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October 22, 2010

Yukon Utilities Board
Box 31728
Whitehorse, Yukon
Y1A 6L3

Attention: Shay Smart, Board Secretary

Re: Yukon Energy Corporation / Yukon Electrical Company Limited
General Rates Application – Phase II

Dear Ms. Smart:

Please find enclosed the submissions of the Utilities Consumers' Group (UCG) with respect to the above noted matter.

Please note that UCG intends to make a (short) argument with respect to the issue "Terms and Conditions of Service - Maximum Investment Levels", however we require some additional time to finalize and submit the argument. We apologize for the delay, and will forward UCG's argument on this single issue as soon as we are able.

Yours truly,

Michael Buonaguro
Encl.

YUKON UTILITIES BOARD

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

and

IN THE MATTER OF a Joint Application by Yukon Energy Corporation and Yukon Electrical Company Limited for a Phase II General Rate Application for 2009

FINAL ARGUMENT OF

UTILITIES CONSUMERS' GROUP

October 22, 2010

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INTRODUCTION and OVERVIEW

The Utilities Consumers' Group

1. The Utilities Consumers' Group ("UCG") is a not-for-profit organization registered as a society in the Yukon since 1993. UCG represents residential and small business ratepayers in regulatory proceedings, conducts research, makes submissions, communicates with active stakeholders, including government, and provides assistance to consumers concerning any type of problem with utility service providers.

UCG Approach to the Proceeding

2. This submission summarizes positions of UCG for the Yukon Utilities Board's (the "Board") consideration. It should not be assumed that UCG is in agreement with the positions of Yukon Energy Corporation ("YEC") or Yukon Electrical Company Limited ("YECL") on any issue for which UCG has not provided specific comment on in this argument. Where UCG has not specifically addressed an issue, it is believed that the Board has the benefit of arguments of other intervenors and the extensive record in this proceeding to make informed decisions.

3. UCG views this Phase II General Rate Application as an application for approval of rates and rate design based on 2009 approved costs and load forecast. Ultimately the purpose of the Board's review is to ensure that the revenue requirement to be recovered in rates maintains an adequate, reliable and affordable supply, transmission and distribution of electricity in the Yukon.

4. UCG submits that YEC is wrong to suggest that "the Board's ratemaking mandate has been materially revised" by OICs 2007/94 and 2008/149 "obviating the need for a cost of service (COS) study in order to deal with YEC's current GRA" (YEC response to Phase I YUB-YEC-1-20). Without adequate cost of service evidence to support proposed rate adjustments, UCG submits that the Board does not have the evidentiary record in this proceeding to support any of the proposed rate-related adjustments submitted by YEC and YECL. Ongoing adjustments to rates and riders cause confusion and instability that Yukon ratepayers are looking to avoid.

5. UCG submits it is important to consider the realities faced by its ratepayers when electricity is controlled by monopolies. While the utilities testified that there is no need for them to come before the Board to review rates and operations until they felt that they needed one (Osler, Transcript page 69, lines 11-13), UCG submits that the ratepayers are entitled to a thorough review of utility operations on an ongoing and regular basis to ensure efficiency, to avoid ad hoc riders being put in place without a full cost of service review, and to ensure that rates charged by the utilities do not recover more than a fair return from Yukon ratepayers.

6. The public review of this Phase II General Rate Application has raised many important issues for current and longer term consideration. Of particular concern to UCG is the lack of a

comprehensive and multi-stakeholder approach to the development of the Phase II General Rate Application and the last minute rate design options offered by YEC. UCG submits that the Board should consider making very specific directions to YEC and YECL in this regard as part of its decision on this proceeding.

7. Specifically, UCG is concerned with the apparent inability of YEC and YECL to work together on a more complete application and until the very last minute, and the lack of any meaningful analysis on the impacts on electricity end-users. This is all the more concerning given the recommendations and directions that the Board has provided both YEC and YECL over the last few years in this regard[1].

8. UCG submits that there was a lack of a comprehensive and multi-stakeholder approach despite the Board's direction to address all issues nearly 4 years ago which should have given parties enough time to identify and address all of the GRA-related issues.

9. UCG submits that what is needed in the Yukon is a coordinated partnership between the two utilities which are responsible for the generation and ultimate delivery of electricity service to all Yukoners. While UCG acknowledges that YEC appears to have proposed to YECL that they work together towards a joint filing via their letter to YECL dated May 1, 2009 (YEC Phase I GRA Exhibit B-13), UCG notes that a) the letter suggests to UCG that it was only two days before the oral hearing of its two year rate case that YEC has seriously proposed working together with YECL, despite clear direction from the Board over the last several years that YEC and YECL need to coordinate their efforts, and b) YECL did not have sufficient time to adequately respond to the letter prior to the hearing.

10. UCG submits that given that rates are set on a Yukon-wide basis, it does not help the Board and intervenors if we do not have a consensus from the utilities on rate design. While it may be humorous to some that the utilities "ended up having a fork in the road in terms of the actual proposed design" (Mr. Keough, Transcript page 11, lines 5-6), ratepayers rely on the utilities to work together and come up with a consensus on common issues early in the process. It is counter-productive and ultimately expensive to have parties review and compare three rate design options that are all considered proposals.

11. UCG submits that the utilities should be required to publicly file annual consolidated operating results so that comparisons can be made to the allowed costs of service and revenue recovery. At the very least, YEC and YECL should be directed to avoid submissions of individual rate applications since, to some degree, all customers pay the same combined rates.

12. UCG considered it confusing that the utilities did not agree with the Board on the revenue requirement to be recovered through this Application. YEC testified that the Application "was

[1] Reference - YUB's recommendations on the 20-year Resource Plan (January 15, 2007), page 50 - "Now is an appropriate time for YEC and YECL to have a complete review of all GRA Phase I and Phase II matters. The Board recommends that YEC and YECL file a full GRA application before October 31, 2007. The application should include a full cost of service, rate design and an update of the Electric Service Regulations".

prepared based on 2009 board-approved revenue requirements for each utility totalling **<u>$52.331 million</u>** to address the Board's directives provided in order 2008-9" (Bowman, Transcript page 20, lines 5-8). In its Notice of Application for this proceeding, the Board outlines that this Application requested approval "to collect a previously allowed 2009 Consolidated Firm Rate Revenue Requirement of **<u>$50.833 million</u>**, to eliminate Rate Riders J and R and to adjust retail base rates to fully reflect approved 2009 costs". The utilities testimony included revenue offsets and revenue from secondary energy sales[2].

13. As a general observation on a "joint application", UCG found it confusing to read different responses to the same IRs from each of the utilities. UCG submits that the utilities should be directed to improve their working relationship.

14. The utilities state (CW-YEC/YECL-1-22(a)) that they were not able to consider the investment option for street and sentinel lighting "due to all the issues tabled and the time frame to address them in". This was despite the fact that the Board had provided advance notice that it wanted to address all issues nearly 4 years ago in its January 15, 2007 Report on Yukon Energy Corporation's 20-Year Resource Plan (page 51).

15. The utilities also testified that they were not organized enough to undertake complete studies of issues such as the investment option for street and sentinel lighting (Palladino, Transcript page 66, lines 21-25).

16. UCG submits that the utilities should be directed to conduct more comprehensive consultation efforts on an ongoing basis in order to better understand the issues that need to be addressed in their applications to the Board. As UCG has argued in the past, comprehensive stakeholder input should be mandatory not only in the review stages of a proposed regulatory filing but also during the development of a filing. Agreement among the parties on specific issues would lead to a more efficient and less costly regulatory review process. UCG respectively submits that YEC was deficient in this regard, especially in regards to input from ratepayers and YECL.

SUMMARY OF UCG's PRIMARY ARGUMENTS

17. The Public Utilities Act is very specific on the timing of and filing requirements when rate adjustments are proposed. Section 28 of the Act states:

> *No public utility shall charge any rate for the supply of the service for which it is franchised other than the rate set by the board pursuant to this Act unless, 90 days before it proposes to charge a different rate,*
>
> > *(a) a statement showing the new rate is filed with the board; and*
> > *(b) a notice showing the new rate is sent by mail or delivered to each municipality in which the service is provided and to the Minister.*

[2] Application Table 2-2, page 2-2.

18. For the future, UCG submits that submissions related to revenue requirement and rates approval in the Yukon should be a joint undertaking between the YEC and YECL with input from government entities (e.g., the Energy Solutions Centre) and end-use stakeholders as opposed to a process in which each entity undertakes on its own without regard for others. The timing of these submissions should be in advance of the test years for which they apply. UCG notes that the proposal from YEC to YECL appears to support the joint filing of rate applications by the utilities.[3]

19. Including the existing rate design, there were five rate design proposals for the Board and intervenors to review during this Phase II review. UCG submits that there has been insufficient evidence to support any rate design change at this time.

20. YECL's proposed Rider D should be denied given that current forecasts do not indicate any need for risk compensation beyond base rates.

21. If the result of the Phase II cost of service analysis is that the industrial rates determined by OIC 2007/94 do not recover the full costs incurred on behalf of industrial customers pursuant to OIC 1995/90, then the Board will have to determine who should bear the cost of the deficiency. UCG submits that any revenue deficiency resulting from the legislated industrial rates should be tracked in a deferral account for future recovery from industrial customers.

22. Load forecasting and planning for load growth should account for the base, non-industrial load separately from the more transitory industrial load potential so as to protect longer term ratepayers from adverse rate impacts associated with capital spending made necessary for the purpose of meeting short term industrial loads. With respect to planning for industrial loads, UCG advocates a go-slow approach until future demand can be more fully assessed, rather then making major capital investments in anticipation of unknown potential loads.

23. UCG submits that a demand-side management plan is a necessary component of a comprehensive load and facilities forecasting effort, given the long term nature of effective DSM programs. As was indicated by YEC (Phase I IR UCG-YEC-1-20), it "has not in its current GRA contemplated or budgeted for these activities". YEC also indicated that "further direction from the Board would be required related to the following: (a) The scale of activities anticipated to be undertaken by the utilities; and (b) Confirmation that some form of deferral account for expenditures, presumably targeted for disposition at the next GRA". UCG submits that an onus should be placed on the utilities to come forward with proposals in this regard rather than to further delay moving forward on DSM.

24. A joint interested stakeholder panel should be implemented to promote more efficient use of energy over the longer-term through DSM, and YEC should be directed to work with YECL

[3] Exhibit Number B-13: May 1, 2009 letter from Yukon Energy to Yukon Electrical

and the Yukon government to implement an ongoing DSM program for all electricity ratepayers in the Yukon. UCG submits that YEC and the Yukon government must continue to focus on energy conservation, efficiency and communities. UCG recommends that stakeholders develop an on-going Energy Conservation Action Plan that provides for a wide range of energy efficiency and conservation measures to assist residents in dealing with the high cost of energy in the Yukon. The Action Plan can also provide support for local initiatives identified through community energy planning initiatives.

25. UCG submits that there is no reason why a PBR mechanism with an earnings sharing component could not be considered following the completion of a Phase II review.

26. UCG submits that there is no evidence on record to validate the existing environment of two utilities serving the distribution ratepayers of the Yukon. UCG respectfully submits that in its decision on the current application, the Board should recommend that the utilities and government consider a restructuring of the utility landscape in the Yukon.

27. UCG submits that there has not been enough customer impact analysis evidence placed on the record to fully inform the Board what is happening to revenue-to-(true)-cost ratios nor the end user's bill.

ISSUE: Cost of Service – Functionalization, Classification & Allocation

28. UCG submits that the utilities have failed to provide evidence that the Yukon's transmission lines should be classified 100% energy (YUB-YEC/YECL-1-6; Bowman, Transcript pages 71-72). While they have suggested (without backup evidence) that Manitoba Hydro conducts such a classification, they have not provided evidence that this is the "normal practice" with utilities or that it is used "in many places".

29. UCG submits that without collaborating evidence before the Board from experts such as the Foster Associates referenced during the oral hearing (Transcript page 76, lines 10-25), it is not enough to simply take the utilities' opinion that "the zero-intercept method can sometimes produce statistically unreliable results that allocate more costs to demand rate classes (i.e. large consumer) and the minimum plant method can be influenced by several factors which tend to allocate more costs to customer (i.e. residential) rate classes" (YUB-YEC/YECL-1-7(e)) to justify the averaging of these methodologies within the cost of service analysis in the Yukon. Intervenors assume that the utilities will lead evidence and provide appropriate witness testimony when it refers to the work of groups such as Foster Associates. Without that testimony, UCG submits that there is limited value in the proposal subject to further study by experts of the available alternatives.

30. The utilities testified that they have only been able to identify directly-assignable costs for the Street and Sentinel Light customer classes (YUB-YEC/YECL-1-2 and Duncan, Transcript page 103, lines 11-12). UCG submits that it is a rare occurrence in cost of service analysis that costs, especially the costs to serve the larger customers, cannot be specifically identified for direct assignment. Whether it is the cost of a meter, transformer or billing and customer care

services, UCG submits that the utilities should be directed to more carefully review their operations to directly assign more costs. It appears as though the utilities have already identified higher specific costs to serve commercial class customers (Duncan, Transcript page 125, lines 9-15).

31. While the utilities testified that the lack of a secondary energy sales program would result in "immaterial savings to the utilities" and that "there's almost no incremental cost of servicing the secondary customers" (Bowman, Transcript page 52, lines 5-14), UCG submits that there are still some very specific costs (billing, transformers, etc.) that should be directly allocated to this service and deemed to be recovered specifically through secondary rates charged rather than through the rates charged to other ratepayers for other services.

32. UCG submits that there is considerable confusion regarding how the Aishihik plant should be classified (energy versus demand) within the cost of service analysis given that it is used to meet peak load (CW-YEC/YECL-1-2 (e)) but, because the utilities "can't count on that transmission line being up when I need it" (Bowman, Transcript page 110, lines 3-4), the utilities are proposing a 100% energy classification. UCG submits that the arguments put forth continue to justify the use of a 60/40 energy/demand split in the Yukon given the historical reasonableness "typical of hydro plants in a lot of the interconnected systems in Canada and that have Crown-owned utilities who are dominated by hydro" (Bowman, Transcript page 108, lines 1-5). UCG submits that the utilities are essentially justifying everything based on the N-1 criteria which strips away the Aishihik plant assets from a peak serving perspective. Classifying everything based on the worst case scenario, which is probably furthest from the real day to day operations, appears unfair to UCG.

ISSUE: Cost of Service – Revenue-to-Cost Ratios

33. Revenue-to-cost ratios measure the relationship between the revenues expected from a class of customers and the level of costs allocated to that class.

34. In its June 1992 report on cost of service and rates, the Board made the following recommendations:

- *That a target range for revenue to cost ratios of 90% to 110% be established for all customer classes other than the industrial class, and that the YEC and YECL take the necessary steps to improve the quality of their cost of service studies so that a target revenue to cost ratio of 95% to 105% will be attainable.*
- *That a target revenue to cost ratio of 100% be established for the industrial class.*
- *That the changes to rates required to bring revenue to cost ratios within the ranges established be phased-in over a reasonable period of time, and that the Board monitor the progression of revenue to cost ratios toward the acceptable range in future general rate applications by YEC/YECL.*

- *That the run-out rates for all zones should be adjusted to reflect short-run incremental costs, and that the YEC and YECL should undertake a study for the purpose of identifying long-run marginal costs that should be included in the run-out rates for consideration by the Board.*

35. In its Order 1996-7 (dated June 11, 1996), the Board again directed YEC and YECL to design a rate shift program that would target all customer class revenue / cost ratios of 90% to 110% over a ten year period. UCG submits that there has been little or no work completed in this regard despite the Board's recommendations. While OIC 2008/149 restricts what the Board can do from a rate adjustment perspective, UCG submits that it is important that the Board takes the opportunity of a Phase II review to illustrate the cost responsibility of each rate class in relation to the rates charged to provide transparent information to ratepayers who have to evaluate the intervening government policy. UCG submits that the Phase II review should be used to direct the utilities to establish a plan to move toward the established revenue-to-cost ratio ranges as the existing OICs 2007/94 and 2008/149 expire.

36. In response to Phase I CW-YEC-1-12, YEC indicated that runoff rates at the time the Application was filed were only 14.39 cents/kWh in the Hydro zone, while the approach approved by the Board in the 1996/97 GRA for setting run-off rates would yield runoff rates approximating of 37.37 cents/kWh. YEC suggested that an increase in the runoff rate of 5.61 cents/kWh (resultant Hydro runoff rate before GST of 21.12 cents/kWh) was a practical first step towards correcting this problem and better achieving the efficiency required by OIC 1995/90.

37. In its Phase I application, YEC's stated: "The Rate Policy Directive (OIC 1995/90) was amended prior to the filing of this Application to direct that, prior to January 1, 2013, the Board must ensure that rate adjustments for retail customers (as defined in OIC 1995/90) apply equally, when measured as percentages, to all classes of retail customers". UCG submits that one of the clear consequences of the very late filing by YEC is that ratepayers lost the benefit of any changes to cost allocation the proceeding would have required in accordance with the previously Board expected joint cost of service filing in October 2007, assuming that the government would not have stepped in earlier to avoid shifts in costs. UCG respectfully submits that YEC has continued this pattern by submitted a rate design option at the last minute thus preventing a thorough review process.

38. UCG submits that there has not been enough customer impact analysis evidence placed on the record to fully inform the Board what is happening to revenue-to-(true)-cost ratios nor the end user's bill. UCG submits that the Board cannot make decisions on rates for individual utilities without understanding the overall impact on the end user (i.e., YEC and YECL rate adjustments plus government subsidies).

39. In the Phase II Application and testimony, the utilities have determined through the cost-of-service results that "residential non-government customer class has a revenue cost ratio well below the zone of reasonableness at 79 percent, and general service government has a revenue

cost ratio well above the zone of reasonableness at 144. These values have not changed significantly since the '96/'97 GRA" (Bowman, Transcript page 22, lines 10-14).

40. UCG submits that, as was done 18 years ago, the Board should direct the utilities to take the necessary steps to efficiently reduce revenue requirement and proposed rates so that a target revenue to cost ratio of 95% to 105% will be attainable for all customer classes once existing OICs 2007/94 and 2008/149 expire.

ISSUE: Cost of Service - OIC 2008/149 (Directive Amending Rate Policy Directive)

41. UCG submits that no part of OIC 2008/149 prohibits the YUB and other parties from reviewing the cost allocation and rate design of YEC and YECL.

42. Yukon ratepayers need to rely on the utility regulator to determine how best to set fair and reasonable rates. As was indicated in Board Order 2009-1, the Board has already determined the need for complete and accurate cost of service data when it issued its January 15, 2007 report on YEC's 20-Year Resource Plan:

> *Now is an appropriate time for YEC and YECL to have a complete review of all GRA Phase I and Phase II matters. The Board recommends that YEC and YECL file a full GRA application before October 31, 2007. The application should include a full cost of service, rate design and an update of the Electric Service Regulations. The Board also suggests that YEC and YECL consider a performance-based regulation mechanism. As well, the Board recommends that evidence be provided as to what other utilities provide for Maximum Company Investment and model theirs accordingly*.

43. As the utilities testified during the oral hearing (Mollard, Transcript page 18, lines 11-14), Yukon ratepayers have not seen a true cost allocation reckoning since 1996. UCG submits that the evidentiary record of this Phase II proceeding does not allow residential and general service ratepayers to easily identify (1) what unsubsidized rates and bills would be for each class of customer; and (2) precisely how each of the embedded and external subsidies impact the energy bills they pay. UCG submits that YEC should be directed to work with YECL to produce true cost of service numbers for rate classes for the Phase II compliance filing so that all ratepayers can see what unsubsidized rates would be and be able to make practical / specific recommendations in the future to lower utility costs where they need to be controlled. Given that the majority of ratepayers are residential consumers, UCG submits that they are entitled to understand where utility costs are accumulating and to ensure that the industrial class is indeed creating benefit for other ratepayers as is being claimed by YEC and the government.

44. UCG submits that one of the most important aspects of the Board in regulating the energy sector is to identify the fair cost of providing electricity to Yukon's ratepayers, not only at the total revenue requirement level during Phase I of the hearing process, but also at the level of appropriately constructed ratepayer classifications in Phase II. Whether the government,

through subsidies outside the regulatory construct or specific restrictions of the Board's ability to shift costs between customer classes, chooses to deviate from cost causality in the final rates experienced by ratepayers does not derogate from the Board's obligation to identify the fair cost of energy.

45. UCG submits that, to arrive at rates that are just and reasonable, the Board needs to make a cost-based rates determination before entertaining rate-setting objectives such as energy conservation or incentive mechanisms that might move rates away from cost causality.

46. UCG submits that the supply of electricity serves to meet basic human needs such as lighting, cooking, refrigeration and warmth from heating. Access to an affordable essential service is arguably a broad public concern. UCG submits that the supply of electricity is considered by the majority of ratepayers a necessity that is available from a single monopoly source (with no distinction between utilities) with prices set by the Board in the public interest.

47. According to YEC "Given the current rate policy framework, the 2009 cost of service cannot be used today to adjust the current major industrial rates or to implement rebalancing today of rate revenues between retail rate classes" (Bowman, Transcript page 20, lines 10-13).

48. The National Energy Board provides a definition of "public interest" in its Strategic Plan which UCG submits should be used in the Yukon given the various interests to consider:

"The public interest is inclusive of all Canadians and refers to a balance of economic, environmental and social interests that change as society's values and preferences evolve over time. As a regulator, the Board must estimate the overall public good a project may create and its potential negative aspects, weigh its various impacts, and make a decision."[4]

49. UCG submits that while the industrial rates are artificially held constant by OIC, the cost of service for industrial loads should still be determined and any revenue surplus / deficiency created by the frozen rates should be isolated to protect the non-industrial classes from any adverse impacts and instability. If the Phase II review indicates that the industrial rates established by the Yukon government do not recover the full cost of service for that class, then UCG submits that the industrial customers, not the non-industrial ratepayers, should be held liable for the revenue deficiency.

50. UCG respectfully submits that any revenue deficiency resulting from the legislated industrial rates should be tracked in a deferral account for future recovery from industrial customers once the mandated rate freeze expires in 2012. UCG submits that a full cost of service analysis of forecasted 2012 revenue requirement needs to be undertaken in advance and rates set to recover an appropriate amount from each rate class.

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[4] National Energy Board Strategic Plan 2009-2012

ISSUE: Cost of Service - Marginal Costs

51. The utilities testified (Bowman, Transcript page 342, lines 5-10) that diesel generation was not on the margin in 2009 with respect to the hydro systems ("particularly the WAF system") nor was diesel on the margin in any current forecasts.

52. UCG submits that the utilities testified that the rate design proposal had nothing to do with peaking, really, but rather it was about allocating costs related to diesel as it became routinely used for base load generation (Transcript pages 395-397). UCG submits that the actual cost of diesel for peaking is relatively small and it appears that YECL's opposition to the YEC options is that they are essentially trying to recover costs from the proposed energy block 3 that are based on diesel costs that will not, until at least 2012 or so, actually be incurred (Transcript pages 514-517).

53. UCG submits that because the utilities have no information about how any particular customer uses energy, and because they do not have time-of-use related equipment installed (i.e., smart meters) (Transcript page 400, lines 9-21) , they have no reason to specifically attribute use by certain customers of electricity at the peak. For example, it is entirely possible that a 3500 kWh per month customer is shut down during the peak hours. It appears to UCG that the utilities assume that everyone is allocated 1000 kWh per month of "cheap" legacy asset related power (Mollard, Transcript pages 280-281) , then the blocks above that amount are supposed to account for the actual costs of generation. UCG submits that these are all unsubstantiated assumptions given the lack of viable Yukon-specific load data.

54. UCG submits that the utilities are not so concerned with peaking costs, but rather they are concerned with the future cost of having diesel on the margin, mirrored by YECL's application for Rider D. In UCG's view, this is a concern about future rates which are not within the scope of this proceeding.

ISSUE: Rate Design - General

55. UCG submits that the rate design issues of the 2009 Phase II General Rate Application address rate adjustments that are designed to eliminate general purpose rate Riders J and R by adjusting retail base rates to fully reflect approved 2009 revenue requirement and adjust base rates within each retail class, and to address economy, efficiency and affordability rate principles and directives consistent with current OICs and previous Board directions.

56. UCG submits that once rate riders are removed from the current bills of ratepayers, the Board should not allow rate riders to be used again without a full cost of service review of all rates in order to determine whether a rate rider is required and whether a base rate adjustment would be the better course of action.

57. According to the utilities, compared to current bills, Rate Design Option A results in increased or larger bill impacts for a minority of higher-use retail customers and reduced bills for the

majority of retail customers using only first block energy. In contrast, Rate Design Option B results in no material bill changes for almost all customers. According to YEC, the recently proposed Rate Design Option C, compared to Option A, provides reduced initial increases for the larger users as well as more moderate reductions for the vast majority of retail users

58. UCG submits that the Board and intervenors have only had time to thoroughly review and seek clarification on Rate Design Options A and B. While YEC suggests that it has put a lot of additional thought into their Rate Design Option C, it was only revealed to the Board and intervenors a few days before the Phase II oral hearing began. Not even YECL openly supported this latest option which leads UCG to conclude that the development work is not done on an optimal rate design option for the Yukon.

59. YEC testified (Osler, Transcript page 355, lines 2-6) that its proposed Rate Design Option C doesn't accomplish an effective price signal, but that it's a transition point to eventually accomplish an effective price. UCG submits that without knowing the "effective price", the Board cannot establish a fair and effective transition process.

60. UCG submits that it is interesting to note that YEC is concerned about moving forward with YECL's proposed Rider D because "this is a material change compared to what was there before, and we're not convinced that it's merited or consistent with principles" (Osler, Transcripts page 416, lines 14-17). UCG believes that the same can be said about YEC's proposed two rate design options.

61. As YEC testified (Transcript page 295), they only focussed on issues most important to YEC rather than issues important to YECL and the majority of ratepayers that it serves. If YEC wants to "encourage discussion" and "encourage dialogue" (Osler, Transcript page 301), UCG questions why a rate design option is being pushed by YEC for approval before the majority of ratepayers have had time to thoroughly review and discuss it. In UCG's respectful submission, the YEC approach fails to adequately consider the wider issues and related impacts to ratepayers.

62. YEC's disconnect with the concerns of the ratepayers of the Yukon is illustrated again in its assumption that "rate stability is not about not changing rates" (Bowman, Transcript page 367, lines 24-25). To a vast majority of Yukon ratepayers, "rate" stability is interchangeable with "bill" stability and <u>does</u> mean not changing rates and providing opportunities to reduce energy bills by reducing use. UCG submits that rate stability can be gained by offsetting increased utility costs by increasing operational efficiencies and lowering consumption through DSM initiatives.

63. Similarly, YEC inappropriately dismisses the impact of the proposed rate changes on the Yukon ratepayer when it testifies that relative to people who are on fossil fuels and the history of fossil fuel prices, electricity consumers who will need significant help to mitigate the impacts that the proposed rate design changes are going to have on them "are actually not that badly off generally speaking" (Osler, Transcript page 385, lines 10-17).

64. UCG respectfully submits that the utilities have not been able to explain the continued segregation between government and non-government customers from a rate design perspective (Osler, Transcript page 126). UCG respectfully requests the Board to direct the utilities to develop a cost of service study (in the compliance filing) that eliminates the "government" classifications in order to allow stakeholders to understand what rates would be without the government subsidizing / reducing risk of private YECL operations.

ISSUE: Rate Design - YECL Diesel Generation Energy Cost Recovery

65. The proposed Rider D (Diesel Generation Energy Cost Recovery Rider) is supposed to act as a placeholder if the actual cost of purchase power for the hydro zone during the period when diesel generation is on the margin is higher than forecasted. UCG submits that YECL has failed to provide evidence identifying specific months in which it would apply, if it would actually ever apply or how much this Rider could be.

66. In its Phase I application, YECL received a risk premium of 46 points in its return on equity to cover any perceived business or regulatory risk of the utility (Order 2009-2 Reasons for Decision page 29). The Board noted in its Reasons (page 27) that it was "not convinced that the YECL situation or risk profile has changed since its last approved equity ratio for 1997 to warrant a substantial increase in the equity ratio"

67. UCG submits that YECL is now asking that some of this compensated risk be taken off their hands and put on to the ratepayers.

68. UCG submits that there is no evidence that sets out how many of the residential non government customers receive at least one bill beyond the 1000 kWh block in a calendar year, no evidence that shows how many customers are hitting the higher blocks (1500, 2500, 3000 kWh) in months where diesel is actually run to meet the peak, and no evidence showing how many hours of peak will require diesel generation.

69. If the details of the Rider D mechanism including the period in which the balance will be collected or refunded to customers and the calculation of the rider amount will be explained in detail in a Rider D application (YECL undertaking response – October 12, 2010), UCG questions the need to pre-approve the concept at this point.

70. UCG submits that the proposed Rider D should be denied given that current forecasts do not indicate any need for compensation beyond base rates. If YECL feels in the future that additional compensation is required, UCG submits that YECL can apply to have additional costs held in a deferral account until a full cost of service review can be conducted.

ISSUE: Rate Design - Alternative Rate Designs - Performance-Based Regulation

71. In its January 2007 Report on YEC's 20-Year Resource Plan, the Board suggested that YEC and YECL consider a performance-based regulation mechanism as part of the next general rates application. YEC's current application does not contain any proposal for a PBR mechanism. UCG submits that without Board approvals for components of revenue requirement between 2005 and 2008, YEC had essentially been operating under a PBR mechanism for 2006 and 2007 without common PBR features such as a rate adjustment mechanism and earnings sharing. UCG submits that there is no reason why a PBR mechanism could not be considered following the completion of a Phase II review.

72. UCG is disappointed that the utilities have not followed through on the Board's direction to at least study what has been happening with respect to performance-based regulation in other jurisdictions. The utilities testified that they could not understand why this type of regulation would be necessary in the Yukon (Palladino, Transcript page 130, line 9) despite general agreement that PBR mechanisms, common in other jurisdictions, are designed to 1) lower costs, 2) improve service, 3) share benefits between utilities and ratepayers, and 3) more rationally allocate the risks and rewards of utility operations (Transcript pages 130-131).

73. In particular, UCG submits that an earnings sharing mechanism should be implemented. In its application and in response to Phase I UCG-YEC-1-19, YEC indicates that it has over-earned every year since 2005. These previous years' over earnings illustrate that ratepayers should be protected from excessive over earnings in non rate application years through sharing; ideally on a weather normalized basis.

74. The *Public Utilities Act* states that "29. In setting rates that a public utility is permitted to charge…(d) the board shall by order approve the method by which and the period during which any excess revenue received or deficiency incurred is to be used or dealt with." UCG submits that the Board should direct that all overearnings in 2008 and 2009 be credited to ratepayers by way of a "revenue offset" prior to finalizing rates.

ISSUE: Rate Design - Inverted Rate Blocks

75. Including the existing rate design, there were five rate design proposals for the Board and intervenors to review during this Phase II review. Four of these rate design options were provided much more review time than YEC's Option C proposal. UCG respectfully submits that the evidentiary record indicates that none of the proposed rate design "transition" options identifies exactly where rates are supposed to go nor the timeline to get there. Without this predictability, ratepayers are left with an unknown period of instability and uncertainty regarding their electricity bills and how urgent it is to address their energy use.

76. UCG submits that the utilities are not able to produce Yukon-specific load data which identifies ratepayers in higher kWh consumption categories nor who is using electricity for heating in any

particular month (Bowman, Transcript page 319, lines 2-4 and page 378, lines 19-23). UCG submits that this prevents the utilities from developing an effective mitigation program to assist those customers that will be adversely impacted by proposed changes to rate design and those that are not able to shift and/or reduce usage.

77. The utilities testified that there's no infrastructure in place in the Yukon to conduct the load studies and did not think that statistical sampling would serve to mitigate the costs of a Yukon-specific load study to convince them to change from using Alberta-based data (Duncan, Transcript pages 240-241). Given the importance of protecting Yukon ratepayers from unknown impacts of randomly proposed rate design changes, perhaps the Yukon government (through Yukon Development Corporation) should step up to the plate to cover load research costs. UCG submits that the Board should direct the utilities to have a more extensive set of Yukon-specific load data before introducing rate design changes.

78. YEC suggests that its proposed rate design responds to the criticism that the block structure punishes customers for energy use during periods where YEC may not use diesel at all. YEC indicates that, unlike other jurisdictions, their hydro generation depends on stored water levels which are collected in the summer and depleted over the winter such that every kWh used brings diesel closer to the margin in terms of serving base load (Transcript pages 395-397).

79. In the Phase II Application (Page 2-5 – Lines 13-15), the utilities state that “With load growth, the WAF system in particular will soon achieve a state where the driver of winter diesel generation is not temperature or peak loads per se, but the availability of energy over the duration of the winter.” However, in response to YUB-YEC/YECL-1-12 (page 3), the Board and intervenors are told that “YECL considers the runoff block under Option A to be large considering that diesel generation is not forecasted to be on for any extended period in the near future”.

80. In response to YUB-YEC/YECL-1-15 (a), the utilities state that “The 2009 Consolidated Firm Revenue Requirements are based on system supply with only limited use of diesel generation for peaking and maintenance reasons on the integrated systems (WAF and MD grids where hydro continues to be the dominant generation supply source)”. In response to LE-YEC/YECL-1-2 (a), we are told that “…today the system normally operates with 100% hydro generation, but there are times when a modest amount of diesel generation is required for peaking, and very limited, but very key, times when all available diesel generation is required for emergency dispatch”.

81. The utilities testified in one of several opening statements (Transcript page 283) that “Both companies recognize that diesel costs play an important role in determining the runoff rate, but at the same time, both companies recognized that simple application of 100 percent of diesel costs in the runoff rate was likely excessive at this time, <u>particularly given the relatively small degree of diesel generation required on the grid systems</u> in the particular test year in question, 2009, and the opportunity to use a lower percentage, below 100 percent, to help phase in the transition required at the present time after 14 years with no specific changes to the runoff rates.

82. UCG submits that the utilities are trying to react too soon in terms of how close they are to actually running diesels to meet base load needs. UCG submits that there is no evidence on record that convincingly proves that diesel generation will be delivering base load needs any time soon (at least, any time prior to 2012) which gives the utilities opportunity to continually update the forecast, identify vulnerable ratepayers (e.g., users of electric heat) and designing mitigation and demand side management plans.

ISSUE: Rate Design - Time-of-Use Rates, Seasonal and Interruptible Rates

83. The utilities testified that billing system logistics is one of the reasons that they do not pursue time-of-use and seasonal rates (Bowman, Transcript page 343). UCG submits that if billing system issues were not surmountable, the current advancement of time-of-use rates throughout Canada would not be taking place. UCG submits that the utilities' reasoning is weak.

84. Despite the logistical issues, the utilities testified (Bowman, Transcript page 344, lines 15-19) that "seasonal rates, if they're set in advance, if they are predictable, and if they're part of a transition probably could solve some of the issues that I noted in terms of giving customers some stability and predictability".

85. While the utilities believe that time-of-use rates with daily time-of-use pricing is too sophisticated for the Yukon and that the metering "doesn't exist" (Bowman, Transcript page 345, lines 1-3), UCG submits that the Board should direct the utilities to pursue government funding to install more sophisticated metering (which indeed does exist in other jurisdictions and could easily be transported to the Yukon) on larger users to allow for not only load data capturing but also an opportunity to introduce more sophisticated cost-tracking rates for these customers.

86. UCG submits that the Board should direct the utilities to, with the assistance of subject experts, undertake studies to determine under what circumstances interruptible, seasonal and time-of-use rates would be beneficial or not beneficial to the Yukon, including a cost/benefit analysis to determine whether a valid business case exists for the installation of the supporting infrastructure.

87. Based on the response to an undertaking (Transcript page 547), YECL has revealed that Yukon utilities don't know very much about their customers and have failed to follow normal utility business practice of identifying retrievable customer attributes within their customer information systems. UCG submits that the utilities should be directed to identify how their customer information systems can be enhanced to allow for a more useful collection of customer-specific data that can be used to justify future rate design proposals.

ISSUE: Terms and Conditions of Service - General

88. On page 7-3 of the Phase II GRA the utilities state:

"*An undertaking was made for representatives of both Companies to discuss issues related to the Electric Service Regulations / Terms and Conditions of Service and provision for a "customer bill of rights" separately with a representative of the Utilities Consumer Group. Due to scheduling issues, this undertaking is outstanding at the time of filing, but is expected to be completed shortly. Any required further update will be provided as required*."

89. The utilities indicated in testimony that there was a single meeting with the Utilities Consumers' Group on February 23, 2010 and there was no plan for further meetings since the utilities felt that they were able "to address the concerns that were raised, and in general terms, the position of the companies was that the existing terms and conditions addressed the issues that were raised in the draft consumer bill of rights that was put forward" (Mollard, Transcript page 146, lines 11-15).

90. The utilities indicate at page 5-2 of the Phase II Application that the proposed changes to the Terms and Conditions of Service are to "clarify and improve the wording of clauses that were not sufficiently clear in previous versions to fully communicate the rights and obligations of each of the utility and the customer".

91. UCG submits that the utilities are not correct to assume that all concerns regarding a Consumer Bill of Rights can be addressed using the complicated and legal wording contained with the proposed Terms and Conditions of Service. UCG submits that the average ratepayer would not have any understanding of their rights given the current wording and that ratepayers are entitled to be informed of these rights in a clear and understandable manner.

92. UCG respectively requests that the Board make some conclusions on how the Terms and Conditions of Service can be presented to ratepayers in a more understandable format. UCG submits that there needs to be a decision-making body overseeing disputes (given the current decision making control of the utilities), whether it be the Board or another body.

93. It became apparent during the hearing that the utilities have some policies in written form (i.e., Terms and Conditions of Service) and some internal policies that are not generally know to the public (e.g., not disconnecting for nonpayment even during the winter months, helping ratepayers in financial difficulty). UCG submits that any policy that affects a ratepayer's service should be in written public form and included within the Terms and Conditions of Service. Anything outside of these Terms would not be enforceable.

ISSUE: Terms and Conditions of Service - Late Payment Charges

94. UCG is concerned that, while other charges such as connection and reconnection fees and meter accuracy test handling fee are based on the actual costs of performing these functions, the utilities are proposing to increase Late Payment and Dishonoured Payment Fees just to be "consistent with neighbouring utilities such as Northland Utilities and NTPC" (YUB-YEC/YECL-1-35; Palladino, Transcript pages 141-142). UCG submits that Late Payment and

Dishonoured Payment Fees should also be based on the actual costs incurred by Yukon utilities and/or charged by the banks with which the Yukon utilities conduct business.

95. During the hearing, the utilities clarified the reference in the proposed Terms and Conditions (Appendix 5.1), Article 2.1 which defines 'Satisfactory Credit Rating' as:

"…*determined subject to the discretion of the Company, and may include the Customer having paid all bills on an existing Company account in full on or before the due date of the said bill for 12 consecutive months or a similar payment record as established with another utility service provider within the past twelve months*."

96. In testimony (Mollard, Transcript page 138, lines 21-25 and Palladino, Transcript page 139, lines 6-7), it was clarified that "subject to the discretion of the Company" simply referred to payment record of the customer. If that is the case, the proposed wording needs to be refined to reflect the single test that actually exists (as well as, presumably, the discretion of the Company to obviate the strict application of the test), as opposed to the seemingly unlimited scope of discretion the proposed wording reflects. UCG submits that a more layman's approach to the Terms and Conditions would eliminate the guesswork that ratepayers have when interpreting these conditions.

ISSUE: Terms and Conditions of Service – Demand Side Management

97. The Board has already directed YEC and YECL to submit a joint DSM policy paper in their next GRA, and the utilities have provided an update on government direction regarding consultations.

98. In its January 15, 2007 Report on Yukon Energy Corporation's 20-Year Resource Plan (page 43), the Board recommended that:

…the Government of Yukon consider commissioning an independent group to study the potential for DSM initiatives in the Yukon and make recommendations. The types of DSM programs, the expected amounts of load reduction or load shifting that could be expected from DSM in the YEC and YECL systems, the implementation costs, and who should be responsible for implementation and continued administration of DSM programs should be part of this study.

99. In its Decision on Phase I issues in this GRA review, the Board (on page 9) stated that it remained "convinced that DSM is a vital component in a comprehensive load and facilities planning strategy that complements YEC's strategy to displace forecast base load diesel generation" and directed YEC and YECL "to consult and negotiate with stakeholders (i.e., intervenor groups and communities) and develop a policy paper with respect to DSM initiatives" to be submitted in their next GRA.

100. The utilities admitted during testimony (undertaking response – Transcript pages 235-237) that DSM-related consultations will be completed by the end of November and that YEC is

developing separate stakeholder and public engagement processes for its 5-year resource plan update in the first half of 2011. DSM is supposed to be an important part of this update as a supply option.

101. UCG is not convinced that separate consultations with pockets of interested parties will allow for a thorough revelation of the issues to all parties or the potential solutions that DSM-related activities can offer. UCG submits that the Board should direct the utilities to keep it aware of how these consultations are being undertaken and the results of all of these discussions prior to the next GRA submission since there is no set time for such a submission. UCG submits that Yukon ratepayers should not have to wait several years to find out that the utilities have not determined all of the issues that need to be addressed (as was the case for this GRA).

102. YEC has submitted in Phase I that energy efficiency and DSM activities focus on end-uses of electricity and that it does not primarily serve end users as these customers are primarily served by YECL (Palladino, Transcript page 505, lines 5-10). If that is the case, then UCG submits that YEC's end-use customers should be included in YECL's DSM portfolio going forward. Since the impact of end use DSM activity affects generation and transmission needs through reduced load over time, it makes sense, UCG submits, to make YECL the primary source for load forecasting as well as DSM initiatives.

103. UCG submits that the nature of DSM is that it is implemented over time, delivered on a customer-by-customer basis with benefits realized in the generation, transmission and distribution components of an electricity system.

104. The immediate result of most DSM programs is to reduce the energy consumption for the individual consumer with a corresponding short term bill reduction, with a longer term goal of changing consumer consumption and behaviour in general to achieve reduction of system peak demand. At a minimum, sustained DSM programs should reduce the rate of load growth, allowing deferral of capital expenses and the reduced reliance on bill subsidies to the benefit of all consumers.

105. UCG recommends that a joint interested party panel be implemented to promote more efficient use of energy over the longer-term and that YEC be directed to work with YECL, the Yukon government and other stakeholders to implement (rather than simply discuss) an ongoing DSM program for all electricity ratepayers in the Yukon. As noted above, YECL, as the direct distributor to the majority of end use customers, would be the most appropriate candidate as the lead stakeholder in this regard.

106. UCG submits that stakeholders, including the Yukon government must continue to focus on energy conservation, efficiency and communities. UCG submits that Yukon electricity ratepayers need a definitive and on-going Energy Conservation Action Plan that provides for a wide range of energy efficiency and conservation measures to assist residents in dealing with the high cost of electricity and other forms of energy in the Yukon. This Action Plan could also provide support for local initiatives identified through community energy planning initiatives.

107. While YEC indicated in its response to Phase I IR - UCG-YEC-1-20 that:

> "*further direction from the Board would be required related to the following: (a) The scale of activities anticipated to be undertaken by the utilities; and (b) Confirmation that some form of deferral account for expenditures, presumably targeted for disposition at the next GRA*".

UCG submits that it should be up to the utilities to come forward with proposals in this regard rather than to further delay moving forward on DSM.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 22nd DAY OF OCTOBER, 2010