



February 6, 2014

Mr. Bruce McLennan, Chair
Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Dear Mr. McLennan:

Re: Yukon Energy Application for an Energy Project Certificate and Energy Operation Certificate regarding the Proposed Whitehorse Diesel – Natural Gas Conversion Project – Utilities Consumers Group Notice of Motion

On January 30, 2014, the Utilities Consumers' Group ("UCG") filed a Notice of Motion with the Yukon Utilities Board ("YUB" or "the Board"), requesting that the Board change the proceeding to an entirely written process and delay the proceeding until YEC's Project has completed the YESAB review process.

The Board in correspondence dated January 31, 2014, invited YEC and interested parties to comment on the UCG motion by Thursday, February 6, 2014 at 4:00 p.m. UCG was provided the opportunity to reply to comments by Monday, February 10, 2014 at 4:00 p.m.

Summary of UCG Motion

The UCG motion addresses two separate issues regarding hearing format and timing and is summarized as follows:

1. **The oral hearing process be replaced with less costly written process** - UCG suggests that the evidentiary needs of the YUB can be satisfied by a less costly written process, and asserts that the Board should change the hearing process set out in Order 2014-1 to an entirely paper/written process. UCG asserts that "this has been the normal Board procedure for less intensive applications", "it is ultimately the ratepayer that pays for all regulatory costs" and "the present Board prescribed process would result in major costs for wages, travel, accommodation for all the professionals needed from a hearing process."
2. **The hearing process be deferred until after the YESAB process is completed** - UCG asserts that "the YESAB process is stalled as Yukon Energy has not submitted enough evidence to satisfy this Board," and suggests that the YUB "wait and see if this project

passes the environmental and safety tests”, before incurring the costs for a YUB regulatory process.

Yukon Energy's Response

The Terms of Reference provided with the Part 3 Application for the Project provide the following guidance with regard to the above noted process and schedule issues raised by UCG:

- **With regard to hearing process:** The Terms of Reference do not specifically indicate that an oral hearing process is required, but simply state that “the YUB shall hold a public hearing, as required, in a format to be determined by the YUB, and it shall receive submissions from any person or groups or classes of persons who, in the opinion of the YUB, have an interest in the matter”. In the letter to the YUB referring the Part 3 Application to the YUB, the Minister with reference to Section 50 of the *Public Utilities Act*, specifically authorized the Board to conduct any public hearings that it considers necessary for its review and approved any necessary expenditure for the Board’s review and reporting.
- **With regard to timing:** The Terms of Reference require the “YUB to submit its report and recommendations to the Minister of Justice no later than April 15, 2014”.

Hearing Format

While all prior Part 3 Applications referred to the Yukon Utilities Board (the Carmacks-Stewart Transmission Project (CSTP) and the Mayo Hydro Enhancement Project [Mayo B]) have proceeded by way of oral hearing, the Terms of Reference appear to provide the Board with latitude to determine its own process.

Yukon Energy agrees that a paper proceeding is likely, in each instance, to be less costly than an oral proceeding, and is in favour of simplified processes that reduce hearing costs; however, the Board must do what it thinks is best in the circumstances to meet its needs and mandate.

In this specific instance, Yukon Energy's view is that completion of the process to the satisfaction of the Board within the current schedule, or sooner, is of prime importance. Yukon Energy is very concerned that the current schedule be maintained in order that the YUB report and recommendations be provided to the Minister by no later than April 15, 2014.

Hearing Deferral

With regard to UCG’s motion to delay the hearing until after the YESAB process is complete, the Terms of Reference are very clear that the report and recommendations must be provided to the Minister by no later than April 15, 2014.

The mandate of the YUB in a Part 3 review established under the *Public Utilities Act* and the mandate of YESAB under the *Yukon Environmental and Socio-economic Assessment Act* are separate and distinct. There is no reason or requirement for the YUB to await the determination of

YESAB. This point is clearly demonstrated by the approach taken in prior Part 3 reviews (CSTP and Mayo B) which proceeded while the YESAB reviews were in process.¹

Yukon Energy would also like to clarify that the YESAB process is not “stalled”. The public comment period was completed January 10, 2014, and YESAB is currently considering public comments. Yukon Energy received a request for further information from YESAB January 21, 2014 and responded with additional information January 29, 2014.

If you have any questions regarding the above please contact the undersigned.

Yours Truly,



Ed Mollard
Chief Financial Officer

¹ Note for CSTP the Part 3 hearing occurred May 15-16, 2007 and the Report and Recommendations to the Minister were provided May 31, 2007, while the YESAB Draft Screening Report was provided September 1, 2007 and YESAB Final Screening Report provided November 2, 2007 (well after the Part 3 process had been completed). For Mayo B, the Draft Screening Report was provided March 12, 2010; the YUB Part 3 hearing occurred April 6- 8, 2010, the YESAB Final Screening Report was provided May 12, 2010, and the YUB Report and Recommendations to the Minister was provided May 17, 2010.