

**THE PUBLIC UTILITIES BOARD
OF THE
NORTHWEST TERRITORIES**

DECISION 8-2008

February 5, 2008

IN THE MATTER OF the Public Utilities Act, being Chapter 110 of the Revised Statutes of the Northwest Territories, 1988(Supp.), as amended.

AND IN THE MATTER OF an application pursuant to Section 26 of the Public Utilities Act for intervener costs for the Hydro Communities arising from the review of the Northwest Territories Power Corporation's application for a Review and Variance of Board Decision 13-2007.

THE PUBLIC UTILITIES BOARD

BOARD MEMBERS

Joe Acorn	Chairman
John Hill	Vice-Chairman
William Koe	Member
Gene Nikiforuk	Member

BOARD STAFF

Louise Larocque	Board Secretary
Raj Retnanandan	Board Consultant
John Donihee	Board Counsel

TABLE OF CONTENTS

1. BACKGROUND	1
2. APPLICATION	3
3. DECISION	4
4. BOARD ORDER	6

1. BACKGROUND

By letter dated November 24, 2006, the Northwest Territories Power Corporation ("**NTPC, the Corporation**") submitted to the Northwest Territories Public Utilities Board ("**the Board**") its Phase I General Rate Application ("**GRA, Application**") for the fiscal years April 1, 2006 to March 31, 2007 and April 1, 2007 to March 31, 2008 ("**Test Years**").

Interested parties who participated in the GRA proceeding were The City of Yellowknife, Town of Hay River and Town of Fort Smith ("**Hydro Communities**", "**HC**"), the Village of Fort Simpson, Town of Inuvik and the Hamlet of Fort Liard (Thermal Generation Communities) and Northland Utilities Limited.

The Board held a hearing with respect to NTPC's Phase I Application on May 23 to May 25, 2007 in Yellowknife NT.

Following the hearing, the Board issued Decision 13-2007, dated August 29, 2007 wherein the Board set out its findings with respect to the issues raised during the proceedings and directed NTPC to refile its Application within 30 days reflecting the Board's determinations. In this Decision, the Board issued directions to NTPC with respect to the forecast of brushing expenses.

NTPC, by letter dated November 5, 2007 applied for review and variance of Board Decision 13-2007 ("**RV Application**"). NTPC stated it is seeking to review and vary Directives 15 and 45 only. NTPC is not seeking any review of Directive 14.

By letter dated November 8, 2007, the Board sought comments from parties with respect to whether NTPC has met the threshold requirements for reviewing and

varying the specified directions in Decision 13-2007. The Board received submissions from the interested parties and NTPC's response to the submissions by November 19, 2007.

By letter dated November 28, 2007, the Board advised all interested parties that after review of NTPC's RV Application and the subsequent submissions, it would proceed with a review of Directives 14 and 15. Accordingly, the Board established a schedule for the review of Directives 14 and 15.

By letters dated December 7, 2007, HC and NTPC filed their Argument. Reply Argument was filed by way of letters dated December 14, 2007.

After reviewing the argument and reply argument that was submitted by NTPC and the HC, the Board issued Decision 4-2008, dated January 30, 2008.

The Hydro Communities participated as an intervener in the proceedings by submitting their argument and reply argument.

2. APPLICATION

By letter dated January 14, 2008, the Counsel for the Hydro Communities, Mr. Thomas Marriott, made an Application to the Board for intervener costs with respect to the RV Application proceedings. The costs consisted of Legal Fees, Consultant Fees, and Disbursements in the amount of \$2,659.01.

The Board, by letter dated January 16, 2008, advised NTPC of the Application for Intervener Costs made on behalf of the HC and requested that they provide comment, if any, by January 25, 2008.

NTPC provided their comments, by letter dated January 28, 2008, and stated the following:

“The Corporation understands that the Towns of Hay River and Fort Smith and the City of Yellowknife qualify for a 100% GST rebate. The Corporation recommends that HC’s cost claim be adjusted to exclude GST, a reduction of \$150.51.”

3. DECISION

The Board's Rules of Practice and Procedure subsection 32.(2) stipulates that:

“(2) The Board may award costs to an intervener who

- (a) made a significant contribution which was relevant to the proceeding and which lead to a better understanding by all parties of the issues before the board;
- (b) participated in the hearing in a responsible manner and cooperated with other intervenors having common objectives in the outcome of the proceeding in order to avoid a duplication of intervention;
- (c) made a reasonable effort to secure alternative funding where such funding was available to the intervenor;
- (d) had a substantial interest in the outcome of the proceeding and represented the interests of a substantial number of ratepayers; and
- (e) has made an application for costs under rule 33.”

Pursuant to the Board's rules, the Hydro Communities applied to the Board for an award of costs as specified in Section 2 of this Decision.

In determining whether costs should be awarded in a particular application, the Board considers a number of factors including the nature of the application, the extent of participation by the interveners and the actual costs.

Predicated upon these and any other factors particular to a costs application, the Board determines whether the intervention by a party was meaningful and of assistance, whether the costs were prudently incurred, reasonable and necessary and by whom, to whom and in what amount the costs are to be paid.

The intervention by HC was, in the Board's view, of benefit to the Board and ratepayers within the Towns of Hay River and Fort Smith and the City of Yellowknife.

The Board considers that costs claimed by Mr. Marriott on behalf of HC were reasonably and prudently incurred and notes that NTPC raised no objection to the Application of Cost other than the issue of GST. The Board agrees with NTPC on the GST issue and has not included the GST in the cost award because the Municipalities represented by the Hydro Communities qualify for GST rebates. Accordingly, these communities will be in a position to claim back as an input tax credit any GST paid to the HC Counsel and Consultant(s).

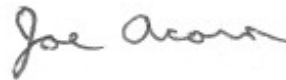
The Board awards costs in the amount of \$2,508.50 to the Hydro Communities. NTPC should forward this amount to Mr. Marriott, in trust for distribution to the claimants. NTPC shall be entitled to recover this sum from its customers through the hearing cost reserve.

4. BOARD ORDER

NOW, THEREFORE IT IS ORDERED THAT:

The Northwest Territories Power Corporation shall forward payment for \$2,508.50 to the solicitor of the Hydro Communities within 30 days of this Decision with a copy to the Board for its information. These are the total costs approved by the Board with respect to the Application for Intervener Costs submitted by the Hydro Communities.

**ON BEHALF OF THE
PUBLIC UTILITIES BOARD
OF THE NORTHWEST TERRITORIES**



**Joe Acorn
Chairman**

Dated February 5, 2008