

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)

FINAL ARGUMENT OF

UTILITIES CONSUMERS' GROUP

March 16, 2018

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INTRODUCTION and OVERVIEW

1. The Utilities Consumers' Group (“UCG”) is a not-for-profit organization registered as a society in the Yukon since 1993. The UCG represents residential and small business utility ratepayers in regulatory procedures, conducts research, makes submissions, communicates with active stakeholders, including government, and helps consumers with various types of problems with utility service providers.
2. UCG submits that the current expedited review of the 2012 Energy Reconciliation Adjustment (ERA) has been a process that leaves UCG concerned that there remain unanswered questions that prevent the YUB from making a fully informed decision.
3. UCG submits that not only has this become an onerous public relations exercise, in determining the design and function of the DCF and ERA (i.e. necessity to review over and over again), but very costly processes which will more than likely be borne by the firm ratepayers of the Yukon. Fundamentally because the two utilities (YEC and AEY/YECL) cannot agree on mechanisms nor forecast models that bring them together for the benefit of their customers. YECL warned of this regulatory inefficiency in the 2014/15 review of the DCF and ERA/PPFTDA.
4. In its Reasons for Decision related to its Order 2017-08, the YUB confirmed that the 2012 ERA amount of \$439,000 has not been tested nor has the YUB determined how the inter-related elements (Diesel Contingency Fund (DCF) ERA, LTA hydro-generation, and consequential thermal generation) should operate going forward (2017 and beyond).
5. Accordingly, the current Part 1 review of the 2012 ERA amount would have benefited from a more extensive review of the workings of the YECSIM model. As was noted in the UCG’s submission dated September 28, 2017, UCG is most concerned with what impact any retroactive change to the 2012 ERA amount will have on ratepayers going forward. This determination should be made before allowing YEC to implement any retroactive changes to rates and charges that end up flowing through to end-users.

UCG’s POSITIONS

6. Pursuant to Board Order 2017-08 Reasons for Decision, the intent of this phase of the proceeding is to review YEC’s evidence about how the 2012 ERA amount of \$439,000 was derived and how and why the YEC determined that there should be any adjustments to the 2012 ERA amount. YEC was also directed to explain the extent of any adjustments needed to account for the YUB’s concerns of using results from the YECSIM with respect to ERA determinations and the amounts payable by ATCO Electric Yukon (AEY) to YEC.
7. Even the YEC maintains that the YECSIM model has not been tested or independently verified. Yet the DCF and the ERA resolves are in YEC’s view dependent on this model. Consequently, since this model is hitherto to be tested and has not been verified, it stands to reason that no quantum can yet be set.

8. In its December 6, 2017 application, YEC requested YUB approval of the amended wholesale Rate Schedule 42, the ERA final amounts for 2012 and 2013, and the ERA interim amounts for 2014 to 2016 subject to final approvals of the Diesel Contingency Fund (DCF) amounts for these years.¹
9. UCG submits this regulatory review is proposed to provide an opportunity to not only ensure that the projected changes to the 2012 ERA is properly understood, but also allow for a more comprehensive review of proposed costs actually incurred.
10. While UCG contends that the Court of Appeal did not have the benefit of a thorough regulatory review specific to utility-based issues during its deliberations, they determined that YEC was required by a YUB-approved mechanism to pay an additional \$439,000 into the DCF for the forecast electricity purchased by AEY even though YEC did not incur that \$439,000 in "actual" diesel generation costs.²
11. However, in its final determinations, the Court of Appeal did not establish that \$439,000 was the net DCF payment to include in diesel generation costs to be recovered in the wholesale rate. The Court of Appeal has left it with the YUB to determine the exact amount (if any) of the net DCF payment made by YEC attributable to AEY's above-forecast wholesale purchases of electricity that should be recovered as part of diesel generation costs.³
12. UCG submits the Court of Appeal has identified a flaw in the process to identify costs that should be recovered in the wholesale rate charged to AEY and ultimately recovered from Yukon ratepayers. UCG further concludes that this has become obvious considering the need to go over and over the DCF/ERA.
13. Pursuant to s. 7 of the OIC 1995/90, the YUB must, when setting rates, enable YEC to "recover its costs" of generating the electricity it sells to AEY if those costs are not recovered from its other customers. As was determined by the Court of Appeal, YEC did not actually incur an additional \$439,000 in diesel generation costs.
14. OIC 1995/90 states that normal rate setting principles must apply in that the YUB must "*review and approve rates in accordance with principles established in Canada for utilities, including those principles established by regulatory authorities of the Government of Canada or of a province regulating hydro and non-hydro electric utilities*"⁴. Generally accepted rate setting principles for any regulated utility imply that cost-based rates are established based on a comprehensive, fully allocated cost of service study. With respect to the proposed wholesale rate, YEC has not provided the required comprehensive cost of service study for the Yukon rate zone that is required for the rates and charges being proposed in this application.

¹ YEC Application, page (i)

² Court of Appeal Decision, paragraphs 66-67

³ Court of Appeal Decision, paragraph 71

⁴ OIC 1995/90, section 3.

15. As YEC's own subject experts have testified in previous proceedings, one of the fundamental, normal principles of the regulation of rates is that customers in a given period should only pay the costs that are necessary to provide them services in that period.⁵
16. In its Reasons for Decision for Board Order 2007-5 regarding the power purchase agreement between YEC and Minto Exploration, the YUB said that it agreed with intervenor concerns regarding the lack of a complete cost of service study and stated that rates cannot be developed in isolation. The YUB stated that the practice in the Yukon is to follow cost causation for cost of service purposes as a fundamental building block to proper rate design.
17. UCG submits that not only is the YEC models untested nor verified, but without a comprehensive review of an updated fully allocated cost of service study, it can't be determined whether the costs being recovered in wholesale charges are fair and reasonable and whether the rates are indeed cost-based.
18. UCG submits that without a comprehensive review of a cost of service study for the Yukon rate zone, the YUB cannot determine that the proposed wholesale rate actually ensures that the needs and requirements of all Yukon electricity customers are being met at the least cost.
19. Lastly, for the YUB to approve the recovery of an additional \$439,000 from end-users for operations that occurred 6 years ago without conducting a comprehensive review of cost allocation, rate design and revenue-to-cost ratios flies in the face of the principles of electricity rate design that the YUB and other Canadian jurisdictions have established over many years.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 16th DAY OF MARCH, 2018

⁵ 2005 Revenue Requirement Application, Transcript pages 646-647