

# Yukon Utilities Board

March 17, 2025

By E-Mail

Nathaniel Yee  
PO Box 89,  
Faro, Yukon Y0B 1K0

Dear Mr. Yee:

## **Re: Your Comments on YEC's 2023-24 GRA Costs Claim**

The Yukon Utilities Board (Board) is in receipt of your letter of March 6, 2025 regarding the YEC 2023-2024 Costs Claim. In response to your letter, I want to take this opportunity to set out the Board's costs award process as well as the considerations taken into account when making the determination of costs in proceedings, including in this matter. I also want to clarify what we will and will not consider in respect of documents submitted by a party other than the originator of those documents.

After the Board issues a decision in a proceeding, the parties have 30 days to file their costs claims for the proceeding with the Board. Subsequently the Board requests comments from the parties on any costs claims submitted. Once the comments are received, the Board assesses the claims and considers the comments in making its costs awards in accordance with the Board's *Scale of Costs*. For the YEC 2023-24 General Rate Application (GRA), the Board received costs claims from YEC, UCG and yourself. On August 15, 2025, the Board requested comments from the parties on these costs claims by August 29, 2024. The Board received comments from you and UCG on the YEC costs claim, and from YEC on your costs claim. The Board is deliberating on the costs claims and comments received. Therefore, no costs award has been issued in this matter.

The Board understands that one of the issues you raise in your comments of August 29, 2024 is the redactions in the legal invoices submitted in support of the legal costs claimed by YEC. In this letter which, as you note, can be found on the Board's website for the YEC 2023-24 GRA, you stated that "[t]he full collection of relevant unredacted pages will be provided to the Board in a separate email and provided to the full list at the discretion of the Board." As is clear from the Board's letter of September 5, 2024, the Board received this subsequent e-mail but did not accept the unredacted documents that you sent in because the Board "reviews cost claims provided by the parties as filed". The Board did not review the unredacted documents, declined to distribute them, and deleted them from Board records. As noted above, the Board awards costs in accordance with the *Scale of Costs*. Section 6 of the *Scale of Costs* sets out the criteria it considers in awarding costs:

### 6. Costs Award

6.1 In exercising its discretion to award costs, the Board may award costs, in accordance with the *Scale of Costs*, to a participant if the Board is of the opinion that:

(a) the costs are reasonable, prudent, and directly and necessarily related to the proceeding, and

(b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

6.2 In determining the amount of costs to be awarded to a participant, the Board may consider whether the participant did one or more of the following:

(a) asked questions on cross-examination that were unduly repetitive of questions previously asked by another participant and answered by the relevant witness;

(b) made reasonable efforts to ensure that its evidence was not unduly repetitive of evidence presented by another participant;

(c) made reasonable efforts to cooperate with other parties to reduce the duplication of evidence and questions or to combine its submission with that of similarly interested participants;

(d) presented in oral evidence significant new evidence that was available to it at the time it filed documentary evidence but was not filed at that time;

(e) failed to comply with a direction of the Board, including a direction on the filing of evidence;

(f) submitted evidence and argument on issues that were not relevant;

(g) needed legal or technical assistance to take part in the proceeding;

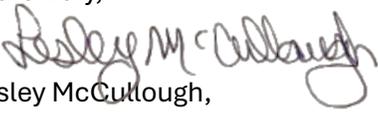
(h) engaged in conduct that unnecessarily lengthened the duration of the hearing or other proceeding or resulted in unnecessary costs to other participants; and

(i) failed to comply with the Rules of Practice.

Fairness requires that a cost claim be assessed as filed by a party because the party filing the costs claim is relying on the information as filed. The Board cannot rely on information filed by another party that is claiming it has unredacted information in relation the costs claim of a party. Further, as the costs award process does not provide for a reply to comments, YEC did not have an opportunity to respond to your claims regarding the unredacted documents.

Let me assure you that the Board will consider your comments on the YEC costs claim but not the unredacted documents for the reasons set out above. The Board will exercise its discretion to award costs in accordance with the *Scale of Costs* and will address the costs claims and comments accordingly.

Yours truly,

  
Lesley McCullough,  
Chair