

2003-3

And

A Yukon Energy Corporation Application to Amend Rider F

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

ORDER 2003-03

WHEREAS:

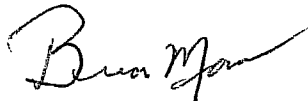
- A. On December 23, 2002, Yukon Energy Corporation ("YEC") informed the Board that it was close to completing its Mayo to Dawson City Transmission System project and applied to amend Rider F to include collection of fuel costs that would have been incurred for diesel generation at Dawson City had it continued to be served by diesel generation ("the Application"); and
- B. Rider F is required by Order-in-Council 1995/90 to permit YEC and The Yukon Electrical Company Limited ("YECL") to adjust their rates to reflect fluctuations in the prices paid for diesel fuel without the requirement for specific application to and approval of the Board; and
- C. 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 Application to amend Rider F is denied.

Dated at the City of Whitehorse, in the Yukon Territory, this 5th day of February 2003.

BY ORDER



Brian Morris
Chair

YEC APPLICATION TO AMEND RIDER F

Background

As explained in an August 29, 2000, letter to the Board, the directors of Yukon Development Corporation ("YDC") and Yukon Energy Corporation ("YEC"), with the approval of the Minister Responsible for YDC, decided to proceed with the construction of a transmission line to utilize surplus hydro power from its Mayo system to replace high cost diesel generation in Dawson City ("the Project"). YDC was to provide a non-repayable capital contribution and flexible debt financing to ensure that ratepayers were not adversely affected in any year of the Project. YEC stated that market and cost impact risks related to the Project were being borne by YDC.

The Board had previously reviewed proposals by YEC and The Yukon Electrical Company Limited ("YECL") in respect of major capital projects, pursuant to a directive of Order-in-Council 1992/92. In its 1992 Capital Plan Report to the Commissioner in Executive Council, the Board recommended that no further studies be performed on the Mayo-Dawson transmission projects, unless demand changed sufficiently to warrant a further review of the project.

In response to Utilities Consumers' Group ("UCG") complaints about the lack of regulatory review in 2000 and 2001, YEC reiterated that the flexible financing concept would protect ratepayers from short-term negative impacts on rates, and explained its position that there was no requirement under the *Public Utilities Act* for it to obtain approval from the Board before proceeding with the Project. In its May 29, 2001, letter to UCG, the Board agreed with YEC, and noted that the *Public Utilities Act* does not permit the holding of a public hearing without the approval of the government. In an August 24, 2001, response to a request from the Board, the Minister of Justice confirmed that a hearing on the Project was not required at that time.

Rider F

Rider F is a fuel adjustment rider in the tariffs originally filed by YEC and YECL and approved by the Board. The Rider, which is applicable to all classes of service, except Rate Schedule 32 and Rate Schedule 40, states as follows:

"RATE: Service will be rendered at the applicable rates with the following surcharge (refund) to cover changes in the unit cost of fuel.

An adjustment of 0.XXXX cents per kW/h surcharge will be applied to a kWh consumed.

NOTE: The change in this Rider will change in accordance with changes in the Companies' fuel costs calculated on a unit basis by reference to kW.h sales. Such changes to the change in this Rider shall be implemented coincident with changes in the Companies' costs of fuel or at such time as is practical."

Rider F is designed to adjust rates for actual diesel fuel price differences vs. the fuel price implicit in the rates. YEC and YECL periodically check to see if the existing rider will be sufficient to recover price shortfalls over a reasonable period given updated diesel consumption, price and sales forecasts. They then decide whether it is practical to make a change and inform the Board of a fuel price adjustment designed to recover the deficiency (or surplus) over the next year.

Application to Amend Rider F

On December 23, 2002, YEC provided a Project update and applied to amend Rider F by adding the following note:

"For purposes of Rider F, 'fuel costs' of Yukon Energy shall include such costs that would have been incurred for diesel fuel at Dawson City if the transmission system from Mayo had not been built."

The Application states that the amendment is "needed to ensure that the amount paid by ratepayers under Rider F is not affected by the changes to Yukon Energy's actual diesel requirements due to the Mayo-Dawson project." According to YEC, if the current Rider F rate is retained, the amount paid by ratepayers under Rider F would be reduced as a result of the changes to Yukon Energy's actual diesel requirements due to the Mayo-Dawson project.

YEC expects that, in 8 to 10 years, actual costs for supplying power to Dawson City with the new transmission system are expected to be less than the costs if Dawson City had continued to be supplied by diesel generation, at which time it would apply to re-adjust Rider F.

Board Summary and Conclusions

Rider F exists as a consequence of Order-in-Council 1995/90, issued in 1995 as a rate directive to the Board, which states in Section 8:

"The Board must permit Yukon Energy Corporation and The Yukon Electrical Company Limited to adjust their rates to retail customers, major industrial customers and isolated industrial customers so as to reflect fluctuations in the prices for which the two utilities pay for diesel fuel, without the requirement for specific application to and approval of the Board."

The directive does not remove the Board's power or jurisdiction to regulate rates under the *Public Utilities Act*, but the interpretation and application of the directive is also a matter within the jurisdiction of the Board. YEC asserts that there is still no requirement for the Board to approve the decision to construct the project or to assess the prudence of any expenditure because this Application does not seek to recover the cost of the Project through rates. The amendment to Rider F does, however, seem to be required to help finance the Project and, if approved, would prevent rates from being lowered through the current mechanism.

The Board's interpretation of Section 8 of Order-in-Council 1995/90 is that it was intended that the Rider allow the Companies to adjust their rates to reflect fluctuations in prices paid for diesel fuel, not to help finance the cost of a new transmission line.

The project was approved by the Minister Responsible for Yukon Development Corporation. If the government wanted the Board to require ratepayers to help finance the line, it could have done so at any time, either by amending the Order-in-Council, or by issuing a special directive to the Board under Section 17 of the Act. Alternatively, YEC could file a General Rate Application, with a request that the project be added to rate base and the costs recovered from ratepayers.

The Application to amend Rider F is denied.