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January 5, 2018

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 Reply Argument

Dear Mr. Laking:

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

If there are any questions concerning the contents of this submission, 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

REPLY ARGUMENT OF

UTILITIES CONSUMERS' GROUP

January 5, 2018

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INTRODUCTION

1. The Utilities Consumers' Group ("UCG") filed its Final Argument on December 22, 2017 with respect to Yukon Energy Corporation's (YEC) proposed power purchase agreement with Victoria Gold Corp. and StrataGold Corporation (the VGC Group). Final arguments were also submitted by YEC and John Maissan.

2. Where specific arguments of YEC and Mr. Maissan are not referenced, UCG submits that the YUB can rely on UCG's previously submitted arguments.

REPLY TO JOHN MAISSAN ARGUMENT

3. Mr. Maissan states on page 1 of his argument that "YEC has stated in public discussions on its Integrated Resource Plan (IRP) that the Yukon integrated system (YIS) has a long term average annual hydro energy surplus of about 30 GWh, mainly in summer." He uses this as a premise for his support of the PPA. The source of this information has not been accurately identified, so it should not be used by the Board in its decision.

4. Mr. Maissan's argument on page 2 goes on to state that the VGC Group load over a period of about 10 years will provide an opportunity for YEC to advance new renewable energy sources in an expeditious manner with limited long-term risk to non-industrial ratepayers. UCG submits that there is nothing in evidence to substantiate this conclusion as being valid in any way. Mr. Maissan also refers to the possibility of installing a battery based energy storage system which YEC's own resource plan evidence suggests is not economically valid[1], so this argument is not reasonable.

5. Mr. Maissan also submits argument on page 2 related to his own conclusions regarding the water availability at Mayo Lake in 2017 and reasons for increased thermal generation requirements for both peaking and for energy to justify serving the VGC Group. UCG submits that these conclusions are not based on any evidence that has been submitted or tested as part of this proceeding and should be disregarded.

[1] YEC 2016 Resource Plan - Appendix 5-19 - Energy Storage Technologies (Transgrid)

REPLY TO YEC ARGUMENT

6. YEC states on page 1 of its final argument that the YUB is only being asked to approve specific provisions of the proposed power purchase agreement. UCG submits that the purpose of the YUB'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 transient industrial customers in the Yukon. UCG submits that the YUB has the jurisdiction to approve or deny the proposed power purchase agreement in its entirety rather than just those parts over which YEC implies the YUB has authority. UCG submits that the YUB should be clear and concise in describing its jurisdiction in its decision on this application so that YEC and other parties will not be making their own interpretations on what approvals are required from the YUB going forward.

7. On page 3 of its final argument, YEC states that the provisions in the proposed power purchase agreement with the VGC Group are generally consistent with similar agreements approved by the YUB between YEC and Minto Explorations Ltd. and Alexco Resources Corp. UCG submits that power purchase agreements should be reviewed based on the circumstances that exist at the time of the proposal to connect an industrial customer and not based on agreements that were established in past economic and integrated grid circumstances. While templates can be used, UCG submits that each power purchase agreement must be progressive and unique and not simply a copy of what had been deemed appropriate in previous years and economic climates.

8. Starting on page 9 of its final argument, YEC makes references to how the fixed charge in the proposed VGC Group power purchase agreement is based on 85% of YEC's fixed annual costs for transmission facilities. The YEC uses this 'principle' as the basis for their 85% allocation. 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 which was the original basis for such 85% allocation. 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.

9. While the YUB accepted the 85% direct transmission cost allocation in Board Order 2010-04 related to the power purchase agreement 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 cost of service and not the fundamental basis or appropriateness for the establishment of fixed charges to industrial customers." UCG submits that, as a "public utility", when power purchase agreement proposals are brought forward by YEC, they should be required to provide alternatives for how costs can be recovered and non-industrial customers protected from being burdened with the hangover of unpaid costs when transient industrial customers prematurely

close shop or even remain for a short 10 year period, along with reasons why such alternatives could not be considered as being in the public interest.

10. Starting on page 19 of its final argument, YEC addresses the issue of the need for adequate cost of service analysis to determine the rates that industrial customers must pay to protect non-industrial ratepayers. UCG completely disagrees with YEC's conclusion that the evidence and YUB determinations in the 2009 GRA Phase II proceeding (now over 8 years ago) provide a solid basis for determining that industrial customers served by YEC in 2009 (and today) are paying more than the current costs to serve them. UCG submits that it is absolutely ridiculous that Yukon ratepayers are forced to remain in the dark about how much it actually costs to provide service to transient industrial customers in the short and long term. Surely the YUB's mandate is to ensure that the public interest is served over the long term rather than simply over a short 10 year service contract that may very well never survive to full term.

11. 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. UCG submits that without a comprehensive cost of service study for the Yukon rate zone, even YEC admits that the YUB 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.

12. While YEC makes a passing reference in its argument to its response to UCG-YEC-1-13, UCG reiterates that this IR response provided YEC's 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 customers. 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 over the long term. 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, preferably before the end of 2018 in order to be able to review rate rebasing proposals that would be implemented in January 2019. We would ask the YUB to move forward with directions to the utilities to prepare evidence now that will need to be reviewed and upon which decisions will need to be made in advance of a January 2019 implementation date. Given the reluctance of YEC and AEY to move forward on cost of service analysis, UCG submits that the YUB needs to be progressive and direct the utilities to prepare the needed information now so that a review can be completed in 2018.

13. UCG submits that a delay in approving <u>final charges</u> 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.

14. UCG submits that current Government directives do not prevent the YUB from determining how new rates for new industrial service are to be determined as they only restrict the YUB 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*"[2] and that "*rate adjustments for retail customers and major industrial customers apply equally when measured as a percentage*"[3].

15. In the 2nd bullet on page 19 of its final argument, YEC states that "*The industrial COS can be separately assessed on this basis for the purpose of the OIC direction without the need for concurrent determination of COS for other customer classes*". UCG submits that this assumption depends entirely on how one allocates the functionality of each facility within the Yukon integrated system, whether energy related or demand/peak demand related.

16. For example, LNG generation facilities that are being proposed to provide base load specifically to an industrial customer must be functionalized and classified appropriately to ensure that those customers driving the costs are paying for these costs. If LNG generation facilities are treated from a cost allocation perspective as peak demand related, the cost burden is placed on non-industrial customers. The same would hold true for the Mayo B, a portion of these costs which are now on rate base, as this facility is in the heart of mining country and originally built to supply UKHM. UCG reiterates that an updated cost of service analysis would allow for a more comprehensive review of how these costs should be allocated to customer classes and ultimately recovered in rates.

17. UCG submits that it is crucial that specific information be provided on the impact that the VGC Group's load will have on daily peak demands at all times of the year. This information should be readily available given the current loads on YEC's facilities and the new load that will be driven by the addition of the VGC Group.

18. To summarize, this cost allocation should not only include the energy facilities used to service the mine, but also the costs of additional thermal generation needed to supply the VGC Group operations, the added peak load generation needed and all operating and maintenance, overhead and transmission-related costs that can be identified as required in order to serve the VGC Group.

19. YEC has already indicated that forecast long-term average thermal generation is 14.1 GWh in 2017 and 14.5 GWh in 2018 and that fuel costs for forecast long-term average thermal generation are $2.240 million in 2017 and $2.293 million in 2018 before considering forecast fuel costs for thermal maintenance activities[4]. UCG submits that the VGC Group must be held responsible for any thermal generation costs driven by the addition of their load in order to be fair to existing customers on the grid that will still be customers long after the VGC Group's mine operations have been abandoned.

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[2] OIC 1995/090
[3] OIC 2012/68 and OIC 2008/149
[4] YEC 2017-2018 GRA, Tab 3, page 3-4

20. On page 20 of its argument, YEC states that "*it is clear that the VGC Group Mine load will be paying rates that are in excess of allocated cost of service*". UCG submits that there is no clarity on this issue at all without a comprehensive cost of service analysis being undertaken. YEC's views appear to be based on the limited time that the VGC Group mine is expected to operate (i.e., 10 years). UCG questions how non-industrial ratepayers will be protected from having to pay the longer term costs associated with transmission and other grid investments needed to allow the addition of the VGC Group load. The YUB needs to address how costs will be recovered once the VGC Group ends its mining operations which could be less than the forecasted 10 years depending on the economic realities of the world market.

21. UCG submits that the YUB cannot let itself be blinded by what appears to be significant charges being agreed to as part of the proposed power purchase agreement. There needs to be a thorough and comprehensive review of what is driving the costs being incurred in the Yukon.

22. YEC makes several references in its final argument to applying "normal regulatory principles" when reviewing the proposed power purchase agreement and the charges being proposed for the VGC Group. OIC 1995/90 states that normal rate setting principles must apply in that the YUB 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*"[5].

23. UCG submits that YEC's continuous reference to how "normal regulatory principles" and precedents govern the YUB in their decision-making role are references to theoretical principles and assumptions since the YUB is obligated to make its determinations based on evidence presented rather than precedent. UCG maintains that the YUB cannot continue to regulate in a vacuum with antiquated theoretical principles that the self-serving utilities regularly put forward as evidence.

24. From a more general perspective, UCG submits that the OICs and the *Public Utilities Act* upon which YEC bases much of its final argument contain very general descriptions and result in inconsistent interpretations. In UCG's opinion, in order to regulate Yukon utilities "under generally accepted principles in Canada", the YUB needs to conduct comprehensive research of other regulatory jurisdictions in Canada to ensure that it is aware of the many guiding principles that have been implemented in today's regulatory arena.

25. While it is important to examine information about how regulatory issues are addressed in other jurisdictions, UCG submits that the YUB must ensure that outside "experts" put forward by the utilities do not control the Yukon's regulatory processes. UCG submits, it is time for the YUB, the YEC and the Yukon government to step up to ensure that experience from within the Yukon is used to influence the Yukon's regulatory regime, and rid the manipulation from those with no ties to our territory.

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[5] OIC 1995/90, section 3.

26. UCG questions whether this proposed power purchase agreement is truly in the public interest. UCG submits that the YUB is obligated to regulate utilities in the public interest for all firm ratepayers in the Yukon. UCG submits that the YUB must question whether the proposed power purchase agreement is being used to simply increase profits of the government-owned YEC (as is readily admitted in the application) or will it actually provide significant and measurable benefits to all Yukon ratepayers?

27. UCG submits that the issue is not whether surplus hydro generation should be provided to new industrial customers. The issues are who should pay for:
    i. vital infrastructure, such as the LNG facilities which were built for so called back-up generation which will now be focused on providing base load generation driven by industrial customers and Mayo B built in mining country originally for UKHM;
    ii. the cost of additional thermal generation and peak load generation that is driven by this industrial load;
    iii. newly built transmission lines that will be stranded after 10 years if not before; and
    iv. any operation and maintenance for these facilities.

28. UCG submits that the YUB must make decisions regarding adding industrial customers to the integrated grid that ensures that non-industrial ratepayers and taxpayers are not being required to subsidize industrial customers. UCG submits, that according to Wikipedia *"a subsidy exists when a good or service is provided at a charge below the long-run marginal cost. Marginal cost is further defined as the cost of producing one additional unit of power of output."* Accordingly, this means that in order to NOT subsidize the VGC Group or any mine being added to the integrated system, there is a need to reflect in their cost of service-based rates that this industrial customer pay the real cost to generate, transmit and distribute a NEW kilowatt of electricity. In the utility world this means the incremental cost of providing thermal generation, which according to YEC is $0.1467/kW.h for LNG and $0.2633/kW.h for diesel[6]. UCG submits the VCG group be charged accordingly to ensure other ratepayers/taxpayers are not subsidizing the mine.

29. YEC argues that the proposed power purchase agreement will benefit non-industrial ratepayers into the future, but evidence is clear that there remain far too many uncertainties and far too many risks associated with the recovery of additional thermal generation costs and the costs of required transmission facilities. UCG submits that the benefits identified by YEC are all purely speculation on behalf of the YEC to get the results they want for their own self-serving interests. The YEC's own evidence clearly demonstrates that the mines will be a major driver of Grid Thermal Generation into the future and that the Stewart Keno City Transmission Line Project (SKTP) default proposal will result in a stranded cost for which non-industrial ratepayers will be held liable if the VGC Group shuts down prematurely or even if the 10 year lifespan is fulfilled. YEC also fails to factor in the loss of secondary power sales in their cost/benefit analysis for non-industrial ratepayers, but simply claim the new sales will more than cover these losses.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 5th DAY OF JANUARY, 2018

[6] YEC 2017-2018 GRA, Tab 3, page 3-4 and 3-5