

March 18, 2026

Ms. Lesley McCullough, Chair
Yukon Utilities Board
Box 31728, Whitehorse, YT Y1A 6L3

Dear Ms. McCullough:

Re: Nathaniel Yee request for Review and Variance (R&V) of Board Order 2026-01

I write in response to the Board's March 16, 2026 memorandum, inviting Yukon Energy and other intervenors to provide comments in Phase 1 of the Board's process under section 31 of the Board's *Rules of Practice* as to whether Mr. Yee's February 18, 2026 R&V request establishes "a *prima facie* case sufficient to warrant full consideration by the Board."

Yukon Energy opposes Mr. Yee's R&V request. Yukon Energy notes that the additional evidence it filed on March 16, 2026 in support of the Board's reconsideration of its 2023/24 GRA decision is also relevant to this R&V. For the purposes of the R&V, further evidence can also readily be provided about delays that were outside Yukon Energy's control in the completion of the assessment and permitting processes for both the Faro and Mayo Secondary thermal generation facilities during the period after January 1, 2025. It will be apparent from the foregoing that the Board's decision in the 2025-27 GRA allowing recovery of all of Yukon Energy's projected diesel rental costs in the 2025 and 2026 test years (as well as 2027) does not "threaten the integrity of the legal system." As such, the Court of Appeal decision in *Yee v. Yukon Energy Corporation*, 2026 YKCA 1, provides no basis for the Board to vary that aspect of its 2025-27 GRA decision.

That said, Yukon Energy submits that it is premature for the Board to make a determination on Phase 1 of Mr. Yee's R&V request until after the completion of the reconsideration process that is already underway for the 2023/24 GRA decision.

Yukon Energy notes, in particular, that the outcome of the Board's reconsideration of its 2023/24 GRA decision can be expected to have a significant impact on Mr. Yee's request for R&V of the Board's 2025-27 GRA decision, and it could potentially be determinative of Mr. Yee's R&V request.

Moreover, given Yukon Energy's understanding that any possible adjustments that may be granted based on Mr. Yee's R&V will be implemented in due course through the proposed true-up rider, Rider J1, effective January 1, 2027,¹ there is no urgent need for the Board to proceed immediately

¹ This understanding was described in Yukon Energy's February 23, 2026 letter to the Board regarding the 2025-27 compliance filing, and in the Board's March 12, 2026 decision approving Yukon Energy's compliance filing (Board Order 2026-08, Appendix A, at paragraph 6).

with Phase 1 of the R&V. There will also be no prejudice to any party if the Board waits until after its decision in the reconsideration process for the 2023-24 GRA before making its determination on Phase 1 of Mr. Yee's R&V.

In these circumstances, it is in the interests of justice for the Board to adjourn Mr. Yee's R&V until after the Board has received additional evidence from all parties in the 2023/24 GRA reconsideration process, and after the Board has made a decision in that reconsideration process. In particular, an adjournment will promote procedural efficiency and economy, and will avoid unnecessary duplication of process and argument.

Accordingly, Yukon Energy respectfully requests that the Board adjourn Mr. Yee's R&V, and postpone making a Phase 1 determination, until after the Board has issued its decision on its reconsideration of the forecast cost of rental diesel units without air emission permits in the 2023/24 GRA.

Yours truly,



Jason Epp,
Vice President, Finance and CFO