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May 22, 2009

Yukon Public Utilities Board
Box 31728
Whitehorse, Yukon
Y1A 6L3

Att: Ms. Wendy Shanks
Board Chair

Dear Ms. Shanks:

Re: Yukon Energy Corporation ("YEC")
2008-2009 General Rate Application
Final Argument

In accordance with the Board's procedural schedule for the referenced proceeding, please find enclosed herewith the Final Argument of the Yukon Electrical Company Limited.

Should you have any questions regarding the above, please do not hesitate to contact the undersigned.

Yours truly,

BENNETT JONES LLP

Loyola G. Keough
Counsel for Yukon Electrical

YUKON UTILITIES BOARD
YUKON ENERGY CORPORATION
2008-2009 GENERAL RATE APPLICATION
FINAL ARGUMENT OF YUKON ELECTRICAL COMPANY LIMITED

1. INTRODUCTION

The Yukon Electrical Company Limited ("Yukon Electrical") intervened and actively participated in the proceeding held by the Board to examine the 2008-2009 General Rate Application ("GRA") for the Yukon Energy Corporation ("YEC"), as Yukon Electrical is directly and materially impacted by the Board's decisions regarding the referenced Application. Yukon Electrical's purchase power expenses from YEC constitute more than 53% of Yukon Electrical's revenue requirement in 2009. In addition, Yukon Electrical shares common Rate Schedules with YEC and, as well, is its sole wholesale customer, as Yukon Electrical provides distribution service to approximately 90% of the customers in Yukon. As the direct service provider to these customers, Yukon Electrical is responsible for direct customer contact, including with respect to rate structure and design, as well as, reliability issues. Yukon Electrical has a responsibility to its customers to ensure that the costs incurred by YEC, which form the majority of Yukon Electrical's rates, are reasonable and appropriate in the circumstances.

During the course of these proceedings, YEC attempted to focus attention on its assertion that it was seeking rate reductions in the context of this GRA. However, upon closer scrutiny it became evident rate reductions were minimal for 2008 and that such "reductions" for 2008 and 2009 were largely attributable to the use of existing reserves accumulated for the benefit of customers to offset cost increases, the ability to include the revenues associated with major projects in its Revenue Requirement but not the associated costs and the adopting of actions which are not consistent with what would be expected of a normal or typical utility. In fact, absent the aforementioned, YEC would be requesting rate increases in the Test Years. Each of these matters will be discussed in more detail below.

Yukon Electrical submits that, notwithstanding the purported rate reductions being requested by YEC, there is still a requirement for YEC to demonstrate the reasonableness and prudence of its forecast costs and to fully justify why its forecast revenue requirement should be accepted by the Board. As will be detailed below, it is Yukon Electrical's view that YEC has failed to provide an adequate justification for a number of specific items and, as such, the associated requests should not be accepted by the Board. Consequential adjustments should be made in the Board's Decision regarding the subject GRA. In addition, several of the practices that are apparently being utilized by YEC are not well documented (or documented at all) and provide little comfort or understanding regarding the reasonableness of the approaches being used by YEC. Yukon Electrical submits that Board direction is required in order to ensure that consistent and detailed documented processes are implemented and followed by YEC. Adopting such an approach will also assist the Board and parties in ensuring that the resultant costs are reasonable.

During the course of the proceeding YEC also clarified that it is still seeking certain isolated changes to the currently approved rate design, notwithstanding the Board's Ruling in Order 2009-1 and the positions of other parties regarding the pursuit of changes to rate design in a piecemeal fashion. As will be discussed in greater detail below, Yukon Electrical opposes such a fragmented approach to rate design, particularly in circumstances where Yukon Electrical, YEC and their respective customers, will be impacted by such changes. During the course of these proceedings YEC confirmed that it did not consult with Yukon Electrical regarding these proposed changes (1T49). In fact, the record shows that there is no valid reason for proceeding with these proposed rate design changes in a haphazard fashion, as is proposed by YEC. In this regard, YEC makes frequent references to OIC 1995/90 and the goal that rates promote economy and efficiency. While Yukon Electrical concurs with these goals, it is of the view that they cannot and should not be pursued in the piecemeal manner being advanced by YEC. As will be discussed below, YEC has acknowledged that the proposed rate design changes will not lead to a change in short-term consumption patterns during the Test Years. Yukon Electrical submits that rate design is best addressed in the context of a complete

and transparent joint Phase II proceeding. This request should be denied by the Board.

YEC's Application and subsequent filings also attempt to portray the overall approach adopted by YEC in the conduct of these proceedings as being "orderly" or structured. However, the actual facts belie this assertion and demonstrate that YEC appears to be lacking in any clear strategy or structure regarding such things as the pursuit of numerous planning studies and the development and implementation of capital projects. In this regard, the role of YEC's 20 Year Resource Plan and the recommendations made by the Board with respect thereto in the YUB's Report to Commissioner in Executive Council dated January 15, 2007 is, at best, uncertain. While YEC appears to be relying upon its Resource Plan to demonstrate the need for a variety of projects and the optimum way to meet such need (1T82-83); it became evident at other points that the information provided at the time of the Resource Plan was extremely limited and dated; and that many of the projects being pursued do not, at this time, bear much resemblance to the information put forward in the Resource Plan, particularly in terms of cost and project design. In these circumstances, it is difficult to understand how the preliminary information provided during the Resource Plan can be of any meaningful assistance to the Board in terms of conducting a meaningful review of such projects. In this regard, Yukon Electrical continues to rely upon YEC's commitment to bring projects before the Board for review if the forecast cost is greater than $1M (as recommended by the Board itself); and to undergo a review under Part 3 of the Public Utilities Act, as previously contemplated by the Minister (20 Year Resource Plan, p. 2-3).

While Yukon Electrical supports responsible and measured development of the electricity infrastructure required to respond to reasonably forecast future system requirements, it appears that YEC again adopts a very haphazard approach to this matter and, in fact, has gotten out ahead of even potential development(s) in many respects. While electricity infrastructure is an important ancillary component of industrial projects, Yukon Electrical considers that it is inappropriate for YEC to "lead" such development(s) before there is any solid indication that the underlying

projects will actually proceed. YEC has provided no information to explain why project development cannot occur at least in parallel, even if it chooses not to await the finalization of key parameters before proceeding to move forward with its generation and transmission projects. Yukon Electrical submits that the onus squarely rests on YEC to demonstrate the reasonableness and prudence of its actions in this regard. The record to these proceedings is clearly deficient on this matter.

YEC's major capital projects do not appear to be supported by any comprehensive business cases and, as such, it is difficult to fully understand the need for and justification of such projects. While certain information was extracted during the Information Request process, it is clear that detailed business cases, which identify a specific need or driver and provide a cost/benefit analysis, including a net present value of the capital, future capital maintenance and O&M costs to be incurred, as well as, a thorough evaluation of the options examined to meet the purported need, were simply not provided as part of this Application. Given the magnitude of certain of the projects being pursued by YEC, such documented support should be mandatory and should be filed and tested before the project moves forward. A superficial examination, supported by general statements, is simply not sufficient and the Board should not allow any costs related to major capital projects, including specifically AFUDC and study costs, in rate base until a thorough assessment and testing of each such project has taken place.

Yukon Electrical also has significant reservations with respect to YEC's efforts to improve system reliability, given the continuation of frequent outages. This is notwithstanding the expenditure of significant dollars on an annual basis, that were supposed to, at least in part, go towards addressing system reliability issues based on establishing priorities and proceeding in a structured manner. Again, the results achieved by YEC, despite these ongoing expenditures, seem to be below acceptable levels (even as acknowledged by YEC itself) (1T157-160). YEC's apparent inability to identify the cause of a significant number of outages makes it very difficult for YEC to actually develop measures that will improve upon its

performance. Yukon Electrical submits that system reliability is a major concern to customers and that YEC should be required to take definite measures to make meaningful improvements in this regard. The causes of outages should be identified more precisely and fully documented, as well as measures taken to address the noted issues.

For purposes of this Introduction, Yukon Electrical will not enumerate specific comments with respect to the itemized matters reflected in the Board's Issues List, as relevant matters will be addressed under specific headings below. The failure of Yukon Electrical to address any matter should not be interpreted as concurrence with YEC's Application or the positions advanced by YEC herein. Rather, Yukon Electrical has confined its comments to matters of significance which have a direct impact upon it. For purposes of this Argument Yukon Electrical will also adopt the numbering reflected in the Board's Issues List, even though this will mean that certain sub-areas will be skipped, as Yukon Electrical will not comment upon each and every matter.

2. SYSTEM SALES AND GENERATION

B. Sales Forecast and Forecasting Methodology

(i) Wholesale Sales to YECL

The information filed in these proceedings confirms that YEC does not forecast customer sales using the same statistical methodologies and information relied upon by Yukon Electrical. As indicated, Yukon Electrical serves approximately 90% of the retail customers and has detailed customer information available upon which to prepare its forecasts. YEC acknowledged that it does not have access to this information. While Yukon Electrical uses generally acceptable statistical methods for purposes of its sales forecasts, YEC appears to rely upon a simple average of past information, with no weather normalization, even though it clearly acknowledged that weather directly impacts monthly wholesale sales (CW-YEC-1-2-Revised; 1T223). In its Responses to Information Requests (YECL-YEC-1-19-

revised) YEC submitted that the period 1996-2008 was not representative of reasonable future growth. However, what becomes readily apparent is that the selection of any specific period can materially impact the growth rate that is derived. YEC's arbitrary selection of a given period does not translate into the most appropriate forecast to use for GRA purposes. Yukon Electrical submits that, based on the data available to it, Yukon Electrical has developed a superior methodology than that used by YEC, as the use of sound statistical methods, which include weather normalization, provide better forecasts. For purposes of YEC's Test Years, Yukon Electrical submits that the forecast recently approved by the Board in the context of Yukon Electrical's 2008-2009 GRA should be approved for YEC as well. As confirmed by YEC during questioning, the actual numbers at the end of the year will be the same for both companies (1T235-236). As such, it is appropriate to use the same sales forecast for both of the Utilities.

Yukon Electrical also notes that in Response to Undertaking No. 28, p. 4, YEC uses a forecast for both Fish Lake Hydro and wind generation that is below the forecast for Fish Lake Hydro only that was recently approved by the Board in Yukon Electrical's 2008-2009 GRA.

E. Use of Available Hydro Surplus and Impact of Base Load Requirements

As indicated several times by YEC in its Application, Information Responses and Opening Statement, the existing hydro surpluses are likely to be fully utilized in the next few years. It appears that this anticipated development has led YEC to pursue a number of new sources of supply, including several expensive hydro generation and transmission developments. It is also clear that the primary driver for many of these projects are a number of mining ventures which have a relatively short life-span of four to six years (YECL-YEC-1-1 Revised; 1T90). As indicated above, Yukon Electrical is supportive of responsible and measured development, but YEC appears not to have addressed at all the impact of constructing major facilities, which have a very long term life-span, to meet the short term needs of such customers. The residual impacts of owning and operating long term infrastructure

appear to be ignored by YEC and the impacts that the remaining customer base will have to absorb over the long term has simply not been taken into account in the pursuit of these numerous developments (1T100-101). In fact, YEC is dismissive of this concern and brushes it aside using the general (but unsupported) assertion that wholesale load growth will inevitably appear to use up any surplus that might exist. There is simply no evidence to support this general statement regarding future growth. Yukon Electrical submits that responsible and measured development requires that such impacts be acknowledged and addressed as part of project evaluation and development. The long term and far reaching affects of events, such as the closing of the Faro Mine, serve as a vivid demonstration of such customer impacts. YEC's failure to comprehensively address such impacts is simply unacceptable. Yukon Electrical submits that a proper long term sales forecast would reflect the impact of both sales growth and an evaluation of the potential drivers for such future growth. Absent such a rigorous process, there appears to be little basis for relying on YEC's speculative statements.

F. Impact of Minto Mine and Other Possible Mine Customers

As stated in the introduction above, YEC's claims of rate reductions and "benefits" to customers are generally associated with the connection of the Minto Mine and Pelly Crossing. However as acknowledged by YEC, such benefits are largely attributable to the fact that YEC recognizes the revenues from this Project and not the full costs (1T96-99). This is similar to the circumstances which are forecast to prevail if other possible mine customers are ultimately connected to the system. As will be discussed in detail below, it is clear that numerous, significant hurdles remain outstanding before such projects reflect firm commitments. Yukon Electrical submits that YEC should be required to provide comprehensive business cases (as described above) to support the pursuit of such projects, particularly when significant actions are taken by YEC before the load that serves as the project "driver" is firm in any respect. Yukon Electrical is also concerned that YEC has expended funds on matters relating to possibly serving such potential customers, including planning and study costs, before Government funding is committed and the

level of residual risks to customers is known. As will be discussed below, customers should not have to absorb the costs. On a more general note, it is troubling that YEC does not appear to understand what is expected to be included within a comprehensive business case.

G. Demand Side Management Programs

During the proceedings YEC confirmed that it would work with Yukon Electrical in accordance with recent Board Orders to develop a position on Demand Side Management (2T472-473). Yukon Electrical confirms YEC's views on this matter and confirms that it will work with YEC to investigate such programs, with a view to developing a policy paper and presenting a combined view by the time of the next GRA.

3. REVENUE REQUIREMENT

C. Non-Fuel Operating and Maintenance Expenses

As indicated in its Application (p. 3-6) and Update Filing (Ex. B-10, Appendix B) YEC's Non-Fuel Operating, Maintenance and Administration ("O&M") Expenses have increased steadily over the period 2005-2008. In fact, it appears that YEC's 2008 Actuals exceeded forecasts by some 11%, notwithstanding the fact that the 2008 forecast was part of its October, 2008 filing. While this degree of variance over a short time period raises concerns with respect to YEC's forecasting ability, it is clear that the purported rate decreases for 2008/2009 are not attributable to any efficiencies being captured by YEC or any operational improvements that have been adopted over this period. It is equally clear that, if YEC behaved in a manner consistent with and expected of a normal or typical utility it would, in fact, not be seeing the purported rate decreases. In fact, if updated forecast were used in conjunction with having to recognize the full costs of the various projects YEC has pursued, material rate increases would have resulted. In this regard, it appears that YEC's proposed use of the existing Dewatering Account to offset cost increases is the only reason that rate increases are avoided in 2008. As acknowledged by YEC,

the net effect of taking either approach (ie. rate increase versus use of existing fund) is the same (1T123-124). As such, the claims of rate reductions appears to be exaggerated by YEC. A number of specific items warrant comment with respect to YEC's O&M expenses.

(i) Reserve for Injuries and Damages

During the course of the proceedings it became clear that YEC does not follow any structured approach with respect to the inclusion of items into its Reserve for Injuries and Damages. In this regard, Yukon Electrical introduced an extract from the Alberta Utilities Commission ("AUC") Decision 2003-056 (Ex. C-1-9) which confirmed that the AUC utilizes specific criteria that must be met before an item can be included in the Reserve for Injuries and Damages. While YEC maintains that it meets certain of these criteria, it appears on the Evidence that the only criteria even considered is whether the incident might be sudden and accidental. There is no indication that incidents resulting from normal wear and tear do not actually find their way into the Reserve and, in fact, a number of the specific items identified by YEC in response to YECL-YEC-1-29 indeed appear to be common occurrences, that can and should be forecast as part of YEC's normal O&M budget. Yukon Electrical submits that the Board should carefully scrutinize each of these items to determine whether or not they should properly be included within the Reserve. Yukon Electrical submits that common reoccurring items should indeed be part of YEC's O&M forecast and not eligible for inclusion in the Reserve.

In addition, while YEC maintained that it met the second criteria used by the AUC regarding the fact that the incident was of significance to the operation of the Unit, Yukon Electrical does not think that this criteria has been applied by YEC. In fact, the use of a general $1,000 materiality threshold seems to be very low for a company the size of YEC. Yukon Electrical submits that, based on the size of YEC's rate base, a materiality threshold in the order of $15,000 - $20,000 is more appropriate and should be adopted by the Board in this regard. Items below this level should not be included in the Reserve. Based on the questioning conducted, it

is clear that YEC does not examine whether the incident is one of low probability, such that it would not normally be expected to occur in a typical operating year. As such, no screening is done regarding whether or not the incident is forecastable and should form part of YEC's normal O&M forecast (1T114-120).

As will be discussed below in the context of a number of other items, Yukon Electrical submits that YEC should be required to adopt a formal, written policy with respect to the Reserve for Injuries and Damages and the criteria employed to determine whether or not an item qualifies for inclusion in the Reserve. Yukon Electrical submits that the criteria utilized by the AUC are indeed appropriate (Ex. C-1-9) and should be adopted by the Board for purposes of the Reserve. Based on the Evidence presented in these proceedings, YEC has not demonstrated why an increase to the provision to the Reserve is required or necessary. As such, this request should not be granted by the Board.

(ii) Brushing

During the course of the proceedings Yukon Electrical questioned YEC with respect to the significant increases in brushing expenses that have occurred over recent years (1T146-150). While YEC provided general explanations with respect to increased growth levels because of wet weather, it appears that YEC again has no written policy with respect to its brushing program and the practices employed for the establishment of a brushing cycle. In fact, YEC acknowledged that it has not got a firm practice nailed down at this point. Yukon Electrical submits that the general responses provided by YEC again confirms that a lack of structure exists with respect to the establishment and implementation of a brushing program. The expenses for this item are increasing in a material fashion and must be justified. Such justification is simply lacking in the context of these proceedings and, as such, the requested forecast amounts have not been adequately justified. To assist in remedying this issue for future proceedings, Yukon Electrical recommends that the Board require YEC to develop a written brushing policy, which details in a

comprehensive fashion YEC's approach to brushing and explains the manner in which the budget for any year is derived.

D. Rate Base

(i) Depreciation and Amortization

During the proceedings YEC indicated that it currently has no plans for another Depreciation Study at this time (2T403-405). Yukon Electrical is of the view that YEC should be required to perform periodic Depreciation Studies, as is the norm for regulated Utilities. Given the timing of YEC's last Depreciation Study, it should at least be at the point where it can indicate to the Board and parties when its next Depreciation Study will be conducted. This is particularly important given the significant assets that YEC has added to Rate Base in recent years. YEC should be directed to address this matter as part of its Compliance Filing in this GRA.

H. Rate Case Costs

Based on the questioning conducted during these proceedings, Yukon Electrical is extremely concerned with YEC's proposed approach to its Hearing Cost Reserve. While YEC's estimate of hearing costs has increased from approximately $800,000 to $1.1 million, purportedly due to the number of Information Requests received from parties, it is now YEC's intention to amortize the approved Hearing Cost amount over a period of three years. It appears that YEC is requesting to treat its Hearing Cost Reserve in a manner that is diametrically opposed to the treatment directed by the Board for Yukon Electrical in its recent 2008/2009 GRA Reasons for Decision (Appendix A to Board Order 2009-2, p. 34-36). In fact, it seems that YEC considers the Hearing Cost Reserve to be different from other reserves, such as the Reserve for Injuries and Damages, where an appropriation is made to the Reserve for each year (whether it is a Test Year or not) and the balance in the Reserve is considered at the time of the next GRA.

YEC's only justification for the requested treatment seems to be that, in its view, it is not like the Reserves for Injuries and Damages and has never been

treated in a manner similar to that Reserve. This was confirmed by YEC in response to Undertaking No. 25, p. 7 (Ex. B1-21), wherein YEC maintains that it has never sought or received Board approval for such regulatory treatment. YEC does not appear to deny that its approach would result in customers paying money in rates during non-Test Years, that would ultimately not be trued-up at the time of YEC's next GRA. Its sole justification seems to be that it will treat the current Reserve request in the same manner that took place as a result of the Board's Decision regarding YEC's 2005 Revenue Requirement Application.

YEC also maintained that its treatment of the Hearing Cost Reserve was equivalent to its approach to the forecast of brushing expenditures. Yukon Electrical refutes this comparison, as the two items are materially different. With respect to brushing, it is clear that a forecast amount will be spent each year, even though actuals will likely vary from forecasts. This is completely different from the Hearing Costs Reserve, where the provision to cover the full costs will be amortized over a period of two to three years; and after that the monies would continue to be collected from customers and (according to YEC) then be used to offset other non-hearing cost related expenses (1T161-166).

Yukon Electrical submits that YEC should be required to establish a true Hearing Cost Reserve, which would mean that a standard amount would be included within the Reserve each year until the next GRA, at which time the balance would be brought forward for consideration and disposition by the Board. Yukon Electrical submits that YEC may have created confusion regarding its intention with its Responses to Board Counsel's questioning, wherein it indicated that it would apply to the Board for approval of the total amount to be included in the Deferral Account with respect to hearing costs, at the Board's Scale of Costs (2T539). Yukon Electrical submits that the mere approval of a final balance for inclusion in the Reserve does not mean that YEC intends to treat the Rate Case Reserve in the manner directed by the Board for Yukon Electrical in the above-referenced Board Order 2009-2. Yukon Electrical submits that this matter should be clarified by the Board in its Decision. YEC should be directed to establish a Hearing Cost Reserve

in exactly the same manner as Yukon Electrical. There is simply no basis for directing that the two companies be treated differently.

I. Service Quality Indicators/Need for Performance Monitoring

As mentioned in the introduction above, YEC itself acknowledges that system reliability in recent years has been at unacceptable levels (1T158-160). It also appears that, despite spending in the order of $8 million per year, reliability improvements have not been experienced, in terms of a reduction in the number of outages to acceptable levels. While YEC maintains it has expended adequate funds to address reliability concerns, this does not seem to be borne out by the facts. Additionally, Yukon Electrical observes that the Annual Reports of Key Performance Indicators ("KPI") filed by YEC relate primarily to its Distribution function. Give the minor component that Distribution plays in YEC's overall operations, the absence of KPIs with respect to Generation and Transmission severely diminishes the usefulness of the information provided. If the Board truly wants to understand YEC's performance, information on the Generation and Transmission function must be provided by YEC.

4. COST ALLOCATION AND RATES

A. Overview

As discussed above in the Introduction, despite YEC's stated intention to follow an "orderly" process with respect to its GRA, it is still apparently persisting with its request to effect certain rate design changes as part of the current Phase I proceeding, despite the Board's Order with regard to Phase II issues and the reliance of parties upon such Order in preparation for these proceedings. In fact, it was not until YEC's Opening Statement that it was confirmed that YEC was persisting with this request, notwithstanding the views expressed by the Board and parties. Yukon Electrical submits that, YEC's approach would have the Board address rate design issues in a piecemeal and fragmented fashion and would not take into account the overall impacts of a partial change in rate design.

Furthermore, while YEC acknowledged that Yukon Electrical would be directly impacted by such changes, YEC did not consult with Yukon Electrical (or retail customers) before bringing forward these proposed selected changes. Curiously, YEC does acknowledge that a number of Phase II matters are not addressed here because they are more appropriately addressed jointly with Yukon Electrical (1T48-49). All such changes impact Yukon Electrical and its customers and not just those of YEC's choosing.

During the course of the proceedings Yukon Electrical introduced an Aid-to-Cross (Ex. C-1-9), in order to examine the potential impacts associated with YEC's proposed isolated changes to wholesale Rate Schedule 42. As detailed in this Exhibit, the scenarios that would unfold under the "current" versus the "proposed" Rate Schedule have quite different impacts for Yukon Electrical's customers. The isolated nature of the approach proposed by YEC would see the neutrality embedded in the existing approved rates being abandoned, without any input or opportunity being afforded to Yukon Electrical and its customers to address all matters related to such rate design changes.

In addition, at the present time, the run-out rate is the same for both residential and general service customers, yet YEC's proposal only seeks to change the rate design for the residential class. YEC's rationale appears to be associated with the magnitude of the impacts that would occur if it attempted to change the rate design for the general service class at this point in time; and without considering the overall domino effects associated with such a proposed change. This rationale appears to be entirely inconsistent with the approach YEC seeks to adopt for the residential class (1T70-72). Yukon Electrical again submits that a haphazard and piecemeal approach to changing rate design is anything but "orderly" and submits that a more appropriate approach is to address all issues related to rate design in the context of a formal Phase II proceeding, which is slated to occur in the near future.

Yukon Electrical also notes YEC's attempts to characterize this as a Revenue Requirement matter. This is simply incorrect. YEC's Revenue Requirement will not be impacted by whether or not this requested change is directed. The only thing that will change with this proposal is the rate design and the customers from whom the approved Revenue Requirement would be collected. When questioned on how the proposed approach could be considered orderly, YEC simply responded that the matter is in the Board's hands with respect to how it will be handled (1T73-74). This certainly does not provide adequate justification for addressing this matter in the current Phase I proceeding.

In addition, YEC suggested that the reason for changing rate design at this point was to send "efficiency price signals" to customers (1T27-28, 30, 39). However, when questioned on this rationale for imposing rate design changes on customers YEC completely contradicted itself and indicated that, even if such price signals were created, they would not have any material impact during the Test Years. In fact, YEC acknowledged that it had not assessed what response could be expected from customers in the Test Years. Rather, any impact would be of a long run nature (1T269-271). Therefore, even YEC's purported reason for taking this fragmented approach to rate design does not appear to be one which would achieve any results during the Test Period. In fact, YEC confirmed that consumption would not likely change as a result of the increase in the second block rate during the Test Years. YEC also acknowledged that no dramatic changes are noted in consumption based on studies relating to changes in rates, as electricity consumption is not particularly elastic in the short term (1T279-283). Based on the above it appears clear that even YEC's own rationale to support the requested change would not likely have any impact in the Test Years. Yukon Electrical submits that the haphazard approach proposed by YEC is simply not acceptable. Rather, the proposal appears to be ill conceived and not fully developed. Yukon Electrical submits that a much more orderly and constructive approach would see all rate design issues addressed in the context of a comprehensive joint Phase II proceeding. Yukon Electrical submits that YEC's proposed rate changes should be denied.

No further comment is required with respect to the sub-items listed under Section 4 of the Board's Issues List.

5. CAPITAL PROJECTS

A. Capital Works

Unfortunately, YEC's approach to Capital Projects provides yet another example of an ill-defined and haphazard approach to project development. YEC appears to have no clear plan when it comes to addressing the reasonably forecast future needs of the generation and transmission systems. In fact, at various points during the proceeding YEC takes contradictory positions with respect to the purpose and usefulness of its 20 Year Resource Plan. At one point YEC argues that the Resource Plan is used to demonstrate not only need, but also the optimum way to meet the identified need (1T82). In this case, YEC appears to rely on the Resource Plan to provide definitive support for its capital projects. However, when YEC is pressed with respect to certain specific capital projects and the estimated capital cost thereof that were reflected in the 20 Year Resource Plan, it quickly indicates that it had very little information on the projects at that time and that the information was very, very preliminary. In fact, these points are amply demonstrated by the significant increases in capital costs experienced regarding these projects, as well as the material scope changes which ultimately took place (1T166-175). YEC's open acknowledgement that it did not have very much information at the time the Resource Plan was examined by the Board casts doubt upon the reliance, if any, that the Board can place on the Resource Plan when assessing the capital projects undertaken and proposed by YEC.

YEC has also failed to provide detailed business cases to support its requested capital projects, again apparently relying upon the 20 Year Resource Plan to meet this requirement. As stated above, YEC inexplicably appears to be unclear as to what would be included in a comprehensive business case. In this regard, Yukon Electrical notes that YEC has not provided business cases that demonstrate the need for the major projects it is pursuing. At no point is the business "driver"

identified with any precision. To the contrary, YEC appears to be leading the development of industrial projects and has provided no explanation as to why it cannot proceed with its proposals in parallel with such projects. In fact, it appears that for several of the projects, such as Mayo B and CSTP Stage II, YEC is moving forward and proposing to spend material dollars even though it is openly acknowledged that the projects are, on their face, uneconomic and that several key components to establishing need and viability, including the availability of significant capital contributions from the Territorial or Federal Governments, have not even been addressed at this point in time (1T207-210).

Also of concern to Yukon Electrical is the fact that YEC has a very poor track record with respect to forecasting capital costs. While YEC asserts that its actual capital costs for the CSTP Stage I came in very close to the costs approved by its Board of Directors, the same cannot be said of the cost estimates put forward before this Board at any point in time. In fact, material cost increases and scope changes occurred between the time the project was put before this Board and when the final costs were incurred. For example, YEC acknowledged that, if the original numbers of substations that were proposed had actually been built, the project costs would have been even higher (1T183). Once again, only general explanations were provided to reconcile these amounts. No detailed explanation of actual versus forecast cost variances was provided. Yukon Electrical submits that general explanations are simply inadequate when dealing with projects of this magnitude, particularly when the risks of cost overruns would likely be borne by customers. YEC's track record with respect to forecasting capital costs for major projects is not an enviable one. Whether talking about the Mayo Dawson line or the CSTP Stage I, YEC has materially underestimated the potential costs associated with the completion of these capital projects. This does not provide any measure of comfort when one looks at the magnitude of projects such as Mayo B and CSTP Stage II, as well as several other generating projects that are on the books. Even the approach adopted by YEC with respect to the completion of various studies and items such as preliminary engineering appears to vary widely from project to project, with resultant cost impacts and exposure for customers. In fact, YEC appears prepared to spend

significant dollars even prior to the economic viability of the underlying project being established. While YEC maintains that it attempts to keep the risk to ratepayers within acceptable bounds (1T209), it does acknowledge that cost risks exist for customers with respect to items such as overruns. In addition, as will be discussed below, while YEC maintains that it would not proceed with a number of these major projects unless it was assured that there would be no negative impacts for customers, the significant amount of deferred study costs incurred and forecast by YEC do indeed reflect a material cost to ratepayers, particularly if the underlying projects do not proceed.

While YEC maintains that a number of these projects will not have an impact on Test Year rates, it is clear that YEC intends to rely upon any position the Board takes with respect to these projects in this proceeding to justify its proposed expenditures and its decision to move forward with the projects, including the expenditure of significant monies on items such as studies. This approach can be seen from YEC's reliance on its 20 Year Resource Plan, despite its acknowledged major shortcomings. Yukon Electrical submits that such a situation is entirely unacceptable to customers. YEC should be required to develop detailed and comprehensive business cases for each proposed capital project, including details of the economic need or driver for the proposed project, why such project is economically feasible, the timeframe in which the project can be developed and why it cannot occur concurrently with the underlying infrastructure project, that is purportedly driving the need. Also, a full cost benefit analysis, including a net present value determination of all capital and O&M costs related to the project and an examination of alternatives that were considered, should be provided.

On a more macro level, YEC should be required to provide a detailed strategy document that clearly outlines its medium and long term plan for meeting the reasonably forecast load requirements in Yukon. This should include a prioritizing of the potential projects that could satisfy the identified and verified need, as well as a robust assessment of the costs associated therewith. Yukon Electrical submits that YEC's haphazard approach to project development is simply not acceptable,

particularly given the magnitude of the projects involved and the potential negative consequence for ratepayers.

B. Deferred Costs

At the outset, Yukon Electrical submits that it is critical to put YEC's planning and study costs in the proper context. This can be done by looking at Tables 5.6 and 5.7 of the GRA (p. 5-31 to 5-32). These Tables indicate that the total deferred study costs as of 2009 will be some $31 million. Again, to provide the proper context, this represents approximately 20% of YEC's overall rate base. Deferred study and planning costs of this magnitude are nothing short of stunning. The need for a utility of YEC's size to accumulate aggregate study costs equal to 20% of its overall rate base strains the bounds of credibility. While the aforementioned schedules reference a significant number of projects, it is noteworthy that the total deferred study costs are forecast to essentially double between 2008 and 2009.

The record is also clear that the totality of these study costs will be recovered from customers in one form or another, regardless of whether the underlying projects proceed or whether there are any benefits to customers associated with the conduct of such studies. This is amply demonstrated by the fact that some $4.4 million of completed feasibility study costs are currently proposed to be included in rate base and written off over a five to twelve year period based on YEC's policy in this regard. In fact, while YEC steadfastly maintains that it would not pursue certain projects if there would be negative impacts to customers, it completely ignores the significant dollar impact associated with these deferred study costs when making such statements. As well, YEC confirmed that it does indeed record AFUDC on the balance of these deferred study costs, except for the Hearing Reserve account. As such, while there may not be direct impacts associated with certain of the ongoing studies during the Test Years only, this is not the case for completed studies and certainly is not the case over the longer term with respect to all of these studies.

Other than the sheer magnitude of these deferred feasibility study costs, one of the most troubling aspects of YEC's approach is the complete lack of structure

associated with the conduct of such studies and the absence of any costs/benefit analysis that would justify such significant expenditures. Again, YEC appears to rely entirely upon broad generalizations with respect to its "mandate" to explore potential projects and be ready to move forward with them should the need ever arise. Again, spending significant dollars on projects that are not even remotely economic (such as Mayo B) reflects a haphazard approach to incurring these costs versus a structured and justified expenditure of funds. The facts reveal that YEC exercised virtually no discipline in moving forward with such studies and, in fact, continues to expend significant funds, even if it has determined that the underlying project could never be economic or competitive with other available alternatives (2T467-470).

YEC also appears to totally neglect any assessment of potential benefits to customers that might arise from the pursuit of such projects and acknowledged that its reasoning is not a "cost/benefit thing" (1T138). While YEC maintains that these studies are needed in order for it to manage and plan its system, no analysis is provided beyond these very general statements (1T140). In Yukon Electrical's submission, generic, unsupported statements are simply inadequate to justify expenditures approximating $31 million. The evidence on the record confirms that YEC had done nothing to justify the magnitude of expenditures it either has undertaken or proposes to undertake. As such, for the 2005-2007 period, as well as the 2008-2009 Test Years all deferred study costs incurred, which do not result in a capital project being built and for which there is no evidence of ongoing benefits to customers, should not be permitted in Revenue Requirement. This would include the amortized component of the $4.4 million currently included for the Test Years. The wholesale pursuit of the numerous studies identified in the GRA should be at YEC's expense, not ratepayers.

Yukon Electrical submits that YEC should be required to provide to the Board and parties a comprehensive explanation of each and every study that has been undertaken or is proposed for the full period 2005-2009, including a justification of the costs incurred or forecast and the benefits that will be derived by customers from the pursuit of the underlying project. Until such explanations have been provided

and tested none of the aforementioned study costs should be accepted by the Board.

6. BOARD RECOMMENDATIONS AND DIRECTIVES

F. Recommendations of the Auditor General (Mayo Dawson Line)

Despite the fact that YEC is pursuing several major capital projects and will undoubtedly rely upon the Board's review of such projects in this GRA for its future justification, it has provided no indication of how it has taken the recommendations of the Auditor General into account and incorporated such recommendations into the development of project management systems for the completion of currently proposed projects. Yukon Electrical submits that YEC should be required to provide a detailed explanation as to how it has taken these recommendations into account in its current and future processes.

7. FINANCIAL SCHEDULES

A. 2008 Actuals

As mentioned above, the information provided by YEC in its April 24, 2009 update (Ex. B-10, Appendix B), clearly indicates that there are concerns with YEC's forecasting accuracy and its ability to provide accurate information to the Board, notwithstanding the fact that such information was developed late in the 2008 Test Year. Likewise, YEC's historic forecasting accuracy with respect to capital projects creates another area of concern. Yukon Electrical submits that YEC should be required to provide to the Board and parties a detailed explanation of its forecasting methodologies for both O&M and capital.

8. RETURN ON EQUITY

B. Yukon Energy ROE for 2008 and 2009

During questioning YEC indicated that the BCUC's approach to determining Return on Equity could be used as a precedent on a go-forward basis (2T566-567). Yukon Electrical disagrees with this position. While not taking issue with YEC's specific proposal for the current GRA, Yukon Electrical is of the view that more refined and more recent approaches to determining an appropriate Return on Equity for regulated Utilities may be developed elsewhere by other Tribunals in Canada prior to the next proceeding being held before the YUB for purposes of establishing an appropriate Return on Equity. In this regard, Yukon Electrical expressly reserves its right to bring before the Board any approach it considers appropriate to justify a requested ROE in the future and does not consider itself bound by the acceptance by the BCUC approach in this specific proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 22nd day of May, 2009.

Loyola Keough
Counsel for the Yukon Electrical Company Limited