YUKON UTILITIES BOARD
BOARD ORDER 2022-03

YUKON ENERGY CORPORATION

REVIEW & VARIANCE PHASE 2 SUBMISSION

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INTRODUCTION

On April 14, 2022 Yukon Energy filed an Application for Review and Variance of Board Order 2022-03 (Review Application) pursuant to section 62 of the *Public Utilities Act* (Act) and section 31 of the Board's *Rules of Practice* (Rules) addressing (among other matters) the Board ruling that a reduction of 50 basis points is warranted in YEC's risk premium, reducing the Board-approved return on equity (ROE) to 8.20 percent for 2021.

On August 26, 2022 Board Order 2022-10 directed "…that the Review Application will advance to the second phase of the review process only on the limited issue of determining the amount of the risk premium and whether the reduction should be greater than zero but not more than 50 basis points".

Summary Submission

The Board's Reasons for Decision in Order 2022-03 focus on OIC 2021/16 reducing Yukon Energy's low water operating risks when loads increase above GRA forecasts.

The relevant issue, however, is not addressed by the Board, i.e., notwithstanding OIC 2021/16 impacts -- whether there is any reasonable basis for reducing YEC's 2021 GRA approved ROE below 8.70% [8.75% + 0.45% - 0.50%].

The Board's reasons ignore the extensive evidence that Yukon Energy filed in relation to ROE for the 2021 GRA. This evidence is based on the BCUC evidence-based approach that the Board has previously adopted to compare YEC current risks relative to the current risks of the relevant comparator utilities. This is the only comprehensive methodology in evidence during the 2021 GRA proceeding for an evidence-based ROE determination as required by OIC 1995/90.

This methodology clearly demonstrates that YEC continues to have higher ROE risks than its BC comparator FortisBC (Electric), notwithstanding the new factors referenced to be concerns for the Board.

This evidence confirms that there is no basis for any reduction above zero of the previously-established 45 basis point risk premium above the 8.75% low risk benchmark utility ROE (before OIC reduction of 50 bps):

1. The BCUC low risk benchmark ROE of 8.75% has not changed.

2. The BCUC principles and evidence as previously applied by the Board to determine the YEC risk premium above the low risk benchmark have not changed:

    - A 25 basis point risk premium to recognize YEC's relatively small size;
    - A further 20 basis point risk premium (total of 45 basis points) to recognize specific risk related to YEC generation, isolated grid and customer diversity, confirming that based on these relevant factors the overall risks of YEC remain greater than that of FortisBC (Electric) with its 40 basis point risk premium.

As well, none of the YEC risk reductions resulting from OIC 2021/16 provide any basis to reduce the above evidence-based 45 basis points risk premium for YEC's ROE:

- OIC 2021/16 removes water-related risks for YEC that Board Order 2019-08 had shifted from customers to the utility through changes to the LWRF rate stabilization measures.

  However, FortisBC (Electric), the comparator utility when assessing YEC's ROE risk premium, bears no risks related to low water, or any water-related risks related to actual load being greater than an approved load forecast; Therefore OIC 2021/16 does not result in removal from YEC of any utility risks borne by its comparator utility FortisBC (Electric) – and this OIC does not provide any evidence to support reducing YEC's risk premium of 45 basis points as previously determined.

- Further, none of the YEC risk reductions resulting from the defined pension benefit account reduce the above evidence-based 45 basis points risk premium for YEC, i.e., FortisBC (Electric) also has (among many deferral accounts) a pension variance deferral account that addresses variances from approved amounts for setting rates.

In summary, the issues being addressed in the current review and variance proceeding result from Board Order 2019-08 increasing YEC's risk <u>without increasing its ROE risk premium</u>:

- The Board saw no basis to increase YEC's risk premium when this risk was shifted to YEC.

- However, when OIC 2021/16 returned this risk to customers, Board Order 2022-03 directed that YEC's ROE risk premium be reduced by 50 basis points.

Therefore, aside from the need to determine ROE risk premium based on BCUC principles and available evidence as reviewed above, there is no reasonable or fair basis for the Board to reduce an ROE for a risk reduction when the exact same risk was transferred to YEC in 2019 with no accompanying increase in ROE.

While the Board may exercise its discretion in setting a fair ROE and is not constrained by a specific methodology in determining a fair ROE or risk premium -- approving an ROE without setting a specific methodology consistent with principles established in Canada for utilities would not be in accordance with OIC 1995/90.

Yukon Energy's submission, including detailed evidence on the appropriate risk premium reduction, is outlined in in the sections that follow.

1. **Board Orders 2022-03 and 2022-10** - provides YEC's summary of the issues raised by the Board regarding fair ROE in Order 2002-03 and 2022-10.

2. **Submission Response to Board Concerns** - provides YEC's response to the issues raised by the Board and justification for retaining the 45 basis point risk premium as follows:

   2.1 YEC Risks Relative to Fortis BC (Electric) Risks ;

   2.2 OIC 2021/16 Rate Stabilization Risk Reduction Issues; and

   2.3 Inconsistent Decisions re: Thermal Fuel Cost Deferral Accounts.

3. **Conclusion**

Evidence provided in the 2021 GRA regarding Fair ROE is reviewed in Attachment 1.

1.0 BOARD ORDERS 2022-03 AND 2022-10

Yukon Energy summarizes below its understandings of the key findings and analysis of the Board in Orders 2022-03 and 2022-10 as regards the ROE risk premium reduction issues.

The ROE risk premium reduction findings in Board Order 2022-03 (para 227-233) focus on impact from OIC 2021/16 as it relates to the LWRF rate stabilization measures. Adjustment to the risk premium adder is examined by the Board *"to recognize the shifting of risk of incremental load from YEC to customers through the OIC and the further addition of the pension deferral account"* (para 233).

The Board concluded as follows (para 233):

> "*The OIC reduces YEC's risks in providing utility service and the Board determines that a reduction of 50 basis points is warranted in YEC's risk premium. Therefore, in the compliance filing to this Board Order, YEC shall reflect the Board-approved ROE of 8.20 percent for 2021*."

Board Order 2022-03 findings do not provide any other comment or analysis on the basis for the 8.70 percent ROE as proposed by Yukon Energy – the ROE that is to be reduced by 50 basis points.

The Board finds (para 229):

> "*that YEC has narrowly focused on rate stabilization measures – e.g., those that occur through the LWRF – rather than assisting the Board with determining a fair apportionment of risk between YEC and its customers for costs and risks in providing utility service.*"

Board Order 2022-10 copied the findings from Board Order 2022-03, and subsequently noted additional points, including:

- Pursuant to section 32 of the Act and OIC 1995/90 section 2, "*the Board is not constrained by a specific methodology in setting a fair ROE which includes determining the risk premium that should be approved in a given test year or years for YEC. The Board may exercise its discretion in setting a fair ROE*" (para 10).

- In the 2021 GRA proceeding YEC proposed to continue with the BCUC benchmark utility ROE and maintain the same risk premium adder that was approved in Board Order 2018-10 (para 20).

  In this same paragraph, the Board went on as follows:

> "*YEC stated, in responses to Board information requests (IRs) and at the hearing as to whether the LWRF and the OIC afford protection to YEC against the risks to the utility, that it did not believe that its risk profile had changed. In addition, when questioned by the Board during the hearing on whether the quantum of its risk profile should be adjusted to account for OIC 2021/16 and the requested pension deferral account, YEC did not address the finding in the Reasons for Decision to Board Order 2018-10 that a shift in risk from YEC to customers had occurred and that no adjustment to the risk premium was necessary*."

No specific reference in Board Order 2018-10 is provided to the above referenced finding. Para 282 of that earlier Order specifically rejected CW's position that the shifting of risks to customers due to the DCF should reduce the ROE for YEC to zero basis points over the BCUC benchmark. In the end the Board awarded (para 283) a risk premium of 45 basis points over the BCUC benchmark based on specific evidence noted regarding YEC's risk being greater than FortisBC (Electric) which has an awarded risk premium of 40 basis points.

- The Board determined in its Reasons for Decisions "…*that it did not accept past Board Orders as determinative of the risk premium to be set for 2021, particularly with the passing of OIC 2021/16 that addresses cost recovery through the LWRF and provides mitigation of some of the risks related to low water conditions and some of the associated costs*" (para 21).

  In this same paragraph, the Board went on as follows: "*This was not an assumption on the part of the Board, as argued by YEC in its Review Application, but a finding based on the evidence in the 2021 GRA proceeding and the terms of OIC 2021/16. The Board found that the risk profile of YEC had changed. Furthermore, YEC did not file evidence in the proceeding to establish its current risks relative to the current risks of any of the referenced utilities."*

- The Board noted YEC arguments that the pension deferral account does not support a reduction in the risk premium, including reference to Board Order 2014-06, and then concluded (para 22):

  > "*In the opinion of the Board, this argument was considered and the Board relied on evidence in the 2021 GRA proceeding in making its decision regarding the pension deferral account as support for lower risk and a reduced risk premium*."

2.0 SUBMISSION RESPONSE TO BOARD CONCERNS

Based on the above review of the reasons provided for the relevant Board Orders, it is apparent that OIC 2021/16 directions regarding LWRF rate stabilization in fact reduced YEC's operating risks that the Board had specifically allocated to YEC in Board Orders 2018-10 and 2019-08 (risks that had -- previous to these Board Orders -- been allocated to customers). The issue is solely whether, notwithstanding this change, there is any reasonable basis for reducing YEC's 2021 approved ROE below 8.70%.

In contrast to the OIC LWRF direction related issues that the Board has clearly focused on, the pension benefit deferral account is a minor matter that the Board did not rely upon in any substantive manner in its findings to support a reduction of this ROE (let alone the reduction of 50 basis points directed in Order 2022-02).

As outlined in the sections that follow – there was no reasonable basis for reducing YEC's 2021 GRA approved ROE below 8.7%.

2.1 EVIDENCE OF YEC RISKS RELATIVE TO FORTISBC (ELECTRIC) RISKS

The Board states, in its Reasons for Decision for Order 2022-10 (para 21) that *"…YEC did not file evidence in the proceeding to establish its current risks relative to the current risks of any of the referenced utilities*."

The Board's reasons ignore the extensive evidence that Yukon Energy filed on this specific matter.

Attachment 1 to this submission reviews in detail the evidence on ROE determination for the 2021 GRA based on the BCUC evidence-based approach that the Board has previously adopted to compare YEC current risks relative to the current risks of the relevant comparator utilities. To date, this is the only comprehensive methodology in evidence during the 2021 GRA proceeding for an evidence-based ROE determination.

In summary, the Attachment 1 review of evidence on the fair ROE for YEC's 2021 GRA addresses the following:

- Initial filed evidence in Tab 8 of the GRA filing that clearly supported the 8.75% BCUC benchmark, and a risk premium of 45 basis points over this benchmark for YEC based on the unchallenged evidence that YEC's risk premium is greater than the 40 basis risk premium that BCUC has approved for FortisBC (Electric); and

- Review of the impact, if any, on the risk premium for YEC compared to FortisBC (Electric) of the two new factors referenced by the Board to explain a need for a reduction of the YEC risk premium, i.e., OIC 2021/16 and the pension deferral account.

As reviewed in detail in Attachment 1, this review of the available evidence conclusively demonstrates that YEC continues to have higher ROE risks than its BC comparator FortisBC (Electric), notwithstanding the two new factors referenced to be concerns for the Board, and that there is no basis for any reduction above zero of the previous established 45 basis point risk premium.

2.2 OIC 2021/16 RATE STABILIZATION RISK REDUCTION ISSUES

The ROE risk premium reduction findings in Board Order 2022-03 (para 227-233) focus on impact from OIC 2021/16 as it relates to the LWRF rate stabilization measures.

- Adjustment to the risk premium adder was examined by the Board in Board Order 2022-03 (Reasons for Decision para 233) "*to recognize the shifting of risk of incremental load from YEC to customers through the OIC and the further addition of the pension deferral account*,"

- The Board determined in its subsequent Board Order 2022-10 (Reasons for Decision para 21) "…*that it did not accept past Board Orders as determinative of the risk premium to be set for 2021, particularly with the passing of OIC 2021/16 that addresses cost recovery through the LWRF and provides mitigation of some of the risks related to low water conditions and some of the associated costs*".

There is no dispute that OIC 2021/16 directions regarding LWRF rate stabilization in fact reduced YEC's operating risks that had resulted from new directions in Board Orders 2018-10 and 2019-08. The only relevant issue for this proceeding should be whether OIC 2021/16 provides any reasonable basis to reduce the fair 2021 ROE for YEC.

The Reasons for Decision for Board Order 2022-10 (para 20) suggest that YEC denies that its risks were reduced by OIC 2021/16, noting that YEC stated, in response to Board information requests and at the hearing "*as to whether the LWRF and the OIC afford protection to YEC against risks to the utility, that it did not believe that its risk profile had changed*".

Further paragraph 20 goes on to state "*YEC did not address the finding in the Reasons for Decision to Board Order 2018-10 that a shift in risk from YEC to customers had occurred and that no adjustment to the risk premium was necessary.*"

The following are noted to clarify Yukon Energy's earlier responses:

- YEC statements regarding OIC 2021/16 not changing YEC's risk profile were consistently in the context of stating that OIC 2021/16 does not change the risk profile applicable to YEC's ROE determination (e.g., see YEC Final Argument in the 2021 GRA proceeding, section 2.4 where OIC 2021/16 issues are specifically addressed along with Mr. Mollard's transcript responses and other related evidence).

- YEC consistently referenced how OIC 2021/16 restored the risk profile for YEC that existed prior to Board Order 2019-08 changes to the LWRF – and stated that OIC 2021/16 maintains the YEC risk profile that existed on these matters from before Board Order 2018-10 to when the LWRF was created in 1991.

- YEC's argument in the 2021 GRA proceeding specifically noted (see Board Order 2022-03 Reasons for Decision, para 226):

    - The issue of risk responsibility for generation costs above load forecast was not addressed in Board Order 2018-10 and only came about in subsequent compliance filings to Board Order 2018-10.

    - Undertaking 11 revealed that directions from Board Order 2019-08 [that adjusted the LWRF from what had previously applied] resulted in YEC incurring an added $0.738 million of thermal generation fuel costs for 2019 due to water conditions below the long-term average and load above the last approved GRA forecast.

    - Requiring YEC to bear any water-related risk, including risk for load above approved load forecasts, is not consistent with Board Orders prior to Board Order 2019-08 (see response to Undertaking 8 for review of decisions from Board Order 2015-01 back to Board Order 1992-1).

In summary, YEC is not denying that OIC 2021/16 reduced YEC's risk profile, shifting water-related risks back from the utility to customers. Yukon Energy's position throughout is simply that this change does not provide any reasonable or principled basis for reducing YEC's 2021 approved ROE below 8.70%.

The ROE risk premium must be determined based on the BCUC principles and the detailed evidence reviewed in Attachment 1, and on this basis YEC continues to have higher ROE risks than its BC comparator FortisBC (Electric) with its 40 basis point risk premium.

2.3 INCONSISTENT DECISIONS RE: THERMAL FUEL COST DEFERRAL ACCOUNTS

The evidence confirms that the following sequence of events occurred with regard to YEC LWRF deferral account rate stabilization measures and their impacts on YEC's approved ROE:

- Board Order 2018-10 made no adjustments to YEC's risk premium due to the existence of rate stabilization measures, including the LWRF (Reasons for Decision, para 228). The LWRF measures in place at that time continued to be consistent with past Board decisions, recognizing the principle that all water-related risks affecting thermal fuel generation costs are borne by customers (including such risks related to actual load above approved GRA forecast load).

- Board Order 2019-08 relating to compliance filings for the same 2017-18 GRA confirmed that the Board had then modified the LWRF for the first time to require YEC to bear, for load above the approved GRA forecast, the risk of thermal generation fuel costs due to water conditions below the long-term average load used to set rates – and, as confirmed in Reasons for Decision for Board Orders 2022-03 and 2022-10, this shift of water risk from customers to YEC did not result in the Board applying an increase to YEC's approved ROE approved by the Board.

- OIC 2021/16 subsequently in effect reversed the water risk shift from customers to YEC resulting from Board Order 2019-08, restoring the YEC risk profile applicable to determination of prior YEC ROEs.

- Board Order 2022-03 subsequently reduced YEC's ROE by 50 basis points, stating that this reduction was required due to OIC 2021/16 reducing YEC's risk profile by shifting the referenced water availability risks from YEC to customers.

In summary, Board Order 2019-08 increased YEC's risk without increasing its ROE risk premium – and this has resulted in the issues being addressed in the current review and variance proceeding.

- The Board saw no basis to increase YEC's risk premium when this risk was shifted to YEC.

- However, when OIC 2021/16 returned this risk to customers, Board Order 2022-03 directed that YEC's ROE risk premium be reduced by 50 basis points.

Aside from the need to determine ROE risk premium based on BCUC principles and available evidence as reviewed in Attachment 1, there is no reasonable or fair basis for the Board to reduce an ROE for a risk reduction that it had never included in its prior determinations of that ROE. These are inconsistent (as well as unfair) decisions regarding impacts related to the LWRF rate stabilization deferral account.

Yukon Energy also notes that the Board's Reasons for Decision for Order 2022-03 states as follows (para 228):

> "*The Board recognized that YEC, by its own admission, stated that it accepted the risk of incremental load, but YEC is not accepting the full generation costs and risks with those incremental loads.*"

Yukon Energy can clarify its so-called acceptance of incremental load risk. Yukon Energy has consistently stated, based on the requirement for the Board to review and approve rates in accordance with principles established in Canada for utilities, that customers bear all water availability risks, including water availability generation costs and risks related to incremental load.

- YEC accepts the risk of incremental load – but thermal fuel generation costs for incremental load must be determined based on the assumptions approved for setting GRA revenue requirement and rates, i.e., for all recent YEC GRAs, forecast thermal fuel generation costs are based on long-term average hydro generation (which varies with actual load requirements) and on thermal fuel prices per kWh as approved in the last GRA.

- Variances in costs for all loads (including loads higher than forecast) due to variances in water availability or fuel prices are then addressed through the appropriate deferral accounts, i.e., the LWRF for the impact of water availability variances, and the Deferred Fuel Price Variance Account for the impact of diesel and LNG fuel price variances.

- The above approach has been fully accepted by the Board when dealing with fuel price risk impacts on thermal generation costs for all loads (including loads higher than forecast). In a hydro jurisdiction it is essential that the above approach also be fully accepted when dealing with water availability risk impacts on thermal generation costs for all loads (including loads higher than forecasts). To do otherwise results in inconsistent (as well as unfair) decisions regarding rate impacts resulting from these two deferral account measures.

3.0 CONCLUSION

The effect of the Board's decision in Order 2022-03, is to determine that YEC has less risk than the BCUC benchmark utility; less risk than AEY; and less risk that FortisBC (Electric). This is patently incorrect, constitutes a clear error in principle in the Board's reasoning, results in an unfair return on equity for YEC and consequently does not comply with section 2(2) of OIC 1995/90.

As reviewed in detail in this submission – current available evidence and BCUC-established principles demonstrate that YEC continues to have higher ROE risks than its BC comparator [FortisBC (electric)] (which has a 40 basis point risk premium), and no evidence was provided during the 2021 GRA that would change this assessment, notwithstanding two new factors referenced to be concern for the Board.

As such, pursuant to the issue identified in Order 2022-12 there should be no risk premium reduction and Order 2022-03 should be varied to retain the 45 basis risk premium above the 8.75% low risk benchmark utility ROE.

ALL OF WHICH is respectfully submitted this 22nd day of September, 2022.

Yukon Energy Corporation

Per: ______________________________

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ATTACHMENT 1 - EVIDENCE ON FAIR ROE FOR YEC 2021 GRA

This attachment reviews in detail evidence on ROE determination for the 2021 GRA based on the BCUC evidence-based approach that the Board has previously adopted to compare YEC current risks relative to the current risks of the relevant comparator utilities.

1 Requirement for Specific Methodology Consistent with Established Principles for Utilities

Section 2 of OIC 1995/90 requires the Board to include in rates of YEC "*provision to recover a fair return on their equity used to finance their rate base", subject to "provision to recover a fair return on the Corporation's equity, less one-half on one per cent (.5%)*."

Although the Board is not constrained by a specific methodology in setting a fair ROE which includes determining the risk premium that should be approved in a given test year or years for YEC, section 3 of OIC 1995/90 directs 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 regarding hydro and non-hydro electric utilities.*"

To approve an ROE without setting out a specific methodology consistent with principles established in Canada for utilities would not be in accordance with OIC 1995/90.

2 BCUC Methodology and Principles – The only Eligible Approach in 2021 GRA Evidence

In accordance with these OIC 1995/90 requirements, the Board has frequently (including in YEC's last GRA for 2017/18) used the British Columbia Utilities Commission (BCUC) benchmark utility ROE and its guidance regarding appropriate risk premiums over this benchmark ROE for different hydro and other utilities in British Columbia.

Yukon Energy's 2021 GRA accordingly proposed to continue with the BCUC benchmark and methodology as applied by the Board in Order 2018-10 to determine a fair ROE for YEC when setting rates in response to YEC's 2017/18 GRA.

No evidence was provided during the 2021 GRA as to any alternative methodology or principles established by regulatory authorities in Canada for utilities that the Board could review when determining YEC's 2021 GRA ROE.

3 Initial Filed 2021 GRA Evidence Applying BCUC Methodology & Principles

Tab 8 of YEC's 2021 GRA Application provided evidence to support continuation of the 8.70 percent fair return on equity determination by the Board in Order 2018-10.

In summary, this evidence justified the 8.70 percent fair return ROE for YEC based on referenced BCUC decisions and practices and the Board's prior determinations in Order 2018-10. The 8.70% fair return ROE on YEC's equity consists of 9.20% fair return on YEC's equity as determined below using BCUC principles and approach (benchmark 8.75% plus risk premium of 0.45%) less 0.5% as required by section 2 of OIC 1995/90:

1. Low risk Benchmark utility ROE of 8.75% for FortisBC Energy Inc. (natural gas utility) - at the time of preparing the YEC GRA (and since that time) this benchmark has not been updated from the 8.75% approved in BCUC Decision and Order G-129-16.

2. Risk premium over this benchmark ROE to determine a fair ROE for YEC based on the Board's extensive review in Order 2018/10 of BCUC principles and practices for determining fair risk premiums for different electric utilities in British Columbia – the Board in its reasons for Order 2018-10 considered a 45 basis point risk premium for YEC to be fair and reasonable based on the following evidence and principles:

    a. A 25 basis point risk premium relative to the BCUC benchmark utility ROE was awarded in recognition of principles developed in Order 2017-01 which established a 25 basis point risk premium for AEY to recognize AEY's small size, which the Board determined was also applicable to YEC.

    b. An additional 20 basis point risk premium (for a total risk premium of 45 basis points above the BCUC benchmark utility) was awarded Yukon Energy in recognition of YEC's specific risk related to generation, isolated grid and customer diversity. The Board indicated in Order 2018-10 that the additional 20 basis points acknowledges the overall risks of YEC as being greater than that of FortisBC (Electric) as well as AEY.

    c. The Board recognized FortisBC (Electric) and AEY as appropriate comparators for determining YEC's risk premium i.e., YEC has more risk than FortisBC (Electric) and AEY.

3. YEC's 2021 GRA Application noted that at the time of the filing there were no new issues or material changes in circumstances that would alter the basis for awarding Yukon Energy a risk premium of 45 basis points.

   Specifically, YEC and AEY both continue to be small utilities relative to the benchmark utility and to FortisBC (Electric), and YEC continues to be subject to material risks related to generation, being on an isolated grid, and customer diversity.

> Other than subsequent issues raised regarding impacts of OIC 2021/16 and the defined pension benefit deferral account, no evidence emerged during the 2021 GRA proceeding to challenge the 45 basis point risk premium over the BCUC benchmark ROE of 8.75%.

Tab 8 did not review the impact, if any, on the 45 basis point risk premium for YEC compared to FortisBC (Electric) of the two new factors referenced by the Board to explain a need for a reduction of the YEC risk premium, i.e., OIC 2021/16 and the defined pension benefit deferral account.

- **OIC 2021/16** – This OIC was enacted after the Application was filed and therefore surfaced as an issue thereafter, particularly during the oral proceeding.
- **Defined Pension Benefit Deferral Account** - YEC had no basis to consider the defined pension benefit deferral account as having any impact on its fair ROE given Board Order 2014-06 had approved a similar deferral account for ATCO Electric Yukon (AEY, then referred to as YECL) and determined that this deferral account does not affect the utility's ROE risk premium because it meets the criterion that "costs are not under the control of the company and are not reasonably foreseeable."

4 Evidence Re: OIC 2021/16 Impacts on YEC ROE Determination

Evidence is reviewed below to address OIC 2021/16 impacts to establish YEC's current risks in 2021 relative to the current risks then of its approved comparator utility FortisBC (Electric). This evidence confirms that none of the YEC risk changes resulting from OIC 2021/16 provide any basis to reduce the evidence-based 45 basis points risk premium that acknowledges the overall risks of YEC as being greater than the established 40 basis point risk premium of FortisBC (Electric):

- The central question on this matter is whether the risk premium for FortisBC (Electric) in any way reflects the inclusion of any risks mitigated for YEC by OIC 2021/16.
- OIC 2021/16 removes water-related risks for YEC that Board Order 2019-08 had shifted from customers to the utility through changes to the LWRF rate stabilization measures, i.e., this prior Board Order shifted from customers to YEC the risks related to low water and the associated costs for any actual load greater than the GRA approved forecast load (see Board Order 2022-03, para 230 and 231).
- However, FortisBC (Electric) bears no risks related to low water, or any water related risks related to actual load being greater than an approved forecast load.

The following related evidence was referenced in response to UCG-YEC-1-32 Revised in the 2021 GRA proceeding:

- Undertakings #38 and #39 in the 2017-18 GRA proceeding. This evidence confirmed that BCUC decisions result in FortisBC (Electric) not bearing any risk related to power purchase expense variance (e.g., price changes, and purchase volume changes of each resource due to water variability or other factors), as well as not bearing any revenue variance load forecast risks. The FortisBC (Electric) then existing resource stack included four existing hydro plants operated under the Canal Plant Agreement (CPA) with BC Hydro directly dispatching and FortisBC (Electric) receiving guaranteed entitlement energy and capacity provided that the generating plants are available to be dispatched; it also included a long term contract to purchase the whole output of the four hydro generating units of the Brilliant Plant, which is also a CPA entitlement plant, as well as other supply arrangements that further reduce risk to FortisBC (Electric).[1]

- Response to YUB-YEC-3-3 in the 2017-18 GRA proceeding – this response confirmed that the deferral of power purchase expense variations for FortisBC (Electric), and the pass through of these expenses to ratepayers continue to operate in both test and non-test years.

- Response to YUB-YEC-3-4 in the 2017-18 GRA proceeding – this response elaborated on FortisBC (Electric) power supply arrangements with BC Hydro as well as mechanisms as approved by BCUC for cost flow through to customers of any FortisBC (Electric) supply cost variances, and the extent to which these arrangements remove risk from FortisBC (Electric) related to water variability cost impacts. The similarity in this regard with YEC was noted to not be related to specific deferral account mechanisms, but rather to the ultimate outcome, i.e., the utility has no cost risk related to water variability. The response provided added detail on the BCUC approval of flow through to customers of the utility's power supply and other cost variances.

- Response to YUB-YEC-3-5 in the 2017-18 GRA proceeding – this response explained that FortisBC (Electric) is not exposed to water risks that would merit or require a specific and separate deferral or contingency account mechanism similar to the DCF (now the LWRF) which at that time (prior to Board Orders 2018-10 and 2019-08) ensured that YEC had no risk related to water variances from long-term average hydro

[1] Undertaking #39 referenced a Power Purchase Agreement with BC Hydro, capacity blocks from the hydro Waneta Expansion project, and ability to import electricity from the mid-C market via existing transmission connections.

generation and the impact of such variances on thermal fuel generation costs for actual loads.

- In short, OIC 2021/16 does not result in removal from YEC of any utility risks that are borne by its comparator utility FortisBC (Electric).

- Accordingly, OIC 2021/16 does not provide any evidence to support reducing YEC's risk premium below the 45 basis points determined by the evidence reviewed earlier above – and the evidence on this matter continues today to show that the overall risks of YEC in 2021 were greater than that of FortisBC (Electric) with its 40 basis point risk premium.

5 Evidence Re: Pension Benefit Deferral Account Impacts on YEC ROE Determination

Evidence on the defined pension benefit deferral account also confirms its adoption, and any risk reduction it affords to YEC, does not provide any basis to reduce the evidence-based 45 basis points risk premium that acknowledges the overall risks of YEC as being greater than the established 40 basis point risk premium of FortisBC (Electric):

- The central question on this matter is whether the risk premium for FortisBC (Electric) in any way reflects the inclusion of any risks mitigated for YEC by the defined pension benefit deferral account.

- Board Order 2018-10 (para 267) noted that the BCUC did not make an adjustment to the risk premium for deferral accounts. Fortis BC Annual Review for 2020 and 2021 Rates (page 43) notes that 2019 actual pension and Other Post-Employment Benefits (OPEB) expenses have a Pension and OPEB Variance deferral account that addresses variances from approved amounts for setting 2019 rates and amortizes these variances into rates over a three-year period, as approved by Order G-139-14.

- In short, YEC's approved defined pension benefit deferral account does not result in removal from YEC of any utility risks that are borne by its comparator utility FortisBC (Electric).

- Accordingly, the defined pension benefit deferral account does not provide any evidence to support reducing YEC's risk premium below the 45 basis points determined by the evidence reviewed earlier above – and the evidence on this matter continues today to show that the overall risks of YEC in 2021 were greater than that of FortisBC (Electric) with its 40 basis point risk premium.

6 Summary Conclusions

YEC 2021 ROE Risks Continue to Be Higher than FortisBC (Electric)

In summary, based on current available evidence and principles established by BCUC and adopted in Board Order 2018-10, the above review conclusively demonstrates that YEC continues to have higher ROE risks than its BC comparator FortisBC (Electric), notwithstanding the two new factors referenced to be concerns for the Board, and that there is no basis for any reduction above zero of the previous established 45 basis point risk premium.

No evidence was provided during the 2021 GRA as to any alternative methodology or principles established by regulatory authorities in Canada for utilities that the Board could review when determining YEC's 2021 GRA ROE.

Further, no evidence was provided during the 2021 GRA that would change the above assessment of Yukon Energy's risk premium relative to FortisBC (Electric).

Board Order 2022-03 YEC ROE Reduction Compared to Applicable 2021 GRA Evidence

In the context of the above evidence, a risk reduction of 50 basis points as directed in Board Order 2022-03 would provide YEC with an ROE of 8.70 percent prior to the 50 basis point reduction required by section 2(2) of OIC 1995/90.

This reduction would indicate, based on the above evidence, a determination that YEC has less risk than the BCUC benchmark utility with its 8.75% allowed ROE; less risk than AEY with its 25% risk premium and an allowed ROE of 9.00%; and less risk that FortisBC (Electric) with its 40% risk premium and an allowed ROE of 9.15%.

Based on the available evidence, and the established facts and prior determinations of the Board that have not been changed by any evidence in the current proceeding, it is incontrovertible that YEC has more risk than the BCUC benchmark utility, more risk than AEY, and more risk than FortisBC (Electric).

A ruling to reduce YEC's risk premium below that of FortisBC (Electric), i.e., below 40 basis points over the BCUC benchmark, therefore results in an unfair return on equity for YEC, which fails to comply with section 2(2) of OIC 1995/90.