

**In the Matter of:**

**YUKON ELECTRICAL COMPANY LTD. (“YECL”)  
2013 - 2015 GENERAL RATE APPLICATION**

**ARGUMENT OF  
THE CITY OF WHITEHORSE  
 (“CW” OR “THE CITY”)**

**DECEMBER 2, 2012**

<b>1. Introduction .....</b>	<b>1</b>
<b>2. Operations and Maintenance .....</b>	<b>2</b>
<b>(a) Pension Costs.....</b>	<b>2</b>
<b>(b) Lease of LNG from ATCO Gas.....</b>	<b>8</b>
<b>3. Capital Additions.....</b>	<b>11</b>
<b>(a) Automated Meter Reading (AMR).....</b>	<b>11</b>
<b>4. Return on Rate Base.....</b>	<b>14</b>
<b>(a) Cost of Debt .....</b>	<b>14</b>
<b>(b) Deferral Accounts.....</b>	<b>16</b>
<b>(i) Board Orders, Legislative Changes, etc. ....</b>	<b>16</b>
<b>(ii) Demand Side Management Costs .....</b>	<b>18</b>
<b>5. Summary of Recommendations .....</b>	<b>19</b>

## **1. Introduction**

1. The Yukon Electrical Corporation Ltd. (“YECL”) filed with the Yukon Utilities Board (the “Board”) a general rate application (the “Application”), dated May 27, 2013, for the 2013, 2014 and 2015 test years. The Application requested approval of an interim refundable rate Rider R of 6.5% effective July 1, 2013. The Board approved Rider R as applied for in Order 2013-05, dated June 25, 2013 with the rate adjustments effective July 1, 2012 on a refundable basis.
2. A hearing on the Application was held in Whitehorse on November 4<sup>th</sup> – 7<sup>th</sup>, 2013. Based on the hearing and the rest of the evidentiary record, the City submits that, in some instances, YECL has projected costs that are higher than should be reasonably expected. Additionally, the City takes issue with the business case filed by YECL with respect to its planned automated meter reading (“AMR”) and the deferral account requested for costs related to Board Orders and legislative provisions resulting in changes to the rules or parameters that YECL operates under.
3. In examining the Application, the City has pursued a limited number of issues that are of concern to its citizens. The City is guided in its intervention by what is in the best interests of its citizens, what is in the best interest of the City as a corporation and what is most consistent with the City’s Strategic Sustainability Plan. The absence of argument on any particular issue does not constitute agreement with any party’s position on that issue.
4. The City’s detailed and specific submissions regarding areas of concern with the proposed revenue requirement are set out below.

## 2. Operations and Maintenance

### (a) Pension Costs

5. In its Application, YECL indicates that it has assumed that the forecast Defined Benefit (DB) Pension Plan costs will be based on the same contribution rates as in 2012.<sup>1</sup> In the table on page 5-7 of its Application, YECL provides an actual 2012 annual lump sum Defined Benefit payment of \$630,000 and an actual DB Special Payment of \$638,000. In response to CW-YECL-8, YECL provided forecast pension costs included in 2013, 2014, and 2015, which are the same as the 2012 actual results.
6. In response to an undertaking given to counsel for the City at the hearing, YECL provided a copy of its defined benefit (DB) plan. The plan contains the following clause:
  - (a) The annual adjustment will be as determined by the Company but will not exceed 3% per annum. In calculating the annual adjustment the Company will take into consideration annual percentage changes in the Consumer Price Index for Canada and any previous annual adjustments paid.<sup>2</sup>
7. There is an identical clause included in Exhibit C2-4, which was the CU Pension plan text from the Alberta Pension proceedings that was provided by the City as an Aid to Cross.
8. In Alberta, there have been a series of pension proceedings to assess the level of Special payments requirements for the CU pension plans. In Decision 2010-189, related to the ATCO 2009 Pension Common Matters proceeding, the Alberta Utilities Commission (Commission or AUC) discusses the cost of living adjustment (COLA) provisions of the

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<sup>1</sup> Exhibit B1, YECL Application, Part 1, page 5-3, lines 7-8

<sup>2</sup> Response to Undertaking 2, Attachment 2, Page 39 of 70 (PDF page 45 of 207)

plan. The Commission stated:

The Pension Plan was appended as Attachment 1 to UCA-ATCO-6. At pages 34 and 35 of the Pension Plan, sections 6.9(a) and 6.12(a) provide for the annual adjustment mechanism. Section 6.9(a) states:

The annual adjustment will be as determined by the Company but will not exceed 3% per annum. In calculating the annual adjustment the Company will take into consideration annual percentage changes in the Consumer Price Index for Canada and any previous adjustments paid. [Company refers to Canadian Utilities]

Section 6.12(a) contains similar language:

The annual adjustment will be as determined by the Company but will not exceed 3% per annum. In calculating the adjustment the Company will take into consideration the annual percentage changes in the Consumer Price Index for Canada and any previous adjustments paid. [Company refers to Canadian Utilities]<sup>3</sup>

9. The Alberta Office of the Utilities Consumer Advocate (UCA) argued:

...the Pension Plan provides ATCO Utilities with discretion in the setting of the COLA and that it did not have to automatically be set as a specific rate of increase based on CPI. In response to ATCO Utilities' position that a long standing administrative practice existed for determining COLA, UCA submitted that ATCO Utilities had improperly impaired the discretion that was allowed under the provisions of the Pension Plan. By adopting this administrative practice, ATCO Utilities had lost the ability to reduce COLA to assist with managing pension costs and the unfunded liability of the pension plan.<sup>4</sup>

10. ATCO argued that its COLA practices were in line with industry practices.<sup>5</sup> Also, ATCO provided a legal opinion that indicated ATCO had "a longstanding administrative practise of granting adjustments equivalent to 100% of the increase of the CPI, up to 3%."<sup>6</sup>

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<sup>3</sup> Alberta Utilities Commission Decision 2010-189, paragraphs 107 and 108 (footnotes omitted)

<sup>4</sup> Alberta Utilities Commission Decision 2010-189, paragraph 110

<sup>5</sup> Alberta Utilities Commission Decision 2010-189, paragraph 114

<sup>6</sup> Alberta Utilities Commission Decision 2010-189, paragraph 115

11. The Commission did not accept the ATCO arguments. The Commission found that a change to the longstanding administrative practise of granting COLA equivalent to 100% of the CPI is a possible means of mitigating the projected pension plan deficit. The Commission stated:

A change to the ATCO Utilities long standing administrative practice of granting COLA equivalent to 100 percent of the increase in the CPI, up to the three percent cap, represents a possible means of mitigating a significant portion of the projected Pension Plan deficit. While ATCO Utilities have argued that there may be legal issues associated with a change to this long standing administrative practice, **the Commission considers that these legal considerations are primarily a product of ATCO Utilities' own creation as a result of employee/pensioner communications and/or administrative practices that do not reflect the full discretion provided in the COLA provisions in the Pension Plan. The Commission considers that ratepayers should not bear any incremental pension funding costs which arise as a result of reduced Pension Plan flexibility with respect to annual COLA where it is demonstrated that such incremental costs prove to be unreasonable or imprudent in the circumstances. This is true particularly if current administrative practices prevented Canadian Utilities from reducing the COLA in order to reduce an unfunded liability when it may have been prudent to have done so in the circumstances.**<sup>7</sup> (Emphasis added)

12. The Commission clearly considered that ATCO should have maintained its discretion in setting COLA, and then used that discretion to mitigate the plan deficits. Also, the Commission directed ATCO to:

...[t]ake steps to ensure that the flexibility and discretion provided by the wording in the plan can be fully exercised,<sup>8</sup> and

...[p]repare future revenue requirements forecasts of pension costs in a manner which reflects the flexibility and discretion included in the Plan<sup>9</sup>...

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<sup>7</sup> Alberta Utilities Commission Decision 2010-189, paragraph 118

<sup>8</sup> Alberta Utilities Commission Decision 2010-189, paragraph 119

<sup>9</sup> Alberta Utilities Commission Decision 2010-189, paragraph 120

13. ATCO was also directed to file a 2011 pension application that included analysis to further explore the COLA provisions. In Decision 2011-391, the Commission ruled on the ATCO 2011 Pension Common Matters proceeding. In that proceeding, one of the issues was the discretion of ATCO in setting the COLA, and the impact of the COLA assumption on plan deficits. In this regard, the Commission stated:

Decision 2010-189 and the related compliance Decision 2010-553 were the genesis of the 2011 pension application and the following direction established the intended focus of the current proceeding:

....With respect to 2011 and future years, the Commission would like to investigate the possibility of adjusting COLA as a mechanism in prudently managing utility pension expense. Accordingly, the Commission directs ATCO Utilities to prepare a 2011 Pension Common Matters application by December 15, 2010. This application will specifically address the use of discretion with respect to the COLA provision in determining the 2011 pension expense to be included in revenue requirement in the context of related compensation and retention issues....<sup>10</sup>

14. The Commission maintained its view that use of the discretion available in the application of the COLA provision is an option to manage the unfunded liability:

The Commission continues to view the discretion allowed by the DB Plan with respect to the annual COLA amount as an available tool to the pension administrator and Management Pension Committee in actively managing the DB unfunded liability in carrying out their fiduciary and contractual obligations. Further, the availability of that discretion and the exercise, or lack thereof, of that discretion is a relevant and material consideration for the Commission to take into account in determining the reasonableness of the pension expense which ATCO Utilities has requested be included in its respective revenue requirements and therefore customer rates. Also relevant is the need to maintain a competitive pension plan as a key component of total compensation available to employees of ATCO Utilities.<sup>11</sup>

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<sup>10</sup> Alberta Utilities Commission Decision 2011-391, paragraph 76 (footnotes omitted)

<sup>11</sup> Alberta Utilities Commission Decision 2011-391, paragraph 83

15. Further, the Commission noted that there was a wide range of COLA provisions in use in comparators, and that the most common percentages of CPI were between 50% and 75% of CPI.

The Commission has considered the information available on the record, including the positions taken by ATCO Utilities and the UCA which range from 100 per cent of CPI to 50 per cent of CPI respectively, up to a three per cent cap. The Mercer report analysis illustrates the wide range of COLA percentages used by DB pension plans for entities in the comparator group as of the date of the report in 2010. Some members of the comparator group set COLA at a two per cent minimum with any increase above that being done on an ad hoc basis while others tied COLA to CPI with a range from 50 per cent to 100 per cent of CPI as shown in Table 1 below. The most frequent COLA provision for the comparator group set COLA in the 50 per cent to 60 per cent of CPI range with the majority using CPI in the 50 per cent to 75 per cent of CPI range.<sup>12</sup>

16. Based on the entire record of the proceeding, the Commission ordered:

Based on the above considerations and analysis and subject to the directions below, the Commission finds that until the Commission otherwise directs, 50 per cent of Canada CPI up to the three per cent maximum permitted by the DB Plan represents a reasonable level for setting the COLA amount for the purposes of determining the pension cost amounts for regulatory purposes for all employees, including both retirees and active employees, which are components of revenue requirements or capital amounts for each of the ATCO Utilities.<sup>13</sup>

17. The issue was also reviewed in a Review and Variance application. In Decision 2012-077 the Commission denied the ATCO Application to review and vary Decision 2011-391. Further, the Alberta Court of Appeal denied the ATCO appeal of the Pension decision.<sup>14</sup>
18. If the special payment was assessed based on the assumption of COLA being equal to 50% of the annual increase in CPI to a maximum of 3%, which it was not, YECL's

<sup>12</sup> Alberta Utilities Commission Decision 2011-391, paragraph 86 (footnotes omitted)

<sup>13</sup> Alberta Utilities Commission Decision 2011-391, paragraph 92

<sup>14</sup> Judgment of the Court of Appeal of Alberta, Court of Appeal File No. 1101-0252 AC, made September 23, 2013



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special payment would decrease from \$351,000 to \$59,600.<sup>15</sup> Based on the extensive review of this issue in Alberta, the City requests that the Board only include pension funding based on 50% of CPI for the forecast period, which reduces the special payments to \$59,600 per year.

19. The City notes that, in response to CW-YECL-8, YECL indicates special payment forecasts of \$638,000, which is different than the amount of \$351,000 provided in the undertaking response. In the response to Undertaking 3, YECL states:

At the outset, Yukon Electrical notes that the issue of cost of living adjustments (COLA) in the calculation of special payment pension funding was not raised by any party prior to the this undertaking being given to the City of Whitehorse during the public hearing. Accordingly, this is Yukon Electrical's first opportunity to address the need for, and reasonableness of, the continuation of its historical practice of including in its revenue requirement the full special payment based on COLA being equal to 100% of the annual increase in CPI to a maximum of 3%. The special payment funding is assessed in accordance with the Office of the Superintendent of Financial Institutions regulations and Yukon Electrical is required to make the full special payment based on COLA being equal to 100% of the annual increase in CPI to a maximum of 3%, as outlined in its annual actuarial valuation. If the special payment was assessed based on the assumption of COLA being equal to 50% of the annual increase in CPI to a maximum of 3%, which it was not, Yukon Electrical's special payment would decrease from \$351,000 to \$59,600. Yukon Electrical would nevertheless be required by law to pay the \$351,000.

20. In response, the City notes that the pension issue is a long standing and well known issue to the ATCO Group in Edmonton. Mr. Gratton, one of the YECL witnesses is also an employee of ATCO Electric, which was directly impacted by each of the ATCO Pension proceedings. Further, in CW-YECL-7(a), the City requested:

(a) Please confirm that YECL employees participate in the same DB pension plan as the employees of YECL's parent, ATCO Electric. If not confirmed, please fully explain and **provide all plan documents related to the YECL DB plan.** (Emphasis Added)

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<sup>15</sup> Response to Undertaking 3

21. Given the extensive history in Alberta, and the relationship between YECL and ATCO Electric, the issue of application of the COLA provision is not unknown to YECL. Further, the fact that the City requested the specific documents that govern the plan indicates that there is an issue with the application of the Plan.
22. **Based on the foregoing, the City recommends that the Board only allow an assumption of a 50% CPI provision to a maximum of 3% for the calculation of pension funding for the test period, which is consistent with the Alberta findings for pension funding with respect to the ATCO group of companies.**

*(b) Lease of LNG from ATCO Gas*

23. YECL is proposing to lease liquid natural gas (“LNG”) storage and vapourization equipment and associated services from ATCO Gas for the pilot program for generation using LNG. YECL states:

Beginning in the fall of 2013, Yukon Electrical will be leasing liquid natural gas (LNG) storage and vaporization equipment from an affiliate company, ATCO Gas, related to the Watson Lake Bi-Fuel Project.<sup>16</sup>

24. YECL justifies the lease option as a reasonable choice as the project is a pilot. In response to CW-YECL-8 (b)<sup>17</sup>, YECL states:

Leasing equipment may not be less expensive than owning such equipment over the long term life of a project. However, for the purposes of the pilot project, the lease option is prudent as it does not require Yukon Electrical to invest upfront in the equipment, and it allows flexibility for exiting the project if the pilot is not successful. The equipment supply is one component of the lease arrangement. It also includes on-going services for operations and maintenance. If the market develops whereby the equipment and specialized services become more costly going forward, the lease arrangement provides additional cost certainty for the project to achieve fuel cost savings related to diesel.

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<sup>16</sup> Exhibit B-1, YECL Application Part 1, page 5-4

<sup>17</sup> Exhibit B-7

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25. YECL indicates that the pilot project is one year in duration.<sup>18</sup> The lease is for 20 years and YECL may terminate the lease upon twelve months notice<sup>19</sup>. The lease price will be adjusted by inflation each year.<sup>20</sup> In addition, YECL stated:

5 A. MR. REDDEN: Yes. The lease price was  
6 derived through a -- for the equipment, through a competitive  
7 process for the storage vapourization equipment that makes up  
8 the LNG facility. Yukon Electrical had full visibility into  
9 that process and are working with ATCO Gas under the  
10 conditions of a fair market value arrangement then with what  
11 we'll provide with respect to the pricing components that are  
12 within that various components for the equipment and for the  
13 services that are being provided and for a return on the  
14 project.<sup>21</sup>

26. YECL has indicated that the return included in the lease price paid to ATCO Gas for the lease is 10%.<sup>22</sup>
27. The City has several concerns with the proposed lease. First, the City is concerned that there appears to be no purchase option. YECL has admitted that the lease option is more expensive than the purchase option<sup>23</sup>. If the pilot is successful, and YECL continues the use of the LNG storage and vapourization equipment and associated services from ATCO Gas, the higher lease rate will continue. If the pilot is successful, and it is more economical for YECL to own the assets, a purchase option should be available to YECL.
28. Also, as noted above, the contract includes a provision for an inflation increase in the price each year, yet also as noted above, the lease is for vapourization equipment, which is a hard asset. Once the asset is purchased, the costs are fixed, and there is no need for

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<sup>18</sup> Transcript, YECL 2013-15, Vol 1, November 4, 2013, page 88, line 11

<sup>19</sup> Exhibit B-7, UCG-YECL-21 (g) Attachment 15

<sup>20</sup> *Ibid*

<sup>21</sup> Transcript, YECL 2013-15, Vol 1, November 4, 2013, page 90, lines 5-14

<sup>22</sup> *Ibid*, page 91, line 1

<sup>23</sup> Response to Undertaking #4.

any inflationary increases in prices. To the extent that the lease price also includes services, any inflationary increases should only apply to the service portion of the price.

29. Further, if the pilot is successful, and YECL decides to expand the use of LNG as a fuel option, the lease option for the pilot should not be considered precedent setting, nor should the lease of facilities for a pilot be considered approval for future deployments.
30. In addition, the City notes that the lessor is ATCO Gas, a regulated utility in Alberta, yet the return imbedded in the lease rates is 10%, which is higher than a regulated return on equity of 8.75%<sup>24</sup>. Further, the return on rate base includes a portion of Debt, which reduces the Weighted Average Cost of Capital. The City is concerned that the lease is a means to draw excess profits out of YECL. This is particularly true given that YECL is liable for all costs if it cancels the lease early<sup>25</sup>.
31. YECL has also indicated that the project has been delayed until 2014.<sup>26</sup> As such, the costs included in revenue requirement should be removed from 2013, and the 2014 revenue requirement should be adjusted to accommodate the change in implementation dates as per Attachment 2 to YECL's Response to Undertaking #4.
32. The City acknowledges, however, that the LNG option recommended by YECL has positive attributes including a reduction of emissions<sup>27</sup>.
33. **The City recommends that if the LNG option recommended by YECL is approved, that the Board direct as follows:**
- **Board approval of this option for the Watson Lake Bi-Fuel project shall not be considered as approval of any lease arrangement with ATCO Gas or otherwise for other LNG projects or future deployments;**

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<sup>24</sup> Alberta Authorized 2012 ROE

<sup>25</sup> Transcript, YECL 2013-15, Vol 1, November 4, 2013, pages 87 – 88, lines 19 – 16.

<sup>26</sup> *Ibid*, lines 3-5

<sup>27</sup> Exhibit B-1, YECL Application Part 1, PDF page 558.

- **Any inflationary increase to the annual lease price should only apply to services provided, and not to the lease price of the assets being leased.**
- **The lease between YECL and ATCO Gas shall provide YECL an option to purchase the leased facilities following the expiry of the initial term of the lease; and**
- **The amount of return payable by YECL to ATCO Gas pursuant to the lease recovered from customers shall not exceed 8.75% (being the regulated rate of return approved by the Alberta Utilities Commission for ATCO Gas).**

### 3. Capital Additions

#### *(a) Automated Meter Reading (AMR)*

34. YECL proposes installing new meters in the Whitehorse area that are capable of transmitting consumption data over power lines, thereby avoiding manual meter reading. YECL proposes to exchange approximately 80% of its conventional meters for AMR meters.
35. While the City supports the implementation of technology that can improve the efficiency of utility operations, the implementation must be based on a proper business case. In this case, the business case filed in support of AMR is not complete and does not accurately reflect the costs of the options<sup>28</sup>.
36. YECL has confirmed that the depreciation rate used for AMR meters assumes that approximately 85% of the AMR meters placed in service remain in service after ten years, and only 15% of the AMR meters placed in service after twenty years.<sup>29</sup> This means that, over the ten years from years 10 to 20, the depreciation rate assumes that approximately 70% of the AMR meters are replaced. YECL also confirmed that, for the

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<sup>28</sup> Exhibit B-1, YECL Application Part 1, Business Case #27, PDF pages 625 – 631.

<sup>29</sup> YECL 2013-15, Vol 1, November 4, 2013, lines 12-20

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AMR option, the annual installation of AMR meters in years 2 – 26 of the AMR option are new additions only, and does not include replacement meters.<sup>30</sup>

37. In response to Undertaking 8, YECL indicates that neither option includes the replacement of meters. In support of this, YECL states:

- Based on the analysis performed as part of the depreciation study, both AMR digital meters and conventional digital meters have similar life expectancies (both around 15 years) Also, both AMR digital meters and conventional digital meters are subject to the same testing timeframes (tested after 10 years, then 8 years, then 6 years). For these reasons, replacement of meters is not expected to vary significantly between the two scenarios.
- If all of the meters are replaced with AMR meters as part of the implementation project, the first test required for new AMR meters will not be for 10 years. As a result, it is not expected there will be material replacements of AMR meters in the first 10 years.

Based on the above, as all meters in the Whitehorse and Southern Lakes area are assumed in the Application to be replaced with AMR-compatible meters in 2014 and 2015, there was no requirement to include any further capital for the replacement of AMR meters in the test period. However, if the AMR project is not approved by the Board, capital for the replacement of mechanical meters identified by the required testing in 2014 and 2015 will be required.

38. There are several issues with these assertions. First, the data does not support this assertion. In the business case, YECL provides the number of residential and commercial AMR meters to be installed. In each of the years 2 – 26, YECL indicates that it 219 residential and 24 commercial meters will be installed.<sup>31</sup> In the Conventional section of the business case, YECL forecasts that 1,850 conventional residential meters will be installed in each of the years 0 through 5, and 400 residential meters will be installed in each of the years 6 through 28. Similarly, YECL forecasts that 150 conventional commercial meters will be installed in each of the years 0 through 5, and 50 commercial

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<sup>30</sup> Undertaking 8

<sup>31</sup> Exhibit B-1, YECL Application, Part 1, Business Case 27, Attachment 1, page 2 of 11. (PDF page 633 of 660)

meters will be installed in each of the years 6 through 28.<sup>32</sup> Clearly, the conventional option includes more than just growth.

39. Second, even if one accepts the YECL assertions, the City submits that it constitutes an admission that the business case is not complete. To be adequate, the business case must include a reasonable assumption of the replacement of the meters under the two alternatives. As the conventional meters are already in service, and the AMR meters are just being deployed, they will have different replacement patterns. A proper business case will include an appropriate assumption about the replacement of the assets under the two alternatives.
40. Third, if YECL is correct, then its depreciation assumption is incorrect, and 70% of the meters will not be replaced between years 10 and 20. If the depreciation assumption is correct, then it is also a reasonable assumption for business case purposes.
41. As such, the business case is not complete, as it does not include any assumption about the replacement of AMR meters.
42. In addition, YECL confirmed that the proposed implementation does not allow for time of use billing.<sup>33</sup> YECL has indicated that the cost of implementing time of use billing would be prohibitive<sup>34</sup>. The YECL estimate of costs to implement time of use is a rough estimate at best as YECL indicates the cost of implementing time of use billing to be “in the millions of dollars”.<sup>35</sup> This is inadequate to assess the potential impact of time of use metering on the proposed AMR program.

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<sup>32</sup> *Ibid*, page 4 of 11 (PDF page 635 of 660)

<sup>33</sup> YECL 2013-15, Vol 1, November 4, 2013, page 129, line 9

<sup>34</sup> *Ibid*, page 130, lines 19-25

<sup>35</sup> *Ibid*

43. Finally, YECL indicates that it does not expect the imposition of time of use billing.<sup>36</sup> Until there is conclusive evidence either way, proceeding with AMR at this time may result in additional risk of sunk costs being charged to customers. The City is concerned that YECL has not performed a thorough analysis of time of use rates.
44. **While the City is conceptually supportive of efforts to improve efficiency, such as AMR, the inclusion of the costs of such initiatives must be based on complete and comprehensive business cases. As demonstrated above, there are issues with the business case presented in this case. As such, until such time as YECL provides a comprehensive business case the AMR project should be denied. The comprehensive business case should include:**
- **A reasonable replacement assumption, and**
  - **A more robust assessment, including detailed costs, of implementing time of use billing.**
45. **Moreover, the City requests that the Board direct YECL to provide a business case providing an analysis of time of use rates in the Yukon as part of its next Phase II application.**

#### **4. Return on Rate Base**

##### **(a) Cost of Debt**

46. YECL indicates it mirrors debt costs down from its parent.<sup>37</sup> In its application, YECL includes forecasts of new debt of 4.35% for 2013, 5.05% for 2014 and 5.80% for 2015.<sup>38</sup> In response to WL-YECL-18 (c), YECL updated the cost to 4.70% for 2013, 5.15% for 2014 and 5.80% for 2015.

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<sup>36</sup> *Ibid*, page 141, lines 23-25

<sup>37</sup> Exhibit B-5. CW-YECL-11 (a)

<sup>38</sup> Exhibit B-1, YECL Application, Part 1, page 8-7



47. YECL indicated that the forecasts were based on discussion with ATCO's Treasury Department and with financial institutions.<sup>39</sup> In order to test the forecasting accuracy of the cost of debt passed down from ATCO Electric, the City requested historical information from ATCO Electric. In response to CW-YECL-11 (b), YECL provided forecast long term debt rates from ATCO Electric, and in response to CW-YECL-11 (c), YECL provided actual long term debt rates from ATCO Electric. The following table summarizes the result from the responses:

	Forecast	Actual	Difference <sup>40</sup>
2007	5.200%	5.556%	0.356%
2008	5.200%	5.563%	0.372%
		5.580%	
2009	6.650%	6.215%	-0.293%
		6.500%	
2010	6.650%	4.947%	-1.703%
2011	5.750%	4.543%	-1.182%
		4.593%	
2012	6.350%	3.805%	-2.521%
		3.825%	
		3.857%	

48. Since 2009, there is a clear history of over forecasting of interest rates for new long term debt by ATCO Electric. As the information used to forecast YECL debt costs is based on

<sup>39</sup> *Ibid*, page 8-6

<sup>40</sup> Actuals calculated based on a simple average of results for each year

discussion from ATCO, and is mirrored down from ATCO Electric, the YECL parent, the history of ATCO Electric in forecasting long term debt rates constitutes a reasonable proxy for the forecast accuracy of new YECL debt.

49. YECL confirmed that it is unaware of the Bank of Canada signalling any changes to short term interest rates.<sup>41</sup> YECL also indicated that in 2013 its new long term debt was issued at 4.761%.<sup>42</sup>
50. **Based on this history, the City submits that the forecast increases in cost of debt in 2014 and 2015 are unwarranted. The City recommends the increases in the forecast cost of new long term debt be 4.761% for 2014 and 2015.**

*(b) Deferral Accounts*

*(i) Board Orders, Legislative Changes, etc.*

51. YECL requests the approval of a deferral account to:

...flow-through (dollar for dollar) to the tariff any costs related to Board Orders or legislative provisions resulting in changes to the rules or parameters that Yukon Electrical operates under, or that bear on the nature and extent of Yukon Electrical's obligations as a regulated utility and which impact its 2013-2015 revenues or revenue requirement.<sup>43</sup>

52. YECL points to similar deferral accounts that were contained within negotiated settlements approved by the Northwest Territories Public Utilities Board for YECL's sister companies (Northland Utilities (Yellowknife) Limited and Northland Utilities (NWT) Limited) in Decisions 13-2011 and 17-2011<sup>44</sup>. During cross-examination, YECL confirmed that no costs have arisen in 2013 as of the date of the hearing which would fall

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<sup>41</sup> YECL 2013-15, Vol 1, November 4, 2013, page 136, line 13

<sup>42</sup> *Ibid*, line 24

<sup>43</sup> Exhibit B-1, YECL Application, Part 1, page 1-6

<sup>44</sup> YUB-YECL-3(b)

into any category of costs which would be recovered in this deferral account.<sup>45</sup> When asked whether YECL was aware of any costs that it expected to be incurred in the test period that would fall in a category of costs for which YECL would seek to include in this deferral account, the response was “possibly” with reference being made to the possibility of incurring costs related to the possible redesigning of rates as part of a future Phase II proceeding<sup>46</sup>.

53. The City submits that YECL has not provided satisfactory evidence or reasons in support of this very broad deferral account.
54. First, the similarly worded deferral accounts for YECL’s affiliates in the Northwest Territories were approved for the 2011-2013 test period as part of negotiated settlements for both utilities. The City submits that matters agreed to between a utility and intervenor(s) in the context of a negotiated settlement represent any number of “gives and takes” between parties and do not form a precedent for the purposes of establishing the reasonableness of any one item in the settlement. In submitting the negotiated settlements in the case of Northland Utilities (Yellowknife) Ltd. and Northland Utilities (NWT) Ltd. to the Board for approval, the utilities specifically stated:

[t]his Negotiated Settlement is presented to the Board for approval as a “package deal”, and it is not possible for the Board to select and approve only certain aspects of the agreement and still reflect the view of parties. The parties agree that the imposition of any terms and conditions on the agreed upon Negotiated Settlement by the Board will alter the “package deal”, which addresses all 2011-2013 GRA Phase 1 matters. Therefore, should the Board decline to accept the full Negotiated Settlement, Northland requests that the Board deny this Application and allow all

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<sup>45</sup> YECL 2013-15, Vol 1, November 4, 2013, page 139, lines 2 - 4

<sup>46</sup> *Ibid*, page 127

2011-2013 Phase 1 General Rate Application matters to be litigated before the Board.<sup>47</sup>

55. In approving the negotiated settlements in each case, the Board stated: “[n]othing in this Decision or Order shall bind, affect or prejudice this Board in its consideration of any other matter or question relating to Northland Utilities...”<sup>48</sup>
56. The City submits that YECL cannot rely on the approval of similarly worded deferral accounts in the Northwest Territories as being precedent setting or persuasive for the purposes of supported the requested approval of the deferral account in the Yukon. Particularly given that the Board in this case is not aware of what the parties to those negotiated settlements had in their minds in agreeing to the deferral accounts including issues that might have been unique to the Northland utilities.
57. As noted by YECL, the well-established criteria for the establishment of a deferral account are that (a) costs are not under the control of the company and are not reasonably forecastable; or (b) An error in forecasting could produce a loss or gain of a substantial magnitude. The City submits that YECL has not provided any evidence to address either of these criteria with respect to the requested deferral account.
58. **The City requests that the Board decline to approve the board order and legislative changes deferral account.**

(ii) *Demand Side Management Costs*

59. YECL, in partnership with Yukon Energy (YEC), has developed a five-year plan (2013-2018) to implement and measure demand-side management (DSM) programs for the

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<sup>47</sup> Decision 13-2011 (Northland Utilities (Yellowknife) Ltd.), PDF page 19. Decision 17-2011 (Northland Utilities (NWT) Ltd.), PDF page 17.

<sup>48</sup> *Ibid*, page 15. *Ibid*, page 15.

Yukon. YECL confirmed in response to cross-examination that some of the costs it has forecast in relation to DSM may vary depending on uptake (i.e. YECL may spend less than forecast if less people than the utilities have projected participate in various DSM initiatives)<sup>49</sup>. However, YECL has also confirmed that in the event that there is greater uptake than forecast, that the utilities' budgets will be respected and opportunities may cease in a particular year if the budget has already been expended.<sup>50</sup> It appears as though the risk in this case is one sided; the utilities will exercise their control to ensure that "budgets are respected" and the utilities don't spend more than forecast in any year of the five-year plan, but the amount spent may be less than what the utilities have forecast based on uptake.

60. Given that the DSM plan involves various new initiatives, the City is concerned that the level of uptake and the costs associated therewith cannot be as reasonably or reliably forecast as other costs. The City believes that these costs should receive deferral treatment for the test period to ensure that customers are only responsible for costs actually incurred for DSM programs.
61. **The City submits that both utilities should be directed to give deferral treatment to all DSM costs for each utility's respective test period.**

## 5. Summary of Recommendations

62. Based on the foregoing, the City's recommendations are as follows:
  1. the Board should only allow an assumption of a 50% CPI provision to a maximum of 3% for the calculation of pension funding for the test period, which is consistent with the Alberta findings for pension funding with respect to the ATCO group of companies;

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<sup>49</sup> YECL 2013-15, Vol 4, November 7, 2013, page 676, lines 21 – 25.

<sup>50</sup> YECL 2013-15, Vol 4, November 7, 2013, page 676, lines 11 - 19.

2. if the LNG option recommended by YECL is approved, this approval shall be specific to the business case presented and will not be considered as approval of any lease arrangement (with ATCO Gas or otherwise) for future LNG projects or future deployments, any inflationary increase to the annual lease price should only apply to services provided (not to lease price of the assets), the lease between YECL and ATCO Gas should provide YECL with an option to purchase the leased facilities and the amount of return payable by YECL to ATCO Gas pursuant to the lease shall not exceed 8.75%;
3. YECL's proposed replacement of conventional meters with AMR meters should not be approved at this time as a result of the issues with the AMR business case;
4. YECL should be directed to more thoroughly assess time of use rates and be directed to file a business case assessing time of use rates in a future GRA;
5. the forecast cost of new long term debt should be limited to 4.761% for 2014 and 2015;
6. the Board should decline to approve the board order and legislative changes deferral account; and
7. both YEC and YECL should be directed to give deferral treatment to all DSM costs for each utility's respective test period.

All of which is respectfully submitted this 2<sup>nd</sup> day of December, 2013.



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