

**IN THE MATTER OF the *Public Utilities Act*  
Revised Statutes of Yukon, 2002, c.186, as amended**

**and**

**Review of Yukon Utilities Board Order 2018-10 and  
Appendix A – Reasons for Decision**

**BEFORE:**            R. Laking, Chair            )            September 20, 2019  
                          B. King, Vice-Chair        )  
                          A. Fortin                    )

**BOARD ORDER 2019-05**

**WHEREAS:**

- A. Pursuant to section 62 of the *Public Utilities Act* and section 31 of the Yukon Utilities Board (Board) Rules of Practice, on March 15, 2019, the Yukon Energy Corporation (YEC) filed with the Board an Application for Review and Variance (Review Application) regarding Board Order 2018-10 and Appendix A, Reasons for Decision, dated December 27, 2018. In its Review Application, YEC is requesting that the Board should convene a Phase II review on the merits of its demand-side management (DSM) programs and associated costs or, alternatively, proceed directly to vary its findings by approving the DSM costs as applied for in YEC's June 22, 2017, 2017-18 General Rate Application.
- B. In summary, YEC alleges the Board erred in law with regard to its findings on DSM by failing to determine YEC's rate base in accordance with the requirements of section 32 of the *Public Utilities Act*, failing to consider YEC's evidence in relation to YEC's DSM costs and taking into account irrelevant considerations in concluding that the DSM costs were imprudently incurred.
- C. YEC submitted that it met the first stage of a review and that the Board should review and vary Board Order 2018-10 as requested in the Review Application.
- D. On March 26, 2019, the Board issued a letter requesting comments from parties to the proceeding that resulted in Board Order 2018-10 and afforded the applicant for review an opportunity to respond to any comments filed. Comments were received from the Utilities Consumers'

Group (UCG), the Yukon Conservation Society (YCS) and John Maissan. YCS and Mr. Maissan supported the Review Application and UCG opposed the Review Application. YEC replied to comments from these respective parties.

- E. Section 31 of the Board's Rules of Practice states that the Board will use a two-phase system for applications for review. The first phase is the initial screening phase wherein the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Board. In the case of an alleged error, in order to advance to the second phase of the process, the applicant for review must show that the claim of error is substantiated on a *prima facie* basis and the error has significant material implications.
- F. The Board has considered the Review Application from YEC and the submissions of the parties in light of the test set out in section 31 of the Board's Rules of Practice.
- G. The Board has decided that YEC has not shown on a *prima facie* basis that the Board committed an error of law in Decision 2018-10 in denying YEC's DSM programs and associated costs. Therefore, the Board has determined that the Review Application will not advance to the second phase of the review process.

**NOW THEREFORE**, for the reasons set out in the attached Appendix A, the Board dismisses YEC's Review Application to review and vary Board Order 2018-10.

**DATED** at the City of Whitehorse, Yukon, the 20<sup>th</sup> day of September 2019.

BY ORDER

A handwritten signature in black ink, appearing to read 'Robert Laking', is written over the printed name and title.

Robert Laking  
Chair