will be incorporated into the modified billing scheme. The Condo Corporation will be responsible for allocating the utility bill to downstream customers.

As discussed in AEY-YEC's original response to the complaint filed on March 11, 2022, there was discussion with the developer at the time of construction whereby Section 4.13 of the TCS was leveraged and the site was connected under the General Service rate, behind a single meter for the entire building.

AEY-1-004(d) Response: Please refer to WCC275-AEY-YUB-02(c) for further discussion around common spaces. The proposed solution in the agreement is the result of negotiations, following the case-management meeting on April 20, 2022. The proposed solution intends to address the atypical and unique nature of the service.

Request:

- (a) How are common areas treated for billing purposes in other condominiums/apartment buildings in Yukon? Is a residential or a general service rate applied? Please explain.
- (b) How are condominiums/apartment buildings currently metered in Yukon? Are common areas metered separately under a general service rate?
- (c) Please explain how charging the residential rate for common areas, offset by a fee, will ensure no preferential treatment over other customers.
- (d) What are the typical electricity usages of common areas for condominiums/apartments in Yukon?

- (e) What is the size of the common area? Please provide the cost of electricity being paid for the common area. If it can't be accurately measured, please provide an explanation of how it is calculated and what would have to be done to provide an accurate measurement consistent with the requirements for all other residential condominium corporations.

CC275/AEY-YUB-2-003

Reference: WCC275/AEY-YUB-1-004(d), PDF page 10

Issue: Energy blocking adjustment

Quote: Energy blocking is adjusted to minimize unfair sharing of lower-priced lower energy blocks.

Request:

Please explain and demonstrate how the energy blocking adjustment will occur.

CC275/AEY-YUB-2-004

Reference: WCC275/AEY-YUB-1-004(f), PDF page 11.

Issue: Escalation

Quote: No, the escalation is not consistent with any existing and applicable legislation and regulations, however ATCO submits the negotiated agreement, including the proposed escalation is reasonable and falls within the purview of the Board's jurisdiction.

Request:

- (a) Please explain how the escalation is not consistent with any existing and applicable legislation.
- (b) Please explain how the escalation falls within the Board's jurisdiction even though it is not consistent with any existing and applicable legislation.

CC275/AEY-YUB-2-005

Reference: WCC275/AEY-YUB-1-006(n) PDF page 8; WCC275/AEY-YUB-1-006(n) PDF page 17

Issue: Cost of meters for individual units

Quote: CC275-1-006(n): This question relates to the question of the Investment True-Up and service connection initially ordered by the development company and/or those acting for it. The purpose of the Investment True-Up, as found in Schedule 2 of the agreement, is to avoid preferential treatment and make equitable the costs and revenues on par with residential service.

AEY-1-006(n): AEY does not have a cost estimate. However, the costs were expected to be significant based on the fact that there is no space available for metering inside the existing utility room and for extensive retrofitting required.

Preamble: This question was inadequately answered.

Request:

Please provide a Class 1 (reasonable) cost estimate to modify the installation to meet the current TCS for condominiums/apartment buildings.

CC275/AEY-YUB-2-006

Reference: WCC275 Complaint, February 11, 2022

Issue: Cost reduction of electrical energy

Quote: Electricity bills being charged to residents of Whitehorse Condominium Corporation No. 275 (Third and Hawkins) are unreasonably and unfairly high, at least 31% more than other residential customers. The price per kwh being charged on an annual basis is an average 26.85 cents; this is 31% more than an average of 20.57 cents/kwh for residential customers. One year of bills from ATCO Yukon Electric to Third and Hawkins totals \$82,430.70, when a more fair amount would be \$63,144.40, a difference of \$19,286.30, or 30.54%. The disparity is projected to increase to \$27,140 in 2022, a difference of 45%, Left unchecked, by year 2024, residents of Third and Hawkins will have paid more than \$100,000 than what is fair.

Preamble: The Board wishes to understand the potential cost savings to the resident as well as the accuracy of the forecast in the original complaint.

Request:

- (a) Using the year June 2022 to June 2023, please provide a comparison of the invoices to WCC275 under the current system, under the conventional systems and finally under the proposed arrangement.
- (b) As per the quote in the original complaint and the estimates in (a), please explain how the potential loss of revenue by AEY will be compensated.

CC275/AEY-YUB-2-007

Reference: Measurement Canada website - <https://ised-isde.canada.ca/site/measurement-canada/en/consultations/temporary-dispensation-level-3-electric-vehicle-supply-equipment>

Issue: Board authority

Quote: Verification

9 (1) Subject to subsections (2) and (3), where a contractor or purchaser intends to use or cause to be used a meter for the purpose of obtaining the basis of a charge for electricity or gas supplied by or to him, the meter shall not, until it has been verified and sealed in accordance with this Act and the regulations, be put into service.

Preamble: The residential energy meters are used for the purpose of obtaining the basis of a charge for electricity.

Request:

- (a) Please provide legal authorities that allow the Board to modify or override Measurement Canada requirements.
- (b) Can the existing metering installation be retrofitted with similar equipment that meets Measurement Canada standards? At what costs? Borne by who? What are the differences between the installed meters and Measurement Canada's approved meter?
- (c) Please show the payback period for installing approved Measurement Canada standard meters against costs of electricity paid at current approved general service rates.
- (d) Is the existing residential metering installation compatible with the proposed AMI system in AEY's 2023-2024 GRA?
- (e) Is the existing residential metering installation compatible with future demand response and other energy conservation schemes?
- (f) How are the EV-charger operating costs and other future non-metered load being fairly apportioned to the individual user?

CC275/AEY-YUB-2-008

Reference: No reference

Preamble: The Board requires further information.
Under section 3.1 of the TCS, a utility proposing a change to a different rate is required to send a notice to each municipality and to other customers in that class.

Request:

- (a) Should a notice of the proposed change be sent to all customers in the class prior to the Board approving the settlement agreement?
- (b) If the answer to (a) is no and this change is approved, how would ATCO comply with the notice requirements under the current approved TCS? Specifically, notification of which customer groups are affected by the amendment? Please provide an explanation of how affected customers will be notified of the amendments. In light of these provisions, why does AEY stress in this agreement that it is a one-off confidential change?
- (c) All changes approved by the YUB become a public document via a Board Order. Please explain why clause 9 of the agreement states that it is not intended to serve a precedent for any other similar customer situation unrelated to that of the Building or to be used by any party or third party to seek support or advance any claim against ATCO whatsoever. In light of the Board's obligation to issue a Board Order, please explain how AEY will deal with other condo owners who would like to change their rate class for common areas.
- (d) How many other contractors building multi-use condos have approached AEY within the last year wanting to install a similar one-meter set-up rather than installing the CMS individual meters? What has AEY advised them regarding the rates the condo association owners would have to pay?
- (e) If this agreement receives YUB approval, how will it change the way AEY responds to new condominium developers regarding the installation of meters in new buildings?

CC275/AEY-YUB-2-009

Reference: WCC275/AEY-YUB-1-001(c, d) – AEY response

Issue: Inadequate responses

Preamble: AEY’s response does not answer the question posed.

Request:

- (a) For greater clarity on YUB-WCC275/AEY-1-001(c), what is (are) the parties’ specific purpose(s) in seeking the Board’s approval of the Settlement Agreement? Apart from having access to court enforcement of the Settlement Agreement under section 47(2) of the PUA and a waiver/variance of the applicable TCS provisions, do the parties seek to realize any other objective flowing specifically from the Board’s approval?
- (b) Describe in detail the parties’ understanding of “the spirit and intent of the terms and conditions”. Explain in specific detail how the Settlement Agreement honours that spirit and intent and avoids conferring on WCC275 and its unit-holders more favourable benefits than those available to similarly situated ratepayers.
- (c) For YUB-WCC275/AEY-1-001(d), provide the parties’ rationale supporting why the Board should exercise its discretion to approve the Settlement Agreement under section 3.2(c) of the PUA. In particular, what criteria does AEY submit as appropriate for the Board to apply in exercising such discretion?

CC275/AEY-YUB-2-010

Reference: WCC275/AEY-YUB-1-002(c) – AEY response

Issue: Inadequate responses

Preamble: AEY’s response does not answer the question posed.

Request:

The response the Board sought required legal analysis. The original request was: “Please explain how the common areas of the Building qualify as a residential rate under the residential rate class. Conversely, please explain how the common area of the Building qualifies as a General Service Rate under the current billing structure for the Building.” Please provide the explanations sought and provide legal authorities to support those explanations.

CC275/AEY-YUB-2-011

Reference: WCC275/AEY-YUB-1-003(a, d) – AEY response

Issue: Follow-up to responses

Request:

- (a) Would the Settlement Agreement result in WCC275 and its unit-holders enjoying more favourable energy rates for the building’s common areas when compared with the rates paid in relation to buildings designed with the “default metering configuration” described in AEY’s response? If not, please explain in detail. If such a benefit would exist, is there any mechanism within the Settlement Agreement that offsets that benefit?
- (b) If the Settlement Agreement were to go into effect, it would create an exception to the general application of TCS section 14.3, which would arguably result in preferential

treatment to WCC275 and its unit-holders relative to other similarly situated AEY customers. Please provide a legal analysis as to how the Board can approve an agreement between AEY and its customer that apparently might breach the general regulatory principle against discriminatory/preferential treatment in respect of certain customers.

CC275/AEY-YUB-2-012

Reference: WCC 275/AEY-YUB-1-001(a), Parts D and E of the Complaint Settlement Agreement (Agreement) – WCC275 response

Issue: Preferential treatment

Quote: The AEY-WCC 275 agreement is consistent with subsection 47(2) of the Public Utilities Act and paragraph 3.2(c) of the TCS, both of which contemplate an agreement among parties that can be approved by the Board.

Request:

- (a) Please provide further detail as to how this statement is responsive to the Board's Information Request.
- (b) What does WCC275 submit to be the meaning and intent of the referenced provisions from the Act and the TCS?
- (c) How is the Agreement consistent with the referenced provisions?

CC275/AEY-YUB-2-013

Reference: WCC 275/AEY-YUB-1-001(a), Parts D and E of the Complaint Settlement Agreement – WCC275 response

Preamble: The Board understands WCC275's position, as TCS section 4.13 was apparently designed to deal with the precise circumstances in effect at the WCC275 premises.

Request:

Referring to any applicable legal authority or regulatory principles, please explain why the Board should exercise such discretion as it may have in favour of the parties' request to approve the Settlement Agreement.

CC275/AEY-YUB-2-014

Reference: WCC 275/AEY-YUB-1-001(e), Parts D and E of the Complaint Settlement Agreement (Agreement) – WCC275 response

Issue: Board jurisdiction

Quote: The Board has no regulatory jurisdiction downstream of, or beyond or behind the AEY meter/point of service, and we are not asking the Board to exceed its jurisdiction.

Request:

Please provide WCC275's legal analysis in support of its statement about the limits of the Board's jurisdiction downstream of the AEY meter/point of service.

CC275/AEY-YUB-2-015

Reference: No reference

Issue: Settlement agreement

Preamble: The Board requires further information.

Request:

Would the Settlement Agreement, once fulfilled, result in any circumstances substantively different from those that would have resulted if the condominium development had followed the standard practice of having each residential unit separately metered in the conventional manner?

Please explain your response in detail.