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DELIVERED BY EMAIL

Mr. Robert Laking, Chair
Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Dear Mr. Laking:

Re: Request for Comments by Yukon Energy Corporation ("Yukon Energy") on Court of Appeal of Yukon (Court) Judgment re: Yukon Utilities Board ("Board") Order 2015-06

On September 12, 2017, the Court released a judgment on an appeal by Yukon Energy related to certain aspects of Yukon Utilities Board ("Board") Order 2015-06. One further step is required in the Court's process. A formal order must be prepared and approved by the Court documenting the Court's decision on the appeal including the direction to the Board. That order has not yet been formalized. DLA Piper (Canada) LLP will be conferring with legal counsel for the Board to propose to the Court an appropriate court order.

While the Court process is not yet complete, the Board on September 22 provided a letter to all parties to the Yukon Energy General Rate Application (GRA) proceeding seeking comment on the process and the scope of the issues that need to be addressed with respect to giving effect to the Court's directions to the Board. In addition the Board requested comments on certain specific issues relating to the current Yukon Energy General Rate Application ("GRA").

What process should be established to address the Court's judgment and the scope of issues that need to be addressed with respect to giving effect to the Court's direction to the Board?

The Court's decision was to set aside the Board's Order and remit the matter back to the Board with the specific direction to the Board to "set a wholesale rate that enables Yukon Energy to recover all of its diesel generation costs, which include any net DCF payment made by Yukon Energy attributable to Yukon Electricals' [now known as AEY] ...forecast wholesale purchases of electricity". (P. 20 of the Reasons for Judgment).

Yukon Energy is willing to work with the Board to ensure that the direction of the Court is implemented in the most efficient and fair way. Yukon Energy's suggestion for a process is as follows: Yukon Energy file for the Board's consideration a submission which includes an updated rate schedule 42 that reflects the direction of the court and includes appropriate analysis demonstrating the impact on the parties from implementation of the updated schedule. The Board can then establish a timeline for comments by intervenors and for Yukon Energy's reply to the intervenor's comments.

Effect of the Judgment on the Current GRA Application

With respect to the issue of how the Court of Appeal judgment affects the GRA Yukon Energy provides the following comments.

Question 1 -- Is there any effect of the judgment on the current GRA, the DCF mechanism contained in the current GRA, and the Energy Reconciliation Adjustment mechanism?

As the ERA was the subject of an appeal to the Court, Yukon Energy did not in its GRA provide a proposal regarding the ERA, noting that it would provide the Board with a filing on the matter once the Court rendered its decision. The ERA will be dealt with in the process established to implement the Court's decision. Therefore there is no need to adjust or amend the current GRA application to address the Court's judgment.

In relation to the DCF mechanism the issue before the Court was very narrow and at its essence was whether Yukon Energy could recover from AEY "its reasonable net DCF payment attributable to above-forecast wholesale purchases" (p.19 of the Court decision). The way in which the DCF operated was not an issue before the Court and therefore its decision does not impact the DCF mechanism as filed in the current GRA, nor does it affect YEC revenue requirement for the test years. The process described above will establish the methodology for determining ERA impacts in a given year.

Question 2 -- How should the Board proceed with respect to the GRA -- for example, if amendments to the application are required, and any effects on the current oral hearing schedule from November 28 to 30, 2017?

For the reasons stated in response to Questions 1 and 3 the Court's decision has no impact on the current oral hearing schedule.



Question 3 -- Any comments parties may have regarding the impact of the judgment on the use of long-term averages for forecasting hydro generation

Similar to the DCF mechanism, the determination of long-term average hydro was not an issue before the Court and therefore the decision of the Court has no impact on the use of long-term average in the current GRA.

Yours truly,
DLA Piper (Canada) LLP
Per:

A handwritten signature in blue ink, appearing to read 'P. John Landry', written over a light blue circular stamp.

P. John Landry

PJL/lph