IN THE MATTER OF YUKON ENERGY CORPORATION AND YUKON ELECTRICAL COMPANY 2009 PHASE II RATE APPLICATION TO THE YUKON UTILITIES BOARD AND YUKON ELECTRICAL COMPANY RIDER D APPLICATION TO THE YUKON UTILITIES BOARD

REPLY ARGUMENT

YUKON ENERGY CORPORATION

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TABLE OF CONTENTS

1.0 INTRODUCTION 1
1.1 OVERVIEW 1
1.2 KEY GENERAL ISSUES 1
2.0 SPECIFIC ISSUES RAISED IN INTERVENOR ARGUMENTS 5
2.1 CITY OF WHITEHORSE 5
2.1.1 Cost of Service - Not address COS because of OIC 2008/149 5
2.1.2 Rate Design - Secondary Sales Rate 6
2.1.3 Terms and Conditions 6
2.2 REPLY TO LEADING EDGE ("LE") 8
2.2.1 Cost of Service 8
2.2.2 Rate Design - alternative Option C retail rate design 10
2.2.3 Terms and Conditions – customer cost sharing period for distribution extensions.. 11
2.3 UTILITIES CONSUMERS' GROUP 12
2.3.1 Cost of Service 12
2.3.2 Rate Design 14
2.3.3 Terms and Conditions 15
3.0 REPLY: YECL RIDER D APPLICATION 16

1.0 INTRODUCTION

1.1 OVERVIEW

Yukon Energy's reply argument addresses key issues raised in the three Intervenor's arguments regarding the YEC/YECL (together, the "Companies") Application and the YECL Rider D Application.

In Section 2 of its Reply Yukon Energy will respond to specific issues raised in each of the Intervenors' argument but it first will reply to certain key general issues raised in the City of Whitehorse ("CW") and Utilities Consumers' Group ("UCG") arguments.

1.2 KEY GENERAL ISSUES

CW Argument

CW argues for not adopting many key elements of the Application as proposed by the Companies, including: (a) ignoring the COS done by the Companies because of OIC 2008/149; (b) asserting that the current rate structure be maintained[1] (and none of the proposed retail rate design options adopted) due to the inability or unwillingness of the Companies to come to a joint position on rate design (para 5, 33); and (c) asserting that substantial rate design changes should be avoided due to lack of information and studies on price elasticity (para 26), and because seasonal rates are a superior alternative to any of the specific retail rate options examined in the hearing (para 72). Further CW argues that the Companies should be directed in their compliance filings to provide exact plans and timelines for DSM consultations and negotiations (para 84).

UCG Argument

UCG expresses concern about inability of the Companies to work together (para 7, 9, 10, 13), and lack of stakeholder consultation (para 6, 8, 16). It also argues against adopting various key elements of the Application as proposed by the Companies, because there has been insufficient evidence to support any retail rate design change at this time (para 19), and the Companies should have a more extensive set of Yukon-specific load data before introducing rate design changes (para 77).

YEC Reply

Need to Proceed with Decisions

Yukon Energy rejects any suggestion that the Board cannot or should not now proceed with decisions regarding a final 2009 COS study result, retail and other rate design changes within the range of the options as proposed by the Companies and LE, and revised terms and conditions addressing the matters in the Application.

[1] i.e., with riders J and R incorporated into base rates.

In Order 2009-8, following submissions by all parties (including CW and UCG), the Board deferred addressing rate design changes until this Phase II proceeding and directed the Companies to work together to file the 2009 Phase II Rate Application to address each of these matters, resulting in considerable time and resources being expended by the Companies, the Board and other parties in the current proceeding.

The record in this proceeding is now fully adequate for the Board to proceed with decisions that will confirm the value of the Application and the current proceeding. This record provides no basis for CW suggesting (by ignoring the COS in its argument) that the Board need not provide decisions today on the COS study results now in evidence or for CW and UCG recommending rejection of any retail rate design change at this time.

Inability of Companies to Work Together

Yukon Energy rejects the positions advanced by CW and UCG that the Companies have failed to work together with regard to the Phase II Application, or that the lack of a joint proposal on certain retail rate design matters provides a reasonable basis for the Board not to make any rate design changes at this time.

These assertions ignore the evidence and are disingenuous. The evidence clearly shows that the Companies have diligently worked together to present a uniform and consistent approach in the joint Application, including related stakeholder consultations, preparation of the initial filings and responses to IRs, resolution of additional outstanding issues prior to the hearing (Exhibit B9), and the presentation of a joint position at the oral hearing and argument on all recommendation related to two of the three key matters to be addressed in the Phase II Application (i.e., Cost of Service and Terms and Conditions). This assertion also ignores the fact that on the remaining key matter of rate design, that the Companies provided a joint position[2] on the vast majority of key rate design issues.

The only material difference between the Companies' rate design proposals related to the degree to which 2009 incremental diesel costs should be reflected in the retail runoff rate, the reductions in first block rates, and the timing and scope for future residential and general service rate design changes.

Further, the CW and UCG arguments totally fail to recognize that both Companies agreed and provided evidence to the Board that the "status quo" retail rates for these customer classes should not be maintained and that key rate design determinations were required out of this current process, within the bounds set out by each Company's submissions, to lay the foundation for a transition plan for future rate changes.

Finally, Yukon Energy rejects the notion that the Companies must present a joint rate proposal on a rate design matter in order for the Board to make key determinations regarding that matter in this proceeding. As noted in the Yukon Electrical Final Argument (p 1), *"the fact that the two Companies*

[2] This was addressed by YEC during the hearing (Exhibit B12). Jointly supported rate matters are set out in YEC's Final Argument, Section 2.2.

would take different positions on certain matters should not be surprising, as they bring different perspectives to any particular issue".

Inadequate Stakeholder Consultation

Yukon Energy rejects, as contrary to the evidence, the position advanced by UCG that there has been inadequate stakeholder consultation by the Companies related to this Phase II Rate Application.

Relative to past Yukon electric rate applications in the 1990s, the Companies engaged in an unprecedented level of consultation that included two separate GRA filings and hearings to address revenue requirements for 2008 and 2009 followed by specific Phase II consultations during the development of the filing of the 2009 Phase II Rate Application document[3]. The consultation process also did not end with filing the Phase II Application, and the Companies continued to be attentive to issues raised by intervenors in interrogatories and in evidence – this included working towards an Option C (filed by Yukon Energy) that bridged the middle ground between Option A and Option B[4].

Inadequate Load and/or Elasticity Data

Yukon Energy rejects, as contrary to the evidence, the position advanced by UCG that the Companies should have a more extensive set of Yukon-specific load data before introducing rate design changes, and the position advanced by CW that the absence of studies regarding price elasticity of demand for electricity in the Yukon constitutes a compelling reason to refrain from proceeding with substantial rate design changes (and the lack of information on such price elasticities is sufficient cause to proceed slowly with any rate changes).

Yukon Energy supports the recommendation of LE (page 8) on price elasticity matters, namely to recognize that there is price elasticity in Yukon within a 3 year period even if there are no specific Yukon studies to prove or quantify this, that appropriate price signals are an important prerequisite to the success of any DSM/conservation program, and that a targeted assistance program by government to those who can demonstrate a real need is an appropriate mitigation approach.

With regard to Yukon-specific load data, the Companies have jointly recommended in Exhibit B-9 that the Board accept the COS ratios as reported in the GRA filing for this proceeding (arising from the use of the ATCO Electric Alberta data), as being based on the most readily available data and in recognition that the COS will not determine rate changes at this time. In their next COS study, as with any Phase II Application, the Companies also committed to re-evaluate this issue to ensure the results are consistent with the load characteristics in Yukon. There is no evidence in this proceeding that the lack of such Yukon-specific load data affects rate design changes under discussion today.

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[3] The record of the proceeding demonstrates extensive consultation throughout the Phase II process (see Tab 7 of the Phase II Rate Application which provides the record of consultation including materials received from and provided to stakeholders).

[4] While the Companies were not successful in achieving a joint rate proposal, Yukon Energy did advance its preferred Option C prior to the October 5, 2010 oral hearing as a middle ground that acknowledged and addressed the concerns raised by YECL and Intervenors while addressing the key issue of concern to YEC related to the need to meaningfully reflect the cost of diesel generation in rates.

UCG's argues (para 76) *"that the utilities are not able to produce Yukon-specific load data which identifies ratepayers in higher kW.h consumption categories nor who is using electricity for heating in any particular month."* UCG submits that *"this prevents the utilities from developing an effective mitigation program to assist those customers that will be adversely impacted by proposed changes in rate design and those that are not able to shift and/or reduce usage"*; CW also asserts the need for Yukon-specific elasticity studies or information prior to proceeding with substantial rate design changes.

UCG and CW fail to establish any evidence, however, that such "load data" on utility-specific electric heating customers, other higher kWh consumption categories, or elasticities is normally available to other similar utilities in Canada, that such utilities indeed normally are expected to develop effective mitigation programs as referenced by UCG or that a policy not to proceed with substantial rate changes without such information is remotely consistent with principles established in Canada for utilities (per OIC 1995/90, section 3). The evidence during the hearing in fact did not support such assertions, and if anything confirms that it would not be reasonable or cost effective to require that such Yukon-specific information be developed, and that under no circumstances would it be reasonable for the Board to defer substantive rate changes that are otherwise required until such information is made available[5].

Seasonal/ Time of Use (TOU) Rates

Contrary to CW's argument, there is no evidence that "seasonal rates" are somehow a "superior alternative rate design" to rate design options as recommended by the Companies or LE, or that the Board should defer consideration of retail rate design changes until seasonal rates can be examined further. The proposed initial rate design adjustments will start the transition to higher rates for higher use levels (which typically occur in the winter season), without prejudicing the Board's ability in future (when and if appropriate) to further increase such rates for winter versus summer use. Contrary to the arguments of CW or UCG, Yukon Energy also recommends against any directives at this time requiring the Companies to provide a seasonal rate option or related studies (regarding seasonal, TOU or interruptible rates) prior to the next GRA.

DSM

Contrary to CW's argument (similar matters are also addressed in UCG's argument, para 97-107), there is no reasonable basis within the scope of this proceeding for the Board to direct the Companies in their Phase II compliance filings to provide exact plans and timelines for DSM consultations and negotiations, or to otherwise address the directives already set out by the Board to the Companies for the next GRA (Order 2009-8). The Companies were ordered (Order 2009-8) to provide a DSM policy paper with their

[5] Regarding the specific matter of who is using electric heating, see the evidence of Mr. Bowman provided to UCG in cross examination at Tr. p. 409, line 14 to p. 410 line 9. In relation to the lack of Yukon-specific elasticity information, Mr. Bowman testified that this would not be surprising based on the size of the jurisdiction, and that even in Manitoba (a much larger jurisdiction) they would not do their own elasticity studies and would instead look to what some other utilities that are similar are using (Tr. p. 317 line 10 to p. 318 line 19). As regards mitigation for the impacts of higher heating or other energy costs, Yukon Energy noted at pp. 284-5 that YEC has a responsibility to all ratepayers to follow principled approaches to setting rates, and further the vast majority of people (even on WAF) are still relying on fossil fuels for their heating and accordingly have been exposed over the past decade to very severe price change for the same oil fuel price change that is being referenced for setting adjusted runoff rates for the Companies.

<u>next</u> GRA application – Yukon Energy continues to work towards this goal. Yukon Energy supports LE's recommendation (page 7) with regard to the current Phase II hearing *"that the Board recognizes that appropriate price signals are an important prerequisite to the success of any DSM/conservation program and takes this into account in their decisions on rate design."*

2.0 SPECIFIC ISSUES RAISED IN INTERVENOR ARGUMENTS

2.1 CITY OF WHITEHORSE

2.1.1 Cost of Service - Not address COS because of OIC 2008/149

CW Argument

CW states that it did not address the COS study during the hearing *"because OIC 2008/149 effectively prevents the Board from accepting a rate design proposal whereby rate classes more adequately reflect the costs associated with servicing them until December 31, 2012."* CW expects that another COS study at or around the time of the expiry of the OIC. (para 38).

YEC Reply

Yukon Energy rejects CW's argument that OIC 2008/149 provides any reasonable basis for suggesting that the Board cannot or should not proceed today with decisions regarding the 2009 COS study included in the Phase II Rate Application. Although OIC 2008/149 prevents rate changes that would alter R/C ratios among retail rate classes, this OIC in no way restricts, limits or hinders the Board's ability to review and approve an updated COS at this time – and the results of such an approved updated COS will continue to be available to guide the Board, the Companies and all interested parties in the future. Accordingly, Yukon Energy rejects CW's notion that the current COS is not worth reviewing at this time and that the Companies should simply start over at some date in the future when OIC 2008/149 (or any successor OIC) is about to expire.

Further, based on the evidence as to minimal COS R/C ratio changes since 1996/1997[6], the Companies have questioned whether updated COS studies are to be required in future whenever rates are adjusted following revenue requirement applications by either Company, or whether less frequent updates would be sufficient. The Companies have anticipated that they will make submissions to the Board in this regard as part of the preparation of future revenue requirement rate adjustment applications – and Yukon Energy recommends that the Board support this approach rather than the presumption that COS updates must automatically be provided whenever a GRA is to occur and rates are to be adjusted.[7]

[6] See YEC's Final Argument at pages 8, 12-17.

[7] YEC Final Argument (page 9) and YECL Final Argument (page 4).

2.1.2 Rate Design - Secondary Sales Rate

CW Argument

CW argues that the secondary sales rate (Rate 32) should be amended to a fixed 7.2 cents per kW.h, noting rate instability and forecast risks with the "value of service" method used to set interruptible rates.

Yukon Energy Reply

CW argument ignores evidence and principles previously approved by the Board, and this rate change should not be approved by the Board.

Yukon Energy notes the following in this regard:

- First, the secondary sales rate was extensively reviewed during the 2005 Required Revenues and Related Matters hearing, and held to represent an appropriate balancing of the savings to secondary users, and value to firm power customers.

- Second, the value for service principle underlying secondary rates in Yukon since the early 1990's is based on the rationale that the value of secondary energy should be linked to what the customer would otherwise have to pay for heating oil[8]. The Board in the 2005 hearing approved the quarterly rate adjustment process (rather than setting a fixed rate as in the past) to allow for ongoing adjustment of this rate to reflect ongoing changes in the relevant volatile oil prices.

- Third, rate shock considerations are not relevant to secondary energy rates – were the service interrupted, the customer would be subject to the same swings in commodity prices. Secondary sales customers are not captive and can choose to either continue with service under this rate or switch to a firm rate.

- Finally, there is no linkage between the first block energy rate for General Service (which is linked to low cost heritage hydro assets) and the avoided cost the secondary sales customer would otherwise incur.

2.1.3 Terms and Conditions

2.1.3.1 MILs

CW Argument

CW argues that the MILs be adopted for 2011 with a single increase to the levels proposed for 2012 in the Application (Exhibit B9), and that the general service proposal of a fixed plus variable MIL be rejected in favour of increasing the current general service MIL to $690 per kW (para 46, 48, 49). CW also argues

[8] CW-YEC/YECL-1-24. The value of service principles underlying the secondary sales rate reflects balancing "the present and future private and social costs and benefits occasioned by a service's provision (i.e., all internalities and externalities)" as noted in Bonbright's attributes. The rate reflects objectives to maximize use of available surplus supply (with increased revenues lowering overall revenue requirement), while providing energy savings to secondary sales relative to the avoided cost of diesel fuel oil.

that the street lighting MIL be amended to, in addition, require the Company *to "invest up to 50% of the cost of energy-efficient streetlight fixtures and/or decorative light fixtures"* and to *"offer an investment option for the Street Lighting customer"* (para 51, 54-55).

YEC Reply

The Companies have confirmed agreement with CW's proposed "one step" to move to 2012 proposed MILs effective January 1, 2011 (YECL Final Argument, page 10). However, the Companies do not agree with CW's other proposed changes to the general service and streetlight MILs. Aside from the proposed investment option for street lighting customers (where an IR was asked), these CW recommendations were not put before the Companies for comment during the proceeding and have not been subject to any considered review or testing, and therefore should not be adopted by the Board. With regard to the proposed investment option for street lighting customers, the Companies' IR response (CW-YEC/YECL-1-22(d)) stated that, given the material issues to be addressed in this Application, the Companies were not able to consider investment (by customers) and non-investment rates for streetlights and sentinel lights; accordingly, the Companies cannot agree with this option at this time.

On CW's argument regarding changes to the general service MIL, the evidence does not support the assertions by CW that, under the fixed plus variable MIL as proposed in the Application, *"small general service customers could experience an elimination of contributions"* (which would *"constitute a further incentive for the smaller customer to overstate their demand"*), and *"large General Service will be faced with an increase in the level of contribution required"*[9]. The evidence also does not support the assertion that the Application proposal will increase the MIL as compared to what is proposed by CW.

- Contrary to CW's assertions, the evidence is that the proposed changes are not designed to increase or decrease the level of investment overall for general service customers and are primarily viewed as necessary restructuring and are considered an improvement on the current MILs for general service.

- Specifically, the <u>current MIL</u> for general service of $400 per kW contribution is at a level that encourages customers to overstate peak – *"so you were actually contributing towards…the cost of hooking them up based on how large they are*[10]."

- The MIL as proposed in the Application has little net MIL effect on mid-size general service loads in year 1 (an average load of 39 kW will see an increase in Company investment of approximately 2-3%)[11], will cover more customer projects than the current MIL (Application, Tab 5.4, p 9), will provide a higher Company investment in smaller projects and a smaller Company investment in

[9] See CW Argument page 19.
[10] See transcript page 37-39.
[11] See response to CW-YEC/YECL-1-26; discussion on transcript pages 37-47.

larger projects (thereby reducing the incentive for smaller load customers to overstate their demand), and will also approve a lower Company MIL than that proposed by CW[12].

Finally, there is also no factual basis in the evidence for any provision for a utility investment up to 50% of the cost of energy efficient streetlight fixtures. The CW recommendation is based on the assertion that when trials with energy efficient street lighting are complete costs may differ from current technologies and the proposed MIL of $1240 per fixture may prove inadequate. However, in discussion on this issue the Companies were clear that at this time they cannot foresee dramatic changes in costs (i.e., increased installation costs, fixture costs, different construction costs, different methods of trenching) over the next 5 years. Further, the Companies noted that they are engaged in "fairly early stages of testing of some new technologies", this is "very preliminary" and the Companies "have not decided if there's anything there as far as a new direction" for what would be installed for how the costs of new technology would be paid[13].

2.1.3.2 Customer cost sharing period for distribution extensions

CW Argument

CW recommends that the customer Terms and Conditions be amended to provide for a longer period of time over which customer contributions can be refunded (para 75-79, 85).

YEC Reply

The Companies see no basis for CW's argument that the current cost sharing policy period of 5 years violates OIC 1995/90, i.e., the policy applies throughout Yukon and is the same for both Companies. The Companies also strongly reject any proposal to extend for all customers the period over which contributions are refundable, as such proposals would impose material administrative burdens and do not reflect what is typical on other jurisdictions. (See also reply to LE argument on this matter - Section 2.2.3 of this Reply).

2.2 REPLY TO LEADING EDGE ("LE")

2.2.1 Cost of Service

2.2.1.1 Bulk Power COS classification

LE Argument

LE argues that it *"is very concerned that every possible excuse has been used [in the Application COS] to classify assets to energy and away from demand"* and that *"this is driving costs to the industrial class and away from the residential classes in an unfair manner."* LE recommends for bulk power COS

[12] By way of example, the MIL as proposed in the Application [fixed $5,500 plus $280/kW] can be compared with the current MIL [$400/kW] and the MIL proposed by CW [$687/kW]. At an average load of 39 MW, the Application will provide an MIL of $16,420 versus $15,600 under the current Mil and $26,793 under the MIL proposed by CW. Further, for all loads smaller than the average, the new MIL will remain higher than the current MIL (when compared with the CW proposed MIL, this will also apply for all loads less than about 13.5 kW).

[13] Transcript pages 45-46.

classifications that two hydro plants (Aishihik and Mayo B) and transmission lines each be classified 60% to energy and 40% to demand, as compared to 100% classified to energy in the Application.

YEC Reply

The evidence confirms that adoption of LE's recommendation [compared with the Application] would shift costs from the industrial class, increasing the R/C ratio of that class from 108% (with correction for 100% energy Mayo B classification [LE-YEC/YECL-1-7(a)]) to 111% [YUB-YEC/YECl-1-(c)]. The same evidence, however, indicates that such a change would only minimally reduce the residential non-government R/C [from 79% to 78%]. Based on the evidence, including evidence regarding normal COS classification principles for similar hydro utilities in Canada, the classification in the Application COS is not unfair - and LE's recommended classification changes would not be appropriate.

Contrary to LE's argument on Aishihik plant classification:

- The fact that *"the Aishihik plant typically contributes near full capacity to the winter peak on the WAF system"* does not establish a sound basis for classifying any of that plant (or the related Aishihik transmission line) to demand as none of that plant capacity can be relied upon (under the approved capacity planning criteria that drives ongoing investment in demand assets) to meet the system's winter peak demand capacity requirement.

- There is no basis to retain the earlier 40% demand classification allocation for the Aishihik plant, as that earlier classification was based on different facts, i.e., prior to adoption of the N-1 capacity planning criteria, Yukon Energy did in fact rely on this plant's capacity to meet the system's winter peak and the 40% classification was therefore appropriate at that time.

- There is no basis to argue at Aishihik *"that the demand allocation could be higher when the third turbine is added in about a year's time"*; although this new asset's costs will materially increase the overall COS impact of Aishihik plant classification compared with the 2009 COS before inclusion of the third turbine, the fact will remain that none of the Aishihik plant capacity (including the third turbine) can be relied upon to meet the system's winter peak demand capacity requirement. Further, during the Resource Plan, CSTP and YEC's 2008/2009 GRA reviews by the Board YEC has consistently justified the Aishihik third turbine investment based on diesel energy costs savings and not on diesel plant capacity cost savings.

LE's argument with regard to transmission asset classification, particularly for the new Mayo-Dawson and CSTP Stage One transmission assets that have material impacts on 2009 COS, does not adequately address the reality that these transmission assets today are viewed as "generation integration transmission" (as this classification would apply in other similar hydro utilities in Canada) and that these new YEC transmission assets were justified almost entirely (MD line) or entirely (CSTP line) based on savings of diesel energy costs rather than diesel demand costs.

In summary, LE's argument on classification of these bulk power assets does not address adequately the evidence as summarized in YEC's Final Argument, and therefore the Board should approve the classifications as provided in the Application and not accept these LE recommendations.

2.2.2 Rate Design - alternative Option C retail rate design

LE Argument

LE recommends that the Board adopt an alternative Option C retail rate design which in essence is the same as YEC's recommended modified Option C (YEC Final Argument), except that residential non-government block 1 rates are *"decreased to provide an approximate 10% bill reduction for bills for consumption up to 1,000 kWh per month, with block 2 rates increased to balance the overall revenue recovered from that class and with rates for all other classes adjusted in an manner consistent with the preceding and other principles and requirements (e.g., OICs) that must be applied".*

LE argues with regard to Option C as reviewed at the hearing *"that block 2 rates should be increased so that more customers in the mid consumption rates would experience a bill increase and that block 1 rates should decrease so as to minimize the bill impact of IER termination."*

YEC Reply

In reply, Yukon Energy's first concern is to ensure that the Board recognizes that LE's recommended Option C is not the same as Yukon Energy's recommended modified Option C as set out in section 2.3.2 and Attachment A of YEC's Final Argument.

- YEC's recommended Option C as provided in YEC's Final Argument is the same as the Option C reviewed in the hearing except as modified for residential customer classes (where the block 2 rate is reduced to 13.00 cents per kW.h and, as a result, the block 1 rate is 11.93 cents). As reviewed in Table 1 of Attachment A to YEC's Final Argument, residential non-government bill impacts up to 2500kW.h for YEC's recommended Option C (with IER) are:
  - Bill reductions of slightly under 2% for use up to 1,000 kWh/month;
  - No bill increase for use up to 2,500 kWh/month.

- In contrast, Yukon Energy estimates that LE's modified Option C as recommended in its argument would require a second block non-government residential rate of approximately 17.25 cents per kWh and a resulting first block non-government residential rate of approximately 11.02 cents per kWh in order to yield bill reductions ranging from about 5% to about 10% (lowest to highest use) for use up to 1,000 kWh/month. Under LE's recommended option, other residential non-government bill impacts (with IER) for higher levels of use are estimated as follows:
  - Bill increases of over 1% starting at 1,300 kWh/month, increasing to about 10% at 1,700 kW.h/month use and to about 18% at 2,500 kWh/month (these bill impacts are broadly similar to LE's previous preferred option as reviewed in Attachment A to YEC's Final Argument, with slightly higher bill increases at uses from 1,100 kWh/month to 1,700 kWh/month and lower bill increases thereafter for higher levels of monthly use).

- Bill increase of approximately 25% for use at 3,000 kWh/month (increases exceed 10% for slightly under 4% of the annual hydro zone bills and for slightly under about 2% of the annual large diesel zone bills)[14].

LE's recommended rate design requires a very large jump from first block rates to second block rates (from 11.02 cents to 17.25 cents per kWh), versus a relatively small jump from block 2 rates to block 3 rates of 20 cents per kWh, and, compared to YEC's recommended Option C, could result in greater revenue instability for the Companies as regards the block 1 versus block 2 rate variance.
For the reasons set out in YEC's Final Argument, Yukon Energy continues to seek Board approval of the recommended Option C that YEC has proposed in its Final Argument.

2.2.3 Terms and Conditions – customer cost sharing period for distribution extensions

LE Argument

LE requests that the Board order the Companies *"to extend the cost sharing period to 10 years for distribution extension projects in which customers pay individual customer contributions of $10,000 or more each, and to 15 years for distribution projects in which individual customers pay $15,000 or more each..."*

LE argues that the evidence for 2007-2009 indicates that only a modest percentage of customers (between 25% and 30%) pay contributions of $10,000 or more each; only a small percentage (about 12%) pay $25,000 or more each; and that the Companies get very few subsequent customers (4 in the last 3 years) who do connect to the projects for which originating individual customers paid $10,000 or more. LE also argues that the data does not support the Companies' statements that a reasonable balance between customer rights and administration costs in being achieved by the current policy that limits the cost sharing period to 5 years regardless of the level of customer contribution.

YEC Reply

This issue is dealt with in the Yukon Electrical Argument on Joint YECL/YEC Phase II Issues at pages 11-12.

On a go-forward basis the approach suggested by LE materially reduces concerns regarding added Company administrative costs, the fairness concerns raised by LE, and the special issues arising from the 15 year cost sharing period under the Yukon Government Rural Electrification Program. However, given the Companies records have been maintained on the basis of the current policy, proceeding with any retroactive implementation using the same guidelines is problematic. A complete, comprehensive and fair review of all projects of this nature retroactively would be onerous, if not impossible.

[14] Based on bills by use levels as set out in Table 1 of Attachment A of YEC's Final Argument.

2.3 UTILITIES CONSUMERS' GROUP

A material portion of UCG's argument addresses matters beyond the scope of this hearing (including evidence from prior hearings that was not discussed during the current hearing)[15]. Yukon Energy will only address key issues raised in UCG's argument relevant to the Phase II Application.

2.3.1 Cost of Service

2.3.1.1 COS classification and other cost assignment

UCG Argument

UCG asserts that the Companies failed to provide adequate evidence supporting COS methods proposed in the Application for bulk power classification (transmission and Aishihik plant), distribution classification (averaging of zero-intercept method and minimum plant method), and the extent of directly-assignable costs for street and sentinel lighting classes as well as secondary sales (see para 28-32).

YEC Reply

UCG's argument provides assertions without regard to the extensive evidence made available during the proceedings (see also reply to LE on COS bulk classification matters). Further, UCG's rejection of these bulk power classification measures ignores implications regarding industrial COS and R/C ratios (i.e., industrial R/C will move further above 100%), notwithstanding UCG's other arguments related to alleged concerns that industrial customers may not be paying their full costs (see para 22, 49, 50).

2.3.1.2 Use of COS: determining revenue requirement and policy

UCG Argument

UCG argues (at para 43), for the Companies' compliance filing to produce "true" COS numbers *"so that all ratepayers can see what unsubsidized rates would be"*; (at para 35) that the Board *"illustrate the cost responsibility of each rate class in relation to the rates charged to provide transparent information to ratepayers who have to evaluate the intervening government policy"*; and (at para 40), that the Companies should be directed *"to take the necessary steps to efficiently reduce revenue requirements and proposed rates so that a target revenue to cost ratio of 95% to 105% will be attainable for all customer classes once OIC 2007/94 and 2008/149 expire."*

YEC Reply

UCG fails to recognize the difference between a COS study and rate design analysis, between COS studies and revenue requirement determinations, and between the current proceeding of the Board and policy deliberations of government.

[15] Examples include (paragraphs in brackets): phase I issues/record (9, 11, 18, 22, 37, 62), performance-based regulation (25, 71-74), utility restructuring (26); DSM (23-24, 97-107).

The Application's COS provides "unsubsidized" cost of service for each rate class, based on current legislation and OICs. It does not provide "unsubsidized rates", i.e., rate determination involves separate considerations, including the billing determinants that are available in practice for each customer class and/or customer size group. It also is not being designed or provided in this proceeding to evaluate government policy or to assist parties in making government interventions related to rate policy.

UCG's above assertion (at para 40), is at odds with established principles and practice in Yukon or any other Canadian jurisdiction using an embedded cost of service study based on the revenue requirements as determined (forecast or actual) by separate process. Steps that "reduce revenue requirements and proposed rates" have no direct link to steps needed to attain target revenue to cost ratio for all customer classes (where some classes must see higher rates). Further, in advocating for the Companies to be directed *"to propose rates so that a target revenue to cost ratio of 95% to 105% will be attainable for all customer classes once OIC 2007/94 and 2008/149 expire",* UCG is arguing for the Companies to propose an unacceptable, very large and sudden increase to residential rates (as well as a reduction to industrial, non-government and government general service rates) that must be implemented separate from whatever general rate increases may also arise related to increased revenue requirements.

2.3.1.3 Elimination of government classes in COS

UCG Argument

UCG argues that the Companies should be directed to *"develop a COS study (in the compliance filing) that eliminates the 'government' classifications in order to allow stakeholders to understand what rates would be without the government subsidizing/reducing risks of private YECL operations"* (para 64).

YEC Reply

The government classifications are established and required by Yukon Rate Policy OIC 1995/90[16]. Producing a COS that eliminates classes that are legally required makes no sense and in effect would not provide a COS of any use or value with regard to assessing "true costs" in Yukon.

2.3.1.4 Industrial revenue surplus/deficiency deferral account

UCG Argument

UCG argues (at para 49) that *"while industrial rates are artificially held constant by OIC, the cost of service for industrial loads should still be determined and any revenue surplus/deficiency created by the frozen rates should be isolated to protect the non-industrial classes from any adverse impacts and instability."* UCG further argues (at para 50) *"that any revenue deficiency resulting from the legislated industrial rates should be tracked in a deferral account for future recovery from industrial customers once the mandated rate freeze expires in 2012."*

[16] Government customers are defined in section 1 of OIC 1995/90 and pursuant to section 5(1) the Board must fix rates for government customers in accordance to the rate policy established therein.

YEC Reply

UCG's argument ignores fundamental points related to industrial cost of service and rates.

First, the full COS for 2009 provided in the Phase II Rate Application has determined that industrial customers are currently (under the "frozen rates") paying materially more than COS (the extent above cost will be higher than 109% if the Board accepts UCG recommended COS changes).

Second, UCG's proposal to create new deferral accounts is without merit and should be rejected by the Board. There is no evidence on the record that the treatment proposed by UCG (i.e., to create COS-related deferral accounts to track revenue surpluses or deficiencies relative to COS for certain customer classes) is utilized in any other Canadian jurisdiction or would be consistent with Yukon legislation or OIC directions to the Board.

Further, there is no basis to suggest that a regulated deferral account for industrial customers would only address "revenue deficiencies" and ignore "revenue surpluses" (such as would currently exist). Finally, establishing any such deferral mechanism in this instance, prior to the expiry of the current OIC, would clearly not respect the rate direction set out in OIC 2007/94.

2.3.2 Rate Design

UCG Argument

UCG argues (at para 19) that *"there has been insufficient evidence to support any rate design change at this time", and (at para 75) that "none of the proposed rate design 'transition' options identifies exactly where rates are supposed to go nor the timelines to get there".*

Further, (at para 82) UCG argues that *"the utilities are trying to react too soon in terms of how close they are to actually running diesels to meet base loads....there is no evidence on record that convincingly proves that diesel generation will be delivering base load needs any time soon (at least, any time prior to 2012) which gives the utilities opportunity to continually update the forecast, identify vulnerable ratepayers (e.g., users of electric heat) and designing mitigation and demand side management programs".*

YEC Reply

UCG's assertion about "insufficient evidence" is without merit and fails to address the extensive evidence made available during the proceedings. As regards rate design transition roadmaps, Yukon Energy set out a clear path for rates and rate design as well as indications as to near term timelines and priorities.[17]

[17] Specifically, the Companies together outlined the need today to establish retail rate block changes as well as the need in future for runoff rates to reflect 100% of incremental diesel generation costs. Yukon Energy provided evidence in support of Option C to support setting runoff rates today at 20 cents per kW.h, recognizing that 14 years of not dealing with rate design has established a very big gap today between heritage costs per kW.h and incremental diesel generation costs per kW.h such that action must begin today to avoid even bigger problems by 2012 and beyond.

UCG's assertion (at para 82) as to 'no evidence on the record' fails to recognize that diesel generation is delivering baseload today in several communities (Watson Lake, remaining small diesel zone communities, and Old Crow). Under OIC 1995/90, which does not have any expiry date, retail rate design must address in a consistent way these diesel-served communities as well as the hydro zone communities.

2.3.3 Terms and Conditions

2.3.3.1 UCG Argument General Terms and Conditions

UCG argues (para 91-93, 96) that the Terms and Conditions can be presented to ratepayers in a more understandable format (a "more layman's approach"), and that any internal policy that affects ratepayer's service should be in written public form and included in the Terms and Conditions of Service.

YEC Reply

The Companies have worked diligently to update the Terms and Conditions of Service with amendments intended to enhance the clarity, transparency and ease of understanding of these provisions. However, as addressed in Ex. B-26, the Terms and Conditions must also ensure that certain provisions remain concise and clear from a legal point of view.

While accepting that the Board must determine what provisions need to be included in the Terms and Conditions of Service, the Companies do not agree that "any internal policy that affects ratepayer's service" should be included in the Terms and Conditions of Service, as this would unduly limit each Company from setting up administrative practices to implement these Terms and Conditions.

2.3.3.2 Late Payment Charges

2.3.3.3 UCG Argument

UCG argues (at para 94) that Late Payment and Dishonoured Payment Fees should be based on the actual costs incurred by the Companies and/or charged by Companies' banks.

YEC Reply

The Companies do not agree with UCG's recommendation on this matter.[18]

2.3.3.4 MILs

UCG Argument

UCG argues (at para 111) that recoveries from customers should be based on actual costs, and (at para 112) that, among other proposals, the Companies should install and supply *"transformation and an average length of overhead service connection wire at no cost to the customer". UCG argues (at para 113) that it does not accept the proposal for a fixed plus variable general service MIL "since this appears to introduce an unjustified inequity in a class that constitutes small and large General Service customers".*

[18] See discussion (T page 139-42) where the Companies set out the basis for late payment and dishonoured payment fees.

YEC Reply

It is unclear what UCG is proposing under paragraphs 111 and 112. No evidence was provided on these matters. Accordingly, these arguments and proposals should not be adopted at this time.

UCG's rejection of the fixed plus variable general service MIL is without merit and fails to provide any related evidence or analysis. The issues on this matter are addressed in reply to CW at section 2.1.3.1 of this Reply.

3.0 REPLY: YECL RIDER D APPLICATION

YECL asserts in its Rider D argument that:

- Rider D will ensure run out rate changes flow through to customers;
- Circumstances have changed from the mid-1990s (when the ERA existed, diesel was on the margin and YECL did not have a Rider D;
- YECL seeking same treatment as YEC on this matter; and
- Similar rider mechanisms are provided in other jurisdictions.

YEC Reply

Run-out rate flow through

YECL is not correct when it asserts (at page 8) that *"Rider D will ensure that increases or decreases to the run-out rates will be flowed through to Yukon customers".* Rider D as proposed does not deal with "runout" rate changes – it deals with changes in the YECL wholesale forecast load, when these result in ERA charges or rebates. The ERA incremental charge per kW.h for such wholesale forecast load changes under Rate Schedule 42 is fixed by the Board (rather than allowed to increase or decrease), based on either the approved run out rate for non-government residential service for the Hydro zone (current wording) or at some other rate as approved by the Board.

Circumstances have changed from mid-1990s

YECL is not correct when it asserts (at page 9) that *"YEC appears to ignore the fact that circumstances have changed materially",* referencing changes today from the mid-1990s in the extent to which retail rates reflect today's incremental diesel costs. In the current proceeding Yukon Energy has addressed extensively the impacts from 14 years delay in addressing rate design matters, and focused in particular on the greatly increased gap that has resulted today (versus 14 years ago) between incremental diesel generation costs per kW.h and heritage costs per kW.h. Yukon Energy retail rate design proposals in particular sought to put in place new retail runoff and second block rates as well as a roadmap for ongoing retail rate adjustments that address this major change from the mid-1990s.

YECL argues (at page 9) that its new Rider D is justified based on *"the circumstances which exist today, where incremental revenue that would be received by YECL in such circumstances [from usage by YECL customers] would fall materially short of the incremental cost of diesel that YECL would have to pay...."*

However, YECL's argument ignores the fact that this major change since the mid-1990s is not restricted to the hydro zone where it purchases power from YEC – this new reality exists today for YECL in each of its diesel served communities, where every kW.h is supplied using high cost diesel generation while YECL's incremental retail rates in each rate block fail to come close to recovering today's incremental diesel costs. YECL does not propose that these "changed circumstances" justify a new deferral account or Rider D to protect YECL in its diesel served communities where diesel today is always on the margin. Similarly, in Yukon Energy's view, these "changed circumstances" cannot be used to justify such a new rider today to protect YECL in the hydro zone.

Focusing on the hydro zone, YECL (at page 9) argues as follows:

> *"there is now a significant disconnect between Rate Design and the current Rate Schedule 42...the current rates are collecting production costs of approximately 8.3¢ per kWh. The current incremental cost of diesel is approximately 27¢ per kWh. This is in excess of a 200% increase in costs over which YECL has no control. Furthermore, the forecast is that of YEC not YECL. These circumstances are markedly different from the mid-1990s when there was a strong link between the costs and the incremental revenues, which no longer exists."*

YECL's hydro zone argument ignores the extent to which, in the mid-1990s, there was also a material gap (albeit it smaller than today) between the average wholesale rate (what YECL calls "production costs" being collected under its current rates) and the incremental cost of diesel, e.g., in 1997, the approved wholesale rate was 6.84 cents per kW.h and the approved incremental diesel cost (as reflected in the residential runoff rate) was 10.45 cents per kW.h.

YECL's hydro zone argument also ignores what remains unchanged today from the mid-1990s – namely, the fact that, whatever the gap between wholesale rates and the incremental cost of diesel, any ERA charge to YECL by YEC still relates solely to changes in YECL's wholesale purchase load from an approved GRA forecast. As such, any ERA charge continues to address forecasts for YECL as approved by the Board, and changes over which YEC clearly has no control.

Same treatment as YEC

YECL is not correct (at page 8) when asserting that *it "is simply seeking to be treated in exactly the same fashion as YEC regarding situations where diesel is on the margin and incremental costs associated with such diesel generation are incurred".* In reality, YECL is seeking to establish special treatment applicable to only one utility (YECL) in one rate zone (hydro zone). YEC has not sought, and does not today have, any deferral account or special rate rider charged to all retail ratepayers in Yukon in order to protect YEC against added diesel generation costs arising from added industrial or YEC retail loads that exceed approved GRA forecasts.

YECL is also not correct when it asserts (at page 10) *"that there is not a shred of evidence on the record which supports the view that YECL should be exposed to this risk when YEC is covered, via a separate and distinct mechanism (being Rate Schedule 42)...Furthermore, this risk did not exist in the past and there is no evidence to suggest that it was taken into account in the establishment of the approved [YECL] rate of return."*

The record clearly shows that in the 1990s, including the 1996/97 GRA, YECL was fully exposed to the ERA risk without any protection from a deferral account or special rate rider, and this risk exposure for YECL occurred concurrently with YEC being protected through the same ERA as regards YECL load variances impacting YEC diesel generation costs.

The record also shows that YECL's approved rate of return for 2008/09 in Order 2009-2 reflected an assessment that YECL's situation or risk profile was not materially changed since its last approved equity ratio for 1997 - and that the Board did not consider in this regard the extent to which YECL's risk profile was being reduced by the introduction of a new deferral account related to the ERA.

Other jurisdictions

YECL is not correct when it argues (at page 10) that, as noted in UCG-YEC/YECL-21, "*similar Rider mechanisms are provided in other jurisdictions*" including NUL, and "*that these mechanisms are a recognized manner of dealing with a risk that is not normally absorbed by the utility and which allows appropriate recovery of these unforecasted costs from customers.*"

The referenced NUL Rider I mechanism is not similar to YECL's proposed Rider D. As shown in the response to UCG-YEC/YECL-21, NUL's Rider I does not deal with load risk or load variance from forecast, as proposed for YECL's Rider D. NUL's Rider I is tied only to diesel that NUL would be required to incur in circumstances where NTPC has a shutdown and NUL would be forced to run its own diesel units. This makes Rider I more akin to the Yukon DCF (i.e., insufficient hydro output compared to forecast based on long term average capability) and not an ERA (unforecast load growth when diesel must be used for all incremental loads, assuming long term average hydro capability). As such, Rider I for NUL addresses a risk similar to the hydro power availability risk – and it does not address a risk related to NUL's forecast load being different than its actual load.

In summary, with regard to Rider D, YECL has not provided any "similar Rider mechanisms...in other jurisdictions". The absence of such examples confirms that it is not appropriate or within general utility practice to use stabilization (deferral and/or rider) mechanisms for intra-year load forecast variation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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