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Our File No.: 12276-81

November 24, 2008

Yukon Public Utilities Board  
Box 31728  
Whitehorse, Yukon  
Y1A 6L3

Att: Ms. Wendy Shanks  
Board Chair

Dear Ms. Shanks:

Re: Yukon Electrical Company Limited ("Yukon Electrical")  
2008-2009 General Rate Application

By letter dated November 13, 2008 Yukon Electrical filed a submission with the Board regarding the Reply Arguments filed on behalf of Yukon Energy Corporation ("YEC") and the City of Whitehorse (the "City"), in which Yukon Electrical noted certain inappropriate comments that were included in these filings. By letter dated November 14, 2008, the Board provided these parties with an opportunity to file a reply to Yukon Electrical's submission.

Yukon Electrical received comments from YEC, the City and the Utilities Consumer Group ("UCG") regarding the above matter. The following constitutes Yukon Electrical's reply to these submissions.

At the outset, Yukon Electrical is obliged to note that the submission of the UCG is totally unrelated to the subject matter of this exercise and that the UCG has inappropriately used this opportunity to make additional submissions to the Board. Such comments are entirely inappropriate and must be ignored by the Board in its deliberations. Likewise, YEC has taken this opportunity to, yet again, make additional, new inappropriate submissions to the Board in the context of its comments. Specifically, at page 4 of its letter, under the guise of providing an example related to the risk premium applied by the Board in Order 2005-12, YEC provides additional, supplementary Argument on rate of return matters in this case. This is highly inappropriate, as YEC seeks to embellish the Argument it has already filed. These submissions have nothing to do with the narrow matter before the Board and must be disregarded by the Board in its deliberations. Additionally, when discussing the oral testimony provided by Mr. Kennedy (p. 4-5), YEC goes on extensively about such evidence (which was provided in response to the framing of certain questions by Counsel for YEC) and then presents extensive argument with respect to the issue of filing new evidence during a hearing. The evidence of Mr. Kennedy appears on the record, is appropriate and has to be

considered by the Board. The submissions of YEC have absolutely nothing to do with Yukon Electrical's statement that YEC's Reply Argument had introduced new evidence on this matter. Likewise, the Board must ignore these highly inappropriate submissions made by experienced Counsel.

Yukon Electrical will now address the submissions made by both the City and YEC.

(i) City of Whitehorse

The City's justification for the inappropriate submissions contained in its Reply Argument appears to rest on an attempt to argue that it is permissible to refer to an "authority" that was never raised on the record to a proceeding and distinguish this from new "evidence", which the City agrees would be inappropriate to introduce in Argument.

The point that seems to have eluded the City is that there is no evidence on the record at all to show that such "authorities" are based on any facts or evidence that have relevance, or bear any resemblance to, the facts that are before the Board in this case. Without such a connection having been established, there is no necessary foundation for the use of such "authorities" by parties or the reliance upon same by the Board. The fact remains that no such connection has been made in the current case. Ironically, the City itself appears to acknowledge that the authority must be "sufficiently similar on its facts" to the one before the Board. The difficulty is that, while the authority in question is the Northwest Territories Public Utilities Board, no evidence has been presented to establish that such similarity in the facts exists in the current case. Clearly the record of the other proceeding is not before the Board in this case. Yukon Electrical reiterates its view that it is entirely inappropriate to seek to have this Board place reliance upon an authority for which no connection to the matters before it has been made. These comments apply equally to the position taken by YEC on this point.

(ii) YEC

YEC attempts to minimize the impact of its inappropriate behaviour by suggesting that the Board can determine the relevance and weight, as it deems appropriate, of submissions regarding other Decisions in Reply Argument. Yukon Electrical submits that this attempt by YEC to rationalize its inappropriate behaviour is simply not sustainable. Again, there is no connection that has been made between the Decisions YEC has referenced in its Reply and the matters before the Board in the current case. As noted in its November 13, 2008 filing, Yukon Electrical did not make reference to these Decisions regarding matters that would be highly favourable to it because it would be inappropriate to do so.

YEC appears to have misunderstood Yukon Electrical's comments with respect to the rearguing of YEC's submissions from a 2005 proceeding. Obviously, the Argument presented in 2005 was based on the record to that proceeding. We are now dealing with an entirely different proceeding and the Argument here must be based upon the record to this proceeding, not from one of several years ago.

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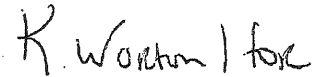
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With respect to YEC's use of a new 2008 benchmark for Fortis, Yukon Electrical submits that YEC's attempt to make use of an Order from a proceeding that occurred several years ago to create new evidence, which purportedly supports its position in this case, remains highly inappropriate. Additionally, this situation is reflective of the concerns Yukon Electrical expressed with respect to allowing a party to introduce a significant amount of materials at the commencement of a proceeding, without the Applicant and parties having an opportunity to review same.

Yukon Electrical reiterates its view that the Reply Arguments of the City and YEC inappropriately contain "new evidence", as detailed in Yukon Electrical's November 13, 2008 letter to the Board. As such, these submissions must be disregarded by the Board in their entirety.

Yours truly,

**BENNETT JONES LLP**



Loyola G. Keough

Counsel for Yukon Electrical Company Limited

