

**IN THE MATTER OF  
the *Public Utilities Act***

**and**

**an Application by Yukon Energy Corporation for  
an Energy Project Certificate and an  
Energy Operation Certificate  
regarding the Proposed Whitehorse Diesel  
to Liquefied Natural Gas Conversion Project**

**BEFORE:**                    B. McLennan, Chair     )            February 14, 2014  
                                  R. Laking, Vice-Chair   )             
                                  A. Fortin                )             
                                  R. Boisvert             )           

**BOARD ORDER 2014-03**

**WHEREAS:**

- A. On December 30, 2013, the Yukon Utilities Board (Board) received a letter and terms of reference from the Yukon Minister of Justice (Minister) directing the Board to carry out a review and prepare a report with recommendations in accordance with the terms of reference respecting Yukon Energy Corporation's (YEC) Whitehorse Diesel to Natural Gas Conversion Project which was designated in OIC 2013/200 as a regulated energy project under Part 3 of the *Public Utilities Act*.
- B. The Minister's terms of reference state that the Board shall hold a public hearing as required in relation to the application submitted to the Minister by YEC on December 9, 2013, under Part 3 of the *Public Utilities Act* for an energy project certificate and an energy operation certificate regarding the project (Application).
- C. The Whitehorse Diesel to Natural Gas Conversion Project is described in the terms of reference as a project to modernize the existing YEC Whitehorse thermal generating station to meet growing requirements for reliable and flexible thermal generation on the Yukon grid, including the replacement of two diesel generating units (9.1 MW total capacity) scheduled for retirement by 2015 with up to three new modular natural gas-fired generating units (13.1 MW total capacity) supplied by liquefied natural gas (LNG), and the installation of LNG truck offloading, storage, vapourization, and related infrastructure. YEC wishes to begin construction of the project during the 2014 construction season.

- D. On January 14, 2014, the Board issued Board Order 2014-01 giving notice of the Application, setting out the process schedule for the Application and giving notice that, subject to the Minister's approval, a public hearing into the Application would be held in Whitehorse, Yukon commencing on March 31, 2014, in accordance with terms set out in the order.
- E. Board Order 2014-01, also requested that parties intending to participate in this proceeding were to register in writing with the Board by January 31, 2014. In their submissions, interested parties were to indicate the nature of their interest and the issues of interest in relation to the Application.
- F. The Board received requests for intervener status from the Yukon Electrical Company Limited (YECL), the Utilities Consumers' Group (UCG), The City of Whitehorse (CW), Donald Roberts, and from John Maissan (Leading Edge Projects Inc.) and the Yukon Conservation Society, a joint intervention request (YCS-LE). All requests for intervener status were granted.
- G. On January 30, 2014, in addition to requesting intervener status, the UCG submitted a motion requesting that a written process be used for this proceeding and that the Board delay the proceeding until after the recommendation of the Yukon Environmental and Socio-economic Assessment Board (YEASAB) is rendered.
- H. By way of memorandum dated January 31, 2014, the Board invited interested parties to comment on the UCG motion. Comments were due on February 6, 2014 and reply comments were due on February 20, 2014.
- I. Comments were received from YEC, CW, and YCS-LE by February 6, 2014, and reply comments were received from UCG on February 9, 2014.
- J. The Board has considered the UCG motion, the responses from YEC, CW, and YCS-LE, and the reply submission from UCG, in making its ruling on the motion.

**NOW THEREFORE** the Board orders as follows:

For the reasons set out in Appendix A, the Board dismisses the UCG motion. As a result, the Application will be processed according to the schedule provided in Board Order 2014-01.

**Dated** at the City of Whitehorse, Yukon, the 14<sup>th</sup> day of February 2014.

BY ORDER



Bruce McLennan  
Chair

## **Appendix A to Board Order 2014-03**

### **Reasons for Decision**

The Board has summarized the UCG motion, intervener comments on the motion, and UCG's reply comments before providing its ruling on the motion.

#### **UCG Motion**

In its letter, dated January 30, 2014, UCG requested that the oral hearing process for the YEC LNG Project proceeding be replaced with a less costly written process. In support of its motion, UCG pointed out that there is Board precedent for using a written process with respect to reviewing less intensive applications as opposed to larger general rate applications. UCG also pointed out that the YESAB process was stalled, and submitted that a wait-and-see approach should be adopted before moving forward with the Board regulatory process.

#### **Response of interveners**

CW indicated its support regarding the UCG proposal for a written hearing and submitted that the proceeding could be dealt with through a written process.

YCS-LE submitted that the proposed LNG project was important not only because of the economic implications that it had for ratepayers but because the project represented an important decision for the future of renewable energy versus expanded fossil use in Yukon. YCS-LE added that cross-examination of witnesses was the most appropriate way to get complete answers. Moreover, YCS-LE recommended that the Board direct YEC to include technical experts in its witness panel. Notwithstanding, if the Board were to approve a written process to review the Application, YCS-LE submitted that the process should allow for three rounds of Information Requests (IRs). Respecting UCG's suggestion that the Board regulatory process be delayed, YCS-LE requested that the Board proceeding be delayed until the YESAB assessment was completed.

YEC submitted that the Minister of Justice's terms of reference appear to provide the Board with latitude to determine the process with which to process the Application. Agreeing that a paper proceeding was less costly than an oral proceeding, YEC stated that it favoured simplified processes that reduced hearing costs. However, YEC expressed its concern that the current schedule be maintained in order that the Board's report and recommendations be provided to the Minister by April 15, 2014. YEC added that there was no requirement for the Board to defer its process until the YESAB determinations have been made as the mandate of the Board and the mandate of YESAB are separate and distinct.

## **UCG reply**

Drawing attention to what it perceived as commonalities between the YESAB and Board process reviews, the UCG submitted that it disagreed with YEC's submission that there was no need for the Board to defer processing the Application until the YESAB determinations had been made. UCG made mention that the YESAB review had requested YEC to provide details as to how non-fossil fuel generation alternatives were considered and why they were deemed inadequate for the purpose of the project. Moreover, detailed engineering design was needed not only for the YESAB process but also to give the Board some degree of confidence regarding the project cost estimates and benefits.

UCG also disagreed with the YCS-LE position that the most appropriate way to get complete answers was via cross-examination. UCG submitted that witness responses at oral hearings are brief and lacking in the detail that could be provided if witness is given time to properly consider written questions. In support of its position, UCG pointed out that, from its perspective, recent regulatory hearings have seen the number of undertakings increase substantially because the requested information is not readily available to the witnesses.

## **Decision**

The Board notes that the Minister's letter dated December 20, 2013, provided terms of reference that directed the Board to provide a report and recommendations to the Minister by April 15, 2014. The Board further observes that the purpose of the review and hearing is to obtain the Board's report and recommendations on the potential benefits, costs, risks and customer impacts that influence whether the Whitehorse Diesel to Natural Gas Conversion Project should proceed as proposed and with any terms and conditions that the Board recommends for the project.

Considering the short timeframe given to the Board to hold a hearing prior to preparing a report and making recommendations, and the number of parties in this proceeding, the Board considers that an oral hearing is the most efficient way to test the Application. The Board considers that the current process schedule allows for written IRs that are intended to reduce hearing time because interveners will have an opportunity to ask questions and receive responses prior to the oral hearing. The Board finds that the requested multiple rounds of IRs and potential motions for better responses as well as written argument and reply would lengthen the proceeding well past the dates set out in the process schedule. On January 14, 2014 the Board sent a letter to the Minister requesting the report deadline be extended to May 30, 2014. However, even with the requested extension, a written proceeding would not meet the extension deadline. Accordingly, the Board dismisses the part of the UCG motion requesting a written process.

Regarding the request for the Board to instruct the YEC on the composition of its witness panel, the Board finds that witnesses presented in the support of an Application are properly at the discretion of the applicant. It is the responsibility and risk of the applicant to determine how best to support and explain the application.

On the question of delaying the review of the Application until after the YESAB process has been completed, the Board will not await the outcome of that process for the following reasons. In relation to the Application, the Board has a mandate under Part 3 of the *Public Utilities Act* and must act in accordance with the terms of reference set out by the Minister. The Board notes that the terms of reference in question state that the project is undergoing a screening by the Executive Committee of YESAB and that the YESAB process will lead to a recommendation to the Yukon government and a response by the Yukon government and other decision bodies in the form of a decision document. The terms of reference further state that any government authorization issued in support of the project will have to conform to the decision document of the Yukon government. Based on the terms of reference, the Board considers that the Board's review process of the Application and the proposal before YEASAB may be conducted simultaneously and in accordance with the mandates of each of the respective boards. Accordingly, the Board dismisses this part of the UCG motion and YCS-LE request to delay the Board's process.

The Board will proceed with this matter as scheduled.