



PUBLIC INTEREST ADVOCACY CENTRE

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October 19, 2012

Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Bruce McLennan, Chair

Re: Yukon Energy Corporation request for interim rates 2012-2013 Rates Application

Dear Mr. McLennan:

We are counsel to the Utilities Consumers' Group ("UCG") which is an intervenor in Yukon Energy Corporation's ("YEC") general rates application. UCG is in receipt of YEC's request for an interim refundable revenue shortfall rider of 6.5% for 2013 (Rider R) to be applied to all retail and industrial firm rates (including the 2012 shortfall Rider J and the fixed Rider F) effective January 1, 2013.

YEC refers to Board Order 2012-05 in its October 11, 2012 request for another interim rate increase on top of the interim increase granted under that Order. While the Board notes in that order that "...until the merits of the General Rate Application are determined, these interim refundable rates promote rate stability and are just and reasonable to both the utility and consumers", UCG submits that there is only so much burden that Yukoners should be expected to shoulder given that the applied-for revenue requirements for 2012 and 2013 have not yet been fully tested nor approved. In fact, UCG submits that denying YEC the interim rate increase would result in rate stability.

UCG is particularly concerned with YEC's assertion that since interim refundable rates for 2012 were reviewed and approved, the 2012/2013 General Rates Application hearing schedule has been considerably delayed such that the current schedule will not allow sufficient time for the Board to issue a final order for this proceeding prior to the end of 2012. While it's true that the procedural schedule was changed due to scheduling conflicts for various parties to the proceeding, the scheduling issues were driven by the lateness of YEC's application. To apply for approval of 2012 revenue requirements 4 months into the test year reflects a complete disregard to the standard regulatory process of applying in advance of test years. If YEC had submitted its application during the last quarter of 2011, UCG submits that the scheduling conflicts could have been avoided and a decision made within 2012.

According to Public Utilities Act:

63 The board may, in any matter before it,

(a) make any interim orders on appropriate terms that it may consider necessary to facilitate its inquiry or to prevent serious harm occurring before its decision

UCG submits that an interim rate increase would only be appropriate to protect the short-term financial status of YEC in circumstances where:

- YEC forecasts a dramatic reduction in forecast net income as compared to the previous year;
- YEC has presented a *prima facie* justification for the proposed rate increase; and
- the YUB anticipates a final decision on the proposed revenue requirements to be more than 6 months from the starting point for the rate adjustment.

At the very least, UCG submits that the YUB should require a clear showing that the interim rate increase prior to completion of a full hearing on the application is required to meet an unusual financial need that demands immediate correction. YEC has not submitted anything in this regard with respect to the proposed 6.5% interim rate rider for 2013.

UCG submits that YEC should be directed to provide updated load, cost and revenue forecasts for 2012 and 2013 which reflect 2012 year to date in order to inform the Board's decision regarding the proposed interim rate increase and the upcoming oral hearing.

UCG submits that the determination of interim rates in advance of a regulatory proceeding is completed raises a number of complications:

- generally speaking, it rarely is desirable to rush to judgement or to preliminary judgement before the record is complete;
- from the perspective of some consumers, there may be a perception that the YUB is prejudging an application before the record is complete; and
- while the YUB can go back and correct the ultimate number chosen, this too raises complications for consumers trying to manage their budgets to anticipated expenditures.

Ratepayers represented by UCG are well aware that every rate increase imposes a double-whammy on them – not just their own rates but also the costs of many of the good they buy. While their wages are either not going up or not matching inflation, incremental rate increases over the last several years combined with lost support from the Yukon government have added up to a large monthly jolt especially during winter. Even when ratepayers do everything right (turn off lights, unplug appliances, etc.), their bills still go up.

UCG and the ratepayers it represents believe that YEC is not motivated to save money and never will be if they continue to be granted every proposed rate increase.

UCG submits that granting yet another bill increase will result in Yukoners going through the winter facing higher electricity bills which is contrary to the expectations of benefits of the industrial loads that have been added to the system and the capital expenditures that have been made to eliminate the higher operating costs associated with diesel generation. While there may ultimately be a refund if YEC's revenue requirements are lower than estimated or sales are higher, ratepayers don't want to be paying more during the winter months if not justified.

UCG submits that the lack of coordination between YEC and Yukon Electrical Company Limited and YEC's determination to "go it alone" from a GRA perspective makes it difficult for the normal Yukoner to figure out the actual impacts to their electricity bill or to budget for utility costs. More and more rate riders serve to confuse the normal ratepayer when the key is for them to understand the cost of using electricity.

UCG submits that YEC's application does not adequately justify the need for another interim increase in rates nor does the YEC demonstrate that the financial integrity of the utility would be at-risk if an additional interim rate increase were not granted. As the Board is well aware, the well-accepted basis for interim orders lies in the balancing of interests between litigants or, in this case, the regulated company and interested stakeholders. YEC has failed to file financial updates that would show the importance to the financial integrity of the company in obtaining this interim relief and, as detailed below, the relief sought will have not insignificant adverse consequences for YEC's constituents.

UCG submits there are also 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.

Yukon Energy's application letter of October 11, 2012 requesting interim rates to commence January 1, 2013 clearly does not allow for the full 90 days required under the Act.

YEC notes in its October 11th request that another interim rate increase will "reduce the likelihood that rates finally approved by the Board will need to recover a shortfall for 2013". UCG submits that there is no way to know whether there will be a revenue shortfall or sufficiency related to 2012 and 2013 nor how and from whom any shortfall / sufficiency might be recovered / refunded until the evidence is tested and the Board makes a decision on revenue requirements based on arguments submitted during the upcoming oral hearing.

Given that the interim rate increase effective July 1, 2012 will remain in effect until the Board displaces it, UCG submits that there is no evidence that a further rate increase is warranted until after the evidence is fully reviewed, tested and a decision is issued.

UCG submits that YEC's apparent disregard for the regulatory process has been displayed again in this application for another interim rate increase when it states that there is very little chance that the annualized 2012 applied-for rate increase could be reduced enough to result in any refund to ratepayers for over-recovery of revenue requirements under the interim rate rider. UCG submits that this approach only kindles an adversarial environment within a regulatory proceeding.

Please contact me if you have any questions regarding the above.

Yours truly,

Michael Janigan
Counsel for UCG