UTILITIES CONSUMERS' GROUP
Box 9300
29 Wann Road
Whitehorse, Yukon Y1A 4A2
email: rrondeau@northwestel.net

December 22, 2017

Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Robert Laking, Chair

Re: Yukon Energy Corporation – Power Purchase Agreement with VGC Group
UCG Final Argument

Dear Mr. Laking:

Pursuant to Board Order 2017-10, the Utilities Consumers' Group (UCG) hereby submits its final argument in the above noted proceeding.

If the YUB or YEC requires any clarification with respect to UCG's IRs, please direct all inquiries to me by email at rrondeau@northwestel.net or by phone at 633-5210.

Yours truly,

Roger Rondeau
Utilities Consumers' Group

YUKON UTILITIES BOARD

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

and

IN THE MATTER OF an application by Yukon Energy Corporation (YEC) for approval of a proposed power purchase agreement between YEC and Victoria Gold Corp. and StrataGold Corporation

FINAL ARGUMENT OF

UTILITIES CONSUMERS' GROUP

December 22, 2017

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INTRODUCTION and OVERVIEW

The Utilities Consumers' Group

1. The Utilities Consumers' Group ("UCG") is a not-for-profit organization registered as a society in the Yukon since 1993. The UCG represents residential and small business utility ratepayers in regulatory procedures, conducts research, makes submissions, communicates with active stakeholders, including government, and helps consumers with various types of problems with utility service providers.

2. UCG submits that the current expedited review of the proposed Power Purchase Agreement (PPA) between Yukon Energy Corporation (YEC) and Victoria Gold Corp. and StrataGold Corporation (the VGC Group) has been a process that leaves UCG concerned with the viability of the PPA as an instrument protecting ratepayers and taxpayers from the risks of mining operations. The review of the proposed PPA has also been initiated in advance of completion of the regulatory review of YEC's 2017-2018 General Rates Application which will impact rates for all services going forward. Accordingly, UCG respectfully submits that the proposed PPA does not demonstrably protect the public interests of ratepayers or taxpayers.

Summary of UCG's Position

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

4. The public review of YEC's proposed power purchase agreement with the VGC Group has raised many important issues for current and longer term consideration. Of particular concern is the lack of a cost of service analysis which ensures that the rates and charges proposed in the proposed power purchase agreement are based on a comprehensive cost of service study and recover all costs associated with the proposed services. UCG submits that the Board should consider making very specific decisions in this regard as part of this proceeding.

5. Ultimately, the purpose of the Board's review is to ensure that the proposed power purchase agreement and related rates and charges proposals would be a reasonable course of action to ensure that ratepayers and taxpayers are properly protected from the adverse impacts that have traditionally been associated with the provision of electricity services to large industrial customers in the Yukon. UCG cannot support YEC's apparent position that the Board does not have the jurisdiction to approve or deny the proposed PPA in its entirety rather than just those parts over which YEC implies the Board has authority.

6. While YEC has asserted that Yukon ratepayers would not be adversely affected by the expenditures required to provide service to the VGC Group, UCG submits that the lack of any guarantees (e.g., take-or-pay provisions or early closure penalties) indicates that there remains a

very real possibility that Yukoners (as electricity ratepayers and taxpayers) will end up paying more of the costs of the proposed service than YEC is indicating.

7. UCG submits that not all of the costs of the proposed service have been identified and properly included in costs proposed to be recovered from the VGC Group. In particular, UCG believes that Major Industrial Customers should not only be responsible for paying YEC's costs to negotiate PPAs, but also all regulatory costs for these types of specific purchase power proposals should be included in the charges applied to major industrial customers like the VGC Group that drive these costs.

8. UCG submits that there are several risks that have not been considered or quantified in the assessment of the proposed service to the VGC Group including: (1) the operation, maintenance, and possibly major repair costs associated with the transmission line (a negative impact); (2) the ultimate rate impact the new mine and lines may have on a reallocation of costs between the major industrial customer rate class and other rate classes (an impact that YEC suggests is probably positive on non-industrial rates but no definitive analysis on longer term impacts should the mine close prematurely); (3) the displacement of secondary sales as a result of the addition of mine loads (a negative impact); and (4) the use of additional thermal generation (LNG and diesel) when it would not otherwise be required (a negative impact).

9. In other words, UCG submits that YEC has not identified and proven beyond a doubt any real benefits of this PPA to the firm ratepayers of the Yukon. Conversely, YEC has clearly identified a negative impact to firm ratepayers (i.e., LNG and diesel generation on the margin). UCG has identified several other impacts or possible impacts above.

10. As with previously proposed power purchase agreements, UCG's overall position is one of caution. UCG is not convinced that parties know enough about the downside for ratepayers / taxpayers of proceeding with the proposed service as accounted for within the proposed PPA. UCG also cautions the Board to the fact that this purchase power agreement sets precedents for future agreements with industrial customers.

11. This regulatory review is supposed to provide an opportunity to not only ensure that the proposed power purchase agreement is properly understood and conditions added, but also allow for a more comprehensive review of proposed costs, alternatives and conditions to be set to protect ratepayers and taxpayers from getting stuck with higher than expected costs. UCG submits that the review of the proposed PPA was significantly hampered by the lack of detailed review of the scope, variability, applicable risk factors and contingencies that may affect the mine's operations and viability.

FIRM MINE RATES and FIXED CHARGES

12. The Board has been asked by YEC to approve a Firm Mine Rate for initial delivery of Mine Firm Electricity by YEC to the VGC Group and certain conditions within the proposed power purchase agreement.

13. The Rate Policy Directive (OIC 1995/90) states that the Board "*must ensure that the rates charged to major industrial power customers, whether pursuant to contracts or otherwise, are* <u>*sufficient to recover the costs of service to that customer class*</u>*; those costs must be determined by treating the whole Yukon as a single rate zone and the rates charged by both utilities must be the same*"[1].

14. OIC 1995/90 also states that normal rate setting principles must apply in that the Board must "*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*"[2].

15. UCG submits that YEC has failed to comply with both of these provisions of OIC 1995/90 (as amended). The intent of the single rate zone provision is to ensure that when rates are being designed, the entire revenue requirement associated with the supply of electricity in all of the Yukon is taken into account and equitably allocated to various rate classes. Generally accepted rate setting principles for any regulated utility imply that cost-based rates are established based on a comprehensive, fully allocated cost of service study. With respect to the proposed monthly fixed charge to the VGC Group, YEC has not provided the required comprehensive cost of service study for the Yukon rate zone that is required for the rates and charges being proposed in this application.

16. UCG submits that the current application for a firm mine rate and charges counters YEC's own arguments regarding rate setting principles. There has been no evidence submitted on the integrated costs of YEC and ATCO Electric Yukon (AEY) to allow for a determination that the proposed firm mine rate and monthly fixed charges truly recover the fully-loaded cost of the service provided.

17. UCG submits that without a comprehensive cost of service study for the Yukon rate zone, even YEC admits that the Board could not determine that the proposed firm mine rate actually ensures that the needs and requirements of all Yukon electricity customers (including proposed industrial customers) are being met at the least cost.

18. In its Reasons for Decision for Board Order 2007-5 regarding the power purchase agreement between YEC and Minto Exploration, the YUB said that it agreed with intervenor concerns regarding the lack of a complete cost of service study and that rates cannot be developed in isolation. The YUB stated that the practice in Yukon is to follow cost causation for cost of service purposes as a fundamental building block to proper rate design. The YUB also said that it only accepted Rate Schedule 39 for Minto on an interim basis and that it had concerns about the sufficiency of the cost of service analysis presented by YEC.

19. YEC acknowledges that it is not specifically prohibited from conducting a fully allocated cost of service study, subject to securing from AEY the information needed for completing a consolidated cost of service study for all Yukon including both YEC and AEY facilities and

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[1] OIC 1995/90, section 6(1).
[2] OIC 1995/90, section 3.

customers[3]. UCG submits that without an updated fully allocated cost of service study, it can't be determined whether the costs being recovered in charges in the proposed power purchase agreement are fair and reasonable. While legislation currently prevents the YUB from rebalancing rates until after December 31, 2018, UCG submits that there is nothing preventing the YUB from directing the utilities to develop a fully allocated cost of service analysis in order to determine if the VGC Group will indeed be paying their fair share of costs. UCG submits that this should be done as soon as practical and before the end of 2018 in order to be able to review rate rebasing proposals that would be implemented in January 2019.

20. YEC has testified previously that customers in a given period should pay the costs that are necessary to provide them services in that period.

> *MR. McMAHON: Q: Thank you. In the Energy Commission report there was a certain amount of discussion on regulatory principles that Mr. Osler had addressed the previous day, and the Commission indicated that an underlying principle of regulation is that <u>customers in a given period should only pay the costs that are necessary to provide them services in that period</u>. Does the panel agree with that principle?*
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> *MR. OSLER: A: Certainly in terms of <u>fundamental, normal principles of regulation of rates</u>. One of the major considerations is what they call intergenerational equity. It's got nothing to do with generation of electricity, it's to do with generations of people, and you should be trying to make sure that the costs borne by each set of -- each people in each time period, certainly in terms of -- the word "generation" implies maybe more than the just the test year -- are <u>reflecting the costs that exist to serve them</u>. Just as you try and balance costs over space or between classes, you are trying to balance them between people living in different time periods. So they reflect the costs that are there. <u>That's a fundamental principle, one of many you have to think about and balance in order to come up with rates</u>."[4]*

21. UCG submits that there is no evidence on record in this proceeding that the rates and charges proposed to be applied to the VGC Group reflect the actual, fully loaded costs of serving this customer. YEC admits that a cost of service study was not used to determine the annual Transmission Facilities costs that were used to determine rates proposed to be charged to the VGC Group.

22. YEC admits that it is not able to provide details of the anticipated additional annual revenues from the VGC Group from initiation of service and over the expected 10 year life of the mine, the associated costs of providing the required electricity, the net revenue benefit, and how and in what year rates will be lowered for all other Yukon ratepayers[5]. While YEC blames its inability to forecast what impact this mine will have over its 10 year operations due to a lack of load detail, UCG submits that expected impacts can be forecast based on information readily available, discussions with the VGC Group and assumptions based on actual experiences with other mining loads. UCG submits that YEC has enough information and experience to at least provide a range of impacts over the anticipated 10 year life of the mine.

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[3] UCG-YEC-1-13
[4] 2005 Revenue Requirement Application, Transcript pages 646-647
[5] UCG-YEC-1-5

23. In UCG's opinion, it is unrealistic to ask ratepayers to make a decision to assume the risk of a 10 year investment without having any information on the potential impact over the full 10 years. If YEC is convinced that ratepayers will only benefit from the VGC Group's connection over the 10 year life of the mine, then YEC should offer a guarantee that ratepayers will be better off over the full 10 year life of the mine.

24. UCG submits that YEC did not conduct adequate public consultation on the proposed service to the VGC Group and so did not adequately maintain public accountability, transparency and understanding of the impact of the proposed power purchase agreement. YEC has not provided sufficient opportunity for electricity ratepayers to understand the implications of the proposed service or rates to be charged to the VGC Group[6].

25. UCG submits that well-governed utilities solicit stakeholder input during development stages of new rate design proposals. Methods for collecting that input should include stakeholder collaboratives, information meetings and workshops. UCG submits that simply making a submission to the YUB without advance discussion is not an effective process and completely misses the point of regulatory transparency and customer engagement.

26. YEC admits that in order to gain support from the First Nation of Na-Cho Nyak Dun (FNNND), they have signed an MOU with the FNNND wherein YEC is pledging "certain things in exchange for the First Nation support for the project"[7]. While negotiations with the FNNND on a project agreement appear to ongoing, UCG questions how costs associated with YEC's commitments to the FNNND will be recovered. UCG submits that this is another cost that needs to be recovered from the VGC Group as the driver of the project needing this support.

27. UCG submits that there is a significant difference in the proposed application versus the situation when NCPC was instructed to build the transmission line to Cyprus Anvil Mining Corporation and directed to recover only 85% of the cost of the transmission line from CAMC[8]. The VGC Group is the driver of the need for the current proposed transmission facilities since approximately 99% of the energy use on the Mayo-Keno transmission line will be by the VGC Group. UCG submits that the VGC Group should be responsible for a much higher percentage (i.e., 99%) as their use requires.

28. While the YUB accepted the 85% direct transmission cost allocation in Board Order 2010-04 related to the PPA between YEC and Alexco, it only did so because no other alternatives had been presented (in terms of allocation of transmission costs through fixed charges) in that proceeding. The comparison to the Faro situation when determining fixed charges for transmission line costs was determined by the YUB to be the best available evidence for that proceeding. The YUB concluded that the precedents cited by YEC provided only some support for the 85% direct transmission allocation and that most of the cases cited by YEC referred to

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6 UCG-YEC-1-3(g)
7 UCG-YEC-1-5(c)
8 UCG-YEC-1-15

cost of service and not the fundamental basis or appropriateness for the establishment of fixed charges to industrial customers.

29. UCG submits that the YUB is left in the same situation as it was during the review of the Alexco power purchase agreement in that YEC is basing its proposal for direct transmission cost allocation to the VGC Group on ancient cost of service-based analysis that has not been updated for current circumstances.

30. In UCG's opinion, the YUB has the legislative authority to use its discretion to apply the methodologies it sees fit in order to determine whether rates are just and reasonable. While the YUB creates its own precedents, they are not binding. UCG submits that the YUB should make its decisions regarding the proposed power purchase agreement based on specific facts of this particular proceeding and not on precedents.

31. YEC is proposing to roll 15% of the transmission costs being incurred to serve the VGC Group into pooled costs to be paid by all customer classes in the Yukon Hydro zone, including industrial customers, based on their respective demands. UCG submits that this allocation is based on analysis that is over 30 years old and without a current cost / benefit analysis that would be part of a fully allocated cost of service study. UCG submits that basing decisions on circumstances that existed over 30 years ago can't possibly be reflective of best practices in other regulatory jurisdictions and should not be considered adequate for the Yukon.

32. UCG submits that without a more current cost of service analysis, YEC should be directed to complete a fully allocated cost of service study in order to more properly allocate costs to the industrial class of customers. A delay in approving final charges to be applied to the VGC Group will have no impact on the mine's operations since, as YEC has noted, the parties are proceeding based on the proposed power purchase agreement on the understanding that certain provisions are subject to YUB approval[9].

33. UCG submits that the transient nature of mines and their operations in the Yukon drive the need for take-or-pay or ratepayer benefit guarantee provisions to ensure that the remainder of Yukon ratepayers are protected. UCG submits that a ratepayer benefit provision should be incorporated within the rates and charges to be applied to the VGC Group. UCG submits that given the limited life of mining operations in the Yukon in recent history, it would be better to offset mine-related costs in the early years of operation when the commodity prices are most likely to be high.

34. YEC implies that the Board does not have the jurisdiction to approve the proposed Power Purchase Agreement[10]. UCG submits that the *Public Utilities Act* provides the Board with jurisdiction over rates which includes in its definition a "*contract of a public utility relating to a rate*". Also, section 31 of the *Public Utilities Act* clearly states that "*Any contract for the supply of a service to a person by a public utility that sets a fixed or variable rate either for a present or future supply of the service is deemed to include a clause under which the board has the*

[9] UCG-YEC-1-18
[10] UCG-YEC-1-1

jurisdiction, on application of one of the parties, to increase or reduce the rate to a rate that the board considers fair and reasonable".

35. UCG submits that the proposed PPA should not be effective until after YUB approval has been issued. This was the case for the Minto PPA and should be the case here.

36. YEC's evidence states that the VGC Group is planning for 3 backup generator units on site at 1.65 MW each[11]. UCG submits that this would allow the VGC Group to satisfy its own electricity requirements on a regular basis and allow YEC to provide at least some of the VGC Group's load using electricity that would be provided on an intermittent / interruptible basis to lessen the need for LNG-based generation on the system. However, YEC has not addressed this service option in its application. Evidence on the record of YEC's 2017-2018 GRA proceeding indicates that new mine loads are forecasted to be a major driver of thermal generation requirements over the next several years[12].

37. On September 22, 2017, YEC's response to UCG-YEC-1-23(g) in its 2017/2018 GRA review indicated that LNG will be used in future when feasible to displace higher cost diesel generation that would otherwise be required to meet grid loads (including industrial / mine loads) and that a material share of any new loads at this time will be supplied by existing LTA hydro generation resources.

38. YEC states in the review of this PPA application that forecast test year LTA thermal generation is assumed to be supplied 90% by LNG generation and 10% by diesel generation[13] and that the VGC Group load will require an extensive amount of thermal generation to be used in the coming years. UCG submits that the generation mix stories being spun by YEC are fluctuating to YEC's benefit as circumstances dictate and decisions are <u>not</u> being made in the public interest.

39. YEC indicates that it expects that baseload LNG generation will be required on the Mayo Dawson grid to supply the overall system load including the VGC Group facilities[14]. If LNG will be on the margin, UCG questions what will happen when the VGC Group ramps up its electricity requirements as they have suggested. UCG submits that the VGC Group should be responsible for some additional infrastructure costs (as Minto was in the past) such as those related to the Carmacks-Stewart transmission line and Aishihik 3. As well, into the future, as the VGC Group has stated they will require more energy and as such they should be responsible for some of the capital costs for Mayo B, the LNG facilities and any new transmission infrastructure.

40. UCG submits that this sets a very serious precedent. If the VGC Group is given a free ride on infrastructure costs needed to provide mines with present and future needs, then all industrial customers will request this preference when it is time for their purchase power agreement. Certainly no common sense would buy into the fact that the major transmission grid connections, Aishihik 3, Mayo B and the LNG facilities were constructed for future residential or small business customers.

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[11] JM-YEC-1-1
[12] YEC GRA Workshop Presentation, August 3, 2017, page 35
[13] UCG-YEC-1-7
[14] UCG-YEC-1-17

CAPITAL COST CONTRIBUTION

41. The Board has been asked to approve the provisions respecting the Capital Cost Contribution as set out in the proposed power purchase agreement.

42. UCG submits that it is not clear whether some of the costs recovered from the VGC Group are already being recovered from other ratepayers (i.e., staff costs, overheads, etc). It is also not clear how parts of the fixed charge to be paid by the VGC Group will be held for other ratepayers to offset costs currently included in rates charged to other customers[15]. UCG submits that YEC should be directed to establish a mechanism in which these funds will be collected and subject to regular audit.

43. During the 2014 hearing to review YEC's proposed Whitehorse Diesel to LNG Conversion project, YEC make it clear that firm ratepayer groups have to be vigilant on the scrutinizing of any future mine contracts or PPAs:

"Q. (Mr. Roberts): So what happens once these mines -- say, if they're here two, three four, five years, they shut down, they've got grid lines into their -- and you rely on it as sort of a financial maker for the company as well, is there some kind of agreement there that somehow they pay a penalty for this or is it just business as usual? I'm just looking at mines that don't last very long.

A. (Mr. Osler): Let me give a brief thing because we have mines that have been here and gone like Faro and they were Government of Canada contracts with them and Yukon Energy had to accept as a term and condition of the transfer.

There have been new mines such as Minto, which this Board reviewed, purchase power agreement or power purchase agreement. I can never get which word goes first. Under that agreement, ***there was some new ideas put forth which was that the mine paid for the line to connect it to them. They actually made a big contribution to the Carmacks-Stewart line. So the money was brought in in a way that was secure.*** *In fact, it was backed by YDC as distinct from the ratepayers, and it's all been fully made off to the best of my knowledge.*

So that's the new regime*, and that type of regime is the approach that the company has been taking with new mines hooking up so that there isn't a hangover effect from assets that had to be put in place solely for them and that haven't been paid off because they closed business early."*[16]

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"Q. (Mr. Roberts) What happens to future mines?

A. (Mr. Morrison): Same thing. They have to pay.

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15 UCG-YEC-1-9

16 YEC LNG Project, Transcript April 1, 2014, page 321 (lines 23-25) and page 322 (lines 1-25)

A. (Mr. Osler): That's the principle ***but keep awake when the future mine comes*** *and make sure it's applied. I can't guarantee today what would happen to a future mine."*[17]

44. In the current proceeding, YEC continuously refers to "normal regulatory principles" with the Yukon and how these precedents and principles govern the YUB in their decision-making role[18]. UCG submits that these are references to theoretical principles and assumptions since the YUB often makes its determinations based on evidence presented rather than precedent (e.g., in YUB-YEC-1-14 and YUB-YEC-1-17, the Board has raised concerns that the SKTP development costs should be borne by the mines triggering the costs).

45. YEC states in YUB-YEC-1-20(e) that "*There is not a principled basis for a portion of YEC fixed generation costs to be included in the VGC Group fixed charge. Under the existing Yukon regulatory framework new / incremental industrial customers have not been required to make any direct contributions (outside of rate changes established for the Industrial class through normal cost of service principles) to the cost of new generation and/or the added costs of existing thermal generation*". UCG submits that evidence clearly demonstrates that the VGC Group will be a major driver of thermal generation into the future[19] therefore not only should a major portion of future thermal fuel demand be assigned directly to the VCG Group, but a portion of the newly (about to be placed on the firm rate base) LNG facilities costs, as well.

46. Another area that is overlooked in these bipartite agreements and resulting regulatory reviews is the high cost of building the resources that are required to avoid peak-period demand when these large industrial customers are added to the base load. UCG submits that it is obvious that peak load requirements will be affected (i.e., increased) by this new mine, thus further demonstrating that the new mine be responsible for some of the costs for the new LNG facilities and resulting extra thermal costs. During the 2014 LNG Project hearings, it was clearly quantified that these facilities were not being added for base-load requirements.

47. YEC also states "*The existing approach is consistent with Yukon Energy's understanding of practice in other similar jurisdictions. Specifically, while there is ample precedent in other jurisdictions for requiring contributions by customers for transmission costs to connect such loads to the grid, Yukon Energy is not aware of any precedents in any other similar hydro-based rate regulated jurisdictions where such customers are required to pay specific fixed cost contributions towards generation.".*[20] UCG submits that there are several jurisdictions that have practices contrary to YEC position. Not all jurisdictions use the same categories for customers. Some jurisdictions have separate classes for single family or multi-family residential customers, some have small business commercial, large commercial or industrial customers, agricultural classes and institutional or government classes and other special classes for unique needs (i.e., cruise ships which have very large connections and on and off somewhat like the mines in the Yukon).

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17 YEC LNG Project, Transcript April 1, 2014, pages 323, lines 21-25
18 UCG-YEC-1-17, YUB-YEC-1-14, YUB-YEC-1-17, YUB-YEC-1-19 and YUB-YEC-1-20
19 YEC Summary Workshop presentation, p.38; YEC PPA Application PPA, Table 23, p.23
20 YUB-YEC-1-20(e)

48. UCG submits that determining prudent customer costs for each class for each utility is crucial. Some costs are allocated based on the number of customers, some based on peak demands, some based on total energy consumption and some based on other aspects of energy usage. There are as many ways of determining these allocations as there are analysts doing cost-allocation studies, and no method is "correct" for every utility. UCG submits that most regulators will consider the results of multiple models and studies and make an informed judgment that considers all of these studies in order to determine an industry best practice.

49. Today in many other jurisdictions, "vintaging of cost" laws and regulations stipulate that electricity generated at public utility dam sites must be preferentially distributed or sold to private distributors that service smaller firm electricity customers at lower prices:

"*Some commissions reserve certain lower-cost resources for particular classes of customers. These types of set-asides may reserve limited low-cost hydro power to meet the essential needs of residential customers, or choose to treat specific power plant as serving a specific industrial customer whose demand has 'caused' its construction.*"[21]

50. UCG submits that this has not resulted in rate discriminatory practice problems, as appears to be the basis for YEC's positioning. UCG submits that if an industrial customer wins access to lower "blended prices", as this YEC PPA proposes, then their gain is at the expense of all other ratepayers.

51. Consequently, in most jurisdictions, utilities currently are no longer mandated to wheel power for larger individual customers (e.g., industrial users and co-generators who would be in direct contention for this service from others). For one example, in Alberta, the regulator has the mandate to order a utility to provide or withhold service. They have also given other ratepayer groups some decision-making status by devising a balancing pool of customers, which determine if and whether to allow or when to terminate power purchase agreements (per the *Electrical Utilities Act*, Government of Alberta).

52. As for obligation to provide service under the theoretical principles which YEC bases its application, UCG submits that other jurisdictions differ in opinion. Below is an excerpt from the decision in one US jurisdiction:

"*Case No. U-8371 (East Lake)*

- *54 customers located in a remote area outside of any provider and service area*
- *The Commission "cannot require a utility to extend a service to the East Lake area without allowing it to recover the costs…it is equally unfair to force the utility to recover its costs from existing customers.*"[22]

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[21] RAP, Electricity Regulation in the US. A Guide

[22] Presentation - Obligation to Serve and Economics and Legal Incentives, Energy Regulatory Partnership Program, Lansing Michigan, November 30 to December 6, 2008, Robert W. Kehres (https://pubs.naruc.org/pub.cfm?id=53858446-2354-D714-5131-AC518E6391BC)

53. As outlined in YEC's Application, and in Schedule B of the proposed power purchase agreement, YEC is responsible for the $930,563 incremental fees, costs and expenses associated with the McQuesten Substation being able to operate at 138 kV voltage at such time after the Commencement of Delivery when the Transmission Facilities Development is completed and energized at 138 kV. UCG assumes that this means that YEC assumes that Yukon ratepayers will ultimately be responsible for these costs. Without any guarantees that the addition of the VGC Group load will provide benefits to Yukon ratepayers over the life of the line and the McQuesten Substation, UCG submits that it is not in the public interest to allow YEC to take on any of this investment risk on behalf of Yukon ratepayers. UCG submits that the costs associated with such an investment should be 100% recovered through fixed charges applied to the VGC Group.

ONGOING REPORTING TO YUB

54. UCG submits that YEC should be directed to provide the YUB and interested parties with regular reports of the electricity requirements of the VGC Group operations as they are proposed to be provided to YEC each year by the VGC Group. UCG submits that this will allow the Board to provide direction on a more timely basis should actual electricity requirements start dropping significantly and potentially drive the rates of other Yukon ratepayers.

OTHER ISSUES

55. The Board has been asked to approve a proposed power purchase agreement that YEC claims will benefit all ratepayers and the Yukon as a whole. UCG submits that these benefits are not completely known and that this kind of information is basic business case information that should be provided by YEC and anyone else submitting projects that are justified by the perceived "greater good" that they will provide the Yukon. UCG submits that the lack of transparency on the simple issues casts doubt on the transparency provided on the more complicated issues in this type of application.

56. It is apparent that YEC did not rely on a mining / milling operations feasibility study and / or business case analysis to proceed with the proposed PPA with the VGC Group. UCG submits that this lack of due diligence does not allow the Board and other parties to adequately evaluate how likely it is that the VGC Group's operations can be relied upon over the long-term to provide the claimed benefits to Yukon ratepayers. UCG submits that YEC has failed to provide the evidence necessary to justify moving forward with the proposed PPA.

57. UCG submits that by clearly making rules on how the utility is to deliver and charge for grid electricity to a larger industrial customer will stop any gamesmanship by YEC. Future mining developments and requests to have Yukon grid delivery of power will then have to follow the same rules which UCG maintains must be re-regulated for hook-up to industrial rates, and continued for all other prospective mines.

58. UCG submits that current Government directives do not prevent the Board from determining how new rates for new industrial service are to be determined as they only restrict the Board to ensure that "rates charged to major industrial power customers, whether pursuant to contracts or otherwise, are sufficient to recover the costs of service to that customer class; those costs must be determined by treating the whole Yukon as a single rate zone and the rates charged by both utilities must be the same"[23] and that "rate adjustments for retail customers and major industrial customers apply equally when measured as a percentage"[24].

59. YEC states that the costs associated with this hearing should be placed under regulatory costs and paid for by all ratepayers[25]. UCG submits that any costs that can be directly assigned to a specific customer or customer class should be in accordance with cost of service principles.

60. While the YUB stated in its Board Order 2010-14 (regarding the Alexco power purchase agreement) that it did not agree with the submissions of UCG in that proceeding that a single rate class should bear the costs for the regulatory process, the YUB did not provide any reasons to explain this position and, in fact, stated earlier in its Reasons for Decision for Board Order 2010-14 that costs related to issues specific to a single rate class that are readily identifiable should be attributed to that rate class.

61. UCG submits that components of the proposed PPA have been expanded upon and clarified by the evidence accumulated during this review process subsequent to YEC's original application. UCG submits that this should be captured in some way within the proposed PPA since it is too easy for time to erode the understanding of specific references. UCG submits that the Board should direct that clarification should be added throughout the proposed PPA.

62. To conclude, the UCG submits that the proposed YEC /VGC Group PPA should be sent "back to the drawing board" incorporating all concerns and directions coming out of this process.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 22nd DAY OF DECEMBER, 2017

[23] OIC 1995/090
[24] OIC 2012/68 and OIC 2008/149
[25] YUB-YEC-1-6