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IN THE MATTER OF AN APPLICATION BY ATCO ELECTRIC YUKON (AEY) REGARDING RATE RELIEF

A paper proceeding before the

YUKON UTILITIES BOARD

August 9 to September 20, 2022

WRITTEN SUBMISSION OF JOHN MAISSAN

Introductory comments

In the preparation of this submission interrogatory responses (IRs) will be referenced by their identifying letters and numbers. The Yukon Utilities Board is referred to as "the Board", ATCO Electric Yukon is referred to as AEY, and Yukon Energy Corporation is referred to as YEC.

In this submission I address AEY's application requests and other issues that are related to and arise from this application and require or deserve comment. My silence in this submission on matters raised by any other party in this proceeding are not to be interpreted as agreement with, or disagreement with, the other party or parties' positions. I leave these matters to the Board to address based on all the information on the record.

Background to AEY's application

AEY's last GRA covered the test years 2016 and 2017. As a result of that proceeding the Board determined that AEY's appropriate ROE was 9.00% and AEY's ongoing Rider R was approved at 8.3% of base rates (AEY Application). In the years following the last test years industrial loads grew substantially and Yukon's population has been growing rapidly. The rapid population growths have resulted in a frantic pace of new home construction almost all of which is electrically heated.

Concurrently with industrial and residential growth there has been an increasing public desire to curb climate change by reducing fossil fuel use which is probably increasing customer sales and has increased the need for additional (renewable) electricity supply.

The result has been that AEY's revenues (through Rider R and base rates) have increased substantially while their cost growth has been slower. This is not a situation of AEY's making but a set of circumstances outside of their control but which has resulted in substantially increased revenues and earnings for AEY. This unanticipated trend was evident even by the end of the test years and has continued unabated. In the last test years of 2016 and 2017 AEY substantially over-earned on their ROE, but this is fair game as they were test years and covered by a GRA and YUB and public scrutiny.

Including the present year (2022) we have now had 5 consecutive non-test years for AEY while at the same time Yukon Energy has been under significant cost pressures due to increased thermal generation requirements and capital cost requirements to develop or purchase more renewable energy supply to meet Yukon government mandates. The result has been increasing rates due to Yukon Energy's increased revenue requirements and a very low ROE for YEC compared to the Board approved ROE while AEY was (and is) enjoying substantial over-earnings.

We cannot now quarrel about the last test years, but from 2018 up to the present AEY, to whom the situation must have been obvious, has chosen not to come forward with a

GRA to align their costs and revenues and so continued to over-earn year after year. This cannot be considered to be in the public (ratepayer) interest. AEY has chosen to continue to profit themselves and their shareholders well in excess of the last YUB approvals, from a situation not of their making. Had the reverse been true and AEY was under-earning they would have been before the Board with a GRA, and rightfully so. But if they were being as responsible to their ratepayers as to their shareholders, AEY would have been before the Board no later than 2019 when it was very clear that they would continue to over-earn significantly in subsequent years. It has been the public and Yukon government pressure concerning their over-earnings that has resulted in this application.

In summary:

1. ***The industrial load has growing substantially since the last AEY GRA.***
2. ***The residential loads have been growing at a rapid pace.***
3. ***The government and personal climate change mitigation efforts will continue to sift energy demands to electricity from fossil fuels.***

Conclusion: Since there has been no scrutiny of AEY's costs and revenues for 5 years it is time to have a full and complete review of these in view of all the trends described above.

<u>AEY's proposal regarding the Rate Case Reserve</u>

AEY proposes rate relief during the coming winter months using the ratepayer's own money accumulated in the Rate Case Reserve to the end of 2021 (about $1.3 million). AEY also makes it clear that they have no intention of submitting a GRA until at least 2024 (response to AEY-JM-1-1). AEY proposes a refund to Residential and General Service non-government ratepayers in the form of rate relief monies collected from all ratepayers. This will further increase the cross subsidies between customer classes that are already embedded in rates.

The costs for AEY's last GRA were $532,124.23 (response to AEY-JM-1-1), so it is clear that there were adequate ratepayer funds to have paid for a GRA no later than 2019 if AEY had so chosen. I agree with AEY's implied view that it is not (was not) necessary to collect $300,000 per year from ratepayers each and every year in the present circumstances. I submit that the collection of this $300,000 per year should cease effective in 2022 until next required to fund an AEY GRA. I also submit that the present fund balance of about $1.3 million to the end of 2021 should be kept in the Rate Case Reserve for the next AEY GRA. In my view it is not appropriate to give it back to a select group of ratepayers and then keep collecting it from all ratepayers as AEY proposes to do (response to AEY-JM-1-1).

Recommendations:

1. ***Cease collecting $300,00 per year into the Rate Case Reserve effective in 2022.***

2. ***That the $300,000 per year AEY cost reduction be applied to reduce Rider R to all ratepayers retroactive to January 1, 2022.***

<u>AEY's proposal regarding Rider R revenue collected from Industrial customers</u>

AEY proposes to return the approximately $0.9 million per year of Rider R revenue from (YEC's) Industrial customers (Rate Schedule 39) to Residential and General Service non-government rate classes. The recording of this revenue in a deferral account is proposed to start the first of the month following a Board Decision.

In the four years following the last AEY GRA (2018 through 2021 – no projection for 2022 was provided by AEY (AEY-JM-1-3 response and follow-up letter dated September 9, 2022)) the average AEY over-earnings was $1,580,500 per year. If AEY's proposal were to be accepted, they AEY would continue to over-earn an average of about $680,000 per year.

I do not support AEY's proposal. This proposal, like the proposed Rate Case Reserve refund, would exacerbate the rate class cross-subsidization that is already embedded in base rates. AEY's proposal would also allow AEY to continue to over-earn about $680,000 per year on average; this is not acceptable. And AEY would keep all 2022 over-earnings until that time, an outcome which I also consider to be unacceptable to ratepayers.

In my view the only reasonable course of action is for the Board to lower AEY's Rider R on base rates to reduce Rider R an amount that would reduce AEY's revenue by $1,580,500 per year. This would be in addition to the $300,000 revenue reduction for not having to add $300,000 to AEY's Rate Case Reserve.

Such a Rider R reduction should be retroactive to January 1, 2022. AEY, in their response to AEY-YUB-01-001, quoted the *Public Utilities Act*, including Section 29(a), as follows:
"the board may consider the revenues and costs of the public utility ***in the financial year in which the proceeding for setting the rates and charges began*** or in any period immediately following, without considering the allocation of those revenues and costs to any part of that period," (emphasis added).
If, as AEY asserts, the Board has the authority to rule on AEY's requests the Board also has the authority to make those changes effective on January 1, 2022 as this is the year in which this proceeding began. In my view all revenues related to over-earnings and the Rate Case Reserve in 2022 should be refunded to all rate payers, regardless of class, during the winter of 2022-2023.

In summary:

1. ***AEY's proposal would exacerbate rate class cross-subsidization.***

2. ***AEY's proposal would allow AEY to continue to over-earn substantially both in 2022 and on average going forward.***
3. ***The* Public Utilities Act *gives the Board authority to apply its decision retroactively to January 1, 2022.***

Recommendations:

1. ***That Rider R be further reduced so that the revenue collected by AEY is $1,580,500 per year less than is presently collected.***
2. ***That this Rider R adjustment be made retroactive to January 1, 2022.***
3. ***That the revenues in excess of the reduced Rider R already collected by AEY in 2022 be refunded to all ratepayers during the winter of 2022-2023.***

Other Issues

1. AEY GRA required

AEY's revenues of $82.949 million in 2021 compared to its last test year revenues of $65.246 million in 2017 are up by 27% (UCG-AEY-1). AEY's over-earnings account for only a small fraction of this increase in revenue. Where the remainder of these revenue increases went (O&M costs, capital costs?) and the legitimacy of these costs can only be determined by Board and public scrutiny through a GRA. However, it is obvious (response to AEY-JM-1-1) that AEY has no intention of doing so while it is over-earning even though the ratepayers have already paid to cover such a GRA in advance. That AEY be brought before the Board with a GRA is absolutely essential to ensure that they are accountable to the Board and the ratepayers. This is necessary public interest protection. Without such a GRA AEY is essentially an unregulated monopoly.

Surly under the *Public Utilities Act* the Board has the authority to compel AEY to come forward with a GRA for 2023-2024. If not, then the Board must ask the minister of Justice to do what is necessary to issue such an order. This is necessary to protect the public interest. I refuse to accept that AEY can act as an unregulated monopoly.

Recommendations in addition to those listed in previous sections:

1. ***That the Board order AEY to come forward with a GRA for 2023-2024.***
2. ***If the Board is uncertain as to its authority to issue such an order, to request that the minister of Justice do what is necessary to order AEY to come forward with a GRA for 2023-2023.***

2. Utility filings with the Board

Both YEC and AEY submit regular filings with the Board, and they are made public on the Board's website. There are two things about these filings that I want to understand. First is this, can the Board confirm please, that in proceedings before the Board, such as this AEY application, all parties can reference and rely on information contained in these filings knowing this information to be reliable and true, as though this information had been supplied by an applicant within their application? Some of the adversarial atmosphere between intervenors and applicants in getting relevant information on the record of a proceeding could perhaps avoided if this was the case.

In a related matter, it seems to me that the utilities make these required filings with the Board so that the Board can actively monitor them. In the case of AEY here, it is not readily apparent to me that the Board staff review these filings and flag potentially relevant issues to the Board. Does the Board or its staff review these filings? In the case of AEY, it seems to me that there should have been a flag to the Board about AEY over-earnings even in the last year of the test period, let alone the subsequent four years. Yet this does not seem to have been the case.

Recommendations:

1. ***That the Board clarify whether periodic reports filed by the utilities with the Board can be legitimately referenced and considered as relevant information by any of the parties to a proceeding before the Board.***
2. ***That the Board clarify whether their staff monitor the utilities by reviewing their periodic filings and bring to the Board's attention any matters that raise concern.***

Respectfully submitted,

John Maissan
September 13, 2022