

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

DECISION 4-2016

May 26, 2016

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 Town of Hay River arising from the review of Northland Utilities (NWT) Limited's Phase II General Rate Application for the 2014/15 Test Year

THE PUBLIC UTILITIES BOARD

A DIVISION OF THE BOARD (SECTION 7.(1) PUBLIC UTILITIES ACT)

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Board Consultant

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Board Counsel

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1. BACKGROUND

1. By letter dated July 25, 2014, Northland Utilities (NWT) Limited (“**Northland**” or “**NUL**”) filed its Phase II General Rate Application (“**GRA**”) with the Northwest Territories Public Utilities Board (“**the Board**”) with respect to the test years 2014.
2. Pursuant to the provisions of section 13(1) of the Rules of Practice and Procedure, the Board, by letter dated August 5, 2014 directed NUL to publish notice of the public hearing of the GRA in newspapers that circulate in the Northwest Territories. The notice provided details of the GRA and invited interested persons to file a request with the Board for intervener status. The notice also stated that any party already listed on the Phase I list will automatically be placed on the Phase II list.
3. The interested parties automatically placed on the Phase II list are the Town of Hay River (“**Hay River**”) and the Hamlet of Fort Providence.
4. Notice of the hearing was published in *The Hub* on June 24, 2015 and July 1, 2015 and in the *News/North* on June 22, 2015 and June 29, 2015. The hearing was held in the Town of Hay River on October 6, 2015.
5. The Board issued Decision 1-2016, dated February 29, 2016, directing NUL to file its Phase II compliance filing in accordance with the findings and directions in the Decision within 60 days of the date of the Decision.
6. Hay River participated as an intervener in the proceedings.

2. APPLICATION

7. By letter dated April 22, 2016, the Counsel for Hay River, Mr. Thomas D. Marriott, made an Application to the Board for intervener costs with respect to the Northland's Phase II GRA. The costs consisted of Legal Fees, Consultant Fees and Disbursements in the amount of \$43,057.65

8. The Board, by letter dated May 2, 2016, advised Northland of the Application for Intervener Costs made on behalf of Fort Providence and requested that they provide comment, if any, by May 13. 2016.

9. The Board did not received comments from Northland.

3. DECISION

10. 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 interveners 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 intervener;
- (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.”

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

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

13. Predicated upon these and any other factors particular to a cost application, the Board determined 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.

14. The intervention by Hay River was, in the Board's view, of benefit to the Board and ratepayers within the Town of Hay River.
15. The Board considered that the cost claimed by Mr. Marriott on behalf of Hay River was reasonably and prudently incurred.
16. Based upon the foregoing, the Board finds that costs of \$43,057.65 are reasonable and necessary and that Northland should forward such amounts to Mr. Thomas D. Marriott, in trust for distribution to the claimants. Northland shall be entitled to recover this sum from its customers and the method of recovery shall be addressed by Northland at the time of its next General Rate Application.

4. BOARD ORDER

NOW, THEREFORE IT IS ORDERED THAT:

17. Northland Utilities (NWT) Limited shall forward payment of \$43,057.65 to the solicitor of the Town of Hay River 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 Town of Hay River.

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



**Gordon Van Tighem
Chairman**

Dated May 26, 2016