

February 26, 2026

Ms. Lesley McCullough, Chair
Yukon Utilities Board
Box 31728, Whitehorse, YT Y1A 6L3

Dear Ms. McCullough:

Re: Reconsideration of YUB's Decision on Yukon Energy 2023/24 GRA Diesel Rental Costs

Yukon Energy requests an extension of the March 6, 2026 deadline to file additional evidence under the process schedule established by Yukon Utilities Board Order 2026-05 for the reconsideration process directed by the Yukon Court of Appeal in its January 19, 2026 Order in *Yee v. Yukon Energy Corporation and Yukon Utilities Board*, Court of Appeal File No. 24-YU922.

Yukon Energy notes that the Court's decision (2026 YKCA 1) specified (at para. 32) that the Board "is not obliged to reflexively reject charges for expenses tainted with regulatory non-compliance, no matter circumstances", and that the law requires a "nuanced analysis".

Accordingly, when the Board reconsiders its 2023/24 GRA decision in Board Order 2024-05 in light of the Court's legal conclusions, and considers what if any "rate modifications and consequential relief" may be appropriate in the Board's exercise of its public interest mandate (as directed by the Court at para. 55 of its decision), the Board must undertake a "nuanced analysis".

That nuanced analysis will of course need to consider the review of applicable legal principles undertaken by the Court pursuant to the limited scope of its statutory jurisdiction on the appeal, which was confined to addressing questions of law.¹ However, the Board will also need to make its own evaluation of how those principles should be applied in this instance having regard to all relevant factual circumstances. Amongst other things, this will need to include the Board's review and analysis of relevant evidence that was not previously before it at the hearing of the 2023/24 GRA and that therefore did not form part of the record before the Court of Appeal.

The Board's ultimate decision about what if any "rate modifications and consequential relief" should be directed as a result of the Court's decision therefore remains a matter within the Board's broad

¹ As the Court of Appeal held previously in *Utilities Consumers' Group v. Yukon Utilities Board*, 2001 YKCA 5 at para. 22, *aff'd* 2002 YKCA 8: "The restriction of appeals to questions of law means that the Court cannot substitute its discretion for that of the Board. The Court cannot substitute its views as to the merits, or its opinion as to what would be in the public interest, for those of the Board."

discretion.² The Board's exercise of its rate-setting discretion is a highly fact-driven exercise; the Board must still "weigh the evidence and exercise its judgment".³

Contrary to UCG's assertion in its February 23, 2026 Notice of Motion that the reconsideration process directed by the Board is "unnecessary", the Court's January 19, 2026 Order requires the Board to complete a reconsideration process, in which the Board must ensure that not only Yukon Energy but all intervenors will have a fair and adequate opportunity to provide additional relevant evidence for the Board's consideration.

To ensure that Yukon Energy will have sufficient time to prepare and provide additional relevant evidence to assist the Board in its reconsideration of Board Order 2024-05, Yukon Energy respectfully requests that the deadline for it to file additional evidence be extended to **March 16, 2026**.

Yours truly,



Jason Epp,
Vice President, Finance and CFO

² *Yukon Energy Corporation v. Yukon Utilities Board*, 2017 YKCA 15 at para. 18.

³ *Altagas Utilities Inc. v. Alberta Utilities Commission*, 2020 ABCA 375 at paras. 21-22.