IN THE MATTER OF the *Public Utilities Act*
Revised Statutes of Yukon, 2002, c. 186, as amended

and

An Application by Yukon Electrical Company Limited
for Approval of Revenue Requirements for 2008 and 2009

BEFORE:	W. Shanks, Chair	) September 26, 2008
	R. Laking, Vice-Chair	)
	J. Woodland	)
	K. Avery	)

BOARD ORDER 2008-14

WHEREAS:

A. On April 30, 2008, Yukon Electrical Company Limited (YECL) filed with the Yukon Utilities Board (Board) an Application, pursuant to the *Public Utilities Act* (Act) and Order-in-Council 1995/90, for approval of its forecast revenue requirements for the 2008 and 2009 test years and approval of certain deferral accounts (Application).

B. On June 20, 2008, the Board issued Order 2008-5 which, among other matters, established a proceeding schedule for the Application.

C. Information Requests (IRs) were submitted to YECL by the Board, Yukon Energy Corporation (YEC), the City of Whitehorse (Whitehorse) and the Utilities Consumers' Group.

D. Pursuant to a request by YECL, on July 17, 2008, the Board issued Board Order 2008-7 extending the time for YECL to file responses to these IRs and making minor adjustments to the balance of the proceeding schedule.

E. YECL filed IR Responses on August 4, 2008.

F. On September 3, 2008, UCG filed materials with the Board regarding rate of return and capital structure.

G. By way of letter dated September 8, 2008, YECL requested that the materials filed on behalf of UCG regarding rate of return and capital structure on September 3, 2008 be removed from the record and not be considered as evidence because it appeared that the authors of these materials were not being

proffered as witnesses and YECL would not have the ability to examine this material. In addition, the materials were not specific to YECL.

H. The Board also received a request from the City of Whitehorse that the UCG evidence regarding rate of return and capital structure be struck.

I. On September 9, 2008, UCG filed a letter with the Board stating that the evidence provided to the Board with other methodologies to determine a fair and reasonable rate on equity and capital costs than what has been provided by the applicant and the Board should have as much pertinent information in front of them as possible. UCG added that their intention was to go through various scenarios with the YECL expert witness in cross-examination.

J. By way of memorandum on September 9, 2008, the Board advised all parties that a Board decision on whether Evidence is to be struck is premature at this stage and will not be made until after the Board received IR Responses from UCG. Therefore, parties should submit any IRs to UCG according to the current schedule.

K. On September 24, 2008, UCG filed with the Board their responses to the IRs submitted to them on the materials filed as evidence regarding rate of return and capital structure.

L. On September 24, 2008, YECL filed a letter reiterating its request that the UCG evidence regarding rate of return and capital structure be struck from the record because it was clear from the responses to the IRs that UCG had downloaded or copied the materials from the internet and that the materials had not been prepared for the proceedings. YECL submitted that there was no indication of the relevance of the materials to the circumstances of YECL. In addition, the authors of the materials would not be speaking at the hearing to the materials and YECL would not have an opportunity to cross-examine the authors.

M. The Board has considered the submissions of the parties. The Board finds that as UCG will not be presenting the authors of the materials submitted on September 3, 2008 regarding rate of return and capital structure, this evidence cannot be tested by the other parties through cross-examination. To allow the evidence to remain on the record would be unfair to the other parties. Also, UCG has not indicated the relevance of the materials filed to the YECL application before the Board. In addition, the Board notes that UCG intends to use the materials as an aid to cross-examination. As a result, the Board has determined that the UCG evidence be struck from the record of this proceeding; but the materials may be used as an aid to cross-examination.

NOW THEREFORE, the Board orders that:

1. The UCG materials filed on September 3, 2008 regarding rate of return and capital structure be struck from the record of the Application.

DATED at the City of Whitehorse, Yukon, the 26th day of September 2008.

BY ORDER



Wendy Shanks
Chair