2003-2

AN ORDER IN THE MATTER OF the Public Utilities Act Revised Statutes, 1986, c. 143, as amended

And

A Yukon Energy Corporation Application to Reduce Rider J

BEFORE:	B. Morris, Chair	)
	W. Shanks, Vice-Chair	)
	G. Leslie	)
	R. Hancock	)
	M. Phillips	) January 29, 2003

ORDER 2003-02

WHEREAS:

A. On September, 23, 2002 Yukon Energy Corporation ("YEC") applied for a 3.81% reduction, effective January 1, 2003, in Rider J, approved by Board Order 1999-5 ("Application"); and

B. By Order 2002-4, the Board established a regulatory timetable to provide interested parties with the opportunity to comment on the Application; and

C. After receiving responses to their information requests, Yukon Electrical Company Limited ("YECL") and the Utilities Consumers' Group ("UCG") made submissions to the Board; and

D. The Board has reviewed the Application and supporting material.

NOW THEREFORE the Board orders that:

1. In accordance with the Reasons attached as Appendix A, the YEC Application for a 3.81% reduction, effective January 1, 2003, in Rider J is approved.

2. The Board will accept, subject to timely filing, amended Rate Schedules in accordance with the terms of this Order.

3. YEC is to provide all affected customers with notice of the Rider changes.

Dated at the City of Whitehorse, in the Yukon Territory, this 3rd day of February, 2003.

BY ORDER

Brian Morris

Brian Morris
Chair

Appendix A to Board Order 2003-02

YEC Application to Reduce Rider J

Background

The last General Rate Application ("GRA") regarding YEC and YECL was heard by the Yukon Utilities Board ("the Board") at a public hearing in 1996, utilizing forecasts of forward test years 1996 and 1997. The rates for both YEC and YECL resulting from that hearing were confirmed as final by Board Order 1996-7.

However, the forecasts used in the GRA assumed that the Anvil Range Mining Corporation ("Anvil") would continue to be a Rate Schedule 39 customer of YEC providing annual revenues for consumption at the Faro mine of almost $15 million to cover its share of the cost of utility service. The Faro mine shutdown in 1997 and, although Anvil temporarily returned as a customer, it again shutdown its mining and milling operations on January 31, 1998, leaving behind a 1997 cost of service shortfall of $1.6 million, bad debts of $3.2 million, and a 1998 shortfall in excess of $3 million. Recognizing that a new GRA was not required, on April 22, 1998, YEC filed a Revised Application, based on the revenues and costs that were adopted in the Settlement Package approved by the Intervenors and examined by the Board, adjusted only to recognize the losses to YEC associated with the closure of the Faro mine.

A public hearing was held on July 8, 1998. There were extensive information requests, cross-examination and argument on the issues. Exhibit 83, Schedule 6D, updated the Revised Application and detailed how the schedules approved in the 1996/97 GRA should be adjusted to recover the revenue shortfalls caused by the Faro mine shutdowns in 1997 and again in 1998. The YEC application included measures suggested by YEC to lower or mitigate the immediate rate impact. These measures included fuel cost savings, reduced equity returns, and the deferral and amortization over a 5-year period of certain one-time costs ("the cost of service shortfalls") also arising from the Faro mine closure.

Board Order 1998-5 approved the recovery of the revenue shortfalls as detailed in Exhibit 83, Schedule 6D, except for recovery of the $3,177,200 Anvil bad debt. To enable recovery of the shortfalls, the Board approved interim refundable riders, subject to further adjustment as directed by the Board in future proceedings.

With the approval of the Board, YEC filed a "Final Rates Application" to recover a further $1.6-million shortfall, with copies sent to all Intervenors. After review of written submissions by Intervenors, Board Order 1999-5 confirmed YEC's rates as final, increasing the 15.28% rider (Rider J) approved by Order 1998-5, to 18.74%, subject to YEC not filing for a further rate increase for the year ending December 31, 2000. Despite receiving lower than approved returns, both YEC and YECL have managed to maintain the rate freeze and, together with the adjustments made to reflect the Faro mine closure, today's rates are based on costs forecast in 1995 for 1996 and 1997.

Application and Submissions

The final year for amortization of the 1997 and 1998 cost of service shortfalls was 2002. Consequently, YEC requested Board approval to reduce Rider J by 3.81%, effective January 1, 2003, to recognize that the amortization expense of $983,000 and the earned return requirement of $267,000 on the unamortized balance will no longer be required after December 31, 2002.

The Board issued Order 2002-4 prescribing the regulatory process with respect to the Application. Requests for additional information were submitted on November 25 and 29, 2002 by UCG and YECL, respectively. YEC responded to these requests on December 11, 2002. UCG and YECL also filed formal submissions to the Board on December 30, 2002, to which YEC responded on January 10, 2003.

YECL stated that, in their view, "Rider J was a specific purpose 'add on' to YEC's rates that were otherwise approved in its last General Rate Application" and that "Rider J was only intended to recover the specific shortfalls identified and approved by the Board" (Page 2). YECL submitted that these shortfalls were specifically set out in Schedule 6D and totaled $8,775,200. By referencing information showing that total Rider J revenues of $27,315,000 were collected by YEC between 1998 and 2003 (Page 3), YECL further submitted that this specific purpose has long ago been fulfilled.

Based in part on the foregoing arguments, YECL proposed that the Board discontinue Rider J immediately and also make the last approved tariff rates interim refundable, effective January 1, 2003. It further submitted that if YEC wants to increase rates to cover its current costs, it should apply for such increases, not use an indefinite rider to increase general revenue requirement.

UCG argued that the Board must look at the complete financial picture to make an informed decision for the accurate reduction of this rider. It submitted that not holding a full public review, contending that regulation is too costly, is no longer legitimate nor in the best interest of the public. It urged the Board to at least set a "Board-made methodology for determining the reduction in Rider J".

YEC Reply

YEC replied that it developed its approach as a reasonable means to reflect the end of the 5-year amortization of the 1997 and 1998 cost of service shortfalls, consistent with the spirit and intent with which Rider J was approved by the Board.

Board Conclusions

As noted above, Board Order 1999-5 confirmed YEC's rates as final. While Rider J could arguably be labeled as specific purpose (that is, primarily intended to recover the losses of net margin revenues resulting from the Faro mine closure) it was not intended to be time limited nor intended to recover only the specific amount of $8,775,200, as suggested by YECL.

YECL argued that YEC should not use an indefinite rider, with no general review of its rates. However, it should be remembered that, as a consequence of the Anvil shutdown in 1997, YECL, together with YEC, requested a rate surcharge of 20%. The Companies requested that this surcharge continue thereafter until such time as the Faro mine resumes as a Rate Schedule 39 customer of YEC, or until the Board determines final rates for 1997 and a 1998/99 GRA, whichever is earlier. It should also be remembered that, after it was alleged that YECL would have certain cost savings resulting from the Faro mine closure, the Board performed a limited review of YECL's costs of service, instead of ordering it to file a costly GRA for 1998.

When the Faro mine closed in 1998, YEC experienced a net loss of recurring margin revenue that, in turn, was used to cover both recurring and one-time system cost of service items. In the absence of corresponding increases in energy sales or a unit rate increase from its remaining customers, YEC would experience ongoing shortfalls between non-mine revenues and system cost of service and consequently suffer a serious impairment in its ability to earn its allowed rate of return. Since such large increases in energy sales from the remaining (and any new) customers were unlikely in the medium term, the rate increase option was the only alternative available to the Board. Rather than revise (increase) the existing tariff rates, the Board chose to approve a rider.

Exhibit 83, Schedule 6D provides a reasonable indication of the ongoing shortfalls in YEC's annual revenue. Removing the alleged YECL savings from the 1999 Impacts column, shows that the ongoing revenue shortfall to YEC (in 000's) is $5,329.5. The total Rider J revenues of $27,315.0 referenced by YECL actually consist of annual revenues over the period ranging from $4,397.0 in 1998 to $5,075.0 in 2002. None of these amounts reach the $5,329.5 ongoing shortfall level. In reviewing the material, it is clear that discontinuation of Rider J would leave YEC without a recurring revenue source to recover the ongoing annual shortfalls and result in a serious inability to earn its allowed return. It is significant to note that even with the 18.74% Rider J in place, YEC has fallen short of reaching its voluntarily-reduced return on equity target of 9.138% during the period from 1999 to 2002 (forecast) (Response to UCG-YEC 2, Page 3&4).

It is not reasonable, at this time, to require YEC to discontinue Rider J and effectively force the corporation to file a general rate application to deal with the consequences of such an action. The YEC Application for a 3.81% reduction, effective January 1, 2003, in Rider J is approved.