

## COMPLAINT

Pursuant to Part 4 of the *Yukon Utilities Act* (the “Act”), we, **Benoit Charland** of #204-210 Hawkins Street, Whitehorse, Yukon, and **Meghan McKenna** of #202-210 Hawkins Street, Whitehorse, Yukon, complain to the Yukon Utilities Board on behalf of **Whitehorse Condominium Corporation No. 275**, on our own behalf and on behalf of the unit owners/residents who have signed Appendix “A” to this Complaint.

### Summary

- 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.
- ATCO and Yukon Energy are required to adhere to provisions of the Terms and Conditions and the rate structures that were approved more than ten years ago. The unique energy system in use at Third and Hawkins, a new building completed in November of 2020, presents a new situation that needs to be addressed by the Yukon Utilities Board in order to ensure that all customers are charged rates that are just and reasonable as technology and circumstances change.
- The rate schedule being applied is 2160, General Service, Hydro, Non-Government, which includes a very high demand charge intended for commercial operations; this is a major source of the higher cost; we believe that instead, a residential rate should be applied, on par to those of Residential Schedule 1160, Hydro, Non-Government.
- Third and Hawkins is a new building that emits no carbon. It was designed with the latest green technology to be energy efficient. Considering the Yukon government’s high priority to fight climate change and reduce Greenhouse Gas Emissions, it is imperative that innovative citizen-led projects of this type be treated fairly by the utilities and their regulator.
- The residents of Third and Hawkins are asking the YUB to order an investigation that would result in fair rates in a timely manner.

### Background to Complaint

1. We are the owners of Units 4 (Charland) and 2 (McKenna), CC275, City of Whitehorse, YT, Plan No. 100040353, and an undivided interest in the common property as specified in the Declaration. This is the legal description of our condominium units which are part of a condominium building known as Third and Hawkins.
2. We are Owners and each reside in our units. There are 18 other residential units in Third and Hawkins and together with us, the owners of these units own 100% of the common property. The entire building is residential; none of it is retail or commercial.
3. As unit owners at Third and Hawkins, we are members of Whitehorse Condominium Corporation No. 275 (the "Corporation") which has made and filed its Declaration and Bylaws with the Registrar of Land Titles in accordance with the *Condominium Act*. We are authorized by the Corporation and the unit owners who have signed Appendix "A" to make this Complaint on their behalf.
4. Pursuant to the *Condominium Act*, the Declaration and the Bylaws, the Corporation has a duty to provide water, heat and electricity to the units and the common elements. The Corporation does not buy electricity for its own use or account: it does so as agent on behalf of the unit owners in the discharge of its legal duty to provide electricity to the units and common elements.
5. Third and Hawkins has an innovative integrated energy system that is unlike any other in the Yukon. This system furnishes energy to each unit and to the common areas and common elements for heating, cooling, lighting and to meet other domestic electrical needs.
6. Third and Hawkins was designed to be energy efficient, and its electricity consumption has been determined to be more than 40% better than a National Energy Code for Buildings model for an equivalent conventional building heated electrically.
7. ATCO invoices the Corporation monthly. The rate schedule that it applies is 2160, General Service, Hydro, Non-Government, which includes a very high demand charge. In accordance with the Bylaws, each Owner pays the Corporation their unit's share of the invoice based on the Corporation's digital unit metering

system plus a calculation of each unit's share of electricity for the common elements; the Corporation pays ATCO on our behalf.

### Specifics of Complaint

8. Our complaint is that it is not just and reasonable for our residences to come within the General Service (non-residential) rate classification. This classification does not yield rates that are fair and reasonable when compared to other residential customers, typically Single Family Dwellings as defined in the Terms and Conditions.

9. The bills to us and the Owners of the other 18 units, via the Corporation, should be at rates effectively on par with single family residential customers. To arrive at a fair rate schedule, some detailed work needs to be done; a simple application of rate schedule 1160 to Third and Hawkins may not achieve parity.

### Rationale

10. Our complaint is based on a simple proposition: we live at Third and Hawkins. Each of our units and the accompanying shares of the common property constitute our residences. In its oversight of ATCO and YEC, the Yukon Utilities Board is required by paragraph 27(d) to set just and reasonable rate classifications. The classification of our building is not just and reasonable and the general service (non-residential) rates and associated demand charges that we are being billed are not fair and reasonable.

11. ATCO furnishes electricity to its customers in accordance with Terms and Conditions of Service which have not been substantially amended since 2011, despite the substantial growth in condominiums in the Yukon and the advances in technology since that date. We believe that those matters and the unique energy system at Third and Hawkins were not contemplated by the Yukon Utilities Board at the time it approved the Terms and Conditions of Service. We believe it is fair for consumers like us to expect the YUB to ensure fair rates apply as circumstances change, specifically to our new building and its residents; we believe it is reasonable to expect the YUB to address these new circumstances in a timely manner.

12. The present Terms and Conditions of Service define a "Multiple Dwelling". ATCO bills Third and Hawkins as a Multiple Dwelling under Section 4.13 of the Terms and Conditions of Service which is reprinted below:

## Multiple Dwelling

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.

13. ATCO Electric Yukon furnishes electricity to the units and the common property at Third and Hawkins by means of a single point of service or meter, in this case a bi-directional meter that is required because of the rooftop solar array.
14. We believe that it is not just and reasonable that our residences at Third and Hawkins should be required to pay bills for electricity that include demand charges and at rates that are effectively higher than other residential customers. Our residences are single family dwellings too.
15. We believe the electricity that serves the common property attached to our residences and the other 18 units at Third and Hawkins should be billed at rates on par for other residential customers. The garage at Third and Hawkins is common property. It forms part of our units just as much as a back yard or attached garage forms part of a single-family residence. A garage attached to a residence should be billed at the residential rate whether that garage is part of a condominium or part of a single-family residence. This principle applies equally to all common property and to electricity costs related to the integrated energy system.
16. The Yukon Utilities Board is guided by principles of public utility regulation common in Canada. In British Columbia, electrical service to condominium common property is billed at the residential rate. We know that is not the case in Alberta. Our point is that there is ample precedent in Canada for billing electricity for common property at the residential rate.
17. It is a principle of public utility regulation that all similarly situated ratepayers should be treated equally and governed by the same rate classification. We believe this is presently not the case of the electricity bills to Third and Hawkins. The Board should also take into account two other public utility regulatory principles:
  1. Cost of service: a higher cost of service is often used by regulators to justify a higher rate; we do not believe this to be the case for the supply

of electricity to Third and Hawkins compared to other, similar residential buildings.

2. Cross-subsidization: by billing Third and Hawkins at a higher rate which bears no relationship to the cost of service, the residents at Third and Hawkins are cross-subsidizing other residential ratepayers. This is both unjust and unreasonable.

18. The total cost of electricity billed to the Owners at the general service (non-residential) rate, which includes a demand charge that is not billed to other residential customers and does not include the Interim Electrical Rebate, during the period from December 16, 2020 to December 16, 2021, was \$82,430.70. Details are provided in Appendix "B". In comparison, if the Owners of the 20 units had been billed equally at the residential rate without a demand charge, the cost would have been \$63,144.70, a difference of \$19,286.30 or 31% more than a reasonable person may determine to be just and reasonable. Stated another way, in the same period, the average price per kwh was 26.85 cents when it should have been more reasonably 20.57 cents.

19. Appendix C projects future anticipated costs through 2022. It shows the disparity will increase to 27%. Left unchecked, by 2024 the excessive amount will total more than \$100,000.

20. Appendix D presents the same problem of lack of parity another way. Using the online bill calculator provided by ATCO, a typical monthly bill of 1000 kwh costs residents of Third & Hawkins \$293 compared to \$190 for other residential customers, a difference of \$102 or 54.%.

21. We have discussed the subject of our complaint with both ATCO and Yukon Energy in an attempt to resolve the matter. They both say that they are applying the Terms and Conditions of Service as approved, and that the only avenue available to us is to bring our concerns to the Yukon Utilities Board for its consideration and resolution.

22. We reserve the right to supply supplementary information to the Board and invite the Board to visit Third and Hawkins to obtain a first-hand look at our integrated common energy system.

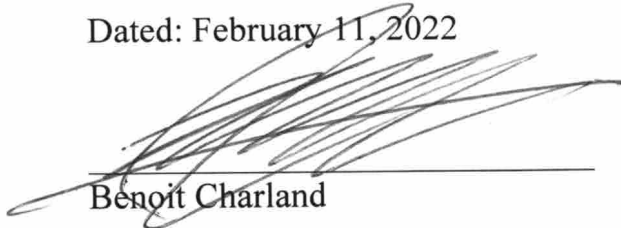
Remedies

23. We request that the board investigate our complaint in accordance with section 46 of the Act, and that the investigation include a collaborative review of models of pricing so as to result in bills for Third and Hawkins that are on par with other residential customers. By our calculations, this would result in a reduction of the electricity bills by about one third, close to \$20,000 per annum. We are willing to discuss and share our modelling and calculations and otherwise provide more information as part of an investigation as well as work collaboratively with others to determine the fairest model possible.

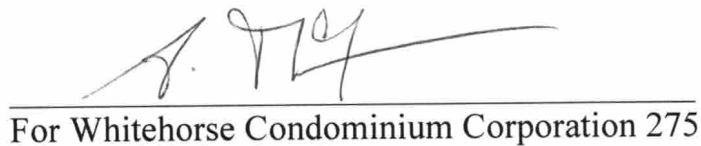
24. We are willing to enter into negotiations to achieve a settlement in accordance with section 47 of the Act.

25. If a settlement cannot be reached with ATCO, we request that the Board create a new Multi Unit Residential Building (residential) rate classification and order that it apply to Third and Hawkins, so we are billed at rates on par with other residential customers; this is to include removal of the demand charge and application of the same Interim Electrical Rebate that other residential customers receive.

Dated: February 11, 2022

  
Benoit Charland

  
Meghan McKenna

  
For Whitehorse Condominium Corporation 275

## APPENDIX "A"

By signing below, each of the undersigned confirms that they have authorized Benoit Charland and Meghan McKenna to complain to the Yukon Utilities Board on their behalf. Each of the undersigns confirms they are either an Owner or Resident of WCC 275 at 210 Hawkins Street, Whitehorse.

Name of Owner/Resident (print)	Civic Unit #	Signature
Patricia McKenna	304	Patricia McKenna.
Ray Tucker	401	<del>Ray Tucker</del>
Julien Schnoda	401	<del>Julien Schnoda</del>
Bonnie Duffee	404	Bonnie Duffee
ARBA REPKA	403	Arba Repka
Alexa Scully	402	Alexa Scully
Robert Zimmerman	503	Robert Zimmerman
Shawna Vedress	302	Shawna Vedress
Peter Long	604	Peter Long
WYNNE KRANGLE	604	Peter Long for Wynne
MAX FRASER	601	Max Fraser
Linda Leon	201	Linda Leon
A. ALISON CUSHING	201	A. Alison Cushing
SAMMY HACHEM	301	Sammy Hachem
Amos Westrop	402	Amos Westrop
Anne Marie Norris	501	Anne Marie Norris
DUNCAN SINCLAIR	603	Duncan Sinclair
Laura Macfeeters	603	Laura Macfeeters
Ann Mac Donald	602	Ann Mac Donald
Heather MacFadgen	504	Heather MacFadgen
Rudney Snow	504	Rudney Snow
Tom Peniston	203	Tom Peniston
Shelaine Charland	204	Shelaine Charland
Barbara Stevenson	303	Barbara Stevenson

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Laura Macfeeters	603	Laura Macfeeters
Stanley Noel	502	Stanley Noel
ALA PFEIFFER	502	Ala Pfeiffer

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APPENDIX C

**APPENDIX C - 2022 RESIDENTIAL & COMMERCIAL SERVICES COMPARISON**  
 Appendix C applies the 2022 residential and commercial service rates to Third and Hawkins using 2021 kWh figures and Third and Hawkins' current demand charge of \$1,348 for commercial service. The BPP between residential customers and Third and Hawkins increases from the 2021 amount of \$19,286 to \$27,140 in 2022, and represents a difference of 45%. Left unchecked, by year 2024, residents of Third and Hawkins will have paid more than \$100,000 for electricity than what Third and Hawkins would have been billed under residential service.

Residential Service/unit	Rate	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov
Total kWh		60000	46800	23520	27360	13920	11040	9600	10800	12480	18240	27120	46080
kWh share/unit		3000	2340	1176	1368	696	552	480	540	624	912	1356	2304
# of units	20												
1st 1,000kWh	0.1214 \$	121.40 \$	121.40 \$	121.40 \$	121.40 \$	84.49 \$	67.01 \$	58.27 \$	65.56 \$	75.75 \$	110.72 \$	121.40 \$	121.40 \$
1,001 - 2,500 kWh	0.1282 \$	192.17 \$	171.79 \$	22.56 \$	47.18 \$	- \$	- \$	- \$	- \$	- \$	- \$	45.64 \$	167.17 \$
> 2,500 kWh	0.1399 \$	69.95 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$
Customer Charge	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$	14.65 \$
Customer + Energy Charges	398.17 \$	307.84 \$	307.84 \$	158.61 \$	183.23 \$	99.14 \$	81.66 \$	72.92 \$	80.21 \$	90.40 \$	125.37 \$	181.69 \$	303.22 \$
AEY Rate Adjustment Rider	0.0830 \$	38.05 \$	25.85 \$	13.16 \$	15.21 \$	8.23 \$	6.78 \$	6.05 \$	6.66 \$	7.50 \$	10.41 \$	15.08 \$	25.17 \$
YE Revenue Shortfall Rider	0.4165 \$	185.84 \$	128.22 \$	66.06 \$	76.32 \$	41.29 \$	34.01 \$	30.37 \$	33.41 \$	37.65 \$	52.22 \$	75.67 \$	126.29 \$
Fuel Adjustment Rider	22.62 \$	(22.62) \$	(22.62) \$	(22.62) \$	(22.62) \$	(15.74) \$	(12.49) \$	(10.86) \$	(12.21) \$	(14.11) \$	(20.63) \$	(22.62) \$	(22.62) \$
Yukon Interim Electrical Rebate	574.44 \$	438.99 \$	215.72 \$	252.13 \$	132.92 \$	109.97 \$	98.49 \$	108.05 \$	121.45 \$	167.36 \$	249.82 \$	432.06 \$	432.06 \$
Subtotal	0.05 \$	28.72 \$	31.85 \$	10.76 \$	12.61 \$	6.65 \$	5.50 \$	4.92 \$	5.40 \$	6.07 \$	8.37 \$	12.49 \$	21.60 \$
GST		603.16 \$	460.94 \$	235.98 \$	264.74 \$	139.57 \$	115.47 \$	103.41 \$	113.46 \$	127.52 \$	175.73 \$	262.32 \$	453.66 \$
Total/unit		\$12,063.21	\$ 9,218.71	\$ 4,519.53	\$ 5,794.80	\$ 2,791.39	\$ 2,309.31	\$ 2,068.27	\$ 2,269.14	\$ 2,550.35	\$ 3,514.52	\$ 5,246.31	\$ 9,073.23
Third and Hawkins (20 units)													
<b>Commercial Service</b>													
Total kWh		60000	46800	23520	27360	13920	11040	9600	10800	12480	18240	27120	46080
Demand Charge	7.39 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$	1,347.94 \$
0 - 2000	0.10 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$	200.00 \$
2001 - 15000	0.1288 \$	1,674.40 \$	1,674.40 \$	1,674.40 \$	1,674.40 \$	1,535.30 \$	1,164.35 \$	978.88 \$	1,133.44 \$	1,349.82 \$	1,674.40 \$	1,674.40 \$	1,674.40 \$
15001 - 20000	0.1968 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$	784.00 \$
> 20001	0.1286 \$	5,144.00 \$	3,464.48 \$	457.67 \$	946.50 \$	- \$	- \$	- \$	- \$	- \$	- \$	915.63 \$	3,353.89 \$
Demand + Electricity Charge		\$ 9,150.34	\$ 7,453.82	\$ 4,459.01	\$ 4,952.84	\$ 3,083.24	\$ 2,712.29	\$ 2,526.82	\$ 2,681.38	\$ 2,897.76	\$ 3,730.37	\$ 4,921.97	\$ 7,360.23
AEY Rate Adjustment Rider	0.083 \$	759.48 \$	618.58 \$	370.10 \$	411.09 \$	255.91 \$	225.12 \$	209.73 \$	222.55 \$	240.51 \$	309.62 \$	408.52 \$	610.90 \$
Yukon Energy Revenue Shortfall F	0.4165 \$	3,811.11 \$	3,194.10 \$	1,857.18 \$	2,062.86 \$	1,284.17 \$	1,129.67 \$	1,052.42 \$	1,116.79 \$	1,206.92 \$	1,553.70 \$	2,050.00 \$	3,065.53 \$
Subtotal		\$13,720.93	\$11,194.50	\$ 6,686.28	\$ 7,436.78	\$ 4,623.31	\$ 4,063.07	\$ 3,788.96	\$ 4,020.72	\$ 4,345.19	\$ 5,593.68	\$ 7,380.49	\$ 11,036.66
GST	0.05 \$	686.05 \$	558.77 \$	334.31 \$	371.34 \$	231.17 \$	203.35 \$	189.45 \$	201.04 \$	217.26 \$	279.68 \$	369.02 \$	551.83 \$
Total		\$14,406.98	\$11,753.27	\$ 7,020.59	\$ 7,798.12	\$ 4,854.48	\$ 4,270.43	\$ 3,978.41	\$ 4,221.76	\$ 4,562.44	\$ 5,873.37	\$ 7,749.51	\$ 11,588.49
<b>Aggregate</b>													
Commercial Service Total		\$ 86,059	\$ 4,403										
Residential Service Total		\$ 60,919	\$ 3,046										
Difference		\$ 27,140	\$ 1,357										
		\$ 5,628.15											

winter peak demand  
182.4

## APPENDIX D

### APPENDIX E - 1000 kWh/unit comparison

Comparing the costs of 1000 kWh for a resident of Third and Hawkins according to commercial and residential service billing.

Third & Hawkins	20000 kWh		
Per unit	1000 kWh		
Electricity Charge	Rate	Amount	Per Unit
first 2,000 kWh	0.1	\$ 200	\$ 10
2,001 - 15k	0.1288	\$ 1,674	\$ 84
15k - 20,000	0.1568	\$ 784	\$ 39
> 20k	0.1286	\$ -	\$ -
	Subtotal	\$ 2,658	\$ 133
			\$ -
D/C Charge	7.39	\$ 1,062	\$ 53
Rider R	0.0830	\$ 309	\$ 15
Rider J	0.4165	\$ 1,550	\$ 77
	Subtotal	\$ 5,579	\$ 279
	GST	\$ 279	\$ 14
	<b>TOTAL</b>	<b>\$ 5,858</b>	<b>\$ 293</b>

Residential Service	1000 kWh	
Electricity Charge	Rate	Amount
first 1,000 kWh	0.1214	\$ 121
1,001 - 2,500	0.1282	\$ -
> 2,500	0.1399	\$ -
	Subtotal	\$ 121
Customer Charge	fixed	\$ 15
Rider R	0.0830	\$ 11
Rider J	0.4165	\$ 57
Interim E-Rebate	credit	\$ 23
	Subtotal	\$ 181
	GST	\$ 9
	<b>TOTAL</b>	<b>\$ 190</b>

Notes  
Source for rates - 2022 YECL YEC Rate Schedules

102.447795  
0.537907028