

1-March, 2024

**IN THE MATTER OF THE YUKON ENERGY CORPORATION
2023-24 GENERAL RATE APPLICATION**

Heard before the

YUKON UTILITIES BOARD

OPENING STATEMENT OF NATHANIEL YEE

I am pleased to be participating in Yukon Energy's 2023-24 General Rate Application proceeding before the Yukon Utilities Board. I appreciate that YEC, the Board and intervenors all approach these proceedings with different perspectives and different ideas, and may notice different details. We are all here together "to ensure just and reasonable rates, as well as ensuring safe and reliable electricity service in Yukon."

In the current proceeding, part of my focus has been in contrasting what YEC has presented to the Board with what has been presented to other regulators. Ideally the story would be the same to each, but this is not the case. I also highlight important information that was not mentioned in the GRA and claims that are false or misleading. Here are some examples:

It was not mentioned in the GRA that approximately half of YEC's rental diesel capacity has not been assessed or permitted, and that YEC has no authorization to operate this capacity even in the event of an emergency. Nor was it mentioned that YEC fails to meet N-1 criteria without operating at least 19.4 MW of diesel that they have no permit or other authorization to operate.

It was not mentioned in the GRA that YEC has no valid permit for the rental diesels in Whitehorse. Their temporary provision for rental diesel expired in 2022, and their permit was amended to reflect this change. Two years later and the required assessment has still not been initiated. YEC has chosen to ignore the required assessments and permits. This is not acceptable.

It was not mentioned that YEC had never intended to respect their 4.9 MW permitted limit in Mayo. YEC submitted the GRA with a 7.2 MW capacity for Mayo rental diesel while simultaneously assuring YESAB, the First Nation of Na-Cho Nyäk Dun and Mayo that they would not exceed 4.9 MW. The permit was issued well after the GRA had been initiated.

YEC informed the Board in the GRA that the dependable capacity of the Faro facility would be increased from 15.5 MW to 20.6 MW, and that no assessment was needed for this increase. This is simply false. This proposed 5.1 MW increase requires an executive committee assessment.

In an attempt to avoid the required assessment, YEC insisted to the Department of Environment that they were "not asking to increase the assessed site capacity of 15.5 MW" and provided a layout that showed rentals being removed when installing new permanent capacity. Not at all what was shown and explained in the GRA.

Confronted with this contradiction, YEC has now indicated that they may not be increasing capacity in Faro, and may locate some of the rentals somewhere else. Aside from contradicting what YEC has presented to the Board in this hearing, it is notable that assessment and permitting will be required regardless of location. In order to have capacity from 20 rentals while respecting permit limits, 3 rentals will have to be relocated from Faro. This will be welcome, given that the current installation violates BC permissible noise levels.

YEC consistently fails to mention the first sentence of the "Regulatory Reminder" that they received from the Department of Environment on July 20, 2023, which reads as follows:

The regulator is unable to provide authorization to operate above the assessed capacity in the event of an emergency situation.

This makes any claims that YEC has made about YESAA Section 49 allowing them to operate capacity that has not been assessed and permitted completely meaningless and false. Section 49 simply holds no relevance to this proceeding, and YEC knew this before the GRA was submitted. YEC acknowledges this indirectly in their rebuttal by explaining how they would like Section 49 to operate and then venting their disagreement about the Department of Environment's interpretation of the Environment Act concerning this issue. But given that the Department of Environment has jurisdiction in this area, YEC's rebuttal is reduced to indicating that their plan is simply to ignore requirements and exceed the limits of their permits.

And what is the significance of YEC's choice to ignore the assessment requirements of YESAA and exceed their permits in Mayo, Faro and Whitehorse?

YEC is failing to respect the law and the rights of all Yukoners provided by YESAA. YEC is disrespecting the Umbrella Final Agreement by ignoring, circumventing and shortchanging YESAA assessment requirements. Is any of this acceptable?

YEC indicates that they have exceeded their permit limits occasionally in the past, and there did not seem to be any significant consequences, which does not guarantee similar results in the future. Does the Board endorse this approach? Is planning to ignore assessments and exceed permits prudent? Are any new potential liabilities introduced by operating in such a reckless manner? Do assessments and permits help insure that an installation is safe and reliable? Is avoiding and ignoring regulation appropriate and ethical conduct for a public company?

Charging customers for capacity that Yukon Energy has no authority to operate would be an endorsement of ignoring YESAA and the permitting process. Why should anyone bother with permits when YEC has not bothered with permits and still gets paid? Do we wish to legitimize this? Customers should not be asked to pay for something that violates the law, something that would land them in trouble were they to emulate it.

And then there is the other issue, of false and incomplete information presented to the Board in this GRA process. Previous to my evidence submission, YEC had not mentioned that they lacked any authorization to operate half of the rentals. They had not mentioned that they were planning on ignoring their permit limits. YEC also knowingly provided false information in claiming that no assessment was needed for a 5.1 MW capacity increase in Faro, and that this was allowed by Section 49 of YESAA. More examples of false information are outlined in my evidence document, and more will be shown in the hearing.

What is the validity of this proceeding if Yukon Energy has knowingly provided false information and expects the Board to make a decision based on this? Has YEC limited their false information to capacity issues, or is there more? There is no way of knowing. A trust has been broken. Are there consequences for knowingly providing false information to the Board, or is this acceptable?

Interestingly, YEC also provides more false and misleading information in their "Rebuttal Evidence," some of it defamatory. Their lack of confidence in the content of their rebuttal is evident in these tactics. Such personal attacks are inappropriate, factually incorrect and entirely unacceptable.

YEC refers to a letter I sent to the Department of Environment and Yukon News as a "leak" but does not explain how this term is appropriate given that I was the author of the letter, and the public nature of these hearings. What secret was leaked? Despite their frivolous objections to my writing a letter, they do not dispute the contents of the letter in which I point out that they have provided conflicting information to the Department of Environment and to the Board. YEC does not resolve this issue in their rebuttal.

They also make the following false and defamatory statement: *"Mr. Yee's allegation that YEC incurred these costs in order to defraud anyone merits sanction rather than serious consideration by the Board."*

Of course YEC provides no footnote or reference because I have never alleged that the diesels were rented "in order to defraud" or anything like that. They are rented of course because YEC has failed to commission any new renewables of note on the YIS since 2011, and we need the power. And YEC has the audacity to suggest that I be sanctioned for their ridiculous invented defamatory allegation?

I am disappointed in YEC's failure to respect YESAA and the permitting process.

I am disappointed in YEC's false, misleading and incomplete information to the Board and to the public.

I am disappointed in YEC's attempt at character assassination in lieu of legitimate "Rebuttal Evidence."

I thank the Board for their patience and consideration of these issues, and thank everyone involved in the process for their part in making it happen.