IN THE MATTER OF YUKON ENERGY 2008/2009 GENERAL RATE APPLICATION

REPLY ARGUMENT

YUKON ENERGY CORPORATION

June 5, 2009

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OVERVIEW

A diverse range of final arguments with regard to Yukon Energy's General Rate Application (Application) were provided by City of Whitehorse (CW), Leading Edge (LE), Utilities Consumers Group (UCG) and Yukon Electrical Company Limited (YECL):

- CW noted upfront that the applied for revenue requirements appeared reasonable, and focused on seven specific issues that generally relate clearly to the Application's revenue requirement matters.

- LE addressed three initial "general issues" and 22 specific issues, many of which addressed capital-related matters.

- UCG's argument covers a wide range of topics, including matters beyond the Application and hearing record[1]; relative to other arguments, UCG directed considerable attention at cost of service matters (in effect seeking confirmation of the extent to which residential rates need to be increased to reflect utility costs of service), and argued (paragraph 25) "that any adjustments to rates and charges to be applied to the bills of Yukon ratepayers should be deferred until after the Phase 2 evidence has been reviewed and a Board decision issued." This is the only argument that appeared to suggest deferral of Yukon Energy's proposed rate decrease.

- YECL addresses a few specific revenue requirement issues pertaining to the Application, and focused to a considerable extent on its introductory concerns about YEC's resource use planning and related regulatory review processes conducted since 2005, as well as the basis for YEC seeking any rate reduction in the Application.

Yukon Energy's Reply Argument is structured primarily to address specific issues raised by intervenor arguments as they relate to the Board's Issue List, focusing only on those issues which arise from the record and have a fundamental bearing on the Application. For convenience, the Reply Argument in this regard follows the same structure as the Board's Issue List.

Before proceeding with these specific issues, Yukon Energy's Reply addresses certain general and fundamental initial issues.

[1] Examples include references in argument to matters pursued in prior hearing that were previously determined by the Board and government policy issues.

General and Fundamental Initial Issues

Yukon Energy's Reply Argument addresses below the following general and fundamental initial issues underpinning the arguments of certain intervenors that do not easily fit within any topic heading provided in the Board's Issue List:

- Issue 1 – Allegations Re: Yukon Energy is not acting like a normal utility

- Issue 2 - Updates and relevance of YECL Compliance Filing

- Issue 3 – Cooperation and coordination between YEC and YECL

Issue 1 – Allegations Re: Yukon Energy is not acting like a normal utility

Intervenor Arguments

YECL argues at the outset (pages 1 and 2) that Yukon Energy's rate reductions for 2008 and 2009 are "purported rate reductions", and that these rate reductions:

> …were largely attributable to the use of existing reserves accumulated for the benefit of customers to offset cost increases, the ability to include the revenues associated with major projects in its Revenue Requirement but <u>not</u> the associated costs and the adopting of actions which are not consistent with what would be expected of a normal or typical utility. In fact, absent the aforementioned, YEC would be requesting rate increases in the Test Years.

YECL further argues at the outset (pages 2 and 3) that:

- YEC adopts "a very haphazard approach" to development of the electricity infrastructure required to respond to reasonably forecast future system requirements.

- "the role of YEC's 20 year Resource Plan and the recommendations made by the Board with respect to the YUB's Report to the Commissioner in Executive Council dated January 15, 2007 is, at best, uncertain"; YECL further states that it "continues to rely upon YEC's commitment to bring projects before the Board for review if the forecast cost is greater than $1M (as recommended by the Board itself); and to undergo a review under Part 3 of the Public Utilities Act, as previously contemplated by the Minister (20-Year resource Plan, p.2-3)".

LE and UCG also raise the following general concerns about Yukon Energy's approach to proposing rate reductions and new resource development:

- LE at page 2 states concern "that significant contributions by the Yukon Development Corporation (YDC) and the Yukon government (YTG) towards major projects are having a negative effect on various aspects of our electrical system choices. These aspects include the lack of thorough review of costs for major projects (Carmacks-Stewart Transmission Project (CSTP) Phase I), the non-optimum choice of new generation supply to meet growing demands (Mayo B), the lack of consideration of demand side management and other supply alternatives, and significant constraints in ability to send appropriate and meaningful price signals in power rate structure to retail customers to encourage efficiency in electicity use."

- LE argues at page 4 that "the claimed rate reductions" as a benefit of CSTP Phase 1 "are in fact a benefit of project subsidies by YDC and YTG"; further, LE argues: "Yukon Energy cannot realistically expect to both seek rate reductions through parent company and owner contributions and at the same time expect to increase rates to send meaningful cost efficiency signals to ratepayers. The two are mutually exclusive."

- UCG argues (page 22, paragraph 110) that projects should be put back on the shelf "until they can be justified from a business case perspective, without recourse to government funding in order to offset costs and eliminate ratepayer (as opposed to taxpayer) impact."

Yukon Energy Reply

YECL's accusation that YEC does not operate in a manner expected of a "normal" or "typical" utility simply serves, in Yukon Energy's submission, to underline the fundamental differences in the approaches currently adopted by the two utilities in dealing with revenue requirement submissions as well as major transmission and renewable resource generation development.

Looking at the focus of YECL's argument on this matter, the main issue to YECL clearly is YEC's ability and willingness to propose a rate reduction – it appears that this type of an approach in YECL's view is simply not "normal" for a utility. YECL also sees as "not typical" for a utility the Yukon Energy ability to obtain through shareholders' grants and other government contributions significant no-cost capital to undertake major capital projects notwithstanding such contributions are beneficial for all Yukon ratepayers and are extremely important to supporting long term economic growth in Yukon.

Yukon Energy is proud of its ability to hold the lid on its rates since the 1998 closure of the Faro mine, and to deliver on its commitment to provide rate reductions in this Application to most Yukon ratepayers as a result of successful completion of CSTP Stage 1, connection of the Minto mine and the resultant new firm sales of surplus hydro electricity. YECL argues that this is not "normal" or "typical" for a utility, and that may well be the case in certain non-Yukon environments such as Alberta. In Yukon Energy's view, seeking and delivering the lowest possible rates to meet Yukon power requirements is the basic mandate of Yukon Energy, and "typical" of the mandate and approach adopted by other Crown hydro-based utilities in BC, Manitoba and Quebec. Consistent with this rate control approach, in YEC's view, is the avoidance of extra regulatory hearings (to keep regulatory costs as low as possible), as well as extra studies on depreciation or other matters not essential to each application.

Yukon Energy set out clearly in the evidence that it faced ongoing cost increases, and would have required a modest rate increase absent the benefits secured from its successful completion of CSTP Stage 1. But contrary to YECL's assertions, no specific evidence has been (or can be) provided to support the claim that the $2.572 million difference today in YEC's forecast 2009 revenue requirement between a rate increase of 3.23% and the proposed rate decrease of 3.48% is driven primarily by YDC and YTG contributions (see YUB-YEC-1-36(a) for the difference as described). In fact, the driver in this instance remains the PPA with Minto and the firm sale of surplus hydro to displace diesel generation otherwise required at the Minto mine and Pelly Crossing.

Arguments by YECL, LE and UCG attacking Yukon Energy's ability to secure and utilize YTG and YDC contributions in this regard are also without merit or relevance to the current proceeding. Yukon Energy has proceeded on these matters exactly as it proposed in prior submissions during earlier YUB hearings on CSTP and the Resource Plan, and in accordance with the Board's recommendations. As the evidence then and now confirms, CSTP Stage 1 has economic benefit to Yukon's economy and environment even without the referenced contributions – and the YDC and YTG contributions were made (as previously promised) to reduce ratepayer risks and costs and to support sound infrastructure development which Yukon Energy had systematically and prudently planned over several years.

Notwithstanding the facts confirming the clear and substantial net benefits of CSTP Stage 1 even without YDC and YTG contributions, Yukon Energy sees no merit in UCG's or other arguments that the YUB should (or is entitled to) only allow its regulated utilities to proceed with projects that make sense only without consideration of such contributions. In dealing with regulated rates, which is the Board's mandate in the current proceeding, Yukon Energy submits that any and all such contributions must be fully considered when assessing project prudence and inclusion in regulated rate base, and that it is the proper mandate of others to consider the granting of such contributions.

Yukon Energy also urges the Board to reject the LE argument that Yukon Energy faces "mutually exclusive" actions when it utilizes such contributions and also expects to increase runoff rates to send meaningful cost efficiency price signals to ratepayers. Rate policy direction on this matter has been settled for well over a decade in Yukon, and this direction continues to apply until such time as it is amended. Further, YDC or YTG contributions are not the major force creating rate design challenges here - the major issues arise from prolonged reliance on across the board rate riders with RSF offsets, plus delay in addressing runoff rates combined with the material increases that have occurred in diesel fuel costs.

On a broader front, Yukon Energy submits that YECL's argument on YEC development planning, as summarized above, confirms a complete lack of understanding or experience as to the planning in fact carried out by Yukon Energy in cooperation with YTG and others to secure today's ratepayer benefits resulting from the Mayo-Dawson and CSTP Stage 1 major transmission developments, as well as the added benefits now expected in future to be secured through the CSTP Stage 2 and Mayo B developments.

Similar to positions that YECL has taken in the past, such as its non-support of Mayo-Dawson transmission line project costs notwithstanding the major ratepayer savings secured by that project, YECL is dismissive of the planning activities undertaken by YEC to ensure the transmission and major non-diesel generation needs of the Yukon will be met in the future. Further, although YECL's criticisms are primarily aimed at YEC, its argument is also critical of the YTG directed process undertaken by the YUB to review YEC's 20 Year Resource Plan, and the YUB's recommendations arising from that review.

It is very unfortunate YECL has, and continues to, advocate positions which clearly demonstrate a lack of respect and appreciation for the uniqueness of Yukon and the legislative mandate that defines the regulatory process that is utilized in Yukon.

Yukon Energy notes the vastly different regulatory and public interest perspective that exists between a Crown-owned and an investor-owned utility. Further, in YECL's case, its underlying corporate experience emanates from Alberta's thermal-based electricity system owned by private utilities, and it does not -- under its purported Yukon franchise -- have the obligation (as YEC has) to serve all wholesale and industrial customers in Yukon.

It is also worth emphasizing that neither the YTG (given its OIC directions to the YUB, its Energy Strategy, its Climate Change Plan, and the major investments it has made through YEC in transmission and major non-diesel generation infrastructure over the last number of years) nor the YUB (given its recommendations arising from its reviews of YEC's 20 Year Resource Plan and YEC's Project Certificate Application for CSTP under Part 3 of the Public Utilities Act) appear to support the short term and conservative resource planning focus advocated by YECL.

It is well known that Yukon's economic future will be materially impacted by major non-diesel (non GHG emitting) energy infrastructure development, and further that this type of development cannot happen without significant investments being made by governments and, where appropriate, industrial customers.

YECL belittles these realities by utilizing inflammatory language when dealing with how the YTG, the YUB and YEC (and other stakeholders) have attempted to deal with these realities by using such words and phrases as "fragmented approach", "haphazard fashion", "superficial examination", [YUB's recommendations relating to the 20 year resource plan report being] "at best uncertain", [the magnitude of the planning costs] "are nothing short of stunning" and [the facts reveal YEC] " has exercised virtually no discipline".

Further, YECL's argument at page 3 claims to "rely" on commitments that YEC has never in fact made (YEC committed to seek YUB review of projects with a forecast cost greater than $3 million, not $1 million); YECL also claims to support added review (beyond the Resource Plan review approach adopted by YEC) under Part 3 of the Public Utilities Act, even though the YUB's review of CSTP in this regard appears to have had no impact on YECL's arguments and demand for new "business cases" in the current hearing.

Finally, YECL's approach to argument on this issue is simply disrespectful and unhelpful, especially given the fact that YECL unilaterally chose not to actively take part in the YUB's review of YEC's 20-Year Resource Plan mandated by YTG (a process which dealt very specifically with the fundamental realities of Yukon Energy as a Crown owned utility planning for the development of major non-diesel infrastructure development in the Yukon and the risks of undertaking those developments without government contributions).

Issue 2 - Updates and relevance of YECL Compliance Filing

This issue arises because YEC's 2008 actuals have been filed in this proceeding and various intervenors (in specific instances that happen to support a lower revenue requirement) would like the Board to change YEC's 2008 forecast to reflect actuals, while ignoring other 2008 actual results which, if changed, would have the result of increasing the 2008 revenue requirement.

For example **CW** argues (pages 3-6) that the Board should adopt the wholesale forecasts from YECL's compliance filings for 2008 and 2009 "as being the best and most reliable forecasts available for this proceeding".[2] CW further argues (pages 8-10) that a joint cost of service requires that the two utilities have common assumptions, including a common forecast for the cost of diesel fuel, and that "the best [fuel price] forecast available for regulatory purposes is the fuel price forecast approved for YECL in Order 2009-2 or $0.096/litre." Further, CW argues (page 21) that the YEC new lower debt costs for 2008 and 2009 should be revised to reflect 2008 information available prior to the update filing and 2009 information available at the time of YEC's compliance filing.

Yukon Energy Reply

In general, Yukon Energy's reply is that such a "cherry picking" approach is not only patently unfair, it is not in keeping with the normal regulatory approach adopted by this or other Tribunals when faced with this type of issue. Therefore, in this Reply YEC will focus on what is material to the issues facing the Board in this Application, and the process for determining a test year revenue requirement based on the best available forecasts at the time of the filing.

Yukon Energy notes that its updates in this proceeding focused on a very limited number of elements which were generally committed in the original Application. There is no precedent for adjusting fuel price based on more recent information, let alone a full range of 2008 test year numbers to reflect 2008 actuals.

[2] YECL makes the same argument at page 5-6.

The situation of separate YEC and YECL hearings leading to a third hearing on a joint cost of service filing is without precedent in Yukon. In dealing with this situation, Yukon Energy highlights the following for the Board's consideration:

- Only 2009 test year numbers will be relevant to the joint cost of service.

- In addition to the fairness issue the so called 'consistency' issues between YEC and YECL are not a simple matter to identify, and the Board should not adopt any simple rule to accept the YECL compliance filing numbers without detailed consideration of the impact such a change would have on the whole of YEC's filing:
  - For example, although there is nothing materially different in terms of firm wholesale forecasts between YECL's final compliance filing and YEC's Application, there are material differences in the secondary sales forecasts. YEC's forecasts for secondary sales are clearly the ones the Board should adopt.
  - The issue of fuel price is not as simple as the intervenors would suggest. There is not one fuel price in the Yukon at any one point in time -- each utility typically serves different areas and fuel prices differ to reflect this reality, i.e., it is not feasible to simply accept any specific fuel price in the YECL compliance filing.

- In the case of the YECL filing the Board did not "update" YECL's forecasts; it directed that they be changed because they were not reasonable. Further on the issue of YECL's forecast fuel price the Board approved YECL's forecast which was based on January 2008 numbers -- purportedly the best information available at the time the YECL Application was filed (i.e., it wasn't changed to reflect an actual fuel price in effect in October 2008 -- the time of the hearing (which would have been different) -- or in March 2009 when the Board decision was rendered).

- In dealing specifically with 2008, where actual numbers are now available for a test year, there is simply no fair basis for selecting some numbers to update and rejecting others -- keeping in mind in this instance YEC's actual 2008 costs were materially higher than forecast. This means that YEC would benefit from adoption in this instance of 2008 actual results as the basis for setting its revenue requirement and allowed 2008 return. However, recognizing basic regulatory principles YEC has not proposed such an approach.

Yukon Energy will address specific "update" arguments on specific issues as relevant in the balance of this reply.

Issue 3 – Cooperation and coordination between YEC and YECL

CW has recommended (page 6-8, 22) that the Board direct YEC and YECL jointly to assess the feasibility of the two utilities holding a single integrated hearing process to address revenue requirement, cost of service, rate design and other matters and to provide a report addressing all these mattes by December 31, 2009. **UCG** submitted (paragraph 7) that "what is needed in Yukon is a coordinated effort protocol or partnership between the two utilities."

Yukon Energy has consistently proposed the need for an integrated hearing process wherever this is feasible, and had (for example) proposed in December 2007 in its letter to the Board that one hearing and filing be used to address YEC's revenue requirement and all relevant joint cost of service and rate matters. This proposal was subsequently not adopted in YECL's April 2008 "Phase 1" filing. YEC's latest proposal to YECL includes the proposal to jointly address this approach for the next set of GRAs.

Yukon Energy therefore strongly supports the thrust of the CW and UCG recommendations on this matter, subject to allowing YEC/YECL to incorporate their joint report into the forthcoming joint Phase II filing (rather than setting December 31, 2009 as a date for a separate joint report).

1.0 INTRODUCTION

1.1 TIMING OF RATE APPLICATON

Intervenor Arguments

UCG's Argument at pages 7, 8 and 17 notes various concerns related to the "very late" timing of Yukon Energy's General Rate Application:

- Citing Section 28 of the Public Utilities Act UCG asserts at paragraph 33 that "YEC waited until over 9 months of 2008 had passed before submitting an application to the Board to approve a 2008 revenue requirement" and "requested a rate adjustment be approved for implementation within three weeks of its application." UCG concludes that "this is not the standard to which a publicly-owned utility should operate from a regulatory perspective" and at paragraph 37 declares YEC's application not to be in compliance with the provisions of the PUA.

- UCG notes at paragraph 34 that YEC knew in January 2007 that the YUB wanted them to submit a GRA for review (citing the Report to the Minister on the 20-Year Resource Plan) and asserts that "YEC has not adequately explained" why it took 3 years from its last rate case to submit a general rates application and that YEC has failed to provide "adequate reasons" in response to YUB-YEC-1-20 regarding why it did not provide a cost of service study (COSS).

- UCG asserts at paragraph 37 that the result of the application is a year's worth of revenue sufficiency being refunded by way of rider which creates the false appearance of a large rate decrease, then notes at paragraph 38 that "the main reason behind YEC's application is to get assets related to service to the Minto mine recorded in return-eligible rate base".

- UCG recommends at page 8, para 38, that when the Board is deliberating on approval of 2008 revenue requirements, "it should consider actual costs incurred, actual kWh sales and a rate base that includes only capital additions related to projects that the Board has previously reviewed and approved for addition to rate base in determining the level of surplus that should be attributed to 2008" and submits that "the timing of the submissions should be in advance of the test years for which they apply".

- UCG argues at page 17, paragraph 89, that "one of the clear consequences of the very late filing by YEC is that ratepayers lost the benefit of any changes to cost allocation the proceeding would have required in accordance with the previously Board expected joint cost of service fining in October 2007, assuming that the government would not have stepped in earlier to avoid shifts in cost."

Yukon Energy Reply

Yukon Energy submits that there is no reasonable or legislative basis for UCG's concerns regarding the timing of YEC's filing in 2008, and that the Board should not consider or adopt UCG's related recommendations regarding what "actual" costs to consider for the 2008 revenue requirement.

As documented in Section 1 of the Application, and contrary to UCG's assertions, Yukon Energy has fully explained the basis for the timing of its Application and its inability to file a Cost of Service Study at this time:

- With regard to the "3 years" from YEC's last rate case, Board Order 2005-12 deferred the need for changes to firm rates through, among other measures, access from 2005 through the end of 2007 to $0.292 million per year from deferred funds (the Faro Dewatering Account); as required, YEC filed updates with the Board to secure approval for 2006 and 2007 use of these deferred funds [Application page 1-2]. In short, Order 2005-12 clearly contemplated that YEC's next application would be for test year 2008, which in fact is what occurred.

- With regard to the timing of YEC's Application in 2008, YEC's letters of August 17, 2007 and December 17, 2007 informed the Board as to its plans in response to the Board's letter of July 20, 2007 – this correspondence shows that YEC's timing was driven by the need to have the required information regarding the factors that could materially affect YEC revenue requirement, including clarity as to timing and expected cost for completion of CSTP Stage 1 and connection of the Minto mine. YEC's December 17, 2007 letter informed the Board that YEC planned to file in August/September 2008, fully explained the basis for this timing, and, based on this timing, also stated "that YEC and YECL have committed to work together to file a consolidated YEC/YECL Phase II cost of service study and rate design concurrent with YEC's revenue requirement filing so that these matters can be reviewed at the same hearing". [Application, pages 1.4 and 1.5]

- Actual completion of CSTP Stage 1 and connection of the Minto mine was in fact later than YEC had expected even when it filed the Application in early October, confirming the realities and uncertainties that YEC faced on this key matter affecting the timing and content of its 2008 revenue requirement.

- On the matter of the joint COSS filing being made concurrent with YEC's filing, YECL's filing on April 30, 2008 of its General Rate Application noted, contrary to YEC's letter of December 17, 2007 (and without discussion with YEC), that YECL expects a joint YEC/YECL Phase II GRA (cost of service and rates for 2009) to be filed within three months after Yukon Energy filed its Phase I GRA. In short, regardless of any other subsequent consideration (OIC 2008/149), YEC was unable on its own to file a joint COSS with its Application to facilitate an integrated and efficient single hearing.

- OIC 2008/149, which was issued shortly before YEC's filing, was a factor noted in the Application and IR responses regarding YEC's proposed "going-forward" approach regarding COSS and rate design filings. The Board's subsequent directions are reflected in Yukon Energy's revised proposed approach on these future matters as set out in Exhibits B-12 and B-13.

Yukon Energy submits that its filing for 2008 has no relevance as regards COSS matters as it has been understood that the 2009 test year alone would be adopted for any joint COSS filing; further, the Application also confirms that the intent of including a 2008 test year in the filing was to pass through to ratepayers any revenue surplus that might be created in that year due to completion of CSTP Stage 1 and connection of the Minto mine.

On the matter of Section 28 of the PUA, Yukon Energy notes that UCG's reference to the 90 day period fails to reflect Section 28's wording (including s. 28(2)) wherein the 90 days notice period applies only if the utility seeks to charge any rate other than a rate set by the Board. Yukon Energy at no time has made any such proposal. Past experience in Yukon provides ample evidence as to timing for general rate applications and related interim rate changes,[3] and YEC's Application fully conforms to the standards so established.

On the matter of using "actuals" as proposed by UCG to determine YEC's 2008 revenue requirement, Yukon Energy submits that the Board is mandated to consider all of the evidence as filed and should not limit its review in the unprincipled and prejudicial manner proposed by UCG.

1.2 BULK POWER SYSTEM RESOURCE PLANNING & DEVELOPMENT CHALLENGES AND IMPACT ON CAPITAL PROJECTS

Intervenor Arguments

Aside from YECL's broad allegations addressed earlier under General and Fundamental Initial Issues,[4] intervenor arguments on bulk system resource planning and related issues were typically limited to the following concerns:

- Assertions that YEC should look at a broader range of renewable generation options:
  - LE at page 2 asserts YEC's only area of real interest is hydro, and that it has done nothing on DSM, nothing on soliciting potential IPP projects, and almost nothing on pursuing possible wind generation in a credible manner; LE at page 8 proposes that the Board order YEC to issue an RFP for IPP within two months; and
  - UCG suggests that YEC and YTG should lead pilot projects to develop alternative energy solutions that provide long term reliable electrical power (page 7,

[3] In the 1996/97 joint GRA filing in mid-November 1995, the utilities also included 1995 as a test year as a result of Order 1995-1. The Board has (on many occasions in the past) used its jurisdiction to approve interim rates under *inter alia* s. 63.

[4] Issue 1 - Allegations about "a very haphazard approach" to development of the electricity infrastructure, and about the uncertain role of YEC's 20-Year Resource Plan and YUB recommendations.

paragraph 29; reference small scale hydro, combined heat/power systems, renewable energy sources such as biomass from wood, solar and geothermal), and that alternative ownership scenarios have not been adequately evaluated for proposed projects (page 27, paragraph 144; reference First Nation investment or Yukon public shares).

- Questions as to the need and extent of planning to supply industrial loads:
  - UCG proposes that YUB should determine whether Yukon Energy has an obligation to serve industrial customers and whether it should be spending ratepayers' money on "potential" opportunities (UCG, paragraph 141);
  - UCG proposes that on-site diesel generation should be considered a more practical alternative for "transient industrial loads" and firm loads "should be governed by available hydro generation" (UCG, paragraph 12); other criticisms of industrial loads are provided at paragraphs 47-49;
  - YECL notes concerns about long-term life of YEC projects versus short term life of mines (YECL, page 6), impacts on customers when mines close (YECL, page 7), and "no evidence" wholesale load growth will use up surplus (YECL, page 6-7);
  - UCG asserts that there is no need to rush as industrial loads arrive after a long ramp up of activity and interest, and proposes a "go slow" approach (UCG, paragraphs 142, 143); and
  - YECL asserts that YEC is leading development of industrial projects and has provided no explanation regarding why it cannot proceed in parallel with such projects (YECL, page 17 and 18).

- YECL's assertions at page 16 that Yukon Energy takes "contradictory positions with respect to the purpose and usefulness of its 20-Year Resource Plan", relying on it in some cases "to provide definitive support for its capital projects", but "when pressed with respect to certain specific capital projects and the estimated capital cost thereof that were reflected in the 20-Year Resource Plan, it quickly indicates that it had very little information on the projects at that time and that the information was very, very preliminary."

Yukon Energy Reply

At the outset, Yukon Energy urges the Board to note that intervenor arguments provide no meaningful challenge regarding either YEC's conclusions as to the emerging near term requirement for major additional renewable energy projects, or the fact that YEC's resource planning approach addresses the relevant bulk power system risks. Further, intervenor arguments fail to address the major challenges faced by Yukon Energy in this regard – namely the need to serve relatively discrete and material load increase increments related to specific major new loads in a timely manner.

On the matter of looking at a broader range of renewable generation options, Yukon Energy notes that its 20-Year Resource Plan did in fact look at a full range of technologies when it justified the focus that it has adopted at this time. Further, given the identified needs to be met within the near term time period discussed in the Application, there is no evidence that DSM or other options discussed would be able credibly to meet these needs without resort to the projects that YEC is seeking to develop. Finally, Yukon Energy has actively pursued potential First Nation investment participation in each of its recent major new transmission projects (Mayo Dawson and CSTP Stage 1), and in its current Mayo B project.

Yukon Energy also notes that its 20-Year Resource Plan addressed, in some detail, the specific issues now re-introduced by UCG and YECL regarding YEC's obligation to serve new industrial loads that can be connected to existing grids (subject to addressing mine contributions for specific incremental transmission connection costs), planning issues directly related to matching mine life with new generation resource options, ongoing load growth on the grids absent new industrial loads, and the material lead time planning and risk issues faced by YEC in this regard. These issues were also addressed again, as relevant, when the Board reviewed YEC's Part 3 Application for the CSTP certificates. Many of the related lead time risk issues were also reviewed in the current hearing (both as to what was done with CSTP Stage 1, and what is now needed for Mayo B and CSTP Stage 2), underlining the challenge faced by Yukon Energy in seeking innovative ways to prevent automatic reliance on added diesel energy generation to supply such new loads.

Finally, Yukon Energy rejects without reservation YECL's assertion that Yukon Energy takes "contradictory positions with respect to the purpose and usefulness of its 20-Year Resource Plan". During the current proceeding Yukon Energy has consistently relied on the recommendations of the Board related to the 20-Year Resource Plan, and related to the subsequent CSTP Part 3 Application, when addressing the specific relevant major near term projects addressed in Chapter 4 of the Resource Plan, e.g., the Mirrlees refurbishments, CSTP and the Aishihik 3rd Turbine project. Although YECL has consistently sought to denigrate these submissions and YUB review processes, Yukon Energy has consistently supported their purpose and usefulness. In Yukon Energy's submission, this support is not "contradicted" by pointing out the necessary limits of information then available to YEC and the Board, and there is no practical merit in YECL's assertions that YUB review of project need and justification should be delayed in each instance until such limitations have vanished. If anything, YECL's other submissions in the current proceeding contradict its criticisms of the earlier Resource Plan and Part 3 CSTP reviews by the YUB, i.e., YECL is now attacking YEC's forecast potential deferred study costs that seek to address priority uncertainties that affect assessment (prior to any YUB review) of these specific potential future generation projects.

2.0 SALES AND REVENUE

2.1 WHOLESALE SALES

Intervenor Arguments

CW provides its views related to the wholesale sales forecast at pages 5-8 of its Argument, ultimately recommending that "given the apparent accuracy of the 2008 forecast in YECL's compliance filing" and "the proximity of the YEC forecast for 2009 to that in the YECL compliance filing" the Board should approve the compliance filing wholesale forecasts for YEC's GRA as "the best and most reliable forecasts available."

In support of its recommendations CW notes the following:

- The Board increased the 2008/2009 sales forecasts included in YECL's GRA and this was reflected in the YECL compliance filing. The compliance filing calculation of purchased power for 2008 is similar to YEC's preliminary actuals for 2008, and for 2009 the compliance filing forecast is "very similar" to the YEC forecast.

- YEC has a history of adjusting YECL's wholesale forecast; page 4 of CW's argument provides an excerpt from YEC's evidence (Tr. p. 245 line 16 to p.246, line 13) which indicates that in 2006 YEC became concerned about "persistent under forecasting" by YECL and began adjusting its forecasts to compensate because, "the actual[s] were coming in persistently above the level of forecast to the point that", "an additional factor" needed to be added to YECL's purchase forecast numbers). CW also cites the concerns expressed by YEC's in the recent YECL 2008/2009 GRA related to YECL's forecasts.

- CW concludes that it makes no sense for there to be two different forecasts for the same sales approved by the Board, particularly, "given that the two utilities are about to embark on a joint Phase II exercise".

- CW comments on the lack of communication between the utilities with regard to developing wholesale forecasts and submits that YEC and YECL should operate in a cooperative manner by sharing information on customers and sales purchases, and requests that the Board direct the utilities to provide a report on potential integration of their revenue requirement, cost of service, rate design and other matters by December 31, 2009.

YECL at page 6 also recommends that for the purposes of YEC's test years, the forecast recently approved by the Board related to YECL's 2008/2009 General Rate Application be approved for YEC as well. Despite the fact that YECL recommends the compliance filing forecast be adopted, YECL maintains (page 5-6) that with regard to forecasting wholesale sales, "YECL has developed superior methodology than that used by YEC, as the use of sound statistical methods, which include weather normalization, provide better forecasts."

YECL notes the following in support of this position:

- YEC confirmed that it does not use the same statistical methods and information relied upon by Yukon Electrical, and does not have access to the detailed customer information available to YECL that pertains to approximately 90% of retail customers in the Yukon.

- YEC only relies on simple average of past information with no weather normalization, while acknowledging weather directly impacts monthly wholesales.

- With regard to the period 1996-2008 which YEC submitted in response to YECL-YEC-1-19 Revised was not representative of reasonable future growth, YECL claims it is readily apparent that the selection of a given period does not translate into the most appropriate forecast to use for GRA purposes.

LE made no comments in regards to sales forecasting specifically, but indicated a need for continued pursuit of secondary sales on WAF (which are entirely wholesale secondary sales) and recognition of the value these sales provide, including in particular an increased need to focus on summer sales. At the same time, LE asserts that "as loads grow" secondary sales should not occur from water storage at Aishihik.

UCG recommended that YEC study the use of weather normalization, at paragraph 50.

Yukon Energy Reply

Reply to CW – Consistency with Compliance Filing

The comments of CW are in essence based on the premise of need for consistency and the lack of communication between the two utilities. In particular, CW seeks to ensure that Yukon Energy is required to use the wholesale forecast approved by the Board and incorporated into the YECL April 6, 2009 compliance filing. The underlying rationale for CW's consistency arguments is that the two utilities must now initiate a process to prepare a cost of service study and such a study would benefit from consistent forecasts. Yukon Energy does not agree that consistency in forecasts is an issue for the future cost of service analysis.

At a detailed level, it is important to recognize that the CW argument ignores three important matters:

1. **Wholesale Secondary:** The matter of consistency is cited by CW in respect of firm wholesales, but ignores secondary wholesales. The issue of the overall quantity of the secondary load, and its impact on consolidated revenue requirements is a much larger factor in the overall cost allocation process to be embarked upon than firm wholesales[5]. In other words, to the extent that consistency may be required, the strongest rationale is in the area of wholesale secondary forecasts, not wholesale firm. In this regard, the CW argument fails to note that adoption of the "wholesale forecast" used in the YECL compliance filing would require two separate adjustments to YEC's forecast in each test year:
   a. **2008:** An increase of 4.776 GW.h in firm wholesales[6] resulting in an increased wholesale firm revenues of $0.327 million[7], offset by a reduction in WAF secondary wholesales of 3.052 GW.h[8] resulting in a reduction in forecast secondary revenues of $0.208[9] million. The net impact is a downward revision to the revenue required from firm rates of $0.119 million[10]; and
   b. **2009:** An increase of 0.821 GW.h in firm wholesales[11] resulting in an increased wholesale firm revenue of $0.056 million, offset by a reduction in WAF secondary wholesales of 9.029 GW.h[12] resulting in a reduction of forecast secondary revenues of $0.749 million. The net impact is an upward revision to the revenue requirement from firm rates of $0.693 million[13], or approximately one half of the rate decrease otherwise proposed by Yukon Energy for 2009.

2. **Cost of Service relevant to 2009:** A cost of service study will need to focus on test year 2009 because focusing on 2008 would not produce reliable results given the major changes in system configuration and loads during 2008 (due to CSTP Stage I and new industrial loads coming into service part way through the year). As such, CW's consistency argument is, at best, only relevant to 2009 and by itself provides no basis for proposing that YEC's 2008 forecast be made "consistent" with YECL's compliance filing.

[5] This is in part due to the technical nature of Yukon Cost of Service studies, which are completed at the retail level, based on consolidated costs and loads of the two utilities. The quantity and rates for wholesale power are not inputs whatsoever to this process. Wholesale rates have not been set in Yukon on a cost-basis, but rather to reflect the simple balancing required once all retail loads are being charged the appropriate retail rate, and the two utilities collections arising do not parallel each utility's costs.
[6] From 258.989 GW.h in the YEC application, to 263.765 GW.h in the YECL compliance filing.
[7] At an average rate of 6.851 cents/kW.h, per Tab 4 of the YEC application.
[8] From 19.905 GW.h per Tab 2 Table 2,4, to 16.853 GW.h per YECL compliance filing.
[9] At an average wholesale price of 6.8 cents/kW.h, per Tab 4 and Tab 7, Schedule 11.
[10] Given the 2008 test year has passed, the practical impact of this adjustment is a reduced draw from the Faro Dewatering account from that proposed by Yukon Energy in Exhibit B-10.
[11] From 266.926 GW.h in the YEC application, to 267.747 GW.h in the YECL compliance filing.
[12] From 15.983 GW.h per Tab 2 Table 2.4, to 6.954 GW.h per YECL compliance filing.
[13] At an average wholesale price of 8.3 cents/kW.h per Tab 4 and Tab 7, Schedule 11.

Wholesale Forecast and Secondary Forecast are Reasonable

Yukon Energy submits that the ultimate test applicable to review by the YUB on this matter is the reasonableness. In particular, this relates to Yukon Energy's forecasts at the time when the filing was made.

As a point of reference, the firm wholesale forecasts of Yukon Energy are within 1.9% (2008) and 0.3% (2009) of the levels proposed by CW, which is well within the normal variability in a year, and as such there is no basis from this evidence to conclude Yukon Energy's forecasts are unreasonable.

In contrast, based on the YECL compliance filing levels the same CW consistency argument indicates a need for downward adjustments to the level of forecast secondary sales of 15% (2008) and 57% (2009). Unlike the firm wholesale variances, these secondary sales variances are material. However, the variance by itself says nothing about the reasonableness of the YEC forecast relative to the YECL forecast. In this instance, given the way the system is operated, the lower secondary sales levels adopted in the YECL forecast would only occur in an extreme case, such as the one noted by LE, where no Aishihik storage was used under any circumstances for supply of secondary energy. This extreme case is not the reasonable operative forecast for 2008 or 2009 (LE notes that at an appropriate future time ,once the "load grows", the occurrence of drought conditions may need to be the basis for a secondary sales interruption system operation, to which Yukon Energy agreed (transcript page 431-435)).

In summary, Yukon Energy submits that in the context of a "reasonable forecast" test, the above reviews confirm that reference to "actual" results, or to the mere fact of a difference from YECL's compliance filing, cannot by itself establish that YEC's forecasts as filed are unreasonable.

Looking only at firm wholesales, the Board's directives to YECL in Order 2009-2 have resulted in a 2009 adjusted forecast by YECL that is now basically the same as the forecast that YEC originally provided in its Application. If any material issue remains in the context of CW's argument, it must therefore relate only to the 2008 firm wholesale forecast in the Application and the fact that YEC's filing, being much later in the year than YECL's, adopted actual sales for the first six months of 2008 and did not materially modify YECL's forecast for the balance of the year. There is no evidence or intervenor argument that YEC's 2008 forecast in this regard was unreasonable.

Reply to YECL – Methodology

YECL has asserted that it has developed a "superior methodology" than that used by Yukon Energy, as the use of "sound statistical methods" and weather normalization "provide better forecasts". This assertion has no merit given the evidence on the accuracy (or inaccuracy) of YECL's forecasts over the last number of years, and the Board's findings in relation to YECL's forecast in Board Order 2009-2.

The Board has already made a determination in Order 2009-2 that YECL's forecast was not reasonable or appropriate for the test years (and in particular adjusted YECL's forecast of wholesale firm purchases for 2009 upward by 4.545 GW.h to within 0.821 GW.h of Yukon Energy's forecast for this same value for 2009). YECL's claim is even refuted by YECL's own recommendation to adopt the compliance filing forecast as approved by the Board.
Further, Yukon Energy takes seriously the perspectives echoed by the Board in Order 2009-2 in regards to the importance of simplicity in the context of determining appropriate forecasting methods for Yukon, noting that "a more simplified approach [than that taken by YECL] that achieves reasonable forecast with less cost to ratepayers may be more appropriate for Yukon" and further that:

> . . . The Board acknowledges that YECL performed a great deal of detailed analyses to arrive at its sales revenue forecasts as outlined in the Application. However, the Board is not convinced that a more simplified approach could not achieve reasonable results with far less effort and cost to ratepayers (page 6).

Yukon Energy has consistently agreed in this proceeding that it does not have detailed data on the individual customer-by-customer sales made by YECL. Notwithstanding this lack of detail, Yukon Energy submits that it is a common forecasting practice to use multiple methods to analyze and cross-check analytical results, including both "bottom up" methods (based on extensively detailed analysis of reams of data available customer-by-customer to determine forecast levels, including weather normalization where appropriate) and "top down" methods (based on high level comparators to confirm the reasonability of forecasts).

In coming to its wholesale forecast, Yukon Energy uses both methods, the bottom up approach prepared by YECL, as well as a separate and equally relevant top down cross check to ensure the bottom up approach is not yielding results that are too low[14]. In this regard, YECL's assertions of the "superiority" of its methods are in any event irrelevant, as these purportedly superior methods are already one component of the process conducted by Yukon Energy.

In summary, Yukon Energy submits that its wholesale forecasts are reasonable and should be approved by the Board.

2.2 FIRM RETAIL SALES

Intervenor Arguments

UCG provides its argument related to YEC's firm sales forecast at page 5 and at pages 9-12. UCG asserts that YEC should study the use of weather normalization for load forecasting and results

[14] This is consistent with the concerns noted by the Board with respect to YECL's forecasts page 4 of Order 2009-2: "The Board is concerned with the lack of evidence on the record regarding past YECL sales forecasts. The Board notes that the sales forecasts in evidence indicate that YECL's actual sales exceeded its GRA forecast by 3.9% and 1.5% for the years 1996 and 1997 respectively. Further, regarding YECL's internal business plan forecasts for the years 2003 to 2007, the Board notes that the actuals exceeded forecasts within the range of 1.4% to 4.1% over the period."

reporting so that load variances resulting from weather can be isolated. In addition, UCG asserts that YECL should be the primary source for load forecasting (as well as DSM initiatives).

Yukon Energy Reply

UCG's arguments do not have merit. In respect to complex load forecasting methods, as noted above, the Board has determined in Order 2009-2 that Yukon should be pursuing simpler approaches to load forecasting commensurate with the size and complexity of the jurisdiction. Further, to the extent weather normalization is of limited recognized value for YECL's retail sales, there would be no notable merit to trying to apply this same technique to Yukon Energy's retail non-industrial loads, which are an order of magnitude smaller yet than YECL's retail loads.

On the matter of YECL somehow doing the load forecast for all of Yukon, the suggestion is curious at best. First, YECL has no knowledge or role in providing service to, for example, Dawson, so the purported ability of YECL to prepare this forecast is puzzling. Second, on the matter of forecasting, in each of the 2005 Yukon Energy Required Revenues hearing and the 2006 Resource Plan hearing, Yukon Energy's load forecasts have been accepted on the basis filed, which is markedly different than the experience for YECL where those forecasts have been materially adjusted following regulatory scrutiny (per Board Order 2009-2).

2.3 SECONDARY SALES

Intervenor Arguments

LE at page 8 of its argument cautions against using water from Aishihik storage to serve secondary sales loads that "would otherwise provide useful energy for servicing primary sales at a future time", and "particularly while water license restrictions remain in place." LE recommends that the Board order YEC not to use water from storage in Aishihik to generate power for secondary sales unless there is a less than 30% probability that this water could not be used for generating power for primary sales (including future sales).

Yukon Energy Reply

At the outset, Yukon Energy is not clear that LE's wording sets out what it intends, i.e., the intent appears to be that YEC not use water from storage unless there is a less that 30% probability that this water could be used [versus "could not be used"] for generating power for firm sales.

Dealing with the substance of LE's proposal, Yukon Energy discussed the use of water inflow forecasts to determine when secondary sales may need to be interrupted for energy reasons related to drought (primarily at Aishihik). Yukon Energy has not determined the appropriate approach to complete this forecast, but noted at transcript page 431-435 that this is not an issue for the test years. Yukon Energy submits there is no evidence before the Board that 30% is an appropriate ratio, nor evidence on the impacts of adopting such a ratio. Yukon Energy has also not determined that a "probability of occurrence" approach is the optimal approach to be used in future when this type of procedure becomes necessary. Consequently, Yukon Energy submits that there is no need nor basis for adopting a "30% probability" threshold in this proceeding.

2.4 DEMAND SIDE MANAGEMENT PROGRAMS AND THEIR IMPACT

Intervenor Arguments

LE notes at page 8 that, "Yukon Energy believes we are in urgent need for more power supply", but "has not spent anything on DSM initiatives," and has "passed the buck to government." Noting Yukon Energy's stated commitment to work with YECL on a DSM proposal for the next GRA, Leading Edge notes, "there is no credible reason why Yukon Energy has not proceeded sooner on its own", and "waiting for the next GRA, which may yet be years away, before starting is not acceptable." Leading Edge also comments on YEC's internal DSM program and questions "whether senior Yukon Energy officials are aware that significant amounts of electrical energy are used in their own facilities".

LE then recommends the following measures be implemented:

- The Board order YEC to provide a contribution of $100,000 to ESC for winter focused electrical energy conservation programming for 2009-10 winter;
- The Board order YEC to immediately start a program of internal electrical energy conservation focused on winter savings;
- The Board order YEC to prepare (with YECL) programs to increase summer primary sales;
- The Board order YEC to prepare a program to increase summer secondary sales; and
- The Board order YEC to formalize and institute an internal DSM program.

UCG notes IR responses provided by YEC stating that energy efficiency and DSM should focus on end uses of electricity and end users are primarily serviced by YECL, and submits that YEC's end-use customers should be included in YECL's DSM portfolio. UCG also asserts that since DSM activity affects generation and transmission through reduced load over time, YECL should be the primary source for DSM initiatives. UCG notes that YEC includes a growth factor in its wholesale forecast (paragraph 57) and that DSM could offset this growth directly by reducing existing loads and indirectly by influencing customer behaviour.

UCG makes the following recommendations:

- A joint interested party panel be implemented to promote more efficient use of energy over the longer-term and that YEC be directed to work with YECL, the Yukon government and other stakeholders to implement an ongoing DSM program for all electricity ratepayers in the Yukon;

- UCG recommends that stakeholders develop an on-going Energy Conservation Action Plan that provides for a wide range of energy efficiency and conservation measures to assist residents in dealing with the high cost of energy in the Yukon; and

- Citing YEC's request for further direction from the Board related to DSM, UCG submits that "it should be up to the utilities to come forward with proposals in this regard rather than to further delay moving forward on DSM".

YECL confirms that it will work with YEC to investigate DSM programs with a view to developing a policy paper and presenting a combined view by the next GRA.

Yukon Energy Reply

Contrary to allegations made by LE and UCG, YEC has not "passed the buck" on to government with regard to DSM programming. The response to LE-YEC-1-20 notes that, "Energy efficiency programs are most effective when established with a sufficient public profile and coordinated across fuels and across customers in Yukon." YEC indicated that this coordination role was currently being undertaken by ESC as a department of government and that YEC continues to work with ESC on these issues. YEC also noted that these activities typically need to include some focus on end-uses of electricity, indicating the need for involvement from YECL as the utility primarily serving end-users in Yukon, while recognizing that DSM is fundamentally a resource option that is a core responsibility of the utility providing bulk power services (in this case Yukon Energy).

DSM has not been the focus of YEC's planning activities up until now for the following reasons:

1. YEC has had large surpluses until very recently; Resource Plan page A-9 notes as follows:

> Yukon has been actively and aggressively engaged in DSM activities of various types since 1992, and in particular since 2000. Major emphasis from entities such as ESC, YDC and Natural Resources Canada has focused on reducing loads on isolated diesel systems, reducing non-electrical energy consumption (such as oil heating) as well as major efforts by Yukon Energy to grow the WAF loads via Secondary Sales (with surplus hydro, the most pertinent WAF DSM programs focus on selling this renewable resource that would otherwise be wasted, rather than reducing consumption).
>
> ...DSM activities in the near-term that lower peak demand levels, but reduce utility sales which are currently being made from surplus hydro will be an adverse rate driver in Yukon (as lost revenue from reduced sales will outweigh cost savings from reduced system peaks).

2. YEC has since the 2006 Resource Plan been focused first on capacity planning issues; as noted in the response to UCG-YEC-1-20, DSM initiatives or various other potential new generation technologies "are not typically considered by utilities to provide reliable capacity towards meeting near term capacity shortfalls of the type forecast in Yukon." (See also, Resource Plan page 4-38).

3. YEC noted in response to UCG-YEC-1-20 and in the Resource Plan "Yukon Energy would possibly need to give greater consideration to DSM (in particular where industrial load scenarios provide for sustained 10 MW mine loads extending past 2016). However, Page A-10 of the Resource Plan provides as follows:

> Over the longer term, and under the various industrial scenarios (Chapter 5), DSM activities have the potential to contribute to savings from diesel fuel generation. As such, DSM activities will in all likelihood become an important utility focus should such scenarios arise. However, as a major supply option, there are limits to the scale of savings available from DSM. For example, under the 25 MW scenario diesel consumption on WAF proceeds rapidly to more than 100 GW.h per year – given a current firm non-industrial WAF sales of 250 GW.h/year, it is not possible for DSM to provide the resources needed to address this scenario, and therefore major displacement of diesel must come from supply-side resources (such as new hydro generation).

Yukon Energy does pursue energy saving opportunities within its own operations, where there is a business case for such activities. The need and appropriateness of such activities are of increasing importance, and as such Yukon Energy has initiated a substantial program of such reviews, as set out in YUB-YEC-1-38(d) (with respect to projects on "internal efficiency" resources).

There is no basis in evidence for any specified contribution to ESC of $100,000 or any other amount, and this recommendation should not be adopted by the Board.

As noted in UCG-YEC-1-20, YEC has not budgeted for DSM programs or activities within its current GRA budget. This is why YEC asked for further direction from the Board in that response regarding the scale of activities to be undertaken and provision for some form of deferral account for expenditures, presumably targeted for disposition at the next GRA.

3.0 REVENUE REQUIREMENT

3.1 FUEL AND PURCHASED POWER

Intervenor Arguments

CW argues (at pages 8-10) that the fuel forecast provided by YEC in its Application, "is not the best forecast available" and should not be approved, and asserts that the fuel forecast included in YECL's GRA filing of $0.096 per litre, as approved in Order 2009-2, should be approved for YEC as well so that the utilities are both proceeding with their Phase II application using consistent assumptions. CW notes the following key points in argument:

- YEC's 2009 fuel price forecast is too high by both the measure of current prices and the measure of 2009 fuel price forecast approved for YECL and included in the compliance filing.

- CW "agrees that YEC may be right, that the Rider F mechanism will, in the long run, keep the utility and customers whole by correcting for any differences between the GRA forecast fuel prices and actual fuel prices," but raises concerns regarding intergenerational inequities arising and incorrect price signals being sent to customers.

- CW notes YEC's position (set out in response to CW-YEC-1-16(e)) that adjusting the fuel price forecast would have a positive effect on rates for lower fuel costs, but a net negative effect on rates to the extent this same forecasting approach is extended to secondary sales; CW notes that any such net negative effect would be offset to customers by a decrease in Rider F.

- CW concludes that Yukon Energy and YECL having two separate fuel prices present consistency issues and possible difficulties for a joint cost of service that requires the utilities to have common assumptions.

Yukon Energy Reply

In relation to the purported basis for "consistency" and CW's proposed fuel price of $0.096 per litre to achieve such consistency, Yukon Energy submits that there is simply no rationale for adopting "one" fuel price. In fact, fuel prices at any one time already vary between communities (such as Old Crow, which has prices that are typically double or more the prices paid in other locations in Yukon).[15] If in fact the term "consistency" was to have any meaning in this regard, it would imply a set of fuel prices adopted at the same time (e.g., actual prices as at January 2008

[15] Per YECL GRA.

as per the YECL GRA "'forecast") or using a common oil price forecast and common related methods to determine community-by-community diesel fuel price forecasts.

Yukon Energy's position in respect of updating fuel prices is the same position that was adopted by the Board in the YECL hearing; that is, fuel prices consistent with forecasts as of the date of filing the GRA form part of the final revenue requirement, combined with an appropriate fuel price variance deferral account (as is in place for the two utilities).

At its essence the CW argument is that Yukon Energy's fuel price should be adjusted because it does not reflect "up to date" fuel prices. However the argument not only ignores basic regulatory principles which evaluate forecasts based on the best information available at the time of filing, it is also inconsistent with CW's recommendation to change the YEC forecast to YECL's approved price which was based on a forecast that pre-dates Yukon Energy's forecasts (from the time of YECL's GRA filing).

While CW raises the issue of potential intergenerational inequities that may arise due to fuel price variations from forecast, this concern is not merited in Yukon given the management of the Rider F account between the two utilities. In particular, the Rider F fuel price account does not serve to provide any notable deferral of costs over time; it only serves to adjust riders as needed to maintain the overall balance in a narrow range around $0. In short, the account is not designed to defer over any material period any costs incurred by either of the two utilities[16].

In Yukon Energy's view, given the timing of both YEC's and YECL's filing, the volatility of fuel prices and the impact of slavishly trying to maintain consistency in this situation would have on rates, there is no compelling reason for the fuel price forecasts used by YECL and Yukon Energy to be consistent. Further, since 2005 Yukon Energy has been operating with a fuel price linked to its 2005 Required Revenues and Related Matters hearing, while during this same period YECL has had its rates based on a 1997 fuel price forecast. No issues have arisen with the Rider F fuel price deferral account or any other mechanisms during this period that relate in any way to the "inconsistency".

In relation to the purported need for consistency for any upcoming cost of service work, Yukon Energy submits that there is simply no need for consistency in fuel prices between the two utilities when undertaking a cost of service study. Base rates determined in Yukon will reflect, pursuant to OIC 1995/90, a consolidated revenue requirement for YEC and YECL that results in one set of rates for customers of both utilities. The cost of service therefore needs to be consistent with the consolidated revenue requirement that has been used to set the unified rates,

[16] As explained during the hearing, the two utilities will adjust the Rider F from time to time as required to move the Rider F account balance back toward zero. The overall result is that ratepayers are continually tending to be charged a 'blended" set of rates (base rates reflecting fuel price forecasts from the last GRA for each utility with related riders plus a Rider F charge for each kW.h) that reflects the best current assessment of fuel price levels going forward, i.e., if actual prices are higher than the GRA forecast the Rider F will increase the bill, and vice versa when actual fuel prices are less than the GRA forecast. This basic balancing mechanism for setting a Rider F charge or rebate also concurrently adjusts for any difference in GRA fuel price forecasts as between the two utilities (as was seen for the period from 2005 up to today).

i.e., the COSS will then assess the extent to which revenues derived from such unified rates in fact cover the consolidated costs for each customer class. The COS assessment as such in no way addresses, or requires, consistency in fuel prices or any other costs as between the two utilities.

At a more general level, YEC has a serious concern about updating any items in the GRA forecasts based on actual information (or based on YECL's compliance filing) while leaving other aspects of the forecast unaltered. In particular, YEC has concerns with regard to updating the fuel price. At past GRAs neither the utilities nor the Board have altered the fuel price forecasts filed based on the circumstances of the day at the time of the hearing. One recent example is the 2008/09 YECL GRA, the Board did not update YECL's fuel prices (which were based on forecasts available at January 1, 2008) to better represent fuel prices current to October 2008 when the Application was reviewed at the oral hearing.

3.2 NON-FUEL OPERATION AND MAINTENANCE COSTS

Intervenor arguments related to the Non-fuel Operating and Maintenance (O&M) costs included in the Application were limited to a few distinct issues, noted below:

- CW's comments on YECL's non-fuel O&M forecast were limited to discussion of the Reserve for Injuries and Damages.
- LE commented on staffing levels without recommending any changes to the forecast included in the application.
- UCG commented on labour costs and Board of Directors costs.
- YECL's comments were limited to discussion of the Reserve for Injuries and Damages and YEC's Brushing Program.

3.2.1 Labour Costs

Intervenor Arguments

LE notes the following concerns related to staffing levels at page 11 of its argument:

- Staffing growth has "increased more rapidly than necessary" when compared to load growth from 2005 to 2009, and does not seem to reflect any economies of scale being realized by Yukon Energy given most of the load growth was due to its wholesale customer and its industrial customer.
- The annual labour rate increases are in excess of general inflation rates – "a trend which should not be allowed to continue".

While raising general questions and concerns, LE notes it does "not have any specific things to point at to say this or that must be denied based on this or that justification," and concludes by recommending that the Board order Yukon Energy to expand the employee and cost performance indicator information presented in the annual KPI report, and to provide comparative CEA information and a 5 year running average of each indicator.

UCG notes that increases in labour expense make up 62% of the proposed revenue requirement ($1.244 million) and submits that increases in labour costs "appear high for a depressed economy" (noting specific increases in cost related to the President). UCG asserts that "it is unrealistic" to argue that higher wages are required to attract qualified employees "when concessions are the rule in other jurisdictions in this shrinking economy" and submits that the Board should disallow any proposed increase in labour costs associated with salaries of YEC employees. Providing further qualification in footnote 8 that "disallowance in rates does not necessarily preclude YEC from paying increased costs out if its return", acknowledging that YEC would continue to be bound by its collective agreement asserting that "the cost of honouring agreement related increases to be borne by the shareholder."

Yukon Energy Reply

No intervenor provided evidence related to staffing or cost increases, and while there were numerous interrogatories on the topic of Yukon Energy's labour costs, there was little discussion or cross-examination at the hearing.

LE merely notes a general trend of staffing levels increasing over the period from 2005 to 2009 qualifying this as "more rapid than necessary" without any specific basis or rationale for that qualification other than by noting some purported linkage to load growth. Yukon Energy has not based its evidence on the requirement for increased staffing levels on load growth as a driver, e.g., the need for some added staff (e.g., environmental or safety positions) bears no relation to load growth or lack thereof. As such, LE's arguments in respect of assessing staffing growth in relation to load growth do not bear out.

LE asserts that annual labour rate increases are in excess of the rate of inflation, referencing UCG-YEC-1-35(b); however, it is noted that this interrogatory response does not relate to labour rate increases; the economic increments were described in YECL-YEC-1-37.[17] This was also clarified in discussion on the transcript at pages 332-337. YEC has included only an annual economic increase of 3.5% for 2008 and 3.75% for 2009. This is far below the 6% increase approved for YECL for the test years in Order 2009-2[18]. Further, as noted by UCG, these are contractual commitments of Yukon Energy pursuant to labour contracts and as such are required to be paid as a valid cost of operating the utility. There is no basis to assert that Yukon Energy should either violate the contract, or alternatively as proposed by UCG be forced to have these

[17] YECL-YEC-1-37(d) provides a breakdown of the labour inflation for 2008 and 2009 included forecasts for employees covered by contract negotiations and employees not covered by contract.
[18] YECL had applied for a 9.5% average job-class wage increase for 2009.

amounts "borne by the shareholder" without any evidence or assertion that these amounts are not prudently incurred or fail to reflect valid costs to provide service in the test years.

3.2.2 Brushing Costs

Intervenor Arguments

YECL at page 10-11 of its argument notes various issues and concerns with YEC's brushing expenses; however, while asserting that "amounts have not been adequately justified" YECL does not specifically suggest that such amounts be disallowed. YECL notes concerns that YEC has no written policy with respect to its brushing program and asserts that YEC provided general explanations with respect to increased growth levels, and that "general responses" confirm "a lack of structure exists" regarding the "establishment and implementation of a brushing program." YECL notes concern that costs are "materially increasing" and must be justified. While noting that any justification is "simply lacking" and "the requested forecast amounts have not been justified" YECL does not specify any costs or expenses that should be disallowed because they are unreasonable.

YECL recommends that the Board "require YEC to develop a written brushing policy, which details in a comprehensive fashion YEC's approach to brushing and explains the manner in which the budget for any year is derived."

Yukon Energy Reply

YECL has asserted that YEC's brushing expenses have not been adequately justified. YEC in the evidence fully explained how brushing cost estimates are derived, why costs have increased over the test period and why YEC is required to incur these costs. Yukon Energy also notes that YECL's comments in respect of semantics regarding a brushing "policy" completely ignore Yukon Energy's evidence, which is that there is an established practice and standard as required.[19] Given YEC's circumstances this approach to brushing is not only reasonable it is the most appropriate.

Yukon Energy has discussed both its test years brushing expenses, and its brushing program in the Application, in response to the interrogatories, and at the hearing (at transcript pages 146-50). For example, at pages 3-8 to 3-9 of the Application it is noted that increases in transmission expense "are dominated by a required staged increase in brushing activity, which is a periodic cyclical requirement in Yukon."

[19] Specifically, see Transcript page 147. YEC's transmission line maintenance procedures and brushing program are described in the response to YECL-YEC-1-18, which provides "beyond emergency repairs and the noted capital projects, each line has an aerial patrol once per year, followed by a ground patrol of areas of concern identified by the aerial patrol. YEC's practice has been to isolate and effect repairs identified from these patrols. Danger trees are removed as soon as reasonably possible." YUB-YEC-1-37(e) further discusses Yukon Energy's brushing program as it has been implemented in the past: "All transmission lines are inspected both from the air (annually) and on the ground (particular sections identified from the air). Brushing requirements and any other issues or problems, such as poles that need replacement, are identified. These inspections are then converted into work plans for the highest priority areas and issues."

The following further information justifying costs for the brushing program has been provided in response to interrogatories and on the transcript in response to cross-examination by YECL:

- LE-YEC-1-33 notes for 2009 a breakdown of the brushing cost, and kilometres to be brushed, by transmission line.

- UCG-YEC-1-41(c) notes the variance in transmission costs between 2005 and 2009 forecast is $277,000, largely due to brushing costs for L169 and L170. The brushing program requirements and costs to be incurred in the test years are discussed further in responses to YUB-YEC-1-37(d) and (e), and LE-YEC-1-33.

- YEC's panel noted at the hearing that brushing costs had increased year over year due to the requirement to brush more frequently on transmission lines and some of the distribution lines. It was noted that recently wetter weather had led to increased brushing requirements in excess of the established seven year brushing cycle followed by YEC.[20]

- Further, the present brushing rotation now includes brushing activities related to the Mayo-Dawson transmission line, which was not yet in the brushing rotation at the time of the 2005 proceeding.

Costs forecast to be incurred in the test years related to brushing and maintenance of the transmission and distribution lines are reasonable and required to ensure continued reliable electrical service. Yukon Energy has established systems to address brushing requirements successfully, and as such no new "policy" is required as suggested by YECL.

3.2.3 Board of Directors Costs

Intervenor Arguments

UCG argues that the Board should "carefully consider" Board of Directors costs alluding to "the overlap that still exists with the Board of Directors for YDC" and noting concern with "extra fees paid to the YEC Chair for work that appears to be more politically based than utility based".

Yukon Energy Reply

As a functioning corporation, Yukon Energy requires the services of a Board of Directors as a valid and necessary component of operating the utility and providing service to customers. While aspects of Yukon Energy's Board functions can be done more efficiently where individual Directors are also coordinated with Yukon Development (e.g., travel costs for Board meetings), there is no added cost to Yukon Energy or ratepayers from such coordination.

[20] Transcript page 485, line 7.

There is simply no evidence to support the UCG allegation that the Chair's work is driven by "politically based" activities. The Chair of YEC is a key component of the overall governance/management structure of YEC and his activities are all undertaken towards YEC utility-based work. Without evidence UCG's allegations are inappropriate and its concerns have no basis in proper utility regulation.

3.2.4 Insurance and Reserve for Injuries and Damages

Intervenor Arguments

CW in its argument recommends $100,000 as the appropriation to the Reserve for Injuries and Damages (RFID), that the WH1 Hub and Blade Repair and the Aishihik Cable Repair in 2006 not be included in the Reserve, that the Alberta-based criteria, as noted in Exhibit C1-9, be adopted and that YEC conduct a comprehensive risk management study.

CW notes the following in support of its recommendations:

- The proposed increase in the yearly appropriation to the reserve in 2009 (from $50,000 in 2008 to $150,000) was "uneven" and "defeats the rate stability benefits of the RFID." Citing the Board ordered $100,000 appropriation to the reserve from 2005 to 2007, CW asserts that absent claims for WH1 Hub and Blade Repair and the Aishihik Cable Repair (in 2006), annual claims over the 2005-07 period were on average less than $100,000. It was argued that this supports approving $100,000 as a yearly appropriation.

- CW questions whether the necessary due diligence has been undertaken in relation to "the trade-offs between the deductible amount on property insurance, the additional costs of making claims on its existing insurance and the size of uninsured claims", citing the WH1 Hub and Blade Repair and noting that YEC has not provided evidence concerning what the premium increase would have been had the repair been claimed on its insurance. CW submits that "prudent risk management on an ongoing basis would include a determination of whether making a claim would cause premiums to increase more than the size of the claimed amount" and asserts that for the noted items in 2005 the deductible amount may be too high since the repair was just below the deductible amount.

- CW notes the criteria related to RFID charges "appear to be loose and informal" and asserts that the Alberta-based criteria proffered by YECL in cross-examination during the hearing "would be useful for YEC's overall risk management function and would protect customers against costs that should be properly claimed from the insurer." CW recommends that the Board direct YEC to adopt the criteria, study the issue further, and suggest modifications as required at the next GRA.

- CW also recommends that the Board direct YEC to perform a comprehensive risk management study to determine whether raising deductible amounts would reduce property insurance costs in a cost effective manner, and whether deducible amounts provide an appropriate balance between the cost of insurance and probable size of claims and criteria for making charges to the RFID.

YECL asserts that Yukon Energy follows no "structured approach" for charging items to the reserve and proffered an excerpt from EUB Decision 2003-056 (Exhibit C1-9) which details criteria related to ATCO Electric's Generation Reserve Account for Injuries and Damages in Alberta. YECL recommended that the Board carefully scrutinize costs included in the reserve and disallow common recurring items and that the Board require YEC to adopt a formal, written policy and criteria to determine which items can be charged to the reserve, citing the policy applied to ATCO in Alberta as appropriate.

YECL asserts that YEC does not meet all of the criteria as applied to ATCO Electric in this Alberta Decision, noting:

(1) "The only criteria even considered is whether the incident might be sudden and accidental"; and

(2) There are no indications that incidents resulting from normal wear and tear do not get charged to the reserve; YECL asserts that a number of common occurrences appear to be charged to the reserve and these events should be forecast as part of YEC's O&M budget.

Further YECL argues that YEC does not apply the significance test as set out in the Alberta decision applied to ATCO, noting that a $1000 materiality threshold was "very low for a company the size of YEC" and asserting that based on the size of YEC's rate base a threshold in the order of $15,000 to $20,000 should be adopted, with items below this threshold excluded from the reserve. YECL also asserted that "it is clear that YEC does not examine whether the incident is one of low probability, such that it would not normally be expected to occur in a typical operating year."

Finally, YECL asserted that YEC has not demonstrated the need for an increase in the provision to the Reserve and noted that this request should not be granted.

Yukon Energy Reply

Assertions that YEC does not have a structured approach to determining claims

Contrary to assertions made by YECL and CW, YEC has provided detailed explanations in evidence related to its practices regarding charges to the reserve and the criteria applied by the CFO to ensure that only material, insurable, accidental events are charged to the reserve. It was noted under cross examination (transcript page 114, lines 12-16) that YEC does have established criteria that are applied with respect to charging items to the reserve for injuries and damages. These criteria are based on a term from YEC's property insurance policy, i.e., "the sudden and accidental loss of an object" that is defined as one of YEC's assets. YEC's structured approach with regard to charging items to the reserve was further described and clarified in cross-examination and in response to IRs as follows:

1. A materiality limit of $1,000 is applied; it was noted that $1,000 is considered by YEC to be material and anything below that amount is considered immaterial and charged to maintenance. This established materiality limit was not set in connection with YEC's O&M budget.

2. While YEC does not specifically consider the probability of the event either occurring or recurring in its evaluation, limiting the Reserve to charges that are "sudden and accidental events" by their nature (including criteria consistent with typical practice in determining if any event, absent the deductible, would otherwise be an insurable event) achieves precisely the same ends. The difference is at best semantics, and Yukon Energy sees no advantage to inserting a new and redundant criteria into its evaluation process.

3. To be perfectly clear, contrary to the suggestions by YECL, incidents that arise due to normal wear and tear are not charged to the reserve.

4. With regard to making determinations related to whether an incident is an insurable event or not, it was noted that the CFO makes the determination, with the advice of a professional insurance broker where necessary. The response to CW-YEC-1-24(b) notes YEC employs a professional insurance brokerage house that specializes in utilities insurance. It was noted that for larger incidents the insurance broker is consulted regarding whether an incident is an insured loss before charging it to the reserve.

In short, the criteria and approach used by Yukon Energy is not in any way "loose and informal" or "unstructured" as suggested, but defined by YEC's insurance policy and applied by the CFO (in consultation with YEC's insurance broker for larger incidents). While the criteria established and applied by YEC is not stated in the same terms as that of ATCO Electric in Alberta, YEC's criteria address precisely the same concerns and issues.

Materiality Threshold

YECL has argued that the $1,000 materiality threshold applied by YEC is too low for a company the size of YEC's rate base and asserts that a threshold of $15,000 to $20,000 should be adopted with items below this threshold excluded from the reserve.

In cross-examination, the YEC panel noted that anything below the $1,000 limit was considered immaterial and charged to maintenance. Were this limit to be raised, it would only result in more costs being charged to maintenance. Considering actual charges from 2005 to 2008 (YECL-YEC-1-29(b)) these increased charges to the O&M would fluctuate from $7,000 to $21,000 from year to year, spread across various departments and functions. While a mathematically similar result could be achieved by raising the Reserve threshold to, for example, $15,000 per incident, Yukon Energy's O&M budgets would accordingly need to be increased to address the scope of events likely to occur that are between $1,000 and $15,000 that are presently not included in O&M budgets. Also of concern is that since the amount in any given year cannot easily be forecast, given the "sudden and accidental" nature of these events, it would be difficult to determine the precise amount by which each O&M budget category would need to be increased in any given year for forecasting purposes.

On the specific matter of the YECL assertions regarding the ATCO Electric criteria from Alberta (based on 1 page of Decision 2001-082 which was proffered into evidence during cross examination as Exhibit C1-9), YECL's argument further suggests that charges to the reserve included in YEC's application should be assessed against these criteria. This is entirely inappropriate in the context of a regulatory review given:

(a) The noted criteria were presented to Yukon Energy's panel of witnesses as an excerpt from a regulatory decision with which none of the panel members had specific familiarity;

(b) YECL elected not to introduce the criteria as intervenor evidence in a manner that would permit examination of the party asserting these criteria were preferable, or indeed differed in any material respect from Yukon Energy's current practice; and

(c) The specific criteria were not in any way in place or properly being used in the years in question (when the charges occurred) and in that regard are irrelevant to decisions Yukon Energy properly made at the time based on the long-established criteria that had in fact been a component of Yukon Energy's last rate review before the Board.

Of particular concern is the fact that YECL is recommending the wholesale adoption of criteria for ATCO's generation-based reserve account, based on a cursory review of a single page from a 23 page Review and Variance Decision. Ironically, similar fairness concerns were raised by ATCO Electric in that decision and were apparently accepted by the Alberta regulator. Page 11 of that decision notes that, "certain incidents included in the GRID Application occurred prior to January 1, 1999, and were therefore subject to policies in place prior to the adoption of revised criteria in Decision U99099". In the circumstances of that case, ATCO Electric argued, and the regulator agreed, that incidents that occurred prior to the adoption (by Board Order) of new criteria were subject to the criteria in place at the time of the incident.

YEC's revenue requirement and charges to the reserve are properly evaluated based on the criteria as determined and relied upon by Yukon Energy prior to this proceeding. It would be unfair to Yukon Energy to apply new criteria to the current application.

Assertions that unspecified claims not be allowed in reserve

Both CW and YECL have effectively asserted that the Board should disallow individual items charged to the reserve. YECL's comments in this regard are at best generalities and are irrelevant to determining Yukon Energy's revenue requirement. CW, in contrast, has focused on two large items, the Hub and Blade Repair and Aishihik Cable Repair.

On the matter of the WH1 Hub Repair, CW asserts that YEC has not provided evidence concerning what the premium increase would have been had the repair been claimed on its insurance. Yukon Energy notes that the question in fact was not ever put to Yukon Energy's witnesses at the hearing. In any event, the incident was $302,000 compared to a deductible of $250,000 which would have been charged to the Reserve in any event had Yukon Energy made a claim, for a total difference of $52,000. Mr. Mollard also noted that major events of this type are discussed with Yukon Energy's insurance broker,[21] and in that regard Yukon Energy relies on independent relevant expertise to make these assessments. In that regard, Yukon Energy submits that the charge is reasonable and ought to be properly recorded as a valid charge to the Reserve.

On the matter of the Aishihik Cable Repair, CW provides no rationale that this charge is inappropriate or outside of the specific purpose and proper operation of the Reserve. Unlike the WH1 Hub Repair, there is also no claim of potentially seeking recovery from the insurer on this matter, as the cost is below Yukon Energy's deductible. The only stated basis for the CW objection, aside from the cost item being relatively large, is that the deductible may be too high. This assertion, however, is offered without any evidence or foundation as to reasonableness and, as such, is simply speculative. As a result, there is no reasonable basis offered whatsoever that this charge should be excluded from the fund, and as such it should be recognized as a properly recorded and valid charge to the Reserve.

Annual appropriation to reserve is appropriate

YECL has argued that there should be no increase in the appropriation, simply stating that YEC has not demonstrated need, and ignoring the fact that a reduction from an approved appropriation of $100,000 occurred after 2007, while CW has asserted that an appropriation of $100,000 for 2008 and 2009 is reasonable and should be approved. Yukon Energy submits that the level of appropriation set for the Reserve in recent history has been insufficient to maintain the Reserve balance within a reasonable range (leading up to both the 2005 proceeding, and the current GRA), and as such there is ample evidence that the appropriation should be raised as requested. While $150,000 is not a precise calculation, the evidence in Table 3.1.1 (page 3-14) supports if anything a higher annual appropriation level of $181,000, not the $100,000 proposed by CW. As such, Yukon Energy's proposals are reasonable and should be approved.

[21] Transcript page 117.

Requirement for comprehensive risk management study

CW asserts that YEC has not undertaken the necessary due diligence in relation to the trade-offs between the deductible amount on property insurance, the additional costs of making claims on its existing insurance and the size of uninsured claims. Further, CW suggests that the Board Order YEC to undertake a comprehensive risk management study.

YEC has detailed how risk assessments and insurance requirements were performed by YEC in response to CW-YEC-1-24(b) where it was noted that:

> As it relates to insurance requirements, Yukon Energy employs a professional insurance brokerage house that specializes in utilities insurance. On an annual basis, the Corporation provides an update to the broker on assets, incidents and changes in operations. The broker reviews coverages and makes recommendations for enhancements. The program is then marketed to key insurance providers and the broker gets quotations on costs (if any) of enhanced coverages. Decisions on coverage reside with the Chief Financial Officer.

Details of insurance coverages by year (including amount covered, a description of each component of the coverage, as well as, the deductible and forecasted premiums for each policy for the coverage) were provided in response to YECL-YEC-1-32(a) and (b). Given its existing use of outside expertise appropriate for this function, Yukon Energy submits there is no basis nor need for a further study of risk management as submitted by CW.

3.3 DEPRECIATION

Intervenor Arguments

At paragraph 69 of its Argument UCG asserts that YEC is outside the upper limit indentified by Gannett Fleming (regarding when the next study should be performed), and should be directed to conduct a full depreciation study. Further, UCG asserted that YEC and YECL be directed to perform a joint depreciation study in order to determine depreciation methodologies and rates that will be consistently applied across both utilities. It was also asserted that the study should “give due weight to IFRS requirements, including componentization”.

UCG notes Gannett Fleming’s expert opinion was that a full study should be completed every 3-5 years and “the only excuse provided by YEC for not doing a depreciation study for its first GRA in over a decade was study cost related”. Further, UCG noted that YEC’s “internal opinion” that there were not material issues with currently approved depreciation rates provided “no comfort” that current rates accurately reflected plant in use.

YECL notes at page 11 of its argument that YEC should be required to perform periodic Depreciation Studies, “as is the norm for regulated Utilities.” Given the timing of the last study and the significant assets being added to rate base in recent years, YECL asserted that the Board should direct YEC to address when it will provide its next study as part of the compliance filing.

Yukon Energy Reply

While UCG submits that Yukon Energy and YECL should conduct a "joint" depreciation study, such an approach is entirely not feasible given that each utility uses a vastly different, Board approved, depreciation methodology. YEC uses the Average Service Life (ASL) method of depreciation as approved for YEC by the Board in Order 2005-12 which helps contribute to a lower ongoing depreciation expense for the utility, while YECL uses the more aggressive and costly Equal Life Group (ELG) method of depreciation as approved for YECL by the Board in Order 2009-2. The two methods are inconsistent and simply not amenable to a single "joint" study.

Both UCG and YECL have argued that enough time has elapsed since the last study (conducted for the 2005 Required Revenues and Related Matters hearing), and that a new study should be undertaken, "as is the norm for regulated Utilities." As noted, YEC's last full deprecation study was undertaken for a revenue requirement hearing that occurred in 2005; since this was Yukon Energy's first appearance before the regulator for a number of years a full review of depreciation rates was appropriate. As noted, it has only been three years since that hearing. In order to reduce the regulatory burden for ratepayers, Yukon Energy has sought to manage the extent of studies and costs for regulatory filings. In Yukon Energy's assessment, material issues are not expected with the currently approved depreciation rates and as such there is no justification for incurring the expense of a further study at this time.

3.4 RETURN ON RATE BASE

Intervenor Arguments

TD Canada Trust Note

CW noted it examined Undertaking #6 and was unable to reproduce the cumulative interest payable under existing terms, the 3 months interest penalty or the interest differential figure from the given assumptions. CW also noted confusion regarding YEC's interpretation of its legal obligations and terms of repayment pursuant to the Interest Act.

CW submitted that the Board should require YEC to either refinance the loan at the lowest available rate, or demonstrate to the Board's satisfaction why refinancing the loan and paying the additional 3 month interest at the original rate would not result in savings. CW concluded by noting that "if the Board determines that there does not appear to be any contractual right or terms governing early repayment" then YEC should be directed to:

- Approach TD to see what terms of repayment could be obtained and whether these actual terms may be better than YEC's assumptions; and

- Require YEC to take advantage of any lower cost alternative that may be offered which would result in savings to YEC and incorporate the results in the compliance filing.

In contrast, LE accepted based on Undertaking #6 and discussion on the transcript that "Yukon Energy has made it clear that the penalties for terminating this note would make it imprudent to do so", but recommended that given high interest rate on the note, YEC should pay out the loan when it comes due and refinance the loan at the lowest available rate, "preferably with YDC".

YDC Debt/Updates

CW considered the methods set out in response to CW-YEC-1-26(a) Attachment 1 to be "appropriate and impartial" where the parent may not have a defined cost of capital and noted that the 120 basis point spread above long term Canada bonds was less than spreads noted by YECL's financial experts provided at the YECL 2008/2009 GRA. CW noted at page 20 that it did not have any concerns with the components of YEC debt instruments prior to 2008 "as these reflect prior regulatory approvals and contracts."

CW did express concern with two new debt instruments to be issued during the test years:

- **Loan #17:** It was noted that "while the forecast coupon rate for 2008 was 5.28%, the actual coupon rate for YDC Loan #17 was 4.65%. CW noted that the amount was revised in the update filing, but the forecast coupon rate for Loan #17, in Schedule 13 was not. CW argues that this information was available 3 months prior to the update filing and should have been included. CW also notes inconsistency in approach to updates since the Flex Term Note was updated in the April 24 filing.

- **Loan #18:** CW similarly asserts that "a realistic coupon rate" be inserted for Issue #18 "for a complete and properly prepared forecast" and submits that a revised amount and coupon rate should be submitted with the compliance filing. CW acknowledges while the coupon rate has not been revised to account for changes in the long Canada bond rate, the cost of the issue will not affect 2009 revenue requirement as no interest will be paid on this instrument.

Interest Costs

At paragraph 71 of its argument UCG notes that, "YEC's 2008 revenue requirement should be based on actual costs incurred during the year" and asserts per the response to CW-YEC-1-28(b), that YEC's forecast cost of debt is not based on interest expenses actually incurred in the test years, but is based on a calculation that takes the sum of the average cost rate as at January 1 and the average cost rate at December 31 divided by 2. UCG notes this calculation "reaches back in time" as opposed to looking at interest costs associated with long term debt during the actual year in question. UCG asserts that the 2008 revenue requirement should only include the actual interest costs incurred during 2008.

Yukon Energy Reply

TD Loan

The YEC panel misspoke when it cited the Interest Act as providing the “onerous repayment terms” that made refinancing the loan essentially unfeasible. The proper response is that the terms of the loan itself provide the “onerous repayment” provisions described in cross-examination at the hearing.

For clarity, the Prepayment terms of the loan provide as follows:

When not in default, the undersigned may:

(a) Prepay all or any part of the Principal outstanding on any Renewal Date, without notice or charge upon payments of the interest accrued up to the Renewal Date;

(b) At any time, prepay all or any part of the Principal then outstanding upon payment of Interest accrued to the date of prepayment (“Prepayment Date”) and prepayment charges equal to the greater of:

   i. Three months’ Interest on the amount of the prepayment; and
   ii. The Interest Rate Differential. “Interest Rate Differential” means the amount, if any, by which Interest exceeds Interest at the rate at which the bank would lend to the undersigned for a term commencing on the Prepayment Date and expiring at the Term Date. In this clause (ii), Interest and the Interest Rate Differential shall be calculated on the amount of the prepayment over a term commencing on the Prepayment date and expiring at the Term Date.

Yukon Energy can commit to discuss the terms of the loan with its bank to see if it is possible to negotiate a lower interest rate for the remaining term of this loan, and if so, report this conclusion promptly to the Board.

YDC Debt/Updates

CW correctly summarizes that, at year-end 2008, Yukon Energy financed debt with YDC at a rate lower than that forecast in the GRA. Notwithstanding this information, Yukon Energy has consistently maintained that the concept of a GRA “update” was solely to address four individual matters that remained outstanding at the time of its GRA filing (as set out at pages A1-A5 of Exhibit B-10, also to include one correction to a mathematical calculation in the original filing). The purpose of the Exhibit B-10 filing was not to generally and comprehensively update all information in the GRA.

At this juncture, as is common in regulatory hearings, it is necessary to accept that there is continually evolving new information on nearly every topic in the filing. Notwithstanding this, the

GRA review must occur on an integrated basis reflecting a particular point in time with at most very limited exceptions. Indeed, a general update to the information in the filing would in fact, for 2008, if anything need to recognize that YEC's cost forecasts have not decreased since the time of the filing, they have increased. As a result, absent opportunistic cherry-picking of individual topics where new information happened to be in ratepayers favour, any updating of the type noted by CW would serve to increase rates in a manner not presently sought by Yukon Energy. In short, the CW recommendations in this respect are opportunistic and one-sided, and should be dismissed by the Board.

UCG Interest Cost Calculation

UCG's argument in regards to debt costs is based on an incorrect understanding. Contrary to UCG's apparent understanding, Yukon Energy does calculate its debt costs based on interest costs incurred during the test year and does not reach "back in time". As such, UCG's argument in this regard should be rejected.

3.5 RATE CASE COSTS

Intervenor Arguments

YECL notes it is "extremely concerned" with YEC's approach to "its Hearing Cost Reserve", noting YEC's intention to amortize amounts approved by the Board over a 3 year period, and that this treatment is "diametrically opposed" to the treatment directed by the Board for YECL in decision 2009-2.

- YECL asserts YEC's only justification for its treatment is that "it is not like the Reserves for Injuries and Damages and has never been treated in a manner similar to that Reserve," and cites Undertaking #25 to assert "YEC maintains that it has never sought or received Board approval for such regulatory treatment," and notes YEC intends to treat the current Reserve request in the same manner as previously approved by the Board in Order 2005-12.

- YECL incorrectly notes that YEC "does not appear to deny that its approach would result in customers paying money in rates during non-Test Years, that would ultimately not be trued up".

- YECL "refutes" the accounting comparison to forecast brushing expenditures, arguing that "the two items are materially different" since it is clear a forecast brushing amount will be spent each year, even though actual will vary from forecast" whereas the hearing cost reserve provides for the full costs to be amortized over a period of 2-3 years after which time "monies would continue to be collected from customers" and could then be used to "offset other non-hearing related expenses."

YECL asserts YEC should be ordered to establish a "true Hearing Cost Reserve", setting out a standard amount to be included into the reserve each year until the next GRA at which time the balance would be considered and disposed by the Board. YECL clarified that "approval of a final balance for inclusion in the Reserve does not mean that YEC intends to treat the Rate Case Reserve in the manner directed by the Board for Yukon Electrical in the above-referenced Board Order 2009-2." YECL asserts this matter should be clarified in the Board's decision and YEC should be directed to establish a rate case reserve in the same manner as YECL noting, "there is simply no basis for directing that the two companies be treated differently."

Yukon Energy Reply

YECL's assertion regarding a need for consistency in treatment for Yukon Energy and YECL is curious, particularly in light of well known, specifically approved and material differences in the manner in which each utility treats its accounts. A good example in this regard is YECL's continuing use of the ELG technique for depreciation while Yukon Energy has received approval from the Board for the less aggressive (and consequently less costly to ratepayer) ASL approach. In short, absent further evidence to support a special need in some specific instance, there is no merit to arguments for unyielding consistency in this regard.

YECL has argued that there is no basis for treating the companies differently and that YEC should be directed to establish a reserve as YECL was in Order 2009-2. The following points of clarification are provided in this regard:

- **The possible establishment of a Rate Case Reserve for Yukon Energy was previously reviewed in 2005 and no changes to Yukon Energy's approach were ordered** - This issue was materially reviewed by YECL in cross-examination and argument during the 2005 Required Revenues and Related Matters hearing. YECL has raised the exact same points and arguments now as were raised then (this was noted in cross-examination of YEC's panel during the current proceeding at transcript page 163-64). During the 2005 review, the Board heard the evidence and arguments and did not vary YEC's approach as proposed. YEC has proceeded based on this prior review and Board Order.

- **Yukon Energy has never historically had a rate case reserve and has always amortized hearing costs as approved by the Board over the test years** - As noted in Undertaking #25, since Yukon Energy's first appearance before the Board in the late 1980's "costs for completed rate cases (or other YUB hearing processes) have been capitalized and amortized (as deferral costs) in accordance with Board Orders. YEC has never sought, or received YUB approval to establish a rate case deferral account similar to the approved RFID reserve account[22] or similar

[22] i.e., where a specific ongoing annual amount would be charged as an expense to fund eligible costs allocated from time to time to the deferral account, with provision for review and readjustment of the annual charge at periodic rate case hearings.

to the rate case reserve YECL apparently established for the first time after the 1996/97 GRA and that YECL has been ordered to establish pursuant to Order 2009-2.

- **Order 2009-2 recognizes the need to maintain consistent use of a methodology within a utility** - In Order 2009-2, recognizing separate depreciation methods for each utility, the Board noted that, "It is the Board's view that consistency is important and that it is not limited to methods employed across utilities but requires a consistent use of methodology within a utility". YEC has always accounted for its hearing costs in the manner proposed and has never sought approval from the Board to create a hearing cost reserve account. Alternately, YECL expressly sought approval of such a reserve; Order 2009-2 focuses on the fact that YECL closed out its reserve without Board approval and appropriated ratepayer monies accumulated in the reserve to the account of YECL's shareholder. The facts pertaining to YECL in this regard have no relevance to YEC's Application.

Consequently, Yukon Energy submits that its approach to accounting for hearing costs is fair and reasonable, consistent with long-standing practice in Yukon, and was expressly reviewed by the Board in 2005 and no variation was directed. YECL has provided no evidence, or even commentary, as to any apparent benefits or technical merit to its "reserve" approach. No other intervenor pursued this issue. Consequently, Yukon Energy submits YECL's arguments should be rejected, and Yukon Energy's approach confirmed as appropriate and reasonable for applications into the future.

3.6 SERVICE QUALITY INDICATORS AND THE NEED FOR PERFORMANCE MONITORING

Intervenor Arguments

UCG asserts that Yukon Energy should be required to provide evidence on service reliability in comparison to appropriate targets and program spending designed to meet the targets, and that review of service quality and ongoing reporting of service quality measurements are incorporated into directions given to the YEC in this proceeding.

YECL makes various assertions and comments related to system reliability and performance including:

- "Despite spending $8 million per year, reliability improvements have not been experienced"; and
- "While YEC maintains it has expended adequate funds to address reliability concerns, this does not seem to be borne out by the facts."

YECL notes that the KPI's filed by YEC related primarily to its distribution function, and "the absence of KPI's with respect to Generation and Transmission severely diminishes the usefulness of the information provided", and recommends that information on Generation and Transmission must be provided to understand YEC's performance.

Yukon Energy Reply

The issues raised by intervenors in argument are focused primarily on questioning the reliability benefits achieved and whether the costs currently being expended to achieve those benefits are appropriate. Intervenors have also focused on whether better reliability indicators are available and can be produced for the purposes of reviewing YEC's performance. Yukon Energy submits that while arguments related to reliability have been provided by intervenors, no specific revenue requirement change, beyond what is already included in the Application has been suggested.

Yukon Energy submits that rather than focusing on the generalities raised by intervenors in argument, the Board should focus on the discussion that occurred at the hearing (transcript page 151-61), where the YEC panel noted that Yukon Energy is addressing reliability concerns on a number of fronts and is continuing to work to address these concerns (see page 153-55):

> We have done condition assessments on the transmission and generation assets. We have looked at -- from an engineering point of view, we have looked at the system and where we are having difficulties. There is a development of a capital plan by the engineering department and operations department. All of those are looking at the system based on building reliability.
>
> And as we go through these processes, we have looked at the condition assessment of what we can and can't do....
>
> ....So I would say to you that on all this -- all of these issues, we're looking at the system on a continual basis, we're looking at where we can make these improvements, and where we need to replace older equipment, and that would be the focus of our reliability efforts.

With reference to the Faro Line and the Aishihik line (at transcript page 156), Mr. Morrison noted that due to infrastructure that is approximately 35 years old, YEC is spending more time checking the line and making sure it is up to a state of operability to meet reliability standards.

When questioned regarding whether YEC had spent enough on reliability, Mr. Morrison noted that the issue is not strictly whether more money needs to be spent, but what projects and activities can reasonably be completed at a given time and the need to ensure an orderly approach to undertaking work that successively "builds on other work" performed each year.[23] It was noted that this work will be ongoing. Mr. Morrison noted at pages 159-60:

> It's a big system, at least big for us. Maybe not big in comparison to other places, but big for us, big for the size of utility that we are. So there's a certain amount of work we can do every year, and the objective is to get a reliability level that's a lot more acceptable than the one that we have been experiencing, but it's going to take some time. And even when we get there, it isn't going to stop. We're going to have to keep spending money and keep, you know, a fairly diligent effort in terms of how we solve the -- or how we maintain the reliability levels we need to maintain....

And at page 160,

> .... we have been spending as much as we -- or doing as much work as we could do, possibly do, in those years to try to work some -- to improve reliability and work through the projects that we had on our books.

[23] See discussion pages 157-58, "Well, I think, you know, we can always spend more money. That's not always the issue with us. It's what we can spend and get done in a -- either a construction season or over the period of a year. And we can't spend all the money in one year because we can't have all of the equipment out of service or we can't do all of the things we want to do because we have to do certain things in certain order. So the money that we have been spending is very important that we spent it in those years. Some of this work builds on other work that we do each year. And I think where we felt very strongly that we needed to do was we needed to look at a whole -- not just a one year, of we're going to spend this money this year and solve all the problems. That's not the case. We can't do that. It's an old system. The two hydro plants are 52 and 50 years old. There's a whole series of work that we need to do each year to make sure that we can keep the plant both operating and operating in a reliable manner. So we try to look at what can we do this year and what can we do next year. And some of the circumstances change, so we adjust to that. But all of this is a build from one year to the next. We can't just say, We have got some reliability issues; let's spend $30 million in one year. A) we can't physically do it, and B) it's not, from an engineering or project management point of view, you can't do all of these things all at the same time".

4.0 RATES

4.1 OVERVIEW - CURRENT RATE CHANGES VERSUS PHASE II RATE MATTERS

Intervenor Arguments

Intervenor arguments on rates have focused mainly on the proposed adjustments to residential retail firm runoff or second block rates and (in the case of YECL) on adjustments to Wholesale Rate Schedule 42; accordingly, these two rate matters will be addressed separately below. There has been little or no comment on other proposed rate changes, including the proposed rate reduction. UCG set out argument on bill impacts at this time, and this rate matter will be addressed separately below.

Intervenor arguments have generally supported YEC's proposed Phase II joint application approach as set out in Exhibits B-12 and B-13 to address a COSS study, rate design and other matters as set out therein. CW states (page 14) that some weight should be given [in the Part II process] to cost of service when designing the components of rates and that the Board "should provide additional direction that due weight should be given to cost of service when designing the components of rates for a rate class."

UCG in particular argues (paragraph 86), notwithstanding that OIC 2008/149 restricts what can be done from a rate adjustment perspective, that "it is important that the Board takes the opportunity of a Phase 2 review to illustrate the cost responsibility of each rate class in relation to the rates charged to provide transparent information to ratepayers who have to evaluate the intervening government policy." UCG also submits (paragraph 87) that the Phase 2 review should be used to direct the utilities to establish a plan to move toward the established revenue-to-cost ratio ranges [the target ranges in the Board's 1992 report on cost of service and rates and in Order 1996-7] as the existing OICs 2007/94 and 2008/149 expire.

In discussing the rates and cost allocation issues in relation to addressing material rate changes at a separate Phase II, certain intervenors have made broad statements that cause potential concern with regard to the Board approving at this time (prior to the Phase II proceeding) any rate changes currently being proposed.

- **CW** notes at page 3 that "by letter dated February 23, 2009, the YUB confirmed that it would only consider revenue requirement matters in these proceedings."
- **YECL** at page 10 submits that a "more orderly and constructive approach would see all rate design issues addressed in the context of a comprehensive joint Phase II proceeding", that "YEC's proposed rate changes should be denied", and concludes at page 11 by noting "no further comment is required with respect to the sub-items listed under Section 4 of the Board's Issues List".

- **UCG** makes similar assertions, noting (at page 20, para 97); "given the commitment of YEC to work with YECL to assemble cost of service and other Phase 2-related evidence, UCG submits that any adjustments to rates and charges to be applied to the bills of Yukon ratepayers should be deferred until after the Phase 2 evidence has been reviewed and the Board decision issued". UCG proposes (paragraph 98) that a variance account should be established to track revenue surplus/shortfall resulting from existing rates remaining until rates can be established following the Phase II review; UCG further proposes (paragraph 99) that cost of service should be determined for industrial customers and any surplus or deficiency created by frozen industrial rates should be isolated to protect non-industrial classes from any adverse impacts and instability, and that the Yukon Government should be held liable for any revenue deficiency (relative to cost of service) when industrial rates remain frozen by OIC.

Yukon Energy Reply

Yukon Energy submits that the Board should reject UCG's specific proposals to freeze rates at this time and to set up new variance accounts, and that the Board can and should approve certain rate changes at this time, prior to the joint Phase II proceeding, in order to provide firm retail ratepayers with the proposed rate reductions consistent with the reduced rate revenue requirement and to implement other specific rate changes set out in the Application and not challenged in any intervenor argument.

Yukon Energy notes that, beyond the sweeping assertions in UCG and YECL arguments against any rate change prior to the Phase II proceeding, no intervenor argument directly challenges specific rate-related changes as proposed on the following matters:

- Adjustment to firm retail rate riders as required to confirm and make final interim 2008 rates and to pass through the 2009 rate reduction as allowed for the rate revenue requirement as approved for 2009; in this regard, no intervenor has specifically addressed or opposed YEC's proposed Rider U approach to implement this rate reduction in a consistent way for all firm retail rate classes and schedules (i.e., there is no basis for suggesting that Rider U as proposed is a 'piecemeal' approach) that avoids reducing second block rates and thereby avoid moving these runoff rates further away from the efficient price signals mandated specifically for these runoff rates by OIC 1995/90.[24]

- Adjustments to retail rate schedules as required to bring Pelly Crossing into the hydro rate zone.

[24] Section 4.1 of Yukon Energy's Final Argument reviewed (in Table 4.5 Revised) how the effective residential runoff rate (taking into account all riders) has, as a result of various changes since October 2008, moved further away from the efficient price signal required to reflect incremental diesel generation costs.

- Changes as proposed in the Application regarding "forecast" secondary sales retail and wholesale baseline prices as used to determine forecast retail rate revenue requirements for 2008 and 2009 (the 2009 forecast secondary sales baseline prices being based on the prices actually charged in the last quarter of 2008).

- Changes as proposed in the Application to specific terms in Secondary Sales Rate Schedule 32.

- Establishment of the fixed industrial Rider F for 2009 (which is also applied in 2008) as proposed in the Application (as amended in the update Exhibit B-10, and subject to changes to the specific number in the event that the Board adjusts YEC's forecast diesel fuel prices or secondary sales baseline prices for 2009); this fixed industrial Rider F is used to determine forecast retail rate revenue requirements for 2008 and 2009.

Accordingly Yukon Energy submits that each of the above rate changes, including Rider U as proposed[25] (adjusted as required to comply with the final 2009 revenue requirement as determined by the Board), should be approved by the Board at this time without delay or deferral to the upcoming Phase II proceeding.

Based on the above, no specific additional reply argument is provided by Yukon Energy on the above rate changes as proposed in the Application for approval at this time.

On the matter of scope and directions for the Phase II proceeding, the Board may want to provide directions to guide preparation of the joint submission, the priority rate design matters in particular to be addressed at this time, and any other priority matters that the Board would like to see addressed today. Yukon Energy submits that it would be efficient at this time to prepare the COSS based on readily available existing information for the 2009 test year revenue requirements as approved, keeping in mind the limitations imposed on application through rate changes of the COSS prior to 2013 given current OIC directions. Yukon Energy recommends that the Board reject UCG's proposals to establish any form of variance accounts or accounts to hold industrial class revenue surpluses or deficiencies arising from OIC 2007/94.

4.2 FIRM RETAIL RATES

Intervenor Arguments

The focus of intervenor firm retail rate arguments was on YEC's proposed residential runoff or second block rate increase.

[25] This recommendation was set out in more detail in section 4.2 of YEC's Final Argument.

While not included in the main **CW** argument provided at pages 25-26, footnote 4 at page 1 indicates several concerns CW has with the proposed residential runoff rate increase (beyond its point that due weight be given to COS when designing components of rates for a rate class):

1. Issues of fairness of treatment among rate cases;
2. The validity of the assumptions underlying the proposal;
3. Whether there may be viable alternatives to the proposal such as increasing green generation of all kinds in combination with demand side management initiatives;
4. The movements towards pricing based on the incremental cost of diesel without corresponding evidence that the cost of providing the power during the test periods will require diesel generation;
5. The effect of the rate increase on consumers and their behaviours; and
6. The questions of whether a movement to burning fuel oil for residential space heating would be a net benefit or detriment to the environment.

LE recommended the Board deny YEC's request to increase the residential runout rates until a Phase II application addresses rate design for all customer classes, noting the following issues and concerns related to retail runout rates at page 2-3 of its argument:

- LE asserted that "there is a need for rate design that encourages efficiency and conservation in the use of electricity, in particular discouragement of electric heating," and the effect of Yukon Energy's current proposal will be to send the "exact opposite message to the vast majority of customers."
- The proposal will send a price signal to only 16% of all residential bills, with 70% of residential bills receiving lower cost signal.
- It was asserted that current reduced fuel prices provided twice the disincentive to electric heating as well as the opportunity to review residential and other rate structures "in a rational, orderly and thorough manner."

UCG argues that any adjustments to rates and charges to be applied to the bills of Yukon ratepayers should be deferred until after the Phase 2 evidence has been reviewed and a Board decision issued:

- Paragraph 81 notes that the Board "needs to make cost-based rates determination before entertaining rate setting objectives such as energy conservation or incentive mechanisms that might move away from cost causality."

- At paragraph 90 UCG notes there is insufficient customer impact analysis in evidence to fully inform the Board on "what is happening to revenue-to-(true)-cost ratios nor the end-user's bill" and submits that decisions on rates for individual utilities cannot be made without understanding the overall impact on the end user (i.e., YEC and YECL rate adjustments plus government subsidies). UCG asserts at paragraph 91 that "it is premature" to make the proposed changes to the runout rates for residential customers based on the current record. UCG asserts that "it is clear the underlying rationale for the new block structure is to disincentive ratepayers form [sic] using electric space heating" and notes that "YEC does not have information about the circumstances surrounding those customers" and how they would be affected.

- UCG asserts at paragraph 94 that "once the RSF is eliminated in July 2009 and with YECL's rider adjustments approved in Order 2009-5, monthly bills for Whitehorse consumers will have increased 33% since 2007 for those using 1000 kWh per month and 44% since 2007 for those using 1300 kWh per month".[26] UCG submits (paragraph 95) "that this is a significant contrast to promises of energy cost reductions once industrial loads (like the Minto mine) are added", provides a Hansard May 23, 2007 quote from the Minister Responsible for YEC on this matter, and further submits (paragraph 96) "that statements like this by representatives of YEC establish expectations among stakeholders."

YECL asserts (page 13) that YEC's approach "would have the Board address rate design issues in a piecemeal and fragmented fashion." YECL argues (page 14) that YEC's rationale for not addressing GS rates is "entirely inconsistent" with the approach YEC seeks to adopt for the residential class, noting that "YEC's rationale appears to be associated with the magnitude of the impacts that would occur if it attempted to change the rate design for the general service class at this point in time; and without considering the overall domino effects associated with such a proposed change."

YECL asserts (page 15) that YEC has "completely contradicted itself" regarding the rationale underlying the requirement for the adjustment to runout rates, i.e., to send efficiency price signals to customers, noting testimony provided during the oral hearing that creating such price signals "would not have any material impact during the Test Years" and "YEC's purported reason for taking this fragmented approach to rate design does not appear to be one which would achieve any results during the Test Period." YECL asserts that "the proposal appears to be ill conceived and not fully developed" and recommends that a more "orderly and constructive approach" would see all rate design issues addressed in the context of a comprehensive joint Phase II proceeding."

[26] UCG provides a series of tables in paragraph 93 as to bill calculations for residential non-government ratepayers in Whitehorse using 1000 kWh and 1300 kWh per month for the time periods of January 2007, January 2008, January 2009 with YEC's proposed runoff rates and the YEC and YECL interim riders, August 2009 with RSF eliminated and YECL's approved Rider G, and January 2010 with YECL's final approved rates. No sources are provided from the record for these tables or these calculations.

Yukon Energy Reply

Yukon Energy is very concerned that, save and except for LE, intervenor arguments totally fail to recognize, let alone address, the urgent need for the Board to begin restoring, as soon as feasible, efficient second block or runoff price signals for all retail classes that reflect current (rather than 1996/97 forecast) incremental diesel generation costs[27] in each rate zone in accordance with OIC 1995/90 rate directives,[28] past rate decision precedents of the Board in the 1996/97 GRA, and the Board's 1992 Report to the Minister on these matters.[29]

Given the Board's decision to proceed with a separate Phase II proceeding in the absence of the utilities' ability to facilitate these matters being addressed in the current proceeding, Yukon Energy recognizes that reasonable differences of viewpoint may occur on its proposal to proceed with residential runoff rate increases today versus delaying these changes until the Phase II proceeding that might be assumed to occur promptly later in 2009. Yukon Energy's argument on this specific matter has been set out, and is not repeated here. However, intervenor arguments have not focused simply on a reasoned debate about near-term timing – in Yukon Energy's view, the thrust of YECL, UCG and even CW arguments on the matter of second block rate changes is to urge the Board to move in some new direction contrary to what had become a fully decided matter by the last full GRA in 1996/97. Yukon Energy urges the Board to send a clear direction that any delay in dealing with second block rates until the Phase II proceeding is to be a short delay and not an invitation to move away from runoff rate policy settled in the 1996/97 GRA.

In this regard, Yukon Energy replies below to specific arguments raised by intervenors on the matter of second block rates being adjusted to once again, as soon as is reasonable, reflect incremental diesel generation costs:

- Yukon Energy submits that the Board should reject arguments by UCG to the effect that runoff rates ought to be set to reflect embedded cost of service assessments rather than incremental diesel generation costs, or should be delayed until more evidence is provided on the circumstances surrounding electric heating use customers. These matters were addressed as required in the Board's 1992 report to the Minister, in OIC 1995/90, and in past Board decisions approving second block rate adjustments for both interim and final firm retail rates.

[27] Sections 4.1 and 4.3 of Yukon Energy's Final Argument reviewed the evidence on this concern, particularly at pages 29 and 33-34.

[28] Rate Policy Directive OIC 1995/90 (section 4(3) establishes that the Board is required to "fix runoff rates for each non-government retail customer class on the basis of rate design principles to promote economy and efficiency".

[29] The Board's definition of economy and efficiency is provided in the 1992 Report to the Minister filed as Attachment 1 to YUB-YEC-1-21(b) at page 43, "The Board considers the efficient use of electricity to be the optimal use of electricity over time, where consumers are making rational decisions regarding the future and current use of electricity." The Board noted at page 46 that to promote "economy and efficiency" runout rates "should reflect short-run incremental costs in each of the rate zones as specified in the OIC and fixed costs incurred by companies should be recovered by demand charges, fixed charges and energy charges in the first energy block".

- In reply to CW's question as to the need for evidence that the cost of providing the power during the test periods will require diesel generation, Yukon Energy submits that the Board should consider fully the following evidence:
  - All power supplied in Watson Lake and other diesel served communities requires diesel generation during the test years.
  - Diesel generation is required today on each grid during periods of peak winter demand as well as emergencies.
  - Yukon Energy has provided ample evidence, including Undertaking 28, to confirm the emerging requirement for baseload diesel generation on both grids by as soon as 2010 (with increasing requirements each year thereafter).
  - Given the wide gap between 1997 forecast diesel fuel prices and current forecast diesel fuel prices, it is reasonable to expect that a transition period of more than one year may be needed to complete the required adjustments to runoff rates in each rate zone and for each retail rate class.
  - Changes to runoff rates are not implemented to yield immediate test year changes in consumer use, i.e., the evidence confirms that price responsive adjustments to power use tend to be longer-term in nature, particularly for residential customers. This evidence re-enforces the need to send proper price signals as soon as possible.
  - Based on all the above evidence, Yukon Energy continues to urge the Board to begin as soon as feasible in 2009 the changes needed to restore efficient price signals for runoff retail rates.

- Yukon Energy urges the Board to reject YECL's assertion that it is contradictory to seek efficient price signals while concurrently recognizing that such price signal would not have any material impact during the test years. Yukon Energy's testimony is consistent with the past decisions of the Board and joint testimony of both utilities in earlier GRAs. No evidence has been provided by YECL to suggest that its position today reflects any similar submissions to the Board during past GRAs involving joint filings with YEC.

- In response to LE's concern that a focus on runoff rates will send a price signal to only 16% of all residential bills, Yukon Energy notes that these comments simply reflect the reality of long settled rate policy in Yukon. OIC 1995/90 as well YTG subsidies such as the RSF have long focused on isolating first block non-government residential ratepayers from efficient price signals. Similar outcomes have been observed in other jurisdictions. These realities provide no justification for delay in addressing required runoff rate adjustments in accordance with Yukon policy directions. And, to the extent that LE in particular supports the need to encourage discouragement of electric heating, it is clear that runoff or second block rates in effect address directly most, if not all, such incremental electricity use by residential ratepayers.

- Finally, contrary to YECL's assertion, Yukon Energy submits that its rationale for not addressing GS runoff rates in this Application is not inconsistent with its proposal to adjust residential runoff rates at this time. In both instances, Yukon Energy is consistently seeking to move as quickly as possible to begin restoring efficient second block or runoff rate price signals. The evidence shows that, based on past practice, this is feasible today for residential rates without further rate design, but would not be feasible for GS to anything like the same extent until further rate design issues are jointly addressed by the two utilities.

On the matter of the residential non-government bill comparisons included in UCG's argument, Yukon Energy notes that these calculations were not taken from any evidence in this proceeding (not even in bill samples provided in UCG-YEC-1-3(d) Revised, Attachment 1), and in fact are incorrect in several important instances (including failure to reflect the current zero Rider F as well as the Yukon Energy proposed Rider U).[30] Tables 1 and 2 attached provide the correct non-government bill examples for the relevant time period and monthly use levels, and indicate as follows:

- If the RSF is eliminated in July 2009, and with YECL's rider adjustments approved in Order 2009-5 and YEC's proposed rate adjustments (including Rider U and the change to runoff rates), monthly bills for Whitehorse consumers as at January 2010 will have increased 16% [not 33%] since January 2007 for those using 1000 kWh per month and 27% [not 44%] since January 2007 for those using 1300 kWh per month.

- Using the same assumptions, but assessing the change since January 2008 (before any of the current YECL and YEC GRA impacts), monthly bills for Whitehorse consumers as at January 2010 will have <u>decreased</u> 1.2% since January 2008 for those using 1000 kWh per month and increased 13% since January 2008 for those using 1300 kWh per month.

- In effect, Yukon Energy's overall proposed rate reductions for use up to 1000 kWh/month more than offset removal of the current RSF, e.g. YEC's proposed rate reductions at 1000 kW.h/month (the maximum use eligible for incremental RSF payments) equal $21.09/month before GST[31], versus the current RSF impact of $18.57 before GST.

[30] The UCG calculations for January 2007 do include one important correction to UCG-YEC-1-3(d) Revised Attachment 1, namely recognition of the higher RSF that applied prior to July 2007.

[31] Table 1 indicates rate savings (bill as at August 2009 compared with bill as at June 2009) of $21.1 before GST, based on reduced base rate ($13.60), Rider U ($4.96), reduced Rider J and G charges due to reduced base rate less reduced Income Tax Rebate (2.53). In this assessment, the YEC interim rider J reduction applicable in June 2009 must be ignored (it serves the same function as Rider U included in the August 2009 numbers).

Table 1 -Bill Calculations for a Residential - Non Government Customer in Whitehorse (Hydro Zone)

Energy Consumption = 1,000 kW.h per month

Items	Units	Jan-07	Jan-08	Jan-09 (After YEC Interim Rate Decrease)	June 09 (After YECL Approved Rider G)	Aug-2009 (After Proposed YEC Rate Changes and RSF expires)	Jan 2010 (After Proposed YEC & Approved YECL Rate Changes and RSF expires)
1st block Energy Charge	$0.0986/kW.h	98.60	98.60	98.60	98.60	98.60	98.60
YEC Proposed Energy Charge Decrease	**-$0.0136/kW.h**					**-13.60**	**-13.60**
Customer Charge	$11.90/Cust.	11.90	11.90	11.90	11.90	11.90	11.90
Base Billing		110.50	110.50	110.50	110.50	96.90	96.90
YEC Rev Shortfall Rider J	14.93%	16.50	16.50	16.50	16.50	14.47	14.47
Fuel Adjustment Rider F	varies -see notes	9.64	9.64	18.60	0.00	0.00	0.00
YECL Interim Rider R	5.00%	-	-	5.53	0.00	0.00	0.00
YECL Proposed Rider G	4.15%				4.59	4.02	0.00
YECL Proposed Final Rider R	10.526%						10.20
YEC Interim Rider J	**-3.48%**			**-3.85**	**-3.85**		
YEC Proposed Rider U	**$0.00496/kW.h**	**-**	**-**			**-4.96**	**-4.96**
Income Tax Rebate	-0.50%	-0.55	-0.55	-0.55	-0.55	-0.48	-0.48
Rate Stabilization Fund	-$1.19 Cust. Chrg -$0.01738/kW.h	-37.14	-18.57	-18.57	-18.57	0.00	0.00
Billing Before GST		98.94	117.51	128.15	108.62	109.94	116.12
GST	varies - see note	5.94	5.88	6.41	5.43	5.50	5.81
Total Billing		104.88	123.39	134.56	114.05	115.44	121.93

Notes re: Fuel Adjustment Rider F:	$/kW.h
As at March 09	0
As at Aug 08	0.0186
As at May-08	0.0123
As at Dec-06	0.009639
As at Mar-06	0.012799
At Jan-06	0.007909

Notes Re: RSF	
	In Jan 2007
Cust. Chg.	-2.38
1st block	-0.03476

Notes Re: GST	
prior to July 2006	7%
As at July 2006	6%
As at Jan 2008	5%

Table 2 -Bill Calculations for a Residential - Non Government Customer in Whitehorse (Hydro Zone)
Energy Consumption = 1,300 kW.h per month

Items	Units	Jan-07	Jan-08	Jan-09 (After YEC Interim Rate Decrease)	June 09 (After YECL Proposed Rider G)	Aug 2009 (After Proposed YEC Rate Changes and RSF expires)	Jan 2010 (After Proposed YEC & Approved YECL Rate Changes and RSF expires)
1st block Energy Charge	$0.0986/kW.h	98.60	98.60	98.60	98.60	98.60	98.60
YEC Proposed Energy Charge Decrease	**-$0.0136/kW.h**					**-13.60**	**-13.60**
2nd Block Energy Charge	$0.1045/kW.h	31.35	31.35	31.35	31.35	31.35	31.35
YEC Proposed 2nd Block Increase	**$0.0561/kW.h**					**16.83**	**16.83**
Customer Charge	$11.90/Cust.	11.90	11.90	11.90	11.90	11.90	11.90
Base Billing		141.85	141.85	141.85	141.85	145.08	145.08
YEC Rev Shortfall Rider J	14.93%	21.18	21.18	21.18	21.18	21.66	21.66
Fuel Adjustment Rider F	see notes Table 1	12.53	12.53	24.18	0.00	0.00	0.00
YECL Interim Rider R	5.00%		-	7.09	0.00	0.00	0.00
YECL Proposed Rider G	4.15%				5.89	6.02	0.00
YECL Proposed Final Rider R	10.526%						15.27
YEC Interim Rider J	**-3.48%**			**-4.94**	**-4.94**		
YEC Proposed Rider U	**$0.00496/kW.h**		**-**			**-4.96**	**-4.96**
Income Tax Rebate	-0.50%	-0.71	-0.71	-0.71	-0.71	-0.73	-0.73
Rate Stabilization Fund	-$1.19 Cust. Chrg -$0.01738/kW.h	-37.14	-18.57	-18.57	-18.57	0.00	0.00
Billing Before GST		137.71	156.28	170.09	144.70	167.08	176.33
GST	see note - Table 1	8.26	7.81	8.50	7.23	8.35	8.82
Total Billing		145.97	164.09	178.59	151.93	175.43	185.14

4.3 WHOLESALE RATES

Intervenor Arguments

YECL notes that during the proceeding it introduced Exhibit C1-9 "to examine the potential impacts associated with YEC's proposed isolated changes to wholesale Rate Schedule 42". YECL notes the current and proposed versions of the example provided have different impacts on YECL's customers and "the isolated nature of the approach proposed by YEC would see the neutrality embedded in the existing approved rates being abandoned".

YECL argues, when addressing YEC's proposed runoff rate changes (which were part of the Exhibit C1-9 discussion) that YEC's "attempts to characterize this[32] as a revenue requirement matter" are incorrect, and asserts that "YEC's Revenue Requirement will not be impacted by whether or not this requested change is directed." YECL notes, "the only thing that will change from this proposal is the rate design and the customers from whom the approved Revenue Requirement would be collected".

Yukon Energy Reply

YECL's argument on this matter fails to address the substantive issues raised with regard to the currently flawed Energy Reconciliation Adjustment (ERA) element of Rate Schedule 42.

YECL's assertion that the currently approved Rate 42 has any "neutrality embedded" in it also ignores the evidence arising from review of the testimony related to Exhibit C1-9. After doing the corrections needed of this exhibit to accurately reflect existing rates and costs (T57-58), based on the scenario presented and an unchanged ERA it was confirmed that YEC would only recover from YECL about 52% (rather than the required 100%) of its incurred incremental diesel generation costs.[33]

In summary, Yukon Energy submits that the testimony related to Exhibit C1-9 totally confirmed that the amended rate Schedule 42 ERA as proposed is fair and necessary to protect YEC in the event that diesel is on the margin for WAF and/or MD and to ensure that this wholesale rate meets the requirement of Section 7 of OIC 1995/90.[34]

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[32] YECL's argument appears to assume "this" means only YEC's proposed residential runoff rate changes. In fact, the relevant testimony was addressing the proposed changes to Rate Schedule 42 (T68-69) and noting that "the matter of the wholesale rate is fundamental to Yukon Energy's ability to recover its costs." A broader point was then also made as part of this testimony: "The matter of incremental rates is fundamental to the ability of each utility to try and match costs to serving load for incremental changes beyond its forecasts. These are fundamental revenue requirement matters."

[33] YECL would pay only $277,949, while YEC would incur costs of $536,698 (T57-58). The history of the ERA numbers was reviewed later (T61).

[34] The OIC requirements and documentation of the potential adverse impact on YEC of the current ERA are provided in section 4.4 of YEC's Final Argument.

5.0 CAPITAL PROJECTS

5.1 CAPITAL PROJECTS GREATER THAN $1 MILLION

LE and UCG were the only intervenors to directly and specifically comment on individual capital projects greater than $1 million as included in Tab 5 of the Application. LE provided specific comments on CSTP Stage 1 and Aishihik 3rd Turbine, and UCG provided specific comments on Aishihik 3rd Turbine. No intervenor commented on the revenue requirement aspects of Minto Diesels[35] nor the Whitehorse and Faro Mirrlees. As addressed under "General and Fundamental Initial Issues" at the outset of this reply, YECL had a range of broad attacks regarding Yukon Energy's resource planning and YECL, LE and UCG had concerns about the impact of government contributions.

Intervenor Arguments - CSTP Stage 1

LE (at page 6) concludes that CSTP Stage 1 is "a very healthy project that the author believes strongly should have been done." LE notes the following issues and concerns related to the project.

- The level of scrutiny of this project at the hearing "seemed to be very limited"; LE later asserts that this level of scrutiny was limited "owing to the fact that the ratepayers (excluding the industrial customers who did pay a fair share of the project costs) were only asked to contribute $3.744 million towards the project." LE asserts the "modest contribution" from ratepayers is attributable to the combined $17.45 million in contributions secured from YTG and YDC, and notes that absent these contributions a 4% increase in rates would be required. LE asserts "claimed rate reductions as a benefit of the project [Tr P 25 L 16-21] are in fact a benefit of project subsidies by YDC and YTG".

- LE comments on the various scope changes noted that some scope changes were required by YESAB which resulted in increased costs, while other scope changes to project substations were made to reduce costs (per YECL-YEC-1-9); the scope changes related to the Pelly Crossing substation deferred costs to CSTP Phase II. The benefits to ratepayers were not as large as anticipated due to increased overall project costs.

YECL made general comments that YEC has "failed to provide an adequate justification for a number specific items, and asserts that "the associated requests should not be accepted by the

[35] Leading Edge also commented briefly on the Minto diesels; however, such comments were not related to whether or not the projects should be accepted in ratebase but related to the need "to clearly differentiate between peaking diesels and baseload diesel generators" (see page 12 of Leading Edge's Argument).

Board", without specifying which items YEC has failed to provide adequate justification for and which requests should be specifically refused.

- YECL alludes to the requirement for YEC to demonstrate need and that the project advanced is "the optimum way to meet such need"; in this vein, YECL assets that the "information provided at the time of the Resource plan was limited and dated" and complains that projects being pursued have had changes to cost and project design since the Resource Plan was filed.

- YECL alleges that "major capital projects do not appear to be supported by any comprehensive business cases and, as such, it is difficult to fully understand the need for and justification of such projects". YECL notes the perceived lack of a business cases, "which identify a specific need or driver and provide a cost/benefit analysis, including a net present value of the capital, future capital maintenance and O&M costs to be incurred, as well as, a thorough evaluation of the options examined to meet the purported need, were simply not provided as part of this application".

- While YECL broadly asserts that a number of major capital projects are not supported by any business case, it only makes specific reference to CSTP, noting the following:
  - YECL alludes to YEC relying on the Resource Plan as providing the business cases for CSTP while acknowledging, the Resource Plan contained very little information on the project at that time and that the information "was very, very preliminary," noting "significant increases in capital costs" and "material scope changes."
  - YECL asserts YEC has "a very poor track record" of forecasting capital costs noting; "material cost increases and scope changes occurred between the time the project was put before [the YUB] and when the final costs were incurred." YECL complains that "no detailed explanation of actual versus forecast cost variances was provided," and "general explanations are simply inadequate when dealing with projects of this magnitude."

Yukon Energy Reply - CSTP Stage 1

As has been noted numerous times throughout this process, prior regulatory processes have fully reviewed and assessed the need and justification for this project in light of Yukon Energy's capacity planning criteria and near term requirements and opportunities, as well as alternatives to the project (as discussed during the Resource Plan hearing and in the Part 3 Application). A complete review of the history and series of regulatory reviews the CSTP has been subject to since it was initially reviewed during the 2006 Resource Plan hearing is provided in the Application at pages 5-3 to 5-7, in response to YECL-YEC-1-11(d) and at page 40 of the YEC Final Argument.

Contrary to the assertions provided by YECL and LE, this project has been subject to a great deal of rigourous review prior to the commencement of this GRA process, as well as during this GRA process. Yukon Energy is not solely relying upon the information provided during the Resource Plan hearing with regard to the business case for this project (although the Resource Plan essentially provided a detailed explanation of need and other options reviewed).[36] As has been noted a number of times throughout this hearing process, the CSTP and related issues were subsequently reviewed by the YUB during the Minto PPA hearing and the Part 3 hearing.

In addition, contrary to assertions made by YECL, the Board was cognizant at the time the Resource Plan was reviewed (and during subsequent related reviews of the CSTP project, i.e., PPA hearing and Part 3 hearing) that the cost information provided was preliminary and subject to change once preliminary engineering was complete. Page 10 of the YUB Report re Part 3 Review of CSTP notes that YEC indicated both capital cost escalation risks and that "it had provided range of estimates and had addressed the uncertainty to the extent feasible prior to completion of final design and costing and potentially prior to completion of actual tendering". During cross-examination and in YEC's Final Argument (page 42-43) YEC has explained that preliminary engineering cost estimates were not available for review at the 2006 Resource Plan hearing or at the 2007 CSTP Part 3 Review; as part of YEC's risk management approach it did not want to undertake costly commitments for preliminary engineering until it had successfully concluded a PPA with Minto and the YUB's Resource Plan report recommendations.

Further detail and explanation regarding actual costs and preliminary estimates provided during the Resource Plan proceedings were provided in the Application, in response to interrogatories, and in response to cross-examination at the hearing (with some additional information regarding substation and other scope changes provided in response to Undertaking #26). Exhibit B-20 provides a detailed review of all cost and scope changes that occurred since the CSTP was first reviewed during the Resource Plan hearing.[37]

As noted in cross-examination and in response to Undertaking #26, and contrary to the assertions made by Leading Edge, the substation scope changes were not undertaken purely to save costs, but were the product of evaluations and determinations made once preliminary engineering was complete. As noted by Mr. Morrison at transcript page 496, lines 13-15 and further discussed in Undertaking #26, there were no compromises in terms of operating the

[36] In its recommendations to the Minister the Board notes with regard to CSTP Stage 1, "the Board is of the view that YEC's proposed first stage of the Carmacks-Stewart line should proceed as applied for by YEC. This view is based on the fact that the Minto Mine is under construction, the mine owners have secured financing to complete the mine, key terms of a PPA have been agreed to by YEC and the mine owners, and YEC has asserted that ratepayers would not be adversely affected by the expenditures required to implement this project. The latter was an instrumental premise applied by the Board in the economic comparison, presented in Section 5.2, and used by the Board to favour YEC's plan over the alternative plan.

[37] Further, in addition to Undertaking #26 Project Scope changes, (changes required by YESAB and substation scope changes that issued from the completion of preliminary engineering) were reviewed in interrogatory responses (YECL-YEC-1-9(b)) and in cross-examination (transcript pages 493, and 580-82). This issue was also addressed in YEC's Final Argument at pages 44-45. The sum of information provided details the changes in costs, that occurred and the rationale for the changes.

system, and determinations regarding what would be most appropriate for CSTP Stage 1 after preliminary engineering was complete provided the underlying rationale for the substation scope changes.

LE's assertions that the CSTP Stage 1 was a positive project in relation to rates only due to YTG and YDC contributions is not correct, and the LE assertion that absent these contributions a 4% increase in rates would be required is also not correct. The total YTG and YDC contribution to the project was $17.45 million, which served to lower costs to ratepayers in 2009 by approximately $1.6 million compared to the case with no such contributions been received at all from either party.[38] As noted in YUB-YEC-1-36(a), the net benefit from CSTP Stage 1 in 2009 is approximately $2.6 million. Consequently, even absent any government or YDC funding, the CSTP Stage 1 project would remain a positive project for ratepayers at a net benefit of nearly $1 million per year for 2009, i.e., without any YDC or YTG contributions the rate increase for 2009 would have been about 0.6%, while without the project the 2009 rate increase required was estimated at 3.23%. Yukon Energy also submits that the Board should not consider the $7 million YDC contribution as a "government subsidy", i.e., as reviewed in the PPA and Part 3 proceedings, $5 million of the YDC contribution was committed at the early CSTP Stage 1 planning stages in large part to reflect benefits that YDC would derive from added Flexible Term Note payments (due to the added WAF sales resulting from the project), and the balance of the YDC "contribution" results from the requirements flowing from the YUB PPA Order 2007-5 as regards cost sharing of CSTP Stage 1 cost increases.

In summary, Yukon Energy submits that the evidence fully confirms that CSTP Stage 1 is used, useful, prudently acquired and benefitting ratepayers in the test years (including under a hypothetical business case assuming no government or YDC contributions, which case YEC submits has no relevance to the current revenue requirement proceedings), and as such its net capital cost that was not funded by contributions properly forms part of Yukon Energy's rate base as set out in the Application.

Intervenor Arguments - Aishihik 3rd Turbine

With regard to Aishihik 3rd Turbine, LE concludes the project will substantially improve the use of hydro on WAF and is "a very cost effective project for ratepayers and should be completed as planned."

- LE asserts the estimated installed cost is $9 million, less than one-tenth the cost of capacity of Mayo B, with the cost of energy almost half the cost of Mayo B, "even though its purpose is primarily capacity".

[38] The $17.45 million functions as an offset to ratebase, which would reduce mid-year rate base in 2009 by $12.27 million. At an average return on rate base of approximately 7.1% [Exhibit B-10, Attachment A1, Schedule 4C] these contribution save ratepayers about $1.22 million in 2009, plus savings in net depreciation of approximately 0.37 million [about 50.6% of depreciation on CSTP contributions as set out in YUB-YEC-1-9(b)], for a total savings of approximately $1.6 million.

- LE notes concern about the level of federal funding being directed towards the project ($5 million with indications that an additional $4.5 million will be provided), and asserts that "funding of an already economic project is simply a way of further subsidizing (lowering) power rates for ratepayers," undermining any efforts to send appropriate price signals to consumers.

UCG argues that there is not enough information for the Board to make recommendations related to Aishihik 3rd Turbine, noting that the project should be evaluated under Part 3 of the Public Utilities Act, and YEC should submit an application for an energy project certificate or energy operation certificate to the Minister.

Yukon Energy Reply - Aishihik 3rd Turbine

The arguments raised by UCG are the same arguments raised during the Resource Plan Hearing (and referenced at page 29 of the Board's report to the Minister).[39] These arguments were not accepted by the Board in its report to the Minister (also see page 29 of that report). The Board's views on the need and justification were reiterated in the Report re: YUB part 3 Review of CSTP at page 7 (also summarized in the Application at page 5-13):

> ...the YUB report to the Minister regarding the Part 3 Review of the CSTP, the YUB recommended that, "if Stage One of the CSTP were to go forward, then by implication, there is an accelerated need for the third turbine at Aishihik. The Board accepts the submissions that on an opportunity basis for diesel displacement, with connection of new mine loads, there is economic justification to accelerate the construction of the Aishihik third turbine. This view and recommendation is consistent with the view expressed by the Board in its 20-Year Resource Plan Report.

This project has been extensively reviewed by this Board through various separate review processes over the years: the 1992 Resource Plan hearing, the 2006 Resource Plan hearing; the 2007 CSTP Part 3 hearing. The installation of the third turbine at Aishihik has also separately been reviewed by the Water Board during the Aishihik re-licencing process. All licences and permissions to proceed with the project are in place and the project is proceeding at this time. The YUB has consistently recommended YEC proceed with this project (subject to timing considerations that the Board deemed to have been met in its Part 3 recommendations). Yukon

[39]See page 29 of the YUB Report Re: YEC's 20-Year Resource Plan "UCG disagreed with the position of YEC. UCG submitted that with 10 MWs of mine load added to the system, ratepayers would not see any benefit for two or three years; without mine loads, ratepayers would not see a benefit until the eighth year of operation. UCG also argued that this project would not assist YEC in meeting any of the planning criteria and, therefore, the project should be evaluated under Part 3 of the Public Utilities Act. The City of Whitehorse and YCS were generally supportive of the Aishihik third turbine. In reply, UCG submitted that this project is a mine-promoted opportunity as well as an opportunity for secondary sales, causing a negative impact on rates for a two- to eight year period. UCG further stated that if the project were to proceed, those customers driving the need for the project should fund the negative rate impacts". Note that at the time of the Resource Plan proceeding, no government contribution had yet been committed.

Energy submits that the justification for including the Aishihik 3rd Turbine project in rate base has been confirmed.

In reply to LE concerns about YTG contribution decisions, Yukon Energy's evidence in this proceeding addresses a contribution of only $5 million. In addition to Yukon Energy's reply elsewhere in this argument as regards the ability to pursue efficient runoff pricing notwithstanding government subsidies, in the instance of the Aishihik 3rd Turbine Project the record from the CSTP Part 3 hearing and Board report indicate that the $5 million funding contribution had a decisive impact on allowing Yukon Energy to proceed at that time with this project (which has its own lead times) notwithstanding ongoing risks as to loads and timing for completion of CSTP Stage 1.

5.2 CAPITAL PROJECTS GREATER THAN $100,000 AND LESS THAN $1 MILLION

Intervenor Arguments

LE was the only intervenor to comment on capital projects less than $1 million (see page 12-13 of Argument). Comments in this regard were detailed in nature and not specifically related to YEC's revenue requirement arising from these projects.

Yukon Energy Reply

As noted in YEC's Argument none these projects were not subjected to challenge during the hearing. LE does not indicate that any of the projects fail a test of used, useful or prudently acquired, and as such Yukon Energy's capital spending on projects less than $1 million should be approved by the Board.

5.3 DEFERRED COSTS

Intervenor Arguments - Deferred Costs – General

Arguments in respect of the general spending on deferred costs towards new major generation and transmission and treatment of these costs in rates were received from UCG and YECL. YEC has replied in general to these comments in the opening sections of this submission. Further reply to specific issues raised is set out below.

UCG notes (para 114) that there has been no compelling demonstration of need for major new capital projects in the Application and no "adequate and fair" consideration of alternatives; and no investor would consider building larger projects as good investments without further information. UCG makes the following general comments regarding inclusion of planning costs towards major capital projects in ratebase:

- Money spent on engineering to define projects should be held in a deferral account until the Board approves the need as well as the expenditure for recovery in rates;

- To be included in rate base a project must have a business case (without recourse to government funding to offset costs and eliminate impact) an analysis of natural environment impact and alternatives (page 22, para 110);

- Cost estimates should be within +/- 15% range any costs beyond this not recovered through rates (page 22, para 111);

- Not allow capital projects into rate base until future revenues are realized (para 120); and

- Para 114 – “costs related to feasibility (technical studies) should be omitted from ratebase” as there has not been a compelling demonstration of need for the capital projects included in the application.

YECL made general comments that YEC has “failed to provide an adequate justification” for a number specific items. In particular:

- YECL alludes to the requirement for YEC to demonstrate need and that the project advanced is “the optimum way to meet such need”; in this vein, YECL asserts that the “information provided at the time of the Resource Plan was limited and dated” and complains that projects being pursued have had changes to cost and project design since the Resource Plan was filed.

- YECL alleges that “major capital projects do not appear to be supported by any comprehensive business cases and, as such, it is difficult to fully understand the need for and justification of such projects”. YECL notes the perceived lack of business cases, “which identify a specific need or driver and provide a cost/benefit analysis, including a net present value of the capital, future capital maintenance and O&M costs to be incurred, as well as, a thorough evaluation of the options examined to meet the purported need, were simply not provided as part of this application”.

Yukon Energy Reply - Deferred Costs – General

In respect of UCG’s comments, YEC notes that some of the recommendations of UCG reflect, at least partially, general principles of normal utility regulation practice, and therefore exact principles underlying Yukon Energy’s application. In particular, costs for planning studies that remain in progress (i.e., studies that relate to projects that have not been either abandoned or received final commitments to proceed to construction) are in effect held in a “deferral account” (Work in Progress) and, are ”omitted” from (not included in) ratebase until such time as the projects are used and useful to provide service (i.e., until any related revenues are being received) or the project is abandoned. Until such time as they are used and useful they are “omitted” from ratebase. There is nothing in UCG’s recommended process that is unique or inconsistent with Yukon Energy’s Application, in the event that the project is in fact developed. In the event that the project is abandoned, however, UCG’s recommendations would never allow the utility to recover the costs (as no future revenues are realized), which would not in any way conform to general principles of normal utility regulation practice (and would, if adopted, provide no reasonable basis for a utility to undertake many important planning studies). Yukon Energy's Final Argument at pages 58-59[40] noted that even if the studies are completed and the projects do not ultimately proceed at this time, there are enduring benefits that issue from undertaking and performing the work including the following:

- Having projects "shelf-ready" such that they are ready to proceed at some future date as circumstances change.[41]

- Yukon Energy has been able to pursue studies related to the current suite of renewable generation projects in a timely fashion largely due to the fact that a great deal of feasibility work with respect to particular projects and sites was undertaken in the past.

- The feasibility work being undertaken also results in products that have other uses and applications of ongoing value to the utility.

- Projects such as Mayo B also involve activities that include work with the community.

The remainder of UCG's comments have no basis in utility regulation, and in many cases have been previously rejected by the Board. For example, the UCG arguments in respect of assessing the "natural environment impact" is outside the Board's role, and was explicitly rejected by the Board in Order 2006-8 where, with respect to the Resource Plan, the Board determined that its role was "limited to general comparative information in terms of potential economic impacts to ratepayers" and not broad consideration of environmental impacts of projects. UCG's comments in respect of all projects in the planning stage needing to be within some +/- 15% range of "estimates" are arbitrary, simplistic and have no basis in utility regulation. These comments simply ignore the fact that there is no single "estimate", and the reality that project planning and development comprises a process involving various evolution of cost estimates at specific steps within a project planning framework, as matters are refined and additional investigatory work is concluded.

[40] See also discussion on the transcript at pages 136-39.
[41] CSTP Stage 2 was noted as an example of a project that is ready to proceed once funding is available since it has already been through a YESAB review. Similarly, deferred costs related to Mayo B in the test years prior to March 2009 were largely related to completing the YESAB filing for the Mayo B project and, "It was always understood that that filing was a goal by itself that the board of directors had approved and that the benefit of that would be we get the project regulated and get it approved so that next time in the worst case you have the environmental approvals in place rather than having to start at Square 1 because timing is everything So in that specific case, there was a very specific product, milestone that's there." (see transcript at page 138-39).

In response to YECL's assertions that some cost-benefit analysis should be undertaken regarding the feasibility work itself, the following points are noted:

- Chapter 5 of the Resource Plan identified and reviewed longer term bulk system planning requirements (and the Resource Plan, and related Overview document, set out basic processes that YEC would follow to carry out general resource use planning to identify potential projects for development, and then to carry out project-specific feasibility and development planning prior to the YEC Board decision to start construction of a specific project)[42];

- Since the Resource Plan hearing, Yukon Energy has internally undertaken a process to rationally focus on the projects (and feasibility work) currently being undertaken;

- Subsequent to the Resource Plan hearing, Yukon Energy dispatched a team to assess a short list of possible projects to meet load requirements over the near term (to 2015), and to provide a list of the projects that could be advanced to provide 25 to 50 GW.h (revised to 50-100 GW.h) of diesel within required timelines;

- The primary cost benefit analysis was focused on diesel displacement. The team considered practical options, the technically available options, cost and the ability to obtain required licences within the timelines being considered and a short list was indentified of Mayo B, Gladstone, Atlin, Marsh and geothermal; and

- At the feasibility and planning stages the cost benefit analysis is focused on a broad assessment of need, options, scheduling and sequencing, and developing the suite of preferred options and sequence available to meet that identified need. As studies progress and information becomes more refined, the analysis will similarly become more refined and identifiable as a so called "cost benefit study" of a particular project. As noted in testimony: "by the time it gets to a final decision of the Board of Directors, it's very definitely a full assessment of the risks, costs, and benefits".[43]

YECL's comments on the matter of spending on deferred costs are at their heart internally inconsistent and irreconcilable. First, YECL asserts that YEC has "gotten out ahead of even potential development(s) in many respects". The evidence in this hearing shows that YECL is not correct. In particular, IR CW-YEC-1-31 and Tab 2 Tab 2 (pages 2-5 to 2-7) note that material loads driving system requirements (e.g., Alexco and Western Copper) are basically engaged in, or completed, YESAB reviews while Yukon Energy's main resource to supply these loads, Mayo B, is presently at the initial stages of YESAB review.

Further, YECL in effect argues that early YUB review of projects on a comparative basis (as was conducted at the Resource Plan) or even regulatory review of projects that remain in planning

[42] For example, see Figure 1 from the Overview document (as included in response to YUB-YEC-1-38 (b)(i)).
[43] Transcript page 142, lines 4-7

stages prior to final utility commitment (as was required to occur with CSTP) is premature as at these early stages information is "limited" and not "comprehensive". In contrast, YECL effectively uses this argument to reject Yukon Energy's diligent process to undertake and complete detailed planning work on individual projects (such as Mayo B where considerable planning is required at an early stage) including investing the necessary planning costs to bring the project information to a "comprehensive" level. In short, the YECL argument is effectively that without comprehensive review and approval of projects based on detailed and well-refined project information, there should be little to no spending to prepare comprehensive and well-refined project information, which is patently absurd.

Intervenor Arguments - Specific Project Spending

LE makes the following comments on specific deferred costs:

- **Mayo B -** LE argues that YEC and ratepayers cannot know whether this is the most cost-effective supply option since DSM, IPPs or wind have not been given any serious consideration.

  LE recommends the Board order YEC to seriously examine alongside its present list of projects all other power supply alternatives (including serious DSM, IPP power projects, wind energy, short term modest amounts of diesel energy, and combinations thereof) and come back before the Board with detailed cost benefit analysis of all alternatives and mixes of alternatives prior to any construction commitments on Mayo B. Analysis should include consideration of likelihood, timing and duration of the potential industrial electrical loads at Alexco and Western Copper and industrial customers be required to make fair contributions to these projects in the form of direct capital contributions or within their rate structure.

  LE notes that the cost of energy including all capital costs and O&M is "closer to $0.35 per kWh;" the levelized cost of energy over the life of the project is approx. $0.14 to $0.18 per kWh; if CSTP capital cost is added to the project the cost of energy would increase by $0.10 per KWh in the early years bringing the total cost of energy to $0.40 in the early years compared to the marginal cost of diesel included in the GRA ($0.37 cents/kWh. At page 5, asserts that "Yukon Energy is going about this project with a great sense of urgency yet the cost of diesel energy at its peak in 2008 was lower than the project cost of energy from this project, including the necessary transmission, in its early years absent the hoped for subsidies," and concludes "we appear to have nothing to lose with respect to the cost of diesel energy".

- **CSTP Stage II** – LE provides that "in the author's view this is a good piece of infrastructure that will have long term benefits," ratepayers, including industrial customers, should pay a reasonable portion, and "government contributions are more appropriate", but should "only cover the portion that would not be economically justifiable under normal regulated utility principles." LE recommended the project proceed if industrial loads and power supply projects warrant it.

- **Wind –** LE provides in Section 8 of its Final Argument (pages 6-7) its view regarding the merits of pursuing wind compared to other projects being pursued by YEC at this time, and makes various allegations and assertions related Yukon Energy's view on wind and treatment of wind as a resource option.

  In this review, LE essentially provides a great deal of new information on wind that (given its introduction in argument) cannot be reviewed and tested and should be weighed accordingly. LE recommends the Board require YEC to operate its existing wind plant "seriously" and in this vein notes that the Board should require certain levels of production (1000 MWh) from the existing turbines with the difference in diesel disallowed. LE notes the existing wind demonstration project is low on the maintenance and operating priority list, is not connected to SCADA and that YEC has not contacted any companies that specialize in wind operating and maintenance; consequently LE concludes that YEC is not taking wind generation seriously.

  LE further recommends that the Board direct YEC to advance a wind project in parallel with Mayo B, and that the Board order YEC to proceed with a YESAB permit application for the wind power site on which prefeasibility was prepared.

  LE also makes the following additional assertions:
  - The pre-feasibility study is not on the record because the "study would embarrass YEC"; and
  - YEC is disseminating public information to discredit wind (numbers in media compare 25 to 50 year old depreciated and subsidized hydro facilities with wind).

- **Other General Feasibility** – (Gladstone diversion, Atlin Lake winter storage, Marsh Lake fall-winter storage) – LE notes at page 10 that these projects "have the potential to add cost effective hydro energy to the WAF system through the existing hydro plants," and should continue to be pursued. LE notes at page 13 that projected 2009 deferred study costs were reduced to $4.3 million from $6.8 million and recommends that the Board order a compliance filing which provides realistic updates of all projects and anticipated costs.

UCG asserts there is no compelling need for Mayo B (and other large capital projects in the Application); and questions whether "any investor (other than the Yukon government) would consider building any of the larger capital projects as a good investments without further information." (page 23, paragraph 115) The following additional assertions are made regarding this project:

- Mayo B is not considered to be renewable energy according to the Clean Air Renewable Energy Coalition - a group of corporate and environmental organizations formed to accelerate the development of the renewable energy industry (at page 25, para 127); UCG notes its own understanding that Mayo B would not be considered a renewable project in the coalition's portfolio. At page 7, para 29 UCG submits that YEC and the Yukon government should lead pilot projects to develop alternative energy solutions that provide long-term economic benefits and reduce greenhouse gas emissions (small-scale hydro, combined heat/power systems, renewable energy sources, solar and geothermal energy).

- UCG asserts that there is too much uncertainty to justify significant generation projects (at page 24, paragraph 125) and asserts that "YEC cannot confirm that any other industrial loads will be added to the system in the next few years." UCG asserts that "any review of a plan to expand on facilities operated by YEC should include a review of both YEC's and YECL's existing facilities, resources and plans to determine whether they can provide reliable electrical power generation to meet forecast load requirements in the Yukon" (page 25, paragraph 131).

At page 19 of its argument, YECL notes the need to put planning and study costs "in the proper context" asserting that the increase in 2009 that is "approximately 20% of YEC's overall ratebase" and that this increase "strains the bounds of credibility". YECL asserts "the totality of these study costs will be recovered from customers in one form or another, regardless of whether the underlying projects proceed or whether there are any benefits to customers associated with the conduct of such studies", and notes $4.4 million in completed feasibility study costs to be included in ratebase. YECL asserts YEC "completely ignores" the impact of deferred costs on ratepayers in asserting that "it would not pursue certain projects if there would be negative impacts to customers."

With regard to Mayo B and CSTP Stage 2, YECL asserts that "YEC is moving forward and proposing to spend material dollars even though it is openly acknowledged that the projects are, on their face, uneconomic and that several key components to establishing need and viability, including the availability of significant capital contributions from the Territorial or Federal Governments, have not even been addressed at this point in time".

Yukon Energy Reply - Specific Project Spending

While forecast spending on planning and studies related to new renewable sources of generation is considerable in the test years, the Yukon Energy evidence, interrogatories and cross-examination provide comprehensive justification for this increase in spending as necessary and reasonable and subject to continued ongoing review and consideration as projects in feasibility planning are further defined. Contrary to YECL's assertions, Yukon Energy's rate base for planning and study costs and other deferred costs has not grown anywhere near the scale asserted by YECL – net costs in ratebase at year-end 2009 approximate $7.9 million,[44] of which $0.7 million are related to amortization of the Minto PPA costs (for a total $7.2 million outside of this factor). By comparison the same category of net costs approved in 2005 was $6.2 million.[45]

With respect to planning costs in WIP, the most notable amounts are for Mayo B ($8.2 million forecast by year end 2009) and Other Generation Feasibility ($5.1 million forecast by year end 2009).[46] The only other costs are CSTP Stage 2, which is a project recommended by LE (the only intervenor to specifically comment on the merits of this project) and two connections to potential mines (Alexco and Western Copper) both of which are forecast to be fully funded by the prospective mine customer.

On the matter of Mayo B, the case for pursuing Mayo B at this time is provided in the Application, the response to YECL-YEC-1-5 Revised, and YUB-YEC-1-38(a), while UCG-YEC-1-89 provides detail on how the project was identified as part of (and fits into) the overall 20-Year Resource Plan reviewed in 2006. Undertaking #28 provides the near term load requirement context for considering the Mayo B project at this time. The information provided includes an assessment of need, alternatives and provides the basis for Mayo B as essentially the only renewable resource option that can feasibility be licenced and built for a 2011 in service date in order to meet forecast load requirements.

The current Application was built on the underlying assessment provided in the 20-Year Resource Plan related to the need to plan and develop the system to meet forecast load growth scenarios. The Resource Plan provided an outline of scenarios and options available to meet such scenarios. Since the Resource Plan, YEC has accumulated ongoing information and analysis related to the available hydro generation surplus (and when it is expected to be fully utilized) and when new industrial loads (Alexco and Carmacks Copper) are expected to arrive and require service.

The information in the Application and in response to interrogatories provides the best information available at this time regarding when these new loads are expected to arise. While YECL and UCG have asserted that this information is speculative in nature and at best uncertain, as has been noted, Yukon Energy does not have the luxury of waiting for these loads to, with full certainty, materialize before taking any action. Its obligation to serve requires it to plan the system to meet these expected loads and any other requirements that may arrive. One certainty that YECL and others have not disputed is that the available surplus has significantly diminished. Consequently, Yukon Energy must ensure that new sources of renewable generation are able to be available to meet system requirements, by a soon as 2011.

There is no evidence in regards to UCG's new assertion that Mayo B is not classified as renewable energy. The project characteristics are in fact precisely as described by UCG as being of merit –

[44] Per Table 5.7. Total deferred study costs at year end 2009 are forecast at $30.8 million, less $5.9 million accumulated amortization for a net $24.9 million. Of this amount, $17.0 million is forecast to be in Work in Progress and not in ratebase for a net ratebase amounts of $7.9 million.
[45] Per YECL-YEC-12 from the 2005 GRA.
[46] Per Table 5.6, year end 2008 forecast spending is $0.8 million, plus $4.3 million per YUB-YEC-38(b).

reducing greenhouse gas emissions, providing long-term economic benefits, and being of a small scale (compared to the full range of utility-led hydro projects being pursued throughout Canada at this time).

There is also no evidence before that Board that any costs incurred for Mayo B to date, or forecast to be incurred in the test years, are in any way imprudent or not necessary to be spent to advance the project. In particular, Yukon Energy notes in its 20 Year Resource Plan (at pages 5-30 to 5-33) that a typical benchmark for hydro project planning costs, to advance a project to the point of commitment to construct (following all necessary planning, design, regulatory approvals, tendering and financing and business arrangements) are normally in the range of 10% of the overall project cost (also see YEC Final Argument page 55 which notes the manner in which YEC balances risks in relation to prudently incurring any further costs at each milestone in relation to Mayo B).

In the case of Mayo B, forecast spending to the end of 2009 (at $8.2 million) remains well below 10% of the overall project cost of approximately $120 million (with the remainder of planning stage costs anticipated to be spent in the period leading up to the planned decision to proceed to construction, in spring 2010).[47]

In respect of confirming Mayo B as the "most cost-effective option" LE provides various numbers (such as cost per kW.h) without evidence or calculations, and which are inconsistent with the values in the evidence in this proceeding. There are various errors noted in this regard. First, the cost of Carmacks-Stewart Stage II is for a separate project, which is expected to be developed roughly contemporaneously with Mayo B, but as noted by LE is proceeding on the basis that it is justified in its own regard and should not therefore be added to the economic analysis of Mayo B.

LE is also incorrect that delays in Mayo B can be readily addressed by using diesel generation without adverse impacts on ratepayers. The costs of diesel generation through various fuel prices experienced even in recent times may vary between approximately the $0.25 to $0.35 cents/kW.h range, but these costs are well above the rates that would be charged for the sale of this same power (particularly absent approval of Yukon Energy's second block rate adjustment) and consequently serving the future loads with diesel generation would be a material net upward pressure on rates. The premise for development of Mayo B is that there will be no upward pressure on rates even from the initial years. Consequently, the two situations (diesel generation versus Mayo B) are not comparable in economic terms. Further, they are clearly not comparable on greenhouse gas emission terms.

Finally, the basic assertion that DSM activities are an alternative to Mayo B is not credible. The load growth that most notably drives the need for new resources in the near-term is increments

[47] This relationship should also not be foreign to YECL – their planning exercise for their own proposed hydro project McIntyre 3 was reviewed at the 1992 Resource Plan proceeding for the two utilities (a $4 million project)[47] at which time YECL had already spent $0.236 million[47] notwithstanding no environmental approvals had yet been obtained – this YECL investment was amortized to revenue requirement (and paid for by ratepayers) over 5 years (the project never did proceed).

from such events as the Faro mine reclamation load, or the Alexco mine, or Carmacks Copper mine. There is no way that DSM activities could accommodate these loads within these time periods. The Board has already directed the utilities in relation to a DSM plan (and IPPs, as well as government actions on these same matters)[48] and as such the present situation is not a case of either-or with respect to Mayo B, and DSM or IPPs.

On the matter of YECL's assertion that Yukon Energy apparently acknowledges that these two projects (Mayo B and CSTP Stage II) are "on their face, uneconomic", this is patently false. The projects have been repeatedly cited as solid and valuable long-term infrastructure for Yukon that will form a core component of the next generation of bulk power assets for the territory, much like Whitehorse Rapids and the original Mayo project did for previous generations of load increments. Yukon Energy's acknowledgment was that significant and diligent effort is required, by many parties, to be able to bring these very difficult projects to fruition in a manner that does not adversely affect ratepayers in the near-term. This diligent effort is underway at the present time and is yielding successful results, as noted in the evidence in this proceeding.

With respect to wind, LE submits various claims and proposals that are not directly related to the revenue requirement matters at hand. While assertions about the large-scale and grand potential of wind are not supported by the evidence, the experience gained by Yukon Energy in northern wind generation (beyond that of any other northern Canadian utility) indicates a basis for significant concern about any dramatic new ventures in this regard. There is no basis to suggest that the present wind turbines underperform in any way because of the lack of a SCADA connection. Wind turbines are not dispatchable resources (the wind blows when it blows) and as such SCADA connections are not of the same value as compared to dispatchable resources which ideally should be centrally controlled. Further, the wind generation today bears no linkage to diesel generation in the test years, where diesel is used almost solely for peaking in the coldest hours of the year (when wind performance is derated) and for line maintenance activities (which cannot be addressed in any way by added wind generation). Consequently assertions regarding disallowing test year diesel forecasts are not relevant.

Yukon Energy does not dismiss wind as a potential resource. In contrast, Yukon Energy has maintained a "serious" ongoing investigatory program in respect of wind including, as noted by LE, prefeasibility work (the pursuit of which is not "embarrassing" to YEC; in fact the work is even specifically noted in response to YUB-YEC-1-38(b)). However, there is simply no basis today to suggest that any wind project is at a stage of investigation that would even support a "YESAB permit application" at the present time, which is in drastic contrast to Mayo B (which is presently before YESAB) or CSTP Stage II (which has all required YESAB reviews completed).

[48] The board in Order 2009-2 has Ordered YEC and YECL to "to consult with stakeholders and develop a policy paper with respect to IPPs to be included as part of YECL's and YEC's next GRA". It was also noted in response to YUB-YEC-1-27(c) and in cross examination, that "the development of an Independent Power Producer's policy is being addressed by the Yukon Government as part of the recently released 'Energy Strategy for Yukon." While LE has recommended the Board order YEC to solicit RFPs from IPPs immediately, such action (without commenting on its advisability or on the Board's mandate in this area) is not feasible until these aforementioned reviewed have taken place and some policy determined.

Spending for projects such as Mayo B and CSTP Stage 2 that are included in deferred costs (particularly in WIP) are necessary and reasonable; as has been noted, these costs are subject to ongoing review and consideration as projects in feasibility planning are further defined keeping in mind projects such as Mayo B and CSTP Stage 2 will, as noted in the evidence,[49] need to achieve key decisions before all budgeted amounts are spent. The feasibility of these projects will continue to be tested and reviewed by the board of directors and management of the company to ensure that any funds are prudently and wisely spent.

In summary, Yukon Energy submits that the Application's forecast deferred costs for studies being undertaken on generation feasibility projects are prudent, reasonable and required to advance priority renewable generation project options for potentially required new term development.

[49] See YEC Final Argument page 55 and discussion at transcript page 132-33.

6.0 BOARD RECOMMENDATIONS AND DIRECTIVES

Intervenor Arguments

UCG (at page 27, para 145) asserts that "it is imperative that YEC move quickly and cooperatively in implementing outstanding Board recommendations and directives", noting it has referred to specific matters to be addressed throughout its submission.

Yukon Energy Reply

Yukon Energy addressed Board directives and recommendations in Section 6 of its Final Argument.

7.0 FINANCIAL SCHEDULES

7.1 2008 ACTUALS

Intervenor Arguments

YECL asserts that the April 24, 2009 Update (Exhibit B-10) “clearly indicates” concerns with YEC’s forecasting accuracy and its ability to provide accurate information to the Board, notwithstanding that such information was developed late in the 2008 Test Year. YECL notes similar concerns with forecasting accuracy for capital projects and asserts the Board should require YEC to provide “a detailed explanation of its forecasting methodologies for both O&M and capital”.

Yukon Energy Reply

YEC provided its explanation regarding how it forecasts labour and other expenses included in this Application in response to YECL-YEC-1-36. This included a discussion of key timelines and all approvals required prior to finalizing forecasts as well as the process for both O&M and Capital forecasts.

With regard to material differences between 2008 forecast and the 2008 Actuals provided in Exhibit B-10, YEC has provided an explanation for each variance from forecast greater than 10%; most of the variances were due one-time accounting items not expected to recur in 2009, and actions required to be completed during the 2008 year but which were unanticipated at the time the 2008 forecast was determined, a consistent characteristic of maintaining and updating an aging infrastructure.

8.0 RETURN ON EQUITY

Intervenor Arguments

CW recommended that the Board approve both the 2008 and 2009 ROE as proposed. At page 15 of its argument it noted that it "takes no issue with YEC's proposal to employ the BCUC formula for both test years" and that the formulaic approach "provides for an efficient process and serves to reduce regulatory costs." It was noted that the use of the formula "does not constitute a binding precedent" and that "continued use of the BCUC formula by the YUB in the absence of any changes in the utility's risk will provide a certain degree of certainty and stability to utility rates on an on-going basis."

LE asserted its belief that YEC is less risky due to the "high level of major project subsidization". While Leading Edge surmised that the 52 basis point risk premium should be revised downward to account for this lower level of risk, it acknowledged that the government OIC already reduced YEC's return by 50 basis points. Leading Edge concluded that, "Yukon Energy must remain a healthy utility" in part because the dividends provided to YDC are a source of cost effective financing and recommended accepting the proposed ROE.

Acknowledging the current approach is generally accepted, UCG asserts at page 29 of its argument that no expert evidence has been provided to justify YEC's continued reliance on the BCUC formula as compared to other methods, and without comparative/ expert evidence "it is difficult to ignore the results/ advantages of existing formulas" used by the NEB, the AUC, the Regie and the OEB. Paragraphs 159 to 164 provide a type of comparative review of the BCUC approach as well as approaches. UCG concludes by asserting that the 52 basis point risk premium should be lower based on an assessment that YEC's business risks have decreased due to the fact that 93% of its forecast sales are firm sales and industrial sales (backed by a take or pay contract); UCG notes "YEC is no longer facing the financial and business risk that it may have faced when volatile industrial sales formed a significant portion of its sale forecast." UCG also asserts that YEC is lower risk due to "deferral account 'safety nets'", "ongoing bailouts and contributions from the Yukon Government and YDC when trying to get projects in place" and "revenue guarantees provided by mechanisms such as the RSF". UCG further asserts that "apparent use of the DCF to relieve YEC from operational risk would distinguish YEC from most comparators in a way that may not have been captured in 2005".

YECL provides its views regarding YEC's return on equity at page 22 noting that it did "not take issue with YEC's specific proposal in the current GRA", but reserving the right to bring before the Board any approach it considers appropriate to justify a fair ROE in the future and that it "does not consider itself bound" by acceptance of the BUCC approach.

Yukon Energy Reply

Each intervenor commented on YEC's Return on Equity with CW and Leading Edge recommending the ROE be accepted for the test years, YECL "not taking issue" with the current proposal, and UCG asserting that YEC's business risks have decreased but providing no specific recommendation whether to accept or reject YEC's specific proposal.

The BCUC Approach has been previously reviewed by the Board (during the 2005 Required Revenues and Related Matters hearing) and its application has been accepted for YEC (Order 2005-12) and for YECL (Order 2009-2). It is YEC's position that the continued use of the BCUC approach is reasonable, appropriate and has been accepted by most intervenors and the Board. Further, the 52% risk premium remains appropriate for YEC.

Both LE and UCG commented that YEC may be less risky due to "major project subsidization" and other factors; however, while LE accepted the continued use of the 52 basis point risk premium, UCG argued that the premium should be lower. YEC has in response to interrogatories (YUB-YEC-1-15(c) and UCG-YEC-1-55(d)) fully justified the continued use of the 52 basis point risk premium previously approved by the Board by Order 2005-12.

- A review of BCUC regulated utilities noted a range from 40 to 65 basis points for risk premium adders for utilities comparable to YEC and YEC selected 52 basis points as a mid-point range based on a comparison of operating and financial statistics (e.g., number of customers, and ratebase)[50] and the nature of the business (primarily generation and transmission, with lack of interconnection to outside markets being a determining factor).[51]

- YEC provided an updated assessment of the 52 basis points risk premium in response to YUB-YEC-1-15(c) and noted that the 52 basis points risk premium continues to be appropriate.[52]

Order 2009-2 also based YECL's risk premium off the risk premium set for YEC in 2005, noting that, relative to YECL, YEC has more risk and went on to state, "the Board finds it reasonable to

[50] In 2005, Aquila Networks Inc (now FortisBC) had approximately 92,000 customers and approximately $440 million in ratebase, compared to YEC's 2005 forecasts of 1,750 customers and $143 million in ratebase. YEC's customer counts and ratebase were approximately 2 per cent and 22 per cent of Aquila's at the time.

[51] In 2005, YEC compared the nature of business for YEC and utilities regulated by the BCUC, and noted that it had a somewhat greater business risk than the relevant BC utilities based on its reliance on its own generation (far higher than for FortisBC), and its lack of any interconnection with external electricity markets.

[52] FortisBC's 2009 Revenue Requirements Application forecasts approximately $914 million in ratebase and 112,000 customers in 2009. This compares to YEC's forecasts of 1,889 customers (2 per cent of FortisBC's) and proposed mid-year rate base of $153 million (17 per cent of FortisBC's) for 2009. Since the 2005 application the differences in business risk between YEC and BC utilities have not materially changed – and YEC's business risk has increased somewhat due to connection of a new industrial customer.

place the risk premium for YECL at the midpoint of the risk premiums between YEC and FortisBC — at 46 basis points".

In arguing for a lower risk premium, UCG provides no material facts with respect to Yukon Energy that did not exist in 2005, e.g. the fact that most YEC sales were wholesales was also true in 2005 when the Board approved this approach. The major difference today on the matter of sales is the new industrial customer sales which, if anything, act to increase YEC's risks.

With regard to the continued use of the 52 basis point risk premium it is noted that Yukon Energy's ROE is only calculated on equity financed rate base, and as such no return is earned on "major project subsidization", i.e., 3rd party contributions; consequently, LE's assertions that that risk is lower due to 3rd party contributions towards major projects is not correct.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

P. John Landry
Counsel for Yukon Energy Corporation

June 5, 2009