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18-Mar, 2025

Yukon Utilities Board, and
Lesley McCullough, Chair

Thank you for your letter of March 17, 2025 concerning my cost claim comment and the associated unredacted document.

There appear to be a few misconceptions in the letter about the source and validity of the unredacted document view, which I will correct below.

From your letter:

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.

It should first be noted first that YEC has filed both the redacted and unredacted documents with the Board, and asked the Board to act on the altered/redacted version. In providing the unredacted view with my cost claim comment, I am not providing anything that the Board does not already have or that was not already filed by YEC, as shown below:

- 1) Please open YEC's original cost claim application as filed on August 12, 2024 and available on the YUB website.
- 2) Search on "for AEY" (both words) and this will bring you to the following entry on p. 20:

07/25/23	JKH	Telephone call with Mr. Landry regarding GRA planning; preliminary review of cover letter [redacted] and draft of YEC's interim rate filing;	0.60
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The search is finding and highlighting text which YEC has covered up with a white box.

- 3) Select and copy the entire line of text including the white box, and paste into an empty file, and you will see the following:

preliminary review of cover letter for AEY GRA, and draft

- 4) And now comparing this with what is in my cost claim comment and in the unredacted document:

07/25/23	JKH	Telephone call with Mr. Landry regarding GRA planning; preliminary review of cover letter for AEY GRA and draft of YEC's interim rate filing;	0.60
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- 5) Copy/paste is slow, but the entire unredacted document can be viewed easily by opening YEC's cost claim in a graphics program or PDF editor, clicking on the white boxes and changing transparency to 100%, as I did and you have unredacted document or unredacted view.

- 6) In following the exercise above, the Board is now aware of the original and genuine unredacted document (both text and graphic layers) behind the white boxes that YEC used to redact and materially alter the document. Canadian Criminal Code describes this: 366(2)(c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.
- 7) In reviewing the underlying text, the Board knows that the redacted/altered document as submitted by YEC is a false document, and the Board cannot use, deal with or act on it as if it were genuine, as noted in my cost claim comment and in Canadian Criminal Code 368(1).

In the letter, the Board has questioned the source and the authenticity of the unredacted information, and both have been verified above. The source is YEC's cost claim submission, and in that YEC document, the genuine underlying text of every redacted item can easily be verified.

The unredacted view was submitted as part of my cost claim comment to facilitate the Board's review of the original and altered documents, and it should to be accepted and reviewed as such. There is no provision that I can see for the Board to reject and not review some part of a comment submission, particularly now that its validity has been confirmed.

From your letter:

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.

As shown above, YEC submitted the document and is the originator of the document. I examined YEC's document closely, and noticed details that I have brought to the Board's attention by providing my comments and the unredacted view of the document. Reviewing the documents and noticing details that others might have missed is the purpose of having interveners. Having been alerted to these details, I expect that the Board will look at them closely. The Board can extract its own unredacted view from YEC's submission confirming that YEC is the originator of the documents, if this is preferable to using the identical unredacted view that I have provided.

The original reason for rejecting the unredacted documents was that *the Board "reviews cost claims provided by the parties as filed"*.

And I agree, noting that YEC provided and filed the unredacted view, along with the altered/redacted view. The altered document should be reviewed in relation to the unredacted view which I filed with my cost claim. YEC provided and filed both, and accordingly both should be reviewed in context.

In your letter you list the criteria for cost awards, and certainly "making a false document" and "forgery" are not listed as issues. However, as I point out in my cost claim comment, these are addressed in Canadian Criminal Code, which we can safely say takes precedence over the Yukon Utilities Board's Scale of Costs.

As pointed out in my cost claim comment, making a false document is a serious issue, as is acting on one. As noted, Canadian Criminal Code 366(1&2) and 368(1) apply here. YEC may not have meant to provide the unredacted view and exposed the false document, but since it was filed and noticed, it needs to be thoroughly examined.

The Board's repeatedly refusing to review documents that confirm that YEC has submitted a false document is not acting in the public interest and gives the impression that the Board is trying to protect YEC rather than protecting the public. Is it in the best interest of the Board or the public to allow YEC to submit false documents in these proceedings? Is protecting YEC worth the risk to the Board outlined in 368(1)? As I wrote in my cost claim comment, YEC's cost claim should be rejected and no costs whatsoever should be awarded to YEC.

Or will the Board instead act on a false document and claim not to have known?

Thanks,
-Nathaniel

Applicable references also provided in my cost comment:

Use, trafficking or possession of forged document

368 (1) Everyone commits an offence who, knowing or believing that a document is forged,

(a) uses, deals with or acts on it as if it were genuine;

Punishment

(1.1) Everyone who commits an offence under subsection (1)

(a) is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years; or

(b) is guilty of an offence punishable on summary conviction.

Forgery and Offences Resembling Forgery

Forgery

366 (1) Every one commits forgery who makes a false document, knowing it to be false, with intent

(a) that it should in any way be used or acted on as genuine, to the prejudice of any one whether within Canada or not; or

(b) that a person should be induced, by the belief that it is genuine, to do or to refrain from doing anything, whether within Canada or not.

Making false document

(2) Making a false document includes

(a) altering a genuine document in any material part;

(c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.