

YUKON UTILITIES BOARD

IN THE MATTER OF the *Public Utilities Act*
Revised Statutes of Yukon, 2002 c.186, as amended

and

IN THE MATTER OF an application by Yukon Energy Corporation
for review of its 20-Year Resource Plan: 2006-2025

FINAL ARGUMENT OF

UTILITIES CONSUMERS' GROUP

November 24, 2006

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I. INTRODUCTION and OVERVIEW

The Utilities Consumers' Group

1. The Utilities Consumers' Group ("UCG") is a not-for-profit organization registered as a society in the Yukon since 1993. UCG represents residential and small business ratepayers in regulatory procedures, conducts research, makes submissions, communicates with active stakeholders, including government, and helps consumers concerning any type of problem with utility service providers.

UCG Approach to the Proceeding

2. This submission summarizes positions of UCG for the Yukon Utilities Board's (the "Board") consideration. It should not be assumed that UCG is in agreement with the Yukon Energy Corporation's ("YEC") position on any issue for which UCG has not provided specific comment on in this argument. Where UCG has not specifically addressed an issue, it is believed that the Board has the benefit of arguments of other intervenors and the extensive record in this proceeding to make informed decisions.
3. UCG approaches the proposed Resource Plan as a "snap shot" of YEC's planning process, with this review providing an opportunity for the Board and interested stakeholders to examine the process and principles leading YEC to its current positions, commenting on
 - a) how the process could have been improved,
 - b) how the current proposed Resource Plan can be improved,
 - c) how YEC should proceed with the specific proposals in its proposed Resource Plan, and
 - d) how YEC should conduct its resource planning in the future.
4. The public review of YEC's proposed Resource Plan has raised many important issues for current and longer term consideration. Of particular concern is the lack of a comprehensive and multi-stakeholder approach to the development of the proposed Resource Plan. UCG submits that the Board should consider making very specific recommendations to the Yukon government (YTG) in this regard as part of its report on this proceeding.
5. Ultimately the purpose of the Board's review is to ensure that the proposed Resource Plan would be a reasonable course of action to ensure adequate supply, transmission and distribution of electricity and to fulfill the government's intentions in the Yukon. UCG submits that given the lack of a comprehensiveness of the proposed Resource Plan, coupled with the lack of an overall Yukon energy policy, the Board may wish to delay any final recommendations on the proposed projects, particularly the Carmacks-Stuart Transmission Line proposal, until a more complete basis is available.
6. UCG submits that major issues in this proceeding has been the lack of meaningful input from ratepayers and insufficient cost/benefit scrutiny of projects.
7. With an apparent lack of a coordinated energy policy in the Yukon, UCG submits that the Board should bring policy gaps to the attention of government as part of its report on this proceeding.

II. SUMMARY OF UCG RECOMMENDATIONS

8. Resource planning should include comprehensive stakeholder input, not only in the review stages of a proposed Resource Plan, but also during the development of a proposed Resource Plan.
9. Resource planning should be a joint undertaking between the YEC, YECL, the Yukon Government and related government entities (i.e. the Energy Solutions Centre) as opposed to a process that each entity undertakes on its own without regard for the others.
10. Regulatory agencies like the Board should be involved from the very beginning in the consultation process for any resource plan for the Yukon. UCG would like to see the Board take a proactive approach, participating in the entire review process including meetings with the public and key stakeholders in the development stages of a resource plan.
11. All significant capital projects should be designated by the Yukon government as regulated projects pursuant to Part 3 of the Public Utilities Act (or by equivalent government order for review) so that they can be individually reviewed prior to significant investment and construction. In the case of large, time sensitive projects such as the Carmacks-Stuart Transmission Line Project, an ongoing audit process can be implemented to ensure project transparency and to provide ongoing approval as the project develops, while allowing the project to proceed without undue delay.
12. While it is understandable that YEC will need to spend some money on detailed engineering to properly define capital projects, any money spent should be held in a project management deferral account and not rolled into rate base until the Board first approves the need and then later approves any expenditure for recovery in rates.
13. Load forecasting for the 15,000 or so non-industrial customers of electricity in the Yukon should be undertaken in a comprehensive way by YEC and YECL in full cooperation.
14. Load forecasting and planning for load growth should account for the base, non-industrial load separately from the more transitory industrial load potential so as to protect longer term ratepayers from adverse rate impacts associated with capital spending made necessary for the purpose of meeting short term industrial loads. With respect to planning for industrial loads, UCG advocates a go-slow approach until future demand can be more fully assessed, rather than making major capital investments in anticipation of unknown potential loads.
15. With respect to the proposed new planning criteria, it is important that the Board reviews the criteria and provides direction as to the appropriateness of the criteria and the consequential need for capital investment prior to YEC acting to meet the new criteria.
16. Any conclusive review of a plan to expand on the facilities operated by YEC, should include a review of both YEC's and YECL's existing facilities, resources, and plans to determine whether they can provide reliable electrical power generation to meet the forecast load requirements in the Yukon.

17. UCG submits that a demand-side management plan is a necessary component of a complete Resource Plan, given the long term nature of effective DSM programs.
18. A joint interested party panel should be implemented to promote more efficient use of energy over the longer-term through DSM, and YEC should be directed to work with YECL and the Yukon government to implement an ongoing DSM program for all electricity ratepayers in the Yukon. UCG submits that YEC and the Yukon government must continue to focus on energy conservation, efficiency and communities. UCG recommends that stakeholders develop an on-going Energy Conservation Action Plan that provides for a wide range of energy efficiency and conservation measures to assist residents in dealing with the high cost of energy in the Yukon. The Action Plan can also provide support for local initiatives identified through community energy planning initiatives.
19. UCG submits that any project included in a proposed Resource Plan requires a sound rationale that must include a business case analysis (without recourse to government funding in order to offset costs and eliminate impact), an analysis of the natural environmental impact and the alternatives to the project.
20. UCG submits that YEC's proposed \$3,000,000 threshold should be lower to account for the relatively low number of customers and consequently large impacts on rates that even small (\$500,000) projects can have, and more detail should be provided on the smaller projects that will be identified in a proposed Resource Plan.
21. With respect to the Aishihik Third Turbine Proposal, UCG submits that there is not enough information on the record to allow the Board to make any definitive recommendations on this project other than it needs more evaluation and detailed engineering work. Given that the project has no value in terms of meeting the peak demand requirement under the proposed new planning criteria, it cannot be seen as a priority project. This project should be evaluated under Part 3 of the Act.
22. With respect to the proposed Marsh Lake Fall/Winter Storage Licence Revision, UCG recommends that the project be studied as a future possible source of increased capacity in conjunction with YEC's other hydrology studies.
23. With respect to the Carmacks-Stuart Transmission Line Proposal, UCG believes that once the Power Purchase Agreements (PPA) are filed with the Board and reviewed in conjunction with all the projected risks and benefits of the proposal, and presuming at that time that the project continues, the Board should recommend to the Minister that the project be submitted for a Part 3 or equivalent review and approved only on the condition that there be an ongoing consultative / audit process wherein a consultant or auditor reporting to both the Board and interested stakeholders be provided full access to the project process. The auditor/consultant would be able to provide input/advice into the project as it progresses, with the intent that the added input and element of ongoing transparency would allow the Board to be confident that the various recommendations and various tools developed in response to the Mayo-Dawson Audit Report were being implemented.
24. With respect to the proposal to extend the life of the existing Mirrlees Units, UCG supports YEC's analysis and decision to undertake the project, particularly as they will be used only as diesel back-up units, run only to meet the demand at the higher peak periods of the year.

25. UCG submits that YEC and the Yukon government should lead pilot projects to develop alternative energy solutions that provide long-term economic benefits and reduce greenhouse gas emissions. There are a number of potential energy sources including small-scale hydro, combined heat/power systems, and renewable energy sources such as biomass (wood), wind, solar, and geothermal energy.
26. UCG submits that the Board should require any resource plan to be updated, reviewed and approved on an annual basis to ensure that it continues to meet specified criteria and energy planning criteria. Consistent with its submission on Joint Planning, UCG further submits that consultation and joint planning between YEC, YTG, YECL and stakeholders should take place as part of the update and review process, rather than have YEC develop its plans in relative isolation.
27. UCG submits that the Board must ensure that, before embarking on any significant project, YEC has the appropriate resources in place and has developed a project management policy that establishes appropriate standards and procedures for the designation, authorization, financial control, and conduct of capital projects.
28. UCG encourages the Board to direct YEC to provide evidence that alternative ownership scenarios have been evaluated and pursued where viable in future Part 3 reviews of specific projects and in the annual reviews of its proposed Resource Plan.

III. LACK OF JOINT PLANNING PROCESS

29. UCG is concerned with the lack of joint planning in the development of the proposed Resource Plan. Specifically, UCG submits that there was inadequate or no joint planning between YEC and
 - a) Yukon Electrical Company Limited (YECL),
 - b) The Yukon Government in connection with its forthcoming energy policy,
 - c) The Energy Solutions Centre, and
 - d) Several stakeholders with longstanding interest in YEC's service to its energy consumers, including UCG and the Yukon Conservation Society (YCS).
30. Testimony from YEC during the hearing suggested that it was content to proceed with its own resource planning based on its own agenda, assuming that other entities like YECL, YTG, and others would react and adapt to YEC's activities.¹ This attitude is contrary to generally accepted principles and guidelines that have been successfully developed and tested in other jurisdictions.
31. The Board need only look at the resource planning process established in the Northwest Territories to understand the importance of comprehensive planning and full stakeholder input.
32. In the Northwest Territories, the territorial government is currently gathering stakeholder input on a comprehensive NWT Energy Plan which will provide the policy framework to guide and support future decisions regarding energy. The GNWT has issued a discussion paper which

¹ Transcript Volume 2, page 163 line 23 to Page 164 line 23.

highlights the key issues that need to be addressed in a comprehensive NWT Energy Plan to ensure that energy development and management leave a lasting legacy of clean, affordable energy for the benefit of all residents of the NWT.

33. As the GNWT moves forward with the development of a comprehensive Energy Plan, there will be many opportunities for consultation and discussion with stakeholders, including a proposed Conference on Integrated Community Sustainability Planning. The NWT Energy Plan will be a living document, reflecting improvements and revisions based on input from residents and stakeholders.
34. For the proposed Resource Plan currently being reviewed by the Board, public meetings were held between June 22, 2006 and July 20, 2006 in various Yukon communities. YEC committed to “produce a full report on the public meetings, attendance and issues by community”². Although a short report was produced it, would appear that the public consultation efforts continue to have limited if any benefit to the Board’s current process.
35. YEC noted that the meeting in Pelly Crossing “had to be postponed because of scheduling conflicts in the community”³. UCG submits that low attendance at community consultations in the summer months reflects normally expected scheduling conflicts in every community and an inappropriate consultation plan. Poor strategic planning on the part of the utility should not be used as an excuse for a hurry-up offence in consultations that end up contributing little to the task at hand.
36. UCG questions why Yukoners were not consulted prior to the proposed Resource Plan, dated January 2006, being submitted to the Yukon government. It was not until June 2006 that the proposed Resource Plan was submitted to the Board for a full public review. Public meetings on the proposed Resource Plan were held after YEC had submitted its proposed Resource Plan to YTG. Yukoners were not adequately consulted prior to the finalization of the proposed Resource Plan nor were they allowed to influence the proposed Resource Plan that was ultimately submitted to the Board for review.
37. Although utility management is responsible for its resource planning and resource selection process, well governed utilities solicit stakeholder input during the resource planning process. Methods for collecting that input include stakeholder consultatives, information meetings, workshops, and issue papers seeking stakeholder response. These methods were not used during the resource planning process undertaken by YEC.
38. YEC cites a need to develop the plan quickly as a reason for producing a Resource Plan without initial input, as well as a desire to have a Resource Plan to present to stakeholders as a “starting point”.⁴
39. With respect, UCG asserts that the only time sensitive component of the proposed Resource Plan that could not have been previously contemplated by YEC may have been the addition of two mines and the ensuing possibility for the Carmacks-Stuart transmission line project. The

² YUB-YEC-1-17.

³ YUB-YEC-1-17/

⁴ Transcript Volume 2, page 144 line 23 to page 147 line 10.

necessity to monitor its load forecast needs, and in particular the need to address the retirement of a significant portion of its generation capability, should not come as a surprise to YEC. Similarly UCG would have expected ideal options such as increased hydro capacity to be constantly reviewed by YEC rather than being in the initial stages of development as the evidence suggests.⁵

40. By choosing to submit a proposal for a Resource Plan that was developed without significant consultation with stakeholders, YEC put itself in the position of having to defend the proposed Resource Plan and the decisions that led to its drafting before the Minister and the Board. Likewise, stakeholders are put in the position of having to displace a proposed Resource Plan that YEC is already committed to.
41. It is apparent that YEC has not changed anything in its proposed Resource Plan as a result of the input gathered from Yukoners at the public meetings, except for the withdrawal of the Marsh Lake proposal, dropped in response to opposition from Marsh Lake residents based on perceived rather than established impacts.⁶
42. It is also clear, without it necessarily being the fault of YEC, that YTG, to the extent it is working on a comprehensive energy policy, the Energy Solutions Centre, to the extent that it has plans which may influence the proposed Resource Plan, and YECL, to the extent that it has capital projects planned that may obviate the need for some of YEC's proposed spending, have not provided any significant input into the plan. While it may be that these three entities do not have plans that directly impact the resource planning of YEC, UCG respectfully submits that these three entities have a responsibility to Yukoners as ratepayers and taxpayers to coordinate their respective mandates with YEC in its planning.
43. UCG submits that the Board should recommend that the next step for any of the projects included in the proposed Resource Plan is for YEC to work with YECL and YTG to develop detailed engineering specifications and prepare a regulated project facility application to file for Board approval. Once detailed engineering is completed, YEC should be directed to develop and file an application that includes specific facilities, routing and a cost/rate impact analysis.
44. Lastly, regulatory agencies like the Board must be involved from the very beginning in the consultation process UCG would like to see the Board take a proactive approach, participating in the entire regulatory review process including meetings with the public and key stakeholders.

Part 3, *Public Utilities Act* Requirements

45. The *Public Utilities Act*⁷ states that no person shall construct a regulated project except in accordance with an energy project certificate granted by Cabinet. The *Act* also says that no person shall operate a regulated project except in accordance with an energy operation

⁵ Transcript Volume 2, page 188 line 11 to page 191 line 20, YEC asserts that it knew about the opportunity to obtain additional flow without disrupting ice cover in the early 1990's, but did not pursue the study as they then had a surplus; they have only just begun studying the potential again and anticipate the results will not be confirmed for years.

⁶ Transcript Volume 3, page 228 line 2 to page 231 line 3.

⁷ *Public Utilities Act*, Revised Statutes of Yukon, 2002 c.186, as amended, s. 37.

certificate issued by Cabinet.⁸ Per the *Public Utilities Act*, applications for these certificates are made to Cabinet and referred to the Board for review. Cabinet determines which projects are designated 'regulated projects' based on significance of the project.

46. YEC appears to be under the impression that since Part 3 of the Act is not referenced by the Minister's letter of June 5, 2006 that it is therefore not applicable to this Board proceeding. UCG submits that the current proceeding is simply a preamble to a full Part 3 review of each of the projects within the proposed Resource Plan.
47. In her letter to the Board dated August 29, 2006, the Minister of Justice noted that "prior to the implementation of any proposed significant energy projects by YEC (e.g., construction of the Carmacks to Stewart transmission line), it is the government's intention to refer the details of such projects to the Board for review and recommendation under the provisions of Part 3 of the *Public Utilities Act*".⁹
48. In UCG's opinion, this makes it quite clear that none of the projects in the proposed Resource Plan will be allowed to proceed until the projects are designated by OIC as regulated projects pursuant to Part 3 of the Act and applications are submitted to the Yukon government by YEC.
49. UCG submits that YECL's decision to withdraw from this review of the proposed Resource Plan supports this opinion. In its letter to the Board, YECL indicated that it plans to focus its attention on the significant regulatory projects that are expected to be brought before the Board under Part 3 of the Act.¹⁰

IV. LOAD FORECAST

50. The proposed Resource Plan does not account for YECL production in its forecasting models nor does it appear to have considered potential expansion of YECL production and/or new YECL capacity projects.¹¹
51. The proposed Resource Plan does not account for accurate up-to-date use per customer as a necessary step in accurately forecasting load growth as recommended by the 1992 Board.¹² YEC has assumed use per residential customer to be increasing at about 0.5% without investigation of current information.
52. YEC states the following for their 'rule of thumb' annual peak load for the WAF system short-term: "The predictive model for the annual peak is based on using expected load factors (based on past experience) applied to firm system loads (including losses but excluding secondary sales). This again assumes the customer use factor."¹³

⁸ *Public Utilities Act*, Revised Statutes of Yukon, 2002 c.186, as amended, s. 38.

⁹ Exhibit A-14: Letter from Minister to YUB re: extension and Part 3 of PUA, dated August 29, 2006

¹⁰ Exhibit C-1-5, Withdrawal Letter from YECL dated September 25, 2006

¹¹ Exhibit C-1-5, Withdrawal Letter from YECL dated September 25, 2006, page 3, YECL notes that YEC has not taken into account YECL's plans to develop its own generation sources. Note also though, in fairness, at Transcript Volume 2, page 155 lines 15 - 26 YEC confirms that YECL was asked about generation plans and told YEC that YECL had no plans.

¹² UCG-YEC 2-1, Attachment 1, page 89 of 176.

¹³ UCG-YEC-2-54

53. Exacerbating these concerns is the YECL information in their September 25, 2006 letter to the Board regarding base case load forecasts. UCG submits that YECL is the utility provider that would be most likely to have this data.¹⁴
54. Given that approximately 93% of YEC's forecasted sales are firm (i.e., firm wholesale and firm retail), and there is no industrial sales forecast, YEC is no longer facing the financial and business risk that it may have faced when volatile industrial sales formed a significant portion of its sales forecast.
55. Because YEC's load forecast could not be thoroughly tested in this proceeding (i.e., YEC relies on the forecasts of its wholesale customer), it is difficult to confirm the overall load forecast.
56. Having said that, UCG accepts that the primary factors driving YEC's resource planning are
- a) the change in planning criteria,
 - b) the retirement and need to replace existing power generation, and
 - c) opportunity-based projects designed to take advantage of major industrial customers.¹⁵
57. Accordingly, the focus of the proposed Resource Plan is not to address the increases in load expected from the non-industrial customer base. Nevertheless, accurate load forecasting will become more important once the transition to new planning criteria is complete and the immediate need to replace retiring generation is met, as the annual forecasted increase/decrease in the non-industrial load forecast should become a primary factor for future capital development.
58. To the extent that industrial loads, and by industrial UCG means major industrial and/or isolated industrial customers, make up part of YEC's load requirement, UCG asserts that the needs of those loads must necessarily be treated separate and apart from YEC's non-industrial load.
59. In the Yukon, industrial customers are synonymous with mines, which by their nature are transitory and unpredictable. The Board will have heard during the course of the hearing that the circumstances surrounding the two potential major industrial customers, the Minto and Carmacks mines, has changed and varied throughout the year, necessitating, for example, an update to the proposed Resource Plan a few days before the hearing.¹⁶
60. Planning for such loads within the load planning for the rest of YEC's non-industrial customers can result in excessive capital expenditures to account for temporary mine loads, expenditures which could then be left to non-industrial customers to bear. A prime example could be the proposed Carmacks-Stuart transmission line proposal, which, if not strictly segregated from the planning for the rest of the load, could result in the costs of this expensive project being borne by ratepayers who do not need the expansion if the mines fail prematurely. UCG has specific comments on this project later in this submission, and does not necessarily submit that the

¹⁴ Exhibit C-1-5, Withdrawal Letter from YECL dated September 25, 2006,

¹⁵ UCG-YEC-2-43, footnote 1

¹⁶ Transcript, volume 1 page 25 lines 11-20, for example, cites how the proposal had to change twice as a result of changes related to the Minto Mine.

project should be recommended for termination; it does however provide an example of the risks involved in combining the mine related requirements and non-industrial load requirements of YEC in planning.

V. NEW PLANNING CRITERIA

61. YEC has adopted new capacity planning criteria that it suggests will better protect customers from outages. These planning criteria have not been reviewed by the Board nor interested parties prior to this application.
62. UCG has no submissions to make with respect to the specific details of the combined LOLE and N-1 Planning criteria put forward by YEC. UCG only comments that the Board is ultimately responsible for determining the prudence of any capital spending of YEC at the time YEC applies to have expenditures included in its rate base. To the extent that the proposed planning criteria is used by YEC to justify capital expenditures in order to meet the criteria, it is important that the Board reviews the criteria and provides direction as to the appropriateness of the criteria and the consequential need for capital investment prior to YEC acting to meet that criteria.¹⁷ YEC should not be seen to unilaterally impose planning criteria on the Board.

VI. CAPABILITY OF SUPPLYING FORECAST LOADS

63. YEC provided evidence that, based largely on their proposed new planning criteria, current assets will not be able to reliably meet forecast loads in the near future. Aside from UCG's comments on load forecasting and treatment of industrial loads found elsewhere in these submissions, UCG further submits that any conclusive review of a plan to expand on the facilities operated by YEC, should include a review of both YEC's and YECL's existing facilities, resources, and plans to determine whether they can provide reliable electrical power generation to meet the forecast load requirements in the Yukon.

VII. DEMAND SIDE MANAGEMENT

64. YEC indicates that if loads develop, further consideration will be given to DSM programming focused on both the reduction of system peak demand and energy conservation, and development of new wind generation (if attractive sites near established utility grids can be identified).¹⁸
65. UCG submits that a demand-side management plan should have been established for this review.
66. The nature of DSM is that it is implemented over time, delivered on a customer by customer basis. The immediate result of most DSM is to reduce the energy consumption for the individual consumer with a corresponding short term bill reduction, with a longer term goal of changing consumer consumption and behaviour in general to achieve reduction of system peak

¹⁷ Transcript Volume 2, page 192 lines 18 to page 197 lines 11, YEC discusses the Board's role with respect to the planning criteria.

¹⁸ BOARD-YEC-2-19 YEC suggests in this response that DSM may be considered when diesel generation is on the margin in sufficient magnitude.

demand. At a minimum, sustained DSM programs should reduce the rate of load growth, allowing deferral of capital expenses.

67. UCG notes, for example, that YEC factors in a .5% load growth factor in its forecast to account for increased use for existing customers.¹⁹ DSM measures would offset this growth, both directly by reducing existing loads, and indirectly by influencing consumer behaviour.
68. UCG recommends that a joint interested party panel be implemented to promote more efficient use of energy over the longer-term and that YEC be directed to work with YECL and the Yukon government to implement an ongoing DSM program for all electricity ratepayers in the Yukon.
69. UCG submits that YEC and the Yukon government must continue to focus on energy conservation, efficiency and communities. UCG recommends that stakeholders develop an ongoing Energy Conservation Action Plan that provides for a wide range of energy efficiency and conservation measures to assist residents in dealing with the high cost of energy in the Yukon. The Action Plan can also provide support for local initiatives identified through community energy planning initiatives.

VIII. ENVIRONMENTAL ISSUES

70. While environmental issues per se are not really part of UCG's mandate, the costs associated with any type of regulatory process affect rates.
71. YEC has argued that the Minister's June 5, 2006 letter does not contemplate a detailed review of the specific environmental effects of any individual project nor does the Board have jurisdiction to carry out such a review.²⁰
72. YEC also admits that it has not yet conducted the detailed reviews necessary to allow that level of assessment to occur. So, UCG questions how the Board can be expected to conduct a due diligence review of proposed projects if it has only been provided "general comparative information on environmental impacts" as opposed to detail project specific impact assessment.
73. UCG submits that the Board cannot make isolated decisions regarding YEC when it must consider what is best for the Yukon as a whole. The future supply of electricity to all the Yukon (including that served by YECL) must be considered in a review of a resource plan that is part of a more comprehensive energy policy.

IX. SHORT-TERM SUPPLY OPTIONS

74. UCG submits that any project included in a proposed Resource Plan requires a sound rationale that must include a business case analysis, an analysis of the natural environmental impact and the alternatives to the project.

¹⁹ Exhibit B-1 Page 4-6.

²⁰ Exhibit B-9 Letter from YEC re: PHC issues, dated September 8, 2006Page 4.

75. The detailed impacts of each project will be required when routes or sites, technologies and construction methods are considered and the project proponent makes application for approval.

X. ASSESSMENT OF NEAR-TERM PROJECTS

76. From a due diligence perspective, UCG submits that the Board must keep in mind that YEC's direct customer base is quite small – approximately 1,300 residential, 450 general service, and 1 wholesale customer – which represents approximately 11% of all electricity customers in the Yukon. Any projects undertaken in the Yukon, whether paid for by electricity ratepayers or these same Yukoners as taxpayers, will be a financial burden to all Yukoners including the approximately 13,000 customers of YECL. The UCG urges the Board to step back from the detail and consider the bigger picture when making any decisions regarding costly investment where viable alternatives exist.²¹

\$3 Million Threshold

77. The \$3 million threshold issue is about two things. First, is \$3 million the appropriate threshold or should it be lower? In Ontario, for instance, natural gas utilities, with customer bases in excess of 1,000,000 must provide details on all projects over \$500,000 in rate applications to the regulator. In the Yukon, with its low number of ratepayers, \$500,000 projects can have a significant impact on rates.
78. UCG submits that the threshold should be lower and more detail should be provided on more projects that will be identified per the proposed Resource Plan.
79. All significant capital projects in the Yukon should be considered regulated projects and subjected to more strenuous review prior to YEC starting construction. UCG submits that the threshold for determining whether a project is significant should be a combination of project value (e.g., \$500,000 or more) and ultimate impact on rates.
80. UCG submits that the Board should specifically recommend at what time during the project life any triggered review should take place.
81. UCG submits that any project that YEC cannot justify from a business case / rate impact perspective should be put back on the shelf until they can be justified from a business case perspective, without recourse to government funding in order to offset costs and eliminate ratepayer (as opposed to taxpayer) impact.
82. YEC testified in the review of its 2005 revenue requirement that for significant projects, project cost estimates should be in the +/- 15% range at the time of proposal (transcript page 533) and that the estimating process would take 1 to 2 years (transcript page 534).²²
83. UCG submits that the cost estimates for any project included in the proposed Resource Plan which YEC has submitted to the Board must be assumed to be within the +/- 15% range. Any costs incurred beyond this threshold should be excluded from any recovery through rates.

²¹ YECL to YEC 1-45, Revised Table 2.1

²² YEC 2005 Rate hearing, Transcript, pages 533-534.

84. UCG submits that the Board must at least ensure that the following questions are answered on capital expenditures before allowing the costs to be recovered in rates:
- Were the costs prudently incurred? That is, was the project initiated based on a comprehensive review of alternative ways to spend the money available to get the same results?
 - Will ratepayers receive enough benefit (i.e., lower bills, improved system, etc.) in the short and long-term to justify the costs or will the utility use up the benefits in other ways?
 - If actual costs are higher than forecast, were these extra costs incurred due to mismanagement of the project? Who should be responsible for paying for cost overruns?
 - How do the actual costs compare to cost estimates that were discussed in the public consultation phase of the project? If the utility determined that it had "public agreement" to proceed with the project, does it think that this agreement still exists under a higher price tag? The burden of proof lies with the utility.
 - Should ratepayers pay for costs of satisfying the complaints that are raised during construction that should have been addressed during project development? One example of this is the extra costs that may have been incurred to satisfy the concerns of placer miners and First Nations in the Mayo-Dawson transmission line project.
 - Was there any public consultation when the contractor / YEC changed the original plan (route, etc.)? A detailed review of the contractor contracts may reveal that they were given the ability to change the original plans as they saw fit without consultation with First Nation's and other stakeholders.
 - What risk management efforts have been put in place by YEC (e.g., fixed price contracts) to ensure ratepayers would be protected from cost overruns?
85. As well, all capital projects that are required to allow for future revenues should not be included in rate base until those future revenues are realized. In particular, costs related to feasibility (e.g., technical studies) should be omitted from rate base. YEC should be directed to identify all of these costs before the rate base is finalized.
86. Good resource planning builds credibility. UCG submits that there has not been a compelling demonstration of need for the projects included in the proposed Resource Plan, save perhaps the life extension of the existing Mirrlees Units. It is questionable whether any outside investor would consider building any of these projects as a good investment without further information; this is particularly true of the Carmacks-Stuart Transmission Line Proposal.
87. UCG submits that there has not been an adequate and fair consideration of alternatives. There has been no rigorous testing of even the alternatives identified by YEC. There is very little evidence on alternative uses of money that will be made available for capital expenditures. Yukon ratepayers cannot rely on project promoters like YEC to present a balanced view since they want the project included in rate base so that financial returns on investment to the utility are increased and realized sooner rather than later. It is up to the intervenors and the Board to review and challenge what is being put forward by YEC.

Aishihik Third Turbine Project

88. UCG does not see this proposed project as being a priority with respect to the near term requirements of YEC.
89. The proposed Resource Plan makes it clear that the proposed Aishihik 3rd turbine project adds only 600 kW to the capacity of YEC to meet the LOLE planning criteria, and adds 0 MW to the capacity of YEC to meet the N-1 Criteria.²³
90. The usefulness of the project, the proposed Resource Plan goes on to state, is
- a) the future availability of this capacity if, for example, a second Aishihik Transmission Line were built, or if a other generation assets were developed so as to reduce the relative weighting of Aishihik generation, and
 - b) the addition of energy to the WAF grid, potentially yielding benefits such as displaced diesel generation and prolonged secondary sales.²⁴
91. The proposed Resource Plan estimates that, with 10 MW of mine loads added to the system, ratepayers will experience a net benefit from the addition of the Aishihik project within two to three years of operation. Without mines adding to the base load, the project does not become a ratepayer benefit for approximately 8 years, and over a 20 year period constitute a net loss to the ratepayer. YEC asserts that these approximations are made without regard to the benefit of additional secondary sales.²⁵
92. UCG submits that there is not enough information on the record to allow the Board to make any definitive recommendations on this project other than it needs more evaluation and detailed engineering work. This project should then be evaluated per Part 3 of the Act.

Marsh Lake Fall/Winter Storage Licence Revision

93. UCG is concerned that YEC would drop a cost effective and comparatively simple measure such as this project which had the potential to add enough capacity to meet the increase in load growth for 1 to 2 years based entirely on as yet unsubstantiated complaints from stakeholders.²⁶
94. As UCG had already submitted, YEC should always be (and currently is) looking for ways to enhance its hydro generation. Simply abandoning a project such as this without even assessing the costs of determining the factual impacts, particularly when there is an overall hydrology study underway in any event does not, to UCG, seem prudent. The Board should be given the opportunity to review this proposed project as an alternative to projects that YEC has determined are less burdensome to pursue from a consultative and regulatory perspective.
95. UCG recommends that this project be studied as a future possible source of increased capacity in conjunction with YEC's other hydrology studies.

²³ Exhibit B-1, page 4-19, lines 6-11.

²⁴ Ibid., lines 13-30.

²⁵ Exhibit B-1 Appendix C, page c-3

²⁶ Transcript Volume 3, page 228 line 2 to page 231 line 3.

Carmacks-Stewart Transmission Project

96. The first and primary concern with respect to the proposed transmission line project is that it is entirely reliant on the addition of mine loads for a number of years in order to make the project cost effective. Without such loads, YEC admits, the project would not be pursued.²⁷
97. YEC indicated in its original proposal that the Carmacks-Stewart Transmission Project will only proceed if Yukon government infrastructure funding ensures no adverse impact on ratepayers.²⁸ YEC has subsequently updated their proposal to assert that Stage 1 of the proposal can go ahead without YTG funding, but leaves open the question of YTG funding for Stage 2.²⁹
98. UCG suggests that YEC believes that this project cannot be justified from a need / cost perspective if they have to assume that YTG funds will be needed to offset adverse ratepayer impact.
99. In this proceeding, the problem with assessing the risks the project entails in respect of the mine loads is that the Power Purchase Agreements (“PPA”) under which the mines would pledge capital contributions to the construction of the line as well as security for their projected power purchases are not only not before the Board, they have not been concluded. Accordingly it is impossible for the Board to provide any definitive recommendations with respect to the project in this proceeding.
100. In addition, there are several risks that have not been considered or quantified in the assessment of the project, including:
- a) the operation, maintenance, and possibly major repair costs associated with the new transmission line over the next 50 years³⁰,
 - b) the ultimate rate impact the new mines and lines may have on a reallocation of costs as between the major industrial customer rate class and other rate classes³¹ (an impact that YEC suggests is probably a benefit to non-industrial rates, but no definitive analysis on longer term impacts have been considered should the mines close prematurely)
 - c) the displacement of secondary sales as a result of the addition of mine loads, (a negative impact)³², and
 - d) the effect of possible DSM measures on the mine loads.³³

²⁷ Transcript, Volume 3, page 241 lines 2-11, YEC asserts that currently the proposal for the full project relies on both mines being present.

²⁸ Exhibit B-1 page 4-23 lines 25-29.

²⁹ Transcript Volume 3, page 250, line 16 to page 251 line 13, YEC confirms that while they are proposing to do Stage 1 with only the 5 million dollar commitment from YDC, they are not yet proposing that Stage 2 can be developed without YTG funding.

³⁰ Transcript Volume 3, page 239 line 3 to page 240 line 14.

³¹ Transcript Volume 2, page 118 line 19 to page 124 line 19

³² Transcript Volume 6, page 444 line 16 to 446 line 2.

³³ Transcript Volume 2, page 125 line 2 to 127 line 23.

101. UCG submits that the benefits of mine load sales can be acquired at no cost and little risk to the majority of ratepayers and YEC itself by attaching the mines with dedicated lines, the costs of which would be borne entirely by the mines themselves, a scenario YEC accounts for in its original proposal.³⁴ UCG understands that other benefits, including an estimated \$10 million in deferred capital costs and diesel fuel savings are part of the proposal. However, without further information on the actual commitments of the mines through their respective PPA's, it would be imprudent for UCG or, we respectfully submit, the Board to endorse the project without significant reservations.
102. In addition, of all the proposed projects, the CS transmission line proposal is of a scale and nature that surpasses the recent Mayo-Dawson Transmission Line project, and accordingly attracts all of the concerns raised in the fallout of the related Auditor's report.
103. Specifically the Board should be concerned that, going into this project, YEC has yet to develop and implement a Project Management Policy before undertaking this project.³⁵ Similarly, while YEC has developed new contracting policies, the Board should be concerned, at a minimum, that those policies are appropriate and, if so, are properly followed in the course of the project should it proceed. This is particularly so as, pursuant to the November 9, 2006 update of the proposed Resource Plan, the costs of the total project may vary between \$30.2 million to a newly established upper limit of \$40.6 million.³⁶
104. UCG recommends that this project be brought forward by YEC for a review under Part 3 of the Act at the time the PPA agreements are finalized so that stakeholders and the Board can review the actual risks ratepayers are being asked to undertake with respect to the project.
105. UCG is cognizant of the fact, and YEC has been quite candid, that as a result of the reliance of the mines connecting to the existing grids on a timely basis that this project is time sensitive. Accordingly UCG anticipates that YEC will be opposed to any further review of the project should such review have the risk of delaying the project to the point that the project is no longer viable.
106. In response to the risk of undue delay, UCG believes that once the PPA's are filed with the Board and reviewed in conjunction with all the projected risks and benefits of the proposal, and presuming at that time that the project continues, the Board should recommend to the Minister that the project be submitted for a Part 3 or equivalent review and approved only on the condition that there be an ongoing consultative/audit process wherein a consultant or auditor reporting to both the Board and interested stakeholders be provided full access to the project process. The auditor/consultant would be able to provide input/advice into the project as it progresses, with the intent that the added input and element of ongoing transparency would allow the Board to be confident that the various recommendations and various tools developed in response to the Mayo-Dawson Audit Report were being implemented.

³⁴ Exhibit B-1 Schedule 2 pages 2-15 to 2-16.

³⁵ Transcript Volume 2, page 207, line 10 to page 208, line 2

³⁶ Exhibit B-16A, page 10.

Mirrlees Life Extension Project

107. UCG supports YEC's analysis with respect to its proposal to extend the life of the existing Mirrlees units, particularly as they will be used only as diesel back-up units, run only to meet the demand at the higher peak periods of the year.³⁷
108. UCG's support, however, is contingent that the refurbished units are restricted in hours use such that they are only used to meet the highest peak load and not to provide capacity on an ongoing basis. Additionally, if industrial loads develop on YEC's grid, then these customers should be required to use their own on-site generators whenever power requirements cannot be met by hydro generation. UCG submits that conditions of operation should be established by the Board in this regard.
109. UCG further submits that YEC's rationale for giving priority in their scheduling to the Faro unit appears to be sound.
110. UCG however is not clear, with the very limited updated evidence and the short time frame to digest this information, if all the four units are now needed for capacity shortfalls or if there is some other reason to service all four units that may not be necessary in the near term.
111. As has been raised by the City of Whitehorse, the Board needs to consider environmental issues surrounding operating these diesel generators in the urban centre of Whitehorse. Environmentally, the Board must consider the resulting greenhouse gas emissions, noise generation and other pollutants produced through burning fossil fuels.
112. The continued use of diesel power, or other non-renewable power sources, over the long term (20 to 40 years) needs to be addressed not only from a security of supply issue, in wake of declining reserves, but also to ensure that we can maintain a sustainable community.

XI. ASSESSMENT OF LONG-TERM PLANNING

113. UCG submits that the Board must satisfy itself that YEC has used an appropriate industry standard methodology to assess energy requirements. The methodologies used in the Northwest Territories and British Columbia have been referenced in this proceeding.
114. In terms of electricity, the most significant factor for the Northwest Territories, as it is in the Yukon, is the lack of economies of scale. The large capital and operating costs of providing electricity are spread across vast distances to a small population base. Before any resource planning is done, the GNWT wants to ensure that stakeholders have an opportunity to provide input on a number of questions to be considered in developing a policy framework to guide the creation of a comprehensive NWT Energy Plan. These include:
 - a) How do we manage energy development decisions to meet our commitments to environmental stewardship, now and in the future?
 - b) What is the most effective way to provide residents of the Northwest Territories with equitable access to affordable power?

³⁷ Transcript volume 3 Page 232 line 23 to 239 line 2.

- c) What role should governments play in the energy sector, recognizing the unique nature of the NWT environment?
- d) How do we foster an energy sector that is efficient and effective while maintaining public accountability and transparency?

115. The Government of the Northwest Territories (GNWT) is currently seeking stakeholder input on a number of guiding principles for its comprehensive NWT Energy Plan:

- a) The GNWT encourages Aboriginal equity positions in energy development projects and will work in partnership with all stakeholders towards sustainable energy solutions for the benefit of all residents.
- b) The GNWT will ensure energy development and management decisions support the high quality of the natural environment and biodiversity of ecosystems, recognizing the absolute importance of the long-term protection of these natural systems to economic, social and cultural well-being of NWT residents.
- c) The GNWT, using available fiscal and regulatory tools, will promote the use of renewable energy for industrial developments that contribute to a lasting legacy of affordable and sustainable energy for the benefit of all residents.
- d) The GNWT will ensure affordable energy is available for all NWT residents and small businesses at comparable prices.
- e) The GNWT will ensure regulatory processes related to the provision of energy services for NWT consumers are simply structured and as efficient as possible, while maintaining transparency and accountability.
- f) The GNWT will maintain a direct role in the provision of energy services for NWT communities.

116. In British Columbia, the BCUC's Resource Planning Guidelines require the development of multiple resource portfolios. For each of the gross demand forecasts, several plausible resource portfolios must be developed, each consisting of a combination of supply and demand resources needed to meet the gross demand forecast. The gross demand forecasts and the resource portfolios cover the same period, generally 15 to 20 years into the future.

117. YEC's witnesses agreed during the hearing that, in principle, development of multiple resource portfolios is not a bad idea although YEC feels that is not necessarily applied everywhere else. While YEC does not feel that the BC approach is a useful way to describe the options and issues associated with resource planning³⁸, UCG submits that YEC needs to broaden its outlook to consider new approaches, in the same way YEC has proposed new planning criteria.

118. UCG submits that YEC and the Yukon government should lead pilot projects to develop alternative energy solutions that provide long-term economic benefits and reduce greenhouse gas emissions. There are a number of potential energy sources including small-scale hydro,

³⁸ Transcript Volume 2, page 141, line 25 to page 42 line 5)

combined heat/power systems, and renewable energy sources such as biomass (wood), wind, solar, and geothermal energy.

XII. INDUSTRIAL CONTRIBUTIONS

119. UCG's biggest concern regarding industrial loads is determining the utility's obligation to serve an industrial customer and the costs to serve these loads.
120. Under the *Public Utilities Act*, a utility is required to supply the utility controlled by them to all persons within the area covered by the utility, except where the company may lawfully refuse to supply the utility.³⁹
121. To UCG's knowledge, the only restrictions on YEC's obligation with respect to the supply of electricity to industrial customers are
 - a) OIC 1995/90 which stipulates that the costs of supplying major industrial customers and isolated customers will be, either through a special rate class or through specific contracts with the industrial customer, isolated from other ratepayers⁴⁰, and
 - b) Section 33 of the Act which prohibits the Board or the Commissioner in Executive Council from requiring the utility to build an extension of service if the costs are not justified, unless the Commissioner agrees to pay any costs that are not justified and underwrite any expenditure that is not reasonably warranted under the section.⁴¹
122. UCG submits that the Board should not only determine whether YEC has an obligation to serve industrial customers but also whether YEC should be looking to spend today's ratepayers' money on "potential" opportunities. It is unclear at this point how new industrial loads will even be assessed for cost of service.
123. In its proposed Resource Plan, YEC feels that it should start spending money now on activities related to potential industrial loads that may or may not occur. History suggests that industrial loads arrive in the Yukon after a long ramp up of interest / activity so there does not appear to be a need to rush into any projects at this time.
124. UCG advocates a go-slow approach until future demand can be more fully assessed. Alternative supply plans need to be fully evaluated.

XIII. NEED FOR FURTHER AND ON-GOING REVIEW

125. UCG submits that the Board should require any resource plan to be updated, reviewed and approved on an annual basis to ensure that it continues to meet specified criteria and energy planning criteria, a submission YEC appears to share.⁴² Consistent with its submission on Joint Planning, consultation and joint planning between YEC, YTG, YECL and stakeholders should

³⁹ *Public Utilities Act*, Revised Statutes of Yukon, 2002 c.186, as amended, s. 106.

⁴⁰ UCG to YEC 2-2 attachment 1, pages 5 and 6.

⁴¹ *Public Utilities Act*, Revised Statutes of Yukon, 2002 c.186, as amended, s. 33.

⁴² Transcript Volume 1, Page 19 lines 12 to 20.

take place as part of the update and review process, rather than have YEC develop its plans in relative isolation.

XIV. RATE IMPACTS

126. In its Order 1996-7 (dated June 11, 1996), the Board directed YEC and YECL to design a rate shift program that would target all customer class revenue / cost ratios of 90% to 110% over a ten year period. None of the components of the proposed resource plan address this issue.
127. UCG is quite concerned that, given the most recent experience with a large project (the Mayo-Dawson transmission line), ratepayers and taxpayers will be on the hook for costs that appear to have no solid basis at this point.
128. Without knowing the short and long term rate impacts of all the projects identified in the proposed Resource Plan, it is impossible for any party to fully support any of the proposed projects. UCG has concerns that the long-term savings identified by YEC are presented strategically to better present the proposed projects; by way of example, the Carmacks-Stuart Transmission Line Proposal is presented as a present day offset of costs versus benefits, with an overall benefit to ratepayers. In truth, the costs are borne up front by YEC and rolled into rate base immediately, committing ratepayers to pay the full cost of the project over the course of 50 years at an estimated impact in 2010 for the mid point total project cost of \$3.7 million per year, whereas the benefits accrue over time depending on a variety of factors including mine commitments, currently unknown, fuel prices, and the impact of other projects.⁴³ UCG is quite concerned that, given the state of the Yukon economy, the adverse short-term impacts on the utility and tax bills of Yukoners could be too much for many to absorb.
129. Given the conclusions with respect to YEC's management of the Mayo-Dawson City Transmission System Project⁴⁴, UCG submits that no further work on the proposed projects proceed prior to the Board approving the need for each of the specific projects and establishing guidelines regarding ongoing reporting on each of these projects prior to, during and after construction.
130. The Board's initial task in this proceeding is to determine the need for any of the projects in the proposed Resource Plan. While it is understandable that YEC will need to spend some money on detailed engineering to properly define projects, any money spent should be held in a project management deferral account and not rolled into rate base until the Board first approves the need and then later approves any expenditure for recovery in rates.

XV. YEC PROJECT MANAGEMENT SKILLS

131. The Auditor General's report on the Mayo-Dawson transmission line identified shortcomings with respect to YEC's project management abilities and there has not been any public review of how they have improved their skills, nor have there been any subsequent projects within which the skills could be observed. UCG submits that the Board has the obligation to review with particular scrutiny the ongoing specifics of major projects undertaken by YEC as a safeguard to

⁴³ Letter from P. John Landry dated November 22, 2006, with respect to undertaking #8, and Exhibit B-22.

⁴⁴ Exhibit No. C-3-13 Mayo-Dawson City Transmission System Project Report dated February 2005

ratepayers, until YEC has demonstrated that it has rectified the problems identified in the Auditor General's report.

132. UCG submits that the Board must ensure that, before embarking on any significant project, YEC has the appropriate resources in place and has developed a project management policy that establishes appropriate standards and procedures for the designation, authorization, financial control, and conduct of capital projects.
133. The Board must also ensure that for each of the proposed projects, YEC has clearly defined objectives, roles, responsibilities, accountability, implementation approach, detailed budgets, and controls.

XVI. YEC CONTRACTING POLICIES

134. The Auditor General's report on the Mayo-Dawson transmission line directed that YEC should establish and follow a contracting policy and clear contracting procedures that provide for transparency and competition and ensure best value. UCG appreciates that YEC has updated its contracting policies.⁴⁵ The next step is for the Board to review the application of those policies in the context of major projects, most significantly the Carmacks-Stuart Transmission Line proposal, should it be ultimately approved.

XVII. ALTERNATIVE OWNERSHIP

135. UCG submits that alternative ownership scenarios (e.g., First Nation investment or Yukon public investment shares similar to what Air North has implemented) have not been adequately evaluated for the proposed projects. UCG encourages the Board to direct YEC to provide evidence that alternative ownership scenarios have been evaluated and pursued where viable in future Part 3 reviews of specific projects and in the annual reviews of its proposed Resource Plan.
136. UCG also submits the Yukon Energy proposed Plan has not given consideration to smaller Yukon micro-hydro or Independent Power Producers or Non-Utility Generators as was suggested in recommendations 45, 46 and 47 of the Board's 1992 Report.⁴⁶

XVIII. COMPREHENSIVE PLANNING

137. YEC is a regulated, publicly-owned utility planning its own business. The Yukon government has not bestowed on it any planning authority for electricity infrastructure in the Yukon nor has it been charged with developing an integrated resource plan for the entire electricity system in the Yukon. YEC has a commercial interest in any specific projects and is being directed by a Board of Directors with an objective to plan a system that delivers the best outcome for YEC, but not necessarily the best outcome for electricity ratepayers in the Yukon.
138. YEC determined on its own that the proposed Resource Plan and review would not include a review of generation / transmission / distribution planning in YECL-served grid and non-grid

⁴⁵ B-17: YEC Contracting Policy

⁴⁶ UCG-YEC 2-1 Attachment 1 Pages 156 to 165.

communities whether they would be directly or indirectly affected by the development projects proposed by YEC.

139. YEC argued during discussions around the issues list for this proceeding that this review was not about Government policy and therefore issues relating to government policy generally are out of scope and any comparison of YEC's proposed Resource Plan to an energy policy framework of the Northwest Territories or other jurisdictions was out of scope for this review. UCG submits that it is imperative that any resource planning undertaken in a small jurisdiction like the Yukon be undertaken in a comprehensive manner and be based on principles that have already been established and generally accepted in other jurisdictions.
140. UCG submits that an energy resource plan should be based on and consistent with government energy policy, as it is expressed in legislation (e.g., efficiency standards, emissions levels) or in specific policy statements and directives. It does not make practical sense to develop an energy resource plan for the Yukon if it does not identify and address all energy issues in the Yukon. Without a comprehensive base upon which to plan, any proposed resource plan is essentially ignoring issues of a more comprehensive nature and neglecting a significant part of the Yukon energy picture.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 24th DAY OF NOVEMBER, 2006