

UTILITIES CONSUMERS' GROUP
Box 9300
29 Wann Road
Whitehorse, Yukon Y1A 4A2
email: rondeau@northwestel.net

March 29, 2018

Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Robert Laking, Chair

**Re: Yukon Energy Corporation Energy Reconciliation Adjustment (ERA) Filing
UCG Reply Argument – ERA Filing Part 1**

Dear Mr. Laking:

Pursuant to Board Order 2018-01, the Utilities Consumers' Group (UCG) hereby submits its reply argument in the above noted proceeding.

If the YUB requires any clarification with respect to these submissions, please direct all inquiries to me by email at rondeau@northwestel.net or by phone at 633-5210.

Yours truly,

Roger Rondeau
Utilities Consumers' Group

YUKON UTILITIES BOARD

IN THE MATTER OF the *Public Utilities Act*
Revised Statutes of Yukon, 2002 c.186, as amended

and

IN THE MATTER OF an application by Yukon Energy Corporation
(YEC) regarding the 2012 Energy Reconciliation Adjustment (ERA)

REPLY ARGUMENT OF

UTILITIES CONSUMERS' GROUP

ERA FILING PART 1

March 29, 2018

TABLE OF CONTENTS

	Page
INTRODUCTION	3
REPLY TO YEC ARGUMENT	3
REPLY TO AEY ARGUMENT	5
REPLY TO CITY OF WHITEHORSE ARGUMENT	5

INTRODUCTION

1. The Utilities Consumers' Group (“UCG”) filed its Final Argument on March 16, 2018 with respect to Part 1 of the evidence of Yukon Energy Corporation (YEC) regarding how the additional 2012 Energy Reconciliation Adjustment (ERA) amount of \$439,000 was derived and whether YEC believes that there should be any adjustments to the 2012 ERA amount. Final arguments were also submitted by YEC, ATCO Electric Yukon (AEY) and the City of Whitehorse.
2. Where specific arguments of YEC, AEY and the City of Whitehorse are not referenced, UCG submits that the YUB can rely on UCG’s previously submitted arguments.

REPLY TO YEC ARGUMENT

3. YEC notes in its argument that the change in proposed ERA determination from \$439,000 [as included in the April 7, 2015 Board Order 2015-01 Compliance Filing] to \$501,000 is to correct mistakes made in the calculation included in the previous \$439,000 number.¹
4. YEC argues that it is not seeking to update Rider J rates charged to customers related to added wholesale sales in 2012. YEC argues that as a result the orders requested are not retroactive rate setting.² YEC stated in IR responses that it is seeking finalization of charges to AEY for 2012 ERA amounts following the Court’s decision.³
5. In its April 7, 2015 compliance filing following directions provided in Board Order 2015-01, YEC submitted an ERA determination for 2012 based on YEC's “actual diesel costs” as would be reflected in its income statement after consideration of the DCF assessment for 2012.⁴ In its Board Order 2015-06, the YUB noted that YEC had applied for approval of final ERA charges for 2012 but the YUB determined that no ERA charges were applicable for the 2012-2014 fiscal periods.⁵
6. UCG submits that while YEC may not have liked the YUB’s determination in August 2015, and in fact appealed to the YUB to change its mind, but the YUB’s determination in its Order 2015-06 resulted in final rates being determined. UCG is very concerned that any variation on costs to be recovered from AEY and ultimately Yukon ratepayers means a retroactive change to final rates upon which Yukon ratepayers had been basing their electricity consumption decisions.
7. Most jurisdictions in Canada and the United States, including the Yukon maintain the use of a forward-looking test year as the basis for approving a regulated company’s revenue requirement. There are a number of reasons for the adoption of this method including providing more fairness to ratepayers in that they are aware of the rate they are actually paying, and the expenses associated

¹ YEC Argument, ERA Part 1, page 3

² YEC Argument, ERA Part 1, page 3

³ YEC Response to UCG-YEC-1-4(a)

⁴ Order 2015-01 – Yukon Energy Compliance Filing, April 7, 2015, page 5

⁵ Appendix A to Board Order 2015-06: Reasons for Decision, August 18, 2015, page 10

with the rate charged affect the rates in the year for which the ratepayer is billed. In other words, there are no generational issues in the recovery of revenue requirement.

8. YEC has developed various types of models, including the YECSIM, for forecasting and planning purposes. The YECSIM and its associated results have yet to be thoroughly tested as was confirmed by the YUB in its Reasons for Decision for Board Order 2015-01:

“However, if YEC is to continue to use the YECSIM model for forecasting, it has to make the model and its results available for testing because as a public utility its forecasts and rates proposals that are based on its forecasts are subject to testing by interveners and the Board. Providing forecasts which can be tested is essential in setting rates.”⁶

9. The Appeal Court simply ruled that due to the fact the YUB accepted the YECSIM long-term average forecasts for the 2012/13 GRA as well as updates to the DCF, then the YEC should have some method to collect this money that it hypothetically placed into the DCF.
10. Inevitably, herein lays the dilemma. First, if the results of the YECSIM model are untested, how can any type of rate proposal, including setting of quantum for prior years, be allocated? Second, if the Yukon’s regulatory system of rate-making were progressive and kept up to best practices in other jurisdictions (as is required pursuant to the *Public Utilities Act*), we could have long ago had a performance-based regulation system in place utilizing statistical benchmarking to determine the utility’s true minimum cost structure to then set rates or revenue caps for up to ten years.
11. The practice of limiting retroactive recovery of revenue requirement from a period predating the regulated company’s rate application or subsequent rate order has been considered by Canadian tribunals and courts. YEC simply pushes aside the ratemaking principles challenged by retroactivity, and the effect of seeking recovery of any deficiency in revenue requirement after the expenses have occurred. YEC is now pleading to increase the amount to be retroactively recovered from Yukon ratepayers because of its own inability to adequately and accurately assemble a rate compliance application.
12. UCG submits that this appears to be a lack of YEC’s management’s ability to adhere to the expectations in every other jurisdiction in which regulators and stakeholders have opportunity to adequately review and test assumptions related to revenue requirements prior to their effective date. UCG submits that Yukon ratepayers should not continually be faced with the instability and uncertainty associated with rate adjustments that may or may not be retroactively changed in the future.
13. While the YUB may find itself trapped to do something with the ERA due to the Appeal Court’s decision, UCG suggests that making a retroactive change to charges applied in 2012 and even considering YEC’s adjustment due to its calculation errors is tantamount to an effective repeal of the well-recognized principle of avoidance of rate retroactivity.

⁶ Board Order 2015-01, Reasons for Decision, page 14

14. If YEC is allowed a retroactive adjustment to one of its charges, then UCG submits that all components of YEC's revenue requirement should be open for retroactive debate and review at any time. Of course, given the inability to verify the results of the YECSIM model, some charges may never be verified.

REPLY TO AEY ARGUMENT

15. In its arguments, AEY submits that the extensive record in relation to both DCF and ERA is reflective of their complexity and demonstrates that the mechanisms are beyond what is appropriate or necessary for the Yukon regulatory setting. In AEY's submission, adopting these mechanisms, on a permanent basis, into the Yukon utility framework will result in a continued significant burden on administrative and regulatory resources into the future.⁷
16. UCG could not agree more that both the DCF and ERA mechanism are made deliberately complex and simply act to shore up YEC's bottom line when it is determined that YEC's forecasts again do not match reality. UCG submits that it is time to eliminate the crutches that YEC has been able to rely upon at the expense of Yukon ratepayers.
17. AEY states their belief that no party has taken issue with the ability of AEY to use a deferral account to flow through incremental purchased power costs to Yukon ratepayers.⁸ UCG submits that Yukon ratepayers will always have an issue with charges that can be applied to their bills without a review being conducted on when those charges are incurred and over what timeframe those costs will be recovered. As noted above, Yukon ratepayers should not have to continually put up with the instability and uncertainty created by mechanisms like the DCF and the ERA.

REPLY TO CITY OF WHITEHORSE ARGUMENT

18. Based on its review and analysis of the evidence on the record of this proceeding, the City of Whitehorse does not object to approval of the Part 1 Application as filed. UCG submits that these arguments should only be accepted as reflecting the opinion of the City of Whitehorse and not the citizens that are Yukon ratepayers.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 29th DAY OF MARCH, 2018

⁷ AEY Argument, pages 1 - 2

⁸ AEY Argument, page 3