

**YUKON UTILITIES BOARD  
2022-23 ANNUAL REPORT**

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### THE BOARD

The Yukon Utilities Board was established pursuant to the *Public Utilities Act*, Revised Statutes, 1986. c. 143, as amended. Section 2 of the Act defines the Board as comprised of not less than three and not more than five members. Section 4 provides for the appointment of a substitute member to act in the absence of a member of the Board. The Chair, Vice-Chair and members are appointed by the Minister of Justice for terms of three years. Members can also be appointed to serve subsequent terms, at the discretion of the Minister of Justice.

The Board office is located at Unit 11, 1114 Front Street (second floor of the Horwood's Mall) in Whitehorse, Yukon. Our mailing address is:

Yukon Utilities Board  
Box 31728  
Whitehorse, Yukon Y1A 6L3

Phone (867) 667-5058  
Fax (867) 667-5059  
E-mail [yub@utilitiesboard.yk.ca](mailto:yub@utilitiesboard.yk.ca)

The Board retains independent legal advisors and qualified technical consultants, and it contracts with a part-time Executive Secretary.

The Board regulates two electrical utilities in Yukon, the Yukon Energy Corporation (YEC) owned by the Government of Yukon, and the privately owned ATCO Electric Yukon. The Board carries out such other functions as are required by the *Public Utilities Act* and as directed by the Minister of Justice as ordered through the territorial government's Orders-in-Council.

Under Section 52 of the *Public Utilities Act*, and following the principles of natural justice, the Board may, with respect to an inquiry:

- exercise the exclusive jurisdiction and authority to determine any question of fact, law or mixed fact or law required to be decided;
- receive such evidence or other information as it considers appropriate, whether or not such evidence is given under oath or affirmation, and whether or not it would be admissible in a court of law;
- exercise the powers, privileges, and immunities of a Board of Inquiry under the *Public Utilities Act*;
- determine the persons to whom notice of any proceedings shall be given; and
- determine its own procedures.

Board Orders are reviewable by the Yukon Court of Appeal.

The Board's authority includes carrying out investigations and reviews at the request of the Minister of Justice pursuant to the *Public Utilities Act*, namely Regulation of Public Utilities (Part II) and the regulation of Energy Projects (Part III). The Board is also empowered to investigate complaints and initiate investigations it deems necessary in the interest of ratepayers generally (Part IV).

Funding for proceedings can only be authorized by the Minister of Justice.

## **MEMBERSHIP**

Board membership during the reporting period consisted of:

Chair	Richard Buchan
Vice-Chair	Bonnie King*
Member	André Fortin
Member	Lesley McCullough
Member	Anne Middler**

\* Member resigned serving as Vice-Chair during reporting period

\*\* Member's term ended during reporting period

## **BOARD SUPPORT**

Board Support during this reporting period was provided by:

Executive Secretary	Deana Lemke, Beyond Words Business Services Inc. Whitehorse, Yukon
Technical Support	Alberta Utilities Commission (partial year) Dwayne Ward
Regulatory Legal Support	Alberta Utilities Commission (partial year) Giuseppa Bentivegna

## **THE YEAR IN REVIEW**

### **BOARD MEETINGS**

Various Board meetings are held each fiscal year – either in person or virtually. The frequency of meetings is dependent on the workload of the Board during any given year. The Chair or Vice-Chair and two other members constitute a quorum of the Board for decision-making purposes.

### **CANADIAN ASSOCIATION OF MEMBERS OF PUBLIC UTILITIES TRIBUNALS (CAMPUT)**

The Board continues to be an active member of the Canadian Association of Members of Public Utility Tribunals (CAMPUT). The Board relies on CAMPUT and the Alberta Utilities Commission and its legal and technical staff to be the primary provider of Board member training.

Chair Richard Buchan and Member Lesley McCullough attended the spring 2022 CAMPUT Conference May 1-4, 2022 in Vancouver, BC. The theme of the conference was “Deep Dive into Disruption”. The stated goal of the conference was to guide regulators and stakeholders as they move with the forces of innovation and the urgent calls for climate and social action that are fragmenting the century-old monopolistic control of energy.

Chair Richard Buchan and Member Lesley McCullough attended the CAMPUT Energy Regulation Course in Kingston, ON June 19-24, 2022. This is an excellent and very well-respected course designed to improve the education of public utility tribunals. CAMPUT’s mission is to continuously improve energy and public utility regulation in Canada. The goals of this course are: (1) for members to be well-informed of the most recent trends about their regulated industry and their policy environment and well positioned to seize opportunities for improvement in their respective regulatory environments; and (2) effective regulation, as evidenced by: the existence of consistent and effective regulatory regimes throughout Canada; stakeholders effectively engaged in the development of a successful regulatory compact; and policy makers

well-informed of regulatory developments as an input to the development of effective public policies.

Chair Richard Buchan attended the CAMPUT 2022 fall CAMPUT Conference and AGM in Saskatoon, SK September 11-14, 2022. Session topics included regulation of hydrogen in pipelines, discussions about confidentially matters arising before tribunals and best practices related to those matters, and electrical grid developments.

## **PROCEEDINGS**

The Board was involved in the following proceedings during this fiscal year:

### **Yukon Energy Corporation 2021 General Rate Application (GRA)**

This proceeding was carried over from the previous fiscal year.

YEC filed its GRA compliance filing on April 14, 2022. On the same date, YEC also submitted a request for a Review and Variance (R&V) of Board Order 2022-03.

On May 5, 2022, via Board Order 2022-06, the Board issued a process schedule for dealing with YEC's compliance filing, including YEC responding to the Board's Information Requests (IRs), interveners filing argument, and YEC filing reply argument.

Along with its IR Responses, YEC indicated that during its review of the Board's IRs related to the compliance filing, it identified revisions required to the compliance filing. YEC therefore filed a revised set of tables and rates as well as updates to the rate implementation dates.

The Board approved YEC's revised compliance filing, noting that requested changes to YEC's rate riders, Rate Schedule 39 Industrial Primary Fixed Charge, RS39 Fixed Charge true-up, and the Low Water Reserve Fund (LWRF) Term Sheet were approved effective August 1, 2022 through Board Order 2022-07 dated July 12, 2022. YEC and ATCO Electric Yukon were directed to provide within 180 days of issuance of the Board Order, a joint proposal to the Board on how to incorporate their riders into base rates.

On August 26, 2022, the Board responded to YEC's request for an R&V of Board Order 2022-03 with Board Order 2022-10, granting it in part on the initial screening phase. Accordingly, the Board directed that the R&V proceed to Phase 2 on the limited issue of determining the amount of the risk premium reduction. Board Order 2022-12, dated September 6, 2022, outlined the process schedule for the second phase of the review process. YEC's Phase 2 submission was received on September 22, 2022.

On January 9, 2023, the Board issued Board Order 2023-01, varying its decision in Board Order 2022-03 by setting YEC's return on equity for the 2021 GRA at 8.65% and directing YEC to submit a compliance filing by February 8, 2023.

YEC submitted its revised compliance filing and the Board issued Board Order 2023-05 on February 7, 2023 approving an ongoing Rider J at 34.84% for retail non-industrial customers and 31.19% for industrial customers effective March 1, 2023 and a time-limited Rider J1 at 3.01% effective March 1, 2023 to July 31, 2024.

Cost awards associated with this proceeding were approved as per Board Order 2023-02 issued on January 13, 2023.

### **YEC-Tlingit Homeland Energy Limited Partnership (THELP) Energy Purchase Agreement (EPA) Application**

This proceeding was carried over from the previous fiscal year.

YEC submitted an amended YEC-THELP EPA and black-lined versions of the directed documents to the Board on April 20, 2022. Board Order 2022-05 was issued on April 28, 2022, establishing the process schedule for the remainder of the proceeding, with the hearing being scheduled for July 19-20, 2022.

Cost awards associated with this proceeding were approved as per Board Order 2023-06, dated March 9, 2023.

### **ATCO Electric Yukon (AEY) 2022 Rate Relief Application**

On July 18, 2022, AEY submitted an application regarding rate relief in the Yukon. AEY submitted that its application was in alignment with government initiatives regarding the Inflation Relief Rebate and was a follow-up to the letter it submitted to the Board April 29, 2022. AEY sought approval of two proposals related to rate relief: (1) Approval to refund the balance accumulated in AEY's Rate Case Reserve (RCR) account to residential and commercial non-government customers via a new Rider Y effective November 1, 2022 through February 28, 2023; and (2) Approval of AEY's proposed Rider R revenue refund rate relief mechanism to residential and commercial non-government customers. The rate relief would be the equivalent of Rider R revenue that is specifically recovered from industrial customers in YEC's service territory served under Rate Schedule 39, Industrial Primary ("Rider R Industrial Revenue").

The Board issued a process schedule on August 29, 2022 through Board Order 2022-09, advising that this would be a written proceeding. The Board granted intervener status to John Maissan, the Utilities Consumers' Group, and YEC.

As per Board Order 2022-13, dated November 7, 2022, the Board did not approve AEY's Rate Relief Application as filed and requested that a compliance filing be returned to the Board Order by November 30, 2022.

In its decision, the Board noted that it has the legislative jurisdiction to make decisions on actual applications that are before it. In this application, the relief requested was for approval to refund amounts in the RCR account and to establish a deferral account on a go-forward basis. The application was not requesting approvals for a change in rates or new rates. As such, it was a misnomer to refer to "rate relief" in the Application. The Board has jurisdiction to set rates under Sections 27, 28 and 29 of the *Public Utilities Act*. In accordance with these sections, the Board authorized on April 27, 2017, in Appendix A to Board Order 2017-01, a deferral account entitled "Rate Case Reserve" in which money collected from customers is placed in the deferral account to be used for hearing costs for applications. Money from this account cannot be used for any other purpose. This resulted in the request to refund the money in the deferral account to certain customers. The other requested relief was to create a deferral account for purposes of providing a refund to certain classes of customers. Money collected from industrial customers in YEC's service territory, served under Rate Schedule 39, Industrial Primary, would be placed in the deferral account and any refund from such an account would be addressed in a future application. Although the interveners asked the Board to consider additional remedies such as considering past ROEs, changes to rates, or directing AEY to file a General Rate Application, the Board considered that these requests were outside the scope of this AEY application.

The Board noted that AEY proposed to disburse \$1.30 million accumulated in the RCR to residential and commercial non-government customers to the end of 2021. The amount accumulated in the RCR was collected from all rate classes.<sup>22</sup> The Board's view is that refunding this amount solely to residential and commercial non-government customers would result in discrimination between customer classes. The Board considered whether refunding this amount to only residential and commercial non-government customers would result in discrimination between customer classes. The Board noted that the principles governing utility regulation allow for discrimination in situations where a utility fails to treat all users of a public utility equally if there is a compelling distinction to be found between those favoured and those not favoured. Unless there was sufficient rationale to justify different treatment for different classes of customers, the difference in treatment would result in unjust discrimination in utility rate regulation.

The Board found that the proposed rationale provided by AEY for refunding the amount collected from all customers to only some customers does not justify treating customer classes differently. Although the Government of Yukon's policy only applies to certain classes, it does not override the general regulatory principle that all customer classes be treated equally unless there is sufficient

justification for proposed treatment of different customer classes. Further, any cross-subsidization that exists due to the requirements of OIC 1995/90 is mandated by that legislative instrument and not by government policy. The Board found that the proposed refund would result in unjust discrimination among customer classes. Therefore, the Board did not approve the application for Rider Y as proposed and directed AEY to refund to all customer classes the accumulated amounts to the end of 2021 in the RCR account. AEY was directed to disburse the amounts in the RCR account accumulated to the end of 2021 through a Rider Y over a similar term as proposed in this application across all rate classes. AEY was directed to provide its compliance to the Board's direction by November 30, 2022.

The Board further noted that AEY proposed to create a deferral account to track Rider R industrial revenue for purposes of a refund to certain classes of customers. The tracking was to begin the first day of the month following a Board Order on this application. Once the deferral account balance accumulated to \$0.25 million, AEY would apply to the Board to disburse the amounts in this deferral account to residential and commercial non-government customers. AEY added that it would update the rider on a periodic basis to provide ongoing rate relief as necessary. The Board accepted the submission from AEY that this industrial revenue had "limited correlation with AEY's expenses or operations as the Rate 39 industrial customers are located in YEC's service territory."

The Board indicated that it was satisfied that AEY made a case for a deferral account to record all industrial sales revenues recovered from industrial customers in YEC's service territory served under Rate Schedule 39, Industrial Primary, from the date of the Board's decision and to continue to do so on a go-forward basis. This was because it is not readily apparent that AEY had placed any end date with respect to this proposed deferral account. AEY stated that "AEY will update the refund rider on a periodic basis, as necessary, to provide ongoing rate relief." Therefore, the Board directed that AEY set up such a deferral account. Once the balance in the deferral account accumulates to \$0.25 million, AEY was directed to make an application to the Board to dispense with the balance in that deferral account. Regarding future disbursements from this deferral account to solely residential and commercial non-government customers, the Board found that there is justification for the distribution of the balance of the deferral account to these customer classes alone and that it does not result in unjust discrimination. The Board advised that it considers that any disbursement from this deferral account is billing relief and not a refund to such customers.

AEY filed its compliance filing with the Board on November 30, 2022, as directed.

## **ATCO Electric Yukon (AEY) and Yukon Energy Corporation (YEC) Rate Rebasing Application**

A joint submission by AEY and YEC regarding rate rebasing was received by the Board on January 9, 2023. The application outlined various options and provided a recommendation that would incorporate various rate riders into existing base rates. The submission was in response to direction in Board Order 2022-07. The submission identified four categories of charges in customer bills: base rates, base rate adjustment riders, stabilization mechanisms and other riders, and government subsidies. The submission noted that rate rebasing in Yukon is constrained by Yukon Government rate policy requirements such as OIC 1995/090; therefore, four options for Board consideration that the utilities considered compliant with government rate policy requirements were presented to the Board: (1) status quo, (2) roll rate base adjustment riders into base rates, (3) a limited scope Phase 2 GRA to roll base rate adjustment riders into base rates, and (4) rolling base rate adjustment riders into base rates on the billing statement only. The fourth option was recommended to the Board.

Board Order 2023-04, dated January 20, 2023, laid out the process schedule for this written proceeding. The Board did not require registration from interested parties. The Utilities Consumers' Group, Nathaniel Yee, and John Maissan participated as interveners in this proceeding.

As this proceeding was not concluded by March 31, 2023, it was carried over into the following fiscal year.

## **YEC 2021 Low Water Reserve Fund and Energy Reconciliation Adjustment Application**

A fund to account for water availability was first established out of retained earnings in 1987 and was given no-cost capital treatment. Since that time, the regulatory account for the fund has undergone several changes and names including a long period of dormancy starting in the latter 1990s and continuing to approximately 2014, when YEC requested to restore the fund.

In Board Order 2018-10, the Board directed that the account for the fund be named the "Low Water Reserve Fund" (LWRF) to incorporate a broader range of thermal generation. The Board stated that "YEC will adjust the balance in the LWRF on an annual basis for the difference in forecast thermal generation from actual thermal generation based on forecast load and only adjusting for the changes in hydro generation that are a result of changes in water availability. Over the years, the fund has also undergone significant changes, some of which have been determined by the courts or OICs prior to Board Order 2018-10.

In Board Order 2022-03, the Board directed YEC to submit its annual LWRF report to the Board within 60 days of the close of the year. Further to Board Order 2022-07, YEC submitted its 2021 LWRF Report and Energy Reconciliation Adjustment Filing on July 29, 2022. YEC requested approval from the Board for

its LWRF annual report and 2021 transfers to the LWRF of \$7.019 million. YEC also requested approval of an ERA payment from AEY to YEC of \$0.261 million

In Board Order 2023-03 issued January 20, 2023, the Board outlined a process schedule for a written proceeding. Interested parties were not required to register. The Utilities Consumers' Group and John Maissan participated in this proceeding. In Board Order 2023-07 issued April 4, 2023, the Board approved the LWRF Report and ERA Filing as submitted by YEC.

**For more information on the above-noted proceedings, please refer to the original submissions and Board Orders located on the Board's website:**  
<http://yukonutilitiesboard.yk.ca/proceedings/>

## BOARD ORDERS

Below is a summary of Board Orders approved by the Board during this reporting period. All Board Orders can be viewed on the Board's website at

<http://yukonutilitiesboard.yk.ca/policy/board-orders/>

<b>Order No.</b>	<b>Date</b>	<b>Order</b>
2022-04	April 26, 2022	YEC interim adjustment to Rate Schedule 39
2022-05	April 28, 2022	YEC-THELP EPA proceeding schedule
2022-06	May 5, 2022	YEC GRA Compliance Filing schedule
2022-07	July 12, 2022	YEC GRA Compliance Filing decision
2022-08	July 12, 2022	UCG motion re YEC-THELP EPA proceeding schedule
2022-09	August 9, 2022	AEY Rate Relief application proceeding schedule
2022-10	August 26, 2022	YEC R&V application re YEC GRA proceeding
2022-11	August 29, 2022	AEY Rate Relief proceeding interveners
2022-12	September 6, 2022	YEC R&V application review process
2022-13	November 7, 2022	AEY Rate Relief proceeding decision
2023-01	January 9, 2023	YEC R&V application re YEC GRA proceeding, Phase 2 review
2023-02	January 13, 2023	YEC GRA cost awards
2023-03	January 20, 2023	YEC 2021 LWRF & ERA application proceeding schedule
2023-04	January 20, 2023	AEY-YEC Rate Rebasing application proceeding schedule
2023-05	February 7, 2023	YEC Compliance Filing re GRA proceeding and Riders J and J1
2023-06	March 9, 2023	YEC-THELP EPA proceeding cost awards