



**PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC**

ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7
Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: piac@piac.ca. http://www.piac.ca

Michael Buonaguro
Counsel for VECC
(416) 767-1666

March 24, 2009

VIA MAIL and E-MAIL

Yukon Utilities Board
Box 31728
Whitehorse, Yukon
Y1A 6L3

Attention: Deana Lemke

YUKON UTILITIES BOARD		
EXHIBIT C3-7		
DAY	ENTERED BY	DATE
	UCG	Mar 24/09

**Re: YEC 2008-2009 General Rate Application – UCG Notice of Motion
Inadequate Responses to Information Requests**

Dear Ms. Lemke:

The Utilities Consumers' Group is in receipt of the responses to information requests submitted by Yukon Energy Corporation on February 27 and March 6, 2009.

In reviewing YEC's responses to UCG's requests, it is apparent that appropriate responses have not been provided in all cases. The UCG respectfully requests that the Yukon Utilities Board consider and provide a ruling on the following, presumably after providing the applicant some time to review our requests and provide further answers.

NOTICE OF MOTION

The Utilities Consumers' Group requests that the Board issue an Order to the effect that:

Yukon Energy Corporation shall be required to provide all materials requested by the Utilities Consumers' Group by way of information requests that it has not provided to the Board's satisfaction.

In support of this Notice of Motion, the Utilities Consumers' Group provides for consideration by the Board (and all other parties to the proceeding) the following facts, information, comments, opinions, arguments and questions:

- On February 27 and March 6, 2009, Yukon Energy Corporation (YEC) submitted responses to information requests related to its submitted 2008-2009 General Rates Application.
- The general principle that proceedings before the Board should be transparent and open to the public requires that all relevant materials be available on the public record. The need for transparency is especially important where the material is directly relevant to setting revenue requirement and rates for a regulated monopoly such as YEC.
- The requested evidence is relevant to the consideration of the issues and unless the most compelling reasons can be advanced by YEC, an overarching public interest in disclosure should prevail.
- There has been no disclosure of any perceived harm from the disclosure of this information to the public record (save one response related to a claim for privacy as discussed below).
- The regulation of public utilities must be carried out in as transparent a process as possible. Only very exceptional circumstances should justify the exclusion from the public record of material that is used in rate-setting. UCG respectfully submits that YEC has not demonstrated exceptional circumstances.
- With respect to specific interrogatory responses, the UCG submits the following:

1. UCG-YEC-1-3

YEC failed to fully respond to part (d) of this information request.

YEC was asked to provide details of the bill calculations of the total bill (including all riders, rate relief, and taxes) for a residential customer living in Whitehorse using 1000 kWh, 1200 kWh and 1400 kWh per month in January 2005, January 2006, January 2007, January 2008, January 2009 and August 2009 assuming that the Rate Stabilization Fund expires in July 2009 and the rate adjustments proposed by YEC and YECL are approved.

In the tables referenced in the response submitted by YEC, there were no detailed bill calculations for any of the periods requested.

The UCG requests that YEC provide a more complete response which includes details of the bill calculations requested.

2. UCG-YEC-1-4

YEC failed to respond to part (c) of this information request.

YEC was asked to provide details of diesel generation use in 2005, 2006, 2007 and 2008.

YEC neglected to provide data related to 2008. This cannot be related to data not being available given the 2008 data provided in response to UCG-YEC-1-18.

There is also an inconsistency in information provided in responses to UCG-YEC-1-4 and UCG-YEC-1-18. For example:

- 2005 diesel use in Whitehorse reported as 13,389 litres @ \$0.5012 in UCG-YEC-1-4 and 40,910 litres @ \$0.6284 in UCG-YEC-1-18.
- 2006 diesel use in Whitehorse reported as 185,812 litres @ \$0.6419 in UCG-YEC-1-4 and 213,956 litres @ \$0.7433 in UCG-YEC-1-18.
- 2007 diesel use in Whitehorse reported as 99,370 litres @ \$0.6895 in UCG-YEC-1-4 and 81,221 litres @ \$0.7903 in UCG-YEC-1-18.

Similarly, the kWh generation numbers provided in UCG-YEC-1-4 are in question due to this inconsistency.

The UCG requests that YEC be directed to provide a consistent set of information on diesel use for the time period requested.

3. UCG-YEC-1-5

YEC failed to respond to part (c) of this information request.

YEC was asked to provide an explanation and illustration of the impact on base rates of eliminating each rider currently in use. While an explanation of what would need to be done was provided, YEC did not provide any illustrative rate calculations for 2008 and 2009.

UCG is unable to determine the actual impact on rates and consumer bills of removing each of the existing riders without the detailed calculations from YEC. Without this detail, UCG cannot adequately pursue alternatives to the existing plethora of rate riders relied on by YEC.

The UCG requests that YEC be directed to provide the requested documentation.

4. UCG-YEC-1-7

YEC failed to respond to parts (a) and (b) of this information request.

YEC was asked to provide billing data and analysis that backed up the conclusions provided regarding residential consumption for 2005, 2006, 2007 and 2008. YEC simply provided summary numbers.

Without more detailed billing data, UCG is unable to confirm the numbers being provided by YEC. UCG is also unable to run its own impact analyses without the requested data.

The UCG requests that YEC be directed to provide the requested information.

5. UCG-YEC-1-15

YEC failed to respond to the request for actual revenue-to-cost ratios.

The reason provided by YEC (in response to UCG-YEC-1-93) was that the requested information cannot be provided because the August 2005 cost-of-service report did not, at that time, update revenue-to-cost ratios as to complete such an update for all classes requires a full cost of service study to be performed.

In UCG's submission, YEC could have readily determined the costs to be recovered from each class of ratepayer based on the cost of service study filed in response to Board Order 2007-3 during the Minto PPA review. YEC can combine this cost analysis with its own billing data to determine actual revenue-to-cost ratios.

The UCG requests that YEC be directed to provide the requested information.

6. UCG-YEC-1-17

YEC failed to adequately respond to part (b) of this information request.

YEC was asked to identify the regulatory approvals that it will be seeking for the Aishihik Third Turbine project. YEC responded that it had obtained all of the approvals that it required. UCG suggested that YEC should have indicated what approvals have been obtained so that an analysis could be conducted by YEC on what it believes is required for a project of this magnitude. UCG is concerned that regulatory processes may have been circumvented by the government's participation in this project.

The UCG requests that YEC provide a more complete response by identifying all regulatory approvals obtained for this project.

7. UCG-YEC-1-21

YEC failed to fully respond to part (b) of this information request.

YEC failed to provide forecast and actual loads by customer class for 2008.

The UCG requests that YEC be directed to provide the requested information for 2008.

8. UCG-YEC-1-22

YEC failed to fully respond to parts (b), (c) and (d) of this information request.

YEC claims that it does not have access to the necessary data to provide the requested kWh usage data by community. While it may be that the relationship between YEC and YECL is such that YEC cannot easily obtain the requested information from YECL for the Yukon as a whole, UCG submits that YEC should have at least tried to obtain the requested usage data and, at the very least, provided data for the communities that it serves directly.

The UCG requests that YEC be directed to provide the requested information for at least the communities that it directly serves and explain why it did not request the remaining data from YECL.

9. UCG-YEC-1-25

YEC failed to adequately respond to part (d) to this information request.

YEC provides average revenue requirements per customer but then indicates that the information provided is of limited value because the data was not sub-divided because of the existence of a single major customer (YECL).

UCG does not understand why YEC would provide information with limited value if it knew that the information was more useful if a customer weighting factor was added.

The UCG requests that YEC be directed to provide the requested information in a format that is useful to UCG and other stakeholders by sub-dividing or adding an appropriate weighting factor.

10. UCG-YEC-1-31

YEC failed to adequately respond to part (c) to this information request.

YEC was asked to explain the process YEC uses to determine the costs associated with the Minto diesel generators. In its response, YEC only explains how costs to be paid by Minto are to be determined. That was not the question. UCG is interested in understanding all the costs that are attached to the generators at Minto, not just the costs paid for by Minto.

The UCG requests that YEC be directed to provide the requested information.

11. UCG-YEC-1-35

YEC failed to adequately respond to parts (b) and (c) to this information request.

In part (b), YEC was asked to provide position titles and total compensation amounts for all positions that were compensated at more than \$100,000 annually in 2005, 2006, 2007, 2008 and 2009 (forecast). YEC responded that salary information for identifiable staff is protected by privacy legislation and cannot be provided.

UCG is not clear on the provisions of "privacy legislation" that YEC is referring and needs to understand the specific details of the perceived protection.

The UCG requests that YEC be directed to provide additional detail related to their response to the requested information.

In part (c), YEC provides average OM&A costs per customer but then indicates that the information provided is of limited value because the data was not sub-divided because of the existence of a single major customer (YECL).

UCG does not understand why YEC would provide information with limited value if it knew that the information was more useful if a customer weighting factor was added.

The UCG requests that YEC be directed to provide the requested information in a format that is useful to UCG and other stakeholders by sub-dividing or adding an appropriate weighting factor.

12. UCG-YEC-1-38

YEC failed to adequately respond to parts (b) and (c) to this information request.

In part (b), YEC was asked to provide individual amounts paid by YEC to each member of the Board of Directors for 2005 (allowed), 2005 (actual), 2006 (actual), 2007 (actual), 2008 (actual) and 2009 (forecast). YEC responded payments to individual Board members was protected by privacy legislation and did not provide it.

UCG is not clear on the provisions of “privacy legislation” that YEC is referring and needs to understand the specific details of the perceived protection.

The UCG requests that YEC be directed to provide additional detail related to their response to the requested information.

13. UCG-YEC-1-39

YEC failed to respond to fully to part (a) to this information request.

YEC was asked to provide an update to Table 3.4 for 2008 actual. YEC indicated that 2008 data had not yet been compiled.

Given the weeks that have passed since that response, UCG assumes that the 2008 information requested has been compiled.

The UCG requests that YEC be directed to provide the requested information.

14. UCG-YEC-1-46

YEC failed to respond to fully to part (e) to this information request.

YEC was asked to provide documentation outlining YEC's requirement to make payments in lieu of property taxes to municipalities. The only “documentation” provided was the statement that “Yukon Energy is owned by the YTG and therefore it makes payment in lieu of property taxes to municipalities instead of actually paying property taxes”.

The UCG requests that YEC be directed to provide the requested documentation that explains details of YEC's legislated mandate to make payments in lieu of property taxes to municipalities and how these amounts are calculated.

15. UCG-YEC-1-49

YEC failed to respond to fully to part (a) to this information request.

YEC was asked to provide an update to Table 3.14 for 2008 actual. YEC indicated that 2008 data cannot be provided at this time.

Given the weeks that have passed since that response, UCG assumes that the 2008 information requested has been compiled.

The UCG requests that YEC be directed to provide the requested information.

16. UCG-YEC-1-50

YEC failed to respond to fully to parts (b) and (c) to this information request.

YEC was asked to describe in detail the calculations of the interest rates attached to each of the unsecured advances from YDC with references to all source documents.

While a general explanation of the interest rate calculation was provided, no details were provided by YEC nor were there any specific references made to source documents (i.e., dates of Canada Bond Yields and Bank of Canada publications).

The UCG requests that YEC be directed to provide the requested information.

17. UCG-YEC-1-71

YEC failed to fully respond to this information request.

YEC claims that it does not have access to the necessary data to provide the requested bill comparisons. While it may be that the relationship between YEC and YECL is such that YEC cannot easily obtain the requested information from YECL for the Yukon as a whole, UCG submits that YEC should have at least tried to obtain the requested usage data and, at the very least, provided data for the communities that it serves directly.

The UCG requests that YEC be directed to provide the requested information for at least the communities that it directly serves and explain why it did not request the remaining data from YECL.

18. UCG-YEC-1-78

YEC failed to fully respond to this information request.

Without providing any support for its conclusion, YEC claims that it made its determination regarding emissions impacts based on the distance between the Minto mine and Whitehorse. UCG is looking for the expert opinion / evidence that was used to come to such a conclusion.

The UCG requests that YEC be directed to provide more detailed justification for their conclusion and an indication of the emissions / climate change expert that will testify in this area at the upcoming hearing.

If it is the case that there is no such expert opinion or fulsome explanation beyond the assertion of distance between the Minto Mine and Whitehorse UCG asks that YEC confirm that to be the case.

19. UCG-YEC-1-81

YEC failed to fully respond to part (a) of this information request.

YEC was asked to provide details of the budgeted and actual costs of customer extensions in 2005, 2006, 2007 and 2008 as well as the number of customers connected. YEC provided costs of customer additions for 2005, 2006 and 2007 but not 2008 even though the number of customer additions was provided for 2008.

The UCG requests that YEC be directed to provide details of the budgeted and actual costs of 2008 customer additions.

20. UCG-YEC-1-94

YEC failed to fully respond to part (c) of this information request.

YEC was asked to provide details of where the capitalization of costs associated with the claims process against Chant Construction was reflected in the Application. While YEC indicated that the costs had been excluded from the Application, they did not provide details on where in the application's details these transfers were incorporated.

The UCG requests that YEC be directed to provide the details of where these costs were recorded, from where in the revenue requirement they were removed and how.

21. UCG-YEC-1-96

YEC failed to fully respond to part (b) of this information request.

YEC was asked to provide an estimate on the amount of time that YEC staff and consultants have spent on addressing Maximum Utility Investment. YEC responded that "no estimate of time is available".

UCG is unclear as to whether no time has been spent on this issue or whether YEC is asserting that it cannot estimate the amount of time (and the associated cost) that has been spent on this issue.

The UCG requests that YEC be directed to provide the details as requested including, if no estimate is forthcoming, why no estimate can be made.

22. UCG-YEC-1-98

YEC failed to fully respond to part (b) of this information request.

YEC was asked to provide the actual net revenue lag for 2005, 2006, 2007 and 2008 as well as the detailed calculations used to determine these revenue lags and the sources of data used in these calculations.

In its response, YEC refers to the response to YECL-YEC-1-10. However, this reference does not contain any details on the requested revenue lags. Despite YEC's unsubstantiated claim that "there is no reason to expect a material change in revenue requirement would arise from completing another full review at this time", UCG submits that the Board and stakeholders need the detailed calculations before coming to the conclusion that no changes have resulted in the last 4 years.

The UCG requests that YEC be directed to provide the details as requested.

The above Notice of Motion and supporting arguments are respectfully submitted for the Board's review and consideration.

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

Yours truly,

Michael Buonaguro
Counsel for VECC