

YUKON UTILITIES BOARD
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April 3, 2007

Yukon Energy Corporation and All Parties
YEC-Minto PPA Review

**Re YEC-Minto PPA Proceeding and Part 3 Review of Carmacks-Stewart
Transmission Line Project**

On April 2, 2007, the Yukon Utilities Board (the Board) received from the Minister of Justice the Terms of Reference for the review and hearing of the Carmacks-Stewart Transmission Line Project (CSTP) as required by Part 3 of the *Public Utilities Act*. The Terms of Reference and Yukon Energy Corporation's (YEC) application for an energy project certificate and energy operation certificate are attached. The Minister of Justice has asked the Board to endeavor to submit its report and recommendation by April 30, 2007, but in any event no later than May 31, 2007. The Board will issue a notice and procedural schedule for this Part 3 review and hearing shortly.

With respect to YEC's Power Purchase Agreement (PPA) application currently before the Board, the Board notes that section 3 of the Terms of Reference for the Part 3 review and hearing recognizes that the PPA proceeding is currently ongoing before the Board, and that "[t]he Board shall endeavour to integrate, where feasible and relevant, the review and hearing on the CSTP with the review and adjudication of YEC's PPA application." Section 4 of the Terms of Reference goes on to state that the Board is to consider the implication of its findings on the PPA application in the Part 3 review and hearing. As a result, the Board will continue to process the PPA application and issue a decision as soon as practicable. The Board considers this approach to be in accordance with the Terms of Reference and continuing with the PPA proceeding will allow the Board to make and issue its findings in time for these findings to be considered in the Part 3 review and hearing in terms of their implications to the CSTP.

Further, with regard to the PPA proceeding, on March 29, 2007, the Board advised parties that a new member, Mr. Florence, had been appointed to the Board and sought comments from parties as to whether there were any objections to Mr. Florence participating in the PPA proceeding. Objections were received from Mr. Peter Percival and from the Utilities Consumers' Group (UCG); one letter of non-objection was received from YEC. Several objections were raised by Mr. Percival and UCG. The Board will summarize and respond to the key points raised, as follows:

- Board Order 2007-01 states that the Board considers the PPA review to be a continuation of the 20-Year Resource Plan Review proceeding. Board Order 2007-01 also states that the Board considers that YEC's PPA application is related to the Resource Plan proceeding. As a result, Mr. Percival concludes that "this suggests that the Board will likely rely to some degree on information, evidence, cross examination, testimony and arguments it has heard or received during the Resource Plan proceeding". Therefore, Mr. Percival concludes that it would be inappropriate for a new Board member to participate in the adjudication of the PPA application.
- Mr. Percival expressed concern over the ability of Mr. Florence to "absorb all of the vast and very complex material" that has been filed.
- Generally, Mr. Percival considers that to have Mr. Florence participate would be contrary to the principles of natural justice.
- UCG was of the view that Mr. Florence would be at a disadvantage with respect to the issues in this proceeding insofar as they relate to prior evidence, argument, and Board findings related to the CSTP in the context of the Resource Plan proceeding.

As a matter of clarification, the Board has not at any time indicated that the record from the Resource Plan proceeding was being incorporated into the PPA proceeding. The Board regrets any confusion in this regard. Where portions of the record from the Resource Plan proceeding have been referred to in the PPA proceeding, thus forming part of the record of the PPA proceeding, the Board will consider that.

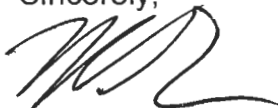
The Board is well aware of the principles of natural justice and recognizes that the PPA proceeding is ongoing, hence its decision to seek comments from parties as to whether there were any objections to having Mr. Florence participate in the decision making on the PPA application. The Board has confidence that Mr. Florence would be able to understand the issues and participate fully in the PPA proceeding. However, given that the PPA proceeding is underway and in fact is nearing completion, and there were objections received, Mr. Florence will not participate in the PPA proceeding.

Page 3

Regulatory tribunals are often faced with applications that in some way relate to previous proceedings before the tribunals. However, it does not follow, nor is it necessarily practical, that the same Board members must sit on all new applications that are related to a previous application on which they sat. While there is no question that the Part 3 review and hearing is related to the Resource Plan and PPA proceedings, the proceeding directed by the Minister of Justice is a new proceeding. As such, Mr. Florence will form part of the Board panel for the Part 3 review and hearing.

In Mr. Percival's objection, he also requested a one-day extension to the deadline for argument in the PPA proceeding on the basis that preparing his response to the Board's March 29, 2007, letter has delayed his preparation of argument. The Board does not consider that responding to one request from the Board warrants a delay in the timing of argument, particularly given the tight timelines before the Board, and therefore the Board denies Mr. Percival's request.

Sincerely,

A handwritten signature in black ink, appearing to be 'WShanks', written in a cursive style.

Wendy Shanks
A/Chair

Attach.