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October 29, 2014

Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Bruce McLennan, Chair

Re: Yukon Energy Corporation Application to Revise the Diesel Contingency Fund and Related Amendments to the Energy Reconciliation Adjustment - UCG Written Argument

Dear Mr. McLennan:

As a registered intervenor in this proceeding, the Utilities Consumers' Group (UCG) hereby submits its written argument related to the above captioned application.

General Comments

As a general comment, UCG wants to ensure that all parameters of the Diesel Contingency Fund (DCF) going forward, including the function, operation, uses and ongoing regulatory surveillance (i.e., meaningful regulatory audits) are transparent and easily understood by ratepayers. UCG submits that there should not be any arbitrary judgements / interpretations / assessments needed by the utilities related to the operation and management of the DCF. UCG submits that self-serving determinations by the utilities and the Yukon government have taken the DCF away from its intended use as determined by settlement agreement among stakeholders. In UCG's view, ratepayers are at a significant disadvantage when trying to determine how the DCF has been maintained over the years.

UCG is very disappointed, yet again, that there was no ratepayer consultations conducted when the function / operation of the DCF and the Energy Reconciliation Adjustment (ERA) were being evaluated by the utilities prior to an application being submitted to the YUB. UCG submits that interested stakeholders should have been part of the future development of both the DCF and ERA mechanisms before decisions were made on proposals. Given that the Yukon's two utilities cannot even agree on how the DCF and ERA should operate, how can Yukon ratepayers be expected to plough through the counter-arguments of each utility in order to fully understand the repercussions of each utility's proposal, especially when we have not been made aware of all alternatives considered? UCG submits that the perception is that the Yukon Energy Corporation (YEC) and ATCO Electric Yukon (AEY) consider the DCF and ERA as their backup reserve to model and manage as they see fit.

UCG does not understand why the two Yukon utilities have no interest in consulting with their ratepayers who are expected to be protected by the DCF. In UCG's view, the current review process is not consultation but simply a requirement under the *Public Utilities Act* to review the two very different approaches of the utilities on the how the DCF and ERA should be operated.

UCG submits that the Yukon Utilities Board's priority is to come up with the best possible, long term mechanism that meets the Yukon government's commitment to and ratepayers' need for stable and affordable electricity costs. UCG notes that the Board is required by section 3 of OIC 1995/90 to

review and approve rates in accordance with principles established in Canada for utilities, including those principles established by regulatory authorities of the Government of Canada or of a province regulating hydro and non-hydro electric utilities.

UCG notes that neither of the utilities could confirm that the current electricity cost paid by ratepayers is affordable in the short and long term. UCG is especially disappointed in AEY's belief that ongoing payment of utility bills by its customers suggests that the rates charged by it are affordable¹. AEY must be so out of touch with the realities of living in the Yukon that it has no idea of the difficulties that its customers are having paying all of their living expenses nor that its customers understand that not paying the AEY bill could result in disconnection of an essential service.

UCG submits that the lack of understanding by YEC and AEY of the living expense difficulties faced by its customers has contributed to their lack of effort to fully consider the impact of the DCF and ERA proposals on customers.

YEC claims that the rule against retroactive ratemaking prevents a utility from seeking recovery of past costs in a future period². UCG submits approvals requested by YEC effective January 1, 2012 should be considered retroactive rate-making and not allowed. The expenses have occurred and ratepayers have made decisions over the last two years on how and when to use electricity based at least in part on the rates in effect at the time. To implement changes to cost allocation and recovery 3 years after the fact causes confusion, bill instability and affordability issues that Yukon ratepayers are looking to avoid.

UCG notes that if the ERA mechanism as proposed by YEC were to be approved, AEY claims that it would be expected to earn less than its awarded return, even if its sales, other revenue and all expenses other than purchased power were to be exactly equal to the forecast approved by the Board. UCG submits that normal businesses not operating under a monopoly mandate would consider that situation a challenge to ensure that productivity and efficiency gains would offset any potential costs.

UCG notes that AEY did not provide any explanation of the quantifiable benefits that Yukon ratepayers have received during 2009 through 2013 from its alleged reduced regulatory costs³. While AEY claims that average regulatory costs were reduced from \$321,077 per year for 2008 and 2009 to \$195,922 per year for 2013, 2014 and 2015, no explanation was provided as to why costs were reduced.

In trying to explain away the need for additional regulatory oversight, AEY refers to Board Order 2009-11 as the decision on costs for its 2008-2009 GRA. UCG submits that the correct cost orders were Order 2009-06 (Phase I) and Order 2011-08 (Phase II for 2009) which identify \$404,645.31 in total awarded costs in Phase 1 (\$204,684.65 to intervenors and the Board and \$199,960.66 in YECL costs) and \$237,631.76 for total Phase II costs allocated to YECL (\$475,263.52 / 2). Second, Order 2014-11 identifies total awarded costs of \$587,767.15 for the 2013-2015 GRA.

The fact that there were two phases to the 2008-2009 rates proceeding will automatically make it a more expensive process so there is no proof that AEY is actually saving the ratepayers anything with respect to regulatory costs. UCG submits that AEY has not provided any cost-based reasoning to argue against ensuring that a more customer-focussed regulatory regime is put in place to address rates and mechanisms such as the DCF and ERA.

¹ UCG-YECL-1

² YUB-YEC-1-19

³ UCG-YECL-17

Origins and Intent of DCF vs. Actual Use

Yukon Utilities Board Order 1996-6 (dated April 18, 1996) approved a Negotiated Settlement Agreement which included provisions for the creation of a DCF with the following terms:

"This fund is to replace the proposed rate stabilization fund. The fund will operate to smooth customer rate changes and offset forecast diesel costs. Rates and the fund will be determined using the long-term average water expected to be available for generation (105 + 246 GW.h). The initial funding will be determined based upon the funds available as at December 31, 1995. If additional funding becomes available due to other determinations with respect to diesel costs or other utility costs in 1995, the fund will be adjusted. The fund is only to be used for the purposes of stabilizing customer rates and offsetting diesel generation cost estimates and the fund is not to be accessed for other reasons, including government subsidy of rates.

The cap on the fund is set at the initial contribution level. If the fund accumulates revenues in excess of the cap, the surplus balance at the end of the year is to be refunded by way of a rate-rider to customers over the following two years. If the fund falls below the equivalent negative cap level, a rate-rider increasing customer bills will occur to maintain the fund within the positive and negative cap levels. The fund is to attract interest based upon the short / intermediate term bond rates in which the Companies may invest the fund and any negative balances would only attract interest at the lowest short-term borrowing rate available to the Companies through a line of credit.

The fund is to operate outside of rate base but an annual report detailing additions and deletions to the fund is to be filed with the Board so that the Board may oversee the fund activities. The Board will direct the Companies on the additions and deletions to the fund. The annual report to the Board will also include a forecast of available water for the following year." (March 11, 1996 Proposed Settlement of Issues Concerning the Revenue Requirement and Rate Design Application YEC and YECL)

In its Order 1997-4 (issued February 14, 1997), the YUB reviewed in some detail the discussions during the settlement process which led to a consensus amongst the parties on the DCF. The YUB found that the DCF was established to stabilize rates to offset diesel generation costs and that the DCF would only be active when diesel was on the margin. The YUB also noted that the name of the fund was changed from the Rate Stabilization Fund to the Diesel Contingency Fund which strongly indicated that the DCF's purpose was not just a rate stabilization fund but rather was directly related to the cost of diesel power generation.

UCG submits that there has never been transparent evidence provided that clearly shows that all of the funds withdrawn from the DCF have indeed only been used to offset diesel generation costs related to diesel generation at the margin. In UCG's view, the sporadic and summarized reporting on the DCF has raised concerns that the withdrawals from the DCF cannot be adequately matched to diesel generation at the margin.

On April 1, 1997, the Faro mine shut down and ceased to be a customer of YEC. In response to an application by YEC and Yukon Electrical Company Limited ("YECL") to increase rates due to the shutdown, YUB Order 1997-6 (issued May 26, 1997) approved an interim refundable rider surcharge of 20%, to be reviewed at a later hearing.

However, the Commissioner in Executive Council then issued a direction to the Board, as follows:

"The Commissioner in Executive Council directs the Yukon Utilities Board to determine and order by July 1, 1997 a method for providing rate stabilization from the Diesel Contingency Fund established by the Board in Decision 1996-7 in the form of a minimum 25 per cent reduction for all customers in the general rider surcharge approved by the Board in Decision 1997-6. The method determined by the Board shall provide that the rate stabilization be effective on June 1, 1997 and shall continue until such time as the surcharge is removed."

The YUB complied with the Order-in-Council and issued Order 1997-7 on June 18, 1997 which amended the operation of the Diesel Contingency Fund to allow the recovery of the above credit from the amounts in the fund. UCG submits that this action by the Yukon government was in contravention to the intent of the DCF as had been agreed upon by stakeholders.

On April 6, 1998, YEC filed a report (see **attachment 1** to this argument) which detailed the changes to the Diesel Contingency Fund for the year ended December 31, 1997. In this report, YEC indicated that actual incurred diesel expenses in 1997 were \$11.2 million. In response to UCG-YEC-1-8 (dated June 5, 1998) related to YEC's / YECL's 1997 rates application (see **attachment 2** to this argument), the utilities indicated that actual 1997 diesel fuel expense was less than \$7.7 million. UCG submits that this is just one example of why ratepayers can't trust the various numbers thrown together by the utilities that are not audited by an independent expert.

On April 22, 1998, YEC filed an application to finalize its 1997 rates. After the July 1998 hearing, Board Order 1998-5 helped to stabilize rates by disallowing recovery by YEC of \$3,177,200 Anvil bad debt, and directing that the balance in the Diesel Contingency Fund be used to make contributions to all eligible customers to offset the rate increases. UCG submits that this was also in contravention to the intent of the DCF as had been agreed upon by stakeholders. The evidence during the July 1998 hearing was that the DCF requirements to stabilize hydro-related cost impacts were significantly curtailed when the Faro mine closed, since diesel generation typically is no longer on the margin.

During the July 1998 hearing, YECL's Mr. Kerslake stated:

"If there is no diesel on the margin, then the fund would lie dormant and either you would have then a decision to make whether to go and get rid of the fund or you leave the fund sitting there waiting for the next time we go back into when diesel is on the margin."

The purpose of the July 1998 hearing was to see what could be done to deal with the fact that the Faro mine had shut down and was not expected to return in the foreseeable future. The hearing established that there was nothing in the *Public Utilities Act* or Orders-in-Council that limited or restricted the jurisdiction of the Board to utilize the DCF to help stabilize rates and mitigate the impact of what would have been a rate increase of almost 30%. However, UCG submits that relief mechanisms other than the specifically-purposed DCF should have been used in this circumstance. If the Yukon government and its agencies believe that relief for extraordinary electricity bill impacts is required because of the way the Yukon government has allowed the electricity generation / transmission / distribution system and the rates used to recover resulting costs to evolve, then they should look toward funding sources like the Yukon Development Corporation or other Yukon government funds. UCG submits that as the representative of the public interest in these matters, the YUB must take a stronger stance to avoid the corruption of mechanisms like the DCF that have been established for specific reasons through regulatory processes.

On June 2, 1999, YEC filed a report which detailed the changes to the Diesel Contingency Fund in 1998, together with revised reports for 1996 and 1997 (see YUB-YEC-1-2(a) Attachment 2 in this proceeding). The filing also included copies of relevant DCF tables for YECL. Despite UCG's request for a full review of the YEC report similar to the process for reviewing rate applications, the YUB used what appears to have been a fairly streamlined review process to find that approval of the report was in the public interest and issued Order 1999-3 on November 3, 1999 approving the additions and deletions to the Diesel Contingency Fund for 1996 to 1998 as filed. UCG submits that without making a more thorough and transparent review of the additions / deletions associated with the DCF and system operating conditions at the time of these additions / deletions, ratepayers are left not knowing if they are truly paying what is fair and reasonable.

As another example of the lack of scrutiny, on October 7, 1999, YEC filed a report which included background information that was intended to assist the YUB in its review of DCF filings (see YUB-YEC-1-2(a) Attachment 2 in this proceeding). As is noted by YEC on page 3:

“The DCF is intended to offset diesel generation cost changes for the WAF system that are caused solely by variances from long term average levels of WAF system hydro and wind generation.”

In attachment A to the October 7, 1999 filing, YEC notes:

“The rationale for drawing down the fund in some months when actual diesel is lower than originally forecast is the assessment that the actual diesel generation was required solely due to low water now conditions (or other factors that similarly reduced hydro capability below long-term average capabilities).”

UCG submits that these types of assessments are being made by YEC without any review of the details of the situations when these decisions are being made.

According to YEC (see UCG-YEC-1-12 in this proceeding), the DCF has been dormant because diesel was not required at long-term average hydro generation water conditions for many years after the Faro mine closed in early 1998. The DCF was last used for payments related to water flow variations in December 1999 and these payments were due to diesel generation requirements resulting from low water conditions.

YEC goes on to say that the utilities did not benefit as a result of the DCF being inactive over the period following the closure of the Faro mine arguing that the DCF was designed to ensure that the DCF (and utility ratepayers), rather than YEC earnings, pays for, or benefits from, changes to grid diesel generation due to fluctuations in grid hydro generation when diesel is on the margin. During the period after the closure of the Faro mine, there was a material hydro surplus and minimal requirements for diesel generation, even under most conditions when hydro generation was lower than long term average. As a result, except as noted in 1999, there were no changes in diesel generation during this period related to fluctuations in hydro generation related to water conditions.

AEY contradicts YEC's positioning by stating that the utilities benefited from the dormancy of the DCF and ERA because each earned additional revenue from sales growth⁴.

UCG submits that the record of this proceeding clearly demonstrates that YEC assumed control over the operation and reporting requirements of the DCF and then unilaterally suspended the operation of this fund which resulted in additional revenue from sales growth. Despite the negotiated and YUB-approved requirement to submit annual reports detailing additions and deletions to the DCF so that the YUB may oversee the DCF activities, no such reporting took place between 2001 and 2011, with the exception of 2008. Despite YEC's own evidence that diesel generation can in fact be on the margin for the WAF system during certain months under specific non-normal conditions even though the Faro mine is closed (see June 2, 1999 letter to YUB, page 4, in YUB-YEC-1-2(a) Attachment 2), YEC chose to suspend and keep the DCF dormant for these many years.

UCG submits that the obligation to ensure such reports are publicly filed is the responsibility of both YEC and the YUB. Without these reports as a trigger mechanism, no review of the operation of the DCF has taken place.

YEC states that (YUB-YEC-1-2 (a), p.3 in this proceeding):

“YEC's current DCF proposal is consistent with previously approved DCF as regards accounting for "diesel on the margin", i.e., it does not include diesel generation for emergency, maintenance or other

⁴ UCG-YECL-12

similar special non-water and non-load conditions, and it does not attempt to separate out "peaking" from other diesel generation when diesel is on the margin."

UCG submits that this is obviously YEC's own view of how the DCF worked in the past and how it should continue to operate into the future. UCG agrees that the purpose of the DCF is to protect ratepayers from diesel generation cost impacts caused by fluctuation of hydro generation due to water conditions, not diesel generation costs due to temporary construction works. The diesel generation that is required to facilitate the commissioning of projects such as Mayo B and the Aishihik Third Turbine must be charged to the capital costs for each project since the diesel generation only relates to the construction of the project. On a similar basis, diesel generation requirements that arise due to transmission line outages (such as may occur due to forest fires) must be funded by the Reserve for Injury and Damages (RFID) or insurance must continue to be specifically excluded from the DCF.

In response to UCG-YEC-1-7 in this proceeding, YEC did not provide any explanation for how a regulator like the YUB establishes precedent and where in the *Public Utilities Act* the YUB is given the powers to set precedent so UCG does not understand why YEC would suggest in its application that the DCF should be "consistent with long established precedents" in the Yukon (YEC Application, p. 2).

According to YEC (see response to UCG-YEC-1-8 in this proceeding), their proposed Option A includes provision for a DCF mechanism that is designed to smooth customer rate changes and changes in forecast diesel costs due to variability in existing grid hydro and wind generation. YEC also submits that Option A includes provision for an ERA that is designed to ensure that YECL receives a pass through of the YEC incremental costs [or cost savings] of diesel generation (when diesel is on the margin) driven by increases [or decreases] in the volume of wholesale sales to YECL relative to GRA approved forecasts used to set the wholesale energy rate charged by YEC to YECL; and to ensure that Yukon Energy is able to recover its costs (as required by OIC 1995/90 section 7(b)) when diesel is on the margin.

UCG submits that the utilities continue to ignore the impacts that their proposals could have on ratepayers. While they will happily propose measures to help guarantee recovery of all costs incurred (whether prudently or not), they neglect to provide any evidence that bill impacts and mitigation measures have been considered.

In response to UCG-YEC-1-20 in this proceeding, YEC states that a DCF mechanism is necessary to manage risks and costs to ratepayers related to variances in water availability on the integrated grid. UCG submits that these types of mechanisms put all of the onus on ratepayers rather than ensuring that utilities are held accountable for their operational decisions.

Other Jurisdictions

As noted above, the Board is required by section 3 of OIC 1995/90 to review and approve rates in accordance with principles established in Canada for utilities, including those principles established by regulatory authorities of the Government of Canada or of a province regulating hydro and non-hydro electric utilities. UCG submits that YEC and AEY have not adequately provided the Board with analysis of what mechanisms have been tested and/or put in place in other jurisdictions.

While YEC states in response to information request YUB-YEC-1-1(f) in this proceeding that experiences in other jurisdictions indicate that it would be appropriate for Yukon ratepayers to be paying for their own contingencies related to low water conditions, YEC did not provide any detail on the experiences from other jurisdictions.

Similarly, in response to information request YUB-YECL-5(d) in this proceeding, AEY states that the DCF used in the Yukon should be based in part on the method approved by the Northwest Territories

Public Utilities Board for Northland Utilities. However, AEY did not provide details of the mechanism approved for Northland Utilities nor its evolution.

In its evidence, UCG attempted to provide the Board with illustrations of the DCF-like mechanisms that have been proposed and/or implemented in other jurisdictions.

In its evidence, UCG identifies the history of the rate riders and stabilization funds that have been established in the Northwest Territories and the number of iterations it took to get where they are today. Of particular importance is the determination by the NWT Public Utilities Board in its Decision 1-2013 that it remained concerned by a rate stabilization fund mechanism which allows pass through of all diesel costs as this may not provide the appropriate incentive for the utility to maximize use of the hydro resource. UCG submits that the same lack of incentive exists in the Yukon and the utilities must be directed to optimize the use of current and potential hydro-based generation and extensively use demand side options to reduce the need for diesel generation especially in low water years. The utilities should also be incented to ensure that alternative forms of generation are optimized where they are determined to be more economical than diesel generation. Given the transient nature of the industrial load that causes more reliance on diesel generation, UCG submits that the utilities should be incented to get these loads off the grid and served through on-site generation for the limited time that they are operating in the Yukon.

UCG notes YEC's unsubstantiated claim that *"from the outset of Board review of YEC revenue requirements, it was understood that the risk of low water conditions would need to be borne by the customers of the utility"*⁵. UCG submits that there is nothing on the record to prevent the YUB from providing an incentive to the utilities by having them share the burden of diesel generation costs that they are incurring as a result of their system operating decisions.

With respect to Manitoba, UCG's evidence summarizes the determinations of Manitoba Public Utilities Board's Order 116/08 which speaks to the importance of the utility to submit a quantified analysis of its major risks and analysis that would put numbers to the major risks associated with a low water year. UCG submits that there has been no such analysis presented in this current proceeding by YEC or AEY so the Board is left to speculate whether there is a significant need for a DCF, what level of fund is required, and how the burden should be shared between the utilities and ratepayers. UCG submits that, similar to Manitoba, the YEC and AEY must be required to provide a corporate risk management plan and an analysis of the implications of internally restricting retained earnings as a form of self-insurance reserve and rate stabilization fund. UCG also notes that Manitoba Hydro could not identify any advantages to establishing and maintaining a separate rate stabilization fund / drought protection fund for domestic customers.

In the evidence submitted regarding practices in Newfoundland, UCG has highlighted the option of establishing a regular rate adjustment date to annually establish a refund to or collection from customers (and the associated time period) balances which accumulated in the Rate Stabilization Fund to address the ever changing customer make up of the utility. This eliminates the need for a triggering threshold. UCG also notes that Newfoundland's Board of Commissioners of Public Utilities Order No. P.U. 9(2014) directed that the Newfoundland Power Rate Stabilization Plan Surplus shall be refunded to all ratepayers with the exception of the Island Industrial customers in the form of direct payment or rebate and in a manner to be approved by the Board.

With respect to evidence submitted regarding Nova Scotia, UCG is bringing the Board's attention to Nova Scotia Power's practice of meeting with customer representatives a year prior to submitting a proposed Rate Stabilization Plan to the regulator for approval. Of equal importance are the pre-requisites prior to the implementation of a fuel adjustment mechanism which included:

⁵ YUB-YEC-1-1

- an adequate and appropriate fuel procurement policy at Nova Scotia Power in which the Board has confidence;
- timely disclosure of complete and adequate information by Nova Scotia Power so as to ensure confidence that the procurement policy is being appropriately administered;
- disclosure and transparency with respect to the administration of the fuel adjustment mechanism; and
- a meaningful audit process under the administration of the Board.

UCG's evidence also provides the YUB with proof that Nova Scotia Power has implemented internal productivity initiatives to significantly reduce operating costs. UCG submits that directing Yukon utilities to follow the standards established in other jurisdictions can't help but lead to identification of and plans to achieve productivity improvements and cost reductions.

Energy Reconciliation Adjustment

YEC confirmed during the oral hearing related to its 2012-2013 General Rates Application that the intent of the ERA is to ensure that YECL receives a full flow-through of the incremental costs of the diesel generation driven by increases in the volume of wholesale sales and also to ensure that YEC is able to recover its costs when diesel is on the margin⁶. Despite the fact that the proposed ERA is expected to have significant impacts on AEY's customers, YEC has not provided any alternative approaches to this mechanism that eliminates more of the risk for which YEC receives compensation through the allowed return on equity.

UCG submits 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 AEY, UCG recommends that the YUB not approve this proposal until more time has been put into evaluating available alternatives.

UCG questions the flip-flop in arguments provided by YEC when it comes to ERA calculations attributing specific diesel costs to a specific customer⁷. First, YEC argued during its 2012-2013 GRA (see response to LE-YEC-1-38) that individual industrial loads connecting to the grid, or the industrial class overall, should not be responsible for the full cost of the incremental increase in diesel generation associated with connecting such loads to the grid. YEC called this approach rate discrimination, charging one class or customer for firm service on an entirely different basis than all other customers or customer classes. But YEC has no issue with charging AEY the full amount of an ERA reflecting incremental diesel generation costs. UCG does not see a difference in scenarios and questions why YEC's other customers are not also sharing the costs of diesel generation rather than putting all of the ERA burden on AEY's customers given that the ERA primarily addresses cost sharing between the two utilities.

Given YEC's intention that monthly calculations for the ERA will be made, UCG submits that these calculations and a full explanatory narrative must be circulated to stakeholders so that issues can be addressed sooner rather than later.

While YEC confirmed that there would have been no ERA charges to AEY in either 2012 or 2013 if the actual YEC wholesale sales to AEY had been equal to YEC's GRA approved wholesale forecast for 2012 and 2013 (see response to information request AEY-YEC-1-1 in this proceeding), YEC misses the point when indicating that YECL and others argued at that time that YEC's wholesale sales forecasts should be reduced. UCG submits that the key to arguments posted at that time were that YEC's wholesale sales forecast should be increased since YECL had jurisdiction to provide service to

⁶ YEC 2012-2013 GRA - Transcript Volume 1, page 128

⁷ AEY-YEC-1-8

Whitehorse Copper and that the utilities should be directed to establish an agreed upon forecast. The ongoing disputes between YEC and AEY on all issues continue to cause more costs for ratepayers and more uncertainty regarding whether Yukon ratepayers are being served in an efficient manner.

Comments on Rebuttal Evidence

Both YEC and AEY took the opportunity to submit “rebuttal evidence” to the evidence submitted by UCG in this proceeding. UCG’s understanding is that rebuttal evidence must be confined solely to statements on the subject matter of the evidence rebutted and that new evidence on other subjects may not be brought in rebuttal. Without the utilities taking the opportunity to submit information requests to understand how UCG intended to use the evidence filed, UCG questions how any of the new evidence introduced by the utilities in rebuttal is relevant to UCG issues supported by its evidence.

YEC submitted that the information and examples from other jurisdictions filed by UCG were without the necessary context or analysis in order to assist the Board to determine the relevance, if any, of these particular mechanisms to the Yukon integrated system or regulatory environment and the issues related to the DCF in the current proceeding. YEC went on to provide what it considered “context for the other rate stabilization mechanisms included in the UCG submission and assesses the relevance, if any, of these other mechanisms to the current proceeding with specific regard to the DCF”.

First, UCG submits that it has been left to the argument phase of this proceeding for intervenors to provide any context and relevance of the evidence to the Board’s deliberations. It certainly can’t be the fault of UCG that the utilities did not submit information requests on UCG’s evidence in order to gain additional insight into the purpose of the filed evidence. To suggest otherwise is simply the ongoing practice of the utilities attempting to hijack regulatory proceedings and attempt to stifle efforts of under-funded intervenors to effectively contribute to the regulatory process.

While UCG understands that other parties have been given the opportunity to submit comments on the evidence filed by UCG, it is not clear where the utilities have been given the opportunity to also submit new evidence that has not been subject of testing within a public forum. For example, YEC refers to a September 3, 2014 application by the Northwest Territories Power Corporation for a two-year stabilization fund rate rider and the how it has been processed and the conclusions that YEC has made as a result of that application. Without the opportunity to see and test this evidence related to these claims, UCG submits that this hearsay evidence has no place within these proceedings nor should it be considered during the Board’s deliberations.

Similarly, YEC has not provided any evidence to support the claims that it makes in its “rebuttal evidence” associated with Manitoba Hydro, its “extensive connections to several neighbouring jurisdictions”, its resulting ability to secure power from other jurisdictions during periods of drought and to sell surplus hydro generation to other jurisdictions when water supplies are well above long term average and/or domestic loads are inadequate to fully utilize long term average hydro generation, the lack of accounting of water change impacts or fuel price changes, the use of Manitoba Hydro’s retained earnings, and the conclusions of Manitoba PUB Order 25/92 which is not on the record of this proceeding. Given the Board’s past practice of not considering submissions that have not been backed-up by evidence on the record of a proceeding, UCG submits that the same should be done for YEC’s observations and conclusions.

UCG submits that for YEC to simply provide a listing of general descriptions of work that InterGroup Consultants has done in other jurisdictions does nothing to aid the Board in its deliberations. Without details of the “expert advice” provided and how it was used / not used by the regulator in coming to decisions in these other jurisdictions makes this material useless. Without the opportunity to test this

new evidence of the claimed expertise on YEC's payroll, UCG submits that it should carry absolutely no weight within the Board's deliberations.

UCG submits that YEC is absolutely wrong in its conclusion that a core principle common to other jurisdictions addressing risks related to water variability is that ratepayers (not the utility or its shareholder) are ultimately at risk for cost impacts caused by variations in water availability. The Board need only review the concern of the NWT Public Utilities Board in its Decision 1-2013 that a rate stabilization fund mechanism which allows pass through of all diesel costs may not provide the appropriate incentive for the utility to maximize use of the hydro resource. UCG submits that this implies that any incentive to optimize hydro-based generation would include the sharing of diesel fuel costs between the utility and ratepayers.

As was the case with YEC, AEY has taken the opportunity to submit new evidence as part of its "rebuttal evidence". Without knowing how UCG had intended to use its evidence, how could AEY conclude that the evidentiary record was incomplete? As is explained above, UCG's intent was to provide the YUB with examples of components of DCF-like mechanisms in other jurisdictions in order to ensure that the Board understood that the world of contingency and rate stabilization funds was not restricted to the limited approaches proposed by the Yukon utilities.

Again, without the opportunity to test AEY's new evidence, UCG submits that it has no place within these proceedings nor should it be considered during the Board's deliberations.

UCG submits that the YUB cannot presume that everything submitted to the record of a proceeding by the utilities is prudent unless challenged on reasonable grounds especially in situations like this where no party has been given an opportunity to test the evidence.

Recommendations for Diesel Contingency Fund and Energy Reconciliation Adjustment

UCG understands that material changes have occurred to the electricity generation / transmission / distribution systems within the Yukon since the DCF mechanism was established by the Negotiated Settlement in 1996/97. UCG agrees that any changes to the DCF and ERA mechanisms should reflect the current integrated grid system and any YUB directions regarding long-term average hydro generation forecasts when setting diesel generation costs.

In addition to the arguments submitted above, UCG makes the following recommendations on the development of a new Diesel Contingency Fund and Energy Reconciliation Adjustment mechanisms:

1. Any Diesel Contingency Fund (DCF) established must ensure that YEC and AEY are given the appropriate incentive to maximize the optimal use of the Yukon's hydro generation resources. This means that the DCF must not allow the pass through of all diesel costs to ratepayers.
2. For DCF calculations, diesel must always be considered "on the margin" and determined by using a combined long-term grid hydro generation forecast (i.e., minimum of 28 years) for all of hydro and wind generation facilities and the total grid YUB-approved forecasted diesel consumption for each year.

UCG submits that any year for which the forecasted diesel consumption has not been specifically approved by the YUB, the forecast last approved by the YUB must be used. Since the Energy Reconciliation Adjustment (ERA) does not apply when there is no change in wholesale sales from forecast, if there are material changes expected in load shape and/or capacity of renewable generation, YEC must be directed to seek prior YUB approval of its diesel consumption forecast.

3. Instead of relying on outside consultants like the KGS Group from Winnipeg to provide the related engineering work and modelling, YEC must be directed to look to local Yukon firms to provide these services. UCG questions why so much of the expertise in regulatory and operational issues hired by YEC must come from Manitoba.

UCG submits that it is detrimental to the review efforts of the YUB and stakeholders to have YEC refuse to provide all the data, calculations and assumptions used to derive the YECSIM model by hiding behind a proprietary model claim⁸. YEC did not provide any reasons why they consider this model to be proprietary, how disclosure would harm any competitive position nor did they produce any license agreement prohibiting its disclosure. UCG submits that the onus is on YEC to demonstrate that public disclosure, even in redacted form, creates potential exposure of competitive business processes to competitors.

UCG is not convinced that YEC's desire to keep the YECSIM model hidden overrides the Board's and stakeholder requirements for transparency and accessibility. UCG submits that the YECSIM model's content and relevance to the matters at issue in this proceeding is a significant consideration in determining whether or not a model should become part of an ongoing public record. UCG submits that the YECSIM model must be provided to all parties whenever it is used to develop DCF and ERA calculations.

4. If actual diesel generation costs are less than forecast due to utilization of higher water than the forecasted water flows, then the DCF balance is increased by that amount. If diesel generation costs are greater than forecast caused by low water conditions, the DCF is decreased by that amount. All DCF adjustment reports must be circulated to all interested stakeholders for comment and then the Board will approve any adjustments.
5. The Energy Reconciliation Adjustment (ERA) must address the cost sharing between YEC and AEY by determining the amount of YEC incremental diesel generation costs to AEY and to customers directly served by YEC. This mechanism must fully utilize AEY's revenue offsets as well as the exclusion of YEC's net cost impacts for industrial and retail variances (i.e., to ensure ratepayers are protected from the two utilities' incremental costs which are recovered through incremental increased load revenues).

YEC's monthly calculations for the ERA and full explanatory narratives must be circulated to stakeholders so that issues can be addressed sooner rather than later.

6. YEC and AEY must jointly file an annual load forecast for all generation / distribution areas for YUB approval so that the ERA will more accurately share the sales forecast risk by the two utilities. This report must include the forecast available hydro generation and forecast grid diesel consumption for the upcoming year.
7. The Fuel Adjustment Rider must be incorporated into the DCF/ERA mechanism. Only fuel cost variances from the YUB-approved forecast diesel consumption will be permitted. As it stands, allowing all diesel costs to be recovered from ratepayers does not provide incentive for the utilities to maximize the optimal use of hydro generation.
8. Any revenues received from secondary sales must be credited to ratepayers immediately to prevent the utilities from receiving windfall income based on how they choose to use the integrated system. Secondary sales revenues should either continue to be credited to Rider F or credited to the DCF with properly audited reporting provided to stakeholders.

⁸ AEY-YEC-1-5

9. A pre-determined schedule must be established for reporting continuity schedules to the regulator (e.g., quarterly or semi-annually, including full Excel spreadsheets with formula intact and explanatory narratives) with the Board overseeing / setting any rate adjustments after a full audit by a pre-approved independent expert paid for by the utilities. The Board will determine the amounts to be added or deleted from the DCF. If the DCF accumulates revenues in excess of the cap, the surplus balance will be refunded by way of a rate rider to residential and commercial customers only (i.e., no refund to the industrial class). If the DCF falls below the equivalent negative cap level, a rate rider increasing customer bills will occur to maintain the DCF within the positive and negative cap level. The DCF must attract interest based upon short-term bond rates and any negative balance must attract interest at the lowest short-term borrowing rate available to the utilities.

UCG recommends that any refund / recovery related to DCF balances be divided into equal monthly amounts to all non-industrial customer classes rather than be linked to a consumption-based per kWh rate rider. UCG submits that this type of approach will help to incent energy conservation.

10. If a threshold / cap is required for the DCF, it must be set at +/- \$4 million (as originally applied in the 1997 negotiated settlement and resulting Board Order 1996-7) or at the very extreme +/- \$5.2 million or a one year cost of average drought condition (as taken from YEC Supplementary Evidence dated June 30, 2014, page 2-4 – “At an assumed diesel fuel cost of 28.71 cents per kW.h, the long-term average diesel fuel generation cost of \$5.2 million represents the average of a range of possible water conditions...”).
11. The NWT PUB determined that a lower threshold than that proposed by their utilities was prudent to be more advantageous for ratepayers. (See below).

The Public Utilities Board of the Northwest Territories Decision 16-2010 (page 24):

“Board Findings:

The Board notes that under the existing rate stabilization funds, the largest trigger point applies to the water stabilization fund in the amount of plus or minus \$3 million. The Board notes from Attachment BR NTPC 6 (b) that the rate impact on certain communities such as Fort Smith and Fort Resolution could be significant with a \$5 million threshold for the consolidated rate stabilization fund.

It is also the Board’s view that much of the public and political concern regarding electrical rates over the past two years was a result of NTPC allowing the stabilization funds amounts to get too high and then seeking recovery of those amounts on top of base rate increases. More timely activation of the current stabilization funds through lower and firm thresholds could have prevented much of this concern and produced more consistent and stable rates for NTPC ratepayers.

Having regard to rate stability and public concern considerations, it is the view of the Board that the proposed trigger of \$5 million for the territorial fuel and low water fund is too high. The Board directs NTPC to set the trigger point for the consolidated rate stabilization fund at \$2.5 million. (Emphasis added)

UCG notes that no risk analysis was provided by either YEC or AEY to demonstrate a +/- cap for the DCF. UCG submits that the amounts accumulated from prior holdings plus the input from 2012 and 2013 to the present, after determination of the surplus above the cap for the new DCF program, must be immediately refunded by way of a DCF refund rate rider to the firm retail customers (i.e., non-industrials) over the next two years.

For example, in YEC's evidence⁹, the amount that would now be accumulated in the DCF up to 2013 is over \$8 million. Plus the amount for the forecasted 2014 year which is coming to a close, likely by the time of a YUB decision is delivered on this matter. In other words, a considerable amount of money saved by the availability of water in the Yukon grid system should appropriately be used to provide firm rate customers with relief (especially for the upcoming cold months) as a DCF surplus rebate to make up for the increase in utility rates listed as riders on bills.

12. A joint utility risk analysis must be undertaken to determine if and when the cap should be altered. This report must undergo a public process/scrutiny for consideration.
13. The DCF must be used for all prudent diesel fuel used for electricity generation unless the costs can be charged to capital projects or the diesel-fuelled generation requirements arise due to transmission line outages (such as may occur due to forest fires) which must be funded by the Reserve for Injury and Damages (RFID) or insurance.
14. Where attempts are made by the Yukon government to access funds within the DCF for other than the purpose intended, the YUB must make the government aware of the purpose of the DCF and the agreed-upon use of these funds.
15. The DCF and ERA cannot be revised, de-activated, suspended nor placed into dormancy without prior public process and regulatory approval.

Yours truly,

Roger Rondeau
Utilities Consumers' Group

⁹ UCG-YEC-1-6(b) Attachment 1,p.4; UCG-YEC-1-5(b) Attachment 3, p.10; and UCG-YEC-1-5(b) Attachment 4, p.1

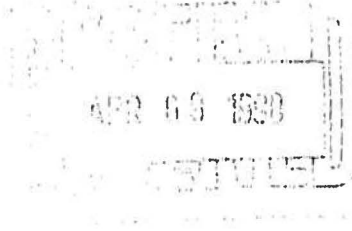
TAB 1

YUKON
ENERGY



YUKON ENERGY
CORPORATION
P.O. BOX 5920
WHITEHORSE
YUKON Y1A 5L7
Telephone (867)667-8382

File: 2/830-00
2/8007-00



April 6, 1998

Yukon Utilities Board
#19, 10014 - 1 st Avenue
P.O.Box 6070
Whitehorse, Yukon Y1A 5L7

Attention: Mr. Jim Slater, Board Secretary

Dear Sir:

The Companies hereby provide a continuity schedule detailing Deferred Diesel Expense and charges to customers.

**Deferred Diesel Expenses Continuity Schedule - YEC/YECL
For the year ended December 31, 1997**

Deferred diesel expense - December 31, 1996	422,508.59
Actual incurred diesel expenses - 1997	11,210,522.65
Less Aishihik OIC impact paid by YDC	(652,404.00)
Diesel expense at GRA approved rates - 1997	<u>(9,584,847.65)</u>
Net deferred expense prior to Rider F collections	1,395,779.59
Rider F collections February 1, 1997 - December 31, 1997	<u>(916,984.05)</u>
Deferred diesel expense - December 31, 1997	<u>478,795.54</u>

Rider F will continue in the 1998 year to recover the deferred diesel expense, which amounted to \$478,795.54 at December 31, 1997.

Yukon Utilities Board

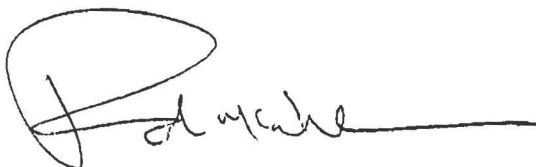
April 6, 1998

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If you should have any questions with regards to the above amounts, please do not hesitate to contact either YEC or YECL.

Yours truly,

YUKON ENERGY CORPORATION



Rob McWilliam
President & Chief Executive Officer

THE YUKON ELECTRICAL COMPANY
LIMITED



John Carroll, P. Eng.
General Manager

TAB 2

UCG-YEC-1-8

- Q.** Reference: Revised Application, Table 1
- Preamble: UCG would like to determine if actual sales and generation varied from forecast.
- Request: The Applicants are requested to provide for each company:
- i. a table in format similar to Table 1, showing actual sales, generation, fuel prices and fuel consumption by community for 1997; and
 - ii. explanation for differences of 10% or more between forecast and actual values.

A. i. and ii.

Table 1 was prepared on a consolidated basis for YEC and YECL operations on the WAF system. As noted in the 1996/97 GRA (response to ARM-YEC/YECL-1-1 Supplemental), when similar information was requested with respect to the WAF system, monthly WAF sales and monthly WAF generation for actual results will not directly match due to billing lags. For the purpose of this answer, no attempt has been made to provide monthly data. The annual data provided below also exclude YECL retail sales, since this information is not available to YEC.

The question addresses actual fuel prices and fuel consumption, and this is provided below. However, it is important to note that actual fuel volumes and prices are adjusted in the following ways in order to derive actual fuel expense recorded in the accounts of the utilities:

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RATE PROPOSAL

- 1) **fuel price variance:** differences between actual and GRA forecast fuel prices are assigned to the fuel price variance account, and are not recorded as part of the utility's final expenses; in 1997, diesel fuel prices exceeded GRA forecast prices, and as a result approximately \$1.467 million of YEC's actual fuel purchase costs (about \$1.333 million related to the WAF system) were charged to the fuel price variance account.
- 2) **Diesel Contingency Fund:** diesel generation cost variances from forecast that are due to fluctuations in hydro-generation capability, relative to long-term averages as provided at the last GRA, are recorded to the Diesel Contingency Fund (DCF) and are not recorded as part of the utility's final expenses, in months when diesel generation is in fact on the margin for the WAF system; in 1997, the following adjustments were made to utility costs due to the DCF:
 - a) **YEC:** DCF charge to YEC of approximately \$23,280 to reflect YEC diesel generation cost savings due to YEC WAF hydro-generation in excess of long-term averages assumed in the 1996/97 GRA
 - b) **YECL:** DCF payment to YECL of approximately \$177,878 to reflect YEC diesel generation cost excesses due to YECL hydro-generation below long-term averages assumed in the 1996/97 GRA.
- 3) **Aishihik OIC:** OIC 1997/13 directed the Yukon Development Corporation to compensate YEC \$4,329,000 for the excess costs incurred during 1997 on the WAF system due to the reduced availability of hydro electric power resulting from raising the licensed water level above the Aishihik dam by two feet. Approximately 37 GW.h of actual YEC WAF diesel generation in 1997 was therefore charged to the Yukon Government pursuant to this OIC; approximately \$2.95 million reflected fuel costs at GRA fuel prices plus approximately \$0.654 million of added charges to reflect actual fuel costs (other charges related to the OIC included costs paid to ARM for related diesel generation and approximately \$0.59 million for diesel O&M costs, of which \$0.296 million has been recorded as a contingency reserve for future maintenance costs). The DCF was also adjusted accordingly to show 37 GW.h of added YEC hydro generation and 37 GW.h of reduced YEC diesel generation.

- 4) **Whitehorse Fire:** The analysis below does not assess the extent to which diesel costs were incurred as a result of the fire; these costs will be covered by insurance.

The above adjustments are not reflected in the numbers provided below. Explanations for specific variances are also not addressed in light of the above detailed explanations. The major variance for WAF reflects the shutdown of the Faro mine, and reduced sales to this customer.

<u>WAF SYSTEM</u>	Revised Forecast MWh	Actual MWh	Variance MWh	Variance %	Note
YEC Sales (MWh):					
Faro retail	9,366.7	8,709.7	(657.0)	-7.0%	
Other retail	406.8	463.1	56.3	13.8%	
ARM	180,000.2	75,352.9	(104,647.3)	-58.1%	
Wholesales	218,470.7	222,196.2	3,725.5	1.7%	
Total Sales	408,244.4	306,721.9	(101,522.5)	-24.9%	1
YEC Non-Diesel Generation (MWh):					
Whitehorse Hydro	246,297.6	182,505.7	(63,791.9)	-25.9%	
Aishihik Hydro	104,790.0	59,176.0	(45,614.0)	-43.5%	
Wind	300.0	228.2	(71.8)	-23.9%	
Total	351,387.6	241,909.9	(109,477.7)	-31.2%	2
YEC Diesel Generation (MWh):					
Whitehorse	49,950.9	49,343.1	(607.8)	-1.2%	
Faro	34,253.6	32,490.4	(1,763.2)	-5.1%	
Total WAF Diesel Generation	84,204.5	81,833.5	(2,371.0)	-2.8%	3
Total YEC WAF Generation (MWh):	435,592.1	323,743.4	(111,848.7)	-25.7%	
Reconcile 1997 forecast generation to Table 1:					
YEC WAF Generation (MWh):	435,592.1	323,743.4	(111,848.7)	-25.7%	
YECL WAF Generation (MWh):					
Fish lake hydro	10,042.0	6,343.2	(3,698.8)	-36.8%	
YECL peaking diesel	3,270.0	1,239.5	(2,030.5)	-62.1%	
	13,312.0	7,582.7	(5,729.3)	-43.0%	
Total YEC/YECL WAF Generation	448,904.1	331,326.1	(117,578.0)	-26.2%	

Fuel Consumption (Litres (,000)):

Whitehorse	13,464.1	12,874.5		
Faro	9,014.1	8,509.4		
YEC Consumption	<u>22,478.2</u>	<u>21,383.9</u>	(1,094.3)	-4.9%

Fuel Price (\$/Litre):

Whitehorse	0.2892	0.3513		
Faro	0.3083	0.3710		
YEC	<u>0.2969</u>	<u>0.3592</u>	0.0623	21.0%

Fuel Cost (\$,000):

Whitehorse	3,894.2	4,523.2		
Faro	2,778.8	3,157.1		
YEC	<u>6,673.0</u>	<u>7,680.3</u>	1,007.3	15.1%

Note: Actual 1997 fuel expense is as incurred fuel cost before adjustments for fuel price variances and before adjustments related to the diesel contingency fund.

- 1 Total sales are lower than forecast due to the reduction of ARM industrial and Faro retail sales caused by the shutdown of ARM mine.
- 2 *YEC non-diesel generation is lower than forecast due to the reduction in WAF generation requirements caused by the loss of the ARM mine sales*
- 3 The WAF diesel generation is close to forecast due to two factors; One that the ARM was consuming power when diesel generation was required (ie, on the margin) resulting with the majority of the loss in sales affecting the hydro generation requirements only. Two, that the fire on October 30th, 1997 in the Whitehorse WH1/2/3 Hydro Plant resulted with additional diesel generation required until Unit WH3 was returned to service on December 24th of that year.