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STREAMLINING UTILITY REGULATION IN THE YUKON

August 1994

*Department of Justice
Government of Yukon*

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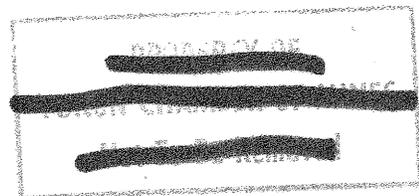
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Streamlining Utility Regulation in the
Yukon

Yukon #40700



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INTRODUCTION

Companies granted an electrical utility franchise in Yukon are subject to rate regulation under the Public Utilities Act (1984). Franchised utilities named in the Act include the crown owned Yukon Energy Corporation (YEC) and the investor owned Yukon Electrical Company Ltd. (YECL). The regulating authority named in the Act is the Ministerially appointed Yukon Utilities Board (YUB).

Rate regulation is required because there is no competitive market for electrical generation or distribution and most utilities are, in effect, monopolies. Regulation is introduced by government to meet four primary objectives.

1 Ensure the interests of rate-payers;

All costs for operating the electrical system, including allowable levels of profit for utility investors, are collected from customers through rates. Regulation provides a means to publicly review the expenditures included in the annual revenue requirement of franchised utilities to ensure that those expenditures are prudent and have been fairly distributed among customers throughout the system.

2 Ensure the long term viability of the utilities;

Electrical utilities provide an essential service. Regardless of changing economic conditions such as increasing operating costs, variances in the cost of capital or the instability of the industrial power market, the utilities are expected to provide electricity to meet consumer demands. Rate regulation must ensure that the financial stability and technical capability of the electrical system is preserved in order to meet the current and anticipated future power requirements of residential, commercial, industrial and government customers.

3 Ensure standards of service;

Power quality is dependent on utility investment in system up-grading and regular maintenance. Since 1987, the YEC has invested \$40 million in system

improvements. Rate regulation must ensure that these types of improvements are cost effectively planned and implemented.

4 Ensure the availability of power for economic development;

The growth of industry is partially dependent on the availability of a sufficient supply of reasonably priced energy. The instability of the industrial market (particularly mining) discourages utility investment in new plants without either a cost sharing agreement with a new industrial customer or a risk sharing agreement with government. Rate regulation should encourage utility investment in infrastructure to promote economic development, but must also ensure that other customers on the system are protected from potential rate impacts.

In 1989 the YUB conducted its first rate review under the jurisdiction of the current Public Utilities Act. This initial hearing was followed by further rate reviews in 1991 and 1993 as well as hearings in 1992 on cost of service and rate design and major capital projects. Although much has been accomplished through these hearings, there are concerns that the regulatory system has grown out of proportion to the Yukon's small electrical system and customer base. It is now appropriate and timely to assess what can be learned from the experience of the past five years and review whether we are meeting the objectives of rate regulation (as stated above) in a way that is best suited to our situation in Yukon.

This discussion paper will identify issues related to the cost, complexity and administrative structure of the current system of regulating electrical utilities and will identify reforms proposed and implemented to deal with similar problems in other Canadian jurisdictions.

GROWTH OF YUKON'S REGULATORY SYSTEM

Prior to 1972, NCPC rates were set by the Federal Cabinet while YECL was essentially unregulated although it did file reports with the NEB. The Electrical Public Utilities Ordinance 1972 introduced rate regulation to the Yukon and caused the formation of the three member Electrical Public Utilities Board (PUB). As an investor

owned utility, YECL was subject to direction from the regulator while, as a government agency, NCPC only filed reports for the information of the board. The working relationship between the PUB and the utilities was co-operative according to past NCPC and PUB officials. NCPC did, however, experience regulatory problems with its operations in NWT which resulted in two hearings before the NEB and eventually led to the sale of NCPC assets to the Territorial Governments.

The PUB operated as an independent regulatory body until 1984 when the current Public Utilities Act was introduced to both expand the role of the board and enable government to direct the regulator on rate design policy and other matters. The three members of the Electrical Utilities Board were appointed to a new five member Yukon Utilities Board. Conflict between the new YUB and the Minister of Justice over regulatory independence led to the dismissal of several members of the board in 1986. New appointments were made in 1988 when the YUB was required to review the YEC's first general rate application (GRA).

In 1987, government purchased the Yukon based assets of NCPC and formed the YEC as a self financing, rate base regulated utility. Unlike NCPC, the YEC was subject to the direction of the YUB. While this increased the Board's jurisdiction over the utility, its regulatory independence was curtailed by the introduction of government rate design policy (OIC 88/150 and OIC 91/62) which gave direction to the YUB on a range of matters including future review and reporting requirements.

The requirements of the OIC itself inadvertently contributed to the increase in regulatory activity and costs. The OIC directed the YUB to conduct a full cost of service review as well as a review of capital planning by 1992. These hearings were to be held in addition to regular rate reviews in 1991 and 1993. As a consequence of this direction, the board, the utilities and interveners have been involved in a fairly continuous regulatory review process for the past three years.

YEC and YECL are small by comparison to most utilities and cannot justify the cost of permanent rate design staff. As a result they have been dependant on expertise from YECL's parent company, Alberta Power(APL), as well as private consultants and lawyers from outside the Yukon. Similarly, the YUB was given no additional staff resources to manage the growing volume and complexity of regulatory activity and, like

the companies, has become increasingly dependent on the costly services of consultants and technical advisors.

Another contributing factor in the high cost of regulation is the design of the Yukon's system which essentially parallels other provincial jurisdictions, but does not account for the small scale of utility development in the territory. The assessed value of both utilities together is less than \$150 million and the combined annual revenue requirement is only \$35 million. In 1993, the combined YUB, utility and intervener costs for regulatory activities were close to \$1.2 million, or about 3% of costs assessed to rate payers. This is highly disproportionate to a customer base of 13,500 and indicates that the Yukon's regulatory system is over built for the size of the utilities being regulated. While both the companies and the board have expressed their concern over rising costs and the need to streamline the regulatory process, the quasi legal requirements of the system itself have left the board vulnerable to court appeal if the process does not strictly conform with regulatory practices in other jurisdictions.

During the 1993 GRA process, both the companies and the board attempted to introduce streamlining measures to the process. Despite these efforts, the rate case remains unresolved a year later and the working relationship between the utilities and the board is strained.

COST OF REGULATION IN THE YUKON

The direct cost of utility regulation to rate-payers in 1993 was \$964,700 which included company costs of \$504,000, board costs of \$305,100 and intervener costs of \$155,600. Other costs disallowed by the YUB during the 1993 GRA included company costs of \$179,300 and intervener costs of \$54,000 bringing the direct dollar cost up to \$1,198,000. These figures, however, do not fully account for the total cost because they do not include staff time for either the companies or major interveners such as the City of Whitehorse or Curragh Resources. As an example, YEC and YECL records for 1992 indicate that in October alone 700 hours staff of time was dedicated to the YUB Capital Hearing.

The following figures represent a comparison of annual budgets related to the regulation of electrical utilities for a cross section of large and small PUBs in 1993.

These are PUB costs alone and do not include company or intervener costs for rate applications. These costs are compared with the total revenue requirement (RR) of the companies being regulated to show the percentage that is dedicated to supporting the annual operation of the PUB.

Province	PUB Budget (\$000)	Utility RR (\$000)	%of RR
Ontario	6,200	10,400,000	0.06%
Manitoba	2,500	3,500,000	0.07%
BC	3,250	2,700,000	0.12%
Newfoundland	1,200	625,000	0.19%
NWT	550	115,000	0.47%
PEI (before 1994 price cap)	500	93,000	0.53%
Yukon	305	35,000	0.87%

The following chart represents the average utility and intervener cost of a rate application for a cross section of utilities (figures do not include PUB costs)

Utility	Utility and Intervener Cost per GRA (\$000)
Trans Alta	2,000
Alberta Power	1,000
Nova Scotia Power	1,000
Yukon	828
NWT Power Corp	590
New Brunswick Power	436
Maritime Electric	300

These figures demonstrate that although the costs of preparing a GRA or operating the YUB in Yukon are in proportion with other jurisdictions, Yukon consumers are paying exponentially more than other Canadians for utility regulation on a per customer basis.

REGULATORY REFORM IN CANADA

The Yukon's experience of system growth and rising costs is common to all Canadian jurisdictions. This has resulted in a movement among regulators towards cost cutting and process streamlining. The apparent leaders in regulatory reform are Ontario and BC. Significant steps have also been taken by the NEB, Newfoundland, PEI and Nova Scotia. Other regulators of rate based utilities including Manitoba and Alberta are taking a more cautious approach although each has acknowledged the necessity to reduce costs and streamline the regulatory process. Both NWT and Yukon have been slow to adopt reforms being proposed or implemented in other jurisdictions.

The progress of reform is determined by the conditions faced in each province. It is generally acknowledged by regulators that systems can be more easily adapted when dealing with crown owned utilities. In the case of Alberta for example, the regulator noted the need for caution in dealing with investor owned utilities such as Trans Alta or Alberta Power which are primarily concerned with investment return and are more likely to appeal decisions. As a result, the regulator has had to retain a more formal quasi-judicial posture which has reduced her ability to introduce streamlining measures.

The approach to reform also differs in each province. In the Maritimes the most significant cost cutting measures have been implemented through the restructuring of the regulatory agencies to combine all provincial regulatory or review functions into one commission, thereby reducing administrative costs. Ontario and BC have focused on the regulatory process itself with measures to lengthen test periods, pre-screen interventions and encourage negotiated settlements between utilities and interveners prior to hearings. It is also interesting to note that reform is progressing more quickly in the regulation of gas utilities than electrical utilities. Regulators generally agree that electrical utilities are particularly resistant to change.

One regulator suggested that this resistance is the most significant barrier to regulator reform. He points out that participants in the regulatory process have little incentive to reduce costs or support streamlining measures. Board members, consultants, lawyers and, in many cases, interveners benefit financially from their involvement in the process. The utility applicants do not object because it is to their advantage to appear co-operative with both interveners and the regulator. They also

know that they will recover their costs from consumers. This candid analysis reveals an inherent problem in the regulatory system. Who is responsible for initiating and driving reform? If it is the regulator, how is their progress measured and to whom are they accountable? And, what is the role of the utilities and the public in ensuring accountability?

Regulators of rate based utilities in Canada are accountable, in varying degrees, to the governments who appoint them. In most provinces, government has the ability to give policy direction to the regulator through legislation or an order in council, but in practice, government has virtually no control over the management of the board or the regulatory process. The independence of the regulator is closely guarded in much the same way as the independence of the judiciary. In the view of one board chair, the regulator is responsible for protecting the best interests of consumers and controlling regulatory costs. If he is not doing his job properly he expects to be replaced, not supervised.

The issue of regulator autonomy has led to the dismissal of boards in Saskatchewan in 1984 and Yukon in 1986. When the governments of Ontario and BC decided to pursue a policy of regulatory reform, new chairs were appointed who were known advocates of reform. In the Yukon, the need for reform has been identified. Government must now determine the direction for change and how that direction can be most effectively implemented.

OPTIONS FOR REGULATORY REFORM

This paper is based on government's intention to continue rate regulation through an independent agency. The current trend in Canada is toward rate base regulation by independent regulators and away from government direction of either crown owned utilities or regulatory agencies. The notable exception is Saskatchewan where rates are set by Cabinet.

The reform measures discussed in this section of the paper are being considered or implemented in other provinces and could be adopted in Yukon to reduce costs and streamline the regulatory process.

Pre-hearing Conferences

Pre-hearing conferences are used to clarify issues, exchange technical information and resolve disputes prior to a formal public hearing. The objective is to reduce the amount of material presented during the hearing and discourage litigative argument by legal counsel. In jurisdictions where board members have presided over pre-hearing conferences, they have tended to turn into mini-hearings and have actually lengthened the hearings process and increased costs. In cases where the applicants served as chair or conference facilitators, interveners have complained that the process was weighted in favour of the utility. There is little incentive for either the applicants or the interveners to resolve disputes in pre-hearing conferences if they have the option to present similar evidence during the formal hearing. Regulators advocate the use of board staff to run pre-hearing conferences and technical workshops. These staff must be extremely knowledgeable of the applicant and must have clear understanding of the board's interests.

- Should the use of pre-hearing conferences be encouraged by government or made a mandatory part of the regulatory process?
- Should pre-hearing conferences be chaired by the companies, board members, board staff or others?
- Should issues or evidence introduced during pre-hearing conferences be re-introduced or argued during formal hearings?

Pre-screening Interventions

Ontario has introduced a two stage screening process, "issues day" and "funding day", to attempt to reduce overlaps in issues being dealt with by interveners and ensure that interventions are relevant. Intervenors also present budget requirements for research and expertise prior to the hearings to get an indication from the board whether these costs will be recoverable through intervener funding. The majority of cost awards, however, are still determined after the hearing.

- Should interventions be screened to determine their relevance or to identify areas of overlap with other interventions?

If common issues are identified, should interveners be encouraged or directed to make joint presentations on those issues?

Pre-screening Interrogatories

Responding to interrogatories (requests for information from the applicants) is one of the most significant hidden costs in the regulatory process because it requires substantial amounts of staff time which is not shown as a direct hearing cost. During the 1993 GRA the companies answered 456 written interrogatories from the YUB and interveners. This is high when compared with hearings in other jurisdictions and is particularly disproportionate when the comparative size of the utilities is considered.

Regulators generally agree that the use of interrogatories is out of control, but they are also concerned that the screening or limitation of interrogatories will jeopardize the principal of interveners having full access to information. Some regulators support the screening of interrogatories to discourage duplication in information requests. Others support screening for relevance to specific interventions. At least two regulators have taken steps to limit their own board interrogatories to set an example to interveners.

Some regulators have expressed concern that the applicants cannot object to interrogatories because they may be perceived to be unco-operative with intervener requests for information. They suggest that a process must be developed to allow utilities to object without penalty. They also suggest that regulators must be pushed to deal with the relevance of interrogatories.

Some regulators believe that interrogatories may be most effectively controlled through the introduction of more stringent policies on intervener funding and scoping of intervener interests.

Should interrogatories be screened by the board to ensure relevance and avoid duplication?

Can pre-hearing conferences, or pre-hearing settlements effectively reduce the need for written interrogatories?

Intervener Funding

Intervener funding in the Yukon is awarded at the discretion of the YUB. Intervener costs have risen dramatically from \$77,000 for the 1991 GRA to \$220,000 for the 1993 GRA. The award for the City of Whitehorse alone rose from \$31,000 in 1991 to \$137,800 in 1993. The Yukon's policy on intervener funding is generous by comparison to other jurisdictions. The NEB offers no funding to interveners, nor does PEI.

Some regulators suggest that intervener funding is a major contributor to system expansion. They recommend that interveners with similar interests should combine their interventions. They also suggest that interveners within a single rate class should combine and that issues should be divided among interveners to discourage duplication.

Regulators generally support the use of "means testing" and in many provinces major interveners such as municipalities or large industrial customers are not eligible for assistance. Funding is used to ensure representation from residential or commercial rate classes or interest groups such as business associations and environmental organizations.

Some regulators have capped the allowable levels of fees for consultants or legal counsel. In BC, for example, the allowable limit on legal fees is \$800 per hearing day. No allowance is given for preparation or representation during pre-hearing settlement conferences. In Alberta, the regulator noted that recent "expedited" rate applications for both Trans Alta and Alberta Power (in which a pre-hearing settlement process was introduced) actually cost more than regular hearings due to the increased use of lawyers and consultants during lengthy negotiations. Some regulators have suggested that price capping on fees is necessary to encourage principled negotiations and reduce litigative argument by counsel.

In the Yukon, the companies have questioned the appropriateness of awarding funding to interveners who represent their own interests rather than the interests of all customers in their rate class.

- Does intervener funding substantially increase the quality of interventions or does it encourage duplication of issues or a litigative approach to interventions?
- Should intervener funding be limited to the presentation of evidence on issues which the board has determined to be relevant during the pre-screening of interventions?
- Should individual customers, such as mines, municipalities or special interest groups, receive intervener funding?
- Rather than awarding intervener funding, would it be more cost effective for the board to conduct investigations of relevant issues raised by interveners during the pre-screening of interventions?

Extended Test Periods

Utilities currently using one year test periods are moving toward the use of two year blocks. The Yukon already uses a two year model. In BC, three year periods are being considered. The extensions reduce the regulatory costs for both the board and the applicants by cutting the number of rate applications required, but the success of this measure depends on the use of formulas to make mid-term adjustments to the allowable annual revenue requirement in order to account for fluctuations in maintenance levels, CPI/RPI and the cost of borrowing. One regulator advised that the use of mid-term adjustments requires flexibility and co-operation between the board and the utility to ensure that investor interests are protected. If the company begins to lose money they will request a review and variance before the test period is completed. He also warned that interim adjustments will not be sufficient to deal with major market fluctuations (such as the closure of the Faro mine) or the introduction of major capital projects.

New Brunswick Power currently operates with the ability to raise rates by 3%, or to match CPI (which ever is less), on an annual basis without a rate application. This measure was introduced to facilitate the use of extended test periods.

Extended test periods are more common for gas utilities. Foothills Pipelines, for example, has deferred the need for a toll hearing for nine years. The company has a

fixed level of ROE and makes adjustments for maintenance levels on its annual budget which is submitted to the NEB.

- Could the current two year test period in Yukon be extended?
- What types of mid-term adjustment formulas would be required to make extended test periods more viable?
- Under what circumstances would mid-term review and variance requests by the board or the companies be required?

Generic Return On Equity (ROE) Hearings

ROE levels are often subject to heated debate at hearings which is both costly and time consuming. The presentation of evidence on ROE during the 1993 GRA took up 25% of the hearing and cost consumers about \$100,000 for preparation, technical experts and hearing time. The applicants offered to forgo the debate by accepting the level of ROE established for YECL's parent company in Alberta, but the YUB declined in order to protect itself from possible future appeal. The YUB's concern is supported by a number of regulators who are also cautious in their approach to formula driven ROE levels when dealing with investor owned utilities who are particularly sensitive about allowable levels of profit. BC, on the other hand, has already held generic ROE hearings for gas and electric utilities of similar size and has subsequently used this decision to "peg" the ROE on a formula basis for the investor owned West Cootney Power. Essentially, YEC and YECL were proposing to have their ROE pegged to the level awarded to APL in Alberta. Most regulators contacted expressed interest in the use of generic ROE hearings and the pegging of ROE, but noted that it would take several years to test the judicial prudence of these measures before they come into general use.

- In accordance with the government's current rate design policy (OIC 1991/62), ROE levels for YEC are pegged at .5% less than the level awarded to YECL. Could the ROE for YEC and YECL be pegged to ROE levels awarded to utilities in other provinces?
- What factors should be considered in developing a formula for pegging ROE for YEC and YECL to utilities in other provinces?

Utility investor risk is a major factor in determining the level of ROE. How does the issue of risk affect YEC and YECL?

Incentive Regulation

BC and the NEB appear to be leading the exploration of incentive regulation. The NEB uses a two door process for applicants; settlement or litigation. Applicants who work co-operatively with interveners to achieve pre-hearing settlements are rewarded with greater flexibility in the use of mid-term adjustments to maintenance levels, annual price increases indexed to CPI/RPI levels, or fixed long term ROE levels. The absence of intervener funding is seen as an incentive for interveners to negotiate a settlement in order to avoid the cost of participating in a hearing. Intervenors have suggested that the applicant's costs should also be disallowed in order to motivate equal co-operation from utilities.

In a recent decision in BC, the regulator only allowed a partial recovery of rate application costs by a gas utility. BC's limit of \$800 per hearing day for the recovery of legal fees, with no allowance for pre-hearing preparation, has also contributed to capping costs recovered by the utility.

Should mid-term adjustments be offered to utilities?

Should utilities in Yukon only be allowed partial cost recovery for the preparation and presentation of rate applications?

Should utility costs for consultants or legal counsel be capped?

Paper Hearings

Regulators are re-assessing the usefulness of full public rate hearings. They are costly, encourage litigative tactics by legal counsel and attract sparse public participation. One regulator noted that, while the public has a right to be involved in rate making, the process is complex and responses from members of the public at hearings have little value as evidence. The use of written submissions for all stages of the hearings process is increasing. One regulator summarized his approach by

suggesting that hearings should be seen as a last resort. The NEB has decreased its average number of hearing days per year to 50 from 150 during the 1980s through the increased use of written submissions and other streamlining measures.

The increasing use of Integrated Resource Planning (IRP) by utilities to review future capital investment in demand side and supply side options has provide a new avenue for public participation in other provinces. Public consultation is a fundamental element of the IRP process. In areas where the IRP process is well developed, public issues have been seen to move from the quasi judicial environment of regulatory hearings to the less formal IRP forum. The 1992 YEC/YECL Capital Plan was viewed by the companies as a first step towards the introduction of an IRP process in Yukon.

- What is the current level of public participation at rate hearings, and does this participation have substantial value as evidence in the rate making process?
- Would the interests of the public be equally served by a paper hearing process which is open to public participation?
- Should full public hearings be seen as a last resort to a negotiated settlement process?
- Would the further development of an IRP process by YEC and YECL reduce the need for public hearings in Yukon?

Pre-hearing Settlements

The use of pre-hearing settlements is advocated by Ontario, BC, Alberta and the NEB. The applicants meet with interveners, without board members or staff present, and negotiate settlements. No transcripts are made , nor is anything said during negotiations included in the hearings record. The settlement is presented to the board for review. This puts the board in a position to test the agreement to ensure that the interests of rate-payers are protected. Some regulators prefer this role to acting as a judge listening to the litigative arguments of adversarial opponents. At NEB hearings, settlements are generally accepted providing the companies can demonstrate that all interveners support the agreement. The lack of intervener funding from the NEB is an incentive for interveners to pursue principled negotiations.

Should pre-hearing settlements be encouraged in Yukon?

What measures would facilitate principled negotiation and control costs in the use of pre-hearing settlements in Yukon?

Budget Capping Regulatory Costs

Independent PUBs are ministerially appointed and considered to be government agencies. In most provinces they are also partially or entirely self financing through assessed costs to utilities and their budgets are rarely subject to review or approval through the legislature.

In theory, the board is accountable to rate-payers for the cost of regulation, but it is difficult for either the companies or interveners to challenge board spending out of concern that this may alienate the board to their interests. The Minister does have the legislated authority to direct the board to cap annual spending at a specific level. This has been done in BC for the past three years and has been considered in other provinces, but concern over eroding the independence of the regulator has dissuaded many governments from taking this step. Most regulators say that they would resist any efforts by government to cap their budgets. One regulator stated that he would expect to be dismissed, not directed, if the Minister felt that he didn't have board expenditures under control.

An extreme example of price capping recently occurred in PEI. Government enacted legislation to cap rates for the investor owned Maritime Electric at levels approved for New Brunswick Power plus 10% by 1998. Maritime Electric must drop rates by 2% per year to achieve the prescribed formula by 1998. With price capping in effect, rate applications will no longer be required. The budget of the regulator has consequently been reduced by 80% and capped at \$100,000.

Should government cap annual regulatory costs in Yukon?

Will capping regulatory cost encourage the regulator to introduce streamlining measures?

OPTIONS FOR RESTRUCTURING

Restructuring the regulatory system may provide the greatest opportunity for process streamlining and cost savings. During the 1993 GRA, restructuring was a common point of discussion among participants outside the hearing process. The four options presented in this paper reflects the range of approaches suggested by stakeholders in the regulatory process.

Review participants are encouraged to submit their views on the advantages and disadvantages to each of the four restructuring options, or to make their own proposal.

New Appointments

One regulator suggested that many of the problems encountered in the regulation of utilities are due to the personality of the regulator. The issue isn't competence as much as attitude or perspective. An experienced regulator who is ideologically committed to preserving the quasi-judicial integrity of the board may not be the best choice as board chair if the government wants to pursue a reform agenda. Similarly, a regulator who is deeply concerned about protecting the board's autonomy may not be the best person to interpret and implement government directives. Changing board members, staff or advisors is unproductive, however, without also initiating a new mandate for the regulator to streamline or restructure the system. Without a clear direction from government to adopt reforms, a newly appointed regulator will soon be faced with the same issues and tensions experienced by their predecessor.

Regulation by Professionals

The YUB is the only regulator in Canada without a paid professional full-time chair. Most boards are a blend of full time, part time or volunteer (stipended) members. The YUB is also the only regulator without full time professional staff to assist the board and work with utility staff. All regulators stress the need for co-operative working relations between board and utility staff as a way to ensure the effective transfer of current information and resolve concerns before they become issues. One regulator suggested that the first responsibility of board staff is to ensure a "no surprise" hearing.

Another stated that effective working relations between board and company staff are essential to the success of streamlining measures designed to promote a pre-hearing settlement approach to issues rather than a litigative approach during hearings.

The 1993 GRA provided challenges for the YUB equal to those faced by any jurisdiction in Canada in recent years. The board was greatly disadvantaged by not having locally based professional staff. As a result, they were dependent on out of territory consultants who did not have an established working relationship with utility staff. The process was also difficult for individual board members, all of whom serve on a volunteer basis and have no professional background in the management of electrical utilities.

The NWT has four board members representing the regions of Yellowknife, Inuvik, Rankin Inlet and Hay River. The chair is a full time paid position. The board also has full time staff including an analyst, a clerk and a secretary as well as consultants to provide accounting, legal services and technical analysis. The annual budget of \$550,000 is almost twice that of the YUB, but the board regulates the operation of three utilities with a combined annual revenue requirement of \$160 million which is over four times that of YEC and YECL.

If Yukon costs are compared to larger jurisdictions, the YUB's annual budget would have to be reduced to about 10% of its 1993 expenditure level to parallel the cost per rate-payer in provinces such as Ontario or BC. Some advocates argue that higher costs must be accepted in Yukon to preserve the territory's sovereignty over rate regulation. This reflects current government policy which is to leave rate regulation to the jurisdiction of an independent regulator. The companies argue, however, that current cost levels are an unacceptable burden to rate-payers and that the increasing use of extra-territorial consultants has, in effect, already transferred control of the regulatory process to non-residents of the Yukon.

The YUB and the companies agree that effective regulation requires the presence of professional staff to assist the board and work co-operatively with the utilities. Where the YUB supports the creation of a more professional regulating body in Yukon, the companies prefer a form of contract regulation provided by a professional regulator in a neighbouring jurisdiction such as Alberta or BC.

Regulation by Contract

When the PUB was formed in NWT, government appointed a former member of the Alberta PUB to the board to provide a form of apprenticeship for local members. The current four person board still includes two members who served with this veteran regulator. The companies propose that a similar arrangement could be made with a past or current member of the Alberta PUB or the BCUC in order to offer YUB members the opportunity of working with an experienced regulator. This step would not directly reduce YUB costs, but may expedite the introduction of streamlining measures designed to reduce company and intervener costs for rate applications or other types of reviews.

Carrying the concept one step farther, the Alberta PUB or BCUC could be contracted to provide an experienced board member as well as administrative support from professional staff based in Alberta or BC. The companies believe that this would lead to a more co-operative working relationship and would facilitate the introduction of streamlining measures such as the negotiation of pre-hearing settlements, the increased use of paper hearings and pegging ROE to generic levels set in Alberta or BC.

The greatest cost saving may be achieved by expanding this concept to the point where Alberta or BC are contracted to provide all rate regulation, thus eliminating the need for the YUB. This approach is similar to the way the BC Appeals Court acts as the appeals court for Yukon. It is also reminiscent of the utilities' former reporting relationship to the NEB. In this case, however, the government could retain its ability to give direction to the regulator through the terms of the contract with Alberta or BC.

The subject of contract regulation has been broached with the Chairs of the Alberta PUB and the BCUC, both of whom support the concept and have expressed interest in exploring the possibility further with Yukon Government representatives.

Combined Regulatory Commission

Regulators in NWT, BC, Alberta and Ontario are principally responsible for the regulation of electrical and gas utilities. In Manitoba, Nova Scotia, PEI and Newfoundland, PUBs are also responsible for a varying range of other review functions including;

- water and sewer
- public insurance
- motor vehicles
- land assessment appeals
- heritage sites designations
- land development assessment
- shopping centres
- village services
- tolls for bridges
- gas and fuel licensing
- injury compensation
- liquor licensing
- land expropriation and compensation
- tax review (gas, tobacco, health, real, and sales tax)

By combining the functions that were previously performed by a number of separate boards, the costs of operating the regulatory authority are distributed over a broader revenue base. For example, the Review Board in Nova Scotia is an amalgamation of four regulatory boards; the Municipal Board, the Expropriation and Compensation Board, the Tax Review Board and the Utilities Board. Representatives from each of those former boards now sit on the new Utility and Review Board to take the lead in their own area of expertise.

CONCLUSION

The information included in this paper indicates that the the issues faced in the regulation of electrical utilities in Yukon parallels the experience of regulators throughout the country. Every jurisdiction is taking steps to reduce costs and simplify the regulatory process. Many of the measures taken to streamline or restructure systems in other regions could be applied to our situation in Yukon. Government is prepared to set new direction for electricity rate regulation and is now inviting counsel from the YUB, the utilities, interveners and other interested parties.