

IN THE MATTER OF the *Public Utilities Act*

and

**An Application by Yukon Energy Corporation
for Approval of Revenue Requirements for 2012 and 2013**

BEFORE: B. McLennan, Chair) June 7, 2012
 R. Laking)
 R. Hancock)
 N. Prasad)
 A. Fortin)

BOARD ORDER 2012-05

WHEREAS:

- A. On April 27, 2012, Yukon Energy Corporation (YEC) filed with the Yukon Utilities Board (Board), pursuant to the *Public Utilities Act*, and Order-In-Council 2012/68, an Application requesting an order approving a forecast revenue requirement for the 2012 and 2013 test years, an interim refundable rate rider effective July 1, 2012, and implementation of overall rate adjustments through implementation of Rider J and Rider R (General Rate Application);
- B. On May 4, 2012, the Board issued Board Order 2012-03 providing notice of the General Rate Application proposing a proceeding schedule for the Application.
- C. On May 22, 2012, the Board issued Board Order 2012-04 which granted Intervenor status to:
 - Yukon Electrical Company Limited (YECL);
 - John Maissan (Leading Edge or LE);
 - Utilities Consumers' Group (UCG);
 - Yukon Conservation Society (YCS); and
 - The City of Whitehorse (CW).
- D. In that same Board Order, the Board set a process for submissions regarding YEC's interim rates request.
- E. The Board received written submissions on the interim rates request from LE, UCG, and CW. On June 1, 2012, the Board received a reply from YEC.
- F. The Board has considered the interim rates request and submissions from Parties.

NOW THEREFORE, based on the reasons set out in Appendix A, the Board orders as follows:

The Board approves interim rate adjustments of 6.4% for retail customers and 2.9% for industrial customers through implementation of Rider J effective July 1, 2012. The interim rate adjustments are approved on a refundable basis.

DATED at the City of Whitehorse, in the Yukon Territory, this 7th day of June 2012.

BY ORDER

A handwritten signature in black ink, appearing to read 'Bruce McLennan', with a long horizontal line extending to the right.

Bruce McLennan
Chair

Appendix A

Request by Yukon Energy Corporation for Approval of Interim Refundable Rates for 2012

Reasons for Decision

1. Interim Rates Request and Views of Parties

In YEC's 2012-13 General Rate Application, a request was included to implement overall rate adjustments of 6.4% for retail customers and 2.9% for industrial customers through use of Rider J. Rider J is proposed to be effective July 1, 2012 on an interim refundable basis. Intervenors expressed mixed views on YEC's request for 2012 interim rates.

UCG and CW¹ submitted that the request for interim rates should be denied in its entirety. LE supported the request for interim refundable rates as proposed by YEC so that efficient consumer decisions can be made with respect to the use of electricity².

UCG submitted several reasons as to why the request for interim rates should be denied³:

1. The interim rate request is an attempt by Yukon Energy to retroactively charge ratepayers for the recovery of six months of revenues in the 2012 test year.
2. There are grounds to dismiss the interim application given the 90-day notice requirements within Section 28(1) of the *Public Utilities Act*.
3. The application does not follow the requirements of OIC 2012/68.

UCG further noted that in CW's intervention notification, CW echoed many of the same concerns that UCG brought forward in its May 28, 2012 submission. UCG did not agree with the submission of LE.

CW⁴ provided two reasons for denying YEC's request for interim rates:

1. After a full hearing to consider YEC's General Rate Application, the Board will likely approve a portion of the rate increase YEC has applied for, but it is unlikely to grant YEC the full increase requested ... the Board should not allow YEC to recover 100% of the rate increase associated with its untested, forecast revenue requirement without any assessment of the prudence of this revenue requirement.
2. Denying YEC the interim rate increase in whole or in part would result in rate stability.

¹ CW asked that the interim rate increase be denied but should the Board determine that some rate relief be granted that the rate increase be limited to 3.4% to retail rates and that industrial customers should receive no further increase. CW submission, May 28, 2012, page 2.

² LE submission, May 26, 2012

³ UCG submission, May 28, 2012. UCG also provided a reply submission on June 2, 2012.

⁴ CW submission, May 28, 2012.

YEC replied that the positions taken by UCG and CW do not consider the principles used by the Board in previous interim rate applications⁵. YEC noted that Board Order 2008-6 confirmed the Board's jurisdiction to make interim orders under Section 63 of *the Public Utilities Act*. It added that Board Order 2008-6 set principles to be applied in an interim rate application.

In response to the CW submission, YEC stated that, in implementing interim rate increases effective July 1, 2012, it would only be collecting revenues for six months of 2012 and therefore only be collecting approximately one-half of the applied-for revenue requirement increase in 2012. YEC added that to the extent that the interim rate increase is reduced, it will exacerbate the rate impact related to the true-up of interim rates to final rates for 2012 when the true up occurs in 2013. Due to the eventual true up of 2012 interim rate to 2012 final rates, YEC argued that its proposal leads to greater rate stability.

In response to UCG, YEC said that the principles espoused by the Board in Board Order 2008-6 fully refute most of the points advanced by UCG⁶. YEC added that, as it submitted a revenue requirement application and not a rate design or cost of service application, there were no compliance issues with respect to OIC 1995/90. YEC submitted that its application is fully compliant with OIC 2012/68.

2. Findings of the Board

The Board notes the following from Board Order 2008-6⁷:

63 The board may, in any matter before it,

(a) make any interim orders on appropriate terms that it may consider necessary to facilitate its inquiry **or** to prevent serious harm occurring before its decision; [emphasis added]

The Board disagrees with YEC that the Board's jurisdiction is practically limited to circumstances in which the utility can demonstrate that its financial integrity will suffer or that the safety of its operations will be compromised. Section 63 is clearly disjunctive, the first consideration being wholly for the Board and whether an interim order would facilitate the Board's inquiry into a rate application. In the Board's view, interim refundable rate orders provide the Board with the flexibility necessary to accommodate regulatory lag which might otherwise deprive a utility of a reasonable opportunity to recover its prudent costs. To this extent, the Board agrees with YECL that the Board should be careful not to deny interim rates altogether if doing so could jeopardize the ability of the

⁵ YEC Reply, June 1, 2012, page 2.

⁶ YEC argued that the Board determined in Board Order 2008-6 that a hearing is not required on the merits of interim rates and that such an approach could lead to greater regulatory lag and defeat the purpose of interim refundable rates. YEC Reply, June 1, 2012, page 4.

⁷ Board Order 2008-6, An application by Yukon Electrical Company Limited for Approval of Interim Refundable Rates for 2008 and 2009, Appendix A – Reason s for Decision, pages 2-3.

utility to implement and recover the final revenues determined by the Board to be just and reasonable in the test period.

...

... the Board disagrees with YEC that a “full hearing on the merits” of the Interim Application would be required before the Board can reasonably exercise its discretion to approve interim refundable rates for YECL. First, such an approach could contribute to greater regulatory lag and defeat the purpose of interim refundable rates. Second, while YEC indicated at the Pre-hearing Conference that it would be objecting to YECL’s Interim Application, no party objected to the Interim Application being dealt with in a short written process. It was on that basis that the Board determined at the Pre-hearing Conference and confirmed in Board Order 2008-5 that the Interim Application would be dealt with according to the written process proposed in the Pre-hearing Conference Agenda.

As in Board Order 2008-6, the Board affirms its jurisdiction to make determination on interim rate requests without the need for an oral public hearing. Based on the submission of the parties to date, the Board observes that there are areas of the General Rate Application that are likely to be contested. However, granting an order approving 2012 interim refundable rates preserves YEC’s opportunity to recover the revenues ultimately determined by the Board to be just and reasonable for that year but these rates may be changed based on the final decision of the Board.

The Board also considers important that the interim rates would only be collected for approximately one-half of the applied-for revenue requirement increase for 2012. The Board is of the view that, until the merits of the General Rate Application are determined, these interim refundable rates promote rate stability and are just and reasonable to both the utility and consumers. As a result, the Board finds that it is just and reasonable and in the public interest to approve interim refundable rates for YEC as applied for, effective July 1, 2012.