YUKON ELECTRICAL COMPANY LTD
2008-09 GENERAL RATE APPLICATION

SUBMISSION OF YUKON ENERGY
ON INTERIM REFUNDABLE RATE APPLICATION

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1.0 INTRODUCTION

Yukon Electrical Company Limited ("YECL") has filed a 2008/09 General Rate Application ("GRA" or "Application") with the Yukon Utilities Board (the "YUB", or the "Board") which includes a request for two interim refundable rate riders effective July 1, 2008[1] to be applied to all YECL and Yukon Energy customers, excluding Secondary Energy Rate 32 and Industrial Primary Rate 39, to collect YECL's applied for 2008 calendar year "controllable costs"[2] revenue requirement shortfall of $2,219,933 on an interim refundable basis[3]:

- **Interim Refundable Rate Rider, Rider R** – a rate of 5.924% of base rates on a go-forward basis, it is projected that this rider will collect $1,096,489 of YECL's proposed 2008 revenue shortfall during the months of July to December inclusive in 2008;
- **Temporary Refund/Surcharge Rider, Rider G** – a rate of 2.987% applied to existing primary base rates over 12-months (i.e., to June 30, 2009), it is projected that this rider will collect the remaining $1,123,444 of YECL's proposed 2008 revenue shortfall over the 12 month period. This surcharge rider is intended to collect added 2008 revenues that would have been collected if Rider R had been in effect from January 1 to June 30 of 2008, i.e., it arises from the material delay in YECL's filing of its Application to collect added revenues for 2008.

In support of imposing these material interim rate increases, YECL's Application only states that these interim refundable rates are requested "to minimize the rate impact to customers" and that "This proposal is similar to the approach previously approved by the Board for YEC's Rider J." [4] No other material justification is given in YECL's Application, nor was any further justification provided by YECL at the pre-hearing conference held June 12, 2008.

Yukon Energy ("YEC") submits to the Board, for the reasons set out in this submission, that YECL's Application for these interim rates should be denied. The evidence before the Board is wholly inadequate to justify interim rates, and there is no reasonable basis to establish interim rates without a full hearing on the merits.

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[1] See page 1-6 of application and page 11-1.
[2] YECL's "controllable costs" are its revenue requirement less fuel price costs and rate costs for purchased power. YECL's proposed revenue requirement shortfall for 2008 of $2.22 million assumes (a) continued reliance on the current Rider F to collect fuel price cost variances from 1997 GRA forecast fuel prices (i.e., no cost impact from higher fuel prices), (b) no change in YECL's costs for purchase power rates charged by Yukon Energy.
[3] See page 11-1 and Schedule 11-1.
[4] See page 1-6 line 10.

The following are addressed below:

- Board's jurisdiction and relevant tests for interim rates
- YECL's Application assessed under relevant tests
- Conclusion

2.0 BOARD'S JURISDICTION AND RELEVANT TESTS FOR INTERIM RATES

The Board's jurisdiction to allow interim rate relief is set out in the Act. In summary, the Board has determined that interim refundable rate relief (or partial relief) can only be granted when conditions of urgency exist that would have material impacts on the financial integrity of the utility or on ratepayers due to rate shock. [5]

As correctly noted by Mr. Keough (on behalf of YECL) at the prehearing conference on June 12, 2008, "the onus is on the applicant to make its case[6]," and the applicant takes the risk, and bears the consequences, when it fails to provide the information necessary to support its case. Therefore, the onus is on YECL to demonstrate that it has met the test of urgency as articulated by the Board.

Guidance with regard to assessing whether interim rates are warranted and if so, how the quantum of interim rate relief is determined, is provided not only through the relevant provisions of the Public Utilities Act, but also by reviewing previous Board Orders and other relevant decisions from other jurisdictions.

2.1 PUBLIC UTILITIES ACT AND ESTABLISHED PRACTICE

Section 63 of the Public Utilities Act ("PUA") sets out the Board's jurisdiction with regard to providing interim rates:

> The Board may, in any matter before it,
> (a) make any interim orders on appropriate terms that it may consider necessary to facilitate its inquiry or to prevent serious harm occurring before its decision; and
> (b) reserve further direction either for an adjournment hearing or for further application.

[5] Yukon Energy's Rider J, which in effect was originally approved by the Board in response to the urgent conditions resulting from closure of the Faro mine, reflects one classic example of a rider that was initially approved on an interim basis[5] and has subsequently been made permanent (with adjustments from time to time as sought by YEC) pending the Board being able to address concurrently a GRA for YECL as well as YEC.
[6] See YECL General Rate Application Prehearing Conference (June 12, 2008) transcript page 18-19.

Past Board Orders demonstrate that the Board's review of a party's request for interim rates is more rigorous when there are more material impacts on rates, or when the issues to be determined on an interim basis are integral to matters to be determined at a subsequent proceeding before the Board.[7]

Previous Board Orders have noted that granting of such interim relief must be fair to both consumers and Companies[8]. Further, the Board has determined that "interim refundable rates are generally granted in special circumstances where there will be a delay in hearing the utility's application for final rates[9] and [where] failure to grant interim rate relief could result in rate shock and affect the utility's financial integrity"[10].

2.2 EUB DECISION 2005-009

YEC submits that additional guidance can also be found in a decision of the Alberta EUB. In EUB Decision 2005-009, the EUB established the criteria which must be employed to evaluate whether an interim rate increase is justified, summarized as Quantum and Need Factors and General Public Interest Factors.

The EUB determined that quantum and need factors relate to the specifics of the requested rate increase and should take into account the following:

- The identified revenue deficiency should be probable and material.
- Is the increase required to preserve the financial integrity of the applicant or to avoid financial hardship to the applicant?

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[7] Interim rates were denied after a written process in 1996 where the Board held that the requested rate changes were "of sufficient magnitude" and would "have such a varied effect on different classes of customers that they should not be approved without a complete review of the evidence." In 1991 and 1993 YEC and YECL jointly sought interim rates in advance of a GRA proceeding; in both cases the interim rate application was subject to an oral proceeding where the Companies jointly presented their case for interim rates, were subject to cross examination by the Board and by other intervenors with all parties given an opportunity to provide argument on the issue. By contrast interim rates were approved using a written process in 2005; however, in this instance, the interim refundable rates were sought in advance of a general review of rates (not specifically a GRA) and related only to the secondary energy rate and a change to the rate applicable to the Faro mine. In the cover letter to its 2005 application YEC noted that neither of the rate adjustments sought at that time were linked to YEC's cost of service or overall revenue requirement for 2005, and that each adjustment could be considered on its own merits without reference to the rest of the application materials before the Board as part of the review process.

[8] In past Orders fairness has included the following considerations: that rate increases should avoid rate shock, and that the financial integrity of the utility should be maintained and that major changes in rate structure should not be introduced through interim rates. Note in Order 1996-1 the Board rejected an interim rate increase due to the fact that there were material rate issues present in the application; this was also noted by the Board in Order 1993-2 at page 9, "typically rate design changes are not approved by regulators on an interim basis."

[9] For example in 1991, YEC and YECL filed a joint application expecting that the hearing would occur in the summer, when the hearing was delayed until the fall the utilities sought interim rates.

[10] See Board Order 1991-1 at pages 3-4; further in Order 1993-2 at page 8 it is noted that the Companies stated that the objective of the applied for interim rate increase was to "keep the rate of increase as low possible and to attempt to match revenues with costs to the greatest extent possible". See also Order 1993-2 at page 13.

- Can the applicant continue safe utility operations without the interim adjustment?
- Contentious items may be excluded from the amount collected.

After consideration of the quantum and need factors, and assuming a need is determined for all or a portion of the suggested increase, the EUB then determined that it must assess certain general public interest factors to determine if the interim rate increase is justified, including the following:

- Interim rates should promote rate stability and ease rate shock.
- Interim rates should maintain intergenerational equity.
- Interim rate increases may be required to provide appropriate price signals to customers.
- The use of carrying costs may be considered to avoid interim rate increases.
- It may be appropriate to apply the interim rider on an across-the-board basis.

The EUB test also provides that even should an interim rate increase be justified, in setting the quantum for such interim rates the costs for contentious items may still be excluded from the costs collected through interim rates.

3.0 YECL'S APPLICATION ASSESSED UNDER RELEVANT TESTS

As noted above, when the Application is considered on its merits, the material presented to the Board by YECL fails to provide any clear case for urgency or to demonstrate with any rigour the consequences of delay, i.e., serious harm to customers through rate shock or to the financial integrity of the utility.

Contrary to YECL's assertion, its Application for interim rates in this context bears no similarity to the approach previously approved by the Board for YEC's Rider J, i.e., Rider J today is not interim, and when it was interim a clear case for urgency (including serious harm to customers through rate shock or to the financial integrity of the utility) was demonstrated by YEC to the satisfaction of the Board.

In this instance, where the onus is on YECL to provide a sufficient and coherent case for interim rates, the evidence before the Board is wholly inadequate. YECL has simply not demonstrated the urgency of the situation nor has it provided any real justification for interim relief. There is simply no reasonable basis upon which interim relief should be granted without a full hearing on the merits (especially given some of the substantive issues of the evidence outlined below).

Given the lack of evidence or rationale in YECL's Application as regards its proposed interim rates, and the material near-term impacts on ratepayers if the proposed rates were to be approved even on an interim refundable basis prior to the Board conducting its full GRA review, two relevant general tests beyond the basic "urgency" test dealing with a major "surprise" event (which YECL's Application clearly fails) are used below to assess YECL's Application for interim rates:

- Quantum and Need Factors
- General Public Interest Factors

3.1 QUANTUM AND NEED FACTORS - PROBABILITY AND MATERIALITY OF DEFICIENCY AND IMPACT ON UTILITY OPERATIONS

3.1.1 Overview

In considering whether the asserted revenue deficiency is probable or material, and required to maintain the financial integrity of the utility or to ensure its continued safe operation, the following key facts underlying YECL's operations and the current application are noted:

- YECL last sought a rate increase in 1996/97 and has not required any adjustment to its rates in the interim.
- Despite the fact that YECL's rates have remained steady for a decade, the applicant earned returns on equity of 10.37% in 2007 and 10.67% in 2006 (the only previous years provided in Schedule 8.1), i.e., returns in excess of the 9.25% return on equity applied for in the Application.
- YECL's earlier internal forecasts prior to 2008 apparently did not raise concerns for the utility or provide the utility with the necessary impetus to bring an application for 2008 in 2007, as requested by the YUB, to enable orderly implementation of rate changes as needed to recover approved revenue shortfalls for 2008 without the need to resort to interim refundable rates even as of January 1^{st}, let alone as of mid year 2008.
- As outlined in more detail below, there are several items in the Application that are clearly contentious and should not be the basis for interim rates until the Board has had an opportunity to scrutinize the items in detail.

These key facts raise material doubts regarding the basis for YECL's projected revenue deficiency and the consequent need for the rate increases suggested in the Application, and therefore seriously call into question any need in this instance for interim rates to safeguard the viability of the utility or to protect YECL's customers from rateshock.

3.1.2 The Probability and Materiality of Deficiency is Questionable

There are several factors which would suggest that there is no urgent need for interim rates simply because YECL has not adequately demonstrated that the forecast "revenue deficiency is probable and material". In several cases, the Application also raises contentious items that need to be scrutinized and examined in a full hearing.

ROE in 2007 higher than ROE awarded to other similar utilities

While it was suggested at the pre-hearing conference that the rate increase is "likely justified" given the fact that YECL has not applied for a rate increase in ten years, it is noted that YECL is in fact a low risk utility that has managed to perform well over the intervening period, recently (in 2007) earning a return on rate base of somewhere between 10.76%[11] and 10.36%[12]. By comparison, in Letter No. L-75-06, the BCUC provided an allowable ROE of 8.37% for a low-risk benchmark utility for 2007. Even adding 0.52% (per YEC's 2005 hearing) to this number to account for the fact that YECL has not been before the Board for a rate review in ten years, YECL still maintains a higher ROE than similarly situated low risk utilities.

Significant cost savings arising from Carmacks Stewart Transmission Project

Further, with fuel savings arising from the completion of the Carmacks-Stewart Transmission Project ("CSTP") projected at $500,000/year, it is difficult to understand how a low risk utility, that had recently earned more in 2007 than similar utilities were granted, requires rate increases over the 2008 and 2009 test periods sufficient to provide $4.13 million in additional revenues. As regards 2008, YECL's Application also fully shelters the utility against any risk that the CSTP will not be connected as forecast by October 1st.

2008 forecasts must be scrutinized before being accepted

As noted above, it is striking that YECL's earlier internal load and cost forecasts done in 2006 and 2007 apparently did not demonstrate the significant revenue shortfalls now suddenly suggested by the recently prepared 2008 forecasts. This point alone raises material concerns regarding the forecasts underlying the requested revenue requirement:

[11] The Yukon Electrical Company Limited Report to the Yukon Utilities Board 2007 Key Performance Indicators (March 31, 2008) at page 6.
[12] Application, Schedule 8.1.

- Given that YECL has been able to provide safe and reliable service to its customers without requiring an increase in rates for ten years – why is a rate increase suddenly required for the 2008-09 period?
- Given the earlier internal 2006 and 2007 forecasts apparently did not identify the requirement for this major two year rate increase – what material change in YECL's operations led to the divergent 2008 forecast and this late-in-the year Application?
- If the requirement for a rate change of any material amount in 2008 was known before the recent 2008 forecasts, why did YECL not file its Application earlier in time to avoid the need to even consider interim rates?

Significant increase in YECL controllable costs must be scrutinized before being accepted

While YECL's Application requests a 5.9% increase in 2008 and a 5.1% increase in 2009, when the revenue requirement is subject to further scrutiny it is noted that the utility is in essence requesting a 27% increase in the utility's controllable costs (revenue requirement less purchase power and fuel costs) from 2007 actuals to YECL's 2009 forecast. A material increase derived from cost items that are within the utility's control requires a high standard of review, and, since the onus is on the applicant to "make its case", the responsibility lies on the applicant to provide sufficient information to assist the Board and intervenors in examining such material cost increases to determine whether they can be justified.

Given the years of positive performance where YECL was able to fully secure adequate returns under existing rates, YECL needs to fully address and explain the basis for the sudden required revenue increase over existing rates and rider revenues in its controllable costs ($2.2 million in 2008 and $4.1 million in 2009[13]). Prior to the YECL Application (which forecast controllable costs at $17.1 million in 2008 and $19.1 million in 2009), controllable costs were relatively stable over the period 2006 and 2007 at between $14.6 and $15.3 million.

In summary, more detailed information and explanation is required before a 27% increase in such controllable costs can be readily accepted.

[13] See page 1-3 at line 6 and Schedule 2.1.

***Purchase Power*[14]**

There are significant issues and concerns surrounding the forecast generation at the Fish Lake facility and the impacts of this forecast on YECL's Purchase Power costs. Generation at Fish Lake throughout the 2008 and 2009 test periods is forecast at 6.2 GWh[15]. This is a 3.8 GWh reduction from the 10 GWh hours of generation available in 1996/97 when YECL was last before the Board for review, and is also a material reduction from the actual numbers reported from 2006 and 2007 (8.2 GWh and 9.0 GWh respectively). This 3.8 GWh reduction in generation at Fish Lake means a corresponding increase in purchase power costs for YECL (in excess of $250,000 per year). Given the magnitude of this impact on purchase power costs, the material change in amounts forecast at Fish Lake need to be reviewed and tested before they can be accepted. Currently, the Board and other parties have no indication as to the validity of this number.

Operation and Maintenance Expense

The 2009 test year forecast projects that YECL's non-fuel O&M costs are projected to increase over 2007 actuals by 33% ($1.45 million increase for 2008 over 2007 actuals, and $2.02 million increase in 2009 over 2007 actuals)[16]. For example, YECL's Application demonstrates a 9% increase in labour costs over 2006 and 2007 actuals, as well as a significant increase in non-labour costs, but provides no justification for such material cost increases. Given the magnitude of this sudden increase in expense, these expenses need to be thoroughly scrutinized before being accepted even on an interim refundable basis.

Many items included in the forecast are also material issues that will need to be scrutinized in detail. For example, YECL has used an Alberta-based inflation rate of 5% without providing any explanation or rationale as to why such a rate would be appropriate to the circumstances in Yukon. YECL also relies upon AUC determinations as to affiliate costs without explanation or justification, and also references AUC benchmarking without justification. Other items in O&M that require further justification include the reduction in the vacancy rate from historic levels, the increase in the employee complement, and employee allocations to YECL.

[14] YEC has noted this issue as one of high concern in its additions to the Board's Preliminary Issue List; the Board has listed purchase power issues as of medium concern.
[15] See Schedule 3.2 of the YECL Application.
[16] See Schedule 5.1.

Depreciation

While the Board in its preliminary issue list has categorized Depreciation as "low-medium", YEC has raised issues related to depreciation that merit greater consideration. These issues will be canvassed further during the interrogatory process and at the oral hearing; however, it is noted that there are significant issues of principle (including issues regarding consistency of Board rulings) raised with regard to depreciation.

As noted at page 7 of Attachment 1 in Section 7 of the Application, the depreciation study relied upon by YECL uses depreciation accrual rates and accrued depreciation calculated using the equal life group (ELG) method. In Order 2005-12, issued subsequent to the 2005 rate review hearing for YEC, the YUB ordered YEC to implement new depreciation rates and group method contained in the Gannett Flemming Depreciation Study contained in Tab 11 of the YEC Application. In that study depreciation expense was reduced, in part by, using the Average Service Life ("ASL") method instead of the ELG procedure used for the 1996/97 GRA. This change resulted in a significant reduction in YEC's allowed depreciation expense (approximately 10%).[17] In addition, in the same Order, the Board directed that YEC eliminate the annual appropriation to its Future Removal and Site Restoration provision. It does not appear that YECL has adopted an approach consistent with this YUB Order. The change to YEC's depreciation resulted in a further reduction in YEC's allowed "depreciation" expense (approximately 8%).

Based on YEC's review of YECL's Application, YEC believes that YECL would experience an approximate reduction in costs of $0.5 million were an ASL method adopted instead of ELG. Further savings of up to this amount may arise from the termination of the Future Removal and Site Restoration annual provision. By contrast it is noted that YECL's application shows depreciation expense increase by 5% over 2007 in the 2008 forecast (approximately $0.19 million) and 11% higher (approximately $0.47 million) in 2009 than in 2008.

Rate Base Issues

The following rate base issues also raise contentious issues of principle:

- **New Long Term Debt** - it is noted that new long term debt is projected at 6.6% in 2008 and 2009. However, it is also noted that Canada Long term bond yield is currently at approximately 4.2%; this is consistent with Canada bond yields as of the last time debt was issued by YECL in 2006 (at that time YECL secured Long Term Debt at 5.07%).

[17] See 2005 Application at pages 3-16 to 3-18.

- **Equity infusion** – The Application shows YECL's equity increasing from 41% (where it has remained constant for some time) and increasing by approximately $4 million per year. In short, compared to an annual net income of less than $2 million, it appears that forecasts for the test years are based on YECL financing the utility by not only suspending dividends, but also by securing new share capital at 9.25%.
- **Approach to ROE** – YECL is basing its ROE on a AUC approach whereas Yukon has previously relied on a BCUC approach. This is a significant issue of principle to be determined by the Board.

All of these rate base issues should be subjected to detailed scrutiny before being used to set rates, even on an interim refundable basis.

Capital Program

YECL notes that the increase in return on rate base from 2007 to 2009 is in part due primarily to capital additions which are projected to increase from actual amounts of $6.72 million and $7.65 million in Actual 2006 and Actual 2007 respectively to $9.97 million and $13.50 million respectively over the 2008 and 2009 test years[18]. The $13.5 million addition to rate base in 2009 is 87% higher than YECL's average annual additions to rate base since 2006/07.

These capital additions are attributed to required upgrades enhancement and replacement of components of the distribution and generation system, a new customer care and billing system in 2008 and automated meter reading in 2009. YECL's capital program has not been reviewed since 1996/97 and it cannot be assumed that all of the capital expenses projected over 2008 and 2009 will be included in rate base. YECL must provide a justification at the upcoming public hearing for all capital projects undertaken since the last GRA.

Some of these capital expenditures which will be closely scrutinized in this upcoming proceeding include:

- No justification has been provided by YECL for the proposed acquisition of diesels at Carcross; this may be considered a questionable endeavour with a cost of $2 million; the requirement for standby diesels and the role of YECL in the supply of standby diesels on the WAF and MD grids is an issue of principle that will require consideration by the Board before these capital amounts can be included in rate base.

[18] See page 8-3 of YECL application.

- The customer care and billing system has a total cost of $1.4 million over 2007/08; however, the business case for this project has not been provided and must be assessed to ensure it is a prudent expense.
- Automated meter reading will have a total cost of $4.185M in 2008/09; the business case underlying this expense was also not provided and must be assessed to ensure it is a prudent expense.

Given there are significant issues as reviewed above underlying the validity of key aspects of YECL's projected revenue shortfall, there can be no assurance that the utility's shortfall is probable or material.

3.1.3 Impact of Projected Revenue Shortfall on Utility Operations

YECL notes in its Application that it has not been back before the Board for review for a decade and over this period has "continued to provide safe reliable cost effective service" to its customers, and that significant recent cost pressures have required that the utility bring a rate application to "ensure that it is possible to continue to deliver the same high standard of service to customers at fair and reasonable rates."[19] There is no suggestion provided that if YECL does not get the interim rate relief, or only gets partial relief, that service to customers or the financial integrity of the utility would be compromised[20].

Therefore YECL has simply not presented an argument supporting the proposition that if interim relief is not provided by the Board commencing July 1, 2008, there will be material impacts on the financial integrity of the utility.

3.2 GENERAL PUBLIC INTEREST FACTORS

The EUB test provides that public interest factors including the need to promote rate stability and ease rate shock, and the need to maintain intergenerational equity should be considered before granting interim rates. These factors are similar to the fairness considerations that have informed previous YUB interim rate decisions.

YECL's 2008/09 General Rate Application alludes to the need to avoid material impacts on ratepayers as its rationale for seeking interim rates at page 1-6. This concern was also raised by

[19] Application, page 1-2.

[20] This may be contrasted with the application for interim rate relief in 1997 when the Faro mine closed. At that time YEC argued that the shutdown of the mine constituted an emergency which threatened the financial integrity of the utility. It was noted that each month the mine was closed resulted in significant losses to YEC and that the closure threatened to "wipe out" the projected 1997 earnings ($5.1 million).

an intervenor at the prehearing conference[21]; it was noted that were interim rates justified it would be better to grant such interim relief earlier in order to avoid rate shock when larger amounts are over a shorter period of time. Providing interim relief in order to avoid rate shock for consumers is valid and justifiable where the applicant provides the information necessary for the Board and other parties to understand the basis for such shortfalls. As noted above, YECL has simply not provided a sufficient foundation to justify interim rates.

In summary, merely suggesting that it is better to start collecting its revenue shortfall now in order to mitigate rate shock effects later does not provide an adequate rationale for providing interim relief in circumstances where the basis for the projected revenue shortfall is in question, and will be subject to considerable later scrutiny.

4.0 CONCLUSION

In summary, YEC submits that YECL's Application for interim rates should be denied by the Board. Key reasons for denying this Application for interim rates include:

- YECL has failed to provide the information necessary to support a case for imposing such rates.
- There is no evidence here as to urgency to protect the financial integrity of the utility; to the contrary:
  - the evidence confirms that YECL has been earning returns on equity since its last GRA for 1996/97 well in excess of what is sought in the current Application, and
  - no evidence is provided in the Application to indicate any sudden or unforeseen change in YECL's circumstances that would suddenly require a 15% increase in YECL's controllable costs for 2008 or delay in YECL's Application such that new rates on even an interim refundable basis can only be considered half way into the year.
- The magnitude of the requested increase in 2008 (at 15% of YECL's controllable costs) that YECL wants to recover through interim rates far exceeds what should be considered reasonable or necessary given the delays in filing of any application since the last GRA filed by YECL in late 1995; the requested increase in controllable costs involves a number of contentious issues and accordingly requires full testing and review at the upcoming hearing, with a reasonable expectation of material cutbacks in any required rate increase.

[21] Pre-hearing conference transcript at page 29.

- No case appears to exist in this instance to support any fairness argument regarding imposing new interim rates today on customers to track new 2008 costs, i.e., the Application overall reflects a submission to adjust YECL's approved ongoing costs and recoveries with a long rather than short term focus. If anything, imposing interim refundable rates under these circumstances may create, rather than ameliorate, rate instability.
- In the circumstances, it is not fair to ratepayers that any such increase should be imposed at this time on current rates as established for the 1996/1997 GRA, pending full review of YECL's Application as well as full consideration by the Board of all factors affecting future rates and rate design in Yukon after 2008.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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