IN THE MATTER OF YUKON ENERGY 2012/2013 GENERAL RATE APPLICATION

REPLY ARGUMENT

YUKON ENERGY CORPORATION

December 12, 2012

TABLE OF CONTENTS

OVERVIEW

A diverse range of final arguments with regard to Yukon Energy's General Rate Application (GRA or Application) were provided by City of Whitehorse (**CW**), Leading Edge (**LE**), Utilities Consumers Group (**UCG**), Yukon Conservation Society (**YCS**) and Yukon Electrical Company Limited (**YECL**).

Yukon Energy's Reply Argument is structured to follow the overall organization and headings as set out in the GRA Application document and to address issues raised by intervenors as they relate to the revenue requirement application under each of those headings. In each instance, intervenor arguments that are to be addressed are summarized and then Yukon Energy's reply is provided. Failure to address an argument does not constitute agreement with any party's position on that issue.

The hearing process and record has been complex and lengthy. Given the wide range of issues raised in the different intervenor arguments, no attempt has been made to address intervenor arguments in the context of the core elements of Yukon Energy's Application as set out in Part 1 of YEC's Final Argument.

It is noted that intervenor arguments at various points seek to adopt updates, corrections or changes to various parts of the Application to reflect more recent information, actual results known at this time or other similar factors. Yukon Energy has noted in its Final Argument its concern that these considerations, when viewed in isolation, tend to provide partial pictures of ever changing conditions and do not provide a sound or principled basis for adjustment of the overall Application. As will be discussed in response to individual issues raised by intervenors in relation to this issue Yukon Energy notes at the outset that the single largest update that has occurred since the Application was filed is the Minto mine reduced forecast load for 2012 and 2013 which will result in significant less revenues then forecast in the Application.

1.0 INTRODUCTION

1.1 BACKGROUND EVIDENCE FOR CURRENT APPLICATION (INCLUDING MEASURES SINCE 1998 TO DEFER THE NEED FOR A RATE INCREASE)

Intervenor Arguments

LE and UCG have each made assertions regarding the credibility of statements made by Yukon Energy related to the following background evidence for the current Application:

- "The current 2012 and 2013 Application represents the first requested increase in Yukon Energy firm retail rates for non-industrial customers since the 1998/1999 rate review that followed the closure of the Faro mine[1]".
    - **LE** argues (Section 2, page 2) that "this is truly a case of communication 'spin doctoring'" which the Board should order YEC to refrain from doing, asserting that this statement is only true if Rider F is not considered a rate, "Yet Yukon Energy itself acknowledges that diesel fuel costs are a component of rates".
    - **UCG** argues (para 299) that "this is quite misleading given the increases in total bills that Yukon ratepayers have had to endure over those same [past] 7 years with YEC's use of rate riders".
- "Despite continuing cost pressures over the past decade, Yukon Energy has been able to defer the need for a rate increase due to key planning activities and other measures to mitigate rate pressures as set out in Tab 1 (Section 1.2)[2]".

  In this regard **UCG** makes the following arguments (para 301, 302, 303).
    - YEC's claim of ratepayer savings of $3 million in 2012 and $2.6 million in 2013 arising from reduction of diesel generation requirements following the completion of CSTP, Mayo B and Aishihik Third turbine "have not been subjected to detailed evidence or public testing".
    - YEC's claim of ratepayer savings of $1.5 million annually from refinancing of long-term debt at end of 2010 "required little or no effort and has not been subject of extensive evidence or analysis".
    - YEC's claim of ratepayer savings of $2.3 million arising from requested reductions in depreciation rates "neglects to include the longer term pain for ratepayers of extending the period for principle [sic] and return payments for these same assets".
- "Industrial connected growth continues to be material – but industrial load growth to date also continues to bring higher revenues that tend to more than offset any related incremental costs". (Application, Page 3) **LE** argues (Section 5, pages 3 and 4) that

[1] Application, Page 2 – similar points made in Exhibit B-16 and Transcript, page 11, including reference to reducing rates over the past 7 years while greatly expanding generation and transmission capabilities.
[2] Application, Page 2 – details were provide in Tab 1 as noted and in Exhibit B-16 and Transcript pages 11-12).

"Yukon Energy should either have stated that present industrial customers have brought in more incremental revenues that costs but future ones (like Eagle Industrial Minerals) will not at long-term average hydro generation, or they should not have made any incremental cost and revenue claims for this customer class at all".

- "Without the construction of the Carmacks to Stewart Line Stage 1 we would have had an additional $1.2 million in costs per year and would have required a rate increase of 3.2% in 2009. Without connecting our two grids and without Mayo B and our Aishihik third turbine we would have incurred additional diesel costs of $7.6 million in 2012 and $8.2 million in 2013[3]". **UCG** argues (para 123):
  - "…these additional costs were actually resulting from the addition of mining loads that are being served power from the grid instead of through alternatives like on-site generation".
  - "While YEC suggested during the oral hearing that growth is happening in various sectors, it is obvious that adding the loads of industrial customers over the past several years has been the driving force in investment and the higher use of diesel generation. UCG submits that it is misleading to suggest that any of the costs incurred due to industrial loads should be paid by anyone other than the industrial customers".

Yukon Energy Reply

Yukon Energy rejects completely LE's assertion that the above YEC evidence referenced by LE was in any way misleading or "spin doctoring". To the contrary, the evidence is both correct and highly relevant, in Yukon Energy's view, to set the stage for the current Application:

- **First rate increase since 1999** – The evidence in this hearing confirms that this is YEC's first rate increase requested from the Board since the end of 1999 for firm non-industrial rates[4]. Referencing Rider F, as LE knows, is to reference a rate that occurs without Board approval or application to the Board.
  - The fact that this is YEC's first such request since 1999 reflects the ability of YEC, in the 2005 Revenue Requirement Application and the 2008/2009 GRA, to absorb into YEC's firm rates as approved by the Board all of the diesel fuel price escalation since the 1996/97 GRA (i.e., costs that had been addressed through Rider F) while still securing a reduction in overall firm rates as of 2009.
  - YEC undertook many initiatives, as outlined in the Application, which contributed to this outcome – and, on behalf of all parties who helped on these matters, YEC considers it highly relevant that this outcome be recognized rather than attacked when setting the stage for the current Application.

[3] Exhibit C-24, Tab 17 that is YEC Backgrounder for the Application, quotes from page 3 – these quotes summarize Application, Tab 1, page 1-3 [and specifically footnote 7 that references an IR response in the 2008/2009 GRA hearing] and page 1-5 and footnote 11 [the text at page 1-5 confirms that these savings assume long-term average hydro generation].

[4] See responses to LE-YEC-1-1(g) and (h) re Rider F being separate from rates approved by Board and what YEC considers part of rates approved by the Board and how rate riders were rolled into rates in 2011.

- **Industrial growth to date helped lower rates** – As LE acknowledges what YEC has stated is correct, i.e., YEC did in fact simply state as background that industrial load growth to date [i.e., to the time of this Application] continues to bring higher revenues that tend to more than offset any related incremental costs is correct. As LE also knows, YEC also fully responded in YUB-YEC-1-2 to provide an analysis of industrial growth impacts in this regard as set out in the Application for 2012 and 2013, both with the rates as proposed (assuming diesel generation at 59% to 66% of long-term average annual diesel generation) and with rates set based on 100% of long-term average annual diesel generation. Accordingly, there is no basis for LE's attack on YEC regarding these matters. And, as evidenced by UCG's continued arguments to the contrary regarding impacts of industrial growth to date, Yukon Energy views this evidence as highly relevant in setting the background for this Application.

As regards UCG various arguments on the above matters, Yukon Energy notes that UCG makes assertions that are either clearly wrong (and therefore misleading) or of no help to the Board or parties in this hearing:

- UCG says Yukon ratepayers had bill increases in the last 7 years "with YEC's use of rate riders" – this is clearly wrong, and grossly misleading, and calls into question the extent to which UCG actually looks at bill impact evidence that YEC provides in response to UCG IRs[5].
- UCG attacks various specific estimates of cost savings from past YEC initiatives by saying that they have not been tested. This is clearly incorrect. These estimates were filed with the Application, and been subject to IRs and an oral hearing. Accordingly, such comments are without merit and misleading to anyone not participating in the hearing process.
- UCG minimizes ratepayer savings today (and in the test years) from reduced depreciation rates, saying that YEC neglects to include the longer term pain – the evidence shows that lower depreciation rates provide ratepayers with very large net savings during the test years (even after impacts on rate base are considered). The Application reflects a determination made by KMPG that the affected assets have longer lives, and the new depreciation rates therefore better reflect expected asset life.
- Lower depreciation rates due to longer asset lives in future years will result in higher rate base (and thus higher return) than would otherwise occur, and at some future date the higher annual return impacts will more than offset the reduction in annual depreciation

[5] See UCG-YEC-1-5(c) REVISED which provides Whitehorse residential customer total bill calculations for 1,000 kW.h, 1,200 kW.h, and 1,400 kW.h usage in January 1997, January 1998, January 1999, January 2000, January 2001, January 2002, January 2003, January 2004, January 2005, January 2006, January 2007, January 2008, January 2009, January 2010, January 2011, January 2012, July 2012 and January 2013. This response provides the relevant portion of the bill calculations as the total rate charge excluding items not controlled by YEC (e.g., rate relief from Yukon Government [Energy charge relief, RSF, IER] or the YUB [DCF], income tax rebate, and GST), and Rider F charges (which are not part of firm rates that YEC applies to the Board for approval). This response notes the attached bill calculations for row 9A using 1,000 kW.h, 1,200 kW.h and 1,400 kW.h per month confirm that this bill did not increase above the January 2000 level (after final Faro mine rate rider increase) prior to the current GRA, other than to reflect 2008/09 YECL-related rate increases.

expense, i.e., the longer term pain references by UCG[6]. UCG provides no help to the Board or the parties by its attack on this matter.

- UCG's assertion that new mining loads were in any way relevant in 2009 without CSTP Stage 1 is clearly wrong, as Minto could not have any impacts on the grid or on rates without CSTP Stage 1[7]. As confirmed in the 2009 GRA hearing, without CSTP Stage 1 and connection of the Minto load and its new revenues a rate increase (rather than a rate decrease as was applied for) would have been required by YEC at that time.
- UCG's assertions that industrial loads should somehow be made to pay "the costs incurred due to industrial loads" sets out the misleading suggestion that this would somehow lower rates for non-industrial ratepayers (despite the fact that industrial load growth to date has had the opposite impact). Aside from being misleading, UCG's assertions are of no help to the Board or the other parties. No framework exists for any such an approach beyond the Board setting rates as provided for in the Act – and, based on cost of service evidence provided in the 2009 Phase 2 hearing, UCG is well aware that implementation of rates for each class based on costs of service (i.e., the costs incurred due to serving the loads of each class) would result in reduced rates for industry and higher rates for residential ratepayers.

[6] On a present value basis, over the life of the asset the lower depreciation rates (and extended asset life) will still result in a positive present value net cost saving to ratepayers.
[7] Minto was in operation prior to the CSTP Stage 1 interconnection using its own diesel generation.

2.0 SALES AND REVENUE

2.1 SALES FORECAST

2.1.1 Wholesale Sales

Intervenor Arguments

CW notes "significant discrepancies" between wholesale sales as forecast by YEC and by YECL, and concludes "based on evidence in these proceedings" that "YECL has likely provided the more accurate forecast." CW recommends that the Board direct YEC to provide detailed support for its forecasts in future applications; that the forecast be adjusted downwards to 286,357 MWH for 2012 and 289,755 MWh for 2013 (i.e., the "YECL" forecasts that CW assumes to apply based on YECL-YEC-2-2(a), Attachment 1, page 1 of 4); and corresponding adjustments be made to total sales, forecast diesel generation and the DCF.

To support its recommendation, CW notes "YEC's Wholesale Sales forecast is not based on any forecast provided by YECL, but is based on actual 2011 Wholesale sales that are weather normalized and then increased by a 2.6% [sic[8]] growth factor." CW considers YEC's forecast method invalid for the following reasons:

(1) The weather normalization and subsequent weather correction is performed on YEC's entire System Sales and not solely on the Wholesale Sales.

(2) The 6% of YEC's weather normalization that is unexplained more than accounts for the approximately 10 GWh difference between YEC and YECL's forecasts.

(3) Weather normalization is unknown in the electric utility industry and the YUB has never approved its use.

CW notes "YEC's evidence is that the utility has no knowledge of the methods employed by YECL to develop its forecast wholesale purchases". CW argues that "given the importance of wholesales to system sales YEC would make an effort to understand YECL's forecasting methods with the objective of validating YECL's wholesale sales forecast. YECL is the utility that serves its retail customers and is in the best position to forecast the retail customers' needs".

YECL does not make any specific recommendations regarding the wholesale sales forecast; however, YECL notes in argument related to the ERA (at page 7, paragraph 19) that "Yukon Electrical has reviewed YEC's Wholesale Sales forecast and is unable to fully understand or reconcile it with its own forecasts. Further, YEC's Wholesale sales forecast is plainly flawed as it does not properly account for the unavailability of Fish Lake generation… [and] assumes that both Fish Lake units would be fully operational for 2013, whereas Fish Lake Unit 1 is not anticipated to be back in service until Q3 of 2013". YECL also notes, "impacts of weather normalization have been incorrectly applied to the wholesale sales forecast, which represent only a portion of the total sales".

[8] CW in its Final Argument references as 2.6% growth factor – however, the actual growth factor used was 2.26%.

UCG does not make any specific recommendations to change the wholesale sales forecast. UCG argues (para 48) that the evidence does not confirm that YECL is in agreement with the changes that YEC has made to YECL's forecast, and "this not only leads to questions about the dependence the YUB can place on YEC's load forecast but also illustrates the uncooperative nature of the relationship between the Yukon's two electricity utilities." UCG also argues (para 151) that YEC has not adequately justified the use of 10-year average weather normalization, and has not presented other methodologies or scenarios for comparison. Contrary to the CW argument, UCG suggests that weather normalization is known in the electrical utility industry, i.e., UCG references Exhibit C3-24 Tab 26 [which is not on record of this proceeding as an exhibit] to note how AUC Decision 2012-237 deals with weather normalization noting, the AUC requires utilities to "use the actual average change in weather normalized use per customer (per class) for the preceding three years as their forecast percentage change in weather normalized use per customer for the upcoming year."

Yukon Energy Reply

CW argues, and UCG implies, that YECL's forecast of primary (firm) wholesales for 2012 and 2013 is a "more accurate forecast" than YEC's forecast provided in the Application, based apparently on the assumption adopted by CW and UCG that YECL is in the best position to forecast its retail customers' needs. This argument, and its underlying assumption, are not consistent with the evidence and therefore should be rejected by the Board:

- Looking at the last GRA for 2009, YEC's forecast as then filed of 266.9 GW.h was much closer to the actual (266.4 GW.h), as well closer to the Board's approved wholesales forecast for 2009 (267.7 GW.h), than the YECL forecast for 2009 as then filed (263.2 GW.h)[9].
- The tendency for YECL's internal business plan forecasts to be lower than actuals was noted in Board Order 2009-2 (at page 4, the Board noted that for the years 2003 to 2007 that the actuals exceeded YECL's forecasts within the range of 1.4% to 4.1%).
- YECL's internal business plan forecasts for 2011, 2012 and 2013 continued to be lower than YEC's forecasts for wholesales (during these years, YEC's forecasts were lower than actual [2011] and lower than updated forecasts as to what is now expected)[10].

[9] Table 2.1 in Application for actual and Board approved forecast (which was same for both utilities). UCG-YEC-1-19(b) for 2009 forecasts as filed by YEC and YECL in the 2009 GRAs.

[10] UCG-YEC-1-19(b) provides comparative forecasts for 2011 (YEC 277.1 GW.h and YECL 273.3 GW.h) and actual for 2011 (289.6 GW.h); it also compares YEC and YECL forecasts for 2012 and 2013 as available prior to YEC filing the current Application, showing the extent to which YEC's forecasts exceeded YECL's forecasts (see also YECL-YEC-2-2 regarding the YECL forecast information as then provided to YEC). Undertaking 14 as provided at T299-300 indicates that actual for first nine months of 2012 as well as more recent YECL forecasts now indicate 2012 and 2013 wholesales are likely to be higher than forecast by YEC in the Application, independent of any added wholesales in 2013 resulting from YECL's revised forecast for further delay in Fish Lake Unit 1 coming back into operation or for wheeling to WHCT sales.

- In other words, updated wholesale forecasts for 2012 and 2013 using the best available information today[11] confirm that adopting YECL's forecast for 2012 and 2013 as recommended by CW would result in a less accurate forecast for these years than that provided by YEC in the Application.

The methods used for YEC's forecasts, and the related interactions with YECL, are clearly on the record, and have not been substantively challenged by intervenor arguments or the evidence. Therefore, the forecasts as provided by YEC in the Application should be adopted by the Board (subject only to the correction needed, as noted in YEC's Final Argument, to increase wholesales in 2013 to provide for wheeling power over YECL's distribution system as required to supply WHCT's forecast load and any related losses on YECL's system)[12]. In support of this, the following are noted:

- YUB-YEC-2-2 and YECL-YEC-2-2 document the extent of collaboration and information sharing that took place between YEC and YECL with regard to the Resource Plan load forecast (the 2.26% growth rate used for wholesale growth[13]), and the 2012 and 2013 wholesale forecasts used in the Application. This record confirms the following:
- The record in YECL-YEC-2-2 shows that YECL's forecasts as provided for 2012 and 2013 prior to YEC filing the Application went through many iterations, and ended up being higher than CW assumes in its argument (but still well below YEC's forecasts):
    - 2012: the last forecast provided to YEC (in September 2011) was 289.063 GW.h, but this assumed Fish Lake Unit 1 would resume operating by August of 2012; based on YECL's subsequent (December 2011) notice to YEC that Fish Lake Unit 1 would be delayed until the end of December 2012, it would be reasonable to conclude that the final YECL forecast for 2012 was 290.666 GW.h (289.063+1.603[14]). Given that Fish Lake Unit 1 was not operating all of 2012, this final 2012 forecast can be compared with 2011 actuals of 290.541 GW.h, i.e., YECL was assuming only 0.4% growth for 2012, which was not reasonable.
    - 2013: the last forecast provided to YEC (in September 2011) was 292.487 GW.h (appears to reflect approximately an assumed 2% growth applied to the final 2012 number, after removing the impact of Fish Lake Unit 1 not operating during 2012). This YECL forecast assumed Fish Lake Unit 1 would be operating for all of 2013 (which was consistent with subsequent December 2011 information that YECL provided to YEC), and included no provision for WHCT load requirements

[11] See Undertaking 14 at T299-300 for recent estimate of 301.9 GW.h for 2012 (based on 9 months actuals) and YECL's 2013 forecast updated of 301.3 GW.h. Exhibit B-16 noted that YEC's most recent internal forecast updates indicate non-industrial grid load is expected to exceed GRA forecast in 2013 by more than 7 GW.h (most of this can be assumed to be clearly accounted for by wholesales).

[12] YECL losses assumed to average 6.2%, i.e., based on forecast WHCT sales at 4.8 GW.h, added wholesales related to this load would equal 5.1 GW.h.

[13] As noted in YUB-YEC-2-2 as part of the preparation of the Resource Plan load forecast in early 2011, YECL was provided with an early working draft of the appendix supporting the methodology and approach for developing an update to the long-term, non-industrial load forecast for Yukon and noting a slightly higher growth rate (2.34%). This analysis, with some adjustments supported the 2.26% non-industrial growth rate used in the 2011 Resource Plan.

[14] Fish Lake Unit 1 normal annual generation of 4.35 GW.h. YECL's information (YECL-YEC-2-2) assumed 2.747 GW.h was not available for 2012 for January to end of July - therefore 1.603 GW.h represents the balance of the generation assumed for August to end of December.

(for either YEC wheeling or, as subsequently proposed by YECL, service by YECL).

- The record shows that YEC's forecast for 2012 and 2013 varied from YECL's forecast mainly due to the assumed 2.26% long-term growth rate (as developed for the Resource Plan Update) adopted by YEC, versus the 0.4% and 2.0% growth rates adopted by YECL, i.e., as estimated above, YEC's forecast adopted the same Fish Lake Unit 1 operation assumptions as YECL then provided. These growth rates in each instance were applied to wholesales excluding Fish Lake Unit 1 shut down impacts (290.541-4.35=286.191 GW.h for 2011 actuals).
    - The one other difference (beyond assumed growth rates) is that YEC reduced the 2011 actual by 1 GW.h (before applying the growth rate) to adjust for colder than normal winter weather in 2011.
    - This adjustment reduced YEC's forecast by 1.027 GW.h for 2012 and by 1.046 GW.h for 2013, i.e., it narrowed the difference between the YEC and YECL forecasts.
    - As noted by CW and others in argument, this weather related adjustment was derived from an analysis done for all sales rather than only for wholesales; given that wholesales were approximately 79% of total YEC sales in 2011, the impact of correcting this adjustment to related only to wholesales would have minimal impact on the forecasts for 2012 (i.e., about 0.2 GW.h upward adjustment for both years).
    - The basic principles underlying this weather related adjustment remain sound, and arguments over alternative methods or approaches have no apparent merits in the circumstances.
- On the specific matter of the related assumptions adopted by YEC for Fish Lake Unit 1 operation, the record shows that there is no basis whatsoever for YECL's argument that the 2013 forecast "is plainly flawed as it does not properly account for the unavailability of Fish Lake generation." YEC used what YECL provided - and YECL's argument is providing, for the first time in this hearing process, a new YECL forecast that the Fish Lake Unit 1 is now not anticipated to be back in service until Q3 of 2013[15].

2.1.2 Major Industrial Sales

Intervenor Arguments

Intervenor arguments related to major industrial sales addressed only the matter of who serves Whitehorse Copper Tailings (WHCT), i.e., no intervenor arguments were provided related to load forecast amounts for major industrial sales[16].

CW takes no position on which utility should serve WHCT, and argues that "serving arrangements should be based on the most efficient and effective service to the customer, with

[15] The transcript reference provided in YECL's argument at T131 only had YECL's lawyer "put" to YEC's witnesses the assumption that Fish Lake Unit 1 is not on line until Q3 of 2013.
[16] Intervenor issues raised about obligation to serve and/or revenue vs. cost impacts from industrial sales are addressed under Section 4 (Rates).

regard to the net benefits to all customers of both utilities." CW argues that there is insufficient evidence for the Board to determine which utility can provide the optimum service to WHCT, and recommends that this issue should be resolved in a separate application by either YEC or YECL, and a short written proceeding, where the net costs and benefits to end use customers can be fully evaluated. Pending a Board hearing on this matter, CW recommends that the costs and benefits attributable to serving WHCT be removed in the compliance filing.

LE recommends that the Board considers the facts of the situation and the arguments of all parties to decide which utility is to serve Eagle Industrial Minerals and to ensure that the ratepayers are not disadvantaged either way.

UCG argues (papa 167) that "YEC was not able to produce any documentation related to its own perceived deemed franchise to serve Whitehorse Copper Tailings. In light of this, UCG sees no evidence that provides YEC with the rights to serve Whitehorse Copper Tailings or any other industrial customer. UCG submits that it appears to be rather redundant to have YEC serve a load to which YECL already has an existing service line."

YECL argues that the Board is without jurisdiction to approve service by YEC of a customer within YECL's service area that YECL is willing and able to provide service to, and requests that the Board (i) confirm that WHCT is rightfully a customer of YECL and (ii) direct YEC to remove WHCT volumes from its forecast for the test years and that its revenue requirement be adjusted accordingly. To support this request, YECL argues that WHCT is "a customer located within Yukon Electrical's deemed franchise area and YEC has no right to provide service to this customer, nor has it made any specific application to the Board for any relief from what is plainly an infringement of Yukon Electrical's rights under the Public Utilities Act." YECL states that its existing franchise area is acknowledged in section 77(2) of the Act and any existing franchise rights that YEC may have can only be for areas where the production, generation, storage, transmission, sale, delivery or furnishing of electricity is not already being provided by YECL. Further, YECL argues as follows as regards the matter of WHCT being an industrial customer:

- YEC is unable to point to any legislative provisions in support of YEC's position that it is entitled to serve all industrial customers, and there is no legislative or regulatory support for such position.
- Rate Schedule 39 is available throughout the service areas of YEC and YECL served by Whitehorse, Aishihik, Faro and Mayo Dawson systems.
- YEC argument that it has served all industrial customers since the NCPC transfer in 1987 has no merit:
    - Both Minto and Alexco are not located within YECL's service area.
    - Re Whitehorse Hospital – YEC provided only secondary sales to the hospital as the hospital plainly does not fall within the meaning of major industrial customers as it is not engaged in manufacturing, processing or mining. What may have been historically agreed upon in respect of secondary sales to the Whitehorse Hospital is of no assistance to YEC or the Board in considering whether YEC is entitled to serve WHCT.
    - YECL owns and operates the line, and wheeling over another's facilities can introduce inefficiencies in respect of administrative matters.

  - WHCT was previously served by Yukon Electrical from the late 1960's to the mid 1980's.

- YEC's argument that ratepayers will benefit by having YEC serve WHCT is unfounded, as YEC's calculations of $210,000 savings in 2013 if YEC serves WHCT are based on currently approved rates and assume YECL is not going to file a GRA for 2013, and as long as the costs of serving WHCT are properly forecast in a test year the savings suggested by YEC are illusory.

Yukon Energy Reply

Yukon Energy agrees with LE and CW that, notwithstanding legal issues raised by YECL, the primary focus of the Board in dealing with WHCT should be "what is in the best interest of ratepayers?"

As noted in YEC's November 1, 2012 letter to YECL included in Attachment A to Exhibit B-15 "...YEC believes that it is in the best interests of ratepayers that Whitehorse Copper Tailing ("WHCT") be served by YEC not YECL". Among other points noted in that letter, YEC provided estimates of ratepayer savings in 2013, and noted potentially higher savings in years after 2013.

YECL chose not to file evidence to contradict the points made in Exhibit B-15, instead preferring to cross-examine YEC on an assumption, i.e., that YECL will file a general rate application in 2013. However, there is no evidence on the record today of a 2013 general rate application being filed by YECL[17]. Without such an application the only evidence before the Board is YEC's evidence which highlights the material benefits that ratepayers receive having YEC serve WHCT[18].

In response to specific arguments by CW and LE, which focus on the Board adopting arrangements to serve WHCT that are most beneficial to WHCT and all end use customers, Yukon Energy submits that the evidence confirms that the most beneficial arrangement is for YEC to serve WHCT through wheeling of power over YECL's distribution system as outlined in YEC Final Argument. In summary, the evidence confirms the following on this matter:

- Under any YEC revenue requirement approved by the Board for 2013, and regardless as to whether or not YECL files a rate application for 2013, the rate rider required in 2013 (Rider R) to recover the approved YEC revenue requirement will be lower if YEC rather than YECL serves WHCT[19].
  - This conclusion will continue to hold in future years as regards YEC-specific rate impacts on ratepayers.

[17] Even if it was appropriate to reference recent YECL correspondence to the Board where it suggested that a 2013 general rate application will be filed, no such application has yet been filed - and there is no evidence that YECL, in its discussions with YEC prior to the November 1st letter, had proposed to file such a general rate application.

[18] Even if YECL files a general rate application, the evidence referenced in YECL's argument at footnote 18 confirms that YECL would need to implement a number of specific undertakings in order to protect ratepayers from impacts that would not occur for certain if YEC serves WHCT - and until the Board and interested parties can review and test an actual YECL filing in this regard, the Board has no evidence as to what YECL will in fact propose.

[19] This conclusion results from the two key facts: (a) ignoring purchased power costs, YEC's costs are essentially unchanged regardless as to who serves WHCT, and (b) taking into account net revenues earned after deduction of related wheeling and purchase power costs, YEC's income at existing rates is higher if YEC rather than YECL serves WHCT (and therefore the 2013 YEC rate rider [Rider R] percentage is lower if YEC rather than YECL serves WHCT).

  - Increased WHCT sales after 2013 will only impact YEC revenues and costs and will have no impact on ERA charges to YECL, e.g., absent a new rate application by YEC in 2014, YEC will not be able to pass on to ratepayers any added diesel generation costs incurred as a result of the expected doubling of the WHCT load.

- If YECL serves WHCT, the above analysis indicates that the YEC Rider R required in 2013 to recover the approved YEC revenue requirement will be higher than if YEC serves WHCT; YECL will also earn added net revenues, i.e., revenues net of incremental purchased power costs. The only way that the higher Rider R thereby required by YEC in 2013 can be offset for ratepayers by lower YECL rates is if YECL rates are reduced through Board review of a GRA filed by YECL for 2013 (whereby the Board can properly consider and address the added net revenue earned by YECL through serving WHCT).
  - Under no circumstances can ratepayers be better off by YECL rather than YEC serving WHCT.
  - Under the ERA and related Rider D mechanism approved for YECL to recover incremental YEC diesel generation costs passed on to YECL, if YECL serves WHCT ratepayers (rather than either of the two utilities) can also expect to be liable in the future for increased diesel generation required after 2013 due to increased WHCT load. (With YEC serving WHCT, ratepayers will only face the same higher costs in years when YEC files a rate application that includes such increased WHCT sales in the sales forecast that is approved by the Board).
- Under the wheeling arrangement as proposed by YEC, WHCT would reasonably expect to face the same capital costs for connection to the grid if served by YEC or by YECL.
- If YEC rather than YECL serves WHCT, all industrial customers connected to the grid will continue to be served by the same utility (YEC) with related efficiencies, cost savings and consistency as regards PPAs, ongoing load forecast review (which is particularly important to YEC as the prime generator of power for the grid) and other related matters.
- Contrary to YECL's assertions, such a wheeling arrangement for YEC to serve WHCT will not lead to any material new inefficiencies or administrative burdens, e.g., the added wholesales to YECL will be metered through the same meters and arrangements now in place (without any change of cost or variance depending on whether YEC or YECL serves WHCT), the metering of purchased power by YEC for WHCT sales can be metered concurrent with YEC's metering of sales to WHCT (and such metering is required by the utility serving WHCT, whether that is YEC or YECL), and YEC and YECL will work together in any event to deal efficiently and effectively with outages or other similar issues.

YECL has selectively tried to use evidence from YEC to suggest that it has a "deemed" franchise to service industrial customers in the Whitehorse area. This a novel legal concept with no support and, in any event, Yukon Energy did not admit to that point. Its evidence is that YEC rather than YECL has the franchise to service industrial customers in the Yukon including in Whitehorse[20] – which is exactly what Yukon Energy has been doing since 1987. YECL has not provided any

[20] Including serving Whitehorse Hospital as an industrial secondary customer at the time of the 1987 NCPC transfer and in subsequent years.

franchise document demonstrating that YECL has the franchise to serve industrial customers in the Yukon. Instead it simply refers to Section 77 of the Act, which has no reference to YEC (other than YECL and Yukon Hydro, it references only NCPC) and Rate Schedule 39 (which simply says where this rate is available to a customer, not who supplies power to the customer).

2.2 POWER GENERATION

Intervenor Arguments

LE (Section 8, pages 5 and 6) recommends that the Board order Yukon Energy to base its hydro and diesel energy generation requirements on exactly 100.0% of long-term average hydro generation for the forecast load, arguing that there is no need for a transition to long-term average hydro generation, that using above long-term average hydro generation subsidizes rates with funds that should be going into the DCF, and that "we should be building up the DCF at every opportunity" as "It is inappropriate to exchange this short-term gain for a larger pain in a future year."

Yukon Energy Reply

Yukon Energy notes that LE's argument on moving immediately to 100% of long-term average generation fails to address the fact that the "transition" measures proposed in the Application for moving to full long-term average hydro generation (and related long-term average diesel generation cost recovery) capped the current rate increase at 6.40% in 2012 and 6.50% in 2013[21].

LE fully supports capping of the short-term pain of the current rate increase (see Section 18, page 11 where LE argues that "in no event should it [Rider R] be more than 6.5%"), and argues (Section 18, page 11) that "if necessary, Yukon Energy's O&M costs should be further reduced to limit Rider R to no more than 6.5%." Yukon Energy in effect did limit diesel generation fuel costs by the proposed transition approach, taking into consideration (in addition to the need to cap the rate increase) the need to recover all other O&M costs as forecast in the Application as well as favourable current water conditions and potential transition of lower cost LNG) supporting the transition approach applied in the test years.

In summary, subject to the need to cap the current rate increases, the Application moves at this time as close to long term average hydro and related diesel generation costs as is possible after fully considering all of the other forecast costs required for the test years.

[21] See YEC Final Argument, Section 2.1, page 22 "Transition to LTA Diesel Generation Cost Recovery"

3.0 REVENUE REQUIREMENT

3.1 OVERVIEW

This section of the Reply Argument addresses forecast revenue requirement issues for the test years pertaining to operating and maintenance (O&M) costs, rate base and amortization of rate case expenditures, cost of debt (as it impacts return on rate base), and stabilization mechanisms (focusing on the Diesel Contingency Fund [DCF]).

Aside from UCG, intervenor arguments typically focused on a few specific issues related to these matters – however, given the scope of this section, a wide number of discrete topics are addressed. YEC's Reply Argument focuses on issues relevant to the Application without attempting to re-iterate evidence summarized in Yukon Energy's Final Argument.

As part of this Overview, one overall issue raised by UCG (benchmarking and OM&A per customer) is addressed below.

3.1.1 UCG Arguments re: Benchmarking and OM&A per Customer

Intervenor Argument

UCG recommends (para 189)that the Board engage an independent expert to benchmark YEC's and YECL's cost components prior to the next rate case to determine the efficiency of their management compared with other North American utilities. UCG argues that such information would readily highlight problem areas and develop a basis for improvement of cost control by the utilities.

UCG argues (para 292 and 293) that average O&M costs per customer is a valuable tool in jurisdictions that have advanced to a stage where performance benchmarking has become a preferred measurement tool for regulators when determining revenue requirements and rate for regulated utilities. UCG argues that YEC should be directed to provide ongoing reporting of performance benchmarking information to the YUB and intervenors on an ongoing basis that would indicate (for current year and average for last 3 years):

- Average OM&A costs per customer by rate class; and
- Average total revenue requirements per customer by rate class.

Yukon Energy Reply

UCG's arguments related to benchmarking deviate significantly from how rates have traditionally been regulated in Yukon – the following points are noted with regard to statements excerpted above.

- UCG seems to suggest that benchmarking is required due to "increasing reliance on the judgment of YEC staff in relation to the prudence of expenditures" – first, pursuant to the PUA all of YEC's revenue requirement is subject to public review during the hearing process and subject to approval by the YUB based on the test of prudence.

- UCG suggesting that an additional layer of review be added to this process – which would add considerably to administrative burden and costs to ratepayers. It is the Board that ultimately has the jurisdiction to review costs and is assisted by staff retained to review the evidence. Retaining a third party to benchmark YEC's costs would add an additional layer to this process and essentially be duplicative of expertise already retained to assist the Board with understanding issues related to utility revenue requirement applications.
- UCG notes this benchmarking tool is valuable in jurisdictions that have advanced to a stage where performance benchmarking has become a preferred measurement tool for regulators when determining revenue requirements and rates for regulated utilities – however, this fails to recognize that Yukon Energy has unique qualities that may not making benchmarking as suggested particularly useful.
    - Yukon Energy has noted in Exhibit B-7 (YEC Response to UCG motion) that Yukon Energy cannot provide meaningful information regarding revenue requirement per residential customer or revenue requirement per general service customer as (1) a meaningful response would require a cost of service for the specific years reviewed; and (2) YEC has YECL as its major customer, which accounts for the largest share of its load and operational commitments, and an un-weighted average revenue requirement per customer is of limited value.
    - UCG-YEC-1-25(c) provides non-fuel operating and maintenance expense per customer; however, this response also notes "Number of customers provided only includes YEC residential and general service customers. However, YEC has YECL as its major customer, which accounts for the largest share of these costs. Therefore, the un-weighted average costs, provided as requested, are in YEC's view of limited value".
    - It was also noted (transcript page 315, lines 13-21) "it's not the growth in the customers that is really driving our costs. As we've said, we've doubled our assets in the four years since 2009. We have huge increase in load. Those are the items that are driving the costs. It's not necessarily the customer count that's doing it. So I would suggest that it's not the right correlation, or it's not a correlation that's meaningful in this case, to be fair."

3.2 FUEL AND PURCHASED POWER

Intervenor Arguments

Issues related to diesel generation forecasts, and the percent of long-term average diesel generation assumed in the Application, are addressed separately (see Section 2.2 of this Reply Argument).

UCG asserts at paragraphs 192 and 193 (based on UCG-YEC-1-24) that "YEC provided details of actual prices paid for diesel fuel. For 2009, the Board approved price for Whitehorse was $0.96 per litre and the average price actually paid was only $0.7603 per litre. The difference of 20 cents per litre equates to approximately $97,000 (485,693 litres)." Consequently, 2009 rates have "over-recovered on allowed diesel fuel costs" and the Board should "direct YEC to identify the over-recovery since 2009 and ensure that this over-recovery is added to the Diesel Contingency Fund".

UCG further argues (para 194) that, due to Rider F, YEC has no incentive to curb diesel fuel expense as YEC is "protected financially no matter how much they use or at what price".

UCG recommends (at para 194) that the YUB should ensure that YEC understands the importance of controlling costs recovered from ratepayers and direct YEC to report quarterly on any over-recovery/ under-recovery of allowed diesel fuel expense. This difference from allowed should be tracked in a variance account that can be addressed at a later date.

Yukon Energy Reply

UCG argument that YEC has over-recovered 2009 diesel fuel costs.

There is no merit to UCG's assertion that YEC over-recovered diesel fuel costs in 2009.

- The 2009 Approved fuel price was $0.96/litre as directed by the YUB in Order 2009-8 (para 53 and 54[22]).
- Rider F captures all variations in fuel price per litre for each actual litre consumed, compared to the most recent GRA-approved fuel prices. Where final rates are put in place following the start of a test year, once final approvals are received for new test year fuel prices, Yukon Energy recalculates the balances in these accounts to ensure that all charges to the accounts are precisely equal to what would have occurred had the ultimate YUB approvals been known at the start of the year.
- Rider F was re-set to zero in March 2009 and from December 2009 until June 2011 there have been a series of refund riders (from 0.386 c/kW.h in December 2009 to 0.09 c/kW.h in July 2010. Effective July 1, 2011 a collection rider of 0.352 c/kW.h is in effect)[23].

UCG argument that YEC has no incentive to curb diesel fuel expense

There is no merit to UCG's assertion that YEC has no incentive to curb diesel fuel expense due to Rider F.

- Diesel fuel supply is procured by competitive public tender. Proponents are required to provide pricing for fuel delivered to each of YEC facilities in Whitehorse, Dawson, Mayo and Faro. Prices are generally updated monthly for market price fluctuations[24].
- Rider F only addresses the variations in fuel price per litre for each actual litre consumed, compared to the most recent GRA-approved fuel prices. UCG-YEC-1-5(b) notes Rider F is an adjustment made from time-to-time solely related to the flow- through of diesel fuel price changes. When implemented it is a not a component of paying for YEC's changing basic costs of providing power, but solely related to world fuel price variability.

[22] Per para 48 of Order 2009-8 this was based on the YECL fuel price forecast for Whitehorse established in Order 2009-2.
[23] See for example, Bill Impact Tables in UCG-YEC-5(c) REVISED and UCG-YEC-1-43.
[24] UCG-YEC-1-24(b).

- However, Yukon Energy remains at risk for changes in fuel volumes (that affects overall fuel costs) compared to approved GRA forecasts. In this respect Table 3.2 makes it very clear that since 2009 Yukon Energy has been adversely impacted due to actual diesel fuel expense that was materially higher than costs approved in the 2009 Compliance filing.

3.3 NON-FUEL O&M

3.3.1 Labour

Intervenor Arguments

LE and UCG were the only intervenors that commented on labour costs and staff increases.

LE argues (Section 11) that the increasing labour cost "especially at the top" was "not supportable", but did not provide any specific recommendations. LE noted the following concerns:

- YEC staff increases were outpacing inflation, in 2012 a total 71 union and out of scope employees were forecast to receive compensation in excess of $100,000.
- "Virtually all of the growth in positions since 2009 is in the office or upper levels of the corporation" with little at the operational end despite additional or expansions to various facilities.

UCG argues (para 224-228) the Board should disallow any proposed increase in labour costs associated with salaries of YEC employees, and that YEC should "not be rewarded with recovery of all costs related to new staff positions in resource planning or energy conservation" and these costs "should be split 50/50 between the shareholder and ratepayers" given the "extraordinarily high consultant costs being paid for regulatory oversight and administration." UCG specifically notes:

- With regard to staff increases, there has been no cost/benefit or business case analysis provided to support appropriateness of added positions.
- With regard to labour cost associated with salaries, 71 positions in 2012 and 2013 earning more than $100,000 per year represents over 77% of YEC's proposed staffing level of 92, this ratio is "extremely high and extraordinary for any industry, especially in light of the fact that the average Yukoner's income level is below $50,000", and "it is unrealistic to argue that higher wages need to be offered to attract qualified employees when concessions are the rule in other jurisdictions in this shrinking economy".

Yukon Energy Reply

Increasing Labour Cost

Yukon Energy has noted in interrogatories and in cross examination at the hearing that the 2012 and 2013 labour costs were based on collective bargaining agreement rates (and not based on inflation)[25]. As such, inflation is not a relevant indicator for the test years.

[25] See YECL-YEC-1-48(a) and transcript page 313.

Further, Yukon Energy has noted clearly the need to offer compensation that remains competitive with southern utilities that may offer greater opportunities for advancement in order to recruit and retain staff. In this regard UCGs argument that higher wages should not be required to attract qualified employees also has no merit. Yukon Energy noted clearly in cross examination the challenges it has in staffing positions[26]. Specifically,

- YEC has tried to recruit expertise into different departments, and has had great difficulty competing with southern markets for that expertise.
- Specifically, Mr. Morrison noted great difficulty hiring electrical engineers who want to stay in a small company and in this location. It was noted that part of the problem is that there is not a lot of movement within Yukon Energy compared to other larger utilities such as BC Hydro or Yukon Electric's ATCO parent. There is more movement within larger companies and more growth. This is a big factor in not being able to recruit people[27].
- Mr. Morrison cited as an example of the competitive industry Yukon Energy faces from a staffing point of view the fact that the Director of Major Projects left the company after a year and a half in order to pursue a job at Columbia Power[28].

Additional Staff Positions

Each of the new staff positions is fully supported in the Application[29]; in IR responses[30] and in cross examination at the oral hearing.

With regard to new staff positions, the following is noted in response to issues raised by LE and UCG regarding positions added at the "upper levels" compared to the operational end:

- YEC is experiencing fairly significant potential retirements over the next few years and is trying to make sure the right structure is in place for a smooth transition[31].
- Yukon Energy has been undergoing material growth in demand and systems which requires additional staff[32].
- The environmental manager required additional assistance to keep up with work requirements related to regulatory compliance and monitoring as well as environmental and safety orientations[33].
- Through experience of building Carmacks Stewart Transmission Project and Mayo B as well as various resource projects, it was determined that YEC needed capacity to manage various contractors and consultants undertaking technical, environmental and modeling work, and it was also determined that there would be value to bring certain skills in house.

[26] Transcript page 309, lines 24 to 25 and Transcript page 310, lines 102.
[27] Page 311, lines 3-12.
[28] Transcript page 549, lines 12-19.
[29] At page 3-13 to 3-17.
[30] YUB-YEc-1-21; YUB-YEC-1-22; YUB-YEC-1-20(h) and (i); LE-YEC-1-16(b) and YUB-YEC-1-16.
[31] Transcript page 550.
[32] UCG-YEC-2-3.
[33] Transcript page 547.

  - The resource planning engineer and environmental coordinator were recruited locally and are considered positions that would otherwise be outsourced (page 548); the resource planning engineer also brings a great deal of expertise related to modeling that would otherwise be outsourced[34].
  - The addition of the resource planning engineer and additional positions in the finance department are expected to build capacity to undertake some regulatory work internally over time[35].

- The director, resource planning position is currently vacant with work being performed by three separate individuals (the CEO, the Vice President and the Director, Major Projects), all of whom have their own responsibilities[36].
- Yukon Energy initially tried to develop DSM/ Energy conservation programs using existing resources but determined that the work requirements and assignments were too large for an individual to do on a part-time basis. This led to hiring of two positions to work on the energy conservation plan from an internal YEC perspective and to undertaken external work with stakeholders and partners in development of programs and plans[37].

With regard to operations the following has been noted:

- The capital electrician and mechanic are needed to deal with large capital programs, at the same time as maintenance trades are required to deal with increased assets under their responsibility[38].
- Yukon Energy explained that after the director of operations left, Yukon Energy determined that it would not replace the individual, but instead restructured the department and brought in a second operations manager. In effect the company was divided into the electricians and power line group and the system control centre and mechanics. These groups were managed by two individuals.

3.3.2 Consultant Costs

Intervenor Arguments

UCG was the only intervenor to comment in any material way on consultant costs, and the only consultant costs that UCG highlighted (para 219-222) are costs for InterGroup related to "Support for Financial and Regulatory", "Regulatory Consulting Services" and "Resource planning oversight services." UCG notes that YEC needed "nearly $330,000 worth of regulatory oversight services annually" based on $983,000 identified for payments to InterGroup related to the above services over three years (2009-2011). UCG asserts that YEC has relied on InterGroup for consulting service for over a quarter century, paid an extraordinary amount of ratepayer money for those services and could have provided incentive and training to have qualified staff based in Yukon. UCG recommends YEC be directed to curb the duplication of costs incurred for these

[34] Transcript page 548.
[35] Transcript page 311.
[36] Transcript page 550.
[37] Transcript page 555-56.
[38] UCG-YEC-2-3.

regulatory oversight services and that the budget for this type of consulting work should be reduced by 50% for 2012 and 2013 "as a first step in weaning YEC off their InterGroup dependency"[39].

Yukon Energy Reply

There is no merit in UCG's assertion of cost duplication for regulatory oversight service, or its proposed cuts to consulting costs for this specific consulting work.

UCG's attack on InterGroup Consultants costs ignores the evidence put on the record of the proceeding regarding the reasons underlying the difficulties a small northern utility has in hiring and retaining regulatory staff with the specialized skill sets and breadth of experience that firms such as InterGroup offer, and also ignores the steps Yukon Energy has taken in the test years to develop internal resources and capacity to be able to undertake more regulatory work with internal staff.

YEC addressed fully in cross examination issues related to the ability to hire regulatory expertise internally rather than rely on consultants for these services[40]. Mr. Morrison noted in cross examination overall that it is not something that YEC sees it can do and "still get the same value for the dollars that we spend." The following was specifically noted:

- It is difficult to hire or secure the breadth of expertise required to file applications of this volume [this application was over 700 pages in length with two rounds of IRs totalling well over 1000 questions]. Mr Morrison noted in cross examination that to file and answer "all these questions is not something that we're confident that we could do on an ongoing basis". It was also noted, "I don't think we can afford to hire on an ongoing basis...a group of people large enough to cover the different disciplines."
- It was also noted that the regulatory work was not the only area where the Corporation has to rely on external consulting expertise.
- Yukon Energy hadn't had the experience in the last several years of undertaking major regulatory filings – i.e., there were not major regulatory filings from 1996/97 to 2005; however, there have been a series of filings from 2009 to 2011 including the 2008/2009 GRA, the 2010 Phase II Rate Application, the 2010 Mayo B Part 3 Application and the current 2012/2013 General Rate Application. Mr. Morrison noted in cross examination, "we have been in front of the regulator...several times in the last few years. But prior to that we weren't in front of the regulator for ten years"...so then what do we do with people when we're not in front of the regulator? You know, do we pay people to do regulatory work when we don't need them? It's not something that we can dismiss them and hire them back".
- Yukon Energy has had experience in trying to recruit specific expertise into different departments and noted the "great difficulty" it has competing with southern markets for that expertise. However, Mr. Mollard did note recent efforts to hire individuals with skills, not directly related to the regulatory field, but with skills that would be transferrable to

[39] UCG Argument paragraphs 220 to 222.
[40] Transcript pages 310 to 311.

the regulatory area (e.g., the resource planning engineer and a recent hire in the finance department). Yukon Energy is hopeful these individuals can do some of the regulatory tasks previously consulted out in the future.

- Yukon Energy has consulted Northwest Territories Power Corp. who have tried to employ regulatory staff internally and noted the understanding that this experience had "not been very successful" and that "a number of years ago they had one person in a regulatory department, still didn't prevent them having to hire external consultants or an external firm".

UCG's reference to $983,000 of costs during the 2009 to 2011 period ignores the range of different activities related to these costs during these years (as provided in the response to YUB-YEC-1-8 Revised). Approximately 51% were "capital" costs (i.e., subject to deferral and amortization) during 2009 and 2010 related to the 2009 Phase I GRAs (mostly YEC GRA) and the 2010 Phase II GRA (these costs would generally have appeared in YEC's cost filings for these proceeding. Approximately 26% were capital costs incurred over the three years on Resource Planning oversight services (with similar levels of work in each year). Approximately 23% of these costs related to non-capital costs during 2010 and 2011 (i.e., costs that are not amortized or carried over into the test years), including costs related to initial preparation work for the current Application.

3.3.3 Production

Intervenor Arguments

YCS provided general comments (page 6) related to the Haeckel Hill Wind facility noting poor performance since 2003 and insinuating that "this poor performance is a result of purposeful neglect of wind facilities, and is another tactic – whether conscious or otherwise –employed by YEC to sway public opinion to match its own – that wind is not viable or feasible in Yukon. YCS recommends that YUB direct YEC "to give the wind facilities the care and attention afforded to all other generation facilities".

LE was the only intervenor to comment (Section 9) specifically on production cost increases – with comments focused entirely on issues related to wind generation. LE recommended the Board approve wind expenditure of $27,000 for 2012 and increase this expenditure from $18,000 to $100,000 for 2013 in order for Yukon Energy to increase the time and attention spent on the Haeckel Hill wind facility and increase production from that facility to at least 0.8 GWh/year in 2013.

To support this, LE notes:

- The Haeckel Hill wind facility has been "essentially ignored in recent years resulting in dismal wind turbine performance" and "more winter diesel generation than necessary."
- The Nodwell purchased for work on transmission lines should be used for winter maintenance work on the wind turbines.
- The facility is forecast to generate 0.7 GWh less per year now then when it was "receiving a more reasonable level of attention", and "since most of this reduction is in winter production the difference as a diesel displacement value of over $200,000".

- The potential revenue savings would justify more time and attention on this facility, including installation of remote terminal unit for these turbines so they can be controlled and monitored on SCADA by the system control operator.

LE made recommendations related to the wind generation component of the DCF based on LE's above proposal to increase production at Haeckel Hill by the end of 2013.

Yukon Energy Reply

Yukon Energy disagrees with the assertion that it has been neglecting its wind generation facility at Haeckel Hill in order to "sway public opinion" against wind generation. Yukon Energy has detailed in various IRs[41] and in the Resource Plan Overview[42] the extensive work it has undertaken (and continues to undertake) to understand the wind resource option.

Yukon Energy also disagrees with the recommendations made by LE regarding forecast production costs related to wind.

- YCS-YEC-1-10 provided information regarding the current status of the Haeckel hill turbines noting.
    - WW1 is at or near the end of life with an assessment planned in 2012 to determine go forward options. This assessment could consider factors such as parts availability, support, constant Rime icing versus heating repair costs, safety concerns, site access and the required remedial action cost considerations. Scheduled Preventative Maintenance is continuing on an ongoing basis. A PLC card issue continues to be diagnosed for cause and requires repair.
    - WW2 is scheduled for Preventative Maintenance on an annual basis. Blade heat repairs and site access, especially in the winter months, continue to be issues.
- LE has not referenced any evidence that this facility has been "ignored in recent years" or that performance has resulted in "more winter diesel generation than necessary".
- LE has not provided any evidence to support either the proposed costs or the generation benefits and revenue savings alluded to by LE that are assumed to result.
- Further, LE's argument does not consider other required maintenance or operations work that may need to be deferred in favour of this recommended work.

[41] See for example YCS-YEC-1-8 where YEC notes "over the past 3 years, the Corporation has invested material resources to better understand the potential for wind. Yukon Energy is committed to further investigate wind resource at Ferry Hill. In combination with wind monitoring at the site, the Corporation is investigating other ancillary systems (e.g. diesel rotary uninterruptible power system) that would be required with the development of a large wind farm to ensure grid stability and reliability in instances where generation is suspended as a result of wind lulls. These ancillary systems, once included in the overall project cost, contribute to a material increase in cost of energy for wind energy that nonetheless, at some potential grid loads, remains less than the cost of diesel generation but higher than other energy generation options".
[42] Attachment 1 to YECL-YEC-1-18.

3.3.4 Transmission and Distribution Brushing Costs

Intevernor Arguments

CW, LE and **UCG** each commented and made recommendations in argument related to increases in transmission and distribution brushing costs.

- **CW** (para 17-19) "acknowledges that YEC's overall transmission brushing costs should increase" but notes "when transmission brushing costs were restated on a per km basis, it appears that YEC's unit brushing costs are related more to rate applications than to precipitation. CW recommends that forecast transmission brushing costs for the test years be reduced to reflect a unit cost of $375/km, the average of its 2010 and 2011 unit cost. With regard to distribution brushing costs CW acknowledges "that distribution brushing costs may not be comparable in 2011 to years when distribution brushing was done internally" but asserts that the brushing cycle "seems to include difficult communities to brush during rate applications". CW recommends that forecast distribution brushing costs be reduced to $68,000 since YEC expects similar results as in 2011.
- **LE** (section 10) "strongly supports" YEC's proposed vegetation management plans and recommends the Board approve the proposed vegetation management plans, noting, LE "believes that Yukon Energy has made significant strides [in the area of vegetation management practices on transmission lines and distribution systems] with recent work", and "should be encouraged to continue".
- **UCG** argues (para 217-218) that the 2012 and 2013 budgets for brushing should remain at 2009 allowed levels. This argument is based on UCG's assertion that since YEC will not develop a formal brushing policy until 2013, "there is nothing upon which the YUB and interested parties could base the escalating brushing costs for 2012 and 2013." Further, "without a policy that better explains the brushing program and why the costs are escalating above the last allowed amount by 41% in 2012 and 78% in 2013 the YUB cannot allow YEC to haphazardly spend this kind of money." UCG further argues that "given the fact that YEC has not developed a policy based on the consultant studies related to brushing, UCG submits that the $173,227 cost of these studies should not be allowed to be recovered until after the policy has been reviewed by the YUB and implemented".

Yukon Energy Reply

Yukon Energy has provided full explanation and support in the Application[43], IRs[44] and cross examination[45] for its forecast transmission and distribution brushing costs.

With regard to arguments that the increase in the test years is not justified (either due to the lack of a policy or due to the fact that the full increase cannot be supported on a unit cost basis),

[43] Tab 3 pages 3-8 to 3-9, Tab 6 pages 6-8 to 6-9, and Appendix 12.2.
[44] See for example YUB-YEC-2-10; YECL-YEC-1-28l YUB-YEC-1-17; YUB-YEC-1-18.
[45] Transcript pages 529-37.

it is YEC's position that both arguments fail to recognize the extensive brushing study undertaken for YEC by ECI and provided as Appendix 12.2 to the GRA Application.

- Pursuant to direction provided in Order 2009-8, Yukon Energy commissioned a quantitative audit and assessment of its vegetation control practices with the objective of developing a cyclical brushing strategy which met YEC's goals of cost effectiveness, safety, and security of energy transmission.
- The study recommended an annual brushing plan which would allow YEC to meet these goals.
- The study has also identified several risk areas for lines that will need immediate attention in 2012[46].
- The transmission brushing estimate for 2012 is based on working to this plan and to these cost estimates[47].

YEC has noted that brushing costs cannot be maintained as low as 2010 levels noting[48]:

- The 2010 brushing program was affected by a significantly increased fire season in comparison to 2011. Based on the daily fire danger rating YEC policy is to suspend brushing (hydro axe) to mitigate potentially starting fires using mechanical equipment.
- Maintaining brushing expenses at a level of spending as low as a 2010 would create problems in the future.
- The cyclic brushing plan and Integrated Vegetation Management Plans[49] have identified a need for a substantial increase of funds to the transmission brushing program in order to deal with a backlog of brushing that is urgently required.
- In 2012, management intends to advance herbicide application which was one of the key recommendations in the brushing study.

Yukon Energy has fully explained why a brushing policy is not yet available[50], however the results of the Brushing Study undertaken by ECI are in the process of being tested and implemented and provide full support for test year spending. As such the brushing expense for the test years should be approved as proposed and the costs for the brushing studies undertaken by YEC to

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[46] YUB-YEC-1-17.

[47] Page 12.2-22 of Attachment 12.2 (page 21 of the Yukon Energy Corporation Transmission Vegetation Condition Assessment prepared by ECI) which notes as follows:"Under YEC current maintenance strategy and practice (mowing and brushing crew), moving to a 10-year cyclic program may be cost prohibitive at $1,096,000 compared to the current expenditure of approximately $350,000 per year. Of the three ECI proposed maintenance cycles (7-year, 8-year and 10-year cycle), ECI recommends the 10-year cycle as the best fit for YEC. If YEC shifts to an IVM maintenance strategy and modifies contracting methodology, the maximum YEC should expect to spend approximately $500,000 - $672,000 per year with the 10-year cycle option. A vegetation management program that utilizes IVM as a key maintenance strategy will realize significant cost savings in the future as well as reducing the risk of vegetation caused grow-in interruptions to the high voltage system".

[48] YUB-YEC-2-9.

[49] Created by ECI under its Transmission Vegetation Condition Assessment.

[50] The Application page 3-9 notes In 2012 Yukon Energy is field testing the recommendations (e.g., herbicide treatments) prior to developing a formal policy.

comply with Board direction provided in Order 2009-8[51] should be approved and included in ratebase as proposed in the Application.

3.3.5 Administration

Intervenors commented on a limited number of issues related to Administration expense in the test years: CW focused on DSM Administration expense, LE focused on Communications expense and UCG focused on Board of Directors expense.

DSM Administration expense

Intervenor Arguments

CW was the only intervenor to comment and make recommendations directly related to the forecast DSM Administration expense. In summary, the CW recommends (para 21) that the Board disallow all DSM Administration expense noting that this cost appears to cover costs that should be incorporated into other account. CW noted the following in argument:

- There are significant forecast increases in communications, training and general expense.
- All of these categories of expense appear to describe the same types of expenses set out in Section 2.2 of the DSM Accounting policy.
- The breakdown of DSM admin expenses incurred to date confirms these expenses already have corporate accounts or are not covered by the policy.
- The expenses have no definable benefits – this is additional evidence that DSM admin expenses are activities that are already defined by existing corporate accounts.

Yukon Energy Reply

Yukon Energy strongly disagrees with the recommendation to eliminate DSM administration expense in the revenue requirement.

- Costs included under DSM administration are <u>not</u> currently accounted for under the communications, training or general expense budgets; Yukon Energy has outlined the basis for cost increases in each of these accounts in the Application or in IRs and has not indicated that any of the increases in these accounts is due to DSM expense.
- Were this separate account to be eliminated, amounts specific to DSM would accordingly need to be added to each of these separate accounts for the test years.
- YEC is accounting for DSM administration expense as a separate item in order to transparently show how these costs are being accounted for according to the policy.

[51] Yukon Energy retained CEATI International Inc. to undertake a study of brushing practices in other jurisdictions and also retained Environmental Consultants, Inc. (ECI) to complete a survey of its transmission/sub-transmission rights of way and a review of the vegetation management program. Costs for the studies were outlined in YUB-YEC-1-17.

3.3.6 Communications

Intervenor Arguments

LE was the only intervenor to comment and make specific recommendations regarding communications costs forecast for administration in the test years. LE noted (section 12) support for improved website and social media initiatives, including the ask Janet feature, but indicated "there has been far more newspaper ads than necessary to make people aware of YEC," and "there appears to be a fair bit of spin doctoring which is inappropriate for a utility". LE recommends the communications budget be limited to $175,000 in each test year, noting "to ask for an increase of about $200,000 over previous annual budgets of $100,000 at a time when rate are increasing is inappropriate".

Yukon Energy Reply

LE's comments regarding "spin doctoring" by YEC are addressed in Section 1 of this Reply Argument and will not be addressed further here. LE appears to generally support most of the initiatives undertaken by YEC (except for newspaper ads). LE provides vague comments regarding the level of advertising but does not provide any substantive detail or any basis from the evidence regarding what the appropriate level of advertising would be or how this has been exceeded. No evidence has been provided to support the recommended arbitrary limit to this budget at $175,000 in each test year, and therefore Yukon Energy submits that the Board should not adopt LE's recommendation.

Board of Directors

Intervenor Arguments

UCG was the only intervenor that provided comment and recommendations related to Board of Directors expense noting (para 233-234), the Board "should carefully consider the payments being made by ratepayers directly to members of YEC's Board of Directors given the history of overlap with the Board of Directors for YDC". UCG specifically recommended:

- Since one Board member overlaps with the YDC Board of Directors the direct and indirect costs of this 1 Board member should be removed from the 2012 and 2013 revenue requirement "to avoid Yukon ratepayers paying for inherent bias".
- That $30,000 in fees related to the YEC Chair should be removed from the revenue requirement "for work that appears to be more politically based than utility based" and to "ensure that ratepayers only pay for services rendered with respect to utility services".

Yukon Energy Reply

There is no basis in evidence to remove costs for one Board member from the revenue requirement. UCG alleges "inherent bias" due to this Board member sitting on both the YDC and YEC Board but provides no explanation regarding what this means, how it relates to YEC's revenue requirement, or the basis today to remove costs that have in the past not been so adjusted (i.e., the practice of some Board members being on both boards was prevalent in all past GRAs).

Similarly there is no basis to remove the $30,000 in fees related to the YEC Chair from the revenue requirement. Again inherent bias "is alleged" without explaining what this means or how this relates to YEC's revenue requirement. YEC clearly justified the compensation levels for the Chair [transcript pages 317 to 318] noting that the amount of work the Chair has been required to do has been increased significantly due to the following factors:

(1) Several large projects that have been undertaken have led to requirements for the Chair to become involved in discussions as the projects go forward and to make sure that the Board is satisfied in terms of its requirements of reporting and the preparation of Board material.

(2) Having a new government in place has also required more briefings.

There is absolutely no evidence that these cost are not prudently incurred and as such this recommendation should be ignored.

3.3.7 Insurance and Reserve for Injuries and Damages (RFID)

Intervenor Arguments

CW, LE and **UCG** commented on the proposed RFID Policy (provided as Appendix 3.1 of the Application), on charges to the reserve and the disposal of the existing balance in the Reserve.

- **CW** (para 35-37) "accepts YEC's proposal to transfer funds to the RFID from the Faro Dewatering Fund and to close this account" and "accepts that the remaining deficit be amortized over 5 years" and "agrees with the recommendation of the actuary that the RFID appropriation needs to be increased, based on past experience of claims".

  Areas of disagreement with YEC's proposals related to the RFID are as follows:

  - CW does not accept the actuary's recommendation that the annual appropriation, net of any deficit amortization, should be increased to $195,000.
  - CW argues that "self insurance should be treated consistently with commercial insurance and should bear an effective deductible" and does not agree that the full value of any loss above $10,000 should be charged to the reserve, noting "this results in inconsistent treatment of claims above and below $10,000" and "the customer absorbing the full cost of claims over $10,000". Further CW notes YEC's evidence is that there is no particular reason for YEC not absorbing the first $10,000.
  - CW recommends the finance policy be amended to charge the first $10,000 to the department incurring the loss, and the RFID annual appropriation be reduced from $231,000 to 201,000 (with the $30,000 reduction based on history of RFID claims exceeding $10,000).

- **LE** supports (Section 13) the transfer of funds remaining in Faro Mine Dewatering account to address the balance in the reserve. LE does not support amortizing the balance of the RFID over 5 years but "would support increasing the annual appropriation to $210,000/year" to reduce the short-term negative rate impact on ratepayers and make annual appropriation more realistic.

- **UCG** does not support (para 210) transfer of funds from the Faro Dewatering Account or amortization of the remaining balance of the RFID over 5 years asserting that "there has not been enough information put on the record to justify the costs 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" (para 210). In support of this argument UCG questions the validity of any of the identified RFID charges, and asserts "YEC has provided minimum detail regarding the charges that have been added to the RFID account in 2009, 2010 and 2011 so there is not enough information on the record to justify these charges[52]".

  UCG also makes specific recommendations (para 205-207) related to the proposed RFID policy noting, "standard business practice suggest that the proposed $10,000 threshold is still too low" the threshold should be increased to $50,000, and if the Board agrees to set a new threshold that is higher than $1000 then all charges to the RFID account below this threshold amount should be eliminated from the RFID account (para 207).

  UCG also recommends (para 208-209) specific changes to the wording of the Policy noting, "uninsured losses ….are to a significant degree under control of management and related to YEC's business risk which is a factor in the determination of the allowed return on common equity. If YEC is already compensated for this type of business risk, UCG submits that ratepayers should not be asked to pay it again", and paragraph 4.1 should be changed to read "uninsured and uninsurable losses and associated costs will be charged to the RFID if they meet each of the following criteria" and should include the criteria "insurance policy deductible exceeds total value of loss" in order to avoid arbitrary decisions regarding what costs are determined to be related to the RFID.

  UCG submits (para 202) that the Board should ensure that YEC provides a thorough reconciliation of the actual impact of the proposed drawdown of the Faro Dewatering deferral account.

Yukon Energy Reply

Annual Appropriation to the Reserve

CW notes it does not accept the actuarial evaluation by AON but provides absolutely no supporting factors or evidence to contradict the conclusions outlined in the AON study. As such this recommendation should be ignored.

Similarly, LE asserts that the remaining balance in the RFID should not be amortized over 5 years, and instead the annual appropriation should be increased to $210,000 instead of $195,000. LE offers no principle basis or facts to support this recommendation or to explain why the conclusions in the AON study should be ignored.

[52] At paragraph 206 UCG specifically questions the following: replacing a lost tool kit ($2,000), charges relating to what appear to be capital projects and/or warranty work: Aishihik Service Building Crain Cable Replacement, Aishihik pole replacement, WH4 Rotor Crack Repair, MH1 Slip Ring Repair, Aishihik Station transformer, Repair WD6 premature failure.

The $195,000 amount for the annual appropriation was established by an expert consultant after performing a detailed actual evaluation of YEC's accounts[53]. No intervenor has provided evidence to contradict the conclusions outlined in that report.

The response to CW-YEC-1-43(c) indicated that "based on the actuarial methods explained in the report, the adjustment to the RFID threshold to $10,000 would reduce the annual charge to approximately $190,000 or about $5,000 less than the recommendation in the report." Based on this, Yukon Energy proposes to reduce the annual appropriation to $190,000 and to address this in the compliance filing. It is Yukon Energy's view that the proposed annual appropriation to the reserve of $190,000 is fully supported and should be approved and included in the revenue requirement as proposed.

The following additional facts in evidence in this proceeding are noted in support:

- Since 2009, Yukon Energy's Reserve for Injuries and Damages balance has grown from negative $0.111 million to negative $0.578 million at year-end 2011 (negative amounts represent an excess of charges to the RFID compared to appropriations to the RFID) [54] – this indicates that the current $100,000 annual appropriation to the reserve is insufficient.
- As shown in Table 3.11 (page 3-19 of Application), the 10-year average of actual expenses is $0.229 million.

All of the above, including an evaluation by an independent expert in the field, support the $195,000 appropriation as reasonable.

Transfer of Funds from Faro Dewatering Account - Justification for charges to the reserve

Both CW and LE support the transfer of funds from the Faro Dewatering Account to address the outstanding balance in the RFID. Use of the Faro Dewatering Account in this manner is in accordance with past practice as approved by the Board and will reduce the revenue requirement and required rates in 2012 and 2013[55]. The Faro Dewatering Funds were retained for the benefit of ratepayers, and application in this manner serves the intended purpose, by reducing the revenue requirement that is otherwise required from ratepayers[56].

[53] Yukon Energy had an actuarial consultant (IAO Actuarial Consulting Services Inc. – An Aon Company ("AON")) prepare an actuarial valuation of YEC's RFID as at December 31, 2009. AON reviewed historical losses and exposures for the program to evaluate YEC's RFID, estimated the ultimate losses as at December 2009, and determined the annual provision for the RFID. The estimated annual provision, based on information as at December 31, 2009, was $0.195 million. The results of this study are provided as Appendix 12.5 to Tab 12.

[54] See Application, Tab 3, pages 3-17 to 3-18.

[55] As noted in YUB-YEC-2-5 or the 2012/13 GRA, absent application of the remaining funds in the Faro Dewatering Account against the outstanding balance in the RFID, this amount ($0.398 million) would be treated on the same basis as the balance of funds in the RFID, i.e., instead of including costs of approximately $0.036 million per year to amortize a remaining balance of $0.180 million over 5 years, the GRA would include costs of approximately $0.116 million per year to amortize a remaining balance of $0.578 million. In effect, an additional $0.080 million in annual amortization costs would be added to the revenue requirement.

[56] YUB-YEC-1-6.

UCG does not support the transfer of costs from the Faro Dewatering Account to address the outstanding balance in the RFID arguing there is not enough information on the record to justify the costs charged to the RFID account. Yukon Energy notes that this is a baseless assertion.

- This hearing has involved an extensive Application that included detailed actuarial studies filed in support of the RFID proposals as appendices to the Application [Appendix 12.3 to 12.5].
- The hearing process included two rounds of interrogatories where intervenors such as UCG had the full opportunity to ask questions regarding the Application, including follow up questions related to the first round of interrogatories.
- Further UCG had an opportunity to test Yukon Energy's revenue requirement at the oral hearing. UCG does not provide any factual basis to support the denial of these costs (beyond questions outlining rhetorical questions in argument).
- Full descriptions to support items charged to the reserve was provided in YECL-YEC-1-51 (c). This response fully explains the nature of the loss and why each individual item meets the criteria for inclusion in the reserve.
- Based on a review of past charges to the account Yukon Energy wrote off amounts in 2011 (see Note on Table 1 in YECL-YEC-1-51(b)). The toolkit was written off as part of the 2011 adjustment to accounts.

There is also no basis to the assertion made by UCG that uninsured losses charged to the FRID are under the control of management, related to YEC's business risk and a factor in the determination in allowed ROE. By definition these are unforeseen or unplanned events that are not in the control of management. There is no evidence on the record of this proceeding that this is considered a business risk or that YEC is compensated for this as part of its ROE.

RFID Policy

There is no basis for YEC to absorb the first $10,000 of all losses charged to the reserve instead of charging the full amount if a loss is greater than $10,000.

- This would be a departure from past practice and CW has offered no precedent to support this treatment.
- Were this concept to be accepted as recommended, there would be a required offset to the revenue requirement in the test years as the line departments would need to absorb on average $30,000 of losses (as set out in paragraph 37 of the CW Argument).
- There is no basis to suggest these expenses are not prudently incurred (if the remaining expense over $10,000 is charged to the reserve).

UCG argues that the $10,000 limit for charging items to the RFID is too low and should be increased to $50,000. As noted above, if this is accepted then YEC's revenue requirement for the test years would need to be adjusted accordingly to increase non-labour O&M. There is no basis to suggest these expenses are not prudently incurred. Further, there is no basis in evidence that using a 3 year average to determine a minimum threshold is representative or appropriate.

- There is also no basis for the proposed changes to the wording in Section 4.1 of the RFID Policy (noted in Paragraph 209 of the UCG Argument).
  - YUB-YEC-1-28(b) notes that all listed criteria in the proposed RFID policy would need to be met for an item to be charged to the reserve.
  - The suggestion to include the criteria that "insurance policy deductible exceeds total value of loss" is unnecessarily restrictive. Management with the assistance from insurance specialists makes assessment of the appropriate treatment of each loss; interested parties have an opportunity to test these determinations at each GRA before the costs are included in ratebase. To force certain losses to be absorbed by the Company when it may make sense from a global perspective to charge these to the reserve (i.e., to protect against possible premium increases due to losses claimed) is not reasonable or fair to the utility or its ratepayers.
  - If a claim is made under an insurance policy, the RFID is charged only the related deductible (which is not reimbursable); YEC is not aware of any circumstances where unanticipated proceeds would arise that would affect this.

3.4 RATE BASE, DEPRECIATION AND AMORTIZATION

As noted in the Overview, this section addresses rate base and rate case amortization issues.

Intervenor Arguments

CW and UCG were the only intervenors to comment extensively on issues related to rate base, and rate case amortization.

With regard to rate base matters:

- **CW** recommends (para 12-13) the Board direct YEC to correct its 2012 opening plant balances to reflect the actual balances recorded in the Regulatory Filings and that YEC should provide in the compliance filing a reconciliation of its forecast plant balances, as applied for, to the actual, explaining any differences between forecast and actual. In support of this recommendation, CW asserts that the Board is entitled to use the best information available to it on the record at the time of its decision, and cites AUC practice of updating actual information.

With regard to amortization of regulatory or rate case expense:

- **CW** disagrees (para 24-28) with the proposed amounts to be amortized, the proposed periods of amortization and proposed timing of amortization. CW recommends that YEC establish a Hearing Cost Reserve Account similar to that employed by YECL on a go forward basis for the hearing costs it seeks approval for it this Application. Hearing costs already being amortized should continue to be amortized according to the Board Orders that approved them. Specific arguments are as follows:
  - Prior regulatory hearing cost awards approved by Board Order in 2011 should have commenced amortization in 2011; consequently the amount amortized in 2012 should be reduced by half of the annual amortization in recognition of mid-year convention.

  - Rate hearing costs should be amortized over 5 years instead of 2 years (given the average period between rate hearings has been an interval of 4.7 years).
  - YEC's process for addressing GRA hearing costs is flawed as demonstrated in Undertaking #11 as the compliance filing approved $800,000 in hearing costs to be amortized during the test years whereas Order 2009-11 awarded YEC total hearing costs of only $640,065. This methodology resulted in an overpayment in regulatory costs during the test years and annual payment of $400,000 to YEC through rates for hearing costs that were never incurred.
  - Forecast 2012/13 GRA hearing costs of $1.1 million are excessive and forecast costs of $1 million are more appropriate. CW notes "these proceedings have been no more complex than the 2008/2009 GRA" for which the Board awarded approximately $640,000 in costs. CW estimates approximately $1 million in forecast costs based on the revised Scale of Costs approved by Order 2012-9.
- **UCG** raises a number of issues regarding the approval and amortization of regulatory costs noting as follows:
  - ***GRA hearing costs*** (para 254) – It is contrary to rate setting principles to allow YEC to simply change the amount of costs that it amortizes in the test years when the YUB has already established the rate to be charged during those years. Once the revenue requirements are established by the YUB, only the 2012/2013 GRA costs approved at that time should be recovered from ratepayers until a decision is made in a subsequent GRA.
  - ***Rate Schedule 39 Escalation & Alexco PPA hearing costs*** (para 271-272) – UCG argues that the YUB should direct YEC to ensure that all PPAs with industrial customers include a provision for recovery of "regulatory costs" that can be attributable to these industrial customers, and, if the YUB believes that legislative barriers prevent the immediate recovery of these costs, then these costs should be stored in a deferral account until legislative barriers are removed.
  - ***2009 GRA Phase II*** (para 274-275) – UCG asserts it is not clear how YEC arrived at the $312,538 amount included in this Application and YEC should be directed to provide a reconciliation to the amounts that should be recovered for this proceeding before anything is approved for recovery in 2012 and 2013 rates.
  - ***Disallowed costs*** (para 280-282) – UCG asserts there is inconsistency between what YEC records as disallowed from recovery from ratepayers and what the YUB has determined in its Orders. Undertaking # 18 does not specifically address fees over and above the scale of costs, and YEC should be directed to provide a reconciliation for 2009 through 2012 between costs that have been disallowed by the YUB and costs charged by legal and regulatory consultants at rates above the scale of costs and the amounts that YEC has recorded in its Regulatory Gain/Loss account. The reconciliation should include copies of all itemized invoices that YEC has received from its legal and regulatory consultants.

- ***Resource Plan Update*** (para 260-268) – UCG notes despite the fact that YEC is still accepting comments on its draft Resource Plan Update, it plans to continue to use the draft 2011 Resource Plan to frame priorities and options for ongoing new assessments and analysis, without going back to amend or revise the draft as prepared in 2011.
    - This casts the current round of consultation as a waste of time and money as YEC does not intend to use the consultations as a means to amend the Resource Plan for purposes related to project expenditures during the test years – all costs related to this public consultation should be eliminated from the costs that YEC has proposed for recovery.
    - If the current draft is not going to be changed there is no reason why it could not be subject to ministerial direction to have the YUB conduct a public review of it.
    - It is not clear to UCG what happened to the costs identified for 2010 to arrive at total reporting cost of $858,000.
    - Any justifications for expenditures that are based on the draft plan cannot be considered as sufficient and are simply YEC's own opinions regarding their own projects. The Resource Plan is incomplete and its costs have not been evaluated for prudency based on any review of a final product. The applied for amortization is premature and should not be allowed.
    - Filing of an updated Resource Plan is a year overdue and YEC should be directed to do whatever needs to be done to get Ministerial direction to have a final and complete plan reviewed by the YUB before any of the costs for capital projects identified in the plan are considered for recovery.

Yukon Energy Reply

Plant Opening Balances

With regard to the recommendation to use the best information available and to correct its 2012 opening plant balances to reflect the actual balances recorded in the Regulatory Filings the following is noted:

- CW is advocating that the Board change certain portions of YEC's forecast to reflect actuals, while ignoring other actual results which, if changed, would have the result of increasing the revenue requirement in the test years.
- In general, such a "cherry picking" approach is not only patently unfair, it is not in keeping with the normal regulatory approach adopted by this or other Tribunals when faced with this type of issue.
- There is simply no fair basis for selecting some numbers to update and rejecting others; for instance, YEC noted in Exhibit B-16 [YEC's Opening statement], in discussion in cross examination [transcript page 652] and in Undertaking #2 that actual sales to Minto mine

in 2012 confirm that updated Minto load forecasts for the test years are materially lower than the forecasts in the Application. The full impact of this change in the test years is forecast as follows:

- $1.024 million reduction in 2012 forecast revenues;
- $1.806 million reduction in 2013 forecast revenues; and

Amortization of 2011 approved hearing costs in 2011

Yukon Energy followed past practice and precedent in deferring and amortizing these costs in this manner as it did for the 2008/2009 GRA. As such these costs should be deferred and amortized as proposed.

Amortization of GRA rate case costs over 5 years (instead of 2 years)

There is no precedent for this proposed extended amortization period for GRA hearing costs. The Board in the past has previously approved amortization of GRA hearing costs over the course of the test years, or, in some instances, the test years plus one additional year.

Hearing Cost Reserve

Given the concerns raised by CW with regard to the current approach approved by the YUB, the proposal to establish a Hearing Cost Reserve account is acceptable to YEC as a measure to ensure that issues that arose with regard to timing of hearing cost awards decisions relative to compliance filing decisions does not recur.

Hearing Cost Estimates

Yukon Energy takes exception to the notion that these proceedings have been no more complex than the 2008/2009 GRA, and sees no basis to reduce the assumed hearing cost of $1.1 million (if anything, given CW's estimates of impacts from the new scale of costs, there is a good basis for concluding $1.1 million may be too low). In particular it is noted that the Board itself noted its concern regarding the number and complexity of issues to be reviewed in this process (in outlining its rationale for ordering a second round of IRs in Order 2012-8)[57]. Further, Yukon Energy notes regarding the extraordinary efforts expended during this extensive hearing process[58]:

- The first round of IRs included 906 questions - to respond within the time period required was a labour intensive process that required considerable additional resources.
- Based on the last GRA, YEC also could not predict a second round of IRs in this process. This has added approximately 130 further questions (bringing the total number of IRs in this proceeding to an unprecedented 1036 IRs).
- The volume of interrogatories and detailed nature of some of the questions is indicative of a process with a larger number of issues and greater complexity than past GRAs.

[57] "The Board is concerned with the quantity of issues regarding this application and the ability to adequately clarify and test these issues in the time allotted for the oral public hearing. Therefore, in order to facilitate a thorough and expeditious oral public hearing, the Board has allowed for a second round of IRs.
as the Board has further IRs for YEC.
[58] UCG-YEC-2-4.

Rate Schedule 39 Escalation & Alexco PPA Hearing Costs

The Rate Schedule 39 Escalation proceeding was not "caused" by the industrial customer class, it was triggered by a requirement for an annual demand and energy charge escalation included in the approved Rate Schedule 39 an which results in higher charges to industrials (and thus reduced rate pressures for all other ratepayers). The written process was deemed to be a requirement by the YUB[59]. Further, it is noted that cost of service matters are out of scope of the current proceeding.

2009 GRA Phase II

Footnote 6 in the Application provides a reconciliation of the total approved costs in Order 2011-8 for the Phase II Rate Application. YEC is only applying for costs that were approved by the YUB to be included in rates. The write off of disallowed costs happened in 2011 – as explained in Undertaking #18. Table 1 of that undertaking provides a breakdown of miscellaneous income from Tab 7, Schedule 6, Line 13. Note 2 to this table sets out that the $0.248 million regulatory gain/loss in 2011 is comprised of the following disallowed costs: $0.238 million for the 2008/2009 Phase Rate Application; $0.008 million for the Alexco PPA proceeding and $0.002 million for the Rate Schedule 39 Inflation Update proceeding.

Disallowed Costs

YEC is only seeking to recover amounts approved by the YUB for inclusion in rates; to the extent costs exceed this amount (e.g., due to specific disallowance by the YUB or because rates exceed policy limits), YEC writes these amounts off. YEC confirmed in cross examination that there are no amounts in revenue requirement for these write offs – they are absorbed by the shareholder[60].

Resource Plan Update

There is no rationale for eliminating costs for public consultation from proposed recovery related to the Resource Plan and any accusations that public consultation is a "waste of time and money" and that "YEC does not intend to use the consultations" are baseless based on the record of this proceeding. Yukon Energy has noted in a number of IR responses that:

- The Resource Plan is a living document that continues to evolve.
- The resource planning process is expected to continue to evolve to reflect new information and changing circumstances.
- A public review has been carried out since the release of the Overview in late July, and Yukon Energy will be able to consider comments received until mid to late November, when the current GRA hearing process has concluded. Yukon Energy will then provide to the public as soon as feasible thereafter the results of this review.

The Board and parties have had the opportunity in the current GRA proceeding to examine and ask questions about the Overview and draft 2011 Resource Plan that have been made public. Apart from this YEC GRA proceeding, Yukon Energy is not aware of any process for review by the

[59] The Board established a written review process by Order 2010-12.
[60] Transcript Volume 2, page 320 lines 607.

Board of the 2011 Resource Plan other than processes initiated by ministerial direction pursuant to the Public Utilities Act, e.g., Part 3 proceedings to review designated energy projects.

Yukon Energy has provided the July 2010 Resource Plan Overview: 2011-2030 and also has provided a link to the draft Resource Plan: 2011-2030. Many responses have referenced the detailed work undertaken as part of the Resource Plan process and underline the value of the work undertaken to date. As such these costs should be approved and included in ratebase as proposed.

With regard to the comments related to Tables 5.4 and 5.5 of the Application, Yukon Energy confirms that the total project costs to the end of 2011 are $0.633 million (as set out in Appendix 5.5 and Table 5.5)[61]. Yukon Energy is only seeking approval of a forecast cost of $0.859 million ($0.633 million prior to 2012 and forecast $0.225 million in 2012) related to Yukon Energy's 2011-2030 Resource plan Update (to be amortized over five years consistent with the anticipated frequency of full Resource Plan updates)[62].

3.5 RETURN ON RATEBASE (INTEREST COSTS AND ROE)

3.5.1 Cost of Debt

Intervenor Arguments

LE notes (Section 15-17) that YEC's cost of debt is very modest thanks to YDC flexible debt on Mayo B load and refinancing by YDC of other debts down to 4.25%. LE expresses concern that YDC provide loans to YEC at 4.25% interest when YDC has borrowed money at 5% and recommends that the Board express concern to the Yukon government with respect to its financial stability which is critical to YEC's long-term stability as well as to long-term rate stability.

CW (para 47-49) and **UCG** (para 377-378) each made similar arguments regarding the forecast cost of debt, noting the cost of new forecast debt would be in range of 3.51% to 3.58% and debt costs in the Application should be lowered accordingly. CW sets out the following assertions:

- A rate for debt incurred two years previously (i.e., the 5% rate in the Application) is not considered suitable as a forecast interest rate for a forward test year.
- Support for the formulaic approach using the proxy Long Canada plus 120 basis points employed by YDC since 1990s. Based on this approach, the 2013 long-term Bank of Canada benchmark rate[63] when the Application was prepared in April was between 2.57 to 2.77 percent – consequently the 2012 forecast cost of new debt should be a maximum of 3.97%. The long-term Bank of Canada benchmark rate at the time of the hearing was between 2.31 and 2.38% - consequently CW argues that the 2013 forecast cost of new debt should be a maximum of 3.58%.

[61] In Appendix 5.5 (page 5.5-9) the spending for prior 2012 shown at $0.633 million.

[62] See requested approvals in Application (Page 7).

[63] CW references the Consensus Forecast – however, the information discussed on the transcript when the undertaking was made was to the Bank of Canada long-term benchmark rate and this is what YEC in fact provided at page 202 in response to the undertaking.

- UCG also argues (para 378) the interest rate for the $81.891 million refinanced debt in 2011 should be set at between 3.51% and 3.58%.

Yukon Energy Reply

CW and UCG are advocating that the Board change certain portions of YEC's forecast (i.e., the long-term debt cost used for new debt during the test years) to reflect more up to date information, while ignoring other actual results which, if changed, would have the result of increasing the revenue requirement in the test years. In general, such a "cherry picking" approach is not only patently unfair, it is not in keeping with the normal regulatory approach adopted by this or other Tribunals when faced with this type of issue.

The $100 million 30-year bond secured by YDC in June 2010 has an interest rate of 5.0% - and Yukon Energy used this 5% for the Application's test years because it is the most recent market-based long-term debt interest rate that YDC (YEC's parent) has arranged, and therefore it was the best information available to YEC at the time the Application was prepared to represent what the cost of long-term debt should be at this time for Yukon Energy[64].

LE's concern about YDC providing loans to YEC at 4.5% interest in late 201 when YDC has borrowed money at 5% earlier that year underlines the importance and relevance of the 5% interest rate today for new YEC long-term debt with a 25 or 30 year term. The 4.5% rate applied to a long-term debt that becomes due at the end of 2015. UCG's argument that this debt should now be adjusted to an interest rate between 3.51% and 3.58% based on November 2012 long Canada benchmark rates is without merit.

If the approach recommended by CW and UCG for new debt during the test years were to be adopted by the Board to reflect recent information on actual market rates it would change the interest cost and materially lower Yukon Energy's revenue requirement.

It is noted that other actual information available to the Board and other parties at the hearing (related to actual Minto loads for 2012 and 2013) indicates that YEC is actually receiving materially lower revenues than forecast (which indicates that YEC's revenue requirement should be higher than forecast in the Application. Yukon Energy is not updating this Minto forecast item in its Application – however, if other line items such as long-term debt costs are updated for actuals in a manner that materially changes YEC's revenue requirement then Yukon Energy submits that these other material forecast updates to reflect actual conditions should also be included.

[64] Transcript page 98, line 21 to page 99, line 2. CW-YEC-2-3.

3.6 STABILIZATION MECHANISMS

3.6.1 Rider F

Rider F issues raised by UCG are addressed in Section 3.2.

3.6.2 DCF

Intervenor Arguments

CW (para 33) "has no objection to reactivation of the DCF as proposed by YEC", "even though customers will bear the risk of secondary sales and hydro variability as a result." CW recommends that the Board "direct that the DCF reporting be made on a quarterly basis and contain an update on the DCF balance and a short narrative as to whether the DCF will require replenishment or refunding or will require revision of the cap".

LE (Section 16) supports the DCF as proposed with three variations:

- Wind is based on newer vestas producing no less than 0.8 GWh per year.
- YEC files on no less than an annual basis a wide range of monthly data (hydro, diesel and wind generation for each plant, month-end water levels in six lakes).
- The DCF positive cap should be set at +$20 million and the negative cap at $5 million.

UCG notes (para 196-198) "the DCF resulted from monies received in an insurance payout of $744,000 in 2002 relating to the fire at the Whitehorse Rapids hydro plant, with interest accruing annual thereafter"[65]. UCG asserts "YEC testified in the current proceeding that if tolerance limits for its proposed update to the Diesel Contingency Fund need to be changed, they feel that they could simply deal with that using an application other than a General Rates Application. UCG submits that any changes proposed to any rate stabilization mechanism established through a General Rates Application should only be changed through a General Rates Application to ensure that all aspects of YEC's operations are considered before changing anything on a piece-meal basis"[66].

With regard to reporting (para 199) "UCG submits that it would be beneficial and more transparent if a narrative would accompany the report to explain the additions and deletions to the DCF," "YEC should be directed when submitting the DCF reports to submit these filing to known interested parties to GRA proceedings and include EXCEL spreadsheets in these filings", and "recommends that the Board allow for parties to submit comments on the DCF filings for the Board's consideration and follow up".

YECL notes (para 12-15) that YEC has confirmed that volumes associated with YECL's Fish Lake hydro facilities have not been included in the forecast of long-term average generation in YEC's proposed DCF methodology; that the DCF as it previously existed included volumes associated with YECL's Fish Lake; and that the total fund in the past was administered by YEC. YECL asserts it is unclear why YEC has unilaterally decided to remove Fish Lake from the DCF and to cease

[65] Paragraph 196 of UCG Argument.
[66] Paragraph 198 of UCG Argument.

administration of total fund on behalf of all customers. YECL asserts the intent of the DCF is to address hydro availability throughout Yukon and there would clearly be administrative efficiency gains if the fund is administered holistically by YEC.

YECL further notes as follows in argument:

- Diminished hydro availability from Fish Lake would result in increased wholesale purchases from YEC which could potentially result in increased ERA charged to YECL and its customers.
- YEC did not consult with YECL in respect of the proposed DCF which is fundamentally changed from the historical DCF structure.
- YEC's approach to the DCF in excluding Fish Lake is unreasonable and should be rejected by the Board. YECL requested the Board direct YEC in consultation with YECL to include appropriate Fish Lake generation volumes to be factored into the DCF in YEC's compliance filing and administered by YEC.

Yukon Energy Reply

CW, LE and UCG generally support the activation of the DCF and the approach, with recommendations focused on the form of reporting to the Board and other interested parties. In response to these comments and recommendations YEC notes:

- Yukon Energy generally takes no issue with providing a narrative report or excel sheets that support the annual files to the Board and interested parties. Yukon Energy does not see the basis for quarterly filings – which would be administratively burdensome. Due to imprecision in forecast long-term average hydro monthly distributions, it is possible that inappropriate values may arise during monthly estimating which will not be part of final annual DCF calculations. Monthly calculations will be a placeholder with ultimate final calculations performed only on the annual value. [Appendix 3.2, Attachment 3.2, page 3.2-3].
- Yukon Energy does not see merit or usefulness in providing for the purpose of the DCF the wide range of monthly data on hydro, diesel and wind generation for each plant and month-end water levels for six lakes. Yukon Energy submits that overall monthly data on actual overall hydro, diesel and wind generation continues to be sufficient for DCF reporting purposes.
- YEC cannot support the recommendation from LE to assume wind generation at 0.8 GWh per year as there is no basis in evidence for this assumed generation number. Further comments regarding wind generation are provided earlier in this argument.
- In YEC's view it is premature to recommend any positive or negative cap for the fund. Yukon Energy noted in the Application (Appendix 3.2[67]) and in cross examination[68] that

[67] Appendix 3.2, Attachment 3.2 notes that given that the Fund is ultimately in place to provide rate stability for ratepayers, Yukon Energy has not developed a specific recommendation at this time to modify the current quantum and cap for the Fund.
[68] Transcript page 49-54.

this issue required further review and discussion and any recommendations or determinations at this time would be premature.

- Contrary to UCG's assertion that the DCF resulted from monies available from an insurance pay out in 2002 relating to the Whitehorse rapids hydro plant, Appendix 3.2, Attachment 3.2 notes that the fund was determined based on funds available as at December 31, 1995 and the current cap is based on that initial contribution level of $4,040,046[69].
- Yukon Energy disagrees with UCG's recommendation that any changes to the DCF should only be made as part of a General Rate Application – this would lead to inefficiency and an inability for Yukon Energy to expediently address any changes that may arise related to long-term average hydro generation (and related determinations regarding expected diesel generation) that may be due to changes in load on the system. These types of matters as they arise can be best addressed administratively and cost effectively through a paper hearing process that can involve all interested parties.

With regard to arguments raised by YECL:

- Yukon Energy's actions on this matter were as specifically required by the Board in Order 2011-15, which directed YEC to address any changes necessary in the operating rules, administration and revised revenue requirements pertaining to the DCF in its next GRA. Also, the Board required that YEC provide a specific definition of the term "diesel on the margin". The Board directed that YEC complete its review and bring the necessary changes before the Board at the earliest of its next GRA or July 1, 2012.
- In updating the DCF, Yukon Energy noted in Appendix 3.2 that "changes in Fish Lake average hydro are beyond Yukon Energy's scope; accordingly, any updates to DCF rules related to YECL's Fish Lake plant are not addressed by Yukon Energy". Yukon Energy has noted that options for addressing Fish Lake hydro within the DCF can be addressed subsequent to the YEC updates to the DCF included in the current Application which is focused on YEC's hydro generation capability.
- Each utility has been separately managed since 1998 and in that respect[70], Yukon Energy has little knowledge regarding how Fish Lake is managed or planned by YECL. As the evidence in the current proceeding shows, YEC's wholesales forecast has relied on YECL's forecasts regarding when Fish Lake Unit 1 will come back into service - and the record shows that YECL has been subject to ongoing delays in this regard beyond those forecast when the Application was prepared. Any DCF updates that address Fish Lake hydro might best be done when the Fish Lake Unit 1 issues have been fully resolved. There is little administrative advantage in combining these items into one fund. In YEC's opinion, the Board and interested parties would be better served if each utility managed their own transactions in this regard and defended them at their own respective GRAs. As with the issue of YECL costs in YECL projects (Section 5.2 below), it is not logical to expect one

[69] Appendix 3.2, Attachment 3.2, Page 3.2-5.
[70] The history of the DCF was reviewed with Board counsel by Osler (T 569, line 6 to T571, line 20); a continuity schedule for the DCF was provided in response to Undertaking #23 (page 572, line 16) filed November 19, 2012; basic operation of the DCF was reviewed at T573, line 10 to T574, line 22.

utility to defend transactions that are fundamentally not its own. At the time the DCF was established with both YEC and YECL components, YECL was managing YEC and the current separation of the two utilities in this regard did not exist. With the change that occurred in 1998, it does not make sense to have YEC administrate YECL's DCF.

- YECL during the hearing and subsequent to the hearing has reiterated its intention to file a GRA for 2013 – YECL may address any Fish Lake related issues during that proceeding, including consideration of options for deferral accounts or other measures that would not involve the DCF for this specific facility which YEC does not operate as part of its integrated grid generation.
- Any material impacts on YECL from diminished Fish Lake hydro availability would derive mainly from the ERA, in which case YECL is protected through its deferral account mechanism and its ability to recover such ERA costs through Rider D. YECL can also address these concerns directly in its upcoming GRA.

4.0 RATES

4.1 MAJOR INDUSTRIAL FIRM RATES

Intervenor Arguments

UCG argues (para 330-331) that YEC's approach has been "to put a priority on growing industrial load while being indifferent to the cost subsidies that may be implicit in the approach", and that YEC "refuses to contemplate assignment of regulatory costs associated with applications primarily concerned with industrial customer issues". UCG also argues (para 340) that "industrial rates are artificially held constant by OIC". The suggestion of potential industrial subsides (industrial rates determined not recovering the full costs incurred on behalf of industrial customers pursuant to OIC 1995/90) is also argued by UCG at paragraphs 16 and 17, with UCG arguing that under such an outcome "the Yukon government, not the non-industrial ratepayers, should be held liable for the revenue deficiency in the event that the preferred policy is to continue to charge industrial customers artificially lower rates".

Yukon Energy Reply

Aside from ignoring the Board's direction that this proceeding not deal with Phase 2 cost of service matters (Board Order 2012-08 and Exhibit A-17), the above arguments made by UCG with regard to industrial rate matters have no merit, ignore the evidence, and serve to mislead rather than assist the Board and interested parties.

The thrust of UCG's argument is that industry is being subsidized through rates that are artificially held constant and low by OIC. The available evidence shows that there is no basis whatsoever for UCG's assertions on these matters.

- The OIC relevant to industrial rates (OIC 2007/94) required the Board to approve automatic increases in industrial rates in January 2011 and 2012 when other rates were held constant[71] and OIC 2012/68 ensures that industrial rates in 2012 and 2013 increase at least as much as the increases applicable to all retail ratepayers.
- The extensive Phase II proceeding for the 2009 GRA addressed, among other matters, updated cost of service and revenue/cost ratios for industrial as well as all other customer classes in Yukon, and confirmed that as of 2009 (before the above industrial rate increases) the major industrial customer class in Yukon was paying rates well in excess of its allocated costs while the residential customer class in Yukon continued (as was the case in the 1996/97 GRA) to pay rates well below its allocated costs of service[72].

[71] See Application, Page 4-6, including footnote 8.

[72] See response to CW-YEC-1-1(a) which provided the 2009 industrial class estimated revenue:cost ratio of 113.7% (see also response to UCG-YEC-2-2(d)); the response to YUB-YEC-1-2(b) noted that, in the case of residential customers, cost of service studies for all Yukon (YEC and YECL customers consolidated) have consistently shown in the mid 1990s and more recently (2009) that existing rates do not recover even 85% of the average costs to serve these customers. This response to YUB-YEC-1-2(b) was elaborated on in response to YUB-YEC-2-2(a).

4.2 NON INDUSTRIAL FIRM RETAIL RATES

Intervenor Arguments

LE (section 18, page 11) supports implementation of Rider J, and recommends that Rider R should be recalculated in response to the recommendations in LE's final argument but in no event should it be more than 6.5% and, if necessary, YEC's O&M costs should be further reduced to limit Rider R to no more than 6.5%. LE also argues (section 17, page 10) that YEC has chosen a path for rates that provides short-term gain (reduced upward rate pressure in the short-term) for long-term pain (longer term increased upward rate pressure), noting three factors: hydro generation set above long-term average (LTA) to reduce diesel generation in the test years; significantly extended depreciation period on YEC's most costly assets; and having YDC provide loans to YEC at 4.25% interest when YDC has borrowed money at 5%. LE recommends that the Board order YEC to use LTA hydro generation figures in the test years and considers the long-term impact on rates and rate stability if inappropriately long depreciation rates are adopted.

UCG argues (para 9) "that YEC's pattern of regulatory behavior is most unsatisfactory and continued acceptance by the Board at this juncture might be tantamount to an effective repeal of the well-recognized principle of avoidance of rate retroactivity…YEC should, at a minimum, be denied recovery of revenue requirement associated with the 2012 rate year prior to the date of the first interim rate order." UCG estimates this to be approximately 40% of the allowed revenue requirement[73].

- UCG elaborates on its retroactive rates argument at paragraphs 31 to 46. UCG argues that the Board "must consider the prevailing utility practice when it comes to approval of retroactive rates", and references in this regard various points regarding other jurisdictions and non-Yukon related decisions. UCG also says "there is little to commend the approach of YEC in relation to the timing of this Application" and that there "appears to be a lack of management ability on the part of YEC to adhere to the expectations in every other jurisdiction in which regulators and stakeholders have opportunity to adequately review and test assumptions related to revenue requirements prior to their effective date." UCG references Section 28 of the *Public Utilities Act* and argues that YEC's application ignores the legislative requirement for 90 days advance notice of a rate change, and that YEC "needs to be directed to ensure that interested parties as well as municipalities ultimately impacted by proposed rate increases are notified as soon as applications are submitted."
- UCG also argues (para 14) that once YEC's 2012 and 2013 revenue requirements are established by the Board, existing rates should continue to be applied until the Board makes a determination on rates following the completion of a Phase 2 review based on the allowed 2012 and 2013 revenue requirements, and that a deferral account should be established pending the results of a Phase 2 review.

[73] See paragraph 43 of UCG Final Argument.

Yukon Energy Reply

LE's proposal to cap the Rider R increase at 6.5% (which matches YEC's approach in the Application) is not consistent with LE's proposal that YEC use 100% LTA hydro generation in the test years (see also Section 2.2 of this Reply Argument). Subject to the need to cap the current rate increases, YEC fully supports moving at this time as close to long-term average hydro and related diesel generation costs as is possible after fully considering all of the other forecasts costs required for the test years. However, in order to cap the rate increases as proposed, Yukon Energy submits that adjustment of the percent of LTA diesel generation costs in rates as required is a far more reasonable approach that requesting the Board to arbitrarily reduce YEC's other O&M costs as required.

Based on normal regulatory principles, the prudency of its other O&M costs needs in each instance to be the determinative factor when the Board assesses inclusion of these costs in the approved revenue requirement. Similarly, when considering YEC's proposed depreciation rates the relevant consideration is the sound evidence that provides the basis for the recommended extension to the specific service lives - any long-term impact on rates that results will remain fair and reasonable in the circumstances.

UCG's argument in paragraph 14 that there be no rate change following the Board's decision on 2012 and 2013 YEC revenue requirements may claim to protect YEC's revenue through a deferral account, is contrary to established practice of the Board in accordance with the Act, and contrary to the pursuit of transparent as well as stable rates for ratepayers and should be rejected by the Board as being without merit.

UCG implies by its argument that a Phase 2 review can occur in a timely manner, and thus ignores the Board's past response to UCG in this proceeding and on this matter in Exhibit A-17, i.e., "To be effective, such [Phase II] applications should be filed jointly by YEC and YECL when there are no Orders-in-Council in force providing rate direction for all rate adjustments for retail customers and major industrial customers".

Similarly, the argument advanced by UCG in paragraphs 9 and 31 to 46 regarding retroactive ratemaking should be rejected by the Board as being without merit and contrary to established practice of the Board in accordance with the Act.

In suggesting that the YUB has (or will in this instance) be engaged in inappropriate retroactive ratemaking if it approves the approach to YEC's rates in 2012 ignores past practice before the Board, the legislative base under which the Board is granted its ratemaking jurisdiction and the myriad of cases before this Board where rates have been set for YECL as well as YEC this way.

UCG makes its argument based in large part on very selected extracts of cases from a different regulatory jurisdiction (for example, Ontario) or broad unsupported assertions (such as " . . . lack of management ability on the part of YEC to adhere to the expectations in every other jurisdiction . . . ") without providing any evidentiary basis to allow a proper and fair evaluation of whether or not relying on those cases or principles adhered to in other jurisdictions have any relevance to the Yukon. Such an approach is inappropriate, unhelpful and once again brings into question UCG's tactic of ignoring the Board's actual jurisdiction and numerous previous YUB precedents.

The YUB's legislative jurisdiction to set rates -- using a full year forecast in the year in which an application made -- is clearly and succinctly set out in the provisions in the Act including most specifically Section 29. Section 29 states as follows:

> In setting rates that a public utility is permitted to charge,
>
> (a) the board may consider the revenues and costs of the public utility in the financial year in which the proceedings for setting the rates and charges began or in any period immediately following, without considering the allocation of those revenues and costs to any part of that period;
>
> (b) the board may give effect to that part of any excess of revenue received or deficiency incurred that is in the opinion of the board applicable to the whole of the financial year of the public utility in which the proceeding was initiated as the board considers just and reasonable;
>
> (c) the board may give effect to any part of any excess revenue received or deficiency incurred after the commencement of the proceeding as the board determines has been due to undue delay in the hearing and determining of the matter; and
>
> (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.

Using this ratemaking jurisdiction the YUB has ruled on numerous applications brought by both YEC and YECL since at least the early 90s where rates were implemented on a full year basis even though the applications were filed after January 1 of the relevant test year in question. The two most recent examples are YECL's 2008/09 GRA (filed April 30, 2008) and YEC's 2008/09 GRA (filed October 6, 2008). UCG was party to both those applications and yet it fails to make any reference to them in argument.

Accordingly, as the Board has appropriately done on numerous occasions in the past, it has the jurisdiction to put in place rates as proposed in YEC's application. To do otherwise would be to radically change the Board's past practice without any prior direction or guidance to the utilities and would therefore not be just and reasonable[74].

[74] See Transcript pages 168-174; Yukon Energy recognizes that it is in the interest of all parties, including the utilities, to file revenue requirement applications as soon as possible - and, where feasible, prior to the test years. YEC managed to meet this test for its 2005 Revenue Requirement filing (which was filed December 13, 2004), and both utilities have also done so at various times in the 1990s. Messrs. Morrison and Osler explained in detail on the transcript the reasons why in this specific instance it was difficult to file the Application prior to the time it was filed in April of this year

4.3 WHOLESALE RATES

Intervenor Arguments

LE (Section 18, page 11) supports Yukon Energy's proposed adjusted Rate Schedule 42.

UCG argues (para 317) that YEC's ERA proposal has not been evaluated against alternatives so there is no way to know if this is the best approach; given the direct impact on Yukon ratepayers of any costs passed through to YECL, UCG recommends that the YUB not approve this proposal until more time has been put into evaluating alternatives. UCG argues (para 316) that YEC's ERA proposal was developed without any consultation with YECL or other stakeholders and is an illustration of where YEC would rather establish its own regulatory policy and limit discussion on it rather than get input during policy development.

YECL (para 21) opposes the ERA mechanism as proposed by YEC and "requests that the Board disallow the proposed ERA mechanism and direct YEC to prepare and file a deferral account as part of its Compliance Filing to address increased diesel costs to be administered by YEC and dispensed amongst all ratepayers by YEC." YECL argues in support of its position by reference to the following (para 16-20):

- Yukon Energy decided to propose significant amendments to the Wholesale Sales Rate Schedule 42 without consulting Yukon Electrical and to seek approval of such amendments in its own 2012-13 Phase I GRA which, YECL argues, is contrary to Board Order 2009-08 direction for YEC to address all issues with respect to Rate Schedule 42 in a joint Phase II proceeding with YECL.
- YEC indicates that greater and greater incremental use of diesel is anticipated, which may result in ERA charges that have a material impact on YECL and its customers.
- Yukon Electrical submits that absorbing the risk for diesel volumes in this manner does not allow a utility to recover its prudently incurred costs from customers. The forecast risk for YECL is pronounced considering the following:
  - YECL accounts for approximately 75% of the energy sales in Yukon;
  - The forecast against which the ERA charges are assessed is one prepared independently by YEC with minimal consultation with YECL;
  - The ERA has no mechanism to account for system growth on an ongoing basis (which will lead to increasing ERA charges to Yukon Electrical and its customers); and
  - The ERA is "based on a Wholesales Sales forecast that is one-sided, overly conservative and static with the result that material ERA charges (i.e., diesel costs) will be passed from YEC to Yukon Electrical and its customers".
- YECL argues that a deferral account would be more administratively efficient to administer than imposing ERA charges on YECL to then be recovered from all Yukon ratepayers under its Rider D, and noted that YEC confirmed in cross exam by YECL counsel that the ERA objectives could be achieved by establishing such a deferral account.

Yukon Energy Reply

LE supports, and YECL and UCG are the only intervenors who argue against, implementing the amended Rate Schedule 42 Energy Reconciliation Adjustment ("ERA") as proposed in the Application. While UCG argues for delay to evaluate alternatives (without suggesting any), YECL in effect argues to scrap the ERA as approved by the Board's past decisions (including the most recent approval in Board Order 2011-06) in favour of a new YEC deferral account that has not been defined, tested or assessed in any proceeding before the Board.

Based on the evidence and past decisions of the Board, Yukon Energy sees no basis for the Board either to delay implementing the updated ERA as proposed, or to scrap the ERA entirely in favour of a new deferral account as proposed by YECL that has not been adequately defined, tested or assessed at this time and that could well establish a bad precedent to support the shifting of all diesel related load risk throughout Yukon from the utilities to the ratepayers.

YECL's specific concerns and objections to the ERA as proposed ignore the history and basis for the ERA as approved to date by the Board, and do not support any reasonable basis for the Board to reject or defer the updated ERA as proposed in the Application:

- Board Order 2009-08 is of no assistance to YECL today, as it simply directed YEC to work with YECL on Rate Schedule 42 and other rate matters in the Phase 2 proceeding for the 2009 GRA that both utilities had filed. YEC did so work with YECL, and the ERA as approved in Board Order 2011-06 reflected the joint submission of both utilities.
  - In accordance with past practice as approved by the Board, the ERA as approved in Board Order 2011-06 applies when "diesel generation in the Hydro zone is on the margin at long-term average water flows".
  - During such times when diesel is on the margin, Board Order 2011-06 provides that the ERA automatically adjusts YECL's bills (to the extent that actual wholesale purchases vary from forecast wholesale purchases) at a rate equal to the Hydro zone incremental cost of diesel of 32.74 cents per kW.h (as approved in Board Order 2010-13 and subject to the 10% limit noted for shortfalls).
- The update amendments to the ERA in the Application only provide for clarifications as required, in light of YEC's 2012 and 2013 GRA, to define the wholesale forecasts and diesel generation costs that will apply when determining the ERA approved by the Board in Order 2011-06. These changes in no way prejudice YECL or Yukon ratepayers relative to what the Board was already approved based on the joint submission of YEC and YECL.
- Given the ERA as approved by the Board in the 1990s and again in 2011, there is no reasonable basis today for YECL to state concern about "greater and greater incremental use of diesel", "ERA charges that have a material impact on YECL and its customers", or "no mechanism to account for system growth on an ongoing basis" - the ERA as currently and previously approved (and agreed to by YECL) charged YECL at full diesel cost for 100% of any wholesale growth above forecast, rather than only (as in the current test years as proposed by YEC) charging diesel generation costs to a portion of such growth.

- There is also no reasonable basis for YECL to be concerned about reliance in this regard on forecasts of YEC when such forecasts must be approved by the Board after being fully tested in a GRA hearing process - and when, as reviewed in Section 2.1.1 of this Reply Argument, YEC's forecasts of YECL wholesales in recent times have typically been (and are in this Application for the 2012 and 2013 test years) higher and less conservative than YECL's forecasts.
- Unlike the situation in the 1990s when the ERA was jointly initiated by YEC and YECL, today YECL is protected by YECL's wholesale purchase power deferral account as approved in Board Order 2009-02[75] which fully addresses any cost impacts on YECL from load forecast variance derived ERA cost charges. Board Order 2010-13 (paragraph 181) has confirmed that, implicit in its approval of this YECL deferral account is the approval of a future rate rider to dispense of the accumulated balances in the deferral account. In this regard, YECL proposed a specific Rider D mechanism that the Board rejected in 2010, with directions for future review and approval[76].

In past proceedings, a substantive issue raised by YEC regarding the YECL wholesale purchase power deferral account is that this is the only instance in Yukon where diesel generation cost impacts from load forecast variances are shifted from the utility serving the customers to the ratepayers throughout Yukon. YECL's proposal to scrap the ERA and establish a new YEC deferral account to address YEC's increased diesel costs arising from load changes is another step to shift these cost risks from the utilities to the ratepayers. If the Board approves this new deferral account for YEC, there is no reasonable basis not to then approve the same diesel cost deferral account for all YECL zones of service.

4.4 OTHER MATTERS RAISED UNDER RATES

UCG raised the following other matters under Section VII (Rates) of its argument that have not been addressed elsewhere in YEC's Reply:

- **Bill Mitigation** (para 305, 308-312) – UCG argues that YEC should be directed to not only address "bill mitigation" but to develop and implement a policy in that regard. UCG references a bill increase of 41.2% from 1997 to the proposed 2013 "in costs controlled by YEC" and submits that YEC should be directed to address the difficulties faced by low income ratepayers and develop programs in conjunction with Yukon's social agencies to assist these Yukoners. UCG also submits that YEC should be directed to make known to ratepayers its collections policies to accommodate ratepayers when they are in distress and need assistance to get their financial house in order, and ensure that the programs offered by YEC and YECL are consistent.

[75] This deferral account is described in Board Order 2010-13, Appendix A, paragraph 168 and the Board Order 2009-02 decision is quoted at paragraph 180 (the decision noted that there was little debate about the deferral account as described in the YECL application).

[76] Board Order 2010-13, Appendix A sets out the Board's directions regarding YECL's proposed Rider D (paragraphs 182-184) whereby this matter will be addressed and resolved no later than in YECL's next GRA. As note in this Order (paragraph 183), YECL's proposal in the Phase 2 2009 GRA was to have Rider D apply to all classes of firm service throughout Yukon.

- **Bill Comparison to other Jurisdictions** (para 307) – UCG argues that there is "absolutely no value in comparing the bills paid by Yukoners with the bills paid elsewhere", and "that the effort and cost to produce these types of apples and basketball comparisons is an absolute waste when there is no relevance to justifying the proposed 2012 and 2013 revenue requirements in the Yukon".
- **Phase II -Cost Allocation and Rate Design** (para 318-319) – UCG argues that, given the real possibility that YECL will submit a rate application for 2013 and 2014, it makes sense for the YUB to direct that the next joint phase II proceeding be based on allowed 2013 revenue requirements rather than within six months of the expiry of OIC 2008/149 (which is now extended to June 30, 2014).
  - UCG argues (para 327-328) that OIC 2012/68 does not prohibit the YUB and other parties from reviewing the cost allocation and rate design of YEC and YECL, and that YEC should be directed to work with YECL to produce true cost of service numbers for rate classes so that all ratepayers can see what unsubsidized rates would be and be able to make practical/specific recommendations to lower costs where they need to be controlled.
  - UCG argues (para 338) that "there has been little or no work completed" on design of a rate shift program that would target all customer class revenue/cost ratios of 90% to 110% over a ten year period", and that (notwithstanding that OIC 2012/68 restricts what the Board can do from a rate adjustment perspective) "that the Phase 2 review should be used to direct the utilities to establish a plan to move forward toward the established revenue-to-cost ratio ranges as the existing OIC 2012/68 expires".
  - UCG argues (para 339) 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, and "that Board cannot make decisions on rates and rate riders for individual utilities without understanding the overall impact on the end user (i.e., YEC and YECL rate adjustments plus government subsidies)".
- **Performance Based Regulation (PBR)** (para 320-327) – UCG argues that there is no reason why a PBR mechanism could not be considered following the completion of a Phase 2 review, and that YEC experienced "significant over-earnings in 2008 and 2009" which a PBR mechanism would require a portion to be credited to ratepayers by way of a revenue requirements reduction.

Yukon Energy Reply

There is no merit in the above UCG arguments and, in the context of the current proceeding, these submissions do not assist the Board or the parties.

- UCG's arguments related to retail customer issues (including bill mitigation) ignore the fact that YEC directly serves only a very small portion of Yukon's retail customers.
- Many of UCG's arguments relate to "Phase 2" cost of service and/or rate matters which the Board has said are not relevant to the current proceeding (Board Order 2012-08 and

Exhibit A-17). As noted in Section 4.1, UCG's arguments also ignore cost of service and customer impact analysis/evidence on the record from the 2009 cost of service Phase 2 hearing.

- UCG's proposal to proceed with a cost of service hearing in 2013 ignores the Board's past response to UCG in this proceeding and on this matter in Exhibit A-17, i.e., "To be effective, such [Phase II] applications should be filed jointly by YEC and YECL when there are no Orders-in-Council in force providing rate direction for all rate adjustments for retail customers and major industrial customers". On this basis, a Phase 2 application would be prepared when there are no OICs in force providing rate direction for all rate adjustments for retail customers and major industrial customers, i.e., this cannot occur any sooner than 2014.

5.0 CAPITAL PROJECTS

5.1 OVERVIEW

Aside from UCG, intervenor arguments typically focused only on a few specific issues related to capital and deferred costs projects and YEC's related accounting policy proposals. YEC's Reply Argument addresses issues relevant to the Application without attempting to re-iterate evidence summarized in Yukon Energy's Final Argument.

5.2 CAPITAL PROJECTS OVER $1 MILLION

Intervenor Arguments

CW argues only with regard to Mayo B (para 15), recommending that Mayo B be removed from the 2012 opening plant balances and rate base "until the project is complete and accepted for service".

- In support of this Mayo B recommendation, CW notes that there are a number of deficiencies and site remediation that required corrections in 2012, and CW asserts that "YEC confirmed that the project, at the time of the hearing, had not been accepted by the utility".

LE arguments are summarized as follows:

- Carmacks-Stewart Transmission Project Stage 2 ("CSTP2"), Mayo B, Aishihik Third Turbine ("AH3"), Mayo Headgate Repairs, Whitehorse Spillway Improvements, and the Enterprise System (JDE System Replacement) project costs should be added to rate base as proposed (Sections 20-24).
- Aishihik Redundancy and Mayo Hydro Substation Enhancements project costs should be added to rate base as proposed, subject to any comments from other parties on costs (Section 23).
- LE expresses overall concern (Section 19) that YEC undertook too many projects in a very short period (this concern references deferred cost projects as well as capital projects).
- LE argues (Section 23) that it would have been appropriate for a Board review (presumably prior to proceeding) of the Mayo substation enhancements and the Aishihik generating station redundancy projects.

UCG arguments are summarized as follows:

- CSTP Stage 2, Mayo B, and AH3 project costs should not be allowed into rate base until final costs are determined and the impact on ratepayers is determined (para 75-77):
    - With regard to Mayo B, UCG further argues (para 120) that YEC's witnesses were unable to provide any information on any compatibility issues that needed to be addressed when connecting the Mayo grid with the Whitehorse grid.

  - With regard to CSTP Stage 2, UCG further argues (para 63) that 'the costs were borne up front by YEC and rolled into rate base immediately, committing ratepayers to pay the full cost of the project over the course of 50 years whereas the benefits accrue over time depending on a variety of factors including mine benefits, fuel prices and the impact of other projects".
  - With regard to Aishihik Third Turbine, UCG further argues (para 127) that "YEC should be directed to quantify the extra costs incurred as a result of the substandard and erroneous work of AECOM and this amount should not be recovered from ratepayers".
- None of the projects listed in Tab 5.2 of the Application related in some degree to either Mayo B, the Mayo system, or to the Aishihik plant should be added to rate base until a full review can be made regarding not only what the projects entail, but also what benefits ratepayers will realize from their expenditures and how the money was spent in lieu of alternatives available (para 121 re: Mayo related projects and para 130 re: Aishihik related projects).
  - Mayo related projects are listed in para 117, including Mayo Hydro Substation Enhancements, Mayo Head Gate Repairs, Wareham Intake Rock Scaling, Wareham Spillway Upgrades, Mayo Lake Control Structure, Wareham Bridge, Wareham Dam Core Raises & Improvements.
  - Aishihik related projects are listed in para 128, including Aishihik Redundancy, Aishihik River Icing Study Mitigation (Bridge), Aishihik River Icing Study (Berm), Aishihik Elevator Modernization Project, AH3 Spare parts, Aishihik Substation Upgrades.
- The level of capital expenditures to be incurred on the Whitehorse Spillway Improvements project, the Whistle Bend Subdivision Supply project and the Western Copper Grid Connection project during the test years "requires a significant amount of additional review before they are approved as part of YEC's capital budget" (para 141 for Whitehorse Spillway Improvements; para 136-135 and 143 for the other projects).
  - UCG argues that the Whitehorse Spillway Improvements project has not been identified in any previous resource plan reviewed by the YUB, and YEC has not provided project detail and cost/benefit analysis of this project that would allow determination of prudence of these expenditures (para 139-140).
  - UCG argues that Western Copper should be charged the $30,233 deferred cost related to aerial photo mapping and route selection related to the transmission line to its facilities (para 143).
- The Enterprise System (JDE Replacement) project cost prudence cannot be determined without details of the project-related cost/benefit analysis; explanations must be provided as to how the money is being spent, the alternatives considered and overall impact on bills of ratepayers prior to approving cost recovery (para 133).

YCS argues (page 5) that the YUB should not allow $35 million for the Mayo B project to be added to rate base until the project "can be shown it is performing to expectations." YCS basis this argument on YEC not being able at the hearing to answer questions about Mayo B's performance and energy output.

YECL argues that the Board should direct YEC to consult with YECL in the future to forecast costs to be incurred by YECL as a result of YEC's capital projects, which costs are to be capitalized as part of YEC's capital projects that necessitate the expenditures (para 24). YECL disagrees with the position taken by YEC in this regard with respect to certain diesel and other expenses which YECL states that it incurred as a direct result of two recent YEC capital projects (para 22-23).

Yukon Energy Reply

There is no reasonable basis for CW or UCG to argue that Mayo B costs should be excluded from rate base as at the end of 2011 simply because some expenditure continued to occur thereafter to address deficiencies and site remediation, or for YCS to argue that Mayo B costs should be excluded from rate base until confirmation that the facility is performing up to expectations. The relevant test (for determining when project costs go into rate base) is when the project went into service and started to yield benefits to ratepayers – and this test was met prior to the end of 2011[77].

It is normal on large projects such as Mayo B for some expenditure to occur after the project goes into service in order to address deficiencies. Contrary to CW's argument, Mr. Mollard stated (transcript page 37, lines 10-12) the plant has been operated at full capacity since the in-service date in December 2011, and only referenced the final walk through as having recently occurred.

Similarly, there is no reasonable basis for UCG to argue that Aishihik Third Turbine or CSTP Stage 2 costs should not be allowed into rate base until "final costs" are determined. Each of these projects went into service in 2011 and is providing benefits to ratepayers. As for the impact on ratepayers, that is being determined in this instance for each project based on the forecast or estimated costs for each project as approved by the Board in this Application - and, contrary to UCG's argument, there is no basis for delay in including these costs in rate base. On other matters raised by UCG regarding these projects, Yukon Energy responds as follows:

- YEC witnesses did provide information on compatibility issues to be addressed when connecting Mayo grid and the Whitehorse grid, noting that the technical issues were all part of the design, and that there are no issues from an operations point of view of connecting the two lines (pages 236-237 of transcript). The response to UCG-YEC-1-

[77] While further site work to address outstanding work is scheduled for summer of 2012, the Application (page 5-6) and CW-YEC-1-27(c) each note the Project was commissioned ahead of schedule in December 2011 and considered substantially complete before year end 2011. The project has been in service since December 2011, and is effectively used and useful and providing benefits to ratepayers in the test years. As such, there is no basis not to include these costs is ratebase as proposed in the Application.

51(d) specifically also noted that two different transmission voltages from the Mayo line and the WAF line did not affect the costs of substation enhancements[78].

- There is no merit to UCG's argument that ratepayers are somehow exposed to CSTP Stage 2's "full costs" over the course of 50 years, i.e., the Application in fact forecasts no net cost to ratepayers for this project (based on all costs being forecast to be fully offset by federal and Yukon Government/YDC contributions)[79].
- There is no merit to UCG's argument that YEC should be directed to quantify the "extra costs incurred as result of the substandard and erroneous work of AECOM and this amount should not be recovered from ratepayers". This matter has been extensively reviewed in the Application, the IRs and the oral hearing[80]. As summarized and documented in YEC's Final Argument, the evidence confirms that this cost increase was not an imprudent cost overrun – bids received after tender both by AECOM and by YEC determined that the more accurate estimates for the required work were approximately $13 million, not $8.8 million. Furthermore, after learning of these higher costs, YEC made a decision to proceed only after a full review of the project's feasibility had determined that the project would still provide material benefits to ratepayers due to diesel displacement savings. Pursuant to generally accepted principles of rate regulation, if utility costs are determined to be reasonable and prudently incurred then the utility is entitled to recover such costs through rates - and based on these principles, the costs incurred for Aishihik Third Turbine should all be included in the approved rate base.

As regards UCG's argument on the remaining major capital projects, Yukon Energy responds by noting that all of these matters are addressed in detail in the Application, responses to IRs and the oral hearing (all summarized in YEC's Final Argument) and do not merit further detailed response now based on anything stated in UCG's argument. Contrary to UCG's argument, this hearing has constituted a "full review" of the Mayo and Aishihik related projects identified by UCG as well as the Whitehorse Spillway Improvement project and the Enterprise System project – and, after all this review, UCG has only elected in its argument to once again make broad sweeping assertions of inadequate information without in fact indentifying any specific substantive outstanding issue with regard to any of these projects. UCG also continues to seek cost benefit information notwithstanding the fact that the evidence confirms that such information is not relevant or appropriate for projects undertaken for reliability or safety reasons such as many of the ones listed by UCG.

[78] "The different voltages did not affect the costs of the Mayo substation, as the 138 kV service does not connect to this substation (138 kV service only exists on the southern system and CSTP)".
[79] Project benefits are reviewed in Tab 1 (page 1-4 and 1-5) and in Exhibit B-16 (page 3). As noted in CW-YEC-1-26(d) the project costs are final subject to a potential claim by a contractor that YEC has denied, and completion of minor deficiencies work in 2012 (such as right of way remediation). Accordingly, there is no impact to rate base and no forecast impact on rates. (Application, Tab 5, page 5-4 and 5-5).
[80] For example, YUB-YEC-1-32 notes that over 80% of the $5.3 million cost estimate variance from the 2008-09 GRA to December 2011 reflects the variance between the preliminary engineering cost estimate and actual tendered cost estimate. The remaining 7.8% ($1 million) increase in capital cost is detailed in response to CW-YEC-1-28(d).

Yukon Energy acknowledges that there was an error in amortization of Western Copper aerial mapping and route selection – this should have been held in WIP and will be corrected in the compliance filing.

On the general matter of prior review of such projects by the YUB, Yukon Energy notes that, outside of a General Rate Application, the YUB only has jurisdiction to review capital projects via Directions from Government under Section 17 or 18 of the Public Utilities Act (PUA); or through Part 3 of the Public Utilities Act (PUA) (which requires an OIC designating a project a "regulated project" under the PUA). Absent a review being triggered, the only means available for YEC to instigate a review of a capital project or projects is through a General Rate Application. Given these other forms of review were not triggered for any project other than Mayo B and CSTP, the first opportunity for a review of the other projects under discussion was during this GRA.

In summary, Yukon Energy submits that there was a full and fair opportunity to review any concerns related to each of these projects during IRs or at the oral hearing. Based on the information provided in the Application and IRs, each of these projects that does in fact include forecast costs affecting rate base during the test years is fully justified as a prudent expenditure that will be used and useful during the test period and providing benefit to ratepayers (including, where relevant, through providing for system safety and reliability) and therefore should be included in rate base as proposed in the Application.

Finally, on the specific issue argued by YECL, Yukon Energy disagrees that YECL's invoices as submitted for the two projects were reasonable or appropriate in the circumstances[81]. Focusing on the future, as proposed by YECL, Yukon Energy remains concerned about the practical feasibility of each utility charging the other for such costs, i.e., in the end the utility paying for the costs must secure regulatory approval to recover costs through rates. Additionally, YEC notes that one invoice rendered by YECL was for non-diesel related costs (labour and materials); in this case, there is no competitive basis for YEC to test these costs in advance, nor dos YEC have background information necessary to test the prudency of these items (e.g., time sheets, labour, rates, etc). If the Board sees merit in ensuring that such costs be recovered, one option would be for YECL to have a deferral account that the Board can review in each YECL GRA.

[81] As reviewed at Transcript page 142, YEC consulted with YECL with regard to CSTP and Aishihik Third Turbine (AH3) construction and noted clearly to YECL that YECL costs for diesel at Pelly and for the temporary bypass substation at Haines Junction were costs of YECL and that YECL would need to bring such costs to the YUB for approval as part of it revenue requirement. YECL-YEC-1-27 notes that YEC was not aware of any formal written request for compensation prior to commencement of these projects. Invoices from YECL for reimbursement of costs for AH3 impacts (Haines Junction bypass) and CSTP Stage 2 (Pelly Crossing diesel) were received many months after budgets were set and, in the case of CSTP Stage 2, six months after the project was put into service. At Transcript page 149-150, YEC explained that it is not appropriate for YEC, as one regulated utility, to justify costs incurred by YECL, another regulated utility (as all costs in the end must be explained and justified to the YUB), and that forecasting the relevant costs is no different than forecasting for outages (and in such cases, a utility can bring costs that it cannot control in front of the YUB after the fact and claim it in rates).

5.3 CAPITAL PROJECTS $100,000 TO $1 MILLION

Intervenor Arguments

LE recommends (Section 25) that the Board disallow the $490,000 expenditure on the Minto diesels and SCADA arguing that "it was imprudent to have spent this amount given the Minto diesels were not purchased". LE also recommends (Section 25) that the Board order YEC to limit spending on projects between $100,000 and $1 million to $5 million in each of 2012 and 2013, based on the impact that capital additions are having on rates and noting "Yukon Energy is in the best position to determine priorities".

UCG's argument as reviewed in Section 5.2 included some Mayo and Aishihik related projects with costs less than $1 million and greater than $0.1 million.

Yukon Energy Reply

LE's recommendation that the Board should limit spending on each of 2012 and 2013 to $5 million has no basis in fact or principle and should be ignored for the following reasons:

- Other than the Minto Diesels and SCADA (that will be addressed in greater detail below), LE has not argued that any of the spending on projects greater than $100,000 and less than $1 million is not prudent or reasonable or that these projects are not justified. Similarly, CW, YECL and YCS have not provided argument that these costs should be disallowed as either not justified or not prudently incurred costs.
- Yukon Energy has provided a separate justification for each project with spending in the test years in Appendix 5.4 and has provided further detailed justification in interrogatory responses (i.e., LE-YEC-1-29; YUB-YEC-1-31; YUB-YEC-1-37).
- There is no rationale provided by LE as to the basis for the $5 million cap for each test year and there is no basis in evidence to support this quantum.
- Use of a cap in this regard would mean that Yukon Energy would not be able to recover costs prudently incurred for projects that are justified, used and useful and which are providing benefits to ratepayers. This would be unreasonable and unjust and would potentially result in YEC not being able to recover $427,000 in prudently incurred costs for 2012 and $2.107 million in prudently incurred costs for 2013.
- UCG has argued that certain projects undertaken related to reliability, safety or compliance with regulatory or legal requirements at Mayo[82] and Aishihik[83] should not be included in rate base until a full review of the business case for each project is undertaken – Yukon Energy has addressed this assertion earlier in argument and categorically disagrees with UCG's position that further review and justification of these projects is required. Each of these projects is fully justified to either ensure continued

[82] Wareham Intake Rock Scaling; Wareham Spillway Upgrades, Mayo Lake Control structure, Wareham Bridge, Wareham Dam Core Raise and Improvements.

[83] Aishihik River Icing Study Mitigation – Bridge; Aishihik River Icing Study Mitigation – Berm; Aishihik Elevator Modernization Project; Aishihik Third Turbine Spare Parts; Aishihik Substation Upgrades.

safe and reliable operation of these facilities or to comply with regulatory or legal requirements.

Minto Diesels and SCADA

This project is fully justified as a prudent expenditures that provides benefits to the system and to ratepayers and should be included in ratebase as proposed. The business case and justification for this project was provided in response to LE-YEC-1-28 and in cross examination at the oral hearing (Transcript page 637, lines 12-25 and page 638, lines1-7 and page 639, lines 11-13).

The original plan was to purchase these units for integration into YEC's dispatch and as such SCADA control was mandatory. As negotiations continued the decision was made not to purchase these units, with Minto retaining ownership and control of the units. However, it was decided to continue proceeding with SCADA as its implementation was mostly complete and completion would provide YEC with a full ability to monitor these units which are connected to the integrated system. With this monitoring, YEC can access essential information on the activity of the units, to ensure that they are operated in a manner that maximizes overall coordination and grid reliability, and to ensure they do not adversely affect the operation of the YEC electrical grid.

In cross examination it was noted that the determination to proceed with this work was based on discussion with and advice from operations staff, operating system control centre and engineering staff, "when it was determined that we weren't going to buy them, we did ask the question as to whether we should complete that project. The advice we got from our operations staff, our operating system control centre and our engineering staff was that there would be benefit to use having visibility into these diesels in instances where we have outages and we're trying to bring them back onto the grid. Operationally it's easier for us to bring them on to the system if we can see what their diesels are doing. So it was, really, just our ability to run the system better if we had that project done".

5.4 DEFERRED COSTS OVER $1 MILLION

Intervenor Arguments

CW argues only with regard to demand side management ["DSM'] (para 30), recognizing that it is in its infancy in Yukon and should be treated in a manner similar to deferred study costs.

LE arguments are summarized as follows:

- LE expresses concern (section 19) that there were too many studies at the same time to ensure they were all being done cost effectively, and the cumulative impact of all activities is significant; consequently, LE argues that "some of these projects should remain as work in progress ["WIP"] because they still have a reasonable probability of proceeding and to mitigate the rate impacts of amortizing all these studies in one relatively short time period".
- Marsh Lake Storage, Gladstone Diversion and District Heating should remain as work in progress until completed or abandoned, rather than be amortized as proposed in the Application; LE argues that these remain possible projects (Marsh Lake, Gladstone) or have a high probability to go in the future (District Heating) and therefore should remain

in WIP until completed or abandoned; on Gladstone Diversion, LE argues that YEC should have solicited more specific support for the project before spending this much money, and should the project not go forward because of First Nation opposition part of this expenditure should be disallowed (sections 26 and 27).

- Mayo Lake Enhanced Storage and LNG should remain in WIP and be amortized as proposed in the Application (Sections 26 and 27).
- DSM, Supply Side Efficiencies, and Waste to Energy/Biomass study costs should be amortized as proposed in the Application (Section 27).
- On Atlin Lake Storage, $1.2 million in study costs should be disallowed as imprudent and the remainder amortized as proposed in the Application; LE argues that opposition to this project has always been intense, YEC should not have spent this much money until the possibility of developing the project was clear, and YEC was in too much of a hurry and imprudent in its expenditures (Section 26).
- On Geothermal, $1.0 million in study costs should be disallowed as imprudent and the remainder amortized as proposed in the Application; LE argues "that a significant portion of the early work was too broad and speculative, and that some of the expenditures were imprudent" (Section 28).

UCG arguments are summarized as follows:

- UCG argues (para 83) that YEC is proposing to transfer $27 million in deferred study costs into rate base for 2012 and again in 2013, and that "these deferred study costs represent spending on capital projects to be developed but have been stopped as unable or not warranted to be completed for a variety of reasons".
- UCG argues (para 85-93) that the Board should reject rate base treatment for deferred study costs, on the grounds that ratepayers should only pay for costs associated with facilities that actually are used and useful and provide service; where expenditures for abandoned projects are prudent, UCG argues (without reference to evidence) that "the predominant position of regulators is to permit utilities to recover the amounts invested in a cancelled project but prohibit any return on the investment. This is accomplished by amortizing the loss over a period of years without placing the balance in the rate base, thereby allowing a return of, but not on, the investment. In this manner, investors and ratepayers share the burden of cancellation costs".
- Marsh Lake Storage and Gladstone Diversion study costs should not be capitalized until the project is placed into service and costs incurred have undergone a thorough prudency review; UCG argues that Gladstone Diversion was not included in the 2006 Resource Plan submitted to the YUB (para 105, 112-113).
- On Atlin Lake Storage, UCG argues (para 109-110) that the study costs are not used and useful, and should not go into rate base or earn a return on investment; on the costs, UCG asserts that YEC has not provided a detailed breakdown on exactly when costs were incurred other than to say most was spent prior to 2011, that YEC continued to incur costs after significant opposition and government permitting issues were identified, and

that YEC admitted to not understanding the land use process in BC and knowing that there were some licensing risks.

- On DSM projects, UCG argues as follows (UCG also has arguments on DSM Accounting Policy (para 237-245) where, among other assertions, UCG states "YEC has provided no evidence that would justify this expense as a legitimate rate base item"):
    - The Board is looking at approving a policy regarding DSM initiatives before money is spent that YEC proposes to recover from ratepayers (para 179);
    - YEC should be directed to specifically identify all costs incurred related to DSM prior to a formal policy being approved by the YUB and where in the proposed revenue requirements for 2012 and 2013 net benefits associated with DSM are reflected (para 182);
    - Without cost/benefit studies for the DSM programs the YUB cannot approve the proposed programs (para 186);
    - DSM costs incurred for the direct benefit of Alexco should be absorbed by Alexco or YEC's shareholder (para 187); and
    - YEC should be directed to establish a DSM recovery fee that can be used to recover DSM-related costs on a more benefit -related basis (para 188).
- On Waste to Energy/Biomass, District Heating, and Geothermal, UCG only argues that YEC and the Yukon government should lead pilot projects to develop alternative energy solutions that provide long-term economic benefits and reduce greenhouse gas emissions (para 162).

Yukon Energy Reply

UCG, and to a lesser extent LE, arguments include proposals to modify the deferred cost accounting policies. UCG in effect argues that no amortization of deferred costs should occur until a project is brought into service (when such costs will become part of project capital costs) or cancelled (when UCG argues that study costs should be amortized without going into rate base and without earning any return); UCG also argues against including DSM costs in rate base. In contrast, LE argues for only a slight modification of the accounting policies as proposed in the Application, i.e., LE argues that three projects (which are not assumed in YEC's Application to have met the reasonable assurance test by the end of 2012) should remain in WIP until completed or abandoned, namely Marsh Lake Storage, Gladstone Diversion and District Heating.

Yukon Energy will subsequently (see Section 5.6 of this Reply Argument) address UCG's arguments on planning and DSM deferred cost accounting policy and comment on the implications of LE's modifications.

On the overall picture, UCG's assertion that YEC is proposing to transfer $27 million in "deferred study costs" into rate base for 2012 and again for 2013 for projects that have been "stopped as unable or not warranted to be completed" misrepresents the evidence:

- The $27 million number referenced for 2012 and 2013 derives from the Application, Tab 7, Schedule 3, and reflects deferred cost amounts in rate base at year end (total costs less amortization to date and less any WIP):

  - These numbers include more than Planning and Study Costs, i.e., see the note to the "deferred study costs" title in the schedule which makes it clear that these numbers also include Relicencing, Dam Safety costs and Deferred Overhauls net of contributions. Based on Table 5.7 in Tab 5, Feasibility Study Costs in rate base equal $18.0 million for 2012 (net of WIP) and $19.0 million for 2013.
  - These numbers also report the deferred cost totals at a point in time (yearend), and are not stating how much new deferred costs go into rate base in each year.
- Further, these Feasibility Study deferred costs include a mix of projects, only a few of which have been stopped as unable or not warranted to be completed.

Yukon Energy responds as follows to intervenor arguments relating to the prudence of specific major deferred cost project costs:

- On Gladstone Diversion:
  - LE's argument that YEC should have solicited more specific First Nation support before spending this much money is without merit. LE has provided no specific example or evidence that any amounts expended to date as part of the feasibility studies was imprudent or not cost-effective. The evidence on the record is that YEC has followed a careful risk management approach for this project and that feasibility work to date is required to develop a project concept that be meaningfully discussed with First Nations as well as regulators[84].
  - UCG's assertion that this project was not included in the Resource Plan is incorrect – the project is discussed in Appendix B (Section B.2.1 of the 2006 Resource Plan along with a number of other potential hydro enhancement projects).
- On Atlin Lake Storage:
  - LE's assertion that $1.2 million in study costs should be disallowed as imprudent (i.e., based on the assertion that "YEC should not have spent this much money until the possibility of developing the project was clear") should be rejected by the Board as lacking in any evidence regarding specific imprudent costs that the Board and YEC could address. The evidence on the record of this proceeding demonstrates that Yukon Energy carefully and prudently managed risks related to this project, confirming at the outset provincial political support at the highest level as well as addressing the various specific assessments needed to confirm

[84] The Application sets out the feasibility studies required to assess the design and environmental licensing requirements, forecast costs and potential benefits. Environmental and engineering feasibility costs are higher for Gladstone Diversion than for other southern lakes projects being assessed due to the remote location, e.g., in order to complete baseline work personnel and equipment were required to be flown to the site by helicopter. See YUB-YEC-2-8 which notes that decision making in a risk management context will consider (1) whether scientific baseline studies continue to indicate positive results; (2) whether there is received support from Champagne and Aishihik and Kluane First Nations; and (3) any ongoing pressures driven by system requirements to displace baseline diesel generation as the system grows. This response also notes Yukon Energy has undertaken fieldwork to react to concerns raised by regulators and stakeholders. The baseline studies and field work undertaken indicate no basis for concern that there will be potential significant environmental effects related to the project that cannot be mitigated.

the possibility of developing the project; expenditures were prudently incurred and Yukon Energy immediately ceased work on the project once it was clear that the new park designation would prevent this project from proceeding at this time.

- UCG's assertion on lack of cost information is without merit.
  - YUB-YEC-1-44 provides a breakdown of cost information on total costs to the end of 2011. At Transcript page 261 Mr. Morrison notes in relation to the costs detailed in this IR that "all of them were incurred with the exception of a couple hundred thousand dollars by the end of 2010," and that the project would not be pursued during the test years.
  - The evidence on the record is that as soon as a determination was made by the BC Government to designate the Atlin River as a Class A park a decision was made by Yukon Energy to discontinue work on the Atlin Storage project. YUB-YEC-2-6 specifies that after Yukon Energy was notified of the park designation (July 15, 2011) consultants were directed to stop work immediately the same day and only approximately $5,100 of further costs were incurred for consultant time and YEC labour to close out project files.
- UCG's assertion that YEC continued to incur costs after significant opposition and government permitting issues were identified is without merit.
  - As noted in the oral hearing, were YEC to abandon any project with potential material benefits to ratepayers because some people opposed the project, no projects would proceed.
  - Mr. Morrison noted clearly on the record (page 268) that "The level of opposition was not unusual" and "YEC did not see any issues that we could not address, so we kept on going".
  - The Application notes due to public concern in the local community, Yukon Energy also engaged in extensive public consultation with the local residents and the local First Nation.
  - As reviewed in YEC's Final Argument (page 44), during the hearing YEC witnesses reviewed in detail with Mr. Janigan the chronology of events related to the planning work, including YEC's concluding a memorandum of understanding with the Taku River Tlingit First Nation to advance the work that YEC was doing, and YEC had no indication from this First Nation that they wanted YEC to stop work on the project.
- UCG's assertion that YEC did not understand the land use process in BC is without merit. The evidence on the record is that YEC acted reasonably to ensure there were no clear impediments to proceeding with the project and proceeded based on clear signal of support from the BC government[85] and based on an

[85] As noted in discussion at transcript page 263, and following, when YEC started the project, the Yukon premier received a letter from the premier of BC indicating the BC government's initial support for the project.

understanding that there were no legal impediments at the time work was being undertaken[86]. By the time YEC got the Minister's letter stating that a park permit was required, YEC had virtually finished spending on the project in a substantive way.

- On Geothermal:
    - LE's assertion that $1.0 million in study costs should be disallowed as imprudent (i.e., based on the assertion "that a significant portion of the early work was too broad and speculative") should be rejected by the Board as lacking in any evidence regarding specific imprudent costs that the Board and YEC could address. Early efforts until 2011 focused on screening of various sites across Yukon in order to identify and gain a preliminary understanding of geological context and origin of the hydrothermal fluids of various geothermal surface expressions, e.g., Jarvis Creek, Volcano Mountain, Whitehorse, McArthur, Nash Creek and Larson Creek. As noted in YUB-YEC-1-50(a), Yukon Energy's decision to move ahead with the preliminary resource assessment undertaken by Borealis Geopower was driven by the need to prioritize which sites to focus on for further review (i.e., which sites have best potential for developing resource given material effort, cost and risk associated with further exploration). While LE asserts that studies are appropriately focused on meaningful areas now, the ability to focus now on these "meaningful areas" is a direct result of the earlier work required to identify sites with the most potential.
- On DSM:
    - CW and LE support the approach proposed in the Application.
    - UCG's assertions that YEC should wait for YUB approval of a policy, or that the YUB cannot approve costs without a cost/benefit assessment, ignore the evidence.
        - Yukon Energy has noted in the Application and in IRs the extensive work undertaken in coordination with YECL and the Yukon government to develop a DSM plan and has updated the Board regarding the status of this work.
        - Yukon Energy has noted that in order to develop a comprehensive and informed approach to DSM involves the extensive work outlined in the Application and in response to YUB-YEC-1-46 and other IRs.
        - Yukon Energy has been clear in the Application and in IRs that over 90% of DSM expenditures in the Application 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

[86] As noted in discussion at transcript page 263 and following, YEC obtained a legal opinion that the Parks Act permit question did not apply to the project and that YEC did not require a permit to proceed with the work as proposed.

management plan, and public education/ communication (see UCG-YEC-2-5).

- UCG's assertion that a DSM recovery fee should be established is without any basis and there is no evidence on the record of this proceeding to support that suggestion. If UCG wanted to advance this as a proposal it should have either filed evidence that could have been fairly tested by intervenors and the Board during the proceeding or addressed this issue more substantively in cross examination. The record also provides no basis to assign any additional costs to Alexco or YEC's shareholder regarding pilot DSM studies carried out with this customer.

- On Waste to Energy/Biomass, District Heating:
  - LE recommends that Waste to Energy/Biomass study costs should be amortized as proposed in the Application, and that District Heating costs should remain as work in progress (because LE argues that there is a high probability that this will go forward in the future).
  - UCG argues that YEC and the Yukon government should lead pilot projects on these and other such options, i.e., no guidance is provided as to how these costs should be treated in this proceeding.

5.5 DEFERRED COSTS OVER $100,000 AND LESS THAN $1 MILLION

Intervenor Arguments

LE notes "these studies are appropriate" and recommends that YEC should proceed with these studies as generally proposed with an increased emphasis on the possibilities of wind power generation and to amortize these costs as proposed.

Yukon Energy Reply

These expenses have been tested during this proceeding and no significant issues have been raised in cross-examination or argument as to the prudence of the expense. Accordingly, these costs should be deferred and amortized pursuant to the proposed planning cost accounting policy as proposed in the Application.

5.6 APPENDIX 5.1 – PLANNING COST ACCOUNTING POLICY

Intervenor Arguments

CW specifically notes (para 31) that it does not take issue with the proposed planning accounting policy and that customers should bear the cost of these studies over time. CW does not comment directly on any individual deferred cost project but notes, "studies must be undertaken to determine alternatives that will result in the least-cost generation to customers", and "customers even benefit from studies that do not result in projects as the utility will have avoided a high cost option." CW notes uncertainty as to whether all the feasibility studies in Tables 5.3 to 5.7 have or have not passed Reasonable Assurance, and recommends that if a study has passed reasonable assurance, YEC should be directed to remove the study from Tables 5.3 to 5.7 and reclassify it as a capital project.

LE does not comment directly on the planning cost accounting policy but, as noted in Section 5.4 of this Reply Argument, comments specifically on each major deferred cost project. In effect, LE argues for a slight modification of the accounting policies as proposed in the Application in order to mitigate near term rate impacts, i.e., LE argues that three projects (which are not assumed in YEC's Application to have met the reasonable assurance test by the end of 2012) should remain in WIP until completed or abandoned, namely Marsh Lake Storage, Gladstone Diversion and District Heating. LE argues that these remain possible projects (Marsh Lake and Gladstone Diversion) or have a high probability to go in the future (District Heating) and therefore should remain in WIP until completed or abandoned.

UCG argues, as reviewed in Section 5.4 of this Reply Argument, that no amortization of deferred costs should occur until a project is brought into service (when such costs will become part of project capital costs) or cancelled (when UCG argues that study costs should be amortized without going into rate base and without earning any return). UCG submits (para 96) that YEC has not provided any evidence from any other jurisdiction where expenditures for preliminary surveys, plans, investigation, etc., made for the purpose of determining feasibility of utility projects under contemplation are not recorded in a deferral account and, if construction results, the costs are then transferred to an appropriate utility plant account for recovery.

Yukon Energy Reply

Yukon Energy set out the justification for this policy in the Application, in IRs, in cross-examination at the oral hearing and in Section 3.5 of YEC's Final Argument. The policy is designed to balance the requirements for a utility to undertake planning and studies work critical to the Corporation's mandate and the need to ensure rate stability over time. Rate stability is provided through deferring and amortizing costs over a defined period instead of either expensing such costs in the year incurred, or deferring such costs until such time as a final decision is made on project feasibility.

Aside from UCG, intervenor arguments have not raised any concerns with regard to the basic elements in the proposed policy.

LE's slight modification in effect relaxes the "reasonable assurance" test for three projects (thereby allowing project costs in these cases to remain in WIP until the project either proceeds or is closed) - otherwise, LE's argument supports the planning cost accounting policy as proposed in the Application. Yukon Energy's concern with LE's modifications is the extent to which each proposed adjustment is based on a principled assessment that the specific project is "reasonably assured" of being developed, i.e., YEC very much wants to see this principle adopted and applied in a consistent manner going forward in order to address rate stability concerns[87].

[87] Yukon Energy's proposed planning cost accounting policy is being advanced in part to ensure continued and long-term rate stability for ratepayers (see justification and supporting information provided in YUB-YEC-1-39; YUB-YEC-2-15; YECL-YEC-1-54; CW-YEC-1-33; UCG-YEC-1-40). YEC has noted similar issues and concerns raised in BC with regard to BC Hydro's extensive reliance on deferral/ regulatory accounts and risks posed to utility and ratepayers over the long-term due to continued deferral of costs. (See YUB-YEC-1-39 and UCG-YEC-1-40). The policy provides for a transition period to

- In this instance, Yukon Energy's concern is moderated as regards the two most costly projects (Marsh Lake Storage and Gladstone Diversion, each of which has deferred costs forecast in excess of $4 million within the test years), because under the transition element of the policy most of the deferred costs for these specific projects would be amortized over ten years even if they do not meet reasonable assurance at this time - absent such reasonable assurance, LE's proposal simply shifts the risk into the future that these projects will be closed and then all related deferred costs will need to be amortized over a ten year period. LE's proposal, however, also defers addressing the prudence of these costs.
- In looking at LE's proposal, Yukon Energy would also note that Marsh Lake Storage may well be "closer" to reasonable assurance today than Gladstone Diversion (in the event that the Board was to weigh options as to how these projects are to be treated at this time).
- In contrast, Yukon Energy notes that the Application would amortize District Heating deferred costs over five years based on the project not at this time meeting the reasonable assurance test - and therefore Yukon Energy concerns about relaxing the reasonable assurance are magnified in this instance.

In contrast, UCG's argument that the Board should reject rate base treatment for deferred study costs is without merit and does not help the Board in this proceeding.

- The primary support that UCG provides for its argument comes from reference (without any evidence tested in this proceeding) to other regulatory jurisdictions (e.g., Ontario). It suggests that other jurisdictions treat such expenditures differently by making evidentiary statements in argument. Not only is this approach inappropriate, it is simply of no help to the Board (even if it was relevant) because a fulsome description and evidentiary base of what happens in other jurisdictions like Ontario is not available to the Board. Without that necessary evidentiary base there is simply no capability to evaluate or apply what UCG says occurs in other jurisdictions.
- Further, UCG also ignores the fact that this approach has been applied by the Board since Board Order 1993-08, i.e., over the last 15 to 20 years in other GRAs (see response to Undertaking #19 and #26 filed November 19, 2012). In each application prudent planning costs -- where projects have been suspended and put into inventory for future use -- have been put into rate base and handled in the manner proposed by YEC in the Application. This approach is completely consistent with the Act (including most specifically Section 32 referenced by UCG) and is both reasonable and fair. It also recognizes the fundamental reality that all capital expenditures -- whether they be for projects under construction, in service, or for potential projects inventoried by YEC -- must be financed by the capital structure approved by the Board (i.e. the 60/40 debt to equity).

mitigate near term rate impacts (this would apply to projects greater than $1 million, including Marsh Lake, Gladstone, Atlin, Geothermal, and Waste to Energy).

5.7 APPENDIX 5.2 – DSM ACCOUNTING POLICY

Intervenor Arguments

CW (para 30) does not oppose the proposed policy and resultant periods of amortization and policies for expensing, with the exception of DSM administration expense. CW notes DSM will likely result in viable supply options at some time, and that YEC should be directed to make provision in its DSM Policy for rate base treatment of DSM projects similar to that afforded to other supply options when tangible and significant energy savings are identified.

UCG asserts (para 239-245) that YEC refused to provide details of DSM projects that meet the criteria for deferral, that this prevented testing of the proposed policy which, based on the evidentiary record, should be denied.

- UCG "submits that YEC has failed miserably in its attempt to justify treating DSM expenditures as rate base items attracting a high return.... YEC has provided no evidence that would identify this expense as a legitimate rate base item." UCG recommends that YUB should direct YEC to ensure that deferred charges only attract carrying cost equal to 3-month bankers' acceptance rate as published on the bank of Canada's website – currently 1.47% (allowed by the OEB).
- UCG also submits that ratepayers are entitled to receive some benefit from these expenses so the YUB should direct YEC to incorporate such a benefit in the revenue requirement.
- UCG argues that YEC notes has only provided examples from BC and Manitoba – and that this provides only a limited sample from which the Board is to make a decision to approve or not.

Yukon Energy Reply

Yukon Energy notes that the proposed policy is only opposed by UCG, and that the arguments advanced by UCG on this matter are without merit and do not assist the Boar or other parties. Yukon Energy accordingly submits that the policy should be approved as proposed.

5.8 RESOURCE PLAN UPDATE

Intervenor Arguments

Arguments related to the Draft 2011 Resource Plan were provided by LE, UCG and YCS -in the case of LE and YCS, attachments were also provided setting out overall comments and review of the plan.

LE argues (Section 30) "no significant new information has come to light during this hearing and Leading Edge has no reason to change it [sic] views which are that the Resource Plan update is biased against wind energy in a number of ways and is slated to favour LNG generation." LE attaches its submission on the Resource Plan Update – which it characterizes as "a more objective approach to completing the Resource Plan Update".

- LE concludes that capital intensive energy supply projects of any significant size (wood biomass, wind, greenfield hydro) are not cost effective with short term loads, i.e., medium to long term duration (15 years and up) are really required to make renewable resources cost competitive with diesel and/or LNG power generation.[88]
- LE asserts the Resource Plan has a systematic bias against wind energy, noting several issues that collectively paint a negative picture against wind.[89]
- LE also asserts there is a bias in favour of LNG.[90]

YCS's argument is focused on wind generation – YCS vociferously advocates the pursuit of the Mt Sumanik wind generation project (arguing it would have been better to proceed with this project instead of Mayo B and questioning whether the shift in focus from Mt Sumanik to Ferry Hill was justified).

- YCS is critical of YEC's "lack of understanding" and "negative opinion on wind energy" and asserts that this has led to YEC portraying wind negatively in the public in its Resource Plan consultation process[91].
- YCS argues that the current Draft Resource Plan "represents an extreme departure from the public utility's former focus in its conclusion that LNG is the only option worthy of pursuit," and that the Draft Resource Plan "should be entitled 'the case for LNG' rather than a fair consideration of alternative energy sources to help meet demand, reduce emissions and diversify the Yukon's energy portfolio[92]."
- YCS also argues against pursuit of LNG as a resource option.[93]

UCG argues (at paragraphs 159 to 162) that the Board must satisfy itself that YEC has used an appropriate industry standard methodology to assess energy requirements.

- Before any resource planning is done and capital commitments made, the YUB should ensure that stakeholders have an opportunity to provide input on a number of questions that need to be considered in development of a policy framework to guide the generation, transmission and distribution resource development.
- In other jurisdictions utilities are required to develop multiple resource portfolios for their demand forecasts, each consisting of a combination of supply and demand resources needed to meet the demand forecast. YEC needs to be directed to broaden its outlook to consider new approaches in the same way YEC proposed new planning criteria.
- YEC and the Yukon government should lead pilot projects to develop alternative energy solutions that provide long term economic benefits and reduce greenhouse gas emissions. There are a number of potential energy sources including small-scale hydro, combined heat/power systems, and renewable energy sources such as biomass (wood), solar, and geothermal energy.

[88] LE Final Argument, Attachment 1, page 4-6.
[89] LE Final Argument, Attachment 1, page 6-8.
[90] LE Final Argument, Attachment 1, page 9
[91] YCS Argument, page 5-6
[92] YCS Argument Appendix A, page 13
[93] YCS Argument, page 7-8

YCS and UCG also set out the following concerns regarding the public consultation process and any potential YUB-led process to review the Resource Plan Update.

- The Minister should require a specific evaluation by the Yukon Utilities Board with recommendations, as in 2006[94].
- The expectations of the YUB regarding review of an updated resource plan were made clear nearly 6 years ago; the filing of an updated resource plan is now overdue and YEC should be directed to do whatever needs to be done to get Ministerial direction to have a final and complete Updated Resource Plan reviewed by the YUB before any of the costs of capital projects identified in the draft Resource Plan Update are considered for recovery[95].

Yukon Energy Reply

Yukon Energy submits that the Draft Resource Plan is providing the information and analysis that was intended, and is providing an effective update to the 2006 Resource Plan to help guide bulk power planning and decisions over the current five year planning period. Yukon Energy responds below to certain key assertions and comments by intervenors without attempting to go through the detailed intervenor comments on the Draft Resource Plan.

- As indicated in the Overview provided as Attachment 1 to YECL-YEC-1-18, the 2011 Resource Plan is a five year update to the 2006 Resource Plan and as such, it addresses generation and transmission priorities in Yukon for the 20-year planning period (2011-2030), focusing on: (1) Resource options for implementation over the first five years (2011-2015); and (2) Planning activities for implementation during the first five years to protect longer term legacy resource development options for potential start of construction before or after 2021. The short-term focus on what can be done in the next five years is an essential element inherent to the five year update, although the assessments in this regard continue to consider the updated 20-year planning horizon when considering potential load scenarios and potential resource options.
- Within the above context, the purpose of the update was to assess all of the options that could reasonably be developed if so required in the near term planning timeframe in order to meet real (and not speculative) potential load requirements.
- With regard to arguments provided by LE and YCS that Yukon Energy has a bias against wind energy and is biased in favour of LNG the following are noted:
    - There is nothing in the Resource Plan Overview that reflects a bias against wind – YCS-YEC-2-10 sets out in detail the assumptions factored into the cost analysis of <u>each</u> option reviewed in the Resource Plan Update.
        - Costs per kilowatt hour were estimated in the Resource Plan for each of the short-term options using the same load forecasts, long-term average grid hydro generation models, general economic assumptions and range of assessment factors.

[94] YCS Argument, Appendix A, page 13
[95] UCG Argument Paragraph 266-67

        - A central focus in this cost assessment was each option's comparative ability, over its economic life, to displace diesel energy generation. This assessment was made based on potential Yukon grid load scenarios and the ability of each option to cost-effectively displace "default" diesel generation.
    - Costs for each option were stated in terms of kilowatt hours of diesel expected to be displaced - not in terms of kilowatt hours of production expected to be generated. This key step was done to reflect Yukon-specific conditions where an isolated grid removes any effective market for generation that is 'surplus' to loads served directly on the grid. Each option was reviewed using the same criteria[96].
    - Costs per kilowatt hour of diesel displaced were also assessed for each option over a wide range of grid load conditions (including sensitivity tests as to the duration of key mine loads) to assess the extent to which cost-based ranking of the options was sensitive to the assumed loads and the scale of potential diesel displacement.
    - The outcomes of the above cost assessments showed the implications of current load forecast scenarios for capital intensive renewable resource options such as wind – as a result, the LCOE for wind is 40 cents/kWh even with Scenario A loads (new Victoria Gold mine connection) rather than 15 cents/kWh if all the wind energy could be fully used to displace diesel.
    - This cost outcome does not show a "bias" against wind - as stated in LE's comments, medium to long term duration (15 years and up) are really required to make capital intensive renewable resources cost competitive with diesel and/or LNG power generation. It perhaps merits adding that major new resource option developments such as wind also need major new loads to provide the 15 and up years of cost effective diesel displacement needed for such options to be feasible.
    - The analysis of each option also looked at factors other than cost, including reliability, flexibility and environmental responsibility (particularly GHG emissions). In this context, options were assessed in terms of overall impacts in Yukon, i.e., off grid as well as on grid impacts in reducing GHG emissions in Yukon.
- With regard to arguments by UCG and others regarding consultation undertaken on the plan, consideration of resource portfolio options, and recommended ongoing consideration of options in addition to LNG:
    - The first activity Yukon Energy undertook preparing its latest 20-year Resource Plan was to seek input from First Nations and other governments, stakeholders and the public through meetings, workshops and a three-day energy planning Charrette held in March 2011 (YCS-YEC-2-8).

[96] YCS-YEC-2-10.

- In advance of drafting the Resource Plan Yukon Energy engaged in an extensive Energy Charrette process where stakeholders had an opportunity to provide input on a number of questions to be considered regarding generation, transmission and distribution resource development[97].
- YEC notes that the Resource Plan employed extensive portfolio analysis that included multiple resource portfolios for demand forecasts, each consisting of a combination of supply and demand resources needed to meet the demand forecast. Different portfolio mixes explicitly examined options focused on minimizing GHG emissions (environmental responsibility) and maximizing local renewable resource use, versus mixes that focused more on cost minimization (affordability), reliability and flexibility to adapt to changing conditions.
- The Resource Plan Overview addresses "recommended plans" (page 57-58) which include further investigation of potential energy sources in addition to LNG, including near-term hydro enhancements, future development of wind and greenfield hydro sites, and other longer term resource planning (including geothermal, grid extensions, wood biomass, and solar), In particular it recommends that YEC identify and pursue opportunities for a small scale (2-3 MW) wood biomass pilot project, potentially in associating with extending wood operations at Haines Junction, and seek funding support for this pilot project. The plan also discusses options for combined heat/power systems.

- LE, YCS and UCG also commented on the public review process for the Draft Resource Plan (either the consultation process or the process for the YUB to review the Resource plan and make recommendations). Yukon Energy notes as follows in response to these comments:
  - Yukon Energy has committed in the Overview to the 2011 Resource Plan to "review the Overview and draft 2011 Resource Plan with the public, and report on the results of this review, including any resulting adjustments to recommended plans for ongoing priority attention".
  - Yukon Energy noted in LE-YEC-2-6:
    - "The public review has been carried out since the release of the Overview in late July, and Yukon Energy will be able to consider comments received until mid to late November, when the current GRA hearing process has concluded. Yukon Energy will then provide to the public as soon as feasible thereafter the results of this review".
    - "The Board and parties will have the opportunity in the current GRA proceeding to examine and ask questions about the Overview and draft 2011 Resource Plan that have been made public".

[97] As noted in YCS-YEC-2-9 Workshops have been held (and will continue to be held) on various specific topics as part of the resource planning process. Workshops to date were held independent of (and generally after) preparation of the materials contained in the draft report dated December 2011. A wind workshop is planned for later in 2012 or early in 2013.

    - "Apart from this YEC GRA proceeding, Yukon Energy is not aware of any process for review by the Board of the 2011 Resource Plan other than processes initiated by ministerial direction pursuant to the Public Utilities Act, e.g., Part 3 proceedings to review designated energy projects".

  - YCS-YEC-2-5 notes "The current regulatory process is to review Yukon Energy's 2012 and 2013 revenue requirement, and is not specifically to review the 20-Year Resource Plan. As such, the Resource Plan documents made public to date are not "included" for approval in the GRA per se, but are available to be reviewed and queried by the Board and interested parties as part of that proceeding. It is expected that at the oral hearing the Board and intervenors will have an opportunity to ask specific questions about the Overview and the 2011 Resource Plan previously made public".

6.0 BOARD RECOMMENDATIONS AND DIRECTIVES

6.1 GENERAL

Intervenor Arguments

UCG (para 341-343) alleges, without providing specifics, that there is "a disturbing trend associated with the response of YEC to directions of the Board associated with its operation and the preparation of reports and studies that assist in the discharge of the Board's responsibilities." UCG goes on to suggest that YEC is being "inherently subversive" of the Board's role, and then to recommend that the Board's Decision in this case "be accompanied by an appendix setting out the responsibilities of YEC arising from the Decision with an appropriate timeline" and that "The Board should entertain no further rate applications from YEC until those duties have been fulfilled".

Yukon Energy Reply

Yukon Energy strongly rejects UCG's allegations in para 341-343 as being without any foundation, and submits that such baseless attacks show nothing but disrespect for the overall regulatory process as carried out by the Board. The recommendation for the Board to refuse to entertain further rate applications from YEC based on such matters is a recommendation that flies contrary to the jurisdiction and duties of the Board, is not helpful to the Board in delivering its mandate and only serves to mislead external parties not familiar with the Board's regulatory mandate.

Tab 6 of the Application reviews directives contained in Board Decisions since the submission of the 2008/2009 General Rate Application (GRA), and, where relevant, Yukon Energy's response. Appendix 6.1 and 6.2 and Appendix 12.2 to 12. 5 provide details studies undertaken to comply with specific Board directions provided to Yukon Energy in the last GRA. Yukon Energy provides updates for directives that it was not able to complete at time of filing (e.g., preparation of a DSM policy paper), and also notes clearly which directions it has not yet been able to address and provides its rationale (for example, directions related to cost of service or rate design issues that would require the utilities to prepare and submit a Phase II Rate Application, which, in the current circumstances is premature). All of this is evidence that Yukon Energy takes Board directions seriously.

6.2 CARBON CREDITS – YUB REPORT TO MINISTER ON MAY 17, 2010

Intervenor Arguments

UCG (para 344-345) references this Part 3 report to the Minister regarding Mayo B, wherein the Board recommended that YEC should provide an update on its pursuit of marketing carbon credits in its next GRA, and then argues that YEC made a poor effort at updating the YUB and that "a more formal direction to YEC in this regard is warranted".

Yukon Energy Reply

Yukon Energy submits that it has provided the Board and all interested parties with an update as to what is known on the matter of carbon credits[98], and that UCG's comments and recommendation on this matter are not all helpful to the Board and accordingly should not be considered further.

6.3 ORDER 2010-13 – YUKON SPECIFIC LOAD DATA

Intervenor Arguments

UCG (paragraphs 168 to 171) notes concern related to the direction of the utilities in Order 2010-13 to collaborate and provide Yukon specific load data prior to the next Phase II Rate Application. UCG argues that "YEC should be directed (again) to conduct this work well in advance of the development of a Phase II application and that they be directed to consult with stakeholders during the development". UCG submits that this appears to be an example of the failure of YEC and YECL to ensure that the best forecasts are included in the general rates Application, and that the most accurate up to date use per customer should be used to allow for an accurate forecast of load growth.

Yukon Energy Reply

Yukon Energy sees no merit or relevance in UCG's persistent reference to cost of service matters such as this in a YEC-only hearing dealing only with YEC's revenue requirements, and notes that there is no basis at all for UCG to propose direction for YEC alone to deal with such matters (particularly this matter which UCG notes (para 169) deals with information related specifically to ATCO Alberta models).

Yukon Energy provided its response to this directive in Tab 6 of the Application. Page 6-17 noted that this directive was among a number of remaining outstanding directives to be addressed in the next joint cost of service and rate design application.

Yukon Energy has addressed the interpretation of OIC 2012/68 and the impact this OIC would have on the timing of the next Phase II Application (see YECL-YEC-1-1 and YUB-YEC-1-60) – based on the Board's comments provided in Order 2010-13 the next Application would be expected to be filed by no later than June 2014.

6.4 ORDER 2009-8 – IFRS

Intervenor Arguments

UCG argues (para 349) that "given the timeline established for IFRS reporting YEC has been slow in its approach to this issue with higher costs being incurred as consultants have been unnecessarily burdened with a tight timeline". UCG recommends (para 356) that the Board direct YEC to provide a report during 2013 on how it will address the IFRS requirements – especially how YEC intends to address the impact of the requirement to treat 3rd party contributions as deferred income.

[98] See Transcript page 340-41.

On other related matters, the following UCG arguments are noted:

- UCG recommends (para 351) that the Board should ensure that both YEC and YECL are developing consistent plans to transition to IFRS, and the Board should also be involved in order to determine the effects of the adoption of IFRS on regulatory accounting and ratemaking to identify necessary changes to the Board's filing and reporting requirements and ratesetting methodologies.
- UCG submits (para 352) that the Board should determine whether YEC and YECL will be allowed to use deferral and variance accounts for ratemaking in appropriate circumstances, whether or not these accounts are recognized under IFRS. Further UCG notes (para 355) that rate mitigation or smoothing mechanisms (such as deferral accounts) can be applied to reduce any rate impacts related to the adoption of IFRS to the extent the Board permits recovery of IFRS related costs.
- UCG submits (para 354) that the Board should require the utilities to specifically identify financial differences and any resulting revenue requirement impacts that arise from adoption of IFRS.

Yukon Energy Reply

Yukon Energy disputes the UCG allegation that YEC has been slow on its approach and has incurred higher consultant costs as a result. There is absolutely no evidence on the record of this proceeding to support this allegation. Yukon Energy has retained a qualified expert to advise on the transition. There is no evidence that the change in deadline altered the workload that would need to be undertaken to support the transition to IFRS.

Yukon Energy submits that there is no basis for the UCG recommendation for YEC to provide a report during 2013 on how it will address IFRS requirements, based on the following considerations:

- Yukon Energy is required to comply with the directions of the Accounting Standards Board of Canada in order to receive a clean audit opinion as required by regulation.
- If, and when, a transition occurs, YEC will at the time of its next GRA following that transition provide a fulsome explanation of all impacts for the Board's consideration.
- It is noted that there may arise circumstances where IFRS does not align with regulatory necessity - in these cases YEC expects it will continue to report as the YUB requires, despite any direction under IFRS (this situation also exists under current GAAP to a lesser degree)[99].
- IFRS transition costs are being deferred until such time as the project is complete or terminates and will be amortized over five years as is normal practice for projects of a similar nature.

Yukon Energy similarly sees no basis for UCG's other recommendations regarding recommended directions by the Board to YEC and YECL regarding IFRS implementation matters.

[99] For example, as noted in response to UCG-YEC-2-12 donations are a legitimate business expense; however, under regulatory principles, these expenditures are excluded from utility income calculations.

7.0 RETURN ON EQUITY

Intervenor Arguments

CW recommends (paras 42, 43 and 61) that the return on equity awarded to YEC for 2012 should be 8.25%, and for 2013 the ROE should be set to 8.25% on an interim basis pending the outcome of the Alberta Utilities Commission (AUC) 2013 Generic Cost of Capital process (if there are significant changes to AUC's final 2013 ROE from the interim award, CW recommends that YEC's revenue requirement be adjusted through Rider R); also related to the ROE, CW recommends (para 62) that YEC's capital structure should be reduced to 37% equity to reflect its business and regulatory risks.

- On the ROE specifically, CW argues (Section 6.1, paras 41-43) that "a change from the BCUC generic cost of capital to the AUC method is required for these proceedings" and that "to correctly apply the AUC method, any adjustments for YEC's specific risks should be made to its capital structure, not via a 52 basis point addition to ROE" (which results, CW argues, in an ROE of 8.25% for 2012 given the AUC 8.75% generic return on equity and the 50 basis point reduction required by OIC 1995/90 as amended by OIC 1998/32).
- CW argues that the ROE as so determined, based on the AUC method, requires that the Board also determine a capital structure appropriate to YEC risks.
- On the capital structure appropriate to YEC risks as required under the AUC method, CW argues (Section 6.2, paras 44 to 46) that YEC's proposed capital structure of 60-40 debt to equity is based on a study performed in 1990, "that it is time that YEC's risk is re-evaluated according to the AUC's methods of determining a utility's risks," and that this re-evaluation can be done based on the AUC's evaluation in 2011-474 of appropriate capital structures of the utilities it regulates as provided in response to CW-YEC-1-41. CW then proceeds to argue that:
    - YEC is not a vertically integrated utility (CW argues that distribution assets add little to YEC's risk profile);
    - "YEC's generation risks are no different than that of a TFO"[100] (CW argues that YEC's diesel generation bears little risk and that various factors mitigate YEC's hydro generation risks, including the assertion that "YEC operates an isolated grid without interconnection to outside producers ensuring that it can sell all the power it produces" [101]); and
    - YEC's capital structure should consist of not more than 37% equity based on the AUC's determination that a TFO's capital structure should consist of 36-37% equity.

[100] CW does not define "TFO" in its argument - the sole reference provided (transcript at pages 105-106) incorrectly quotes Mr. Marriott as saying TFO is "transition facility owner", rather than what he said ("transmission facility owner").

[101] Other points argued by CW on this matter include: "YEC's hydro generation bears risks during construction that are mitigated and borne by customers by the ability to charge CWIP during construction, amortizing the costs of studies that have not passed the Reasonable Assurance test and by review of the Resource Plan. YEC's hydro construction risks are manageable and no different than the construction risk faced by a TFO in Alberta. YEC's hydro availability risks and secondary sales risk are now borne by the customer. the risk resulting from fuel prices variability is borne by Rider F".

LE argues (Section 15, page 9) that the proposed ROE seems too high compared to the 2009 allowed return of 8.49% and continued low interest rates and weak economic conditions; however, LE provides no specific recommendation as to the ROE to be adopted for the test years.

UCG recommends (para 372-273) that the ROE for 2012 and 2013 be reduced to 8.25% (8.75%-0.5%) with the equity ratio retained at 40%, arguing that there should be no add-on of additional risk premium if YEC is allowed to use the low risk utility return on equity approved by the AUC. the use of 8.75% without the 52% risk premium to get an ROE of 8.25%. UCG argues (paras 362-370) as follows in support of its recommendation:

- YEC did not do cost of capital studies that would justify a mix and match approach between B.C. and Alberta precedents, and "without a risk comparison between the low risk utility used from the BCUC and the most recent Alberta ROE from the generic cost of capital hearing, there is no reliable basis for using the existing adjustment mechanism of 52 basis points".
- The YEC business mix does not inherently place it as riskier than the range of Alberta utilities considered in Alberta Decision 2011 (UCG here references Exhibit C3-24, Tab 26, even though Tab 26 was removed and not in evidence [T502, line 12]).
- YEC's business risk have decreased given that "approximately 93% of YEC's forecasted sales are firm (i.e., firm wholesales and firm retail) and industrial sales are backed by take-or-pay contract", and YEC "no longer faces the financial and business risk that it may have faced when volatile industrial sales formed a significant portion of its sales forecast"; UCG argues that YEC is also at a lower risk due to deferral accounts such as the DCF, ongoing bailouts and contributions by the Yukon government and YDC, revenue guarantees by rate relief programs, Rider F, and elimination of forecast secondary sales.

Yukon Energy Reply

Three intervenors commented on YEC's proposed ROE of 8.77%, with CW and UCG proposing (based on very different premises) that the ROE be reduced to 8.25% (CW proposed that this be a placeholder for 2013, pending final AUC determination of a generic ROE fro 2013), and LE arguing that 8.77% "seems too high". CW also argued that reliance on AUC methods requires reduction of YEC's equity ratio to 37% of the capital structure (UCG argues that the current 40% equity ratio should be retained in YEC's capital structure).

Yukon Energy submits that there is no basis from the evidence or regulatory principles for setting YEC's ROE for 2012 and 2013 at 8.25%, and that, in response to YEC's proposed approach to modify temporarily the established ROE determination procedure in response to the BCUC benchmark being last set in only 2009, CW and UCG have simply made unreasonable proposals that cannot be supported by any evidence in this proceeding.

As noted in YEC's Final Argument (page 10-11), Yukon Energy under no circumstances seeks or supports any adjustment to its long standing capital structure (40% equity, 60% long-term debt). Yukon Energy notes that the current proceeding provides no reasonable or tested evidence upon which the Board could support a revision of YEC's capital structure, or assess YEC's capital structure based on AUC methods. Specifically, Yukon Energy submits that the Board must reject CW's argument that YEC's risk can be re-evaluated according to AUC's evaluation in 2011-474 of appropriate capital structures of the utilities it regulates as provided in response to CW-YEC-1-41. There is no practical basis for comparison of YEC, either in size or in activities, to the listed Alberta utilities - and CW's arguments in this regard are either of no help to the Board, or totally wrong (such as CWs' assertion that YEC's isolated grid ensures "that it can sell all the power it produces"). CW's arguments in this regard totally also disregard past findings of the YUB, including Board Order 2009-02 that reviewed (page 29) YECL's acknowledgement that relative to YECL, YEC has more risk - and the Board's determination to set a risk premium for YECL in 2009 that was lower than for YEC. In summary, past Board findings highlight the extent to which, no matter what CW may argue based on AUC experience, YEC's mix of utility functions are in fact more risky than those of a more-distribution-focused utility in the same northern jurisdiction.

As reviewed in YEC's Final Argument (pages 10), in order to address the fact that BCUC's benchmark ROE at 9.5% was last determined in 2009, the Application proposed to use the 8.75% recent AUC generic cost of capital determination to update the ROE for a low risk utility. YEC has been clear in this regard that it only sought to retain a simplified approach to minimize regulatory burden, and to be consistent with past practice as approved by the YUB (and not to adopt AUC's totally separate approach or methods).

Yukon Energy continues to submit that a 8.77% ROE for YEC in 2012 and 2013 is reasonable based on the available evidence.

As set out in the Application, the 8.77% ROE was determined using only a portion of the AUC methods – and there is, in Yukon Energy's view, insufficient evidence to fully apply the AUC methods (including dealing with capital structure adjustments) to YEC, and Yukon Energy is any event strongly opposes any change to its long established capital structure, and does not support applying the full AUC approach to determine Yukon Energy's ROE.

The Application also provides separate non-AUC evidence to support the reasonableness of the proposed 8.77% ROE for YEC in 2012 and 2013.

In this regard, Yukon Energy has noted other relevant regulatory determinations relevant to the YUB on this matter that would support a higher YEC ROE for the test years of either 8.80% (based on recent NWT ROE decisions as reviewed below) or 9.52% (based on BCUC decisions as reviewed below).

In support of a 8.80% ROE, Yukon Energy notes recent NWT Public Utilities Board decisions that approved a ROE of 9.3% for the 2011 to 2013 test years for ATCO-owned utilities that also secured equity ratios of 43.5% and 44% for these test years[102]. In short, Yukon Energy submits that 9.3% provides evidence for the Board of a minimum "normal commercial return" on Yukon Energy's equity ("minimum" given that YEC's equity remains at 40% and that the ATCO-based northern NWT utilities are broadly similar in risk to YECL), and that reduction of 50 basis points as required by OIC 1995/90 would result in YEC's allowed ROE being 8.80% for 2012 and 2013. This evidence, as well as the recent Board Orders 2009-02 and 2009-08, also highlight the extent to which the Board should disregard UCG's repeated (i.e., it made the same arguments in the

[102] See YEC's Final Argument (page 11) which reviewed this evidence in support of the reasonableness of the proposed YEC ROE of 8.77% for 2012 and 2013.

2009 GRA proceeding, as reviewed in Order 2009-08) arguments that the 52% basis point risk adjustment for YEC is no longer relevant[103].

In support of a 9.52% ROE, Yukon Energy notes the following:

- Board Order 2009-08 stated (para 280) that the Board continues to be of the view that relying on a generic ROE from a different jurisdiction is the most efficient means of addressing an inherently complex and costly matter. Board Order 2009-08 determined (para 282) that the BCUC approach is a precedent for this jurisdiction and that it will continue to be a precedent until otherwise ordered by the Board. Further, the Board once again accepted the risk premium of 52 basis points, as had been previously established, for YEC (para 283).
- Based on Board Order 2009-08, and the evidence in the current proceeding, Yukon Energy submits that YEC's ROE for the test years would be set at 9.52% based on the latest available BCUC Benchmark ROE of 9.5%[104] and the accepted risk premium for YEC of 52 basis points.
- Given that the BCUC's benchmark ROE was last determined in 2009, and that BCUC is currently holding a generic cost of capital proceeding with a decision anticipated in 2013, adoption of a 9.52% ROE for YEC for 2013 could also be made on an interim basis pending completion of the current BCUC generic cost of capital hearing (i.e., if there are significant changes to either the benchmark ROE or the process of using this benchmark for setting ROE's for other BC utilities, YEC's revenue requirement would be adjusted through Rider R in the same manner as CW proposed for 2013).

[103] UCG's assertion (without evidence) that YEC can rely on take-or-pay contracts with industrials is not correct, i.e., no such provision ever existed with Alexco and the provision with Minto ended in 2012. UCG's arguments fail completely to recognize the Board's decisions on this matter in Order 2005-12 and 2009-08, based on grid conditions either without industrial loads or with minimal such loads relative to the Far mine.

[104] See the response to Undertaking #32 filed November 16, 2012 where it is noted that the 2009 approved ROE for Terasen (9.5%) may continue to be used as the Benchmark ROE in establishing the ROE for rate-setting purposes for other BC utilities pending completion of a new generic cost of capital proceeding (which is currently underway with a decision not expected until 2013). As noted, BC utilities continue to reference this benchmark and apply utility-specific risk premiums as approved by the BCUC; accordingly, if YEC were to continue to use the existing BCUC benchmark, the ROE would be 9.52%.

8.0 DEPRECIATION STUDY

Intervenor Arguments

LE provides (Section 14, pages 8 and 9) comments and concerns related to the KPMG depreciation study but does not make any specific recommendations to change the proposed depreciation rates. LE's concerns and comments relate to confusion over what information was provided to KPMG, concern that small facilities in Yukon should not be compared to large facilities in Manitoba or BC and other provincial facilities, and concern that 103 years is too long when in a review only 7 years ago the number was left unchanged at 50 years.

UCG asserts (para 252) that it is important that to have all Yukon utility assets reviewed at the same time (including YECL) to ensure consistency, and that the YUB cannot base its decision regarding the proposed depreciation rate changes on the KPMG analysis of comparable companies since there is no evidence that these companies are comparable to YEC's operations[105]. UCG argues (para 250) that YEC did not confirm the treatment of vehicle depreciation and that YEC should confirm exactly how it accounts for this depreciation. Finally, UCG also argues (para 249) that the Board should direct YEC to specifically identify the net impact that the proposed change to depreciation will have in each of the test years and going forward since the rate base will remain higher for an extended period of time.

Yukon Energy Reply

LE and UCG were the only intervenors that commented directly on the Depreciation Study provided in Tab 10 of the Application and the proposed changes to depreciation rates based on that study.

In response to general comments about the applicability of the proposed depreciation rates and the study supporting these changes, Yukon Energy notes that the record fully documents what was done by KPMG and their competence to conduct this study, any issues or queries arising related to this study were fully addressed during the first rounds of IRs (no follow up questions were asked in the second round of IRs), no party required KPMG to attend the oral hearing to respond to any further questions, and no intervenors filed evidence on this matter. In short, Yukon Energy submits that this evidence is the best information available to the Board as regards depreciation rates applicable to YEC at this time.

Specific issues raised by LE and UCG are addressed below.

[105] UCG argues at para 251 that the study did not identify all of the utilities relied upon for the comparison, and that some of the utilities cannot be considered comparable given differences (e.g., in size, some being publically traded companies, some being generational only utilities and some operating under US depreciation rules).

Clarity on information provided to KPMG

With regard to the assertion by LE that Yukon Energy was not clear regarding what information was provided to KMPG – the record demonstrates clearly the information available to KMPG for the purposes of the study:

- In cross examination at the hearing Mr. Mollard also specifically noted on page 509 and page 501 that KMPG was provided with Yukon Energy's asset information and retirement history[106].
- Tab 10, page 10-9 specifically notes, "The accounting history of additions, retirements, and balances is used to study service life experience and trends for various regulated power generation plant accounts. When the dates of the installation and retirements are known and appropriately complied, study procedures known as actuarial methods can be used. When such data are not available in a reliable form, techniques are available to simulate actual vintages of retired property. In this instance we were provided with information from a previous depreciation study as well as the additions and deletions from 2003 through year-end 2010 by management and were used as the basis of our depreciation study".
- Page 3 of the complete narrative report provided as response to YECL-YEC-1-56 notes, "The procedures in our analysis included but were not limited to the following: Analysis of historical data, including; Review of prior depreciation study results and other information available for in-scope assets (hydro and transmission) to understand the nature of the assets, historical acquisition or construction dates, current depreciation rates, planned usage requirements and risk factors affecting useful lives and salvage values; Interview engineers and other interested parties".

Comparable Utilities

With regard to the assertion that comparable utilities used were not truly comparable to Yukon Energy due to differences in location and size – it is noted that no other expert evidence was submitted by intervenors on this issue that would contradict the expert opinion and conclusions provided by KMPG. Further, the response to YECL-YEC-1-58(d) explained why other northern utilities (NWT, Nunavut) or other utilities from B.C. or Alberta with similar climate and terrain were not used as comparators, i.e., KPMG used comparable utilities where public and up-to-date information was readily available. At the time of the KPMG study, Northwest Territories Power Corporation was in the middle of preparing their own depreciation study update the results of which were not yet available. Nunavut Power does not have hydro or transmission assets. BC Hydro was one of the key comparable utilities.

[106] Q. So they would have had access to the information of that -- for example, that you provided in response to LE-YEC-1-31 E where there's capital reinvestment on a year-by-year basis in these facilities?
A. MR. MOLLARD: Yes, we provided them with our asset information and our retirement history.

Vehicle Depreciation

UCG –YEC-1-36(c) specifically did not confirm that vehicle depreciation is expensed as part of gross O&M and then 100% capitalized through direct capitalization. The depreciation of utility vehicles is addressed in the depreciation study. The response to UCG-YEC-1-39(a) Attachment 1 reviews depreciation expense for utility vehicles for 2010 and 2011 actual and 2012 and 2013 forecast years (under existing and proposed depreciation rates).

Net Impact of Depreciation Changes on Revenue Requirement

The net impact of depreciation changes on revenue requirement is fully addressed in the response to UCG-YEC-1-36 and no follow up IRs were provided on this during round two of the IRs[107]. It is clear from this response that any impacts on rate base during the test years are very minor compared to the reductions in depreciation expense.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

P. John Landry
Counsel for Yukon Energy Corporation

December 12, 2012

[107] This was also addressed in cross examination at transcript page 186.