

2005-8

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

and

**An Application by Yukon Energy Corporation
for Approval of 2005 Revenue Requirements**

BEFORE: B. Morris, Chair) April 11, 2005
 W. Shanks)
 R. Hancock)
 M. Phillips)

YUKON UTILITIES BOARD		
EXHIBIT A-28		
DAY	ENTERED BY <i>R. Kemke</i>	DATE <i>April 12/05</i>

BOARD ORDER 2005-8

WHEREAS:

- A. On December 13, 2004, Yukon Energy Corporation ("YEC", "the Company") filed with the Yukon Utilities Board ("the Board"), pursuant to the *Public Utilities Act* ("the Act"), and *Order-In-Council 1995/90*, an Application requesting an Order granting new rates for Secondary (interruptible) Energy and the Faro Mine site, on an interim refundable basis, effective with consumption January 1, 2005 ("the Application"); and
- B. The Application proposes the creation of a new Income Stabilization Trust and does not request any increase in firm rates charged to residential and commercial customers in 2005; and
- C. The Application proposes for Secondary (interruptible) Energy, a new quarterly rate-setting mechanism to maintain the retail rate at 70 percent of the customers' avoided cost of fuel oil. This will result in a retail rate of 5.5 cents per kW.h. as of January 1, 2005; and
- D. The Application also proposes for the Faro mine site, to change the current rate schedule to the normal General Service - Government rate; and
- E. By Order 2004-1, the Board approved an interim refundable increase in rates to Secondary (interruptible) Energy customers and to the Faro mine site as requested in the Application. Board Order 2004-1 further scheduled a Workshop into the Application for

January 13, 2005, and a Pre-hearing Conference for January 14, 2005; and

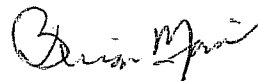
- F. By Order 2005-2, the Board scheduled an oral public hearing into the YEC Application for April 18, 2005, in Whitehorse, Yukon and issued a regulatory timetable and a final issues list; and
- G. On March 22, 2005, the Utilities Consumers' Group ("UCG") filed a Notice of Motion ("the Motion") which requested that the Board issue an order requiring YEC to provide further details to the unanswered UCG information requests within a specified timeline; and
- H. The Motion also requested that the Board set a time frame, before the next rate hearing, to review (through consultation with all stakeholders interested) the entire YUB Rules of Practice, including procedural matters and the Negotiated Settlement Process; and
- I. On April 1, 2005, Mr. McMahon and YEC separately submitted comments on the UCG Motion; and
- J. The Board has reviewed the Motion and the related submissions.

NOW THEREFORE the Board orders with Reasons for Decision attached as Appendix A that:

- 1. The UCG request for an Order requiring YEC to provide further details to the unanswered UCG information requests within a specified timeline is dismissed. UCG can pursue certain of the unanswered questions as identified in the Reasons for Decision at the hearing.
- 2. The UCG request for a general review of the YUB Rules of Practice, procedure and Negotiated Settlement Process is beyond the scope of this proceeding and is dismissed.

DATED at the City of Whitehorse, in the Yukon Territory, this 12 day of April 2005.

BY ORDER



Brian Morris
Chair

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

and

**An Application by Yukon Energy Corporation
for Approval of 2005 Revenue Requirements**

Reasons for Decision

1.0 Background

On December 13, 2004, Yukon Energy Corporation ("YEC", "the Company") filed with the Yukon Utilities Board ("the Board"), pursuant to the *Public Utilities Act* ("the Act"), and *Order-In-Council 1995/90*, an Application requesting an Order granting new rates for Secondary (interruptible) Energy and the Faro Mine site, on an interim refundable basis, effective with consumption January 1, 2005 ("the Application").

By Order 2004-1, the Board approved for YEC the requested interim refundable rate increases and set the current firm rates charged to residential and commercial customers as interim effective January 1, 2005. Order 2004-1 also scheduled a Workshop and a Pre-hearing Conference into the Application for January 13, 2005, and January 14, 2005, respectively.

2.0 Notice of Motion, Submissions and Board Determinations

On March 22, 2005 the Utilities Consumers' Group ("UCG") filed a Notice of Motion ("the Motion") which requests that the Board issue an order requiring YEC to provide further details to the unanswered UCG information requests within a specified timeline. The Motion also requests that the Board set a time frame, before the next rate hearing, to review (through consultation with all stakeholders interested) the entire YUB Rules of Practice, including procedural matters and the Negotiated Settlement Process.

In support of the Motion, the UCG included the following points:

- The Board has denied a second round of interrogatories into the Application but Board Order 2005-5 allows interveners to request further information by application to the Board;
- UCG needs further information from YEC to make informed arguments at the hearing process;
- The Board needs further information to make decisions for the public good;
- The additional reasons for further disclosure to 20 unanswered information requests set out in the attachment to the Motion;

- UCG is not the only intervenor making complaints to the Board regarding lack of disclosure from YEC. Mr. McMahon, Yukon Electrical Company Limited and Mr. McRobb have filed similar grievances;
- Through uncertainty, intervenors are continuously anxious and frustrated with Board procedure, as this occurs with every hearing;
- The Board must address procedural issues, rules of practice and the Negotiated Settlement Mechanism. Most intervenors, with the exception of corporate ones, do not have the financial resources to hire lawyers and consultants.

On April 1, 2005 Mr. McMahon and YEC separately submitted comments on the Motion. No reply submission was received from UCG.

A. Requests for Additional Information

The following table summarizes the 20 UCG requests for additional information, the comments of Mr. McMahon and YEC, and the Board's determination:

UCG Requests for Additional Disclosure	Mr. McMahon's Comment	YEC's Comment	Board Determination
1) UCG-YEC-1-1 File Draft YEC 2004 financials	YEC should file its 2004 financials prior to the hearing to allow for proper examination of all parties	YEC intends to file shortly the information required under the Act	On April 8, 2005 YEC filed Exhibit B1-23 which contains the draft 2004 YEC Financial Statements. No further action by YEC is required
2) UCG-YEC-1-3 Cost awards to YEC and YECL in proceedings	Supports request	No such orders issued. All orders since 1996-7 filed as Appendix YUB-YEC-1-56	The Board accepts the YEC response No further action by YEC is required
3) UCG-YEC-1-5 Disclosure of Panel member and witness	YEC should be directed to provide this information	YEC will identify the panel members after intervenor evidence and responses are reviewed	On April 8, 2005 YEC filed Exhibit B1-22 in response to UCG-YEC-1-5 which provides the curricula vitae of the panel members. No further action by YEC is required
4) UCG-YEC-1-6 File a minimum two-year General Rate Application	GRA-type data is needed	Request was fully answered	This information relates to the 2005 test year and the proposed 2005 to 2007 drawdown of the Income Stabilization Trust ("IST"). UCG may pursue this question at the hearing

UCG Requests for Additional Disclosure	Mr. McMahon's Comment	YEC's Comment	Board Determination
5) UCG-YEC-1-8 (ii) Future measures to curtail costs	Supports request	Costs for 2006 and beyond are not relevant to this proceeding	Similar to 4) UCG-YEC-1-6, the 2005 revenue requirements, the alternatives of a single year or multi-year revenue shortfall, general rate increase or rider, and proposed IST drawdowns are issues for the hearing UCG may pursue this question at the hearing
6) UCG-YEC-1-13 (iii) Increased Return on Equity. Financial crisis	Response is non-specific, additional information needed	The question on return on equity has been fully answered and no basis to identify any financial crisis	The appropriate capital structure and return on equity are issues established by Board Order 2005-2. UCG may pursue this question at the hearing
7) UCG-YEC-1-14 (ii) and (iii) Determination of Wholesale Rates	Better explanation needed	The questions about wholesale rates have been fully answered. No change is proposed by YEC. Wholesale rates are set by the Board.	Similar to 5) UCG-YEC-1-8, YEC's 2005 revenue deficiency, the IST proposal, and alternate methods of recovering the revenue deficiency are issues in the hearing. UCG may pursue these questions at the hearing
8) UCG-YEC-1-15 (i) Interest paid on Faro dewatering fund and YDC financing	Supports request	The question was fully answered. Motion asks a new question about interest on account offset to rate base. An offset account provides a benefit by avoiding debt and equity financing	The regulatory treatment of deferral accounts is an issue for the hearing. UCG may pursue this question at the hearing
9) UCG-YEC-1-18 (i) Changes in revenues and expenses since 1997	Supports request	YEC provided copies of 1997, 1998, 1999 filings to the Board. YEC has limited ability to access and compile information pre-2000	The limitations of detail on pre-2000 financial information was raised by YEC at the Pre-hearing Conference (Transcript page 29) and accordingly the response is accepted. No further action by YEC is required

UCG Requests for Additional Disclosure	Mr. McMahon's Comment	YEC's Comment	Board Determination
10) UCG-YEC-1-21 Changes in rate base to 1997	Supports request	There are no significant changes but over 1000 small projects	The level of detail requested is excessive. The explanation provided and the information in UCG-YEC-1-18 (i) is sufficient as a response to this question. No further action by YEC is required
11) UCG-YEC-1-22 Specific Plan for capital projects for future two years	Supports request	YEC has provided 5 year capital plan in YUB-YEC-1-43	The response in YUB-YEC-1-43 and the Condition Assessments of YEC Generation Assets, Substation Assets and Transmission lines in Appendix YUB-YEC-A52-1,-2,-3 are issues at the hearing for the provision of safe, adequate and proper service under Section 26 of the Act. UCG may pursue this question at the hearing
12) UCG-YEC-1-24 How wholesale rates are set	Supports request	Similar to UCG-YEC-1-14 (ii) and (iii)	This issue was previously addressed in 7) UCG-YEC-1-14 (ii) and (iii). UCG may pursue this question at the hearing
13) UCG-YEC-1-25 Capital expenditures from 1997 to 2004, 2005 and 2006	Supports request and cost/benefit analysis needed	Similar to UCG-YEC-1-21 and UCG-YEC-1-22	This issue of capital expenditures from 1997 to 2004 was previously addressed in 10) UCG-YEC-1-21. No further action by YEC is required. This issue of capital expenditures for 2005 and 2006 was previously addressed in 11) UCG-YEC-1-22. UCG may pursue this question at the hearing
14) UCG-YEC-1-27 (iii) YEC lawsuit against Federal government	Supports request for a fuller explanation	Question was answered, YEC is pursuing its claims	The Board accepts the YEC response. No further action by YEC is required
15) UCG-YEC-1-30 Refund	Unclear what additional information is needed	Subject to Board Order, YEC would refund to customers who paid the interim rates	The Board accepts the YEC response. No further action by YEC is required

UCG Requests for Additional Disclosure	Mr. McMahon's Comment	YEC's Comment	Board Determination
16) UCG-YEC-1-30 Full recovery of ROE	Unclear what additional information is needed	YEC does not understand the reference to full recovery of ROE	The request is unclear. UCG may clarify this question at the hearing
17) UCG-YEC-1-32 (iii) Productivity factor	Comments about productivity factors	Question was answered. Productivity factors would be part of a performance-based regulation	Not an issue in this proceeding. No further action by YEC is required
18) UCG-YEC-1-33 (ii) Rate stability for 2006	Supports identification of YEC's strategic planning process	Diesel fuel usage in 2006 is not relevant to this proceeding	The request is unclear. UCG may clarify this question at the hearing
19) UCG-YEC-1-36 (ii) and (iii) Projected 2006 and wholesale rates	Supports request on how rates are designed	YEC identifies information responses and its IST proposal	These issues were previously addressed in 5) UCG-YEC-1-8 (ii) and 7) UCG-YEC-1-14 (ii) and (iii). UCG may pursue these questions at the hearing
20) UCG-YEC-1-46 Management changes	Comment on lack of disclosure	Question answered to the best YEC's ability	The Board accepts the YEC response. No further action by YEC is required

B. Board's Rules of Practice, Procedure and the Negotiated Settlement Process

Mr. McMahon supported the UCG Motion for a review of the Board's Rules of Practice. YEC submitted that a general review of the YUB Rules is outside the scope of this proceeding.

A general review of the YUB Rules, procedure and Negotiated Settlement Process is beyond the scope of this proceeding. If any party chooses to file an application for a review of the YUB Rules, the Board's procedures, or the Negotiated Settlement Process, it should do so outside of this proceeding. Any such application can identify the concerns that the party may have about the current Rules, procedures and Negotiated Settlement Process.