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May 28, 2012

Yukon Utilities Board  
Box 31728  
Whitehorse, Yukon Y1A 6L3

**Attention: Mr. Bruce McLennan, Chair**

**Re: Utilities Consumers' Group (UCG) Submission on Yukon Energy Corporation Application-Approval of 2012/2013 Revenue Requirements Request for Interim Refundable Rate Rider J**

Dear Mr. McLennan:

YEC Application for Interim Rates in 2012

In its application, Yukon Energy has requested rate adjustments of 6.4% for retail customers and 2.9% for industrial through implementation of Rider J and R effective July 1, 2012 on an interim refundable basis "to ensure a reasonable ability to recover its prudent costs for 2012."

The Utilities Consumers' Group submits several reasons why this interim application must be denied by the Board:

1. This is an attempt by Yukon Energy to retroactively charge ratepayers for the recovery of six months of revenues in the 2012 test year. The Board has previously denied the utilization of retroactive rate making principles.

a. Rate Policy Directive O.I.C. 1995/090 states:

*3. Except to the extent otherwise stated by this Directive or the Act, the Board must review and approve rates in accordance with principles established in Canada for utilities, including those principles established by regulatory authorities of the Government of Canada or of a province regulating hydro and non-hydro electric utilities.*

b. UCG submits that the estimated revenue requirements for 2012 and 2013 upon which the requested interim rate riders are based have not been evaluated by any party nor the board. The Yukon Utilities Board is required to base its decisions on the testing and evaluation of the evidence placed before it.

c. According to section 60 of the *Public Utilities Act*:

*60(1) Except in cases of urgency, of which the board shall be the sole judge, the board shall not without a hearing make any order involving an outlay by, or a loss or deprivation to, a public utility.*

d. UCG submits that Yukon Energy's application does not adequately justify the need for an interim increase in rates nor does the YEC demonstrate that the financial integrity of the utility would be at-risk if the interim rates were not granted.

e. As is the practice with any application, the application must be fully vetted during a public hearing process after which Yukon Energy would be granted all just and reasonable costs.

f. Knowing the history of past applications, UCG questions why Yukon Energy did not submit its application much sooner if they perceived any financial instability which may be caused by the duration of proceedings before the regulatory tribunal?

f. The Board must be aware that any increases before a prudent hearing process will produce unnecessary complications for consumers trying to manage their budgets.

g. As this requested interim rate increase will impact the bills from Yukon Electrical Company Limited, any application must include evidence filings by both Yukon Energy and Yukon Electrical in order to comply with Rate Directive 1995-90. Without proof that customers of Yukon Electrical should be paying more, UCG submits there is no justification for the applied across-the-board interim rate increases.

2. UCG submits there are grounds to dismiss this interim application given the 90 day notice requirements within Section 28(1) of the *Public Utilities Act*:

*28(1) No public utility shall charge any rate for the supply of the service for which it is franchised other than the rate set by the board pursuant to this Act unless, 90 days before it proposes to charge a different rate,*

*(a) a statement showing the new rate is filed with the board; and*

*(b) a notice showing the new rate is sent by mail or delivered to each municipality in which the service is provided and to the Minister.*

*(2) No public utility shall begin to charge a new rate except on receipt from the board of an order or **interim order** authorizing it to do so.*

a. Yukon Energy's application letter dates this filed application on April 27, 2012 for interim rates to commence July 1<sup>st</sup>, 2012, clearly not the full 90 days required under the Act. As well, there is no evidence that sub-sub section (b) notices were given.

b. Although subsection of 28(1) is silent on interim rates, it is defined within sub section (2). It is not a grey area as has been argued in the past.

c. Given the lateness of the YEC application for interim rates to become effective July 1<sup>st</sup>, 2012, UCG requests the Board's interpretation on whether this application contravenes the intention of Section 28 of the *PU Act*.

3. Furthermore, this application does not follow the requirements of O.I.C. 2012/68 which amended the Rate Policy Directive O.I.C. 1995/090. This April 26, 2012 directive states:

*Retail and major industrial rate adjustments*

*2.1(1) The Board must ensure that rate adjustments for retail customers and major industrial customers apply equally, when measured as percentages, to all classes of retail customers and, subject to subsection (2), the class of major industrial customers.*

*(2) If the rates charged to retail customers for all or any part of 2012 are to be increased, then for that same period the greater of that increase and the percentage increase approved in Board order 2011-14 is to apply to the class of major industrial customers.*

a. UCG submits that OIC 2012/86 requires that if the rates of retail customers are to be increased by 6.4% effective July 1, 2012, then the rates of industrial customers must also increase by 6.4% effective July 1, 2012. There is no indication in this OIC stating that rate adjustments implemented previously in 2012 must be taken into account when determining a rate adjustment to become effective July 1, 2012.

b. As stated above, UCG notes that Yukon Energy's application for approval of its 2012 and 2013 revenue requirements is dated April 27, 2012 which is a full four months into the forecast period. If there were legitimate concerns that Yukon Energy would not be able to recover

its prudently incurred costs, then Yukon Energy should have made its application in 2011 for the requested 2012 recoveries, in order to comply with conventional rate making principles.

Submissions of the City of Whitehorse and John Maissan

4. In its intervention notification the City echoed many of the same concerns that UCG has brought forward in our above submission; in that no prudent testing of the evidence has yet taken place, so there is no legitimate requirement to initiate interim rates.

5. John Maissan in his submission gives a personal philosophy view rather than an attempt at legal representation. This letter does not represent any ratepayer group, but more aligns with an intervention on behalf of the Yukon Energy.

His statement : "...it is fair to say that consumer electrical rates have remained lower than the actual full cost of supplying that electricity", has no merit. The Boards last Phase 2 rate hearing clearly demonstrated that there was not a legitimate cost of service representation, so how can anyone interpret who is paying the full costs for power?

He goes on: "In my view the sooner all consumers experience costs closer to the actual costs of electricity the sooner efficient consumer decisions will be made with respect to the use (or conservation) of that electricity." Again, this is made without any evidence that rates are not already actual or that all ratepayers will be even able to conserve more electricity. Is this not why we are going through the demand side management portfolio?

Yours truly,

Roger Rondeau  
Utilities Consumers' Group

C.c. All interested parties