

YUKON UTILITIES BOARD

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

and

IN THE MATTER OF an application by Yukon Energy Corporation for approval of a proposed power purchase agreement with Minto Explorations Ltd. with regard to the Minto Mine and Stage One of the Carmacks-Stewart / Minto Spur Transmission Project

FINAL ARGUMENT OF

UTILITIES CONSUMERS' GROUP

April 4, 2007

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INTRODUCTION

The Utilities Consumers' Group

1. The Utilities Consumers' Group ("UCG") is a not-for-profit organization registered as a society in the Yukon since 1993. The UCG represents residential and small business ratepayers in regulatory procedures, conducts research, makes submissions, communicates with active stakeholders, including government, and helps consumers concerning any type of problem with utility service providers.
2. The UCG agrees conceptually that the Carmacks to Minto Mine transmission line project (the "Project") should be considered a priority energy infrastructure project. However, the UCG advocates taking a precautionary approach to the approval of this Project, as many outstanding issues remain undisclosed or unanswered by Yukon Energy to give UCG the level of comfort needed to fully support this proposal, including
 - a) the proper amount of the Minto Mine Capital Contributions,
 - b) the setting of a Firm Rate for industrial energy to the Mine,
 - c) the setting of a secondary rate for low grade ore and necessary metering of this energy usage,
 - d) the YEC purchase of the diesel generators from the Mine,
 - e) peak shaving time provisions created for the benefit of Minto,
 - f) decommissioning costs with respect to Minto, and
 - g) the proposed Mine Net Revenue Account.

These issues were either not brought forward at the Resource Plan hearing or were brought forward without sufficient time to properly research and develop a position. These issues beg the need for the opportunity to cross-examine a YEC witness panel within a hearing process and opportunity for interested parties to develop evidence for or against these proposals. The UCG argues that representatives of the Minto Mine should be available for questioning given that the viability of the proposed transmission line is entirely dependant on the feasibility of a third-party venture, and where the utility is intending to finance the third-party venture.

3. The UCG recognizes that the recent direction from the Yukon Government requires a Part 3 review of the Project, and notes that the direction includes a review of the purchase power agreement (the "PPA") as part of that proceeding. Accordingly the UCG expects that the positions it takes and the findings of the Board in this proceeding are necessarily interim, with the probability that information coming out of the Part 3 review may substantially alter submissions and findings with respect to the PPA and related applications.

UCG's POSITION ON THE PURCHASE POWER AGREEMENT

4. This submission summarizes positions of the UCG for the Yukon Utilities Board's (the "Board") consideration. It should not be assumed that the UCG is in agreement with the Yukon Energy Corporation's ("YEC") position on any issue for which the UCG has not provided specific comment on in this argument. Where the UCG has not specifically addressed an issue, it is believed that the Board has the benefit of arguments of other intervenors and the record in this proceeding to make informed decisions.

5. The UCG submits that this proceeding is circumscribed by the following statement from its recommendations to the Minister with respect to YEC's 20 Year Resource Plan:

In the absence of an approved PPA, the Board cannot make a firm recommendation on the Carmacks-Stewart line. However, based on the information before it, the Board is of the view that YEC's proposed first stage of the Carmacks-Stewart line should proceed as applied for by YEC. This view is based on the fact that the Minto Mine is under construction, the mine owners have secured financing to complete the mine, key terms of a PPA have been agreed to by YEC and the mine owners, and **YEC has asserted that ratepayers would not be adversely affected by the expenditures required to implement this project. The latter was an instrumental premise applied by the Board in the economic comparison, presented in Section 5.2, and used by the Board to favour YEC's plan over the alternative plan.**

The Board notes that the Minister's August 29, 2006, letter suggests that the Government of Yukon may direct the Board to hold a project-specific hearing on the Carmacks-Stewart line. If the government chooses to direct such a hearing, the Board recommends this be done as soon as possible, given YEC's timing constraints for this project. **If such a hearing takes place, its outcome may impact the Board's views on whether this project should proceed. Likewise, the outcome of YEC's forthcoming application to the Board regarding the PPA may also affect the Board's recommendation here to proceed with the Carmacks-Stewart line.**¹ (Emphasis added)

6. In accordance with the above it is critical to an analysis of the PPA to examine how effectively its terms support YEC's assertion that the ratepayers will not be adversely affected by the expenditures required to implement the Project. In order to do so it is equally critical to examine the detail, scope, variability, applicable risk factors and contingencies that may affect the Project's expenditures, an examination that the UCG respectfully submits will be the subject of the Part 3 review contemplated in the above passage and recently confirmed by the Government of Yukon².
7. The public review of YEC's proposed power purchase agreement with Minto Explorations Ltd. ("Minto") has raised many important issues for current and longer term consideration. Of particular concern is the lack of a cost of service analysis which ensures that the rates proposed in the proposed power purchase agreement (firm mine rate, low grade ore processing secondary energy rate) are based on a comprehensive cost of service study and recover all costs associated with the proposed services. The UCG submits that the YUB should consider making very specific decisions in this regard as part of this proceeding.
8. Ultimately, the purpose of the Board's review is to ensure that the proposed power purchase agreement and related rate proposals would be a reasonable course of action to protect ratepayers from the adverse impacts that have traditionally been associated with large energy infrastructure undertakings in the Yukon.

¹ YUB January 15, 2007 Recommendations re: YEC 20-year Resource Plan, page 32.

² Letters from Minister dated March 20, 2007 and April 2, 2007.

9. In this proceeding, the problem with assessing the risks associated with the proposed power purchase agreement is that there has not been a comprehensive review of the underlying transmission line project itself. Given the Yukon government's direction to the Board to undertake a comprehensive review of the Carmacks-Stewart transmission line project³ and the Board's recommendation to the Yukon government to have YEC and the Yukon Electrical Company to submit a full General Rate Application before October 31, 2007⁴, the UCG submits that it is premature for the Board to make any definitive decisions with respect to the proposed power purchase agreement and associated rate proposals.
10. The UCG is concerned with the YEC submission that "YEC will participate in any other regulatory review as required, subject to continuing confidence that such review and other activities allow the Stage One Project to be in service on a timely basis as required for its feasibility⁵". This statement suggests that YEC is committed to subjecting the Project to the regulatory process before the Board only if the Board is able to meet the deadlines imposed by the PPA by YEC and Minto.
11. The proposed Carmacks-Stewart transmission line project is of a scale and nature that surpasses the recent Mayo-Dawson Transmission Line project, and accordingly attracts all of the concerns raised in the fallout of the related Auditor General's report⁶.
12. While YEC has asserted that Yukon ratepayers would not be adversely affected by the expenditures required to implement the Carmacks-Stewart transmission line project, the UCG submits that the lack of any guarantees⁷ indicates that there remains a very real possibility that Yukoners (as electricity ratepayers and taxpayers) will end up paying more of the costs of the proposed project than YEC is indicating. This possibility is highlighted by YEC's acknowledgement that it cannot entirely protect ratepayers from the risk of a Minto Mine failure, coupled with the fact that the feasibility of the project, even with full Mine participation, is based on the Midpoint estimate of the Project costs, which costs have yet to be fully reviewed. The UCG submits that these costs, and therefore the exposure to risk against which the PPA is to be evaluated, is precisely what the Part 3 review will examine and which accordingly is critical to the analysis of the PPA.
13. The UCG submits that ratepayers are not adequately protected from risk when, under the Direct Agreement, YEC has a position subordinate to other, major debt holders.⁸ With respect to the security provisions intended to provide YEC with recovery of amounts owing under the PPA.
14. A primary concern with respect to the proposed transmission line project is that it is entirely reliant on the addition of mine loads for a number of years in order to make the project cost effective. Without such loads, YEC admits, the project would not be pursued.⁹

³ March 20, 2007 and April 2, 2007 Letters to YUB from Minister of Justice

⁴ YUB January 15, 2007 Recommendations re: YEC 20-year Resource Plan, page 50

⁵ YEC Response to Information Request UCG-YEC-1-22

⁶ May 2005 Auditor General Report - Mayo-Dawson Transmission

⁷ YEC Response to Information Request UCG-YEC-1-8

⁸ YEC Response to Information Request YUB-YEC-2-1

⁹ The UCG acknowledges that the YTG has now committed \$10 million to the project. The UCG respectfully submits that to the extent this injection of capital reduces risk to ratepayers, that risk is shifted onto taxpayers.

15. The UCG submits that premature approval of any particular aspect of the Carmacks-Stewart transmission projects (i.e., the proposed power purchase agreement) would inadvertently justify proceeding with other working stages of the project prior to fully reviewing the rate impacts of the actual construction project.
16. It is the UCG's opinion that not all of the costs of the proposed transmission line project have been identified and properly included in costs being recovered from Minto. As an example, it is not clear how the new positions created at YEC¹⁰ to address the increase in activity with regards to major capital projects (e.g., Carmacks-Stewart transmission line) have been incorporated into the proposed rates to be charged to Minto. Again, the UCG submits that the Part 3 review will analyze all the costs related to the Project.
17. That all the costs be properly quantified is important given what appears to be a small margin of error with respect to the presumption of an overall benefit to ratepayers resulting from the Project. YEC confirmed informally that the submission on page C-3 of the application that the estimated value of the Mine Net Revenue Account in 2016 would be \$12.1 million is an error and that the real number is as in the table on page C-4 which shows a balance of \$10.68 million. This may appear to be a small point but it reduces the margin for error in terms of YEC demonstrating that there will be a net gain for ratepayers. At a midpoint assumption of costs, YEC's evidence suggests a net-gain of \$1.339 million on the assumption that the Minto mine operates until at least 2016.
18. The UCG submits that there are several risks that have not been extensively considered or quantified in the assessment of the proposed transmission line project, including: (1) the operation, maintenance, and possibly major repair costs associated with the new transmission line (a negative impact); and (2) the ultimate rate impact the new mines and lines may have on a reallocation of costs as between the major industrial customer rate class and other rate classes (an impact that YEC suggests is probably positive on non-industrial rates but no definitive analysis on longer term impacts should the mines close prematurely).
19. As is noted in the Application¹¹, the proposed power purchase agreement will not be effective until it has been approved by the YUB, and such approval will be needed on, or before, April 30, 2007 in order to complete the Transmission Project prior to September 30, 2008. The UCG is concerned that there is undue pressure on the Board into accepting the proposed power purchase agreement as submitted, without changes, in an unduly compressed time frame.
20. Given that the YESAB environmental screening and related government approvals will not be completed until August, it seems fair to request that the Board's review process not be subjected to unreasonable timelines. The UCG submits that there is no reason why the Board's process should be compromised by performing a less than comprehensive review of the Project. In particular the UCG is concerned that a comprehensive oral hearing of a nature described in the Minister's direction of April 2, 2007 with respect to a Part 3 review that includes a review of the PPA cannot be completed by May 31, 2007.

¹⁰ YEC 2007 Business Plan, page 9

¹¹ Application, page 1

21. The UCG submits that even the most basic information is not yet available for the Board and other parties to review. YEC admits that the reports on the due diligence review of the Minto Mine by Davis & Company and Behre Dolbear documenting their findings and conclusions are not expected to be completed until late March, and have not been provided as of the date of this submission¹². The UCG submits that without due diligence findings, it is impossible to complete a full review of the proposed power purchase agreement.
22. The UCG is very concerned about YEC's position that all cost overruns will be placed into rate base used to establish rates and returns to YEC¹³. Given the previous debates and Auditor General determinations on the most recent large scale project for YEC (the Mayo-Dawson transmission line), the UCG submits that YEC's cost estimates should be carefully reviewed and then finalized prior to construction and any rate base additions would be capped at this level.
23. The UCG submits that YEC should be directed to provide the annual forecasts of Minto's grid electricity requirements and YEC's forecasts of secondary energy availability. Despite YEC's position that no such reporting will take place¹⁴, the UCG submits that since the forecasts will already exist, they would provide some advance public notice of when electricity requirements are approaching reviewable levels.
24. Given the reduction in the lag between service and payment for a significant load on the YEC system¹⁵, the UCG submits that YEC's working capital requirement needs to be reviewed and reduced.
25. The UCG's overall position is one of caution. The UCG is not convinced that parties know enough about the downside for ratepayers / taxpayers of proceeding with the proposed project. It's too early to commit another \$445,000 in 2007 to Phase 2 of the Project¹⁶ given the uncertainty of the conditions that would be attached to an approval to initiate Phase 1 of the Project.
26. Given the recent experience with the Mayo-Dawson transmission line (for which total cost still hasn't been finalized) and what ratepayers continue to go through after Anvil Range closed the Faro operations, the UCG believes that there needs to be a more thorough review of the proposed Project and related financial conditions before UCG (as representative of residential and small business ratepayers) can sign on as a supporter of the project as it is laid out. The pending Part 3 review will provide an opportunity to not only ensure that the proposed power purchase agreement is properly understood and conditions added, but also allow for a more comprehensive review of proposed costs and alternatives and for conditions to be set to protect ratepayers and taxpayers from getting stuck with higher than expected costs.
27. The UCG believes that once the Board has had an opportunity to review the details of the proposed Carmacks-Stewart transmission line project, and presuming at that time that the project continues, the Board should direct that the project proceed on the condition that there be an

¹² YEC Response to Information Request YUB-YEC-1-29

¹³ YEC Response to Information Request UCG-YEC-1-1

¹⁴ YEC Response to Information Request UCG-YEC-2-33

¹⁵ YEC Response to Information Request UCG-YEC-2-38

¹⁶ YEC 2007 Business Plan, page 14

ongoing consultative/audit process wherein a consultant or auditor reporting to the Board and interested stakeholders be provided full access to the project process. The auditor/consultant would be able to provide input/advice into the project as it progresses, with the intent that the added input and element of ongoing transparency would allow the Board to be confident that the various recommendations and various tools developed in response to the Mayo-Dawson Audit Report were being implemented. UCG notes that the Yukon Government has the full discretion to require such a process as a condition of the required energy project certificate; this becomes even more important given the recent commitment by the Yukon Government of \$10 million to the Project.

FIRM MINE RATE

28. The Board has been asked to approve a Firm Mine Rate for initial delivery of Mine Firm Electricity by YEC to Minto and conditions within the proposed power purchase agreement related to any adjustment of the Firm Mine Rate after 2008.
29. YEC states in its application that the proposed firm mine rate “is in full compliance with Order-in-Council 1995/90 and that the rate is sufficient to recover forecast 2008 costs of service to the Major Industrial Customer class”.¹⁷
30. The Rate Policy Directive (OIC 1995/90) states that the Board “must ensure that the rates charged to major industrial power customers, whether pursuant to contracts or otherwise, are sufficient to recover the costs of service to that customer class; those costs must be determined by treating the whole Yukon as a single rate zone and the rates charged by both utilities must be the same”.¹⁸
31. OIC 1995/90 also states that normal rate setting principles must apply in that the Board must “review and approve rates in accordance with principles established in Canada for utilities, including those principles established by regulatory authorities of the Government of Canada or of a province regulating hydro and non-hydro electric utilities”.¹⁹
32. The UCG submits that YEC has failed to comply with both of these provisions of OIC 1995/90. The intent of the single rate zone provision is to ensure that when rates are being designed, the entire revenue requirement associated with the supply of electricity in all of the Yukon is taken into account and equitably allocated to various rate classes. Normal rate setting principles for any regulated utility imply that cost-based rates are established based on a comprehensive cost of service study. In this current proceeding, YEC has not provided the required comprehensive cost of service study for the Yukon rate zone.
33. The UCG submits that the current application for a firm mine rate counters YEC’s own arguments regarding rate setting principles. There has been no evidence submitted on the integrated costs of YEC and YECL to allow for a determination that the proposed firm mine rate truly recovers the fully-loaded cost of the service provided.

¹⁷ Application, page 7.

¹⁸ OIC 1995/90, section 6(1).

¹⁹ OIC 1995/90, section 3.

34. In response to an information request during the review of the 20-year Resource Plan²⁰, YEC states:

For this reason, the firm industrial rate in Yukon remains interim and refundable (since Board Order 1998-5) and is expected to be finalized and confirmed for new industrial customers only after a full COS study is performed for the Yukon as a whole, and that a new rate based on this COS study is reviewed and approved by the Board.

35. In the 2005 Revenue Requirement proceeding, YEC's witness testified about the need to strive for least overall cost:

MR. OSLER: A: One of the principles that both utilities should be striving to achieve is to serve their customers at the least overall cost, and in the context of Yukon under the Order in Council that we both work under, the rates will reflect the integrated costs of both utilities. So whether you're a YEC customer or a YECL customer, in the end you are affected by the success that each utility has in serving their needs and requirements at the least cost.²¹

36. The UCG submits that, in accordance with the above, even YEC admits that the Board could not determine that the proposed firm mine rate actually ensures that the needs and requirements of all Yukon electricity customers (including proposed industrial customers) are being met at the least cost without a comprehensive cost of service study for the Yukon rate zone. Given the decade since the last comprehensive cost of service study was completed²², it is unknown whether any of the electricity rates currently charged in the Yukon equitably recover the cost of service from the various classes of customers.

37. The UCG submits that YEC's position that it "does not anticipate scenarios with the PPA where rates to ratepayers will decrease in the near term from current levels"²³ ignores the fact that the utilities will be expected to submit a General Rate Application by October 31, 2007 which could result in a rate reduction for one or more classes of customer.

38. YEC has testified previously that customers in a given period should pay the costs that are necessary to provide them services in that period.

MR. McMAHON: Q: Thank you. In the Energy Commission report there was a certain amount of discussion on regulatory principles that Mr. Osler had addressed the previous day, and the Commission indicated that an underlying principle of regulation is that customers in a given period should only pay the costs that are necessary to provide them services in that period. Does the panel agree with that principle?

MR. OSLER: A: Certainly in terms of fundamental, normal principles of regulation of rates. One of the major considerations is what they call intergenerational equity. It's got nothing to do with generation of electricity, it's to do with generations of people, and you should be trying to make sure that the costs borne by each set of -- each people in each time period, certainly in terms of -- the word "generation" implies maybe more than the just the test year -- are

²⁰ YEC response to Information Request UCG-YEC-2-2, 20-Year Resource Plan Review

²¹ 2005 Revenue Requirement Application, Transcript Pages 102-103

²² Response to Information Request UCG-YEC-2-15

²³ YEC Response to Information Request YUB-YEC-1-3

reflecting the costs that exist to serve them. Just as you try and balance costs over space or between classes, you are trying to balance them between people living in different time periods. So they reflect the costs that are there. That's a fundamental principle, one of many you have to think about and balance in order to come up with rates."²⁴

39. The UCG submits that there is no evidence on record in this proceeding that the rates proposed to be charged to Minto in 2008 reflect the actual, fully loaded costs of serving the industrial class of customer in 2008.
40. The UCG submits that YEC has submitted conflicting messages regarding the rate setting aspects of this proposal. On one hand, the YEC President has assured everyone that from YEC's perspective, rates are the purview of Board and that YEC would not agree to negotiated rates on its own²⁵. Now YEC has come forward with a proposal that indicates that these are the negotiated rates and if the Board doesn't approve the rates as submitted, then the whole PPA may be terminated²⁶.
41. The UCG submits that YEC's position that the proposed Mine Rate not be an interim rate²⁷ is contrary to the Board's direction that a comprehensive cost of service study and other related evidence be submitted as part of a General Rate Application by YEC and YECL this fall. UCG submits that any rates approved at this stage for implementation in 2008 or later must be deemed interim.
42. The UCG submits that despite YEC's omission that YECL has now been removed from the proposed industrial service rate schedule²⁸, current and potential customers of YECL should be provided with equal access to a service designed to be provided with a single Yukon rate zone.
43. The UCG submits that YEC did not conduct adequate public consultation on the proposed firm mine rate and so did not adequately maintain public accountability, transparency and understanding of the impact of the proposed power purchase agreement. YEC admits that it has not conducted any public consultation on the proposed firm mine rate and that the only consultations undertaken by YEC involved the circulation of the Term Sheet and subsequent written submissions by participants in the formal Board review process²⁹. YEC has not provided sufficient opportunity for electricity ratepayers to understand the implications of the proposed firm mine rate.
44. The UCG submits that well governed utilities solicit stakeholder input during development stages of new rate design proposals. Methods for collecting that input include stakeholder collaboratives, information meetings and workshops. These methods were not used prior to or after the circulation of the Term Sheet so stakeholders were left with submitting comments based on their own interpretation of what was included in the Term Sheet. UCG submits that this was not an effective process.

²⁴ 2005 Revenue Requirement Application, Transcript pages 646-647

²⁵ Transcript, Volume 1, pages 83-84, 20-year Resource Plan Review

²⁶ Response to Information Request UCG-YEC-3-12

²⁷ Response to Information Request UCG-YEC-1-17

²⁸ YEC Response to Information Request UCG-YEC-2-40

²⁹ YEC Response to Information Request UCG-YEC-2-27

LOW GRADE ORE PROCESSING SECONDARY ENERGY RATE

45. The Board has been asked to approve a Low Grade Ore Processing Secondary Energy Rate for secondary mine processing energy electricity proposed to be delivered by YEC to Minto.
46. The UCG submits that firm rate customers should not subsidize nor be subsidized by secondary energy sales. Despite YEC's claim that a cost of service study is not required to determine a secondary energy rate³⁰, the UCG submits that a cost-based rate should be used for secondary energy so that customers can determine what is viable. Secondary energy customers should not be treated in any different manner than firm sales customers.
47. YEC states that "providing secondary power to the Mine was not brought forward in the Yukon Energy 20-Year Resource Plan proceeding because it had not been discussed in negotiation with Minto at that time³¹". The oral hearing on the 20-Year Resource Plan was completed with the filing of YEC's reply argument on December 1, 2006. The secondary energy rate offering to Minto was identified in the Term Sheet dated December 21, 2006 which YEC indicated on the first day of the oral hearing that it was negotiating³². The UCG submits that 3 weeks to develop an entirely new secondary rate proposal in the context of negotiations for the PPA and still properly account for the new proposal in the context of the existing rate structure is unrealistic.
48. The UCG submits that any forecast revenues from secondary energy sales must be included as part of a comprehensive cost of service study as an offset to YEC's revenue requirement recovered through firm rates. Given the Board's recommendation to require YEC and YECL to submit a General Rate Application later this year, the UCG submits that any final decisions regarding the proposed secondary energy rate be delayed until the more comprehensive review can be undertaken.

MINE NET REVENUE ACCOUNT

49. The Board has been asked to approve the provisions respecting a proposed Mine Net Revenue Account as set out in Section 3.6 of the proposed power purchase agreement.
50. The UCG submits that the design and intent of this proposed deferral account are very close to the Income Stabilization Trust (IST) account proposed in YEC's 2005 revenue requirement application for the purpose of managing cost changes over time and to hold rates stable.
51. At that time, YEC argued that the IST proposal provided a fair means to ensure that ratepayers see a direct benefit from funds that are accumulating in the accounts of YEC on behalf of ratepayers, specifically the DCF and the Faro mine de-watering deferred revenues. YEC submitted that it was fair and appropriate at that time to ensure that ratepayers see the benefits of these funds immediately, rather than let them accumulate further, with the possibility of incurring a rate increase at the same time as the accounts are continuing to grow.

³⁰ YEC Response to Information Request UCG-YEC-1-26

³¹ YEC Response to Information Request UCG-YEC-1-5

³² Transcript, Volume 1, page 83, 20-year Resource Plan Review

52. The Board denied YEC's request for an IST deferral account on the basis that it was not necessary³³. The UCG submits that the same decision should be made on the proposed Mine Net Revenue Account.
53. The UCG submits that given the limited life of mining operations in the Yukon in recent history, it would be better to offset mine-related costs in the early years of operation when the commodity prices are most likely to be high.
54. The UCG disagrees with YEC's suggestion that there is any benefit to retaining the initial net income from Minto's operations in the proposed Mine Net Revenue Account instead of flowing that income directly into rate reductions during the initial years of Mine operation.³⁴
55. The UCG submits that it does not make sense to approve this deferral account "to ensure that incremental annual Mine Net Revenue (or net costs) does not affect YEC earnings or the determination of the revenue requirements affecting other ratepayers in Yukon"³⁵.

CAPITAL COST CONTRIBUTION

56. The Board has been asked to approve the provisions respecting the Capital Cost Contribution as set out in Part 5 of the proposed power purchase agreement.
57. The UCG submits that YEC's refusal to consider a change to the proposed capital cost contribution no matter what the actual cost³⁶ indicates that the negotiations with Minto were not ratepayer-based. The UCG submits that any customer contribution toward facilities should be flexible and reconcile to the actual costs incurred. The costs to date of the Mayo-Dawson line have so far totaled \$35.6 million for approximately 223 km, giving an approximate capital cost of \$160,000 per km. YEC has somehow determined in the deal with Minto that the cost would be \$85,000 per km. to place a smaller voltage line direct to Minto³⁷. Although UCG recognizes the variation of line voltage and associated costs, it is very hard to reconcile the almost half the cost figure that the M/D line cost per km, yet YEC has used this figure to justify the \$7.2 million Capital Cost Contribution from Minto. UCG has not received sufficient evidence and remain skeptical that this portion of the PPA has given the Minto Mine the advantage over other ratepayers.
58. All capital projects that are required to allow for future revenues should not be included in rate base until those future revenues are realized. In particular, costs related to feasibility (e.g., technical studies) should be omitted from rate base. YEC should be directed to identify all of these costs before the rate base is finalized.
59. YEC indicates that the Carmacks-Stewart Transmission Project will only proceed if Yukon government infrastructure funding is provided to ensure no adverse impact on ratepayers. The UCG suggests that YEC believes that this project cannot be justified from a need / cost

³³ Board Order 2005-12

³⁴ YEC Response to Information Request YUB-YEC-1-14

³⁵ YEC Response to Information Request YUB-YEC-1-15

³⁶ YEC Response to Information Request YUB-1-9

³⁷ YEC Response to Information Request PWP-YEC-1-9 line a) a.

perspective if they are already assuming that YTG funds will be needed to offset adverse ratepayer impact.³⁸

60. Paragraph 5.7 of the PPA asserts that all other Industrial Customers seeking to connect to the Project line in the future will be required to pay a capital cost contribution equivalent to the cost to connect that customer to the YEC grid had no Project been built. The UCG sees this paragraph as an acknowledgment that the Project is primarily for the purpose of connecting Industrial Customers.
61. While the UCG agrees in theory that the Project is primarily meant to accommodate connection of industrial customers, and that accordingly the costs of the Project should be apportioned primarily amongst those customers, it is unclear how the PPA provision requiring other Industrial Customers to pay capital contributions towards the Project will be enforced.

TAKE-OR-PAY and YEC SECURITY

62. The Board has been asked to approve the provisions respecting Minimum Take-or-Pay Amount and the YEC Security as set out in Part 6 of the proposed power purchase agreement.
63. In response to UCG-YEC 2-9 b) confirms that the YEC Security as it applies to the Minimum Take-or-Pay Amount is extinguished if the Board changes the Firm Mine Rate in a way that “materially” reduces the savings of Minto for connecting to the system through the Project.
64. The UCG respectfully submits that there is no justification for extinguishing the Take or Pay Amount Security in the event the Firm Mine rate changes to the detriment of Minto. One would assume that the commitment is based on Minto’s projected required electricity needs, as well as the financing of Minto by YEC as part of the PPA. That the savings may be less than projected do not mitigate the need for security related to the Take or Pay Amount by YEC in order to make the Project feasible.

YEC PURCHASE OF DIESEL-FUELLED GENERATING UNITS

65. The Board has been asked to approve the provisions respecting the YEC purchase of the four diesel-fuelled generating units as set out under Part 10 of the proposed power purchase agreement.
66. The UCG submits that if YEC assumes ownership of these generating units, they should be made available for use anywhere in the Yukon rather than restricted to the WAF grid³⁹. The UCG submits that these units should be available for use to service off-grid industrial customers or in other communities throughout the Yukon as required.

³⁸ The UCG recognizes that \$10 million has now been committed to the Project by the YTG, which the UCG submits shifts the risk from ratepayers to taxpayers.

³⁹ YEC Response to Information Request UCG-YEC-1-25

67. Given the Yukon Governments recent commitment of \$10 million to the Project, and \$5 million to the Aishihik Third Turbine proposal⁴⁰ based on concern over diesel emissions, the UCG questions whether YEC should be purchasing these units in any event.

DECOMMISSIONING COSTS

68. The Board has been asked to approve the provisions respecting Decommissioning Costs as set out in Part 11 of the proposed power purchase agreement.
69. The UCG has no specific comments related to the Decommissioning costs, except to say that it supports the assertion that Minto is responsible for all those costs, but that the same concerns related to the security provisions as they relate to the recovery of decommissioning costs from Minto continue to be of concern to UCG. Should Minto close early, for example, there may not be any money left to fund the decommissioning costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 4TH DAY OF APRIL, 2007

⁴⁰ March 30, 2007 news release (#07-044) from the Yukon government