WCC 275
c/o #601 – 210 Hawkins St.
Whitehorse, Yukon Y1A 1X4
condoelec@northwestel.net

March 31, 2022

Ms. Deana Lemke
Executive Secretary
Yukon Utilities Board
Via email

Dear Ms. Lemke:

Re: **Whitehorse Condominium Corporation No. 275 – Billing Complaint**
Response to ATCO-YEC letter of March 11, 2022

Attached please find the response from the complainants – Ben Charland, Meghan McKenna and WCC 275 – to the letter from ATCO Electric Yukon and Yukon Energy Corporation dated March 11, 2022 and your letter of March 16, 2022.

Should you require any further information we can be reached at condoelec@northwestel.net.

On behalf of the Condo Board, the owners, residents, and complainants,

Sincerely,

Arlin McFarlane, President

MARCH 31, 2022
TO THE YUKON UTILITIES BOARD

REPLY SUBMISSION FROM COMPLAINANTS
TO AEY/YEC RESPONSE DATED MARCH 11, 2022
TO SECTION 44 COMPLAINT DATED FEBRUARY 14, 2022

We, Benoit Charland and Meghan McKenna, on our own behalf and on behalf of Whitehorse Condominium Corporation No. 275 ("WCC 275") and the individuals listed in our Complaint, reply to the Response of AEY/YEC dated March 11, 2022 to our section 44 Complaint under the Public Utilities Act as follows:

PART ONE – WHY MUST THE BOARD INVESTIGATE?

1. The Utilities say that the Board should dismiss and not investigate our Complaint. They assert this in paragraph 11 of their Response and give the reasons in the paragraphs following para 11. The Complainants say that the reasons given, if established, do not constitute grounds under section 45 of the Act giving the Board authority to decline to investigate the Complaint and, in the absence of any such grounds, the Board must investigate.

2. Section 46 says that, subject to section 45,

> *"the board shall... investigate every complaint."*

This means that the Board must investigate our Complaint unless there are facts bringing it within section 45. The Utilities have not asserted any facts that would bring our Complaint within section 45. We say that our Complaint cannot be dealt with under another Act, is not trivial, frivolous, vexatious, or made in bad faith, and is within the jurisdiction of the Board. Further, the facts in our Complaint occurred within six months before our Complaint was filed and are ongoing.

3. Our Complaint falls squarely under section 44 as it relates to the rates of a public utility. Section 50 does not apply as we seek an investigation, not an inquiry or public hearing.

4. The Utilities assert that our rates align with the approved rates and that they are complying with the Terms and Conditions of Service. We do not say otherwise. Our Complaint is not about the Utilities' service. Our Complaint is about rate design, the rates that we are charged, and the fact that our rates are not on par with other residential customers. We seek fairness.

5. In para 10 of their Response, the Utilities say "to **achieve fairness** (emphasis added) with other ratepayers and developments," two conditions must be met. This appears to acknowledge that change is required to make the existing rates fair. We do not accept that the two conditions they propose are the only way to achieve fairness. We say that the purpose of an investigation is to determine whether there are other, more appropriate, ways to achieve fairness. That is why we believe the Board should investigate.

6. The Utilities appear to say that the YUB should not investigate our Complaint because they are not out of compliance, it would create a bad precedent and we are the only customer with this issue. We say the Board has the authority to order an amendment to the rates and Terms and Conditions to achieve fairness, and that since we are the only customer with this issue, there should be no concern about precedent. There is also a "Catch 22" problem with their Response: if we are the only customer with this issue, it must surely follow that we will be the only customer with the standing to complain.

7. The Utilities' Response makes assertions about communications with the developer, standard practice, and otherwise which we are unable to accept without verification. We do not accept that the assertions of the Utilities are relevant to whether our rates are fair, but if they are relevant, we say that they must be verified during the investigation.

8. In summary, we say that the Board has a statutory duty to investigate our Complaint. Further, the Utilities' Response raises issues of fact and makes assertions about the limits to and options for rate design that we dispute. We submit that the issues raised by our Complaint and the Utilities Response can only be addressed by conducting an investigation under section 46 or achieving a settlement of our Complaint under section 47 of the Act.

PART TWO – ARE THE RATES JUST AND REASONABLE?

9. The rates and Terms and Conditions that apply to the Complainants are not just and reasonable. In their Response, the Utilities do not say anything to the contrary. Furthermore, the Utilities do not refute any information in our Complaint regarding the amounts charged for electricity, nor discuss whether those sums are just and reasonable.

10. The Utilities do not assert or provide any evidence that the rates charged are fair. They do not claim or provide evidence that it is just and reasonable that we pay a monthly demand charge ($1,347.94 billed to WCC 275 in each of the last three months) while other residential customers do not, nor that the amounts billed to WCC 275 for electricity are just or reasonable. Based on information provided by the Complainants to date, there is a significant discrepancy in how the Complainants are being billed in comparison to other residential customers.

11. In paragraphs 5 through 10 of their Response, the Utilities make statements and present information that has not been made available to the Complainants and that we are unable to accept without verification. Our condominium corporation ("WCC 275") has requested information from both ATCO and the developer about their communication history. If this history is relevant to the fairness of the rates we are charged, we believe that it must be investigated before it is accepted and that, as part of the investigation, the developer be given the opportunity to respond.

12. In paragraph 7 of their Response, the Utilities offer to provide the Board with information on a confidential basis regarding their communications and agreements with the developer. The Complainants request that, for any administrative proceeding to be fair, there must be full disclosure of all relevant information by the parties involved. It would be more appropriate for information to be shared — confidentially if need be — during an investigation, preferably through a collaborative review as requested by the Complainants. In such a process, information can be verified.

13. In paragraph 11 of their Response, the Utilities incorrectly state the Complainants' position with regard to installation of metering. They have provided no evidence to support this contention because there is none. The Complainants are open to discussing all possible options to resolve the situation through an investigation and collaborative review, as requested in the Complaint; this could include a technical and financial assessment of available metering options. Any potential resolution should have the net effect of an arrangement that is just and reasonable for the Complainants in relation to all other residential customers.

14. In paragraph 12 of their Response, the Utilities appear to acknowledge the bills being levied at Third and Hawkins are unfair. Absent is evidence that the demand charges applied to all Multiple Dwellings are just and reasonable in relation to other residential customers. These questions can be appropriately addressed through an investigation.

15. In paragraph 13 of their Response, the Utilities discuss paragraph 25 of our Complaint regarding a new rate classification. The Utilities incorrectly state this is something the Complainants are requesting. In the Complaint, it is presented as a final alternative should the processes provided by sections 46 and 47 of the Act be unsuccessful.

16. The Utilities suggest (paragraph 13, bullet 4) that our Complaint is too small to warrant corrective action. This is not sufficient justification for the Board to take no action. Each and every Customer deserves fair treatment: the rates and Terms and Conditions must be just and reasonable for everyone. Additionally, this argument ignores the potential unfair costs to other multiple dwellings that result from demand charges, and the unfair escalator effect of the demand charges on other billing items. The Utilities also fail to address how the unfair treatment of the Complainants will result in a disincentive effect for future developments of the kind, which, like WCC 275, are more energy efficient.

17. The Utilities do not respond to the Complainant's suggestion that we seek to negotiate a settlement under section 47 of the Act. The Complainants wish to know if the Utilities are willing to enter into such negotiations.