

**Reply Argument of the Town
of Watson Lake**

YECL 2013-2015 General Rate
Application

Prepared for:
Yukon Utilities Board

December 16, 2013

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REPLY ARGUMENT OF THE TOWN OF WATSON LAKE

1.0 Participation in the General Rate Application

The Town of Watson Lake (Town) and its residents and businesses are major users of electricity on the Yukon electrical system. When the Yukon Electrical Company Limited (YECL) filed its 2013-15 General Rate Application (GRA), the Town decided to participate in the proceeding as an intervener to ensure that the Town's concerns and interests were represented before the Yukon Utilities Board (YUB).

The Town reviewed the GRA and filed Information Requests (IRs) with the Board. Upon reviewing the extent and scope of the IRs that had been filed by other interveners, the Town decided that it could largely rely upon the activities and submissions of these other interveners to protect and advance the Town's interests while we continued to closely monitor the proceedings by reviewing hearing transcripts and written submissions.

That has been the approach taken by the Town through the oral hearing process and the filing of argument. It is our view that this responsible and cost-effective approach has allowed the Town to ensure that its concerns were being addressed while minimizing the intervener costs as a result of this proceeding.

As we are now at the reply argument stage of this proceeding, it is time for the Town to make its views known directly to the YUB on a few issues. Having reviewed the argument filed by the other parties, the Town has decided to directly express its views on the following issues:

- Depreciation Expense – Net Salvage
- Return on Equity Deferral Account
- Retroactivity of Rate Changes

For all other issues of concern, the Town will continue to rely upon the submissions of other interveners.

What we present in the following sections is a brief summary of the arguments of other parties followed by a statement of the Town's views on the particular matter.

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2.0 Depreciation Expense – Net Salvage

YECL has proposed to significantly increase its depreciation expense for the 2013 to 2015 period as compared to its 2009 depreciation expense, with much of that increase due to the re-introduction of a depreciation expense for net salvage (future removal and site restoration). YECL argues that it is unfair for future ratepayers to absorb a cost that should be paid by current ratepayers. Much of YECL's argument is also concerned with its expectation of future trends with regards to the pace of asset retirements. YECL argues that as its plant in service ages, the pace of retirements will increase and so the unfunded net salvage liability will grow.

In its argument, the Yukon Energy Corporation (YEC) has stated its objection to the re-introduction of a depreciation provision for net salvage. YEC points out that there is already an established Board-approved process for dealing with net salvage and that the \$2 million liability trigger for taking further action on net salvage has not been reached. YEC concludes that YECL has not demonstrated that it would suffer any harm by not adding a depreciation provision for net salvage and recommends that the Board deny YECL's request. If the Board were to do so, the reduction in YECL's revenue requirement would total over \$8 million in the 2013 to 2015 period.

The Utilities Consumer Group (UCG) opposes the re-introduction of the net salvage provision because 1) the \$2 million liability trigger has not been reached, 2) YECL would be collecting these revenues before the expense is incurred and 3) it would create inconsistency in approaches between YECL and YEC.

Leading Edge also addressed this same matter in its argument but did not declare a position for or against the depreciation provision for net salvage. Leading Edge stated that the Board needs to ensure fairness to both present and future ratepayers when making its decision on this matter.

Having reviewed the evidence and the argument, the Town is somewhat concerned by the widely diverging opinions on this issue. As this is a yes/no proposition rather than a difference in magnitude, and given the potentially large swings in revenue requirement depending upon how the Board chooses to decide the matter, the Town urges the YUB to take extra care and consideration in reaching its conclusion.

Given that a large part of the YECL's argument for the need for reinstatement of a net negative salvage provision is the future risk that it sees from retirement trends (and given that the opposition to it is somewhat based upon a different view of those same trends), the Town has concluded that an additional few years of actual data would be enormously beneficial and so we are recommending that the Board maintain the status quo for now with a commitment that it will reconsider this matter further in YECL's next GRA.

The situation does not appear to be so critical at the present time that this matter cannot wait to be settled conclusively at the next GRA, preferably through a joint YECL-YEC proposal. Given YECL's conclusion that it does not stand to gain from this change, YECL would suffer no harm from the YUB deciding to hear and rule on this matter at the next GRA once a larger set of data is available for consideration.

3.0 Return on Equity Deferral Account

YECL is requesting a Return on Equity (ROE) for all three test years (2013 to 2015) of 9.21% which consists of the British Columbia Utilities Commission (BCUC) Generic Cost of Capital ROE of 8.75% plus a risk premium of 46 basis points.

However, YECL is also requesting approval of a ROE Deferral Account. This deferral account would use the BCUC Automatic Adjustment Mechanism (AAM) to increase the actual 2014 and 2015 ROEs above 9.21% if a long term Canada bond yield of 3.8% is met or exceeded. In argument, YECL states:

“Yukon Electrical’s proposed ROE deferral simply allows for its ROE to move in tandem with any adjustments to ROE occurring in its benchmark jurisdiction. Yukon Electrical submits that this is a reasonable and appropriate approach and also notes that its proposed ROE deferral account is part of what has enabled Yukon Electrical to apply for a three-year test period in this Application.”

Leading Edge has recommended that the YUB approve the ROE deferral account but no rationale is provided for that recommendation.

The YEC is opposed to the approval of the ROE deferral account on the grounds that:

1. There is no prior Yukon precedent for an automatic adjustment mechanism.
2. The deferral account shifts risk to ratepayers without any commensurate benefits should the forecast change.
3. There is no precedent for this form of deferral account in the Yukon and YECL could provide no precedents in other jurisdictions.

The UCG is also opposed to the ROE deferral account although the basis for its opposition to the deferral account is not that clear. The closest the UCG comes to stating a reason for objecting to the use of a deferral account for this purpose is in paragraph 211 of its argument in which it states YECL has applied for use of this deferral account without first having obtained approval for the use on an Automatic Adjustment Mechanism in the Yukon.

Having considered the evidence and argument, the Town finds that its views align most closely with the argument advanced by the YEC. Given that it intended to seek approval of this deferral account in this GRA, YECL should have previously requested the Board to initiate a proceeding to consider the development of an AAM for the Yukon. Had the Board ruled favorably on such a request and settled on an approved AAM, then the use of a deferral account in the manner requested by YECL could then be a feasible outcome.

YECL’s approach of requesting the Board to approve the use of this deferral account, and within that an embedded approval to use the BCUC AAM, within the confines of a GRA is not an acceptable approach

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and it should be rejected by the Board. If the Board were to approve the use of the AAM and the ROE deferral account, the Board would effectively be abdicating its legislative authority and mandate to determine this matter as it would be allowing YECL's ROE in 2014 and 2015 to be approved as an unknown amount that will eventually be fixed solely based upon the decisions and mechanisms of a regulator from another jurisdiction.

Further reasons for not approving this deferral account are:

1. YECL has failed to clearly explain how the two accepted reasons for approving a deferral account (1. not in the utilities control or 2. significant impact), apply to this proposed ROE deferral account.
2. Deferral accounts should be symmetrical and share risks and rewards between the ratepayers and the utilities. The proposed ROE deferral account is one-sided in that it can only work in favor of the utility by increasing revenue but it cannot work in favor of the ratepayers by decreasing revenue.

The Town recommends that the YUB reject the use of the ROE deferral account and with it also reject the use of the BCUC AAM. The YUB should determine and approve an appropriate and non-variable ROE for each test year.

4.0 Retroactivity of Rate Changes

YECL filed its GRA on May 27, 2013 with a request that interim rates be approved for July 1, 2013. The interim rates were approved for the Board for implementation on July 1.

It is YECL's intention to seek recovery of the difference between its actual revenue and its 2013 approved revenue for the period between Jan. 1 2013 and July 1. 2013. The retroactive collection of additional revenue for the period from Jan. 1 to July 1 became an issue in this proceeding.

In paragraph 8 and 9 of its argument, YECL made its case that the collection of this additional revenue in the period from Jan. 1 to July 1 did not constitute retroactive ratemaking. As explained in paragraph 8, YECL argues that retroactive collection of revenue is allowed in this circumstance by Section 29(b) of the *Public Utilities Act*. It then goes on in paragraph 9 to provide three benefits of filing its GRA late into the test year and so requiring the retroactive collection of revenues:

1. YECL was able to file for a 3-year test period thereby reducing the cost of regulation;
2. It was able to incorporate 2012 actuals in the GRA; and
3. It was able to incorporate the results of the BCUC Cost of capital proceeding that was concluded in May 2013.

The Town notes some points from YECL's argument:

1. YECL is implicitly agreeing that the collection of additional revenue in this period between the start of the test year and the start of the interim rates does constitute retroactive ratemaking when it argues that its Application does not result in any "impermissible retroactive ratemaking" (*emphasis added*).
2. While previous utility GRAs in the Yukon have been habitually filed late, and accepted by the Board with no consequences, that does not mean that this undesirable practice is acceptable or should automatically be continued with no consequences for the utilities.
3. In emphasizing the latter portion of Section 29(b) of the *Public Utilities Act* as allowing retroactive ratemaking in this circumstance, YECL ignores the early part of Section 29(b) which states "the board *may* give effect..." (*emphasis added*). Approving the use of retroactive ratemaking in this particular circumstance is clearly an exercise in Board discretion and the Board choosing to exercise its discretion is not automatic. The burden falls to YECL to convince the Board that the exercise of its discretion is fair and reasonable in light of any specific circumstances surrounding the filing of a GRA late into the test year.
4. It is unclear how filing the GRA late in the test year is a factor in allowing the GRA to be for a 3-year test period. The GRA could have covered a 3-year test period even if it had been filed in advance of the start of the test period.

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5. If the GRA were to be filed prior to the test period, the need and opportunity for 2012 actuals to be filed in the review process would be lessened significantly as a major portion of the GRA review would be complete prior to actuals becoming available. With a major portion of the review having been completed, it is less likely that the Board would allow the filing of 2012 actuals late in the process. Requests for actuals for the year preceding the first test year are largely a consequence of YECL habitually filing its GRAs late into the test period, not a reason for doing so.
6. If determined necessary, placeholders could have been placed into the GRA as estimates to be replaced when the BCUC process was completed. It was not necessary to wait for the conclusion of the BCUC process to file the GRA.

The UCG also addressed this matter of retroactive ratemaking in paragraphs 64 to 90 of its argument. The UCG concludes that what YECL is requesting is retroactive ratemaking and that YECL should not be allowed to recover additional revenue in a retroactive manner.

The Town has taken particular note of the 1st line of paragraph 74 of the UCG argument which states: *“YECL stated that it was not aware of any examples of decisions by regulators in other jurisdictions which denied utilities from recovering the full test year revenue requirement in a filing situation similar to what has happened with YECL’s current application.”* That is a surprising statement given that YECL’s sister utilities, Northland Utilities (NWT) and Northland Utilities (Yellowknife) had this exact same situation and issue argued before the NWT Public Utilities Board with that Board ruling against allowing the retroactive recovery of revenues in the period between the start of the test year and the start of the interim rates. The Town notes that as a direct result of the NWT PUB decisions, Northland Utilities (NWT) has recently filed its 2014-15 GRA in advance of the test year such that interim rates will be in place for the 1st day of the 2014 test year.

Having considered the evidence and the argument, it is the recommendation of the Town that the YUB should not allow YECL to engage in retroactive ratemaking by collecting additional revenues in the period between the Jan. 1, 2013 start of the test year and the July 1, 2013 start of the interim rates.

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5.0 Summary

The Town of Watson Lake appreciates the opportunity to have been an intervener in this proceeding. While the Town decided in this proceeding to somewhat limit its participation and to rely on the activities and submissions of other interveners to address many of our concerns, this in no way constitutes a precedent that the Town will follow for future proceedings.

The Town will decide on a case-by-case basis the extent of its involvement in future YUB proceedings although we will always try to be conscious of opportunities to cooperate with other interveners and so reduce total intervener costs.

Sincerely,



per

Stephen C. Conway
Chief Administrative Officer
Town of Watson Lake