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Our File No.: 12276-81

November 10, 2008

Yukon Public Utilities Board  
Box 31728  
Whitehorse, Yukon Y1A 6L3

Att: Ms. Wendy Shanks  
Board Chair

Dear Ms. Shanks:

Re: Yukon Electrical Company Limited  
2008-2009 General Rate Application

Pursuant to the Board's Schedule, please find attached the Yukon Electrical Company Limited's Reply Argument in the above-noted proceeding.

Should you have any questions regarding the above, please do not hesitate to contact the undersigned.

Yours truly,

**BENNETT JONES LLP**



Loyola G. Keough  
Counsel for Yukon Electrical Company Limited

cc: Interested Parties

**YUKON UTILITIES BOARD  
YUKON ELECTRICAL COMPANY LIMITED  
2008-2009 PHASE I GENERAL RATE APPLICATION  
REPLY ARGUMENT**

**1. INTRODUCTION**

The Yukon Electrical Company Limited ("Yukon Electrical") received Arguments from the City of Whitehorse (the "City" or "Whitehorse"), Yukon Energy Corporation ("YEC"), Leading Edge Projects Inc. ("LE") and the Utilities Consumers Group ("UCG") regarding the referenced proceeding and will herein provide its response to the matters raised by these parties.

While Yukon Electrical attempted to address all major issues that had been pursued during the course of the proceeding in its Argument, it clearly underestimated the ingenuity of parties to create arguments that are without evidentiary support and, in fact, are contrary to the only evidence on the record of these proceedings. Likewise, Yukon Electrical did not anticipate that YEC would seek to introduce new evidence via its Argument, which it clearly knows is highly inappropriate. Such evidence cannot be relied upon by the Board in its consideration of the issues upon which it must render decisions in these proceedings. Additional comments will be made in this regard during the course of this Reply.

While Yukon Electrical correctly anticipated that YEC would urge the Board to totally ignore the only evidence on the record, in favour of broad sweeping generalizations that are not supported by any evidence, YEC has now taken this approach a step further and sought to create positions that simply do not exist. For example, during the course of the proceedings YEC devoted considerable time to an attempt to develop a comparison of the actual returns achieved by Yukon Electrical in non-Test Years with the approved returns awarded ATCO Electric Ltd. by its Regulator. At no point was any connection made regarding these two unrelated items, including specifically any linkage between the reliance of this Board upon the Alberta Utilities

Commission ("AUC") and its predecessors for guidance in this matter. In fact, this clearly was not the case, as Yukon Electrical has not been before this Board during the time period discussed. There is simply no "established past precedent" (p. 37) for this Board basing its decisions on rate of return on what the AUC has done. This, and other, blatant attempts to fabricate an argument must be rejected out of hand.

YEC is also critical of the evidence filed by Yukon Electrical regarding certain matters. This is somewhat ironic given the fact that, as anticipated, YEC is urging the Board to totally ignore all of the evidence filed by Yukon Electrical in these proceedings (regarding such matters as the requested increase in operation and maintenance expenses); and rather opt for a broad brush, arbitrary increase which appears to be based solely on past actuals; and which does not take into account at all the detailed explanations provided by Yukon Electrical regarding the requested increases for the Test Years. Likewise, YEC apparently would have the Board render decisions based on the record to past YEC proceedings, versus the current record established by Yukon Electrical in this case. Apparently YEC does not appreciate that ignoring the current record in favour of evidence from another proceeding, which is not on the record to this proceeding, would constitute an error of law and void any decision which was based on such an approach.

As was anticipated in Yukon Electrical's Argument, it is apparent that YEC indeed does have a fundamental misunderstanding of the manner in which this Board is required to set the revenue requirement for Yukon Electrical for the 2008 and 2009 Test Years. YEC also appears not to understand the "regulatory compact" that exists between the utility and ratepayers. Given that YEC is an entity regulated by this Board, which has been before it on numerous occasions over the past decade, one would expect that YEC would have a greater understanding of the fundamentals underpinning the regulatory process. While YEC itself has enjoyed the benefits of blurring the distinction between ratepayer costs and taxpayer costs, it is apparent that at least for the purpose of this proceeding YEC has lost complete touch with the balancing of the rights of the utility with those of the ratepayer. The regulatory compact entitles the utility

to a reasonable opportunity to recover reasonable and prudent costs, including return, in exchange for the provision of safe and reliable service at fair and reasonable rates. The regulatory compact does not require Yukon Electrical to abandon fair and reasonable regulatory practices and policies, that have consistently been used to derive components of its revenue requirement, solely because adopting a different approach may result in a reduction in the revenue requirement for the Test Years. To be absolutely clear, by bringing forward an application based on long standing, previously approved regulatory approaches Yukon Electrical is indeed fulfilling its part of the regulatory compact and putting forward rates that are fair and reasonable in the circumstances.

YEC also appears to be encouraging the Board to penalize Yukon Electrical and deprive it of its legislative right to a reasonable opportunity to recover reasonable and prudent costs based on a series of tenuous arguments that, yet again, totally ignore the evidence on the record to these proceedings, again in favour of broad generalizations or materials that are not on the record to these proceedings. Surely YEC knows, or ought to know, that such errors are simply not sustainable.

Yukon Electrical also observes that YEC seems to be attempting to create a distinction in the quality of the evidence presented in these proceedings based on the timing of presentation of such evidence. Such a distinction does not exist. As stated by Yukon Electrical in its Argument, the only evidence on the record to these proceedings is that furnished by Yukon Electrical in its Application, supplementary filings, Information Responses, oral testimony and responses to Undertakings. There is no other evidence that has been filed by any party. Evidence introduced via all of the above methods combine to form the evidentiary base upon which the Board must rely in rendering the various decisions regarding Yukon Electrical's Phase I filing. All of this evidence comprises the totality of the record and the Board must take all such evidence into account. While YEC has the option of ignoring the evidence filed in these proceedings, the Board does not possess such a luxury.

In its Argument (p. 1) the City attempts to show that Yukon Electrical's requested revenue requirement is not reasonable by pointing to a "general indicator" related to revenue at existing rates. Like YEC, this approach totally ignores all of the evidence on the record. There is simply no basis that supports the use of such a broad brush approach.

In this Reply Argument Yukon Electrical will address the significant issues raised by the above-referenced Interveners in their Arguments. However, failure to mention any specific item should not be interpreted as agreement with the positions advanced by any Intervener. To the contrary, unless explicitly stated otherwise, the positions advanced by Yukon Electrical in its Application, supplementary filings, Information Responses and oral testimony remain its positions in these proceedings.

In this Reply, Yukon Electrical will generally follow the same format adopted in its Application and Argument, with the additional issues raised by parties addressed under the appropriate heading.

## **2. SALES AND REVENUE**

In its Argument, Whitehorse devotes a considerable amount of time to Yukon Electrical's sales forecasts and attempts to create arguments that, while lacking evidentiary support, achieve the common goal of increasing Yukon Electrical's sales forecasts for each of the Test Years. Whitehorse also accuses Yukon Electrical of adopting an inconsistent approach to the development of its forecasts; and uses this argument to support a position that would abandon long-standing, commonly accepted practices for the development of such sales forecasts, in favor of short-term variations that it conveniently characterizes as "trends".

Yukon Electrical categorically rejects the notion that it has approached its sales forecast in an inconsistent or unsubstantiated manner. To the contrary, Yukon Electrical has conducted an extensive and detailed process in order to develop a

forecast of sales by community, including the development of use per customer ("UPC") for each community. Yukon Electrical recognizes that a standard data set was not used for each community, as it was impossible to do so based on the actual data and information that existed. Nonetheless, this does not detract from the legitimacy of making use of the actual data and information that was available for each community to the maximum extent possible. Yukon Electrical is not engaging in an "apples and oranges" comparison, as it developed the sales forecast for each community independent of the forecast for other communities. As such, the approach adopted by Yukon Electrical enabled it to arrive at the best sales forecast for each community and then aggregate these separately derived numbers into an overall forecast of sales for each of the Test Years. The fact that the data set available for one community differed from that of another community did not impact the independently derived results, which made use of the best information available.

In its Argument (p. 2) Whitehorse is also dismissive of the facts presented by Yukon Electrical, which materially impact its sales forecast, without providing any reason for dismissing such evidence. For example, with respect to the forecast number of residential customers for 2009, Whitehorse rejects Yukon Electrical's evidence that the lack of developed land in the Whitehorse area will impact its sales forecast. As indicated, Yukon Electrical works closely with the communities to which it provides service and obtains significant information through its work in the community, as well as, from consultations with the communities, Government officials and local developers (3T302; YEC-YECL-2(g)). At no point during the proceedings did Whitehorse dispute or test the positions advanced by Yukon Electrical or provide information to the contrary. Yet now, at the Argument stage, Whitehorse seeks to dismiss the only evidence that is on the record without any justification or basis. Yukon Electrical submits that its uncontraverted evidence should be accepted by the Board in this regard. There is simply no basis to arbitrarily increase the number of customer adds as suggested by the City. Yukon Electrical's forecast should be approved, as filed, as it is based on an extensive examination of the factors impacting such growth and specific information relating to expected customer adds.

Whitehorse is also critical of Yukon Electrical's use of regression analysis for the determination of residential UPC and the normalization approach adopted by Yukon Electrical (p. 4-6). The only facts on the record confirm that Yukon Electrical has made use of standard, well accepted and previously approved approaches in arriving at its sales forecast (YEC-YECL-2(b)). Yukon Electrical has clearly shown that weather impacts residential sales.

The City is also critical of the fact that not all communities had their residential UPC normalized (p. 5). As indicated (3T287), Yukon Electrical did not use a normalized approach to forecast the average UPC for seven of the twenty residential communities in its service territory, because weather data was not available for these communities. This does not diminish the legitimacy of using this approach where data was available.

In addition, as demonstrated in the Response to Undertaking (3T293), non-normalized sales by community account for approximately 3% of Yukon Electrical's forecast residential sales. As noted, Yukon Electrical used a three year average of most recently available UPC data for these communities. Again, this approach is entirely reasonable and makes use of available data to derive the best forecast possible.

The City also expresses a concern that the normal heating degree data relied upon was not consistent with regard to timeframe (p. 5). Whitehorse then points to the 12 year period used for Watson Lake versus the 20 years of data used for Whitehorse. The main purpose of weather normalization is simply to remove the impact of weather from the UPC data, so that annual values are comparable. The use of 12 year versus 20 year data in no way materially alters Yukon Electrical's forecast results and certainly does not diminish the validity or accuracy of the methodology used. In fact, use of a shorter period for Whitehorse would have a negligible impact. Again, Yukon Electrical is of the view that it is preferable to make use of all of the data that is available.

The City claims that "a trend line extension of the consolidated data often used by utilities would more appropriately forecast the total residential usage per customer for 2008 and 2009." (p.8) The City then goes on to propose a recommended UPC forecast based on a trend line. Yukon Electrical notes, however, that the City neglected to provide the complete results of the approach it proposes to employ. A trend line and regression analysis of the City's data shows an  $R^2$  of only 0.431, which according to the City, would be considered not a good result. The results of the City's recommended "trend" line also reveal that neither the slope nor the intercept coefficients, of 0.09 and -170.77 respectively, are statistically significant (based on the value of the t-Stat). In other words, there is no statistically viable relationship between the consolidated average UPC and time, using the City's proposed trend line approach. Based on the foregoing, it is clear that the City's proposed residential average UPC, based on the trend line approach, is not appropriate and should be dismissed.

The City was also critical of Yukon Electrical's reliance upon the results of the regression analysis where the  $R^2$  value was less than 0.70. Yukon Electrical is unaware of any evidence that supports the use of this  $R^2$  value as some sort of cut-off. Notwithstanding this fact, while the  $R^2$  values derived from the regression analysis do constitute a range, Yukon Electrical notes that these values exceed the level identified by Whitehorse itself for the larger communities served by Yukon Electrical, including specifically the City of Whitehorse. Yukon Electrical submits that it would be highly inappropriate for the Board to abandon the consistent and previously accepted approach adopted by it in developing a sales forecast in favour of convenient "trends" that are not in fact based on any long-term data; and which only serve to fulfill the City of Whitehorse's predetermined objectives. In the end result, the City's recommendation that the Board increase residential UPC (p. 8-9) is arbitrary in nature and not supported by any evidence on the record. Additionally, if a "trend" approach were adopted, a reduction in the normalized Whitehorse UPC would be in order (see: Application, Section 2, Attachment 1). Given the relative size of Whitehorse compared to other communities, this would have an impact on the overall forecast results. The approach advanced by the City also ignores the impact of weather on sales and the need to

forecast smaller communities individually, as sales are used to determine diesel generation (3T288). It is inappropriate to ignore these important factors. As such, this suggestion should be rejected by the Board.

The City also devotes considerable to time to Yukon Electrical's forecast of commercial sales (p. 9-13). In this regard, the City is extremely critical of Yukon Electrical because it respected the confidentiality requirements of its individual customers. Not only is this a long standing and generally accepted approach, privacy legislation prohibits Yukon Electrical from disclosing such customer specific information on the public record. The fact that customer specific information was not provided openly on the record does not detract from the validity of the positions presented by Yukon Electrical in its evidence. This evidence is uncontradicted and has not been diminished in value based on the questioning conducted during these proceedings.

Yukon Electrical explained in detail that it examines commercial customers expected to be added in each community on an individual basis. The information provided by Yukon Electrical confirms that, during the Test Years, smaller commercial customers with lower UPC will likely be added to the system with no new large government or non-government customers being added. As noted, there is no current expectation that new larger customers, such as "big box stores" or the Canada Games Centre, similar to those added in the recent past, would be arriving during the Test Period. Yukon Electrical has also appropriately adjusted its forecasts to reflect the one time impact of the Canada Winter Games, which will not be repeated in the Test Years. This latter adjustment appears to have been accepted by the City.

Yukon Electrical's forecast has already captured the impact of the large new loads that were recently connected to the system. As such, based on the evidence presented, it is not reasonable to expect the growth rate experienced between 2003 and 2007 to continue into the Test Period.

The City also commented on the use of a three year average commercial UPC to derive the forecast for communities other than Whitehorse. This multi-year approach is a common practice and was previously used and approved in the 1996/1997 GRA. Yukon Electrical submits that this approach remains reasonable and should be accepted by the Board.

Yukon Electrical urges the Board to resist the City's suggestion that the detailed information and data provided by Yukon Electrical be ignored in favour of The City's interpretation of what constitutes "common sense" (p. 12). Yukon Electrical has relied upon consistent methodologies and all the data that is available to derive valid forecasts that remain intact following questioning.

As expected, a number of parties were attracted to the position advanced by YEC that, during certain past periods, Yukon Electrical's actual sales forecast in non-Test Years had exceeded the internal business plan forecasts that were provided to YEC. Yukon Electrical fully addressed this matter in its Argument, as it is clear that these internal, non-Test Year forecasts were not prepared on the same basis as the comprehensive GRA quality forecasts included in the current filing. Ironically, it appears that the same can be said for YEC itself.

YEC also provided information on its revised secondary sales forecast to Yukon Electrical on the eve of the Hearing. In its Argument (p. 44) YEC commented on the impact of this updated, more rigorous forecast on Yukon Electrical. However, YEC's suggestion excludes a Line Loss factor for the increased secondary sales, which is embedded in the increased sales. The end result is that the impact of this change in forecast is minimal. Yukon Electrical would also caution the Board against making any changes to the secondary sales forecast, as it was based on the best information available at the time the forecast was made, and the actual level of secondary sales will inevitably be influenced by a variety of factors that are not known to any party, including YEC, at this time. Yukon Electrical reiterates its position that no adjustment to its forecast is appropriate or necessary based on this change in YEC's forecast.

In summary, Yukon Electrical submits that its residential and commercial forecasts for the Test Years are based on a rigorous analysis of the data available for each community. Yukon Electrical has employed standard and well accepted approaches to developing its forecasts that should not be abandoned simply to achieve a pre-determined desired result by certain Interveners. Yukon Electrical submits that its forecasts for the Test Years are sound and should be approved, as filed.

### **3. PURCHASE POWER**

As anticipated in its Argument (p. 8-9), an issue arose with respect to the Fish Lake hydro generation that could be expected during the Test Period. While LE is prepared to accept Yukon Electrical's forecast for the Test Years, it appears that YEC is having difficulty with this forecast, notwithstanding the clear evidence on the record which confirms that Yukon Electrical discussed the ten year average it proposed to use with YEC officials, who indicated that this was a reasonable way to estimate the usage of Fish Lake on a go forward basis (3T272-273). At this point it appears that YEC wishes to ignore this evidence and rather rely upon new evidence now being introduced by YEC regarding a past YEC Application, which is clearly not before the Board. Yukon Electrical submits that relying on a ten year average, adjusted for the planned rebuilds, is a reasonable approach, particularly when the forecast output is higher than actual output in six of the last ten years.

YEC also takes issue with what it calls Yukon Electrical's failure to capitalize purchase power costs with respect to the Fish Lake rebuilds. While suggesting, without evidentiary support, that this is the regulatory practice for YEC, there is no indication that the approach adopted by Yukon Electrical is inappropriate in terms of expensing the associated costs. As acknowledged in Argument, Yukon Electrical recognizes that this is a grey area, but submits that all of the implications of directing it to capitalize these costs (versus expensing them) needs to be understood prior to any such Order being implemented. Yukon Electrical submits that it has followed a standard

methodology in determining that these costs should be expensed and this approach should be approved by the Board.

Yukon Electrical reiterates its view that the forecast of purchase power, including the amount of generation from Fish Lake, is reasonable and appropriate for the Test Years and should be approved by the Board, as filed.

Little debate occurred with respect to the deferral accounts Yukon Electrical is seeking to continue with respect to purchase power. Yukon Electrical submits that these deferral accounts should also be approved as requested.

#### **4. DIESEL FUEL COSTS**

In its Argument (p. 3) LE indicated that the significant increase in diesel fuel costs that are forecast to be experienced during the Test Years raise a concern with respect to conservation and efficiency programs that might assist in reducing overall diesel fuel usage. While Yukon Electrical is always amenable to participating in such programs, its experience is that conservation and efficiency programs are typically lead by a Government based entity, in furtherance of policy objectives and not spear-headed by an individual utility. Notwithstanding, Yukon Electrical remains open to discuss such programs with the Government, YEC and customers.

Both YEC (p. 44-45) and LE (p. 3) made comments with respect to the deferral account Yukon Electrical has requested regarding potential increased fuel costs associated with the Pelly Crossing Project. While parties do not disagree that the timing of the actual interconnection of Pelly Crossing to the Grid can be impacted by events beyond Yukon Electrical's control, they appear to be focusing on the fact that no equivalent account was approved for the Stewart Crossing Interconnection in the past. As explained by Yukon Electrical, the Stewart Crossing Interconnection occurred in a non-Test Year and, as such, there was no approval granted for such a deferral account. This does not detract from the legitimacy of establishing the requested deferral account

in the circumstances surrounding Pelly Crossing. In the current circumstances, where Yukon Electrical is dependant on YEC for the timing of the interconnect, the requested deferral account represents the appropriate mechanism to balance the interests of customers and the utility. Additionally, the requested deferral account clearly meets the standard criteria for the approval of such a mechanism. Yukon Electrical submits that this deferral account should be approved, as requested.

## **5. OPERATIONS AND MAINTENANCE EXPENSES**

As anticipated, the applied-for O&M costs for the Test Years were subject to considerable discussion in the Arguments filed by Interveners. While parties, including particularly YEC, chose to focus their efforts on creating numerous statistical percentages that sought to compare the overall magnitude of the O&M expenses requested for the Test Years to prior non-Test Year actuals, this was largely done at the expense of ignoring the actual detailed, item by item justification for such increases that appear on the record. In fact, YEC takes the rather absurd position that this broad brush approach is preferable to a line by line examination of the actual evidence (p. 9-10). It is indeed ironic to see YEC, in the same Argument, criticize Yukon Electrical for an apparent lack of evidence on certain matters but then reject an examination of the detailed evidence that is actually presented on the record (which fully explains the requested cost increases). As stated in Argument, while YEC has the luxury to ignore the detailed, sub-category by sub-category justification provided by Yukon Electrical to justify its requested cost increases, the Board cannot ignore such evidence and, in fact, must take all of this evidence into account in its decision making process. While YEC pleads that it cannot reasonably conduct a line by line examination of Yukon Electrical's evidence in the hearing process, Yukon Electrical submits that this is indeed the purpose of a General Rate Application. Information is provided on a detailed basis in order to fully explain why the Test Year forecasts vary from past year actuals. The position taken by YEC is disingenuous and one wonders if YEC is attempting to set the stage for its own GRA.

Yukon Electrical has indeed provided evidence to allow for a detailed line by line examination, which has in fact occurred during the course of these proceedings. The fact that YEC has chosen to ignore the totality of the evidence in this regard does not diminish the validity of such evidence and its consideration by the Board in its decision making process.

YEC makes a number of other general assertions that warrant a response at the outset. First, YEC states that the fact Yukon Electrical has not been before the Board for 12 years "undermines" the ability of the Board and Interveners to assess Yukon Electrical's forecasts and proposals (p. 2). Yukon Electrical refutes this inflammatory suggestion out of hand. Contrary to the views held by YEC, Yukon Electrical is extremely proud of the fact that it has been able to provide safe and reliable service over an extended period without having to seek significant rate increases – something that cannot be said of YEC. Yukon Electrical has provided extensive information in its Application, as well as through an exhaustive Information Response process, which allows for a detailed testing of its Application.

YEC makes reference to providing Yukon Electrical an incentive that would enhance the likelihood of more timely future regulatory reviews (p. 3). Again, Yukon Electrical appears to differ significantly from YEC on this matter. Yukon Electrical considers that the avoidance of expensive regulatory proceedings on frequent basis is a good thing, that reflects the fact regulation is actually working. As noted, it has always been open to the Board and parties to request that Yukon Electrical file a GRA if this is considered appropriate.

YEC also makes reference to Yukon Electrical's proven ability to control its costs over the last ten years (p. 3) and then attempts to translate this acknowledgement into a basis for accepting its broad-brush approach to evaluating the application, in lieu of actually looking at the actual evidence. YEC conveniently ignores the fact that Yukon Electrical has been very open about the fact that it filed this GRA because the increased

cost pressures it is facing, plus the need to complete three unique and large capital projects, have made it impossible for it to "hold the line" on rate increases any longer.

YEC also inaccurately suggests that Yukon Electrical is attempting to switch the "onus" to Interveners regarding the justification for the requested cost increases (p. 8). No such request has been made. If YEC were not intent on ignoring the evidence on the record, it would readily see that Yukon Electrical has provided detailed justifications that meet the onus placed on it.

As anticipated, a number of specific items were raised by Intervener Arguments and these matters will be addressed specifically below.

**(i) Labour Costs**

In its Argument (p. 21) YEC comments on Yukon Electrical's salaries and the current status of its Collective Bargaining Agreement. While inappropriately comparing single year increases with an aggregate increase over a number of years, apparently in an effort to create a dramatic effect, YEC would have the Board ignore the rates of compensation agreed to for similar categories of employees for both ATCO Electric and its affiliated companies in the Northwest Territories. Clearly these previously established rates set the benchmark for Yukon Electrical. As stated by Yukon Electrical, it considers this information to provide a very accurate indication of what it will be required to pay under its own Collective Bargaining Agreement for 2009. As well, Yukon Electrical relied upon the Sierra Systems study to assist it in developing appropriate compensation measures that would assist it in remaining competitive in the marketplace. There is simply no evidence to the contrary on the record of these proceedings. It is also interesting that no party takes issue with Yukon Electrical's evidence that, over the past number of years, securing and retaining qualified personnel has been extremely challenging in the Yukon, including specifically for Yukon Electrical.

Yukon Electrical has provided detailed information regarding the measures it has undertaken in order to remain competitive in the marketplace and be able to attract and retain critical, on the ground, resources needed to ensure that safe and reliable service is provided to customers.

**(ii) Vacancy Rate**

The issue of the appropriate vacancy rate to be utilized by Yukon Electrical for the Test Years attracted significant attention during the course of these proceedings. While it is clear that a vacancy rate, as the term is used in regulatory proceedings, did not exist for past periods, the evidence provided did indicate the number of FTE positions per year below that targeted by management for internal purposes. Both the City of Whitehorse and YEC seek to establish what they would characterize as an average vacancy rate over the 2003-2007 period and extrapolate this for the Test Years.

The major difficulty in adopting this approach is that it totally ignores the evidence on the record to the proceedings, which detail the extensive programs which Yukon Electrical has implemented in order to address its resource requirements and the success that these programs have reaped. In fact, as indicated by Yukon Electrical, it currently only has one position that is now open for the Test Years. Yukon Electrical has provided detailed explanations regarding each and every position that has been added, including the additional line crew which reduced the reliance on contractors for the conduct of both capital and O&M work. Contrary to the speculation engaged in by the City that Yukon Electrical will not likely be able to match the benefits from other companies and hence retain all employees (p. 18), the clear evidence is that Yukon Electrical's enhanced efforts and increased benefits are in fact working, as it has been able to fill the vacancies previously experienced.

Yukon Electrical submits that its forecast vacancy rate is indeed reasonable and appropriate given the current circumstances and should be approved by the Board, as filed.

Before leaving this subject, Yukon Electrical must respond to the inflammatory language used in YEC's Argument with respect to vacancy rates, wherein it submitted that the impact of vacancy rates could create a "windfall" for Yukon Electrical (p. 23). Yukon Electrical submits that this language is reflective of the overall approach taken by YEC in its participation in these proceedings, which chooses to ignore the only evidence on the record and rather relies upon rhetoric to support the hope that the Board will totally ignore the actual evidence before it in deciding on a specific matter. Yukon Electrical submits that this approach contributes little to the regulatory process. Such unsubstantiated and unwarranted statements must be ignored by the Board.

### **(iii) Non-Labour Costs**

As anticipated, parties took issue with Yukon Electrical's proposal to use an Alberta-based inflation rate for its non-labour costs. Once again, YEC opts for a broad sweeping statement that the Yukon rate is more relevant, without providing a shred of evidence to explain why this is the case, particularly given the fact that Yukon Electrical acquires significant services and materials from its parent and other sources in Alberta. The City of Whitehorse (p. 14-15) attempts to dissect the specific language used by Yukon Electrical and suggests that because "many" does not mean "all", an arbitrary averaging of Alberta and Yukon rates is warranted.

Yukon Electrical submits that the only evidence on the record to these proceedings confirms that its use of the 5% Alberta-based rate is reasonable and appropriate in the circumstances (YEC-YECL-9). As indicated, Yukon Electrical must look to Alberta for materials and services from its parent company, as well as materials from outside parties.

**(iv) Affiliate Costs**

In its Argument (p. 21-23) the City of Whitehorse comments upon the information technology and billing services purchased by Yukon Electrical from ATCO I-TEK and ATCO I-TEK Business Services. While the City accepts Yukon Electrical's reasons for not employing the Evergreen rates arising from the Alberta proceeding before the Alberta Utilities Commission; and is also prepared to accept the rates herein as final, it does take issue with the inflation rates used by Yukon Electrical in its forecast. As above, given that these services are sourced in Alberta, an Alberta based rate is reasonable and appropriate.

In this regard, Yukon Electrical submits that it has adopted an approach to the pricing of these services which reflects the actual services provided to Yukon Electrical. As well, the prices for these services are derived in a manner that is beneficial to Yukon Electrical and its customers. Yukon Electrical submits that the inflation factors used by it are appropriate and that the five year pricing is in accordance with how similar services are priced. Yukon Electrical submits that these costs should be approved, as filed.

**(v) Brushing**

Yukon Electrical's new and improved brushing program did not attract material comment in Intervener Arguments. Yukon Electrical reiterates its view that this program has been successful and the number of tree related outages has decreased noticeably since the program was introduced. Yukon Electrical submits that the costs of this program should be approved, as filed.

In summary as demonstrated by Yukon Electrical's detailed justifications the revenue requirement impact of O&M Increases, Depreciation, Rate Case costs and Rate Base additions are all required in order for Yukon Electrical to be able to provide safe and reliable service during the Test years.

**6. TAXES OTHER THAN INCOME**

Intervener Arguments did not comment on this matter and, as such, no reply is required. Yukon Electrical reiterates its view that its forecast should be approved, as filed.

**7. DEPRECIATION**

As anticipated in Yukon Energy's Argument (p. 14-20), YEC lead a challenge regarding certain aspects of the depreciation expense reflected in Yukon Electrical's revenue requirement for the Test Years. As noted, the approaches adopted by Yukon Electrical are based on expert advice received from Gannett Fleming and reflect a continuation of the company's past practice regarding depreciation matters. In this regard, it is of note that YEC attempts to bolster its position by mischaracterizing the manner in which the Board has dealt with depreciation matters in the past. In its Argument (p. 14) YEC suggests that in the "last application reviewed by the Board" it approved certain approaches regarding depreciation matters. However, YEC conveniently ignores that it was YEC, against the recommendation of its expert witness, who sought changes to the depreciation methodology previously approved by the Board, which is indeed consistent with Yukon Electrical's treatment as proposed herein. As noted at the outset, Yukon Electrical categorically rejects the suggestion that, because it is seeking to continue recommended practices with respect to depreciation, it is somehow not seeking to appropriately balance the interests of ratepayers and the utility. To the contrary, Yukon Electrical submits that its proposal is consistent with the establishment of fair and reasonable rates that appropriately balances such interests.

Yukon Electrical will address the two main issues raised with respect to depreciation below.

**(i) Use of the Equal Life Group Procedure**

It appears that YEC considers that Yukon Electrical was obliged to seek a deviation from its long standing, previously approved depreciation methodology because YEC, for its own reasons, had sought such a change in the past. Yukon Electrical rejects this notion. As stated, Yukon Electrical has adopted the advice provided by its expert witness regarding the continuation of the appropriate depreciation methodology which should be utilized by the Company. The fact that YEC chose to abandon the long standing, previously approved methodology has no bearing on the appropriateness of the continued use of the ELG approach for Yukon Electrical.

YEC suggests that Yukon Electrical is challenging the appropriateness of Board Order 2005-012 on these matters. This allegation is simply not sustainable. Yukon Electrical has brought forward expert testimony which justifies the continuation of its current approach to depreciation for the Test Years. While YEC sought to rely upon a partial quote from the expert evidence presented in its 2005 Application, once the complete quote is provided by Yukon Electrical in its Argument (p. 19), it is clear that the approach adopted by YEC was one that its own expert was urging it to reconsider in the future. In addition, at that time YEC apparently did not consider its switching to the ASL method would create any precedent; however, now it curiously has morphed into a challenge to a prior Board Decision.

YEC also appears to be relying upon what has happened in the past, without acknowledging that things have changed over time. As well, the manner in which depreciation, and for that matter any other issue, is handed for YEC will be determined based on the record to its forthcoming GRA and not on what the Board does with the evidence in this proceeding.

For the reasons detailed in its evidence, and summarized in its Argument, Yukon Electrical submits that a continuation of the Equal Life Group approach is appropriate and should be approved for the Test Years. In this regard, Yukon Electrical notes that

LE argues that no adequate justification has been presented to justify a change in depreciation methods. Yukon Electrical agrees.

**(ii) Future Reserve for Site Restoration ("FRSR")**

YEC's argument on this point is another example of where it is urging the Board to completely ignore all of the evidence on the record to these proceedings, including specifically the expert testimony provided by Gannett Fleming. YEC is urging the Board to render its decision in these proceedings apparently based on the record to a past YEC proceeding, which is clearly not what is before the Board in this case. To adopt YEC's suggested approach would clearly constitute an error of law, as the Board must arrive at its decision in this case based on the evidentiary record before it. YEC again ignores the fact that circumstances have changed since this matter was previously considered by the Board. The appropriate treatment for YEC will obviously be addressed in YEC's forthcoming hearing.

When one examines the actual evidence on the record to these proceedings, it is clear that the approach reflected in Yukon Electrical's Application is not only consistent with the collection of net negative salvage in depreciation rates that has been approved by the Board for Yukon Electrical in the past, but is reflective the widely accepted approach across Canada and the United States. Yukon Electrical submits that its continued use of net negative salvage should be approved, as filed.

**8. RETURN ON RATE BASE**

In Argument, parties devoted considerable time to Yukon Electrical's requested return on equity, capital structure and cost of debt. Yukon Electrical relied upon the expert testimony provided by Foster Associates, Inc. ("Foster Associates") with respect to both the appropriate capital structure and return on equity for Yukon Electrical. In addition, the information provided by Foster Associates formed the basis for Yukon

Electrical's recommended cost of debt. Each of these matters will be discussed separately below.

**(i) Return on Equity ("ROE")**

While Ms. McShane explained at great length that the objective of the various formula-based approaches used in other jurisdictions is very similar and that the nuances adopted in other jurisdictions do not materially impact the overall approach, there appears to be a preference on the part of Interveners for this Board to use the BCUC approach versus that employed by the Alberta Utilities Commission. As noted in Argument (p 22), the use of the BCUC approach would result in a return of 9.14% versus the 9.25% recommended by Ms. McShane. Yukon Electrical confirmed that it considered these two numbers to be in the same range. In its Argument, YEC now suggests that the BCUC formula would render a return of 9.02% (p. 39-40), apparently based on new evidence known only to it.

As anticipated, the focus of YEC's Argument is the actual return achieved by Yukon Electrical in non-Test Years compared to returns approved for ATCO Electric in another jurisdiction over this period. As stated above, no relationship between these two items, including any past reliance on such a suspect relationship, by this Board has been established by YEC. This Board is required to provide Yukon Electrical a reasonable opportunity to earn a fair and appropriate return for the Test Years – period. That is the task currently before the Board and YEC's repetition of past achieved returns is of absolutely no assistance to the Board in this regard.

While Yukon Electrical considers that the outcome of the current review of the formula-based approach that is occurring before the National Energy Board and the Alberta Utilities Commission will impact the manner in which an appropriate return on equity is derived in the future, it does not wish to prolong the debate of which methodology is the most appropriate in the context of these proceedings. As such, Yukon Electrical is prepared to accept a return derived based on the application of the

BCUC formula to the evidence on the record to these proceedings, or the 9.14% referenced above.

**(ii) Capital Structure**

In Argument Interveners devoted a considerable amount of time to the appropriate capital structure for Yukon Electrical. In its Argument YEC continues its overall strategy of urging the Board to totally ignore the evidence on the record to these proceedings and rather rely upon a rather nebulous "consistency" argument, that apparently rests upon past decisions made by this Board that clearly did not factor in the extensive evidence presented by Ms. McShane on the appropriate capital structure for Yukon Electrical, given the business risk to which it is exposed. Given that Yukon Electrical has not been before this Board for an extended period, it is obvious that such evidence would not have been considered in arriving at a decision in the past for a completely different company. Yet again, YEC's suggested approach is incompatible with the evidence and must be rejected.

While the Argument of the City of Whitehorse raises a number of factors that impact the business risks of Yukon Electrical, what the City chooses to ignore is that the expert testimony presented by Yukon Electrical assessed and incorporated all of these business risks into the recommendation that has been presented. In fact, Yukon Electrical's expert witness conducted an extensive examination of a wide variety of factors that are typically taken into account in the establishment of an appropriate capital structure. Additionally, the fact that YEC's capital structure is not being examined concurrently with Yukon Electrical's GRA does not provide a basis for denying Yukon Electrical's request, that is based on the evidence on the record to these proceedings. Yukon Electrical submits that its capital structure and associated business risks have not been examined for an extended period of time and, as such, are appropriately considered based on the evidence presented on the record to these proceedings. What happens in the future regarding YEC will obviously depend on the record to the forthcoming proceeding into YEC's GRA.

While LE does not take a specific position on capital structure, it does list various factors relevant to the risk profile of Yukon Electrical. Again, these factors have been taken into account by Ms. McShane in arriving at her recommendations. Yukon Electrical observes that LE does not provide any evidence on the relative business risks of Yukon Electrical; nor does it address the implications of the combined ROE and capital structure or Yukon Electrical's financial integrity, ability to attract capital on reasonable terms or whether the resulting cost of capital would provide an overall return that meets the comparable returns standard.

As a point of clarification, LE also appears to have misconstrued LE-YECL-U3 with respect to the existence of conservation programs and resultant lost sales. The question asked why Yukon Electrical could not take conservation and efficiency into account when preparing forecasts. The answer says Yukon Electrical does take into account reductions in customer usage when developing its forecasts, but the fact remains that increasing emphasis on conservation and efficiency raises the risk of lost sales.

Yukon Electrical submits that its requested increase in capital structure has been fully justified based on the reasons contained in the expert testimony presented by Ms. McShane.

### **(iii) Cost of Debt**

As stated in its Argument, the forecast debt rate included in the current Application of 6.6% for the Test Period was based on the best information available at the time the Application was prepared and, in a forward Test Year approach to regulation, should be accepted by the Board as filed.

While there appears to be some confusion regarding whether Yukon Electrical is achieving benefits through the mirroring down of debt from its parent, this is clearly the

case as the debt rates available to Yukon Electrical's parent company are much more favourable than Yukon Electrical could obtain on its own.

In addition, when determining an appropriate cost of debt for the Test Years the Board must be cognizant of the fact that, while yields are indeed down, there has been an offsetting increase in spreads with the result that utilities would not be able to borrow at low rates. The Board must also bear in mind that the rate requested is for the Test Years and the evidence confirms that the requested rate may be modest, if anything. Yukon Electrical submits that its requested cost of debt should be approved, as filed.

As well, YEC takes exception with Yukon Electrical's calculating interest based on average cost rate at January 1, plus the average cost rate at December 31 divided by 2. Yukon Electrical submits that the above methodology, commonly referred to as the mid-year approach, has been, and is used in the regulatory arena for many items, (i.e. mid-year rate base, mid-year debt, mid-year WIP to calculate AFUDC). As such, this approach should certainly be approved as a generally accepted approach. There is absolutely no evidence that this approach for calculating debt costs, which has been in place for decades, is not appropriate.

**(iv) No Cost Capital**

No additional comment is required regarding this matter.

**(v) Deferred Charges and Credits**

The Arguments presented on behalf of Interveners did not comment materially on either the rate case reserve account or the reserve account Yukon Electrical is proposing to flow through customers the costs associated with major cyclical diesel plant overhauls and rebuilds. Yukon Electrical requests that these reserves be approved, as requested.

In its Argument YEC did allude to the fact that several years ago Yukon Electrical implemented a prior Board Decision that accorded equal treatment to both YEC and Yukon Electrical at the time it was rendered. Yukon Electrical submits that this action was appropriate in the circumstances and has no relevance to the current Test Years.

## **9. CAPITAL ADDITIONS**

As expected, the primary focus of Intervener Arguments was on the three major projects that Yukon Electrical is requesting for the Test Period, which are unique and distinct projects from the normal capital additions that are experienced year over year. As with its Argument, each of these projects will be discussed below.

### **(i) North of 60 Billing System**

Other than the UCG no other party appears to take issue with the approval of this billing system for Yukon Electrical on the basis detailed in its Application and summarized in Argument. The UCG does not appear to understand that, absent the introduction of this billing system, Yukon Electrical would be required to continue with the uneconomic use of the current billing system, which has lost the economies of scale associated with prior years' usage. Yukon Electrical submits that it has addressed this matter in a reasonable and appropriate fashion and this request should be approved, as filed.

### **(ii) Automated Meter Reading ("AMR")**

In Argument parties adopted a variety of approaches to the implementation of the AMR Project proposed by Yukon Electrical. It appears that the City of Whitehorse is in agreement with the approval of the Project as long as the capital expenditures are subjected to a cap. This is to be contrasted with the position adopted by YEC, which appears to be of the view that Yukon Electrical should refrain from bringing forward all "non essential" projects, even if they provide long term benefits for ratepayers, in order

to reduce the Test Year revenue requirements. Both LE and the UCA suggest that the Project should be deferred at this time.

Yukon Electrical considers that its views on the AMR Project need to be clearly understood by the Board. Yukon Electrical considers that it has the responsibility to bring forward to the Board projects which will provide long term benefits for its customers. The AMR Project is justified based solely upon the economic benefits that will be derived from this conversion over its life, without consideration of the numerous additional future benefits that could be achieved from this Project as well. Yukon Electrical does not consider that it would be behaving as a responsible utility if it refrained from bringing forward such beneficial projects simply because it has requested a rate increase for the Test Years. If this were the governing criteria, utilities would seldom bring forward any new project even if utilizing advances in technology would yield long term benefits. Yukon Electrical has presented an extensive business case to support the AMR Project and submits that it should be approved for inclusion in the Test Years forecast. Yukon Electrical would observe that this business case shows that savings are achieved in Year 1 and there is effectively a break-even position in Year 2, as compared to the status quo. While there is a small increase in revenue requirement in years three through nine, this project is clearly not a major rate driver.

Yukon Electrical submits that the City's recommendation regarding the imposition of a cap should not be accepted. As with any capital project, Yukon Electrical will be required to demonstrate that it has incurred reasonable and prudent costs. There is simply no basis to treat this project differently.

### **(iii) Carcross Diesel Generator**

As anticipated, YEC devoted a significant portion of its Argument (p. 26-33) to the Carcross diesel generator that Yukon Electrical has included in its 2009 forecast of capital expenditures.

While the Argument presented by YEC is indeed extensive, at least in terms of the verbiage used in an effort to diminish Yukon Electrical's request, it quite obviously fails to grasp two simple, but key, points that are readily acknowledged by LE. First, in its Argument (p. 7) LE submits that when examining the Carcross diesel generator one must look at all of the evidence on the record. Yukon Electrical fully agrees with this position. It appears that YEC would have the Board develop different "classes" of evidence and attribute varying weights to the evidence depending on when it was put on the record. Yukon Electrical rejects this novel, but unsubstantiated notion.

Second, LE succinctly captures the situation when it states that Carcross is the only significant community in Yukon without backup generation and that it has received the short end of the stick too long (p. 7-8). These sentiments succinctly capture why it is appropriate for Yukon Electrical to address the Carcross-Tagish situation in the context of these proceedings. Yukon Electrical has acted in a manner which responds to the legitimate concerns raised by its customers.

The totality of the evidence presented on the record clearly demonstrates that Carcross-Tagish has been receiving an inferior level of service when compared to other communities in Yukon. As stated in Yukon Electrical in its Argument, it considers that Carcross-Tagish are entitled to non-discriminatory service and the same level of service as the other communities which it serves. Yukon Electrical is of the view that the approval of the Carcross generating station is necessary in order to provide an appropriate level of service to the Carcross-Tagish area. The extensive submission of YEC does not detract from this fact. As noted, all Yukon customers will also benefit from the mobile nature of this Standby Plant. Yukon Electrical submits that this requested capital expenditure should be approved, as filed.

**(iv) Miscellaneous Capital Issues**

In Argument YEC provided brief comment on the Haynes Junction Diesel Unit (p. 25). No comment is required on this matter as Yukon Electrical has fully explained why this long-standing unit was initially constructed as part of its Argument (p. 33).

As noted in its Argument, aside from the three major projects discussed above it is "business as usual" for Yukon Electrical from a capital expenditure point of view. The balance of its capital projects were not subject to material discussion during these proceedings and Yukon Electrical requests that its forecast of capital expenditures be approved, as filed.

**10. INCOME TAX**

No further comment is required regarding this matter.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of November, 2008.

  
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Loyola Keough  
Counsel for the Yukon Electrical Company Limited