ATCO Electric
YUKON

August 10, 2023

Yukon Utilities Board
Box 31728
Whitehorse, YT Y1A 6L3

Attention: Mr. Richard Buchan
Chair

Re: 2023-2024 General Rate Application
Response to Intervener Submissions on Interim Refundable Rates

On July 7, 2023, ATCO Electric Yukon (AEY) filed its 2023-2024 General Rate Application (GRA or Application) with the Yukon Utilities Board (Board). Included in the Application was a request for approval to adjust AEY's Rate Adjustment Rider, Rider R, from 8.30 percent to 6.68 percent effective August 1, 2023, and adjusted to 13.50 percent effective January 1, 2024, on an interim basis (the Interim Rates Request).

In Board Order 2023-13 dated July 14, 2023, the Board invited interested parties to submit comments on the Interim Rates Request by August 4, 2023. Mr. John Maissan, the Utilities Consumer Group (UCG), Yukon Energy Corporation (YEC), and the Yukon NDP Caucus (NDP) filed submissions on the request for interim refundable rates.

Summary of Intervener Submissions

Mr. Maissan asserts that: (1) exclusion of rate impacts related to fuel prices from the interim rate adjustment rider will result in future adjustments and true-ups which will negatively impact rate stability; and (2) revenues "realistically required" are lower than requested for 2023 and 2024. As such, Mr. Maissan proposes that, on an interim basis, Rider R should remain unchanged for 2023 and adjusted to 10.80 percent effective January 1, 2024.

UCG asserts that: (1) AEY should refund 100 percent of the proposed 2023 rate reduction (4.05%)[1] through the 2023 rate adjustment and that there should be no rate adjustment

[1] UCG Submission on Interim Rates Request, PDF page 2.

effective January 1, 2024; and (2) utilities should not be permitted to file rate applications within a test period and should be compelled to file GRAs every two years, six months in advance of the commencement of the applicable test period.

The NDP also raised concerns with the exclusion of fuel prices from the determination of interim rates as well as asserts that AEY should give back any historical actual earnings in excess of the approved returns.[2]

YEC suggests that the effective date of the rate adjustment should be deferred until October 1, 2023, to align with the interim refundable rate adjustment that YEC intends to propose in its upcoming GRA and given that, AEY's proposed effective date of August 1, 2023, has passed and in light of their upcoming Application (which will seek to increase customer rates) in order to minimize interim changes to customers' bills.

AEY's Response to Intervener Submission on Interim Rates

Fuel Price Impacts

AEY wishes to clarify that it is not absorbing or foregoing revenues related to fuel price differentials from what was previously approved. Fuel price variances are currently being collected through Rider F, which was set to a collection of revenues at 1.635 cents per kWh as of January 1, 2023.[3] AEY submits that adjusting the interim rate adjustment for fuel while collecting and deferring fuel balances through the Deferred Fuel Price Variance (DFPV) account and Rider F, (based on previously approved fuel price levels) would result in over collection of fuel costs on an interim basis.

AEY has excluded impacts of fuel from the proposed rate adjustment because, consistent with the approach approved by the Board in AEY's 2013-2015 and 2016-2017 GRAs, the impact to Rider R related to incremental fuel prices, will be adjusted once a final revenue requirement has been determined. At that time, Rider F will concurrently be adjusted to mitigate over/under collection of fuel costs that would require a refund through future

2 NDP letter dated August 4, 2023.
3 Rider F adjustment letter, issued November 29, 2022.

Rider F adjustments. AEY submits this is the most straightforward and efficient approach, and mitigates the risk for error in the reconciliation and true-up of the DFPV account to final approved revenue requirement amounts.

Revenue Requirement

Mr. Maissan has cited “very ambitious capital plans” as “unachievable while being fiscally prudent”, as well as other spending being higher “than realistic and prudent”, as grounds to reduce the Interim Rates Request. AEY notes that approximately 40 percent of the proposed capital additions are driven by external parties and are fully contributed, resulting in no impact to the requested revenue requirements in the Test Period. In addition, a significant portion of the total requested net capital additions for 2023 have been completed as filed. To the extent that there are differentials between filed and approved final rates, the interim rates under Rider R are refundable and will be adjusted when final rates are determined by the Board.

UCG’s Interim Rate Proposal

In AEY’s submission, the UCG’s proposal to reduce Rider R by 4.05 percent, on a refundable basis, with no update effective January 1, 2024, should be disregarded. The UCG has failed to demonstrate how this proposal accomplishes rate stability in the Yukon. In AEY’s view, the approach proposed by the UCG is likely to exacerbate the impact of Rider R true-ups on future bills once final rates are determined. The UCG’s proposed rate reduction of 4.05 percent, until a final decision on the GRA is issued by the Board would reduce rates in excess of the rate reduction included in AEY’s 2023 revenue requirement, resulting in under collection that would need to be addressed in the true-up of interim to final rates.

Timing and Frequency of General Rate Applications

In AEY’s submission, the UCG’s assertions regarding the timing and frequency of GRAs are beyond the scope of the Interim Rates Request and the Board's determination on the same. Accordingly, AEY respectfully requests that the Board disregard the proposals put forward by the UCG in this regard.

AEY submits that all parties have sufficient opportunity on a regular basis to review and assess AEY's operations through the Annual Filing process and, as demonstrated through the Rate Relief Application, material issues and items that arise can be addressed in a limited scope between fulsome applications, as needed.

With respect to the timing of an application within a test period, AEY notes that it makes every effort to file as early as possible while, at the same time, ensuring the most complete and accurate information is put forward. At times, delays occur to ensure that all parties have the best information available. Despite filing the subject GRA part way through the 2023 Test Year, AEY had already addressed the most material items prior to filing the GRA through its Rate Relief Application by ensuring customers received the benefits of the surplus 2023 revenue requirement as early as possible, rather than waiting for a fulsome application to be prepared and reviewed by the Board.

Compelled rate applications, on a biennial basis, will result in inefficiencies and undue and unnecessary regulatory burden at the expense of ratepayers. A utility's ability to operate within approved rates where rates are held constant over longer terms is in the best interest of all parties. The frequency of applications proposed by the UCG reduces opportunities and incentives for a utility to find efficiencies, which are ultimately flowed through to customers' benefit. In AEY's view, frequent applications will ultimately be more costly to ratepayers over the long term.

The proposal, to compel utilities to file applications at a specific frequency and on a specific timeline, without consideration for the need and information available at prescribed times, is not within the scope of the requested Interim Rider Adjustment Application or General Rate Application. In addition, the proposal is not in the best interest of customers and, therefore, should be denied.

Prospective Rate Making Principles

AEY would like to clarify that no component of the rate reduction proposed for 2023 includes a refund of earnings previously attained under rates approved as part of the 2016-2017 GRA. The assertion that AEY should be required to “give back”[4] earnings fairly earned under approved rates constitutes retroactive ratemaking and is contrary to generally accepted regulatory principle of prospective rate making (similar to AEY having no right to seek recovery of lower than forecast sales or unplanned maintenance in any given year outside a test year, in the absence of approved deferral or reserve accounts).

To be clear, AEY has prepared its 2023-2024 revenue requirement forecast (including proposed interim and final rate adjustments) on a fully prospective basis. All known factors that contribute to AEY’s financial performance have been incorporated and deferral treatment has been sought for unknown circumstances or difficult to forecast items that could have a material impact on AEY’s financial performance. All of these factors are in scope for review as part of this Proceeding. The Board’s mandate to set just and reasonable rates includes consideration of a utility’s sustainability, such as, its ability to provide safe and reliable service, capability to expand its services, and ability to earn a fair return. The NDP’s proposals, in this instance, would be contrary to AEY’s right to earn a fair return.

The assertions of the NDP demonstrate a misunderstanding of utility rate regulation and run counter to the prohibition against retroactive or retrospective ratemaking, as described by the Supreme Court of Canada (SCC) in Northwestern Utilities Limited and P.U.B. v. City of Edmonton ("Northwestern"),[5] and the Alberta Court of Appeal in *Calgary (City) v. Alberta (Energy and Utilities Board)*.[6] Northwestern, the SCC considered whether the regulator could authorize new rates that would have the effect of recovering the utility’s

4 NDP letter dated August 24, 2023.
5 [1979] 1 S.C.R. 684.
6 2010 ABCA 132 at paragraphs 45-49.

past revenue losses.[7] The SCC found that future rates could not be used to recover accumulated losses in the past:

> *It is conceded of course that the Act does not prevent the Board from taking into account past experience in order to forecast more accurately future revenues and expenses of a utility. It is quite a different thing to design a future rate to recover for the utility a "loss" incurred or a revenue deficiency suffered in a period preceding the date of a current application.*[8]

The principle against retroactive or retrospective ratemaking applies equally in the context of the assertions by the UCG and NDP that AEY should make up for or give back earnings that it attained under previously-approved rates. These assertions should be dismissed in the determination of just and reasonable rates on both an interim and final basis.

Update to AEY's Interim Rate Adjustment Rider

Considering the proposed August 1, 2023, effective date has passed and, in light of YEC's submission citing an upcoming increase to their rates, AEY is not opposed to implementing its 2023 proposed rate decrease effective October 1, 2023, so as to align with YEC's rate increase effective October 1, 2023 and, thus, minimizing overall rate impacts to customers.

In addition, AEY proposes to net its 2023 rate decrease with its 2024 rate increase effective January 1, 2024. This approach differs from AEY's Interim Rates Request, as included in the GRA, that closed the 2023 refund effective December 31, 2023. Attached (per Appendix A) is AEY's revised Interim Rate Adjustment Rider R Schedule 13.1 which, in addition to reducing Rider R to 6.68 percent effective October 1, 2023, includes an Interim Rate Adjustment Rider R set to 11.87 percent (6.68% + 5.20%) effective January 1, 2024. The end result is a reduction of 1.62 percent to rates effective January 1, 2024, as compared to AEY's Interim Rider R Adjustment of 13.20 percent, as originally proposed in the Application.

7 2010 ABCA 132 at 697-99.

8 [1979] 1 S.C.R. 684 at 699; Calgary (City) v. Alberta (Energy and Utilities Board), 2010 ABCA 132, paragraph 46.

AEY considers that this updated approach will maintain rate stability and minimize fluctuations in customer rates. Based on previous GRAs and the timing of associated compliance filings, AEY expects that final rates will be approved in the middle of 2024. This timing and updated approach of applying AEY's proposed 2023 and 2024 Interim Rider R Adjustments will minimize final true-ups in customers' rates.

Accordingly, AEY respectfully requests that its Interim Refundable Rider R Adjustment be set to 6.68 percent and 11.87 percent, effective October 1, 2023 and January 1, 2024, respectively.

Yours truly,

Beth Rogers, CPA CMA
Director, Regulatory

APPENDIX A

ATCO Electric Yukon (AEY)

2023 - 2024 General Rate Application (GRA)

Determination of the 2023 and 2024 Interim Rate Adjustment Rider R

Line No.	Description	Source	Calculation
1	**2023 Shortfall/(Surplus)**		
2	2023 Retail Revenue Requirement ($000)	S2.1 L.52	60,992
3	2023 Retail Revenue on Existing Rates ($000)	S2.1 L.52	62,203
4	**2023 Revenue Shortfall/(Surplus) ($000)**		(1,211)
5			
6	**2023 Primary Sales Revenue on Existing Rates**		
7	ATCO Electric Yukon (AEY) ($000)	S2.1 L.30	55,583
8	Yukon Energy Corporation (YEC) non-industrial ($000)	YEC	8,964
9	Yukon Energy Corporation (YEC) Industrial ($000)	YEC	10,038
10	**Total Primary Sales Revenue ($000)**		74,585
11			
12	**Incremental Interim Refundable Rider R Adjustment**	(4)/(10)	-1.62%
13			
14	**Existing Approved Rate Adjustment Rider R**	Order 2017-03	8.30%
15			
16	**Proposed Rate Adjustment Rider R, effective October 1, 2023**	(12) + (14)	**6.68%**
17			
18	**2024 Shortfall/(Surplus)**		
19	2024 Retail Revenue Requirement ($000)	S2.1 L.52	68,096
20	2024 Retail Revenue on Existing Rates ($000)	S2.1 L.52	64,152
21	**2024 Revenue Shortfall/(Surplus) ($000)**		3,943
22			
23	**2024 Primary Sales Revenue on Existing Rates**		
24	ATCO Electric Yukon (AEY) ($000)	S2.1 L.30	57,428
25	Yukon Energy Corporation (YEC) non-industrial ($000)	YEC	9,857
26	Yukon Energy Corporation (YEC) Industrial ($000)	YEC	8,587
27	**Total Primary Sales Revenue ($000)**		75,871
28			
29	**Incremental Interim Refundable Rider R Adjustment**	(20)/(26)	5.20%
30			
31	**Proposed 2023 Rate Adjustment Rider R**	(16)	6.68%
32			
33	**Proposed Rate Adjustment Rider R, effective January 1, 2024**	(28) + (30)	**11.87%**