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DELIVERED BY EMAIL

Mr. Robert Laking, Chair
Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Dear Mr. Laking:

Re: Yukon Energy Review and Variance of Board Order 2018-10

Yukon Energy Corporation (Yukon Energy or YEC) filed an application with the Yukon Utilities Board (YUB or the Board) on March 15, 2019, asking the Board to review and vary Board Order 2018-10 regarding DSM costs that were disallowed (the "Disallowed DSM Costs"). On March 26, 2019, the Board in correspondence invited parties to the proceeding to provide comments on Yukon Energy's Application by April 17, 2019, and indicated that Yukon Energy may respond to comments by May 8, 2019.

Three parties provided comments regarding the review and variance (R&V) application: John Maissan (JM); Yukon Conservation Society (YCS); and Utilities Consumers' Group (UCG).

Both JM and YCS supported Yukon Energy's R&V application.

- JM urged "that there is a valid case for the R&V Application to pass Phase 1, to consider the merits of the contents of the R&V Application, and to rule in Yukon Energy's favor on this matter"¹ and noted this would also be in the ratepayers favour. JM notes concern regarding the "seemingly arbitrary" disallowance of costs "that were clearly shown to be in the ratepayer interest"², that "it is necessary, as well as in the ratepayer and public interests, for Yukon Energy (and ATCO) to be involved in electricity focused DSM programming"³ and that Yukon Energy has "shown that its DSM programming benefits all stakeholders."⁴ Further JM notes Yukon Energy "is the only entity that has a clear incentive and mandate to pursue peak electrical demand reduction/ management programming"

¹ JM April 17 correspondence, page 2.

² JM April 17 correspondence, page 1.

³ JM April 17 correspondence, page 1.

⁴ JM April 17 correspondence, page 1.

and reducing costs related to peak electrical demand is in the ratepayer interest and is a matter in which the Yukon Government has no programming.⁵

- YCS recommended that “the Yukon Utilities Board accept Yukon Energy’s request and proceed with phase II review or proceed directly to vary the DSM rulings as described in Yukon Energy’s application for review and variance”.⁶ YCS noted that energy resources must be “considered on a case-by-case basis, including DSM”,⁷ the 2016 Resource Plan identified DSM as a viable resource option in all projected electricity demand scenarios, and DSM was also identified as being preferable to new electrical generation infrastructure from a socio-economic perspective, and is a rapidly deployable and low risk energy source that can meet both energy and capacity requirements.⁸

UCG opposed Yukon Energy’s application and recommended that the Board deny proceeding with the phase II review. Yukon Energy’s response to UCG is provided below.

Yukon Energy Response

UCG’s comments fail to address any of the specific points of law or fact raised in Yukon Energy’s R&V application regarding the Disallowed DSM Costs. Accordingly, UCG’s comments are of no assistance to the Board.

UCG’s comments also include a number of factual errors and misstatements which are addressed below:

1. UCG states that “Regulatory risk is the principle a regulator, of a monopoly utility provider, can use to disallow cost or impose a financial penalty”.⁹

This is incorrect. The degree to which a regulatory risk exists may affect a utility’s ROE. A regulator may only disallow costs to the extent that they were imprudently incurred or where capital expenditures are not used and useful. Regulatory risk cannot be used to justify disallowance of expenditures that otherwise provide benefits to ratepayers, are cost effective and prudently incurred.

2. UCG submits that ratepayers “must not be required to absorb costs attributable to managerial decisions unreasonably commenced or in the absence of regulatory approval.”¹⁰

This is incorrect. No YUB “regulatory approval” is required by Yukon Energy under the *Public Utilities Act* (the “Act”) prior to Yukon Energy undertaking any expenditures.

⁵ JM April 17 correspondence, page 2.

⁶ YCS April 17 correspondence, page 2.

⁷ YCS April 17 correspondence, page 1.

⁸ YCS April 17 correspondence, page 2.

⁹ UCG April 17 correspondence, page 1.

¹⁰ UCG April 17 correspondence, page 2.

Under the *Act*, only costs that are approved by the Board can go into rates. However, where costs are prudently incurred or expenditures are used and useful, there is no basis for the Board to disallow such costs from going into rates. UCG's comments provide no evidence that the Disallowed DSM Costs were "unreasonably commenced", or imprudent, and UCG's comments ignore the evidence on the record demonstrating that Yukon Energy's Disallowed DSM Costs were a cost effective and competitive resource option and were therefore prudently incurred (as summarized in Appendix A of the R&V).

3. UCG uses the 1992 capital hearing as basis for arguing that there is precedent for seeking "pre-approval" from the Board of DSM and other capital projects.¹¹

The reference to the 1992 capital hearing has no relevance to the current proceeding. Nothing in the Board's 1992 report to the Minister, or in subsequent Board's decisions, supports UCG's position of a precedent on this matter. UCG also fails to address the basic thrust of YEC's argument – which is that there is no requirement or provision in the *Act* for Yukon Energy to make an application to the Board for pre-approval of capital projects (including DSM programs) prior to incurring these costs, and consequently there is no basis for finding such costs to be imprudent for this reason alone.

4. UCG asserts that limited information was provided regarding various costs incurred since 2013 – and "nor was there any evidence presented that any of these expenditures had been approved by the YUB".¹²

This is incorrect. Appendix A of the R&V application sets out the detailed evidence that Yukon Energy provided during the 2017/18 GRA proceeding regarding the prudence of the Disallowed DSM Costs.

- a. The 2017-18 GRA Supporting Documents, Tab 5 - Capital Projects, Section 5.3.1.5, outline in detail DSM program costs and benefits, the basis for extending the Approved InCharge Programs beyond 2015 and the basis for undertaking DSM Costs to support Other DSM Programs.
- b. This material was supplemented by responses provided to the following interrogatories from the Board and intervenors as part of the hearing process: YUB-YEC-1-80; YCS-YEC-1-14; UCG-YEC-1-10; UCG-YEC-1-40; JM-YEC-1-3.

There is simply no basis to conclude that there was limited information on DSM costs since 2013.

5. UCG notes that "the onus is on YEC or utility to provide clear evidence, beyond any reasonable doubt, that all expenditures are relevant and prudent, including DSM costs" – and alleges that YEC has not done this.¹³

¹¹ UCG April 17 correspondence, page 2.

¹² UCG April 17 correspondence, page 2.

¹³ UCG April 17 correspondence, page 3.

This statement is incorrect. UCG offers nothing factual to support its broad allegations or to refute Yukon Energy's specific evidence regarding the prudence of DSM costs (and as summarized in Appendix A of the R&V). UCG's argument does not address the accuracy or relevance of this material, and simply ignores it.

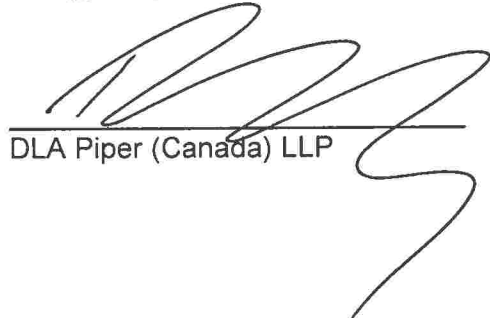
6. UCG asserts that "The YEC never clearly identified, clarified nor accounted for whether all of their streetlight conversions were end of life..."¹⁴

This statement is incorrect. Yukon Energy's Compliance Filing, and the R&V application, clearly include its LED streetlight retrofit costs as allowed DSM costs based on the end of life requirements of the Board. YEC provided evidence on this matter during the GRA proceeding, confirming that the minimal remaining costs for the retrofitted assets were written off as a shareholder expense¹⁵.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Yukon Energy Corporation

Per:



DLA Piper (Canada) LLP

¹⁴ UCG April 17 correspondence, page 3.

¹⁵ See YUB-YEC-1-81 (a & b); Transcript Vol. 3, page 443 (Mr. Mollard confirmed that existing LED streetlight costs have been written off to shareholder expense).