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Yukon Utilities Board
Box 31728
Whitehorse, Yukon
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Re: Power Purchase Agreement (PPA) between YEC and Minto Exploration Ltd.

I have reviewed the above referenced Term Sheet for a PPA, YEC' cover letter dated 06/12/21 and the Board's letter of 06/12/27 inviting "submissions from intervenors on this new information by the end of the business Thursday, January 4, 2007". In addition, I have discussed the issues relating to these three documents at some length with one representative of other interested parties i.e. Yukon Electrical Company Limited, Utilities Consumes Group, Yukon Conservation Society as well as Yukon Energy. From these discussions and my analysis of the Term Sheet and the two letters I provide the following facts, information, suggestions, comments, arguments and opinions for consideration by the Board.

- 1) The Board, in contravention of the principle of natural justice for the provision of adequate notice, has failed to provide sufficient time for intervenors to submit meaningful comment on the highly complex proposed PPA Term Sheet.
- 2) I totally agree with the Board's recognition "that this information will not have undergone full testing by the parties and this will be taken into consideration in its deliberations". And I fully expect, in accordance with all the principles of natural justice that the Board's deliberations will be short with the conclusion that the information provided by YEC will be set aside until it can be fully tested.
- 3) I and other intervenors find that the timing of YEC' provision of the PPA Term Sheet to the Board is highly suspect - indeed manipulative! During the midst of the Christmas Holidays, when the Legislature is not sitting and just prior to the Board's anticipated Advisory Report to the Minister regarding YEC' 20-Year Resource Plan; how smooth for YEC; how inconvenient for the rest of us!
- 4) When I queried Hector Campbell of YEC about this convenient timing he indicated that YEC hoped that the Board would consider this as yet un-finalized PPA as providing sufficient information so that the Board would then be inclined to recommend, in its anticipated Advisory Report to the Minister, that a future hearing under Part 3 of the Public Utilities Act for this project (the Carmacks to Stewart facilities extension) would not be necessary. According to Mr. Campbell not having a Part 3 hearing would likely greatly advance the start of project construction.
- 5) I note that, in the very first sentence of YEC' covering letter, YEC refers to the Carmacks to Stewart facilities extension as a "Transmission Project". Is YEC now setting the stage, as it did for the previous Mayo to Dawson line, so that it can argue that this is not an Energy Project and therefore does not require review under Part 3 of the Act? This in spite of the Yukon Government's statement that this project would be subject to a full review as an energy project.
- 6) Indeed, as YEC in the proposed PPA Terms plans to purchase the diesel generators from the Mine and may be using (in a highly unclear and convoluted process) the revenues generated through this proposed PPA to finance the installation of a third wheel at Aishihik, this is without a doubt (at least in part) an Energy Project! It should be subject to review as such immediately.

- 7) In spite of YEC' claims that the finalized PPA will have "no adverse rate impacts on other ratepayers in Yukon due to PPA", YEC is proposing a new firm mine rate and will need to prove to the satisfaction of the Board that indeed the statement is true and not simply an allegation. The only way to properly test the validity of this statement is through a full GRA at which a fully distributed updated current cost of service study for all customer classes is provided for scrutiny.
- 8) Unless and until such a GRA hearing is completed the Board should refuse to consider any information relating to rates or possible (or maybe impossible) rate impacts.
- 9) Why would the Board even entertain considering this proposed PPA Term Sheet after reading section 3.a.i., which states that "Each of the following conditions must be fulfilled:" then sets the time by which Board will have approved the PPA. Who runs the approval process anyways; the Board in the public interest or; the Utility and the Mine in the corporate interests? A failure in planning on the part of the Mine and YEC surely should not translate into the Board being required to rush the process at the expense of the public interest?
- 10) I have deep concerns that YEC, and / or possibly the Mine, are maneuvering the Board, the Minister and the Yukon Government into positions from which they will be unable to make fair and reasonable determinations on the appropriateness of a finalized PPA. By the Board's further consideration of this proposed PPA Term Sheet at this time, YEC may take such consideration as tentative approval and finalize a PPA. Then YEC and the Mine may well argue that the PPA was reviewed and has subsequently been ratified by the parties (YEC & Mine) and therefore is a binding commercial contract. It may transpire that the Board, the Minister and the Government will subsequently be under considerable pressure not to do anything (even if justified) that might adversely affect the terms of the finalized PPA. A future adverse Board Order or a restrictive Yukon Government OIC may then become a question before the courts as to who sues whom for what! I would caution the Board, the Minister and the Yukon Government not to "be had" or snagged on the supposedly glittering YEC / Mine's hooks, lines and sinkers.
- 11) After due consideration of the above 10) points, should the Board in its wisdom never-the-less decide to continue to consider the new information regarding the PPA Term Sheet as provided by YEC, there are some questions which I contend require definitive answers to prior to the Board making any recommendations to the Minister regarding the PPA and the Carmacks to Stewart transmission and energy production project. These questions follow:
 - a) Why is this proposed PPA document so complex? Why is it not a simple customer contribution agreement, with an entirely separate stand alone proposed new Mine / Industrial Energy and Demand Rate Schedule?
 - b) Why is the Mine not required to make a full upfront contribution payment based not on a fixed amount but on a fixed percentage of the final capital cost, with a rebate or additional charge adjustment made when the final cost of the project is determined? Even with the best of management and estimates, construction costs are subject to escalation due to fluctuating energy costs, ever changing material prices, labour shortages and restricted competition. Surely the Mine should bear its fare share of such predictable and justifiable increases!
 - c) How exactly was the Mine's customer contribution of \$7.2 million calculated?
 - d) What, pray tell, is the rationale for providing secondary power rates based on the grade of the ore being processed through the mill? Who is going to accurately, independently and fairly track what these grades are and for how long the grades are valid? I have done plenty of ore head-grade sampling in mines and know that samples can be easily knowingly or unknowingly biased. Surely secondary rates should only be available on a seasonal time of use basis i.e. in the summer when and only for as long as excess hydro generation is available from the Whitehorse Rapids dam facility.

- e) Who cares and why should they care if the Mine is milling less than 1% or greater than 5% copper ore when it has access to seasonably available secondary surplus power? And as the deposit is both a copper and gold ore how does one account for the combined values? I'm surprised the lawyer for the Mine and the Inter Group Consultants, who negotiated the proposed PPA on behalf of YEC, did not set up the secondary power rate based on the spot market price per pound of copper, which would make just about as much sense or nonsense!
- f) With regard to secondary energy, if Minto pays the full energy charge and gets priority access over other customers served under the existing current secondary energy rate, does this mean that Minto can take all of the secondary energy allocated to the other customers at ~\$0.10 per kWh and still get additional power at its secondary rate of ~\$0.06 per kWh? Surely all secondary energy customers should get at least a fair share of any secondary energy. Indeed existing secondary customers should in fairness get priority in this regard! In addition as the current secondary energy rate is set based on the price of diesel fuel will Minto's 6 cent rate be adjusted accordingly?
- g) Why, with the Mine making statements that it would save from \$3 to \$4 million dollars per year in energy costs by connection to the YEC grid, can the Mine not afford to make full up front customer contributions?
- h) Why, during the first four years of the PPA, should YEC be financing, in any way at all, the Mine's energy connection costs by only collecting the interest owed on the Mine's spur line and fixed share of the main transmission line capital costs? If the interest payments and later the principal payments are to be retained in part in a Mine Net Revenue Account why, considering the risk factors, should the interest payable not be calculated at YEC's allowable return on equity?
- i) Under the take-or-pay power purchase provisions who owns the power that the Mine pays for but does not take? Is it possible that the Mine could pay for the power and then somehow resell it to a third party at a higher price? Could the Mine become a Power Broker (i.e. similar to the Cominco-Trail / Kootany Light & Power / "Enron type" connection)?
- j) Can anyone clearly explain the rationale behind the peak shaving provisions and provide proof that this provision translates into benefits to which parties and how much the benefits are to each party?
- k) Why would or should YEC be willing to accept the financial risks associated with the form of security that the Mine is to provide? Judging by what transpired at other Yukon mines in the past that were forced into receivership and bankruptcy, being second after the bank is very insecure. The Mine has sold forward its first three or four years of production, has secured financing sufficient to allow it to start production using its own leased diesel generators and claims that it will save from \$3 to \$4 million per year by connecting to the YEC grid, why then can the Mine not provide YEC with a firm upfront cash payment or at least with a standard performance bond security?
- l) If Carmacks Copper connects to the Carmacks-Stewart transmission line will it be assessed a fixed amount for a customer contribution similar to that determined by the proposed PPA or a fixed percentage of the actual capital cost to construct the line? If it is a fixed amount as calculated by the Minto Mine PPA but the line costs are actually greater than the estimates used to determine Minto's fixed \$7.2 million share who picks up the shortfall(s)?
- m) What evidence does YEC have to support its claim that 25% of the capital costs incurred by YEC to install the Mine Spur will be sufficient to cover the costs of decommissioning it?

- n) Is the 6.5% per year investment provision, in **h. iii.** of the proposed PPA, reasonable or should it be set at a lower mid life 4 year GIS rate of approximately 4.0%?
- o) Why would YEC now consider buying the Mine Diesels? During the pre-hearing workshop and conference, when I asked if YEC would be including such purchase in the PPA, Mr. Campbell advised me that the units had already been ordered by Minto and were too small to be of any real use to YEC' current or future generating requirements. What has changed in the interim?

Should you have any questions, or better yet if you have any answers, please do not hesitate to call a hearing at which all interested parties can be fairly represented.

Sincerely:

P. W. Percival, P. Eng.