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1 **1. Opening Statement by Board Chair**

2 MS SHANKS: Good morning, everybody, and
3 welcome to Whitehorse. I would like to call this
4 pre-hearing conference to order.
5 I would like to first
6 introduce the Board members. On my right is Jody
7 Woodland; on my left is Kathleen Avery, member;
8 and to her left is Richard Hancock, member. And
9 I am Wendy Shanks, Chair of the Yukon Utilities
10 Board.
11 For the record, I would like
12 to introduce, at this time, Board counsel,
13 Giuseppa Bentivegna; Board staff, Dwayne Ward and
14 Bob Clarke; and the court reporter, Doug Ayers.
15 If any party requires a copy of the transcript,

1 they can speak to Mr. Ayers in that regard.

2 The Board's Executive
3 Secretary is Deana Lemke, and if anybody has any
4 questions with respect to process or procedural
5 matters generally, they should speak with Ms
6 Lemke who is at the side of the room.

7 This pre-hearing conference
8 has been convened as a result of an application
9 received by the Yukon Utilities Board on October
10 6th, 2008, from Yukon Energy Corporation (YEC),
11 requesting approval for their 2008-2009 General
12 Rate Application (GRA).

13 In its 2008-2009 GRA, YEC is
14 seeking approval for a revenue requirement of
15 \$29,217,000 for 2008, and a revenue requirement
16 of \$31,599,000 for 2009. YEC is also requesting
17 approval of rate adjustments by class for all
18 related customers of YEC and YECL; and the
19 inclusion of Pelly Crossing in the Hydro rate
20 zone schedules; and for Pelly Crossing to be
21 removed from the Small Diesel rate zone
22 schedules.

23 Further details of the
24 requested rate adjustments are outlined in pages
25 5 through 7 of the YEC 2008 and 2009 General Rate
26 Application.

27 In addition, YEC requested

1 interim refundable rates effective November 1st,
2 2008; and then, through correspondence dated
3 October 22nd, 2008, changed the requested date to
4 December 1st, 2008. The Board addressed this
5 matter through Board Orders 2008-16 and 2008-17
6 respectively.

7 Further, YEC requested future
8 draws from the Faro Dewatering account to address
9 delays in the final connection timing of the
10 Minto and Pelly Crossing loads to the Carmacks-
11 Stewart Transmission Project, and secondary sales
12 revenue losses, if any, arising due to below
13 average water flows in any year after 2008.

14 With respect to this
15 application, a notice was issued with Board Order
16 2008-15, dated October 30th, 2008. Within Order
17 2008-15, the Board ordered YEC to publish, in
18 display ad format, a Notice of Application and
19 pre-hearing conference no later than November 5th,
20 2008, in such appropriate local news publications
21 in YEC's service area. YEC was also ordered to
22 make the application and supporting materials
23 available for inspection at its Whitehorse office
24 at number 2 Miles Canyon Road in Whitehorse, and
25 YEC's district offices in Mayo, Dawson and Faro.

26 By way of a letter dated
27 December 19th, 2008, the Minister of Justice

1 authorized the Board to incur the necessary
2 expenses to hold a public hearing into YEC's
3 application, pursuant to section 50 of the *Public*
4 *Utilities Act*.

5 The purpose of this pre-
6 hearing conference is to facilitate the hearing
7 process for later this year. The Board would
8 like to identify, if any, any procedural or
9 jurisdictional matters that need to be determined
10 for this process. These matters can include but
11 not necessarily be limited to the following
12 items: amendments to the Preliminary Issues List,
13 which was circulated January the 2nd, 2009;
14 identification of the parties to the process,
15 including all of the intervenors and party
16 status; discussion of the hearing schedule, the
17 steps in the process schedule, and any potential
18 amendments to the schedule as outlined in Board
19 Order 2008-15; comments on the hearing process
20 and the filing of motions if any; any other
21 matters that will assist in the orderly review of
22 the application.

23 Subsequent to this pre-
24 hearing conference, the Board will issue its
25 decision on any matters arising today that
26 require a Board decision. For example: an update
27 to the Issues List; the status of intervenors;

1 and potential schedule changes.

2 For the record, I would like
3 all the parties intending to participate in
4 today's pre-hearing conference here today to be
5 identified. When you are identifying yourself,
6 please also indicate what interest you represent.
7 When we deal with each of the latter items on the
8 agenda, parties will be called in the order in
9 which they are identified, with YEC being given
10 opportunity for final reply.

11 I will now ask the Board
12 counsel, Ms Bentivegna, to facilitate the
13 identification of interested parties and
14 intervenors at this time.

15 **2. Identification of Intervenors and Interested**
16 **Parties**

17 MS BENTIVEGNA: Thank you, Madam Chair.
18 First, we'll start with who's representing Yukon
19 Energy Corporation.

20 MR. LANDRY: Madam Chair, good morning.
21 My name is John Landry, that's L-A-N-D-R-Y for
22 the record, and I represent Yukon Energy. With
23 me at the table is Mr. Cam Osler, a consultant to
24 Yukon Energy, and Mr. Ed Mollard, the CFO of
25 Yukon Energy.

26 MS SHANKS: Thank you.

27 MS BENTIVEGNA: Thank you. Then the first

1 registered intervenor, Yukon Electrical Company
2 Limited.

3 MR. KEOUGH: Good morning, Madam Chair,
4 Board members... Loyola Keough for Yukon
5 Electrical (I don't need to spell it because it's
6 a pretty common name), and we are here as a
7 customer of YEC. Thank you.

8 MS SHANKS: Thank you.

9 MS BENTIVEGNA: City of Whitehorse.

10 MR. MARRIOTT: Good morning, Madam Chair,
11 Board members. My name is Marriott, initials
12 T.D. I'm here today with Mr. Garbutt, of Garbutt
13 Consulting, representing the City of Whitehorse
14 and the interest of the City and its residents in
15 the utility rates that they pay.

16 MS SHANKS: Thank you.

17 MS BENTIVEGNA: Utilities Consumers' Group?

18 MR. RONDEAU: Yes, good morning, my name is
19 Roger Rondeau; I'm the representative of the
20 Utilities Consumers' Group. Our main mandate is
21 to represent residential customers as well as
22 small business.

23 I have with me, here, our
24 lawyer that has been retained, Mr. Michael
25 Buonaguro.

26 MS SHANKS: Thank you.

27 MS BENTIVEGNA: Leading Edge Projects Inc.

1 MR. MAISSAN: Good morning, Madam Chair,
2 Board members. My name is John Maissan, I'm with
3 Leading Edge Projects, my own consulting firm.
4 I represent sort of general public interest and,
5 also, my firm does renewable energy consulting
6 and so I have a particular interest in that area.
7 Thank you.

8 MS SHANKS: Thank you.

9 MS BENTIVEGNA: Mr. Peter Percival.

10 MR. PERCIVAL: Good morning. My name is
11 Peter Percival, and I'm representing myself, as
12 an interested person in these procedures. I'm
13 also representing the Ward that I represent in
14 the Hamlet of Mount Lorne. I have polled many of
15 my constituents and they have asked me to proceed
16 on their behalf as well. Thank you.

17 MS SHANKS: Erin Giesbrecht? Ms Laura
18 Cathers? Is there anyone else who wishes to
19 participate today and wants to be granted - or is
20 seeking intervenor status?

21 That appears to be all the
22 parties.

23 MS SHANKS: Thank you, Ms Bentivegna.
24 I'd like to move to item 3 on the agenda, which
25 is the Issues List.

26 **3. Issues List**

27 MS SHANKS: Along with the Agenda for

1 this pre-hearing conference, the Board circulated
2 a Preliminary Issues List. As indicated in the
3 letter accompanying the Issues List, the list was
4 prepared by Board staff according to the headings
5 and subheadings set out in the YEC application.
6 Board staff has ranked the issues in importance
7 as "low", "medium" and "high", according to the
8 criteria that were set out in the Board's letter.

9 The purpose of developing an
10 Issues List is to assist both parties and the
11 Board in identifying the issues that are material
12 in dollar terms, or significant in principle, or
13 both. By focusing on material or significant
14 issues, the Board expects the proceeding to be
15 conducted efficiently and at a reasonable cost.
16 If the Board finds that a party's efforts do not
17 align with the ranking finally assigned to the
18 issue, the Board will take the factor into
19 account when considering cost claims for this
20 proceeding.

21 As was indicated, this is a
22 Preliminary Issues List only, and the Board
23 invites comments from parties. Parties may
24 suggest alternate descriptions of the issues, new
25 sub-issues and different rankings than those
26 indicated on the Preliminary Issues List.

27 The Board will provide the

1 Final Issues List with the Procedural Order
2 following this pre-hearing conference. I'd ask
3 Ms Bentivegna to facilitate comments on the
4 Issues List at this time.

5 MS BENTIVEGNA: As previously indicated, we
6 will go in the order of registration... Mr.
7 Landry, any comments?

8 MR. LANDRY: Madam Chair, it seems to me
9 that obviously the application was filed sometime
10 ago, back in October, it's been on the record for
11 some time, the subheadings that have been
12 supplied by the Board reflect the application and
13 what is requested. From our perspective, it would
14 probably be better to hear from the intervenors
15 to see what type of issues they have, that they'd
16 like to add to it, all of these issues have been
17 out there for some time, we could comment from
18 that, if that pleases the Board.

19 MS SHANKS: Thank you, Mr. Landry.

20 MS BENTIVEGNA: Mr. Keough.

21 MR. KEOUGH: Thank you. Madam Chair,
22 Yukon Electrical has a number of comments on the
23 Issues List. I guess, first and foremost, we can
24 tell you that the preliminary list from the
25 Board, with an exception that I'll speak to in a
26 moment, is generally acceptable. We may quibble
27 over the rankings of some of them, but I don't

1 think it's material. Nothing has been ranked
2 low, that we think should be high. So I think
3 we're fine with the list, with one exception.

4 There is a document - I have
5 a document of additional issues, that I would
6 like to circulate to the Board, that we are going
7 to suggest you add to your preliminary list.
8 These are issues that we've identified that we
9 would like to pursue in either information
10 requests and/or cross-examination, and they are
11 related to the matters touched on in the
12 application as well, that we thought it fair to
13 identify to Yukon Energy that we would be
14 pursuing these.

15 So I'm going to ask Mr. Babyn
16 to distribute the document I'm referring to. And
17 what I've tried to do, Madam Chair, is to number
18 them according to the Board's listing and
19 numbering, so that they would fit into the
20 existing issues but could be added to the list.
21 So we're going to be suggesting, Madam Chair,
22 that these be added to your list for clarity.

23 The other comment that I have
24 on the Issues List is that there are certain
25 matters, specifically under section 4, that
26 relate to rate design, that we are going to be
27 asking be struck from the list, as not being

1 appropriate for this phase one proceeding.

2 In its application, YEC
3 proposed changes to Retail rates, the Wholesale
4 rate, Rate Schedule 42, the major industrial
5 rate, Rate Schedule 39 and the related Rider F,
6 and also the Secondary Energy rate, Rate Schedule
7 32. I think that caught Yukon Electrical a
8 little bit by surprise because we had
9 contemplated that this was going to be a phase
10 one proceeding. And I think it was the
11 expectation, generally, that, while Yukon
12 Electrical and YEC would file separate phase
13 ones, they would then proceed, subsequent to that
14 filing, to do a joint phase two. And certainly
15 that was the expectation that Yukon Electrical
16 operated under when it filed its phase one
17 application and did not address, at all, rate
18 design matters. Because, as the Board is aware,
19 generally speaking, rate design is considered to
20 be a phase two matter.

21 So, when we saw the proposal
22 by YEC, to make these changes, it caught us a bit
23 off guard, and I do not think that those matters
24 are appropriately included in a phase one. We
25 would submit to you that any issues related to
26 passing through rate reductions to customers can
27 be achieved via the existing Rider J mechanism,

1 and there's no driver, if you will, in that
2 regard, to implement these rate design changes in
3 the context of this phase one proceeding.

4 I think Yukon Electrical is
5 also of the view that, before you make these
6 changes, they should be tested in the context of
7 a phase two. Now, whether or not the phase two
8 ultimately is impacted by the most recent Order
9 in Council, so that you can't change rate design
10 cross-classes or not, it still doesn't prevent
11 the rate design cost of service from being
12 examined. You may not be able to implement
13 everything at this point in time, but we think
14 those are a prerequisite to implementing rate
15 design changes, at least generally.

16 Yukon Electrical would also
17 suggest to you that it is directly impacted by
18 the proposals, because, at the current time
19 anyway, the companies share a common rate
20 schedule, and it was always contemplated that
21 there would be discussions between the companies
22 and then a joint filing. Well, I guess those
23 just have not taken place, Madam Chair. Yukon
24 Electrical has had no involvement or input into
25 the proposals that have been made, and those will
26 directly affect Yukon Electrical because it
27 applies to its customers. So we just don't think

1 that is fair or appropriate.

2 I guess, additionally, we
3 think that before phase two matters, rate design
4 matters, are even contemplated, there should
5 probably be not only joint work between the two
6 utilities, but maybe a workshop with parties, to
7 indicate, directionally, what is going on and
8 what is being thought about and what is being
9 proposed. Again, that has to occur in the
10 context of the applicable OICs, and those type of
11 things haven't occurred either.

12 So I guess, bottom line,
13 Madam Chair, we think that these proposed rate
14 design changes, that I've identified at the
15 outset, should not be part of this proceeding.

16 There are a couple of minor
17 matters that, if the Board wished to consider and
18 make the changes, we probably would not have a
19 problem with them, because they are very minor...
20 and that's the Rider F update to Rate Schedule
21 39, and the review of the diesel requirements
22 over five days as opposed to seven days for Rate
23 Schedule 32. As I say, technically, we could
24 argue that those shouldn't be considered, but
25 they appear to be practical and are fairly minor
26 in nature, so we would make an exception to the
27 general principle and say, if you wanted to

1 consider those changes, we wouldn't oppose it.

2 Other than that, Madam Chair
3 and Board members, we appropriately think the
4 balance of the matters are phase two matters. We
5 appropriately think that they are matters that
6 Yukon Electrical should play a role in, given
7 that it is directly impacted by it. As I say,
8 that has not occurred, so we would ask that those
9 matters be struck from the Issues List.

10 Thank you.

11 MS SHANKS: Thank you, Mr. Keough.

12 MS BENTIVEGNA: Mr. Marriott.

13 MR. MARRIOTT: Thank you, Madam Chair.

14 Madam Chair, the City has examined the
15 application and the Issues List and the
16 description of the ranking principles that the
17 Board had provided... generally, the City didn't
18 have a problem with the Issues List, with a
19 couple of exceptions, and I'll just alert you to
20 those. Again, we're looking at the rankings, and
21 we wanted to be sure that the Board was aware
22 that there were some issues, or a couple of
23 issues that the City thought might warrant more
24 attention than the preliminary ranking would
25 suggest.

26 The first of those, under
27 section "2.c. Power Generation", it's ranked as

1 low-medium. We think that there might be some
2 questions in IRs, and perhaps in cross-
3 examination, because the matter of power
4 generation and where further or future power
5 generation is coming from is a matter of
6 considerable interest and importance, and so we'd
7 suggest that that be moved to medium.

8 With respect to rates, we did
9 not anticipate YECL's submission with respect to
10 removing section 4 issues from this list and I
11 don't have instructions on that. However, I
12 could say that, typically, rate design issues, in
13 my experience, are dealt with in a phase two...
14 I'll add that. But if you wanted to get a City
15 view on that, I think you'd have to give us time
16 to get instructions on that.

17 What we did find, however, in
18 looking at the list, was that there was one
19 issue, where some principles come into play, that
20 we think might take some attention during this
21 process if, indeed, these issues are dealt with
22 in this process, and that is the Non-Industrial
23 Firm Retail rate design issue. It's ranked, now,
24 medium-high, but given the amount of attention
25 that it might get, depending on the answers and
26 the direction that we get further from the City
27 Council, we would suggest that that be moved to

1 high; that we think there are some matters of
2 principle there that might warrant some
3 attention.

4 Just with respect to Mr.
5 Keough's remarks, again, I would submit that the
6 proposed changes for Rate 39 and Rate Schedule 32
7 I would agree are of a minor nature, and I'm
8 confident that the City would have no problem
9 with this Board proceeding with those in this
10 hearing. But if we're to look for a City view on
11 whether the other issues under 4 should be moved
12 to a phase two, then I would suggest that I would
13 need to have the time to actually ask the City
14 about that.

15 MS SHANKS: Thank you, Mr. Marriott.

16 MS BENTIVEGNA: Mr. Rondeau or Mr. Buonaguro.

17 MR. BUONAGURO: Thank you. Michael
18 Buonaguro, I'm counsel for UCG... and I'll be
19 taking advantage of my early arrival to use the
20 sit-down microphone, if the Board doesn't mind.

21 MS SHANKS: Sorry, I can't hear you very
22 well, Mr. Buonaguro. Can you move a little bit
23 closer to the mike?

24 MR. BUONAGURO: Is that better?

25 MS SHANKS: It's markedly better. Can
26 everybody else hear Mr. Buonaguro? Okay.

27 MR. BUONAGURO: I was just saying I was going

1 to take advantage of the sit-down microphone,
2 having arrived early enough to get this seat.

3 MS SHANKS: Thank you.

4 MR. BUONAGURO: We have drafted comments on
5 the Issues List, which we've provided to Ms
6 Lemke, and I don't know if it's been distributed
7 to parties... or if they have a copy so they can
8 follow along? Essentially, we took the existing
9 list that was distributed by the Board, or Board
10 staff, and have made our additions to it. The
11 copy that I worked from on the computer has our
12 additions in red, and the copy we're distributing
13 was, unfortunately, printed in black and white,
14 so they're not clearly obvious. So I'll go
15 through and identify where we've added words or
16 added issues.

17 MS SHANKS: Just give a moment for
18 everybody to have a copy of that, please. Please
19 proceed, Mr. Buonaguro.

20 MR. BUONAGURO: Thank you. The first
21 addition we made, under "Introduction", was
22 adding an issue with respect to the timing of the
23 rate application. UCG would like to be able to
24 ask questions specific to the impact of having an
25 application filed, in this case, in October of
26 one of the test years, in part to track how that
27 affects the presentation of the case, in this

1 case; and then also to make recommendations,
2 possibly, about how the rate application should
3 be timed, of the next case, for example for 2010.
4 We've ranked it as medium importance but,
5 essentially, we'd just like to be able to ask a
6 few questions about why it was done this way, and
7 what the impact, of having it done in that way,
8 is in this case.

9 For example, by the time we
10 get to the hearing, all the 2008 will actually
11 have actuals instead of forecasts, which, in my
12 experience, is somewhat unusual for this type of
13 service proceeding. So we'd like to be able to
14 ask questions on that issue as part of the
15 proceeding. And we've ranked that medium.

16 We've added a ranking on
17 issue "1.a. YUB Review of Yukon Energy Matters
18 Since 1996/97..." in general as medium
19 importance, because there was no ranking in the
20 original list.

21 Under issue 2.b., we've added
22 what we think was implicit in the issue, but
23 which we thought would be better to make
24 explicit. "Sales Forecast", we've added "and
25 Forecasting Methodology", because, obviously, you
26 can't have a sales forecast unless you have a
27 methodology, and we would expect to be able to

1 ask questions on that, and wanted to make that
2 explicit.

3 Similarly, we've added, to
4 issue "c. Power Generation", we've added "and
5 Dispatch". We would expect to be able to ask
6 questions on how they dispatch the power that
7 they do generate. And, as well, added
8 "Forecasting Methodology" to the words in issue
9 2.d.

10 Obviously, we don't know if
11 there's any objections to this from YEC, or if
12 they have a different understanding of what was
13 implicit in the Issues List, so if they have any
14 objections I would appreciate a chance to respond
15 to that.

16 Under issue 3, the only thing
17 we've added - we included, under issue "3.e.
18 Return on Rate Base", we escalated it to medium
19 to high, because return on rate base is such a
20 large component of the rates.

21 And we've added an issue
22 "3.g. Service Quality Indicators and the need for
23 performance monitoring". We would expect, in the
24 normal course, to be able to ask questions about
25 service quality, essentially what consumers are
26 getting for their money, and we didn't see that
27 as an issue that was necessarily implicit in the

1 existing list, so we've added that as an
2 important issue to be canvassed in this hearing.

3 Issue 4., we've added, to the
4 "Rates" section, "Cost Allocation", and I expect
5 to hear something about this from YEC in
6 response. We understand that they have not done
7 any cost allocation, or put in any specific cost
8 allocation evidence, specifically; they haven't
9 done a cost allocation study. And my
10 understanding, from the workshop yesterday, is
11 that the intention is to do that in a phase two,
12 in conjunction with YECL, leading up to 2013,
13 once the Order in Councils, which apparently are
14 interpreted to freeze cost allocation between
15 revenue classes, is no longer in effect.

16 However, in UCG's view, it's
17 still an important aspect of this panel or this
18 board's job to explain the impact of those Order
19 in Councils, and the impact of freezing cost
20 allocation to consumers. It may be the case that
21 the Board can't change the allocation of costs,
22 but it is important to understand, under the
23 current cost allocation evidence, which I think
24 stems back to 2005, what sort of impact those
25 Order in Councils have; what kind of cross-class
26 subsidies are in effect. And we would expect to
27 ask questions about what the effect of those

1 Order in Councils, and the effect of freezing
2 cost allocations, are on rates now.

3 We've ranked it only as
4 medium importance because we understand that - we
5 don't see any anticipated changes in this case,
6 as a result of this sort of evidence, but we do
7 expect to be able to at least explain, to
8 consumers and to our constituents, what the
9 effect of that freezing of cost allocation and
10 revenue-to-cost ratios has on rates.

11 So we've added the "Cost
12 Allocation" section, and that appears under the
13 title in 4.b.

14 We've also added, under
15 "4.g.", a separate issue for "Bill Impacts". We
16 understand that, obviously, the evidence includes
17 bill impacts throughout it, but we thought that
18 bill impacts should be identified as a separate
19 issue, because one of the most important things
20 for an intervenor group like UCG to explain to
21 its constituents is what the impacts are going to
22 be as a result of the changes that are being
23 proposed by the company. So we thought that
24 should be identified as a separate issue.

25 Under issue 6., we've simply
26 added the words (it's on the back side of
27 everybody's - the handout) - we've added the word

1 "Recommendations". So, in 6., we thought it
2 should say "Board Recommendations and
3 Directives". Because, obviously, along with the
4 directives that the YEC has to comply with, there
5 are recommendations which are something less than
6 directives, and which we think the company should
7 at least respond to. If they haven't followed a
8 recommendation, they should explain why, and
9 there should be a good explanation.

10 And then we've added some
11 detail to the existing orders. For example, "YEC
12 2005 Revenue Requirement", we've added that to
13 the 2005-12 Order.

14 We added one that wasn't, I
15 guess, discussed in the original evidence in such
16 a way that it showed up in the listing, so we've
17 added 2007-6 Order, which is with respect to the
18 "Minto Power Purchase Agreement". And then we've
19 added the "20-Year Resource Plan" and the
20 "Carmacks-Stewart Transmission Part 3 Review
21 Reports" as things that we would expect to be
22 able to ask questions as part of these
23 proceedings, as they impact on the revenue
24 requirement.

25 And then, lastly, we've added
26 "Recommendations of the Auditor General" as a
27 separate issue. As some members of the panel may

1 recall, we've raised this as an issue, in the 20-
2 Year Resource Plan, as a general issue as to how,
3 in the face of the Mayo-Dawson Line project, and
4 the Auditor General's recommendations, how YEC
5 was responding to that in terms of their internal
6 planning for capital projects, and we would
7 expect to have asked some questions on that to
8 see how those recommendations are flowing through
9 into their - or continuing to flow through into
10 their planning.

11 Number "7. Financial
12 Schedules", we simply added - specified the "2008
13 Actuals", because, as I mentioned before, this
14 is, at least in my experience, a unique, or a
15 fairly unique, situation where the rates that
16 we're being asked to look at relate to a year
17 which is going to be completely done and actuals
18 will be available.

19 I think that the company is
20 anticipating updating the evidence (they can
21 confirm or deny that in their reply), but I think
22 that we're going to actually have the 2008
23 actuals filed, and we would expect them to be
24 filed when available, and it to be used in this
25 particular proceeding.

26 The last change, or addition
27 that we added, was under 8., which currently

1 reads simply as "Return on Equity", and I think
2 that's simply a function of how it appeared in
3 the evidence. We think that the general issue
4 under 8. should be "Cost of Capital", which would
5 include a number of things: "Capital Structure
6 and Cost of Capital; Cost of Debt; No Cost
7 Capital; Return on Equity including Formula
8 Approaches to Setting ROE; Utility/Non-Utility
9 Allocation of Capital". I think the company
10 obviously has evidence on these issues as they
11 impact their application; it just hasn't shown up
12 as a separate over-arching issue. We thought
13 that should be identified in the Issues List.

14 And then we've also, in our
15 mind, upgraded the ranking, from medium, to
16 medium-high, on cost of capital in general.

17 On the Issues List, those are
18 our submissions.

19 MS SHANKS: Thank you, Mr. Buonaguro.

20 MS BENTIVEGNA: Mr. Maissan.

21 MR. MAISSAN: Thank you. I have two things
22 that I wanted to add. The first, and the
23 simpler, is that I think that, under either
24 number 2. or number 5., I'm not sure where it's
25 most appropriate, where we discuss power
26 generation and power sources, the one thing that
27 is absent from this application is any activity

1 related to conservation demand side management
2 programs, and how that impacts on requirements
3 for power generation, and so I think that should
4 be part of the list.

5 And the second thing is
6 really the issue that Mr. Keough raised. I was
7 a bit unclear, I guess, on Board Order 2008-16,
8 paragraph E., whether the Board was deferring any
9 rate changes, i.e. increase to the runout rates
10 to send efficiency signals, to a separate
11 hearing; or whether the Board wanted this
12 discussed and included in this GRA, but subject
13 to discussion in the GRA hearing scheduled for
14 May.

15 If it's to include the
16 discussion in May, then I think we need to expand
17 that discussion somehow, to include other rate
18 classes in the discussion on not just what Yukon
19 Energy proposes, but what alternative approaches
20 might be. So I think it needs either an expanded
21 role in this GRA, or a confirmation that, indeed,
22 it is going to be discussed separately in a phase
23 two.

24 Those are the only two
25 matters, Madam Chair. Thank you.

26 MS SHANKS: Thank you, Mr. Maissan.

27 MS BENTIVEGNA: Mr. Percival.

1 MR. PERCIVAL: Thank you. One thing that
2 came through loud and clear when I polled my
3 constituents, and that is a concern about systems
4 reliability, emergency measures, the level of
5 service and the quality of service. And I'm not
6 sure exactly where this would fit in but it's a
7 very important point, certainly to my
8 constituents and to myself, living in the rural
9 part of the Yukon.

10 Another issue that I would
11 like to see on the Issues List is corporate
12 governance, and responsibility and
13 accountability; and the staffing levels and the
14 organization of staffing at Yukon Energy.

15 I have no problem with a
16 hearing being combined. I don't like phase one
17 and phase two separation. I think this is a very
18 small jurisdiction. We're suffering a fair
19 amount of costs when we have them separated, and
20 I think they can be dealt with at the same time.
21 So, in my estimation, Yukon Energy's total
22 package should be reviewed at this time.

23 I would like to be able to
24 have an opportunity to ask questions on the
25 service regulations; and on customer contribution
26 policies and procedures; and depreciated values
27 on poles, particularly.

1 I think that's it. Thank
2 you.

3 MS SHANKS: Thank you, Mr. Percival.

4 MS BENTIVEGNA: That's it, then, for
5 intervenors.

6 MS SHANKS: Has Yukon Energy any reply?
7 Mr. Landry.

8 MR. LANDRY: Madam Chair, if I may, I will
9 give you some comments on everybody except for
10 the position taken by Mr. Keough, and then I'll
11 leave that to the last.

12 Again, without trying to be
13 too exact, we might quibble with some of the
14 wording, and in trying to fully understand the
15 approaches that have been taken by the various
16 additions that have been made, outside the one
17 specific request by Mr. Keough, by YECL, Mr.
18 Buonaguro and others, but I don't think that it's
19 material and, therefore, it's necessary to really
20 have any specific comment. I would like to take
21 a moment to consider the issue raised by Mr.
22 Buonaguro about updates, if I could, Madam Chair.
23 And I guess that would lead to the final point.

24 The issue raised by Mr.
25 Keough is quite troubling to Yukon Energy. The
26 first time we've heard about it was today, this
27 morning. Mr. Keough mentioned it to me before

1 the proceeding started. I would like to ask the
2 Board if we could have a moment to consider the
3 position.

4 From our perspective, from
5 Yukon Energy's perspective, this application has
6 been before the Board, and before all interested
7 parties, for a significant period of time, much
8 more than normal before a pre-hearing conference.
9 It was filed early October, we're now in early
10 January, that's approximately three months... I'm
11 not personally aware of that having been done in
12 the Yukon before, that length of time, and I
13 guess we're surprised that this has come out of
14 the woodwork.

15 Effectively, what Mr. Keough
16 is asking for is a severance of a certain part of
17 the application, to be heard at some unknown
18 process that hasn't been established under Yukon
19 Energy's application.

20 What I'd like to have, Madam
21 Chair, is a bit of time just to consider his
22 suggestion, if we could take a short break, and
23 then what I will do is come back and give Yukon
24 Energy's more full position on what he has
25 suggested. And we may have a comment or two on
26 a couple of things that Mr. Buonaguro had said,
27 after that time, if that's okay with the Chair.

1 MS SHANKS: Mr. Keough, do you have some
2 comments?

3 MR. KEOUGH: I have one observation, Madam
4 Chair. The alleged surprise and late notice
5 appears to be one that is forgetting that, as
6 part of the interim rate proceeding, Yukon
7 Electrical made it very clear that it was opposed
8 to having phase two rate design matters addressed
9 in this proceeding. So there should have been no
10 ambiguity with regard to Yukon Electrical's
11 position on this matter, because it has been
12 consistent throughout. So it's not new this
13 morning.

14 MS SHANKS: Thank you, Mr. Keough. Mr.
15 Landry, would 15-20 minutes -

16 MR. LANDRY: That would be fine, Madam
17 Chair.

18 MS SHANKS: We'll take a recess. I note
19 it's ten to 10:00, so we'll meet back at ten
20 after 10:00.

21 (Proceedings adjourned at 9:50 a.m.)

22 (Proceedings reconvened at 10:15 a.m.)

23 MS SHANKS: Mr. Landry, are you prepared
24 to proceed?

25 MR. LANDRY: I understand Mr. Buonaguro -
26 given the process you established, we would go
27 last. I think Mr. Buonaguro had one other

1 comment that he wanted to make, so....

2 MS SHANKS: Okay, that's fair.

3 MR. BUONAGURO: Thank you. Just on this
4 issue of hiving off particular issues with
5 respect to rate design... it's UCG's position
6 that, whether we agree with the proposals or not,
7 we would prefer to have them heard now, as
8 they've been proposed in this application, rather
9 than hiving off to a second proceeding. We're
10 quite prepared to pursue them and make
11 submissions on them in this proceeding. Thank
12 you.

13 MS SHANKS: Thank you, Mr. Buonaguro.

14 MR. LANDRY: Madam Chair, I will be
15 referring to one matter that might be helpful to
16 have before you, which is the Board Order 2008-
17 16, which is the Board order dealing with the
18 interim rate application.

19 MS SHANKS: Give us a minute, please.

20 MR. LANDRY: And I will apologize up front
21 for my voice. I have a bad cold, so I may break
22 up and it won't be just because of the PA system
23 here.

24 Madam Chair, let me just
25 start by saying that this application was filed
26 - a very comprehensive application was filed in
27 early October, as I mentioned earlier, and the

1 application is very clear on what it's intending
2 to do. It is a revenue requirement application,
3 obviously, and it includes, within it, rate
4 design. It has been that way since the first day
5 it was filed back in October.

6 That application was filed
7 within the legislative context that Yukon Energy
8 is faced with in filing an application such as
9 this. And that legislative context, as everybody
10 knows, just prior to the filing, was changed.
11 That legislative context was changed by OIC, for
12 the record, 2008-149, which effectively makes the
13 whole issue of cost of service somewhat
14 unnecessary in the context of what we're dealing
15 with here. It is also done in the context of the
16 other OIC that is key to your mandate, which is
17 OIC, and I believe I've got this right, 1995-90,
18 which is effectively the rate directive.

19 The filing that was made by
20 Yukon Energy was done using that legislative
21 context within which to make it.

22 Now, we keep hearing, and
23 I've seen, and it has been discussed in Yukon on
24 numerous occasions, the nomenclature "phase one"
25 and "phase two". In actual fact, Madam Chair,
26 phase one and phase two is something from other
27 jurisdictions. Because, in the Yukon, we've

1 never had a phase one and phase two type of
2 division. It's always, in effect, been done at
3 the same hearing. And it was made very clear by
4 Yukon Energy, in response to a request from the
5 Board for information regarding general rate
6 applications, including in December of 2008 in a
7 letter that was filed with the Board, that - or,
8 sorry, 2007, in a letter filed with the Board by
9 Yukon Energy, that they saw all of these matters
10 being dealt with at one hearing, both the revenue
11 requirement from Yukon Energy's perspective, and
12 matters relating to cost of service and rate
13 design. Well, of course, after December, the
14 whole cost of service was effectively impacted by
15 the new government directive, OIC 2008-149.

16 So Yukon Energy is doing
17 nothing more than what has been done, always, in
18 the past; which is that they're filing for rates,
19 and there are some modifications in terms of rate
20 design as suggested in the application. There's
21 no suggestion, no request, nothing before you,
22 Madam Chair, of dividing anything into so-called
23 phase one and phase two. You have an application
24 before you, you have the orders requested, and
25 Yukon Energy has the burden to show that it is
26 entitled to the orders requested, and that
27 includes rate design.

1 And I would say that, Madam
2 Chair, because there is good reason (and Mr.
3 Percival did touch on this point) - there is good
4 reason why that should be done in a jurisdiction
5 such as the Yukon. Unfortunately, and I say that
6 only in the sense of the cost issue, when you
7 have regulation like we do in the Yukon, you have
8 to have the same type of regulatory process as
9 you would in larger jurisdictions like British
10 Columbia or Manitoba, as an example, and
11 effectively the system requires you to have the
12 type of hearings, which is good, transparent
13 hearings, but they're very, very expensive.

14 So the approach that has been
15 taken by Yukon Energy and, quite frankly, the
16 approach that has been taken in the past, is try
17 to consolidate, as much as possible, everything
18 into one proceeding. Because, if there is
19 another proceeding, however you decide to call
20 that, it's expensive. It will be just as
21 expensive as this proceeding.

22 So, it's a cost-effective way
23 in which to deal with the key issues that you're
24 required, under your mandate, to deal with under
25 OIC 1995-90.

26 The Board had before it, when
27 it established the process for Yukon Energy's

1 application - and I emphasize that, it's Yukon
2 Energy's application - they established the
3 process, and that process was put in place to
4 deal with all of the issues. And, quite frankly,
5 if one looks at the precedent here in the Yukon,
6 the length of time from filing of the
7 application, to the public hearing, is quite, I
8 would say, abnormal. It's quite a bit longer
9 than normal.

10 Now, there are good reasons
11 for that, because, of course, the Board had other
12 matters before it that it's going to have to deal
13 with. But there is a lengthy period of time
14 within which all parties can be allowed to go
15 through the process, ask questions, and all that
16 type of thing, of Yukon Energy, get whatever
17 information they do need, file whatever evidence
18 they feel it's necessary to file for the Board to
19 come to a considered view.

20 We're all here, all the
21 parties are here, including Yukon Electrical.
22 They can ask questions, they can present
23 evidence, they will have the ability to have
24 input into all of the issues; not just the small
25 matter of rate design, all of the issues that are
26 in this application.

27 The process has been

1 established, it's been established for
2 everything, and we have more than sufficient time
3 to deal with all of that.

4 And I would say, Madam Chair,
5 and this is the reference that I wanted to make
6 to your previous Board order... yes, Yukon Energy
7 knew what Yukon Electrical's position was at the
8 interim rate application, of course, and that was
9 filed in October I might add. And it was made,
10 I thought, pretty clear in the recitals that were
11 put by the Board, that the Board heard what the
12 parties were saying, and said that they wanted to
13 consider the alternative - that they felt that
14 the alternative rate structure should be tested.
15 And the wording used, in recital C., says: "The
16 Board agrees with interested parties that
17 alternative rate structures should be tested
18 before implementation." And the Board decided to
19 implement the interim reduction in the way that
20 it did.

21 But that's what was said, it
22 didn't say "phase two", and that is what this
23 proceeding is intended to do. You have in place,
24 we all have in place, the appropriate procedures
25 that will allow all parties to be able to test
26 the rate design structures that have been
27 proposed by Yukon Energy. There is no need for

1 a phase two; it would be a waste of time. It's
2 not necessary.

3 From the perspective of what
4 people were talking about, in terms of cost of
5 service and rate design, cost of service now has
6 been made effectively unnecessary. We're dealing
7 with some rate design issues which, quite
8 frankly, are put before this board to be in
9 compliance with Order in Council 1995-90.

10 There is some urgency, I mean
11 urgency in the sense of timeliness, to have these
12 matters dealt with, given its inter-relationship,
13 which is mentioned in the application, with the
14 fact that the RSF, which is not something that
15 this board necessarily deals with but has to take
16 into account in the factual matrix that's before
17 you, is going to be eliminated, as I understand
18 it, on July 1st of this year. These matters have
19 an impact on that, because they will have an
20 impact on the bill impacts of customers in the
21 Yukon.

22 And I would say, Madam Chair,
23 if at the end of this process, with all the
24 probing that will inevitably happen, by all of
25 the interested parties, all the intervenors, if
26 it is determined, at the end of that, that people
27 do not believe that the rate design proposals

1 that are being brought forward by Yukon Energy
2 are appropriate, they can make that an argument.
3 You can make a decision to say, No, you haven't
4 met the test, we're going to use the old rate
5 design; or you can make the decision, No, we're
6 not there yet, we're going to have to do
7 something else. But it's premature, now, to be
8 talking about whether or not we have sufficient
9 evidence before us in order to do that, to deal
10 with the rate design issue.

11 So, we're ready to go; most
12 parties seem to be ready to go; and Yukon
13 Electrical has plenty of time to deal with all of
14 the various things that it would want to put
15 forward before this board.

16 Now, that is to deal
17 generally with the proposition of taking an issue
18 off the Issues List, and somewhat is background,
19 but if this board is to effectively accept some
20 of the statements made by Mr. Keough, then
21 there's a more fundamental issue. And the more
22 fundamental issue is, if that is what Yukon
23 Electrical wants to do, then they should be
24 required, and must, in my submission, bring
25 forward a motion to ask for a severance of some
26 portion, whatever the portion is they want,
27 because they seem to accept you can deal with

1 some things but not others... whatever portion
2 they want, they should be required to bring
3 forward a motion, under the Rules of this board,
4 to sever that portion of the application. Bring
5 forward the evidence why they say that it's
6 necessary to do that, and then we will properly,
7 according to the Rules, respond to it.

8 So, if you're inclined to
9 think that this is just a simple matter of an
10 issue coming off the list, it's not. It's
11 effectively asking to sever a portion of Yukon
12 Energy's application. And quite frankly, Madam
13 Chair, I would submit to you that, if somebody
14 wants to pick apart Yukon Energy's application
15 and suggest that there should be some other
16 process, not established to date, I might add, to
17 deal with some of the issues raised, then that
18 should be done by a motion. To do otherwise is
19 accomplishing that in a way that's inappropriate,
20 in my submission, Madam Chair.

21 MS SHANKS: Thank you, Mr. Landry. If
22 there are no further comments from any other
23 parties, I'd like to move on to item 4 on the
24 Agenda, which is "Intervenor Status".

25 **4. Intervenor Status**

26 MS SHANKS: Along with the Agenda and the
27 Preliminary Issues List, the Board circulated the

1 various requests it had received from parties
2 seeking intervenor or observer status. The Board
3 will make its determinations on intervenor and
4 observer status requested by parties in its
5 procedural order which arises from this pre-
6 hearing conference.

7 At this time, the Board
8 invites any comments from parties on the requests
9 for the status of any other party. I would ask
10 Ms Bentivegna to facilitate that process at this
11 time.

12 MS BENTIVEGNA: Thank you, Madam Chair.
13 We'll start with Mr. Keough, and then finish with
14 Mr. Landry.

15 MR. KEOUGH: No, thank you.

16 MS BENTIVEGNA: Mr. Buonaguro.

17 MR. BUONAGURO: We have no comments on the
18 intervenor status of any of the parties.

19 MS BENTIVEGNA: Mr. Marriott.

20 MR. MARRIOTT: No, thank you.

21 MS BENTIVEGNA: Mr. Maissan.

22 MR. MAISSAN: No comments.

23 MS BENTIVEGNA: Mr. Percival.

24 MR. PERCIVAL: The only comment I would have
25 is, I may be representing the Hamlet of Mount
26 Lorne. The Hamlet, itself, has its council
27 meeting tonight, and approval of my status, for

1 the whole of the hamlet, would come from that
2 meeting.

3 I have no comment on other
4 intervenors.

5 MS SHANKS: Is it your intention to
6 notify the Board of -

7 MR. PERCIVAL: I would notify the Board of
8 the results of that decision tonight.

9 MS SHANKS: Okay, thank you, Mr.
10 Percival.

11 MS BENTIVEGNA: Mr. Landry.

12 MR. LANDRY: We have no comment, Madam
13 Chair.

14 MS SHANKS: Thank you. We'll move on to
15 item 5 on the Agenda, the Hearing Cost Process.

16 **5. Hearing Cost Process**

17 MS SHANKS: Along with the Agenda for the
18 pre-hearing conference, the Board distributed
19 copies of some materials setting out the Board's
20 policy concerning hearing costs and the hearing
21 cost process. The materials were: the Hearing
22 Cost Process document of August 30, 2006;
23 Appendix A to Board Order 2006-7; the Board's
24 Intervenor Costs Award Policy of June 3, 2005;
25 and the Board's Scale of Costs, Schedule 1.

26 As indicated in these
27 materials, cost applications must be filed within

1 30 days after which the Board renders a decision
2 on the application, after which there will be an
3 opportunity for YEC to comment on the cost claims
4 from intervenors, and for intervenors to comment
5 on the cost claim for YEC. Parties will then
6 have 10 working days to make those comments,
7 following which the Board will review it and make
8 determinations on the costs applications.

9 As well, the Board
10 acknowledges receipt of a letter from PIAC, the
11 Public Interest Advocacy Centre, dated December
12 22nd, 2008, where they indicate that they have
13 been retained to represent UCG, and that Mr.
14 McMahon, a skilled consultant, has also been
15 retained to assist in this proceeding.

16 The Scale of Costs states
17 that retainer letters are to be filed with the
18 Board at the pre-hearing conference, or within 30
19 days after it, for any professionals which
20 parties wish to engage under section 1 of the
21 Scale of Costs. If parties are intending on
22 engaging professionals, such as consultants or
23 legal counsel, the Board encourages parties to
24 combine their efforts to avoid duplication and
25 for the best use of the professional resources
26 during the course of the hearing.

27 The Board would ask, at this

1 time, if any party has already engaged, or is
2 currently considering whether to engage any
3 professionals under Section 1 of the Scale of
4 Costs. Ms Bentivegna.

5 MS BENTIVEGNA: We'll begin with Mr. Keough.

6 MR. KEOUGH: No, thank you.

7 MS BENTIVEGNA: And we know about UCG... and
8 Mr. Maissan... oh, sorry, Mr. Marriott. Sorry,
9 Mr. Marriott.

10 MR. MARRIOTT: I keep going lower and lower
11 on the list, it seems.

12 Madam Chair, it will be the
13 intention of the City of Whitehorse to file a
14 retainer letter. If I might, I'd ask for a little
15 bit of direction. Looking at the information
16 provided by the Board, is the retainer letter
17 meant to focus on why the party considers it
18 necessary to hire counsel; or is it intended to
19 disclose the business arrangements between the
20 party and its counsel; or both? The wording used
21 suggests to me that the issue for the Board is
22 the "why", just from the wording that's used; but
23 if it's intended that the full business details
24 of the arrangement be disclosed as well, we'll do
25 that, I think that's what we did last time, but
26 I'm wondering if that's necessary.

27 MS SHANKS: The procedure that you

1 followed in previous hearings is satisfactory.

2 MR. MARRIOTT: Okay, thank you.

3 MS BENTIVEGNA: Mr. Maissan.

4 MR. MAISSAN: I will not be retaining any
5 professionals, thank you.

6 MS SHANKS: Thank you.

7 MS BENTIVEGNA: And Mr. Percival.

8 MR. PERCIVAL: I won't be retaining any
9 professional services. However, I would like
10 clarity from the Board on whether or not, as I
11 live outside of town, if my transportation costs
12 will be recognized this time. I have no access
13 to public transport, and the costs of a taxi is
14 very expensive. I live about 40 kilometres from
15 town, from downtown and, as I say, I don't live
16 within the City of Whitehorse.

17 MS SHANKS: Any further comments from any
18 parties? In that case, we'll move on to the
19 Proceeding Schedule, item 6 on the Agenda.

20 **6. Proceeding Schedule**

21 MS SHANKS: The Board provided a proposed
22 proceeding schedule for the hearing in Order
23 2008-15, dated October 30th, 2008, with a proposed
24 three-day hearing tentatively set for May 5th, 6th
25 and 7th. The Board will finalize the proceeding
26 schedule in its Procedural Order to be issued
27 shortly following this proceeding.

1 As the Board has learned that
2 there may be some problems with securing a court
3 reporter for these dates, for the hearing dates,
4 I would ask the parties to comment on the
5 possibility of holding the hearing for three days
6 during the last week of April; that would be the
7 week of April 27th.

8 MS BENTIVEGNA: Mr. Keough.

9 MR. KEOUGH: Thank you, Madam Chair. The
10 schedule, as it was filed, I think is fine. Your
11 comment about the last week of April... I need to
12 confirm whether or not that conflicts with a
13 proceeding that is scheduled in Alberta, and my
14 Blackberry doesn't get reception, the Rogers
15 service provider, so I'm not actually sure. But
16 I will try to confirm if that last week of April
17 is a conflict or not. Subject to that, I don't
18 have any problem with the balance of the
19 schedule. Thank you.

20 MS SHANKS: Okay.

21 MS BENTIVEGNA: Mr. Marriott.

22 MR. MARRIOTT: Thank you. The original
23 schedule is acceptable to the City. I don't
24 believe there is any problem with moving the
25 hearing to the last week in April. Thank you.

26 MS BENTIVEGNA: Mr. Buonaguro.

27 MR. BUONAGURO: I don't anticipate there

1 being a problem with the last week of April, from
2 our perspective.

3 MS BENTIVEGNA: Mr. Maissan.

4 MR. MAISSAN: I have no problems with the
5 last week in April.

6 MS BENTIVEGNA: And Mr. Percival.

7 MR. PERCIVAL: No problems with the last
8 week of April.

9 MS BENTIVEGNA: And Mr. Landry.

10 MR. LANDRY: Madam Chair, if you mean by
11 the last week of April, just so I understand, is
12 that starting the 28th of April?

13 MS SHANKS: Well, I think it's the week
14 of the 27th, so it would be a three-day period in
15 that last week.

16 MR. LANDRY: As far as I know, Madam
17 Chair, subject to - we'll have to check for sure
18 but, from what we can tell right now, it's fine.

19 MS SHANKS: As I indicated, at this time,
20 we're not sure that there will be a problem, but
21 we just want to explore the possibilities if we
22 have to change the date. Mr. Buonaguro, do you
23 have something you'd like to add?

24 MR. BUONAGURO: The only thing that occurred
25 to me, right after I spoke, was consequential
26 changes to the proceeding schedule. For example,
27 IRs are due on a certain date, and that will get

1 pushed right up against the hearing.

2 MS SHANKS: Yes, it would.

3 MR. BUONAGURO: Which we'd have to think
4 about. That's all.

5 MS SHANKS: Do you have any comments
6 you'd like to make in that regard right now?

7 MR. BUONAGURO: Well, I think we're moving on
8 to the next part of this Agenda... we were going
9 to ask the Board to entertain IRs possibly on any
10 updates that YEC may file; and also any reply
11 evidence they have to file in response to
12 intervenor evidence, which we don't know whether
13 there's going to be any but, if they do, there
14 might be reply evidence and we were going to ask
15 the Board about IRs on that prior to the hearing,
16 which would be very squished in timing-wise if
17 the hearing is in April, based on the current
18 schedule.

19 MS SHANKS: Are you saying if the Board
20 were to allow a second round of IRs, if needed,
21 that the hearing schedule for the last week of
22 April wouldn't work in your case?

23 MR. BUONAGURO: I think the hearing schedule
24 would work. I think that we would have to look
25 at the schedule for the IRs leading up to it;
26 just move them around so that they're workable,
27 that's all. I just wanted to flag that issue.

1 MS SHANKS: Thank you. Does any party
2 have any further comments?

3 MR. LANDRY: Madam Chair, we don't have
4 any further comment on the process as
5 established, or the time-frame as established.
6 I'm not sure I understand fully what Mr.
7 Buonaguro is getting at, but I gather, from what
8 he's saying, he's going to raise it in the next
9 section of the Agenda, so we'll wait for that.

10 MS SHANKS: Any other further comments on
11 the hearing process, or the scheduling at this
12 point? Otherwise, we'll be moving on to item 7.

13 In that case, the Hearing
14 Process, item 7.

15 **7. Hearing Process**

16 MS SHANKS: Section 19 of The Rules of
17 Practice of the Yukon Utilities Board does
18 provide some information with respect to motions
19 and, in part 19(2) states that: A motion shall be
20 in writing and shall contain a clear and concise
21 statement of the facts, the decision sought, and
22 the reasons for such a decision.

23 It goes on to say that: A
24 motion shall be filed and served on all
25 interested parties at least two days before the
26 motion is heard. Any party who wishes to respond
27 to the motion shall file and serve on all parties

1 a written answer no later than 4 pm on the day
2 before the motion is to be heard.

3 There are other provisions
4 but, in particular, subsection (6) states that:
5 Notwithstanding subsections (2) to (5), a motion
6 may be made at any time during the course of a
7 public hearing and shall be disposed of in
8 accordance with such procedures as the Board may
9 direct.

10 Accordingly, any motions
11 filed by a party to this proceeding must be in
12 writing and served on all parties, with parties
13 having five days to respond and the moving party
14 having two days to reply.

15 As well, I'd point all
16 parties to the Board's Web site which will be
17 updated with the filings for the proceedings, and
18 you'll find past Board orders and Board policies.

19 At this time, I'd move on to
20 item number 8.

21 **8. Other Matters**

22 MS SHANKS: Are there any other matters
23 that any party would like to bring before this
24 pre-hearing conference? Mr. Buonaguro.

25 MR. BUONAGURO: Thank you. The one item we
26 wanted to ask about was - well, it relates to two
27 things: one, if YEC files an update; and two, if

1 they find that they're in a position where they
2 have to file reply evidence... whether we might
3 have an opportunity to submit written requests to
4 them, and have answers provided before the
5 hearing.

6 I ask that because the
7 hearing process is only scheduled for three days,
8 and while we ultimately could ask questions on
9 the hearing for the first time, it would be
10 preferable to have any clarifications, or
11 questions relating to the updated evidence or the
12 reply evidence, in writing in advance, so that we
13 can conserve the hearing time for items that we
14 actually need to have the oral hearing for. And
15 so I'd make that proposal to the Board.

16 MS SHANKS: Well, there certainly would
17 be time allocated for any process in that regard.
18 Mr. Landry, do you have any comments on the
19 timing that you might expect to provide those
20 updates?

21 MR. LANDRY: The only thing I would say,
22 Madam Chair, is that it has, in the past, at
23 least from Yukon Energy's perspective, that I can
24 recall, there were updates that were made, they
25 were made in as timely a fashion as possible.
26 We've never dealt with it by way of an IR
27 process.

1 I think the processes before
2 the Board are sufficient to allow parties to
3 bring forward any requests that they may have of
4 information. Both updates and reply evidence, in
5 all applications, traditionally have been dealt
6 with by way of cross-examination at the hearing;
7 especially reply evidence, which tends to be
8 relatively close to the hearing. I don't think
9 that, in the circumstances, it's either efficient
10 or the right use of time, for the utility getting
11 ready for the hearing, to have to spend the time
12 on such IRs.

13 I have spoken to Mr.
14 Buonaguro about an issue which, you know, I feel
15 strongly about, which is that, if, in the IR
16 process, the appropriate information - a party
17 doesn't believe they've got the appropriate
18 information, that I'm always open to a call to
19 try to sort that issue out. Because we want to
20 make sure that all relevant information - if it
21 gets to the point, which it has in the past on a
22 few occasions, where some party believes that
23 relevant evidence is not being provided by the
24 utility, then, you know, appropriate motions have
25 been made in the past in order to get the Board's
26 ruling on whether or not it is relevant evidence.

27 So, I would say the process,

1 as established, has worked in the past, I think
2 it will continue to work in the future, and I
3 don't - from Yukon Energy's perspective, it is
4 not in favour of going through a second round of
5 IRs on this type of thing.

6 MS SHANKS: Thank you. Mr. Keough.

7 MR. KEOUGH: Madam Chair, I just wanted to
8 add a comment on the whole 2008 actuals that my
9 friend has raised. I think the Board has had a
10 practise of wanting to have the best information
11 available to it when it makes its decision. And
12 if the 2008 actuals are available, and how that
13 would impact the 2009 forecasts, that would
14 appear to us to be something that may be of
15 interest to the Board.

16 And, yes, I agree with Mr.
17 Landry, that can be extracted through the
18 Information Requests and cross-examination
19 process, but, if there is any updating planned or
20 proposed, it's certainly better and more
21 efficient to know about it sooner than later.

22 Thank you.

23 MS SHANKS: Is it possible for you to
24 give some time lines when -

25 MR. LANDRY: Madam Chair, just to use as
26 a bit of an experience, because we're almost on
27 the same type of timeframe as we were the last

1 time Yukon Energy was before the Board, I think
2 you'll recall - I don't remember the exact dates,
3 but we were - I think it was late April, where
4 the hearing took place, mid to late April as I
5 understand it, I don't have something in front of
6 me - we filed updated information early in April
7 for that purpose, and it seemed to work fine.

8 I would say this, obviously
9 the Board should have before it what it considers
10 the best information available, and it may relate
11 to things like 2008 actuals, looking at it. 2008
12 actuals, so everybody understands, the year-end
13 for Yukon Energy is the end of December, so it
14 takes awhile to get the year-end done in order to
15 do the type of update we're talking about. In my
16 understanding, it usually takes, you know, two or
17 three months to get that finalized and sorted
18 out... and it did the last time. And so updates
19 were filed accordingly, like I said, in early
20 April, for an April hearing.

21 So, I can say to the Board
22 that it's Yukon Energy's intention, whatever
23 updates it can provide, it will provide through
24 the IR process if that's where it's requested.
25 Or like I said, we did an update once before, and
26 our plan is to probably do an update again, if
27 it's not all out through the IR process prior to

1 the hearing.

2 MS SHANKS: So, just so I understand
3 correctly, is your estimation that early April...
4 or earlier than that?

5 MR. LANDRY: The issue, just so that
6 everybody doesn't get into a - the issue is not
7 a matter of whether or not - it's like it can't
8 be done much earlier than that, is the problem.
9 The actuals will only be, in effect, completed,
10 for the purposes of that, would be in the mid to
11 late March timeframe. And I think that that type
12 of timeframe, whenever reasonably possible, given
13 the year-end issues, we would file an update.

14 So you're probably looking,
15 I would think, given those realistic constraints,
16 or practical constraints, at the end of
17 March/beginning of April.

18 MS SHANKS: So I'm hearing the end of
19 March/beginning of April.

20 MR. LANDRY: Yes.

21 MS SHANKS: Thank you. Mr. Percival...
22 something to add to that?

23 MR. PERCIVAL: Looking at the schedule, it
24 would be, I think, to everybody's advantage if
25 any updates were filed prior to intervenors
26 presenting evidence, because it would, I think,
27 reduce any evidence - it may reduce the evidence

1 that they - or change the evidence that they
2 might want to introduce.

3 MS SHANKS: I note that that date is
4 March the 20th. Mr. Landry, do you have any
5 comments on that?

6 MR. PERCIVAL: You could change the date
7 from March the 20th, as well.

8 MR. LANDRY: Madam Chair, what is going to
9 be done in this case is not different than what
10 has been done, in my experience, in the Yukon in
11 every other case. I don't see any need to change
12 issues. If issues arise, there are process
13 capabilities under the Rules in order to deal
14 with them.

15 I think we're being premature
16 in trying to surmise exactly what the update will
17 be, whether or not there will be intervenor
18 evidence. If the intervenors feel that they need
19 to file further evidence just because we're
20 updating actual numbers, then, you know,
21 applications can be made, agreements can be made
22 amongst parties that can be brought before the
23 Board, so I don't see any need to vary past
24 practise.

25 MS SHANKS: Thank you. Are there any
26 other matters that parties would like to bring
27 before the pre-hearing conference?

1 **8. Closing Comments**

2 MS SHANKS: As there appears there's no
3 other matters, I'd like to adjourn this
4 conference and I thank everybody for
5 participating today.

6 (The proceedings adjourned at 10:50 a.m.)