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December 12, 2012

VIA Email Only

Yukon Utilities Board
Box 31728
Whitehorse, Yukon
Y1A 6L3

Attention: Mr. Bruce McLennan, Chair

Dear Mr. McLennan:

**Re: Yukon Energy Corporation 2012-2013 General Rates Application
UCG Reply Argument**

Enclosed are the reply argument submissions of the Utilities Consumers' Group in the above noted proceeding.

Please contact me if you have any questions regarding the above.

Yours truly,

Michael Janigan
Counsel for UCG

Cc: Distribution List – via email

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 Yukon Energy Corporation's General Rate
Application for 2012 and 2013

REPLY ARGUMENT OF

UTILITIES CONSUMERS' GROUP

December 12, 2012

INTRODUCTION

1. The Utilities Consumers' Group ("UCG") filed its Final Argument on November 28, 2012 with respect to Yukon Energy Corporation's ("YEC") 2012-2013 General Rates Application. Final arguments were also submitted by YEC, the Yukon Electrical Company Limited (YECL), Leading Edge Projects Inc., Yukon Conservation Society and the City of Whitehorse.
2. UCG has confined its reply argument to the arguments submitted by YEC.

REPLY TO YEC ARGUMENT

3. YEC states in its Argument (page 4) that the total documentation and evidence in this proceeding are substantial with 1,036 information requests, 32 undertakings and approximately 663 pages of transcript. UCG submits that the number of information requests was driven by the lack of disclosure by YEC in its original application, the need for UCG and others to request that YEC be more complete in its responses to information requests, and, as is noted in the argument of Leading Edge (page 1), the insufficient knowledge of YEC's witnesses in various areas of questioning at the hearing. UCG agrees with Leading Edge that the utilities should do a better job when choosing the witnesses and suggests that witnesses be better versed in their operations and application to be able to more fully respond to oral questioning. UCG submits that YEC is mistaken to assume that the evidence they have provided "*fully address all such concerns, and fully support the reasonableness and necessity of the proposed revenue requirement*" and that the YUB should hold the utilities to a higher level of accountability.
4. YEC states on page 5 of its Argument that "*Absent a new rate increase, forecast ROE at existing rates without the Application falls to 4.38% in 2012 and -0.97% in 2013*". To be clear, any ROE calculations referenced assume the proposed load forecast and proposed revenue requirements rather than the load forecast and revenue requirements that are ultimately approved. UCG submits that it is misleading to suggest any level of return on equity until a compliance filing is developed and reviewed.
5. UCG reiterates that YEC should be unable to collect for revenue requirement arising in 2012 before it filed its application. The fact that rates were made interim by Board Orders 2012-5 and 2012-10 is in no way conclusive or curative of this failure to follow standard ratemaking principles.
6. UCG submits that YEC needs to be directed to investigate alternative mechanisms (e.g., performance-based regulation) to the cost of service / ROE standard that it has grown comfortable with over the last few decades. At Exhibit C3-24, tab 26 (Alberta Utilities Commission, Decision 2012-237 dated September 12, 2012), the Alberta Utilities Commission states:

In its February 26, 2010 letter, the Commission stated that the rate regulation initiative:

... proceeds from the assumption that rate base rate of return regulation offers few incentives to improve efficiency, and produces incentives for regulated companies to maximize costs and inefficiently allocate resources. In addition, rate-base rate of return regulation is increasingly cumbersome in an environment where some companies offer both regulated and unregulated services and where operations that were formerly integrated have been separated into operating companies, some of which require their own rate and revenue requirement proceedings. These changes in the structure of the industry, occasioned by the introduction of competition in the retail and generation/production segments of the electricity and natural gas industries, have resulted in additional negative economic incentives for companies regulated under rate base rate of return regulation. These conditions complicate the task for regulators who must critically analyze in detail management judgments and decisions that, in competitive markets and under other forms of regulation, are made in response to market signals and economic incentives. The role of the regulator in this environment is limited to second guessing. Traditional rate-base rate of return regulation provides few opportunities to create meaningful positive economic incentives which would benefit both the companies and the customers. The Commission is seeking a better way to carry out its mandate so that the legitimate expectations of the regulated utilities and of customers are respected.

7. UCG submits that performance-based regulation will allow YEC to make its own decisions about capital expansion without micro-management and, at the same time, take responsibility when things go awry. Now, ratepayers are the insulation for every excess or mistake.

Ratepayer Savings

8. YEC states on page 6 of its Argument that “*Despite continuing cost pressures from many sources over the last several years, Yukon Energy has successfully implemented various measures to avoid the need for rate increases and ensure that costly diesel generation is minimized as the load grows*”. UCG submits that YEC has not been successful at avoiding the increases in total bills that Yukon ratepayers have had to endure over the last several years with YEC’s use of rate riders. What appears to be missing in YEC’s approach is to control the expenses rather than continually increase / guarantee revenues through the use of rate riders, fuel adjustment clauses and government subsidies.
9. As was addressed in UCG’s argument, YEC continues to take credit for “ratepayer savings” amounts (page 6 of YEC’s Argument) that neglect to include ongoing cost pressures of measures taken (e.g., capital investment) and these savings amounts have not been subjected to detailed evidence or public testing. UCG submits that while some costs may have been lowered, it is not due to any extraordinary efforts by the utility. UCG submits that YEC has yet to demonstrate any true cost cutting and productivity improvements that will have long-term beneficial impacts on ratepayers.

New Era of Depleted Hydro Surplus

10. UCG submits that YEC's reference on page 7 of its Argument that "*more recent internal forecast updates indicate non-industrial grid load is expected to exceed GRA forecasts in 2013 by more than 7 GWh*" should (1) be ignored in the Board deliberations on 2012 and 2013 revenue requirements because YEC did not present this evidence for examination, and (2) exemplifies YEC's approach of keeping the most current information in-house instead of allowing the Board and intervenors to review it and make fully informed decisions on the most current information available.
11. In fact, even the revised industrial load forecasts provided by YEC in response to an undertaking (Transcript page 300, line 8 to page 301, line 1) were not examined by the Board in the same detail as the earlier figures so UCG questions their value in the Board's deliberations given that there wasn't a comprehensive update of the package of evidence.
12. UCG disagrees with YEC's position on page 7 of its Argument that "*a notable share of the added growth today must be met with diesel generation*". First, UCG submits that there has always been an option to take industrial customers off the grid during peak loads through the use of on-site diesel generation. YEC has never come forward with any proposal to remove industrial loads from grid peaks in an effective manner when these loads require diesel generation. Second, UCG submits that more effective implementation of DSM measures will significantly reduce the need for diesel generation during grid peaks.
13. UCG submits that commercial and industrial energy consumers should be convinced to view investments in on-site energy technologies, whether for energy efficiency and demand response, or local energy production and storage as increasingly valid options for investment. They should consider their options using such yardsticks as cost, sustainability, reliability and risk mitigation.
14. With respect to YEC's references on page 8 of its Argument to the overview submitted of the Resource Plan Update, UCG submits that the Resource Plan Update is still a work in progress and can only be regarded at this point to be an internal guideline document created by and for the sole use of YEC's management. Without being able to test the assumptions contained in the whole Resource Plan Update, any references to its draft conclusions cannot be taken as justification for any determinations to be made by the YUB.

Growth in System Driving Increases in Other Yukon Energy Costs

15. UCG submits that YEC's comment on page 8 of its Argument that "*there have been significant shortfalls from the 8.49% YUB approved return on equity ("ROE"), with actual ROE at 7.92% in 2009, 7.45% in 2010 and 6.59% in 2011*" ignores that fact that there was no revenue requirement application submitted or reviewed for 2010 and 2011 so there was no approved return on equity for 2010 and 2011. UCG submits that since the results of previous years are not open for review and examination in the current proceeding, this information has no value in the current deliberations.

16. UCG submits that the evidence contradicts YEC's claim on page 9 of its Argument that "*the significant overall forecast growth in assets since 2009 has required a material increase in the size of Yukon Energy, increasing both labour expense and non-labour expense*". Of the 13 positions added since 2009, UCG submits that at least 9 of the positions identified in YEC's evidence¹ have nothing to do with growth in assets:

Network Administrator to Manager of IT (2009/10)
IT Help Desk (2009)
SQL/Sharepoint Administrator (2010)
Manager, Energy Conservation (2011)
Energy Conservation Administrator (2011)
Backfill Controller (2011)
Communications and Protection Control Technologist (2010)
Permanent Part Time Plant Operator – Faro (2010)
Term SCC Operator (2011)

17. While YEC is correct when it states on page 9 of its Argument that the Board addressed deferred costs related to its planning activities in its Order 2009-8, UCG submits that the Board did not approve the recovery of any of these costs. In fact, the Board agreed with intervenor arguments regarding the lack of business cases and the absence of significant and material information for each the individual projects identified and directed YEC to provide appropriate business cases to support those costs whenever it planned to include them in revenue requirement for recovery in rates. UCG submits that YEC has applied for recovery of these costs in this application but, as was explained in our final argument, YEC has presented insufficient evidence to justify the recovery of the expenses identified in these work in progress projects.
18. Regarding the updated planning cost accounting policy included in the application and referenced on page 10 of YEC's Argument, UCG submits while the proposed accounting treatment "*helps to moderate risks*" incurred by YEC, ratepayers are being asked to pay for the costs of expenditures incurred at the sole discretion of YEC management which, at this point, provide no benefits to Yukon ratepayers who will be paying the rates during the test years.
19. In its Argument, YEC has largely avoided a comprehensive description as to what it proposes to do with deferred study expenses that have not and will not result in used and useful capital assets. The fact is the treatment of squandered costs as rate base assets violates well established regulatory policy. In his classic textbook *The Regulation of Public Utilities*, author Charles F. Phillips Jr. observes:

"The decision as to what property is 'used and useful' is normally left to management, although certain items claimed by utilities may be questioned and excluded from the rate base by the commissions. As listed by Welch, these items are:

- (1) duplicate and unnecessary property;*
- (2) obsolete and inadequate property;*
- (3) property to be abandoned;*

¹ Application pages 3-13 to 3-17.

- (4) *abandoned and superseded property;*
- (5) *overdeveloped property and property for future needs;*
- (6) *real estate: buildings, leaseholds, and water rights;*
- (7) *incomplete and contemplated construction;*
- (8) *property used for non-utility purposes;*
- (9) *property of other utility departments;*
- (10) *property not owned;*
- (11) *property donations- voluntary and involuntary; and*
- (12) *deposits and money advanced by customers*².

20. UCG submits that incomplete projects comprehended by the deferred study costs should clearly not be included in rate base even if the intention to develop a viable capital project was initially a good one.

Retain Simplified ROE Determination Based on Available Benchmarks

21. UCG notes that YEC's Argument (page 10) states that it is retaining a simplified approach to ROE determination by not arranging for expert assessment and testimony regarding ROE and capital structure in order to minimize the regulatory burden. UCG submits that YEC has requested a ROE that is 52 basis points (8.77% vs. 8.25%) higher than warranted when using the AUC determination as a base. These unwarranted 52 basis points adds approximately \$1 million over the 2012 / 2013 test years to the return incorporated in YEC's proposed revenue requirements. There is no evidence to indicate that YEC's common equity ratio would be any different subsequent to an Alberta Utilities Commission assessment of business risk, and thus the base ROE rate determined by the AUC should apply without the 52 basis point adjustment derived from separate BCUC determinations.
22. It's not the regulatory burden that Yukon ratepayers are worried about. UCG submits that Yukon ratepayers are being taxed with excessive burden on their bills due to higher than warranted ROE which could have been avoided if YEC had taken the initiative to acquire expert advice that would have clarified the difference between the BCUC and AUC determination of low risk utility returns.
23. UCG submits that the comparison that YEC makes on page 11 of its Argument between its proposed ROE with those awarded in the Northwest Territories is of no value since the circumstances in the Northwest Territories are completely different with respect to regulatory, political, economic and operational circumstances of the utilities referenced. YEC has provided no evidence in this proceeding to allow the YUB to draw any comparisons between the two jurisdictions. If these are the only comparable metrics that YEC has to offer, then UCG submits that they have failed to advance any justification that their proposed ROE and capital structure are fair and reasonable given their current circumstances of lowered risk and unprecedented revenue guarantees.

² Phillips, Charles F. Jr. The Regulation of Public Utilities, Public Utilities Reports, 1985

Yukon System Planning Challenges

24. YEC states on page 13 of its argument that it faces substantial challenges in forecasting and planning for major loads (mines or new subdivisions). UCG submits that mining operations and municipal subdivisions are always planned well in advance which should mean that YEC has plenty of time to consider the resources that would be required to service such loads. If YEC is “challenged” to serve loads with significant advance notice, then either YEC has an inadequate planning function or it needs to more seriously consider off-grid resources such as district energy systems and on-site generation. Going forward, UCG submits that the YUB needs to ensure that all alternative service mechanisms are fully evaluated by YEC.
25. Rather than make investments in assets to serve new large loads that “are expensive on the Yukon System” (YEC Argument page 13), UCG submits that YEC needs to be directed to spend more time scoping out alternatives rather than focussing on projects that simply increase its rate base at the expense of all Yukon ratepayers.
26. YEC makes a couple of references to being “on the cusp of needing to move forward with major new measures to displace the need to otherwise rely on diesel generation as the default supply option to meet Yukon's growing grid generation requirements” (YEC Argument page 9, page 13) and focuses its attention on supply options. UCG submits that YEC continually ignores any attempt at effective load management techniques such as load shifting during peak times (both daily peaks and seasonal). UCG submits that YEC appears to be focussed less on controlling the amounts paid by ratepayers and more on increasing its own profit margin through a larger rate base.

Reliance on Application Forecasts as Filed

27. On page 14 of its argument, YEC questions whether the Board will consider new forecast information that has emerged since the Application was filed. UCG submits that there isn't a jurisdiction in the world in which a regulator would not base its determinations on the most recent information available. UCG submits that YEC's practice of updating information on a piece-meal basis underscores the mindset of YEC to not release any information unless directed to by the regulator. How that encourages anything but an adversarial environment is beyond UCG. UCG submits that any compliance filing submitted in response to a YUB decision in this proceeding should reflect (1) actual results for expenses and revenues for 2012, and (2) the most current information available for 2013.
28. UCG submits that updates to applications are common practice in other jurisdictions and the YUB need only go back to YEC's 2008/2009 GRA to see where they had to be directed (in Board 2009-4) to provide an updated package of evidence including its preliminary unaudited 2008 actuals and updates to several interrogatory responses.

Wholesale Sales Forecast

29. YEC states in its Argument (page 16) that no substantive issues have been raised that call into question the reasonableness of the Application's forecast of wholesale load. UCG submits that either YEC has misunderstood or simply ignored issues raised during the hearing and information request process. UCG submits it appears evident that the evidentiary record in this proceeding does not confirm that YECL is in agreement with changes that YEC has made to YECL's forecast. UCG submits that this raises the issue (again) as to how the YUB should establish the load forecast associated with the wholesale class. As was the case in the 2008/2009 GRA, YECL's sales forecast includes a methodology that incorporates sound statistical methods and weather normalization which makes it superior to YEC's. Given the Board agreement in its decision in YEC's 2008/2009 GRA that weather plays an integral part in the variability of loads³, UCG submits that either the Board should rely more on YECL's forecast or direct the utilities to get together to establish an agreed upon forecast. The uncooperative nature of the relationship between the Yukon's two electricity utilities is getting to be not only a distraction but also incurring more costs for ratepayers to absorb.
30. UCG notes that YEC states in its Argument (page 15) that the forecast sales in the Application exclude provision for wheeling power over YECL's distribution system to serve Whitehorse Copper Tailings and that this will be corrected in the compliance filing along with the related correction to provide for purchased power by YEC to recover the power required for YEC's sales to Whitehorse Copper Tailings. UCG submits that YEC should wait for a YUB decision regarding who should be serving this customer. While it appears to be rather redundant to have YEC serve a load to which YECL already has an existing service line, UCG submits that more evidence is required to understand the actual impact on non-industrial ratepayers of naming either YEC or YECL as the service provider.
31. Given YEC's statement that 2012 actual retail sales are somewhat higher than forecast in the Application (YEC Argument page 16), UCG submits that this should be incorporated into the compliance update requested earlier in this reply argument.

Whitehorse Copper Tailings

32. UCG submits that YEC's argument that it should provide service to Whitehorse Copper Tailings because it has served major industrial customers in the past (YEC Argument, page 18) has to be one of the weakest arguments based on perceived entitlement that has ever been used.
33. YEC was not able to produce any documentation related to its own perceived deemed franchise rights to serve Whitehorse Copper Tailings⁴ so there is no evidentiary record of YEC "rights" to serve Whitehorse Copper Tailings or any other industrial customer. As noted above, it appears to be rather redundant to have YEC serve a load to which YECL already has an existing service line but more information is needed.

³ YUB Order 2008-08 Reasons for Decision page 7.

⁴ Transcript Volume 2, pages 206-207.

34. To better inform its decision, UCG submits that the YUB should direct both YEC and YECL to submit details of the costs and benefits to Yukon ratepayers if they are selected the service provider to Whitehorse Copper Tailings. This information should include the cost of generation / purchased power given the expected seasonal load curve of Whitehorse Copper Tailings, other costs of serving this load and the revenues expected. The submissions of the utilities should include a full explanation of exactly how each one would serve this load.
35. With increased industrial usage for Whitehorse Copper Tailings, UCG submits that the utilities should be directed to provide assurances that non-industrial ratepayers will not have to pay for YEC to burn additional diesel in Whitehorse in the near future when Whistle Bend comes on line.

Other Industrial Customers

36. YEC refers in its Argument (page 19) to “the principle that GRA cost and sales forecasts are not to be adjusted to reflect subsequent events”. UCG submits that there is no recognized “principle” that would prevent a regulator from ensuring that its decisions are made based on the most up to date information. Whether it is actual operating results after the completion of a calendar year or it becomes evident that circumstances have changed to significantly alter forecasts, UCG submits that it would be against all principles of fair and reasonable rate making and regulation to ignore significant changes to forecasts. As noted above, a comprehensive update of the forecasts with the Application should be completed prior to completing YEC’s compliance filing.

Fuel and Purchased Power and the Updated Diesel Contingency Fund

37. In its Argument (page 21), YEC states that no substantive issues have been raised in IRs or the oral hearing regarding forecast fuel and purchased power costs for the test years. Given the actual prices paid for diesel fuel identified in response to UCG-YEC-1-24, UCG submits that it is obvious that 2009 rates have over-recovered on allowed diesel fuel costs. As noted in its Argument, UCG submits that the YUB should direct YEC to identify the over-recovery since 2009 and ensure that this over-recovery is added to the Diesel Contingency Fund in order to benefit ratepayers that paid these costs.
38. As noted in its Argument, UCG submits that the other issue related fuel costs is that with a Rider F (Fuel Adjustment Rider) in place, YEC does not have any incentive to curb diesel fuel expense and, in fact, has profited by over-estimating its forecasts. YEC is protected financially no matter how much they use or at what price.
39. With respect to the proposed operation of the Diesel Contingency Fund, UCG submits that its Argument (paragraphs 195-199) contains the positions that it wishes to put before the YUB.
40. UCG submits that it agrees with the position put forward by Yukon Electrical Company Limited in its Argument (page 7) that YEC’s approach to the DCF in excluding Fish Lake from the DCF is unreasonable and should be rejected by the Board.

Labour Expense

41. While YEC argues that “each added position was carefully reviewed prior to being added to ensure that the costs are reasonable and prudently incurred, and specifically, new positions must be thoroughly justified in part to ensure the work required is recurring and permanent” (YEC Argument, pages 24 and 26), UCG submits that none of this thorough justification was submitted to the evidentiary record of this proceeding. UCG submits that there has been no cost/benefit or business case analysis provided for any of these positions from which to make a determination of their appropriateness.
42. As is noted in its Argument, UCG is concerned with the growing number of YEC staff positions that are earning more than \$100,000 per year (51 positions or 65% of allowed staffing level in 2009 to 71 positions and 77% of proposed staffing level in 2012 and 2013). UCG submits that when compared to the average Yukoner’s income level of less than \$50,000 per year, YEC’s labour costs are getting out of control. If you add in the extraordinary level of consultant fees that YEC pays annually, it is no wonder that YEC is asking for more money from ratepayers at every opportunity.

Transmission Brushing Costs

43. While YEC acknowledges in its Argument (page 27) that it was directed in Order 2009-8 to undertake a study into brushing activities of similar utilities and report its findings to the Board, and also to include a written brushing policy to outline YEC's approach and explain the manner in which the budget for any year was derived, UCG submits that refusing to turn their minds to development of a formal brushing policy until some time in 2013 is in direct violation of the directions of the YUB in this area.
44. The lack of a written policy also means that there is nothing upon which the YUB and interested parties could base the escalating brushing costs for 2012 and 2013.
45. UCG submits that YEC needs to be directed predict the short and long-term effects of budget changes on its blue sky budgets for brushing. YEC needs to turn their vegetation management program around and realize that in an economy where all costs are going up, ratepayers should only be asked to pay for expenses that result in tangible benefits. UCG submits that YEC has not identified the tangible benefits associated with the significant increase in their brushing budget.
46. UCG submits that YEC’s approach to budgeting vegetation management fails to provide any analysis of long-term reliability implications nor how their approach to vegetation management has been optimized. UCG question where the data is that shows the cost and restoration time implications of not doing as much brushing as YEC proposes.
47. Without an actual policy with which to work, UCG submits that it is impossible to recommend where improvements are needed nor what the proper system assessment should be.

DSM Administration

48. YEC reiterates in its Argument (page 28 and 29) that administrative expenses related to DSM would still be included in YEC's 2012 / 2013 revenue requirements forecasts if the Board were to deny DSM costs. UCG submits that either YEC does not understand that denial of DSM-related costs means that they should not be recovered from ratepayers, or YEC is denying the YUB's jurisdiction to determine what costs should be paid by ratepayers.
49. UCG submits that it is abundantly obvious that any costs denied for recovery in rates should not continue to be included in YEC's revenue requirements. UCG submits that YEC should be directed to provide a detailed explanation of how any DSM costs disallowed by the YUB will be recorded in the Regulatory Gain/Loss account and deducted from YEC's revenue requirement. In addition, YEC should be directed to specifically identify all disallowed costs in the notes to its annual financial statements.

Communications

50. UCG finds it ironic that YEC states in its Argument (page 29) in support of its communications budget that "*public input helps Yukon Energy make decisions regarding energy investments and strategic planning and also provides valuable input towards project planning*" and yet YEC confirmed during oral testimony that it did not conduct stakeholder consultations with intervenors, YECL, First Nations, municipalities, etc. on the contents of the GRA prior to filing including proposals related to new policies contained within the application (planning cost accounting, DSM accounting, etc.) because it has not been a practice in the Yukon for either utility to do consultation prior to filing an application with the YUB⁵.
51. UCG submits that if a portion of the communications budget in 2012 had been earmarked to gather public input on the strategies and investment decisions proposed in the GRA, a portion of that budget should be denied in light of the catastrophic failure in this regard.

Reserve for Injuries and Damages

52. Contrary to YEC's claim in its Argument (page 30), the evidence does not provide a justification for the costs that have been charged to the Reserve for Injuries and Damages.
53. UCG submits that there has not been enough information put on the record to justify the costs that have been charged to the RFID account so there is no need to transfer funds from the Faro Dewatering Account and no need to consider amortizing costs that have not been adequately explained or justified.

⁵ Transcript Volume 1, pages 178-179.

Capital Projects

54. To say that YEC's approach to the pursuit of new capital projects seems largely ad hoc is probably generous to YEC from the standpoint of adjudication as to the regulatory efficiency with which these projects are selected, carried out and/or reported on. At a minimum, UCG believes that a comprehensive review takes place by which projects are selected, tested, and given approval. There should be the opportunity for the Board to assess the reasonableness of a project at a stage where substantial ratepayer expense has not been engaged.
55. For reasons known only to themselves, YEC argues (YEC Argument, page 32) that the current Application has demonstrated the clear benefits to ratepayers from proceeding with and completing the Carmacks-Stewart Transmission Project - Stage 2, the Mayo Hydro Enhancement Project and the Aishihik 3rd Turbine Project in the test years. YEC appears to believe that the prudence of costs incurred by YEC on these projects has been examined in detail and confirmed in the Application and subsequent IRs.
56. Despite the fact that YEC holds their own opinion in high regard, UCG submits that the only confirmation of a project that means anything is when the YUB approves a project for addition to rate base and subsequent recovery through rates. UCG submits that YEC's failure to provide specific information related to net savings to ratepayers as a result of these projects limits the value of YEC's claims and the YUB's ability to approve these projects for recovery from ratepayers.
57. UCG submits that YEC has failed to provide an adequate and fair consideration of not only alternative capital projects but also alternative uses of the same level of funds that would deliver the same level of end result. There has been no rigorous testing of even the alternatives identified by YEC.
58. While YEC may claim that contributions will cover the capital expenditures (YEC Argument, page 32), YEC was unable to confirm the final cost of the Carmacks-Stewart Transmission Project – Stage 2 (energized 17 months ago in June 2011), the Mayo Hydro Enhancement Project (commissioned a year ago in December 2011), nor the Aishihik 3rd Turbine project (commissioned a year ago in December 2011). UCG submits that it is impossible to say with certainty that there will be no impact on ratepayers if you can't even identify the final cost and sources of funding for these projects. Surely, even a government-owned entity like YEC must be held accountable to provide sufficient information to allow for fully informed decisions by the YUB.
59. YEC's claims of "material benefits to ratepayers" (YEC Argument, page 34) remain untested given the lack of disclosure on the full impacts of these projects on short and longer-term costs beyond simply the cost of diesel fuel.
60. With respect to major capital projects undertaken to address system safety and reliability (YEC Argument, pages 35-37), UCG submits that all of these projects should have been subject to greater levels of review (i.e., Part 3 reviews) given their cost and impact on the bills of ratepayers. At the very least, YEC should be expected to provide a full business case analysis on these projects prior to them being considered for inclusion in rate base. The lack of detail

regarding final costs results in these proposed projects suffering from the same failings as the Carmacks-Stewart Transmission Project - Stage 2, the Mayo Hydro Enhancement Project and the Aishihik 3rd Turbine Project.

Major Deferred Cost Projects

61. UCG agrees with the argument by Leading Edge that YEC initiated too many project development initiatives in too short a time period and incurred excessive costs as a result (LE Argument, page 11). Not only was this an “unprecedented levels of planning studies” as YEC appears proud to argue (YEC Argument, page 38), UCG submits that it is an unprecedented level of expenditures that could not possibly be considered “used and useful” for consideration as rate base additions.
62. UCG submits that the attempt by YEC to draw a distinction between the business cases for a deferred cost project and major capital cost projects is not only weak but borders on ridiculous. UCG submits that a business case captures the reasoning for initiating a project or task. The logic of a business case is that, whenever resources such as money or effort are consumed, they should be in support of a specific business need. The information required for any project’s business case includes background of the project, the expected business benefits, the options considered (with reasons for rejecting or carrying forward each option), the expected costs of the project, a gap analysis and the expected risks. To suggest that project development work that costs millions of dollars does not require the same type of business case as an actual capital project borders on nonsense.
63. UCG submits that to suggest that YEC’s management allowed millions of dollars in project development work to be conducted without a solid business plan in place reflects badly on the project management skills of the utility which have already been publicly criticized in the past by the Auditor General.
64. Had any of these deferred projects been successfully completed and determined to be used and useful, the development costs would have become part of rate base and the shareholder would have had the benefit of a return to that extent. The expenses incurred in bringing the projects forward for implementation were at risk. In UCG’s view, it would be wrong for the YUB to guarantee that for every entrepreneurial activity undertaken by YEC, the ratepayers will pay the costs of development. In the end, UCG submits that in this proceeding, YEC did not even fully discharge the onus upon it to prove that all the development costs were prudently incurred.
65. UCG’s argument contains its positions regarding specific deferred projects and the proposed inclusion of these projects into rate base.

Demand Side Management

66. While YEC admits in its Argument (page 46) that it had been directed to develop a DSM policy paper / plan and to present it as part of this general rates application, YEC has not submitted a policy paper with respect to DSM initiatives in this Application. Contrary to YEC’s position, UCG believes that given the Board’s previous direction, YEC should assume that the Board is

looking at approving a policy regarding DSM initiatives before money is spent that YEC proposes to recover from ratepayers.

67. In its Argument (page 47), YEC proposes that \$3 million (net of contributions) of DSM expenditures be added to rate base on or before the end of 2013. YEC suggests that over 90% of these expenditures are related to DSM planning for which program cost / benefit assessments are not applicable, including the DSM Conservation Potential Review, pilot programs, community engagement, end use surveys, working groups, energy audit and management plan, and public education/communication. UCG submits that 100% of these costs have been incurred before adhering to the YUB's direction to develop a DSM policy.
68. UCG submits that money spent to date on DSM initiatives should be held in a deferral account until a policy paper can be reviewed and approved such that projects can be reviewed in light of an approved policy direction. To allow recovery of DSM expenditures undertaken without a plan encourages YEC to spend money without firm YUB direction without assuming that the shareholder is the one taking the risk that these expenditures won't be recoverable from ratepayers.

Planning Cost Accounting Policy

69. UCG submits that the proposed planning cost accounting policy suffers from the same evidence failings that plague most of YEC's proposals in this Application. UCG submits that YEC has not provided any evidence from any other jurisdiction where expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of utility projects under contemplation are not recorded in a deferral account and, if construction results, the costs are transferred to an appropriate utility plant account for recovery.
70. According to OIC 1995/90, the YUB is required to ensure that it reviews and approves rates in accordance with principles established in Canada for utilities, including those principles established by regulatory authorities of the Government of Canada or of a province regulating hydro and non-hydro electric utilities. UCG submits that there has been no evidence submitted that indicates that the proposed planning cost accounting policy follows any type of normal principle used in other jurisdictions in Canada.
71. While YEC submits that deferred costs to date are provided for review in the current application and the YUB may assess prudence of current costs and forecast test year costs for each deferred project, UCG submits that YEC has presented insufficient evidence to justify the expenses identified in these WIP projects and ratepayers should not be responsible for mistakes in shareholder management decisions where the cancellation decisions resulted largely from adverse regulatory conditions and public opinion which YEC should have anticipated.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 12th DAY OF DECEMBER, 2012.

MICHAEL JANIGAN
COUNSEL, UTILITIES CONSUMERS' GROUP