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November 10 , 2008

Yukon Utilities Board
Box 31728
Whitehorse, Yukon
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Attention: Wendy Shanks, Chair

Re: Utilities Consumers' Group Reply Argument Re:
YECL 2008-09 General Rate Application

Dear Ms. Shanks:

The UCG submits the following reply argument for the above process as per Board schedule.

Should you have any questions, please do not hesitate to contact me.

Yours truly,

Roger Rondeau

C.c. All interested parties

Utilities Consumers' Group Reply Argument Re: Yukon Electrical Co. Ltd. ("Yukon Electrical")2008-09 General Rate Application

1. The UCG submits that our final argument, regarding the above application, presented subject matter supported by the evidentiary record of this proceeding. We endeavored to refrain from making inferences.

2. It is also very important to note that many of the UCG intervention arguments were substantiated by other parties with additional evidence they collected from the process.

3. When asked to define how "fair rate of return is determined?", Ms. McShane responded (Transcript p. 137 lines 19-28) :

> *..."In doing that, you would look at different tests that are typically used by regulators: the capital asset pricing model; the discounted cash-flow test; and various forms of comparable-return tests. From that analysis, you would come to an assessment on what the fair return on equity is. That would be what you would do if you were going through the entire process from start to finish, including a full in-depth determination of what the fair return on equity is."*
>
> *"In this particular instance, we didn't do that. We concentrated on the capital structure part and took, as a given, the formula-based return on equity from Alberta."*

UCG submits that it was Yukon Electrical's instruction to specifically use the AUC formula-based return on equity from its Alberta parent as their *"point of departure"* for this application. This was done without providing any evidence as to any link or casual connection between the two. As most of the items in this application (i.e. capital structure, cost of debt, cost of equity and capital projects) is a direct result of this *"point of departure"* , Yukon Electrical by using this complicated and flawed assumption, has tainted the whole application. As their expert witness further testified (Transcript p.143 lines 23-28):

> *Q. Mr. Rondeau: Is this your normal procedure in developing expert opinion of fair return, by using one scenario rather than a number of methodologies.*
>
> *A Ms. McShane: No, this is- as I tried to explain a little bit earlier, <u>the typical approach would be to start at first principles</u> and go through and estimate the cost of equity using a battery of different tests to come up with what the cost of equity was.* (emphasis added)

4. When applying these <u>typical</u> tests, the results do not support the YECL application assumption (as identified and validated in UCG final argument numbers 3 to 19).

5. UCG submits that Yukon Electrical exhausted $110,000 on this particular course of action, which they claim was utilized to bring about a saving for

ratepayers. UCG would argue that this chosen method results in a negative benefit for ratepayers and was not a reasonable nor prudent approach. For these reasons, UCG submits this amount of expenditures ($110K) be denied in the rate case reserve nor in the revenue requirement.

6. In its final argument Yukon Electrical makes little ado to the fact that new information has come forward since the Application forecast on various issues. They state in several instances: *“the forecast included in its Application was based on the best information available at the time and, as such, should be accepted by the Board and approved as such.”* UCG does not dispute the fact that Yukon Electric used the data they had available at the time, but submits that the motive for a hearing process, with cross-examination of witnesses under oath, is precisely to get up-to-date facts and information in front of the regulator. It is our view that the Board use the best current information available when making its decisions.

7. The first of these instances is with the cost of debt from its affiliate, ATCO Electric, to mirror-down its weighted average cost of 5.623% rather than the Applied forecast of 6.6%. Although this more current rate remains considerably above the prior two years debenture, UCG submits the Board approves this rate minus the 0.05 middle-man cost (if it is truly mirrored-down competitive rate available as Yukon Electric contends) resulting in a debt debenture for the 2008 and 2009 test years of **5.573 per cent**.

8. The second instance is in regard to the applied return on rate base. Information substantiated by the hearing process demonstrated that an allowed return, from that applied for, be lowered from the requested rate of 9.25%. Even if the Board adopts the AUC generic formula approach, the basic long term Canada bond rates have declined some 50 basis points since the Application. UCG submits, that if the Board accepts this approach, they then use the most recent available consensus forecasts.

9. UCG submits that when considering a ‘fair and reasonable’ rate of return the Board consider all the Yukon Electrical deferral accounts requested or already in place (i.e. cost of purchased power, Diesel Contingency Fund, diesel fuel price Rider, increased fuel cost associated with Pelly Crossing). These deferral accounts negate the risk factors for which Yukon Electric wish to apply a premium.

10. Furthermore, on this item, Yukon Electrical makes some incorrect assertions in its final argument. They state on page 21, last paragraph: *“In the context of these proceedings Ms. McShane of Foster Associates recommended, and Yukon Electrical accepted, a return on common equity based on the formula approach currently used by the AUC. “* For the record this method was advised as the “point of departure” by Yukon Electrical to Foster Associates, not the contrary.

11. On page 22, second paragraph they continue: *“Yukon Electrical chose to adopt a formula based approach to setting return on equity for the Test Years as it would*

avoid an extensive debate over the appropriateness of using the traditional methods to determine return on equity which, as indicated by Ms. McShane, would be considerably higher than the return derived by use of the formula method." UCG submits that although Ms. McShane did make this generalization, information presented by her in cross-examination show that this is indeed not the case. Final argument made by UCG on this issue are taken directly from the evidentiary record and demonstrate beyond any doubt that "traditional" methods would result in a lower return for this Application, more in the **range of 8 to 8.5%**.

12. Yukon Electric make argument that the Board should only "*have regard to the historic information provided on the record of these proceedings*", but "*cannot in any way penalize Yukon Electrical based on what has occurred in the past*." UCG submits that these two statements contradict each other. UCG further submits that this Board is obligated to embrace historical data to ensure that the same type of utility gamesmanship used in the past is no longer acceptable.

13. Proper mechanisms must be put in place to ensure highballing forecast expense statements or low balling forecast sales and revenue statements do not result in a lottery for the shareholders. One such mechanism could target rate of return, i.e. set a 'fair' allowed rate of return, place a 50-50 split between the ratepayer and the shareholder on any earnings above the decided upon allowed rate of return up to a certain range. After this range is reached, all the proceedings above this quantum goes back to the ratepayer. As an example:

Allowed rate of return	8.5%
Shared return (on a 50-50 basis)	8.5 -9.5%
Reimburse totally to ratepayer	Above 9.5%

14. YEC, LE and UCG presented evidence in their final argument that the automated meter reading (AMR) transition and the Carcross diesel generator are <u>not</u> necessary to secure safe, reliable and cost- effective electricity. CW questioned their validity and benefits. It is our view, these capital costs do not warrant the benefits claimed by Yukon Electric and should be denied.

15. Even the North of 60 billing system has already proven to have flaws, will not lower the internal operations and maintenance costs nor retire the costs associated with company affiliates pertaining to billing. The old system works and this proposed <u>*new*</u> system, according to the record, is 10 or more years old already. It is our view that this program capital costs should be denied.

16. Denying all or any capital costs would significantly lower the Yukon Electrical rate base. UCG submits, as such, logic dictates that Yukon Electrical would not have to borrow as much on the Test Years' debentures leaving less debt payments to be shouldered by the ratepayer. All of this, in turn, would lower the revenue requirement and requested rate increase for the two Test Years.

17. Although UCG has not mentioned several items in this reply (i.e. capital structure, cost of debt, depreciation, sales of property, rate case costs, etc.)

does not mean we are in agreement with Yukon Electrical.

18. To conclude, UCG submits that this Board is mandated to envisage the economic conditions of the time while making its decision. As the Board is well aware, most low and set-income families are already striving to keep up with rising prices for energy (since last spring, electricity bills have gone up 32% through various rate riders or bill adjustments, without the utility providers even making appearances before their regulator). At the same time, many utility providers across the nation are reporting weaker profits hurt by lower returns for their invested funds and volatile capital markets. Why should Yukon Electrical not share some of this burden?

Respectfully submitted,

Roger Rondeau
Representative for UCG