YUKON UTILITIES BOARD

IN THE MATTER OF the *Public Utilities Act*, R.S.Y. 2002, c. 186;

AND IN THE MATTER OF the ATCO Electric Yukon 2023-2024 General Rate Application.

FINAL ARGUMENT OF ATCO ELECTRIC YUKON

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I. INTRODUCTION

1. ATCO Electric Yukon ("**AEY**") is before the Yukon Utilities Board ("**Board**") seeking approval of its 2023-2024 General Rate Application ("**GRA**" or "**Application**"), filed on July 7, 2023. AEY has prepared and filed a comprehensive Application and seeks approval of its requested revenue requirements in order to ensure it can continue to provide safe, reliable and cost-effective service to its customers.

2. There have been significant changes in the Yukon since AEY was last before the Board for the 2016 to 2017 Test Period, which resulted in various impacts to the business and regulatory environments in which AEY operates, and which have introduced increased uncertainty to AEY's management of its operations. In recent years, as discussed further in this Application, the rapid pace of these changes, accompanying uncertainty, and other unprecedented events prevented AEY from developing accurate forecasts upon which to base a GRA. However, in consideration of factors such as inflation, population growth, and the energy transition taking place in the Yukon, AEY has come before the Board to request the following approvals:

(a) Approval of AEY's revenue requirement for the two-year test period of 2023-2024;

(b) Approval for continuation of AEY's currently approved deferral accounts, and the addition of two new deferral accounts:

(i) a deferral to allow AEY to flow-through costs and savings related to Board Orders and legislative changes which impact its 2023-2024 revenues or revenue requirement, as described in Section 1B.6 of the Application, and

(ii) deferral treatment for Constraint Payments, maintenance costs, and third party consulting costs (including legal costs) related to Independent Power Producer (IPP) projects under the IPP program directed by the Yukon Government and associated electricity purchase agreements ("**EPAs**"), as described in Section 3.4 of the Application; and

(c) Such further and other relief as the Board may determine is appropriate.

3. AEY's total applied-for revenue requirements in the Test Period are $65,808,000 in 2023 and $73,203,000 in 2024, and the applied-for rate changes for 2023 and 2024 are -2.9 percent and 4.2 percent, respectively.[1]

4. In support of the above requests, AEY has placed significant evidence on the record of this proceeding consisting of extensive responses to Information Requests, an update filing on October 30, 2023, oral testimony, and responses to Undertakings given during the public hearing of this matter. AEY's evidence also included the independent expert evidence of Mr. John Trogonoski of Concentric Energy Advisors, Inc. and Mr. Larry Kennedy of Concentric Energy Group, ULC (both Concentric entities are referred to herein as "**Concentric**").

5. AEY's evidence is the only credible and reliable evidence, and indeed the only evidence at all, before the Board with respect to the Application. No Interveners filed evidence, such that AEY's evidence is uncontroverted other than testing by certain (but not all) Interveners through cross-examination. All testing of the Application by Intervener cross-examination at the hearing was met with thorough and credible testimony from the AEY witness panels. AEY respectfully submits that its evidence should be afforded significant weight by the Board and that any positions and recommendations advanced by Interveners in argument should be weighed accordingly given that they are not supported by any Intervener evidence, nor any independent evidence, on the record of this proceeding.

6. This Argument focuses upon matters that attracted the greatest attention throughout the course of the proceeding, particularly during the Information Request process and cross-examination. In AEY's submission, any aspects of the Application not specifically addressed herein are adequately supported in the evidentiary record.

II. APPLICATION TIMING AND EARNINGS IN THE YEARS 2016-2022

7. A number of Information Requests and cross-examination questions during the process have sought clarification regarding the length of time since AEY's 2016-2017 GRA and AEY's earnings during those intervening years. The evidence on the record explains why AEY did not bring an Application before the Board sooner and demonstrates that it was a reasonable decision

[1] Exhibit B-10, PDF p. 6; Exhibit B-10.2, Schedule 2.1, Line 61.

at the time that was consistent with regulatory principles. This section of the Argument discusses the timing of this Application and how various factors that contributed to AEY's earnings in prior years are reflected in AEY's Application to the benefit of customers. In AEY's submission, the Board can be confident that AEY has put forward a thorough Application that addresses the concerns that Interveners have raised during the hearing process.

8. The years in between AEY's 2016-2017 GRA and the current Application were defined by a number of unexpected and unprecedented events, and increased uncertainty for AEY, particularly with respect to its ability to prepare a forecast on which to base a rate application. When discussing AEY's forecast between 2016 and 2022, Mr. Massie and Ms. Rogers explained that although AEY was able to forecast 2016 with reasonable accuracy, its sales grew significantly and unpredictably in 2017.[2] Following the jump in growth, 2018 and 2019 were relatively stable years and AEY did not see the need to bring another application before the Board so soon after the 2016-2017 GRA.[3] As noted during the hearing, historically it has not been unusual for there to be a gap of this duration between GRA proceedings.[4] AEY experienced some growth from increased industrial revenues in those years, and then experienced significant growth in 2020.[5] AEY also faced significant uncertainty as a result of the COVID-19 pandemic, energy transition, inflation, and global supply chain pressures.[6] Given the high level of uncertainty during this time, AEY was not in a position to develop accurate forecasts and, as confirmed by Mr. Massie, expects that it would have been back before the Board within 1-2 years of any GRA filed during this period, possibly for two additional rate proceedings, which would have resulted in additional costs to customers and would not have promoted rate stability.[7]

9. Considering AEY's knowledge at the time these events were taking place, AEY submits that it acted reasonably by not filing a GRA during this period, notwithstanding the higher earnings it was experiencing. Moreover, AEY did come before the Board with a Rate Relief Application,[8]

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[2] Transcript, Vol. 1, PDF p. 124, lines 1-15.
[3] Transcript, Vol. 1, PDF p. 92, lines 13-16.
[4] Transcript, Vol. 2, PDF p. 96, lines 15-19.
[5] Transcript, Vol. 1, PDF p. 124, line 22 to PDF p. 125, line 9.
[6] Transcript, Vol. 2, PDF p. 16, lines 6-15.
[7] Transcript, Vol. 2, PDF p. 16, line 13 to p. 17, line 2; Transcript, Vol. 2, PDF p. 17, lines 11-18.
[8] AEY 2022 Rate Relief Application, online: https://yukonutilitiesboard.yk.ca/proceedings/aey-2022-rate-relief-application/.

and has now prepared a comprehensive Application, including a full Depreciation Study, to enable a fulsome proceeding for this 2023-2024 GRA.

10. As explained in AEY's response to AEY-UCG-021(c),[9] the way the regulatory framework operates is that utility rates are subject to Board review and approval. Following the approval of its rates, a utility is incentivized to find efficiencies and cost-savings on a go-forward basis, and to benefit from those efficiencies and savings until its rates are reset. In addition to recovering its prudent costs, a utility is entitled to earn a fair return on and of capital. Importantly, any efficiencies realized in between rate applications are incorporated into the cost forecasts at the time of the next rate application. The benefits are then passed on to ratepayers through the revenue requirements approved by the Board.[10]

11. In accordance with this regulatory framework, the driving factors that contributed to AEY's higher earnings in the 2018-2022 period have been either incorporated into AEY's forecasts, such as the observed population and sales growth in the Yukon, or otherwise addressed, as in the case of AEY's industrial revenue deferral account discussed in Section IV.C. of this Argument. Other factors which contributed to AEY's earnings included a decrease to statutory tax rates, the refinancing of older debt at lower interest rates, and the implementation of the federal carbon relief program, all as discussed by Ms. Rogers during her testimony.[11] These factors are contemplated in AEY's forecasting process and incorporated into AEY's applied-for revenue requirement on a prospective basis to the benefit of ratepayers.[12]

12. Benefits to customers as a result of AEY's experiences from 2018-2022, as reflected in applied-for revenue requirement, include AEY's access to carbon rebates, customer growth and increased electrification resulting in increased sales, and debt sourced at lower interest rates. Ms. Rogers also explained that AEY has found operational efficiencies since the 2016-2017 GRA, which are demonstrated by the fact that AEY has kept its operational costs generally in line with

[9] Exhibit B-4, PDF pp. 404-05.
[10] See, e.g., *Re Canadian Western Natural Gas Company Limited Request to Withdraw the 1999 General Rate Application and Assessment of the Need for a 2000 General Rate Application*, EUB Decision 2000-82 (21 Dec 2000), p. 15 **[TAB 1]**.
[11] Transcript, Vol. 1, PDF p. 125, lines 10-24.
[12] Transcript, Vol. 1, PDF p. 75, line 16 to PDF p. 76, line 13.

inflation despite the impact of O&M cost increases associated with significant capital projects, such as the CIS Replacement Project.[13] In this regard, Ms. Rogers testified as follows:

> I think the – the exercise of – of measuring efficiencies in itself is not efficient. So it is a bit challenging to do so. But we do look at things – like, again, if we took 2017 costs and applied the inflation as what per the Stats Canada inflation rates, we would come into an O&M forecast for 2024 around $14.6 million. We're coming in with a forecast in the test period with a 14.9 million O&M forecast, and that incorporates a $700,000 increase for CCS costs. So the differential between those two can kind of be assumed that, you know, as costs are inflating we are also becoming efficient as we – time goes on and we find process, improvements and things like that.[14]

13. AEY considers this Application to be a comprehensive Application which, as shown above, flows the benefits of the events and efficiencies from prior years to customers in accordance with the proper operation of the regulatory scheme.

14. Principles underlying prospective ratemaking and issues raised by Interveners with respect to AEY's earnings since the 2016-2017 GRA are addressed further below in relation to AEY's requested risk premium.

III. DEFERRAL ACCOUNTS

A. Overview

15. AEY is seeking continuation or approval of the following deferral accounts:

(a) Board Orders and Legislative Changes (Exhibit B-1, Section 1B);

(b) Industrial Rider R Flow Through (Exhibit B-1, Section 2);

(c) Purchased Power Flow Through (Exhibit B-1, Section 3);

(d) IPP Flow Through (Exhibit B-1, Section 3); and

(e) Diesel Fuel Deferral Account (Exhibit B-1, Section 4).

16. As noted by the Board in Board Order 2014-06:

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[13] Transcript, Vol. 1, PDF p. 76, lines 1-10.

[14] Transcript, Vol. 1, PDF p. 76, line 19 to PDF p. 77, line 7.

> [T]he standard criteria for the establishment of a deferral account include: (a) costs that are not under the control of the company and are not reasonably forecastable, or (b) where an error in forecasting could produce a loss or gain of a substantial magnitude.[15]

17. In AEY's submission, each deferral account meets one or both of these established criteria. The requested deferral accounts are addressed below in relevant sections, with the exception of the requested deferral account for Board Orders and Legislative Changes, which is addressed directly below.

B. Board Orders and Legislative Provisions

18. AEY is requesting deferral treatment for any costs or savings related to Board Orders or Legislative Changes that result in changes to the rules or parameters under which AEY operates, or that impact the nature and extent of AEY's obligations as a regulated utility, and that impact its 2023-2024 revenues or revenue requirement.[16]

19. AEY acknowledges that the Board did not approve AEY's requests for similar deferral accounts in its 2013-2015 and 2016-2017 GRAs.[17] However, in AEY's submission, the regulatory landscape is significantly different now than it was at the time of AEY's previous applications, and these changes warrant approval of the requested deferral account. As detailed in Section 1B of the Application,[18] in recent years all levels of government have taken significant steps toward the reduction of carbon emissions and increased electrification. There is a significantly higher number of policies and enactments in place regarding energy transition than there was in 2016. Changes or developments to existing policies and enactments are difficult, if not impossible, to forecast, given the rapid pace at which the energy transition is taking place. Additionally, unlike in prior GRAs, and given the advancement of energy transition policies since 2016, AEY is now at the stage where it is investing more significantly in a number of energy transition initiatives, and therefore faces increased risk in the event those investments are impacted by unexpected legislative or regulatory changes.

20. The Board previously declined to approve AEY's requests for a Board Orders and Legislative Changes deferral because of its view that, given stakeholder input and lead time

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[15] Board Order 2014-06, Appendix A – Reasons for Decision, section 2.3.2, PDF p. 16 [Board Order 2014-06] **[TAB 2]**.
[16] Exhibit B-1, PDF p. 24.
[17] Board Order 2014-06, *supra* note 15, s 13.1.1, p. 103; Board Order 2017-01, Appendix A – Reasons for Decision, s 12.2.2, pp. 82-83 [Board Order 2017-01] **[TAB 3]**.
[18] Exhibit B-1, starting at PDF p. 21.

associated with legislative changes, AEY would have sufficient time to incorporate any such changes into a GRA filing.[19] In AEY's submission, this does not adequately consider: (i) that AEY cannot be aware of or involved in all changes taking place; (ii) that even if AEY is involved, it is not the driver or ultimate decision-maker behind such initiatives; (iii) that energy transition policies are not implemented and changed on regular or predictable timelines; and (iv) that GRA proceedings involve significant lead time and expense. AEY elaborates on each of these factors below:

- **Awareness of Initiatives.** Although AEY may sometimes be involved in consultation related to energy transition initiatives, there are many instances where that will not be the case. For example, AEY would not expect advance notice or significant lead time with respect to legislative or policy changes at the federal level, such as for carbon or tax legislation or the Federal Government's 2030 Emissions Reductions Plan. The same can be true for initiatives at the territorial level. Although AEY maintains that it was not appropriate for new evidence to be put to witnesses during cross-examination, during the hearing the NDP Caucus asked whether AEY's Business Risk Panel was aware of the Yukon Government's recent announcement of a pause to the micro-generation program. Each of the witnesses confirmed that they did not have any knowledge of this very recent development.[20] As discussed throughout the record and in this Argument, micro-generation is included in AEY's forecast for the Test Period. This is a clear example, provided by a sitting member of the Legislature, of changes being announced without AEY's prior knowledge which impact AEY's forecasts and revenue requirement. While AEY learned of this legislative or policy change during the hearing, such that it could endeavour to address the change in its compliance filing to the Application in the event its request for the Board Orders and Legislative Changes deferral is not granted by the Board, other Board Orders, legislative changes, or government policy changes could occur in the Test Period following the Board's decision on the Application that could impact AEY's forecasts and revenue requirements.

[19] Board Order 2014-06, *supra* note 15, s 13.1.1, p. 103; Board Order 2017-01, *supra* note 17, s 12.2.2, PDF pp. 82-83.
[20] Transcript, Vol. 3, PDF p. 184, lines 15-21.

- **AEY Does Not Drive Decision-Making.** It is important to distinguish between the ability to provide input on whether or not a policy proceeds as compared to the ability to provide input on what a policy looks like. The ultimate decision-maker on policies and legislative changes is the relevant level of government setting the policy or enacting the legislation. Even when AEY has an opportunity to provide input, it is acting in a reactionary role and remains subject to the government's final decision on the ultimate timing and form of the initiative. Mr. Massie discussed this at the hearing with respect to the IPP program and micro-generation:

> So specifically just start with IPPs. Again, it's a Yukon government policy that was put out, originally 2015, updated in 2018, I believe. It really set out some guidelines in how utilities are to interact with IPP proponents. So I think that's – the point of that Mr. Rondeau, is that we had – we don't have control over the direction of how a government policy comes out.
>
> Very similar with micro-generation. It's a government program. We have – we coordinate with them to integrate the micro-generation forecast into our sales forecast. So what – what Yukon government looks at will be available or added for micro-generation in 2024 has been forecast and put in – or put into our forecast. Again, though, however, we have little control over what that is. We just take that forecast and put it into ours.
>
> And, again, a government program that directs us to allow for this micro-generation to be put onto the system is not in our control.[21]

  In response to questions from Board counsel, Mr. Massie described AEY's input into initiatives such as the IPP policy and the Yukon Our Clean Future plan.[22] AEY was not involved in a decision-making capacity with respect to either policy.

- **Timeline of Policy Changes.** Policy changes do not occur with regularity that would allow for reasonable adjustments by utilities through the GRA process. At the hearing, Mr. Massie explained that policy changes do not necessarily align with the timing of GRAs:

> Well, I would say if we came before the board more regularly, if there was a change in policy that was enacted in that timeframe and put in place, we could adjust for it. But, again, that example of an IPP policy, the first iteration was 2015. 2018 there was a second revision, and I know it's being contemplated further today. So I would just say its – even if we were to come before the board a little more – or on a regular

[21] Transcript, Vol. 2, PDF p. 9, lines 3-22.
[22] Transcript, Vol. 3, PDF p. 34, lines 10-25.

> basis, it wouldn't guarantee that the policy would align, or policy enactment would align, I guess.[23]

- **GRA Process.** As confirmed in AEY's response to AEY-NDP-009(b) and at the hearing,[24] GRA proceedings are expensive and take a significant amount of time, resources, and effort to prepare. If AEY is made aware of a change to policy or law, which is not always the case, then AEY or its customers may still incur losses during the time that AEY is putting together an application which are not recoverable in rates.[25] It also may not be cost-effective or in the interest of regulatory efficiency for AEY to come before the Board in a timely manner with respect to all of the legislative and policy changes taking place.

21. Although much of AEY's concern regarding Board Orders and Legislative Changes arises with respect to energy transition policy, the requested deferral account is not limited in scope to energy transition-related matters. This is to the benefit of both customers and AEY, having regard to examples such as the decrease to statutory tax rates[26] and carbon tax rebate[27] that contributed to AEY's earnings in prior years, which are now incorporated into AEY's forecast.

22. With respect to the operation of the proposed deferral account, AEY notes that balances resulting from Board Orders and Legislative Changes that meet the description set out above would be accumulated in the deferral account and would remain subject to Board review and approval in a future proceeding, as explained in AEY's response to AEY-YUB-002(c).[28]

IV. SALES AND REVENUE

A. Overview

23. As set out in Table 2.1 of the Application, AEY is forecasting total retail primary sales of 362,136 MWh in 2023 and 375,5235 MWh in 2024. Including secondary and wholesale sales, the total company sales are forecast to be 365,552 MWh for 2023 and 378,905 MWh for 2024.[29]

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[23] Transcript, Vol. 1, PDF p. 36, line 23 to PDF p. 37, line 8.
[24] Exhibit B-4, PDF p. 118; Transcript, Vol. 2, PDF p. 16, lines 15-16.
[25] See, e.g., Transcript, Vol. 4, PDF p. 25, line 21 to PDF p. 26, line 6.
[26] Transcript, Vol. 1, PDF p. 125, lines 11-14.
[27] Exhibit B-4, PDF p. 1070-1071.
[28] Exhibit B-4, PDF p. 1015.
[29] Exhibit B-1, PDF p. 26. Note that AEY's sales forecast includes three months of actuals for January, February, and March.

24. As detailed below, AEY uses a robust forecasting methodology which incorporates the most recent data available at the time of forecasting and which uses data from a variety of sources.[30] AEY has provided significant evidence regarding its forecasting methodology and its historical and current sales forecast accuracy. This evidence was supported by the robust and credible testimony of Mr. Martino at the hearing. Accordingly, AEY submits that its sales forecast and methodology should be approved as filed.

B. Forecast Methodology

25. As described in the Application and by Mr. Martino at the hearing, AEY's sales forecasting complies with Board direction and is a comprehensive process that includes review of customer forecasts, information from AEY Whitehorse staff, and comparison with YEC's forecasts.[31] AEY works with its Whitehorse staff to determine timing for commercial customers, as well as with the Yukon government, City of Whitehorse, and commercial developers in order to accurately understand customers' needs and timing requirements.[32]

26. The only update to AEY's forecasting methodology for the Test Period is its use of growth rates from the years 2017 to 2019 to derive forecast use per customer ("**UPC**"), as AEY does not consider the years 2020 to 2022 to be representative of typical UPC due to the impacts from the COVID-19 pandemic.[33] AEY considers this to be a reasonable approach and notes that other utilities in the Northwest Territories and Alberta are employing similar forecasting that considers pandemic years to be irrelevant for trending UPC.[34]

27. AEY's sales forecast also incorporates anticipated population growth in the Test Period, including with information from Whitehorse staff regarding customer additions in the Test Period and associated with AEY's capital forecast.[35]

28. During the hearing, Mr. Maissan questioned whether AEY tends to forecast lower sales in order to minimize its sales risk,[36] with reference to Exhibit C3-6, which includes AEY's forecast

[30] Exhibit B-1, PDF p. 27.
[31] Exhibit B-1, PDF p. 27; Transcript, Vol. 1, PDF p. 96, line 24 to PDF p. 97, line 2; Transcript, Vol. 1, PDF p. 98, lines 15-24.
[32] Transcript, Vol. 3, PDF p. 23, line 16 to PDF p. 25, line 5.
[33] Exhibit B-1, PDF p. 29.
[34] Transcript, Vol. 2, PDF p. 119, lines 16-20.
[35] Transcript, Vol. 2, PDF p. 120, lines 1-8.
[36] Transcript, Vol. 1, PDF p. 95, lines 18-25.

and actual primary retail sales from AEY's last three GRAs. AEY submits that this is clearly not the case, supported by significant evidence on the record regarding the robustness of AEY's sales forecasting methodology and its historical accuracy in its sales forecasting. In AEY's response to AEY-NDP-004, AEY provided its filed and approved sales forecasts for the test years from the 2008-2009 GRA, 2013-2015 GRA, and 2016-2017 GRA, as well as the calculated variance for each of the filed and approved forecasts compared with normalized actual sales data for those years.[37] With reference to that response, Mr. Martino explained that AEY's proposed sales forecasts between 2008 and 2014 exhibited only a negative 0.4 percent average variance from actuals.[38] AEY updated its forecasting methodology in 2016 and saw reasonable accuracy for that year,[39] although AEY was not able to forecast as accurately with respect to the end of 2016 and for 2017 due to exceptional and unprecedented economic and population growth in those years.[40] AEY's sales moderated following 2017 and, as supported by Mr. Martino's clear and detailed testimony, AEY submits that its forecasting has been very accurate in most years.[41] Mr. Martino confirmed that AEY's 2023 sales actuals are tracking below its forecast numbers and, based on AEY's actual sales up to October, AEY is tracking 0.8 percent below its 2023 sales forecast.

C. Continuation of Industrial Rider R Deferral Account

29. AEY proposes to continue its approved Industrial Rider R Deferral and to true up any difference between the YEC actual and approved industrial sales forecast in future rider adjustments.[42]

30. As explained at the hearing, the deferral account, which AEY is requesting to continue, addresses variability between AEY's forecast industrial revenue and actual industrial revenue.[43] The differential for industrial revenues that are higher than forecast will be flowed back to customers as a result of the deferral treatment.

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[37] Exhibit B-4, PDF p. 106.
[38] Transcript, Vol. 1, PDF p. 96, lines 4-9.
[39] Transcript, Vol. 2, PDF p. 115, lines 2-7.
[40] Transcript, Vol. 1, PDF p. 96, lines 10-20; Transcript, Vol. 2, PDF p. 115, lines 8-20.
[41] Transcript, Vol. 2, PDF p. 115, line 21 to PDF p. 116, line 3.
[42] Exhibit B-1, PDF p. 31.
[43] Transcript, Vol. 2, PDF p. 13, line 23 to PDF p. 14, line 4.

V. PURCHASE POWER

A. Overview

As discussed in Section 3 of the GRA, AEY's primary and secondary purchase power costs are forecast to remain relatively flat over the test period, with a slight increase from 2023 to 2024.[44]

B. Forecast Methodology

31. AEY determines the energy component of the purchase power cost based on YEC's currently-approved wholesale rate and AEY's total forecast energy purchases.[45] AEY's energy purchase forecast includes consideration of line losses by applying a forecast line loss percentage to AEY's sales load forecast.[46] Line losses continue to be forecast in accordance with the method approved in Board Order 2017-01.[47]

32. Mr. Martino explained at the hearing that AEY's purchase power forecast is driven by its sales.[48] AEY purchases wholesale power from YEC as a customer in accordance with its applicable terms and conditions of service.[49] Contrary to the suggestion in AEY-UCG-021(b) that AEY might lowball its purchase power costs, and as discussed in AEY's response to the same, AEY does not have control over its sales (driven by energy demand) or the cost of wholesale power that would allow for influence on its purchase power forecast.[50]

33. As Ms. Rogers explained at the hearing, although AEY's forecast assumes that a certain percentage of energy that it sells to customers will be sourced from micro-generation,[51] AEY's sales are based on customer usage, regardless of the source of the energy provided to the customer.[52] As noted in AEY's responses to AEY-JM-009(d) and AEY-JM-012, forecast micro-generation on the grid offsets AEY's power purchases, which currently represents a benefit to ratepayers because the forecast micro-generation lowers AEY's revenue requirement.[53] In the event that micro-generation uptake is below forecast, AEY may need to purchase additional power.

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[44] Exhibit B-1, PDF p. 107.
[45] Exhibit B-1, s 3.5, PDF p. 110.
[46] Exhibit B-1, s 3.5, PDF p. 110.
[47] Exhibit B-1, s 3.5, PDF p. 110; Board Order 2017-01, *supra* note 17, paras 44 and 49, pp. 15-16.
[48] Transcript, Vol. 2, PDF p. 49, lines 1-15.
[49] Transcript, Vol. 2, PDF p. 49, lines 18-23.
[50] Exhibit B-4, PDF p. 404.
[51] Transcript, Vol. 1, PDF p. 81, lines 8-12.
[52] Transcript, Vol. 1, PDF p. 80, lines 15-25.
[53] Exhibit B-4, PDF pp. 34, 37.

C. Deferral Accounts

1. Purchase Power Flow Through

34. AEY is requesting a continuation of its purchase power flow through deferral account, with no changes from what was approved in Board Order 2017-01.[54] Under this deferral account, AEY would continue to assume risk associated with sales volumes, but would not assume risk associated with changes to the Wholesale purchase rate.[55] As the Board recognized in Board Order 2017-01, the deferral account allows for efficient adjustment of potential changes in wholesale costs, and will provide additional margin on sales incremental to forecast levels.[56]

35. As discussed in Section 3.3.1 of the Application,[57] AEY's cost of purchase power is based on YEC's rates. Any changes YEC makes to the wholesale rates, including adjustments to the rates associated with YEC's Energy Reconciliation Adjustment ("**ERA**"), are beyond AEY's control or ability to reasonably forecast, and could result in a loss or gain of substantial magnitude. Accordingly, AEY submits that the purchase power flow through deferral account continues to meet the standard criteria for deferral treatment set out above and that its continuation should be approved.

2. IPP Deferral Account

36. AEY is seeking approval of the proposed IPP deferral account, which is intended to provide deferral treatment for the following costs,[58] contemplated under section 2 of OIC 2019/25:[59]

i) Constraint payments paid to IPPs in accordance with the requirements under the EPAs applicable to IPP projects;

ii) Maintenance costs related to IPP projects; and

iii) Third party consulting costs (including legal costs) incurred by AEY related to the development and implementation of the EPAs.

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[54] As confirmed in Exhibit B-4, IR Response AEY-YUB-011(a), PDF p. 1075; Board Order 2017-01, *supra* note 17, s 3.4.3, p. 16.
[55] As confirmed in Exhibit B-4, IR Response AEY-YUB-011(b), PDF p. 1075.
[56] Board Order 2017-01, *supra* note 17, para. 55, p. 16.
[57] Exhibit B-1, starting at PDF p. 108.
[58] Exhibit B-1, s. 3.4, PDF pp. 109-10; Exhibit B-10.4, Schedule 8.8.
[59] *Independent Power Production and Micro-Generation Regulation*, YOIC 2019/25 [OIC 2019/25] **[TAB 4].**

37. While the Old Crow solar project is the only completed unsolicited IPP project at present,[60] a number of similar IPP projects will energize in the Test Period.[61] Mr. Massie testified at the hearing that AEY has EPAs in place for the Watson Lake, Beaver Creek, and Destruction Bay/Burwash communities.[62] At this time, the only costs included in the proposed deferral account are legal fees associated with the establishment of EPAs.[63]

38. AEY is requesting deferral treatment of the above costs, and submits that they are costs that AEY is specifically entitled to recover pursuant to section 2 of OIC 2019/25.[64] Mr. Massie explained at the hearing that AEY is following the direction contained in OIC 2019/25 in its approach to the IPP projects.[65] With respect to both the maintenance and constraint payment costs in relation to OIC 2019-25, Mr. Massie confirmed the following:

> This is the fundamental part of these – this deferral I guess is that we do believe that OIC 2019-25 really directs us to certain actions to enable these projects in the communities. So the IPP policy was developed, really to set ground rules, and then the OIC in our mine [sic] was developed just to ensure we get direction on how we treat certain costs that we just described in relation to these projects.
>
> So yes, fundamentally we think we are following the direction of that OIC. These are how – these are the costs that we need to incur for these projects to ensure they are successful in the communities. And that is – the result of that deferral account again in our minds sits – it really does meet the criteria of a deferral account in that it's outside our control, and it could be a substantial magnitude.[66]

39. AEY has entered into EPAs with IPP proponents pursuant to the Yukon *Independent Power Production Policy* (2015, amended 2018)[67] and in order to meet the mandate contained in OIC 2019/25.[68] As noted by Mr. Massie, the EPAs generally follow a standard form,[69] the reason being so that they address the requirements of OIC 2019/25. Further information regarding specific EPA provisions is provided in the Application[70] and in AEY's response to Undertaking Number 1.

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[60] Exhibit B-4, AEY response to AEY-JM-013(a), PDF p. 38.
[61] Exhibit B-1, PDF p. 110.
[62] Transcript, Vol. 1, PDF p. 56, lines 7-10.
[63] Transcript, Vol. 1, PDF p. 45, line 25 to PDF p. 46, line 2.
[64] OIC 2019/25, *supra* note 59.
[65] Transcript, Vol. 3, PDF p. 38, lines 3-4.
[66] Transcript, Vol. 3, PDF p. 37, line 20 to PDF p. 38, line 10.
[67] Government of Yukon, *Yukon's Independent Power Production Policy*, Updated October 2018 **[TAB 5]**.
[68] Exhibit B-1, s 3.4, starting at PDF p. 109.
[69] Transcript, Vol. 1, PDF p. 57, lines 18-21.
[70] Exhibit B-1, s 3.4, starting at PDF p. 109.

40. The requested deferral treatment is necessary to provide a mechanism for recovery of costs that arise during the Test Years, which shall remain subject to Board review and approval in a future proceeding. At this time, no specific costs associated with constraint payments or maintenance related to IPP projects are included in the Application.

41. The costs outlined above meet the standard criteria for deferral treatment as they are not within AEY's control and not reasonably forecastable, and a variance in forecasting related to these costs could produce a loss or gain of a substantial magnitude. As noted in AEY's response to AEY-YUB-002(b)(ii), there is currently significant uncertainty related to the startup phases of the IPP projects given their technical, legal, and operational complexity.[71] The aspects of the requested deferral discussed in the most detail at the hearing were the inclusion of constraint payments and maintenance costs, each of which are discussed below.

42. The EPAs include provision for constraint payments, which compensate IPPs for a minimum energy purchase amount in the event the IPP is producing power but cannot access the AEY grid due to circumstances beyond the IPP's control.[72] This is in response to a direct requirement in OIC 2019/25.[73] Constraint payments are required when there are unforeseeable issues on AEY's grid, such as an unplanned outage or constraint events,[74] which are not forecastable and outside of AEY's control. In addition, AEY cannot reasonably forecast the number of events that may give rise to constraint payments. The unforeseeable and potentially significant magnitude of constraint payment costs justifies deferral treatment.

43. The proposed IPP Deferral would also include maintenance costs related to IPP projects, including with respect to AEY's maintenance of the Battery Energy Storage System ("**BESS**"), Microgrid Controller ("**MGC**"), and distribution interconnections of the IPP projects.[75] As explained by Mr. Massie, the BESS and MGC are required in order to accommodate AEY's purchase of IPP renewable generation, and they become utility assets (owned by AEY) because they relate to control of the grid and are integral to AEY's operation of the system and the provision

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[71] Exhibit B-4, PDF p. 1015.
[72] Exhibit B-1, s 3.4, paras 11-12, PDF pp. 109-10.
[73] See OIC 2019/25, s 5.
[74] Exhibit B-1, s 3.4, para 11, PDF p. 109.
[75] Exhibit B-1, PDF p. 110.

of safe and reliable power.[76] In AEY's submission, matters related to integration with, and operation of, the grid are properly within the utility's area of responsibility.

44. At the hearing, the Board Panel questioned why AEY takes over the maintenance of the BESS and MGC.[77] The Board Panel expressed concern at the hearing that there may be "a moral hazard that [AEY] would negotiate with an IPP to take over the maintenance of assets and removal of these assets while [AEY] will be passing the cost on to the rate payer," and suggested that AEY could instead charge maintenance costs back to IPPs.[78] In AEY's respectful submission, the model whereby AEY takes ownership of the BESS and MGC is the most consistent with regulatory principles and practices. As discussed below, the BESS and MGC are required in order for AEY to be able to purchase electricity as part of the IPP program, and are properly under AEY's responsibility, because their operation goes to the safety and reliability of AEY's system and its responsibility to manage the grid for the benefit of all customers.

45. As explained in AEY's response to Undertaking 1(g), both the BESS and the MGC are "grid-forming equipment" which relate to system management.[79] The BESS coordinates with AEY's grid, including AEY's diesel generation facilities, to ensure that it can handle intermittent renewable energy production and mitigate impacts on power quality.[80] It manages system voltage and frequency during diesel off scenarios, which is a utility responsibility.[81] The MGC refers to control equipment that coordinates between AEY's existing equipment, new assets for IPP generation power plants, and the BESS.[82] This coordination is required in order to ensure AEY can continue to provide safe and reliable power.[83] Therefore, although the BESS and MGC are required as a result of the IPP projects, they also serve the entire AEY system by contributing to power quality and power provision for all of AEY's customers.

46. As noted by Mr. Massie, AEY approaches the ownership of the BESS and MGC with IPP proponents similarly to how it approaches new customer connections or extensions – in those

[76] Transcript, Vol. 1, PDF p. 58, line 14 to PDF p. 59, line 10; Transcript, Vol. 1, PDF p. 60, line 21 to PDF p. 61, line 8.
[77] Transcript, Vol. 1, PDF p. 60, lines 18-20.
[78] Transcript, Vol. 1, PDF p. 61, lines 9-22.
[79] AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 1(g), PDF p. 5.
[80] Transcript, Vol. 3, PDF p. 38, lines 16-21.
[81] AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 1(g), PDF p. 5
[82] AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 1(d), PDF p. 4; Transcript, Vol. 3, p. 38, lines 22-24.
[83] AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 1(d), PDF p. 4; Transcript, Vol. 3, p. 38, lines 22-24; Transcript, Vol. 3, p. 41, lines 1-5.

cases, the project would be fully contributed by the customer, but it becomes part of the grid and within AEY's scope of responsibility.[84] AEY is responsible for the operation and maintenance of any equipment and infrastructure associated with providing utility service to customers.[85]

47. The BESS and MGC are both new technologies to AEY, so there is uncertainty with respect to their operation and integration with the grid.[86] Given the high level of renewable generation that the BESS and MGC must handle from IPP projects (for example, AEY is forecasting $500,000 in renewable generation at Old Crow),[87] AEY submits that in addition to the uncertainty associated with possible grid issues that could result in costs for constraint payments or maintenance, such costs could be of a substantial magnitude.

VI. FUEL COSTS

A. Overview

48. Forecast fuel costs for the Test Period consist of $9,181,000 for 2023 and $9,023,000 for 2024.[88] The process through which AEY has forecast fuel costs is described in Section 4.2 of the Application.[89] The increase in fuel costs between 2022 and 2023 is due primarily to higher fuel prices than those approved in AEY's 2016-2017 GRA.[90]

B. Deferral Account – Diesel Fuel

49. AEY is requesting the continuation of the Diesel Fuel Deferral Account so that the variance between actual and forecast fuel prices can be flowed through to customers.[91]

50. As noted in AEY's further response to AEY-NY-004, following the Board's decisions in the current AEY and YEC GRAs, Riders R and J will be adjusted according to AEY's and YEC's approved revenue requirements, which will include the latest forecast fuel prices.[92] At that time, the Rider F Fuel Adjustment rider will be reset.[93] As Ms. Rogers explained at the hearing, this is

[84] Transcript, Vol. 1, PDF p. 58, lines 7-13 and PDF p. 61, line 23 to PDF p. 62, line 2.
[85] AEY Hearing Undertakings, Dec. 4, 2023, Response to Undertaking Number 1(g), PDF p. 5.
[86] Transcript, Vol. 3, PDF p. 44, line 23 to PDF p. 45, line 1. See also AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 1(h-i), PDF p. 5.
[87] Transcript, Vol. 3, PDF p. 44, lines 12-14.
[88] Exhibit B-1, s 4, PDF p. 111.
[89] Exhibit B-1, starting at PDF p. 111.
[90] Exhibit B-1, s 4, para 2, PDF p. 111.
[91] Exhibit B-1, s 4.4.1, PDF p. 112.
[92] Exhibit B-9, PDF p. 5.
[93] Exhibit B-9, PDF p. 5.

because the fuel price variance will be recalculated according to existing fuel prices, which are likely to be the same or close to the prices AEY used in its forecast in the Application.[94] Once the updated fuel costs are incorporated into Rider R following AEY's GRA, Rider R will increase due to the increase in fuel prices, but Rider F will decrease because there will no longer be a significant differential between current fuel prices and the prices included in rates.[95] AEY is proposing to reset the Rider F rate to zero effective January 1, 2024, which will reduce customer bills.[96]

VII. OPERATIONS AND MAINTENANCE EXPENSES

A. Overview

51. AEY is seeking approval of forecast Operations and Maintenance ("**O&M**") expenses to be included in revenue requirement, as supported by the detailed information in Section 5 of the GRA, including Schedules 5.1, 5.2, and 5.3. Additional detail was provided on numerous specific items during the Information Request process as well as during AEY's oral testimony. As noted in the Application, AEY has been experiencing, and continues to experience, pressures on O&M costs related to the operation and maintenance of its growing asset base, higher material and contractor costs, and frequent maintenance requirements.[97]

52. AEY does not propose to address all aspects of its O&M forecast in Argument but will instead focus on items that attracted the most attention in Information Requests and at the hearing. AEY provided extensive information in the Application, in responses to Information Requests, and in the hearing, and submits that this evidence supports approval of AEY's O&M forecast.

B. Forecasting Process

53. Mr. Massie outlined AEY's O&M forecasting process at the hearing, which is a detailed "line by line" process addressing each component of O&M anticipated in the Test Period:

> So, again, back to forecasting, you know, we look at our [indiscernible] and we would get historics, historical costs, just like we talked about; the warehouse is a very good example. And those one-of expenses that happen periodically. We factor all those into the test period. Diesel generation, top-ends are a big expense there that we factor in, and then yeah, we go line by line to build our forecast. So starting with labour, each position, their labour allocations, how much they work on O&M or capital. A bunch of that information is on

[94] Transcript, Vol. 1, PDF p. 68, lines 16-21.
[95] Transcript, Vol. 1, PDF p. 28, line 24 to PDF p. 29, line 1.
[96] Transcript, Vol. 1, PDF p. 69, lines 2-6.
[97] Exhibit B-1, PDF p. 114.

> the record. And then the programs that we run. We talked about brushing yesterday. We really look at those historical averages and then factor in the one-of expenses on top of that that need to be in place to maintain our system.[98]

54. This supports the robustness of AEY's O&M forecast with respect to each of the items discussed below and in the Application.

55. As discussed above, noted by Ms. Rogers at the hearing, AEY has kept its operational costs generally in line with inflation since the 2016-2017 GRA, despite the impact of O&M cost increases associated with significant capital projects, such as the CIS Replacement project.[99] This demonstrates the operational efficiencies AEY has found, which will be passed on to customers as a result of the resetting of rates through the current GRA process.

C. Discussion of O&M Cost Items

1. Oracle CCS Subscription Costs

56. Business Case #22 explains that AEY has transitioned from the ATCO Customer Information System ("**CIS**") to a new system called Oracle Customer Cloud Service Solution ("**CCS**").[100] As detailed in Section 1.4 of the Application and in AEY's response to AEY-YUB-001(e), following the implementation of the CIS Replacement Project, ongoing subscription costs associated with the new Oracle CCS program have been treated as O&M costs.[101] AEY submits that it has demonstrated the basis for this treatment with reference to applicable accounting standards and that the change in accounting practices is well-supported by the evidence on the record in the Application, Information Request responses, and oral testimony. In addition, as Ms. Rogers noted at the hearing, the Oracle CCS subscription costs are not significantly higher than licensing fees paid in the past, but they are reflected as annual fees in O&M rather than larger license fees that would have been capitalized at the outset of a system implementation with prior, non-cloud-based systems.[102]

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[98] Transcript, Vol. 1, PDF p. 32, line 23 to PDF p. 33, line 13.
[99] Transcript, Vol. 1, PDF p. 76, lines 1-10.
[100] Exhibit B-1.8, PDF p. 2.
[101] Exhibit B-1, PDF p. 11; Exhibit B-4, PDF p. 992.
[102] Transcript, Vol. 2, PDF p. 39, line 21 to PDF p. 40, line 4.

2. Distribution Costs – Brushing

57. During the hearing, Mr. Maissan questioned whether AEY's brushing costs could be varied from year-to-year without significant consequence given the variance observed in brushing cost actuals in prior years.[103] Mr. Badry and Mr. Massie explained that AEY has a five-year brushing plan, although the amount of brushing work done each year may vary according to factors such as the level of work required to brush an area, the weather, vegetation growth, and contractor availability.[104] However, Mr. Massie confirmed that brushing work is completed for the purpose of safety and keeping vegetation away from high voltage lines, highlighting the concern regarding potential wildfires that could arise if brushing work were to be deferred.[105] In AEY's submission, considering the safety interest associated with AEY's ability to fund and complete its brushing program, its proposed costs should be approved as requested.

VIII. TAXES OTHER THAN INCOME

58. In Section 6 of the GRA, AEY is forecasting property tax amounts of $285,000 in 2023 and $292,000 in 2024.[106]

59. The forecast increases over the Test Period are inflationary[107] and, as stated in AEY's response to AEY-UCG-040(b), AEY does not anticipate any additional increases from capital work planned in the Test Period.[108] The Board determined in Board Order 2017-01 that it was reasonable for AEY to forecast its Taxes Other Than Income for the 2016-2017 Test Period based on the application of relevant inflation rates to its 2015 actual property taxes.[109] Therefore, AEY submits that its Taxes Other Than Income forecast for the 2023-2024 Test Period is reasonable and should be approved as requested.

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[103] Transcript, Vol. 1, PDF p. 82, lines 20-24.
[104] Transcript, Vol. 1, PDF p. 83, lines 3-13; Transcript, Vol. 1, PDF p. 83, line 21 to PDF p. 84, line 17.
[105] Transcript, Vol. 1, PDF p. 84, line 21 to PDF p. 85, line 2.
[106] Exhibit B-1, PDF p. 123.
[107] Exhibit B-1, PDF p. 123.
[108] Exhibit B-4, PDF p. 464.
[109] Board Order 2017-01, *supra* note 17, p. 31.

IX. DEPRECIATION

A. Overview

60. Depreciation expenses are addressed in Section 7 of the GRA and further detailed in Schedules 7.1, 7.2, 7.3, and 7.4, as updated on October 30, 2023.[110] AEY's applied-for depreciation expenses in the Test Period are $8,664,000 in 2023 and $10,596,000 in 2024.[111] These amounts include net salvage expenses resulting from AEY's proposal to resume collection of negative net salvage, which is the primary reason for increases in depreciation expense in the Test Period compared with prior years.[112] As discussed below, AEY submits that its proposal to restart negative net salvage collection is both necessary, in order to ensure the funding of salvage requirements in upcoming years, and reasonable from an intergenerational equity perspective.

61. In order to provide the Board with a comprehensive Application based on the most up to date information, AEY engaged Concentric to complete a depreciation study and recommend depreciation parameters for the Application based on asset plant balances as of December 31, 2022. The study, prepared by Mr. Larry Kennedy of Concentric and updated in AEY's October 30, 2023 filing ("**Depreciation Study**"), is included as Attachment 1 to Section 7 of the Application.[113]

62. As demonstrated by his CV and discussion of his qualifications at the hearing,[114] Mr. Kennedy has extensive experience in the preparation of depreciation studies and providing independent expert evidence before various regulatory tribunals, including the Board. His expertise is uncontroverted, and his evidence provides a thorough, reliable, and credible basis for the Board in making its determination on AEY's depreciation expenses.

B. Reinstatement of Negative Net Salvage Collection

63. AEY must reinstate collection of net negative salvage in order to ensure that funding is available to support the increased amount of salvage work and site restoration that will be required in future years. As discussed in the Application, AEY's asset base is aging, resulting in increased salvage requirements in the Test Period compared to prior years.[115] As the asset base continues to

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[110] Exhibits B-10.2 and B-10.4.
[111] Exhibit B-10.2, Table 1, PDF p. 1.
[112] Exhibit B-10.2, PDF p. 1.
[113] Exhibit B-10.2, starting at PDF p. 56.
[114] Exhibit B-13, PDF pp. 17-30; Transcript, Vol. 4, p. 53, line 10 to PDF p. 54, line 19.
[115] Exhibit B-10.2, PDF p. 2.

age, further work will be required which cannot currently be funded by the balance in AEY's negative net salvage reserve.[116] This is noted in the Depreciation Study, and AEY's request to reinstate collection of negative net salvage is supported by Concentric's independent recommendation.[117] AEY submits that its proposal to reinstate collection is reasonable and prudent, and that it is important for collection to start now in order to minimize future intergenerational equity issues in the event large rate increases would be required to fund future salvage work.[118]

64. In discussions with Board counsel regarding the methodology used to estimate future salvage costs, Mr. Kennedy confirmed that the use of historical data related to actual retirement activity in estimating net salvage for AEY's accounts, which was the methodology applied in the Depreciation Study,[119] is a commonly used method and that allocation determinations, made with input from technical and operational personnel at the company, are considered to be a very reliable basis for analysis.[120] The allocation estimate method also avoids significant time and cost associated with tracking actual costs, which may not result in improved accuracy.[121]

65. AEY has proposed to reinstate collection in a prudent manner that considers intergenerational equity concerns. AEY's proposal accords with Concentric's recommendation to use the traditional methodology for the collection of net salvage which, as noted in the response to AEY-YUB-2-001(i), is a commonly used method that minimizes intergenerational inequity and volatility in revenue requirements related to large removal costs.[122] As demonstrated in the comments contained in AEY-YUB-2-001(i) Attachment 1,[123] other methods for net salvage collection would either impose additional administrative burden and complexity or increased uncertainty and intergenerational equity concerns when compared with the traditional method.

66. Additionally, in AEY's submission, the collection of net salvage should be applied on a global basis with respect to all of AEY's accounts. As explained by Mr. Kennedy, AEY's accounts are at various levels with respect to the balances available for future salvage requirements, and an

[116] Exhibit B-10.2, PDF p. 3.
[117] Exhibit B-10.2, Depreciation Study, PDF p. 68.
[118] See Exhibit B-10.2, Depreciation Study, PDF p. 68.
[119] Exhibit B-10.2, Depreciation Study, PDF p. 68.
[120] Transcript, Vol. 4, PDF p. 62, line 2 to PDF p. 63, line 5. See also Transcript, Vol. 4, PDF p. 87, lines 11-17.
[121] Transcript, Vol. 4, PDF p. 89, line 8 to PDF p. 91, line 13.
[122] Exhibit B-6, PDF p. 6.
[123] Exhibit B-6, PDF p. 30.

approach of only reinstating collection in certain accounts would leave some accounts to be addressed in the future and could introduce potential for errors due to the differing accounting procedures across the accounts.[124] AEY also requested that, in preparing the Depreciation Study, Concentric use a phase-in approach to reinstatement.[125] Accordingly, Concentric's estimates for net salvage requirements are based on the lower end of the assessed range for most of AEY's accounts.[126] As confirmed by Mr. Kennedy at the hearing, the moderated approach avoids significant rate increases for current ratepayers as collection is restarted.[127]

X. RETURN ON RATE BASE

A. Overview

67. As outlined in further detail below and in the Application, consistent with prior Board approval,[128] AEY is requesting that its Return on Equity ("**ROE**") in the 2023-2024 Test Period continue to be linked to the British Columbia Utilities Commission ("**BCUC**") Generic Cost of Capital ("**GCOC**") benchmark rate. AEY is also seeking a 75 basis point risk premium on the BCUC benchmark rate in order to account for AEY's greater business risk. This request is supported by the evidence of Mr. John Trogonoski of Concentric, who prepared an independent risk assessment for AEY, which is included as Attachment 8.1 to the Application (the "**Risk Assessment**").[129] AEY is requesting a total ROE of 10.40 percent. AEY is also seeking a continuation of its currently approved common equity ratio of 40 percent for the Test Period.

68. In the BCUC Stage 1 GCOC decision,[130] the BCUC approved an ROE of 9.65 percent for both FortisBC Energy, Inc. ("**FEI**"), the previous BCUC benchmark utility, as well as FortisBC Electric ("**FBC**").[131] This was in conjunction with adjustments to each utility's equity ratio so that FBC now has a deemed equity ratio of 41 percent and FEI has a deemed equity ratio of 45 percent.[132] The BCUC has not yet determined which of FBC and FEI will be the new BCUC benchmark.[133] In AEY's submission, the Risk Assessment discussed below demonstrates that AEY

124 Transcript, Vol. 4, PDF p. 85, lines 4-17 and PDF p. 86, lines 17-22.
125 Exhibit B-10.2, PDF p. 3.
126 Exhibit B-10.2, Depreciation Study, PDF p. 69.
127 Transcript, Vol. 4, PDF p. 92, lines 16-24.
128 Board Order 2017-01, *supra* note 17 at paras 180-82, p. 37.
129 Exhibit B-1, starting at PDF p. 136. See also Exhibits B-11.1 and B-11.2.
130 BCUC, Generic Cost of Capital Proceeding (Stage 1), Decision and Order G-236-23 (September 5, 2023) **[TAB 6]**.
131 Exhibit B-4, AEY response to AEY-YUB-022(a), PDF p. 1101.
132 Exhibit B-4, AEY response to AEY-YUB-022(a), PDF p. 1101.
133 Exhibit B-4, AEY response to AEY-YUB-022(a), PDF p. 1101.

experiences higher business risk than both FBC and FEI and that AEY's requested 75 basis point risk premium over the 9.65 percent ROE is appropriate regardless of which utility becomes the new benchmark.[134]

B. Return on Equity

1. Benchmark Rate

69. In Board Order 2017-01, the Board affirmed that it has been its precedent and practice to use a benchmark from British Columbia to determine the ROE.[135] In AEY's submission, the BCUC GCOC benchmark rate remains the most appropriate benchmark as it has been recently reviewed through a fully litigated process and has previously been accepted by the Board. Therefore, 9.65 percent should be used as the starting point for a determination of AEY's ROE.

2. Risk Premium

(a) Requested Risk Premium

70. As noted above, AEY is requesting that a risk premium of 75 basis points be added to the BCUC GCOC benchmark rate of 9.65 percent. This is supported by the independent evidence of Concentric in the Risk Assessment and Mr. Trogonoski's testimony at the hearing.

71. Having considered the relevant risk of AEY in relation to appropriate comparator utilities,[136] Concentric concluded that a risk premium between 40 and 100 basis points is appropriate for AEY as compared to the BCUC benchmark utility.[137] From within that range, Concentric determined that a 75 basis point risk premium is reasonable, if not conservative.[138] Concentric determined that AEY has greater business risk than FBC, which is more than seven times larger than AEY in terms of customers[139] and, as set out above, has an authorized ROE of 9.65 percent on 41.0 percent common equity, compared to 40 percent for AEY. Concentric also considers AEY to have higher business risk than FEI, which is substantially larger than AEY[140] and has an authorized ROE of 9.65 percent on 45.0 percent common equity. Concentric considers

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[134] Because FBC and FEI have the same allowed ROEs, AEY submits that its requested ROE applies in either case.
[135] Board Order 2017-01, *supra* note 17 at paras 180-82, p. 37.
[136] Exhibit B-1, Risk Assessment, Figure 1, PDF p. 141.
[137] Exhibit B-1, Risk Assessment, p. 6, PDF p. 144.
[138] Exhibit B-1, Risk Assessment, p. 6, PDF p. 144.
[139] Exhibit B-1, Risk Assessment, pp. 4-5, PDF pp. 142-43; Exhibit B-11.1.
[140] Exhibit B-1, Risk Assessment, p. 4, PDF p. 142; Exhibit B-11.1.

AEY to have lower business risk than only one of its peers, PNG-West, which has a current risk premium of 75 basis points above the BC benchmark but also has an equity ratio of 46.5 percent that accounts for its higher business risk.[141]

72. Mr. Trogonoski, and Concentric more generally, is an independent and well-respected expert consultant in the field of utility cost of capital and business risk analysis. Mr. Trogonoski is also particularly well-placed to speak to AEY's business risk considering his relevant experience. As indicated in his testimony, Mr. Trogonoski assisted with the development of Concentric's business risk evidence which was submitted in AEY's 2016-2017 GRA, and was also intimately involved in the recent BCUC GCOC proceeding as a consultant working on behalf of FEI and FBC.[142] Mr. Trogonoski's curriculum vitae also demonstrates his significant experience in the field, both as an independent expert for utility companies and as an employee of the Colorado Public Utilities Commission.[143] Mr. Trogonoski's expertise and independence is uncontroverted, which should be considered by the Board in its assessment of AEY's evidence in relation to the requested risk premium.

73. Given that no Intervener submitted any evidence, AEY's evidence is the only evidence before the Board and, in AEY's submission, Concentric has provided a comprehensive and reliable assessment which should form the basis of the Board's decision with respect to AEY's requested risk premium. The subsections below provide further detail regarding the aspects of AEY's requested risk premium that were the subject of increased interest in Information Requests and at the hearing.

(b) Comparator Utilities

74. The Risk Assessment considers AEY's relative risk compared with a proxy group comprised of Canadian electric and gas utilities, selected by Concentric for the purpose of preparing its assessment, as well as other data regarding other companies or averages of company groups.[144] As Mr. Trogonoski noted at the hearing, all of the comparator Canadian electric and gas utilities are part of a holding group or have a larger parent company,[145] and depend on their parent

[141] Exhibit B-1, Risk Assessment, p. 4, PDF p. 142; Exhibit B-11.1.
[142] Transcript, Vol. 3, PDF p. 134, lines 2-16.
[143] Exhibit B-13, PDF pp. 9-16.
[144] Exhibit B-1, PDF p. 141; Exhibit B-11.1.
[145] Transcript, Vol. 3, PDF p. 185, lines 5-12.

company for equity, as does AEY.[146] Mr. Trogonoski confirmed that Concentric's selected comparators are considered to have similar risk to AEY, and that a consideration of similar risk for comparators is consistent with the components of the Fair Return Standard.[147]

75. YEC is not included as a comparator utility in the Risk Assessment. In AEY's submission and as explained in its response to AEY-YUB-023(a) and (b), prepared by Concentric, AEY does not consider YEC to be a comparable utility to AEY for the purposes of assessing AEY's ROE.[148] Accordingly, AEY would not consider it appropriate to assess AEY's risk against that of YEC, or to use Board findings with respect to YEC's risk relative to FEI in order to assess AEY's risk relative to FEI through any type of transitive property analysis.[149]

76. At the hearing, Board counsel raised the Board's prior findings in the YEC 2017-2018 GRA that the overall risk of YEC is greater than that of FBC and AEY, and stated that the Board had determined that AEY was comparable to YEC in that decision.[150] On this issue, Mr. Trogonoski stated that, in his expert opinion, smaller distribution utilities are a more appropriate comparator for AEY, particularly investor-owned and publicly held companies.[151] In comparison, YEC is a government-owned utility that owns primarily generation assets and serves industrial customers.[152] AEY submits that the fact that the Board has historically set both AEY's and YEC's ROE based on the BCUC benchmark in no way makes the two companies benchmarks or comparators for each other.[153] As noted by Mr. Trogonoski, the Board's process has historically been to rely on the BCUC benchmark and add a risk premium to that BCUC benchmark percent,[154] and AEY submits that the Board should continue to do so in this case. To AEY's knowledge, the Board has never considered AEY's or YEC's approved ROE as a benchmark for the other and adjusted it according to risk. In AEY's submission, it is important to consider companies that are comparable to AEY with respect to their business and financial risk and how they would be assessed in the market, as

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[146] Transcript, Vol. 4, PDF p. 9, line 23 to PDF p. 10, line 2.
[147] Transcript, Vol. 4, PDF p. 19, lines 6-22.
[148] Exhibit B-4, PDF pp. 1102-03.
[149] See Transcript, Vol. 4, PDF p. 36, line 24 to PDF p. 37, line 5 regarding Board counsel's reference to the transitive property.
[150] Transcript, Vol. 4, PDF p. 7, line 16 to PDF p. 8, line 2.
[151] Transcript, Vol. 4, PDF p. 8, lines 12-21.
[152] See Exhibit B-4, AEY response to AEY-YUB-023(a), PDF p. 1102.
[153] See proposition by Board counsel at Transcript, Vol. 4, PDF p. 11, line 22 to PDF p. 12, line 1.
[154] Transcript, Vol. 4, PDF p. 12, lines 2-9.

discussed above and consistent with the Fair Return Standard. To do otherwise would, in AEY's respectful submission, introduce circularity into the Board's decision making process in this regard.

77. AEY respectfully submits that it would be incorrect to find that, as raised by Board counsel, FBC has greater ROE risk than AEY on the basis that the Board has previously found that YEC has a greater ROE risk than AEY and similar ROE risk to FBC.[155] This is a simplified analysis that does not account for differing utility characteristics between YEC and AEY, discussed above, and does not appear to consider whether the Board compared YEC with AEY and with FBC on a similar basis. In comparison to this indirect form of analysis, Concentric has provided a detailed and up to date assessment that specifically considers AEY's characteristics and its risk in comparison to FBC. In AEY's submission, this represents far more reliable evidence on which to base a decision. Mr. Trogonoski emphasized at the hearing that AEY is substantially smaller than FBC, which is the primary reason for his assessment that FBC has lower risk.[156]

78. During the hearing, Board counsel posed some questions to Mr. Trogonoski regarding whether the cost of capital formula used in utility regulation in Ontario would be similar to incentive regulation.[157] In AEY's submission, as supported by Mr. Trogonoski's testimony,[158] a formulaic approach to determining a utility's cost of capital such as that used by the Ontario Energy Board, and recently adopted by the Alberta Utilities Commission in Proceeding 27084, is fundamentally different than a performance-based regulation ("**PBR**") plan. A PBR plan does not specifically (or at all) relate to the establishment of cost of capital parameters.

(c) Small Size Risk

79. Concentric determined that the risk factor that most distinguishes AEY from comparable utilities, and that drives Concentric's risk premium recommendation, is AEY's very small size.[159] Not only are smaller companies typically more unpredictable to invest in, requiring higher returns, AEY's small size magnifies risk from other factors because AEY's fixed costs are spread across a small customer and revenue base.[160]

[155] See Transcript, Vol. 4, PDF p. 37, lines 1-5 (based on the transitive property of math, discussed at PDF p. 36, line 24 to PDF p. 37, line 1)
[156] Transcript, Vol. 4, PDF p. 37, lines 6-18.
[157] Transcript, Vol. 4, starting at PDF p. 16, line 16.
[158] Transcript, Vol. 4, PDF p. 16, line 16 to PDF p. 18, line 16.
[159] Exhibit B-1, Risk Assessment, p. 19, PDF p. 157 and p. 26, PDF p. 164; Transcript, Vol. 3, PDF p. 183, lines 17-18.
[160] Exhibit B-1, Risk Assessment, p. 20, PDF p. 158.

80. The Board has previously recognized that small size is a distinguishing risk factor for AEY that justifies a risk premium.[161] The Board approved a risk premium of 25 basis points in AEY's 2016-2017 GRA in recognition of AEY's higher business risk due to its small size in comparison with its peers.[162] In AEY's respectful submission, a risk premium of 25 basis points is not sufficient to account for the very small size of AEY which, as detailed in the Risk Assessment, represents a significant risk in comparison to FEI and other utilities and tends to amplify other business risks AEY faces.

81. The Risk Assessment presents additional evidence to the Board from what was provided in the 2016-2017 GRA by including an assessment of historical market return data from Kroll to support Concentric's estimate of the magnitude of AEY's small size risk premium.[163] Kroll is a well-regarded risk and financial solutions company established in 1932. The company provides market return data back to 1926,[164] including data on the small size premium for various companies which are categorized into deciles according to their market capitalization.[165] Mr. Trogonoski noted that the Federal Energy Regulatory Commission in the United States uses the Kroll data when setting ROEs for electric transmission companies.[166] It is therefore a broad and reliable dataset. Concentric used the Kroll data to assist with its assessment of AEY's risk based on size, which is determined according to AEY's implied market capitalization, and that of comparators, within a larger range of company data.[167] The Kroll data supports a small size premium of over 400 basis points for a company of AEY's size.[168] It also indicates that AEY's size premium is approximately 390 basis points higher than a company the size of FEI, supporting Concentric's conservative recommendation of a 0.75 percent risk premium.[169]

(d) Other Risk Drivers

82. AEY also faces business risks apart from its small size, including from generation, fuel and purchased power, volume/demand, the regulatory environment (including energy transition policies and legislation), and competition from alternative fuels. These risks are discussed in

[161] Board Order 2017-01, *supra* note 17 at paras 202-21, pp. 40-44.
[162] *Ibid*.
[163] Exhibit B-1, Risk Assessment, p. 21, PDF p. 159; see also Exhibit B-11.2
[164] Transcript, Vol. 4, PDF p. 41, line 25 to PDF p. 42, line 2.
[165] Exhibit B-1, Risk Assessment, p. 21, PDF p. 159; see also Exhibit B-11.2.
[166] Transcript, Vol. 4, PDF p. 42, lines 17-20.
[167] Exhibit B-1, Risk Assessment, p. 21, PDF p. 159; Exhibit B-11.2.
[168] Exhibit B-1, Risk Assessment, p. 21, PDF p. 159.
[169] Exhibit B-1, Risk Assessment, p. 21, PDF p. 159.

comparison to appropriate comparators in Section IV of the Risk Assessment.[170] Concentric also discusses the changes in AEY's business risk since it was last before the Board for its 2016-2017 GRA.[171] Concentric's analysis regarding each factor is thorough and demonstrates that, although AEY's risk is driven dominantly by its small size, there are other factors which increase and amplify that risk and should be considered in setting AEY's ROE.

83. In particular, as Mr. Trogonoski explained at the hearing, AEY faces risk from the energy transition taking place which includes the need to make capital investments to respond to changing behavioural and policy conditions, such as electrification and EV uptake.[172] The elevated capital spending requires additional capital, and AEY must offer a competitive return in order to attract that funding and ensure that it can finance its capital investments.[173]

84. It is important to recognize that even though AEY may see some benefit from some of the energy transition changes that are taking place, such as customer adoption of electric heating, the simple fact is that the level of uncertainty around energy transition impacts currently presents more risk than benefit. In this regard, Mr. Trogonoski testified as follows:

> So certainly if everything works the way that the government policy would like it to, then there are opportunities for AEY to have higher sales, but in the – in the meantime, the company is in the position of not knowing for sure what the policy is going to be and how it's going to be implemented, and also they have to start building something now to respond to the policy, not knowing if customers are going to want to switch.[174]

85. Mr. Trogonoski was unequivocal in his evidence that the energy transition risks have arisen since AEY's 2016-2017 GRA and, although energy transition will continue to develop in the coming years, it is already taking place.[175] AEY's witnesses also provided detailed explanations of the risk and uncertainty presented by current energy transition initiatives. In response to questions from the NDP, Mr. Massie explained that AEY is already responding to policies regarding IPP power production, micro-generation, and electric vehicle chargers, and has started the first phase

[170] Exhibit B-1, Risk Assessment, starting at p. 17, PDF p. 155.
[171] Exhibit B-1, Risk Assessment, starting at p. 27, PDF p. 165.
[172] Transcript, Vol. 3, PDF p. 144, lines 6-9.
[173] Transcript, Vol. 3, PDF p. 144, lines 10-22.
[174] Transcript, Vol. 3, PDF p. 145, lines 14-22.
[175] Transcript, Vol. 3, PDF p. 146, lines 5-23; Transcript, Vol. 3, p. 147, lines 7-20.

of AMI as a grid modernization initiative.[176] It is important to understand that the uncertainty alone presents risk; AEY does not have to be experiencing actual losses in order for risk to be present.

86. Moreover, Ms. Rogers confirmed during her testimony that utility regulators in other jurisdictions, such as the BCUC and the AUC, have recognized the risks to utilities presented by the energy transition, either by way of increases to deemed equity ratios or mechanisms to allow utilities to come forward to seek incremental funding due to energy transition policies and legislation.[177] In AEY's submission, the Board should similarly recognize these risks.

87. Although AEY's business risk in relation to the energy transition garnered significant attention from Interveners at the hearing, as discussed in the Risk Assessment and at the hearing, the primary focus of the Risk Assessment and Concentric's recommended risk premium is AEY's small size.

88. Mr. Maissan also questioned Mr. Trogonoski with respect to AEY's weather-related risk. With respect to the question of whether AEY's risk premium should be lower than that of maritime utilities because AEY experiences fewer storms,[178] Mr. Trogonoski explained that AEY would not necessarily experience lower risk simply because it faces different weather conditions.[179] AEY experiences low temperatures, damaging winds, and wildfires.[180] In addition, Mr. Trogonoski noted that Newfoundland Power customers are "not as widely dispersed across such a region as what is true in AEY's service territory."[181] Although Newfoundland Power has remote customers, many are more centrally located.[182] In comparison, Mr. Trogonoski stated that AEY serves a number of remote communities in remote locations.[183] The fact that AEY serves many remote communities limits its ability to respond to weather-related service issues.[184] Mr. Trogonoski confirmed that Concentric has done work for Newfoundland Power and he is familiar with its territory when speaking to this comparison.[185] He similarly noted that it is difficult to compare the risk of climate change for maritime utilities (for example, from hurricanes) to the risk for AEY

[176] Transcript, Vol. 3, PDF p. 175, lines 8-15.
[177] Transcript, Vol. 3, PDF p. 148, lines 1-20.
[178] Transcript, Vol. 3, PDF p. 138, lines 12-25.
[179] Transcript, Vol. 3, PDF p. 139, line 2 to PDF p. 141, line 11.
[180] Transcript, Vol. 3, PDF p. 140, lines 13-17.
[181] Transcript, Vol. 3, PDF p. 140, lines 23-25
[182] Transcript, Vol. 3, PDF p. 140, lines 22-23 and PDF p. 141, lines 7-9.
[183] Transcript, Vol. 3, PDF p. 139, lines 18-20.
[184] Transcript, Vol. 3, PDF p. 139, lines 18-25.
[185] Transcript, Vol. 3, PDF p. 141, lines 4-7.

(for example, from wildfires).[186] Mr. Trogonoski's responses were clear and well-informed, and no evidence has been submitted that would contradict Concentric's expert opinion in this regard. Accordingly, any suggestion that AEY's risk premium should be lower due to the nature of its weather-related risk should be disregarded. Mr. Trogonoski also confirmed that Concentric's risk premium recommendation considered weather-related risk but does not depend on this factor.[187]

(e) Application of the Standalone Principle

89. As discussed in the Application,[188] and based on Concentric's independent opinion,[189] AEY submits that the Board should consider the Standalone Principle in assessing AEY's requested risk premium.

90. The Risk Assessment provides the following description of the Standalone Principle:

> The stand-alone principle provides that the utility must be regulated as if it were a stand-alone entity. In this way, capital may be efficiently allocated, with each business segment earning a return based on its own unique set of risks and business characteristics regardless of affiliations within the holding company structure. In order to establish a fair return and satisfy the standalone principle, the utility must be authorized a return sufficient to meet all three requirements of the Fair Return Standard on the basis of the utility's individual merits.[190]

91. The Standalone Principle is widely accepted by Canadian regulators, including the BCUC, Alberta Utilities Commission ("**AUC**"), and the Ontario Energy Board.[191]

92. Given that AEY is wholly owned by ATCO Electric, which is a wholly owned subsidiary of CU Inc. ("**CUI**"), AEY's customers benefit from cost savings due to AEY's ability to access debt and equity capital through CUI.[192] In response to questions from the NDP Caucus regarding the application of the Standalone Principle, Mr. Trogonoski explained that although customers benefit from AEY's affiliation with CUI on the debt side of AEY's capital structure, Concentric's opinion is that the Board should apply the Standalone Principle when setting AEY's ROE, which would be consistent with the practice of many Canadian utility regulators.[193]

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[186] Transcript, Vol. 3, PDF p. 141, line 13 to PDF p. 142, line 6.
[187] Transcript, Vol. 3, PDF p. 142, lines 7-17.
[188] Exhibit B-1, PDF p. 128.
[189] Exhibit B-1, Risk Assessment, pp. 9-10, PDF pp. 147-48.
[190] Exhibit B-1, Risk Assessment, p. 9, PDF p. 147.
[191] Exhibit B-1, Risk Assessment, p. 9, PDF p. 147; Transcript, Vol. 3, PDF p. 167, line 21 to PDF p. 168, line 2.
[192] Exhibit B-1, Risk Assessment, pp. 9-10, PDF pp. 147-48.
[193] Transcript, Vol. 3, PDF p. 166, line 4 to PDF p, 167, line 7 and PDF p. 167, line 15 to PDF p. 168, line 2.

93. Because the AUC accepts the Standalone Principle, the AUC's assessment of ATCO Electric's risk does not consider the risk associated with its ownership of AEY (which is riskier due to its small size and because it operates in a northern jurisdiction).[194] However, because the Board has previously declined to recognize the Standalone Principle, the Board's assessment of AEY's risk does not account for its risk as a standalone utility operating in a northern jurisdiction. Therefore, there is an element of AEY's business risk that is not recognized anywhere. AEY submits that this risk should be accounted for in its ROE.[195]

94. During the hearing, Board counsel questioned Mr. Trogonoski about whether the Board had recognized the Standalone Principle through its use of the BCUC benchmark or in its award of a small size premium in AEY's 2016-2017 GRA.[196] It is AEY's understanding that the Board has not explicitly accepted the Standalone Principle. The Board previously rejected the application of the Standalone Principle in determining AEY's ROE due to AEY's contribution to the size, diversification, and capital structure of ATCO Electric, as well as other influence and transaction between the two companies.[197] In AEY's respectful submission, this basis for rejecting the Standalone Principle takes a narrow view which, in addition to being inconsistent with most Canadian regulators, fails to recognize that risk goes unaccounted for where the Board does not recognize the Standalone Principle and the AUC does. As noted by Mr. Trogonoski and as set out above, Concentric's view is that the market looks at companies individually[198] and AEY submits that the Board should do the same.

(f) Historical Earnings Do Not Impact Future Risk

95. Several Interveners raised AEY's historical earnings in IRs and in cross-examination in relation to AEY's requested ROE for the Test Period, including Mr. Maissan, who submitted Exhibit C3-9, which sets out AEY's historic approved and actual ROE. In AEY's submission, it has provided extensive evidence in this proceeding to allow the Board to assess its requested ROE

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[194] Exhibit B-4, AEY response to AEY-YUB-023(c), PDF pp. 1103-04; see also Transcript, Vol. 3, p. 168, lines 12-21.
[195] Exhibit B-4, AEY response to AEY-YUB-023(c), PDF pp. 1104.
[196] Transcript, Vol. 4, PDF p. 44, line 25 to PDF p. 45, line 14.
[197] Board Order 2009-02, Appendix A – Reasons for Decision, p. 26 [Board Order 2009-02] **[TAB 7]**; Board Order 2014-06, *supra* note 15, starting at p. 54; Board Order 2015-02, Appendix A – Reasons for Decision, pp. 9-10 **[TAB 8]**. In those decisions, the Board used the BCUC benchmark rate in setting AEY's ROE but explicitly rejected the use of the Standalone Principle.
[198] Transcript, Vol. 3, PDF p. 170, lines 24-25.

on a prospective basis, in accordance with utility ratemaking principles, and it would not be relevant or appropriate to look to AEY's historic earnings as an indicator for the coming years.

96. Utility rates are set on a prospective basis. As determined by the Supreme Court of Canada in *Northwestern Utilities Ltd and al v Edmonton*:

> It is conceded of course that the Act does not prevent the Board from taking into account past experience in order to forecast more accurately future revenues and expenses of a utility. It is quite a different thing to design a future rate to recover for the utility a "loss" incurred or a revenue deficiency suffered in a period preceding the date of a current application. A crystallized or capitalized loss is, in any case, to be excluded from inclusion in the ratebase and therefore may not be reflected in rates to be established for future periods.[199]

97. For example, in the Alberta Court of Appeal decision *Re City of Calgary and Home oil Company Limited*, the Court determined that the Board of Public Utility Commissioners could only deal with rates prospectively, and did not have jurisdiction to deal with or dispose of amounts that a utility had earned in excess of a previously-established rate of return.[200]

98. In any event, the fact that AEY experienced higher revenues in recent years does not indicate that it will continue to experience higher revenues in the Test Period. As noted by Mr. Massie, in prior years AEY has not been in an over-earnings situation, such as the 10-year period from 1997-2007, when AEY's costs and revenues were generally aligned outside of the relevant test period.[201] This is also reflected in some years listed in Exhibit C3-9. With respect to the Test Period, AEY has indicated that it anticipates cost pressures from high capital requirements in the years following the Test Period, which would offset revenue increases from factors such as customer growth.[202] AEY also provided its year-to-date actual O&M costs by way of an undertaking during the hearing, indicating that its O&M costs as of October 31, 2023 were $12.9 million and that it is forecasting to come in at $14.9 million for 2023.[203] This indicates that AEY is tracking to have higher O&M expenses than the $14.5 million forecast for 2023.[204] Finally, Mr. Trogonoski noted that risks are changing for the industry as a result of energy transition and, given that cost of capital is forward-looking and there are various factors that could change in future

[199] 1978 CanLII 17 (SCC), [1979] 1 SCR 684 at 699 **[TAB 9]**.
[200] 1959 CanLII 308 (AB CA), 19 DLR (2d) 655 at 661 **[TAB 10]**.
[201] Transcript, Vol. 2, PDF p. 98, line 24 to PDF p. 99, line 5.
[202] Transcript, Vol. 2, PDF p. 97, lines 7-16.
[203] Transcript, Vol. 4, PDF p. 5, lines 1-4.
[204] Exhibit B-10.4, Schedule 5.1, line 58, column N.

years, prior earnings do not necessarily indicate continued performance.[205] These are just some of the considerations which support prospective ratemaking and render prior earnings irrelevant to the consideration of AEY's ROE on a go-forward basis.

C. Equity Ratio

99. As set out above and in the Application, AEY is seeking continuation of its 40 percent equity ratio.[206] However, there is a relationship between AEY's equity ratio and the requested risk premium, as noted by Ms. Rogers at the hearing.[207] AEY submits that this relationship should be considered in the Board's decision on AEY's ROE.

100. Concentric's Risk Assessment explains that when a firm has a lower common equity ratio, a higher rate of return is required in order to compensate shareholders for additional financial risk (i.e., the amount of debt in the utility's capital structure, since the firm must meet its fixed debt obligations prior to issuing shareholder returns).[208] Higher risk may also be compensated for by increasing a company's equity ratio. As noted by Mr. Trogonoski, in the recent BCUC GCOC decision, the BCUC indicated that it chose to increase the equity ratio for FEI in recognition of energy transition risk.[209] Although not explicitly stated in the decision, Mr. Trogonoski opined that the BCUC decision to also raise the equity ratio of FBC by one percent suggests recognition of its increased risk as well.[210]

101. Considering the above, if the Board is not prepared to approve AEY's requested risk premium and does not change AEY's deemed equity ratio, then AEY will not be adequately compensated for its financial and business risk. In AEY's submission, this would not provide AEY with an opportunity to earn a fair return as required under the *Public Utilities Act*[211] and applicable ratemaking principles.

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[205] Transcript, Vol. 3, PDF p. 149, line 20 to PDF p. 150, line 16.
[206] Exhibit B-1, Application, s 8.2.4, PDF p. 130.
[207] Transcript, Vol. 1, PDF p. 29, lines 10-18.
[208] Exhibit B-1, PDF p. 148.
[209] Transcript, Vol. 3, PDF p. 143, lines 6-12.
[210] Transcript, Vol. 3, PDF p. 34, lines 2-15.
[211] RSY 2002, c 186, s 32 **[TAB 11]**.

D. Debt Rates

102. As stated on page 8-4 of the Application, AEY is forecasting to issue long term debt in the Test Period.[212] Table 8.2 provides AEY's forecast debenture rates.[213]

103. AEY uses the best information available at the time it prepares its debt rate forecasts[214] and submits that they are reasonable and should be approved by the Board. AEY notes that no parties appear to have suggested otherwise.

E. Reserve for Injuries and Damages

104. The Reserve for Injuries and Damages ("**RID**") is discussed on pages 8-5 and 8-6 of the Application.[215] As stated on those pages, the RID is used for uninsured and uninsurable losses and the deductible portion of insurance claims. The use of the RID mitigates rate fluctuations associated with O&M impacts for such losses and avoids the need for payment of higher insurance premiums in certain circumstances. AEY included one item in the RID account related to the Fish Lake Unit 2 Bearing Failure in 2016, described in Attachment 8.2 to the Application.[216]

105. Due to the fact that there was a period of time without an incident requiring use of the RID, AEY proposes to refund a portion of the balance in the RID which had been collected in previously approved rates for potential events.[217] AEY submits that this is a prudent proposal, which will maintain previously approved reserve balances for potential future events.[218]

106. As discussed at the hearing, although not relevant to any items currently included in the RID, AEY carries insurance for main property such as buildings, generation assets, and vehicles in the event of wildfire losses, and is self-insured through the RID in the event of other wildfire-related losses such as line damage.[219] At this time, line insurance is increasingly expensive and more difficult to obtain.[220] The Alberta Utilities Commission has previously acknowledged the high expense of insurance premiums and deductibles related to wildfire and determined that it is

[212] Exhibit B-1, PDF p. 130.
[213] Exhibit B-1, PDF p. 131.
[214] Exhibit B-1, PDF p. 130.
[215] Exhibit B-1, PDF pp. 131-32.
[216] Exhibit B-1, PDF p. 172.
[217] Exhibit B-1, s 8.2.6, para 24, PDF pp. 131-32.
[218] Exhibit B-1, s 8.2.6, para 24, PDF pp. 131-32.
[219] Transcript, Vol. 1, PDF p. 37, line 12 to PDF p. 38, line 6; AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 11, PDF pp. 640-41..
[220] Transcript, Vol. 1, PDF p. 37, lines 20-24.

prudent for ATCO Electric Ltd. to self-insure against wildfire risks, as acknowledged by the Alberta Court of Appeal in its recent decision in *ATCO Electric Ltd v Alberta Utilities Commission*.[221] As Ms. Rogers noted, self-insurance is typical for electrical utilities in Alberta.[222] Accordingly, in AEY's submission, its approach of self-insuring for certain wildfire losses is both reasonable and consistent with approved practice in other jurisdictions.

F. Deferred Charges and Credits

107. AEY's deferred charges and credit amounts include its: (a) Rate Case Reserve; (b) Watson Lake Study Costs; (c) Defined Benefit Pension Deferral; and (d) Independent Power Producer Deferral.[223] The proposed IPP Deferral, discussed above in Section V.2 of this Argument, includes legal costs incurred with respect to setting up EPAs with IPPs, which are shown in Schedule 8.8.[224]

XI. CAPITAL EXPENDITURES AND ADDITIONS

A. Overview

108. AEY is seeking Board approval of its forecast capital program for the Test Period, as well as approval of its 2023 opening rate base, which is comprised of capital additions and depreciation for unapproved projects completed in the years 2016-2022 on a final basis.[225] As discussed in the Application, AEY has been executing a growing capital program, with growth continuing into 2023, in order to meet significant load growth from Yukon's growing population by ensuring continuation of safe and reliable services and strengthening its grid.[226] While AEY is seeking approval of significant forecast capital additions and expenditures, AEY submits that it has provided comprehensive support detailing the need for, and benefits of, its capital projects.

109. AEY does not propose to address each of its capital projects in Argument, but, rather, will focus on those issues and projects that attracted the most attention in information requests and at the oral hearing. AEY provided extensive information in the Application, including Business Cases in accordance with past Board direction,[227] and has provided further information by way of

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[221] 2023 ABCA 129 at para 5 **[TAB 12]**.
[222] Transcript, Vol. 1, PDF p. 37, lines 16-20.
[223] Exhibit B-1, PDF pp. 133-34.
[224] Exhibit B-10.2.
[225] Exhibit B-1, Section 9, starting at PDF p. 173.
[226] Exhibit B-1, PDF pp. 173-74.
[227] Exhibit B-1, PDF pp. 179-80; Board Order 2009-02, *supra* note 197, p. 37; Board Order 2014-06, *supra* note 15, pp. 64, 71; see also AEY's response to AEY-UCG-059, Exhibit B-4, starting at PDF p. 662.

information requests and in the oral hearing. Based on this evidence, AEY submits that the expenses for all proposed capital additions are prudent and reasonable.

B. Contribution Work in Progress

110. AEY has proposed the removal of contributions related to work in progress from the computation of rate base, consistent with the exclusion of the corresponding construction work in progress.[228] As explained by Ms. Rogers, it is more accurate to apply the funding of the contribution to the project to which it relates.[229] Furthermore, excluding contribution work in progress from rate base smooths out the rate base and revenue requirement trends over the long term, reduces AFUDC accumulated on related projects, and more accurately represents AEY's annual returns and rate base balances.[230]

C. Inclusion of Business Cases Outside of the Test Period

111. Business cases from the years 2016 to 2022 are provided because AEY's capital additions from prior years are included in its opening rate base for the current Application.[231] As detailed in AEY's response to AEY-UCG-057, the inclusion of prior years' business cases in the Application does not constitute retroactive or retrospective ratemaking.[232] AEY's net cost of capital, which incorporates capital expenditures and additions for non-test years, is included in the 2023-2024 revenue requirement on a prospective basis and is subject to Board review and approval as part of opening rate base.

112. As explained by Ms. Rogers, capital growth outside of a test period that is outside of an approved revenue requirement is funded by the utility, either through sales growth or other avenues such as finding efficiencies, decreasing O&M expenditures, or sourcing lower-cost debt.[233] Projects which are capitalized outside of test periods are not incorporated into rates, and AEY does not earn a return on the additions to rate base, until AEY brings an Application before the Board

[228] Exhibit B-1, PDF pp. 11-12.
[229] Transcript, Vol. 3, PDF p. 13, lines 12-20.
[230] Exhibit B-1, PDF p. 12.
[231] Transcript, Vol. 2, PDF p. 26, lines 6-12.
[232] Exhibit B-4, PDF p. 658.
[233] Transcript, Vol. 1, PDF p. 108, lines 16-19; Transcript, Vol. 1, PDF p. 109, lines 20-23; Transcript, Vol 2, PDF p. 26, lines 18-23.

which includes the additions in opening rate base.[234] AEY does not seek to collect annual costs or depreciation associated with capital additions from prior years as part of its current Application.[235]

113. AEY also provided three Business Cases (#39 to 41) for which AEY is seeking Board approval of costs that are forecast to be incurred, but not capitalized, within the Test Period.[236] This is in order to notify the Board and other stakeholders that AEY anticipates the need for large capital expenditures shortly outside of the Test Period.[237]

D. Capacity to Complete Forecast Capital Program

114. In AEY's submission, the evidence on the record demonstrates that AEY has the capacity to meet its forecast capital program in the Test Period.

115. Responding to a question from Mr. Maissan regarding AEY's capacity to meet its capital forecast, Mr. Massie explained:

> …the other thing I'd point out, it is a large capital program for '23 and '24. There are a couple large projects that are – that lead to it. You know, there's the – our normal baseline level of distribution improvements and generation projects. Then we layer on a couple big anomalies. The CCS project, the billing system is an example. It's – that was 8.4 million, and it's in service. So it's done. We have two substations that are coming online, so another two separate projects which are between the two of them are 5 to 6 million dollars. So they are – they are on track.
>
> So, say – you know, there is that baseline capital that we're going to need to keep improving the system. There's new extensions which are quite significant in these two years between the line new extensions as well as the renewables, which are in the neighbourhood of 9 million. So there's a few one-offs in there that make this such an intensive capital year or test period, I should say. But we are on track, and we're confident that we're going to remain on track.[238]

116. In response to a question from Board counsel regarding how AEY will manage its proposed capital program, Mr. Badry explained:

> To complete these projects, we are going to enlist the procurement of contractors as well as our local resources to complete. As mentioned, a lot of this equipment has been

[234] Transcript, Vol. 1, PDF p. 109, lines 8-11; Transcript, Vol 2, PDF p. 26, lines 6-12 and 16-18.
[235] Exhibit B-4, PDF p. 658; see also Transcript, Vol. 2, PDF p. 100, lines 6-14.
[236] Exhibit B-4, PDF p. 181; Exhibit B-1.9.
[237] Exhibit B-4, PDF p. 181.
[238] Transcript, Vol. 1, PDF p. 106, line 20 to PDF p. 107, line 15.

> preordered. Some of it is in our possession and some of it will be here next year, ready to construct. Yeah. As well the final designs have been completed and ready to go as well.[239]

117. Mr. Massie further explained that AEY prioritizes certain projects, such as distribution improvement projects, which are required to address safety or system reliability concerns, and confirmed that AEY is confident in its ability to meet its capital forecast and made arrangements for material and contractor procurement to enable it to do so.[240]

118. Mr. Maissan prepared Exhibit C3-7 as an aid to cross-examination, which he suggested shows that AEY has had lower actual capital cost amounts in the past seven years than what was approved in its last GRA.[241] Mr. Massie explained that the gross capital costs set out in Exhibit C3-7 include customer contributions, such as new extension projects, which AEY considers to be "noncontrollable capital."[242] In the 2016-2017 GRA, AEY adjusted its forecasting to show the difference between controllable and noncontrollable capital projects, demonstrating in that application that its controllable capital expenditures in the test years 2013-2015 had varied only 3.2 percent from the expenditures approved by the Board.[243] AEY's capital expenditure forecast was fairly accurate for 2016, and the variance between forecast and actual costs in 2017 was primarily due to two projects that AEY was unable to complete,[244] which were the Fish Lake Ditch #1 Failure and Whistle Bend Stage 3 projects. Ms. Rogers later confirmed that, although AEY's 2017 approved rate base was slightly above its 2017 actual rate base, its 2018 actual rate base was above what had been approved in the 2017 rates as AEY caught up on its capital program,[245] which can be seen on Schedule 9-2 of the Application.[246] Accordingly, the figures in Exhibit C3-7 do not provide the necessary context to understand AEY's capital work in prior years and should be afforded little weight in the assessment of AEY's capacity to complete its capital program in the Test Period.

[239] Transcript, Vol. 3, PDF p. 85, lines 3-9.
[240] Transcript, Vol. 3, PDF p. 85, lines 21-24; Transcript, Vol. 3, PDF p. 86, line 25 to PDF p. 87, line 6.
[241] Transcript, Vol. 1, PDF p. 102, line 24 to PDF p. 103, line7.
[242] Transcript, Vol. 1, PDF p. 103, line 9 to PDF p. 104, line 2.
[243] Board Order 2017-01, *supra* note 17, para 249 and Table 18, p. 49. The Board approved AEY's capital forecast for 2016-2017 as filed (para 254, PDF p. 51).
[244] Transcript, Vol. 1, PDF p. 104, lines 16-22; Transcript, Vol. 2, PDF p. 126, lines 1-5.
[245] Transcript, Vol. 1, PDF p. 108, lines 7-12, referring to how AEY will typically "catch up" in a following year (lines 6-7); See also Transcript, Vol. 2, PDF p. 126, lines 1-5 that the two projects referred to were completed in 2018.
[246] Exhibit B-10.4, Schedule 9.2.

E. Discussion of Capital Projects

1. ATCO CIS Replacement Project

119. As noted above, and detailed in Business Case #22, AEY has implemented the Oracle CCS system to replace the legacy ATCO CIS.[247] The Oracle CCS system includes customer care and billing capabilities and has been discussed on the record in some instances as AEY's new billing system.

120. ATCO CIS was a critical system used by AEY for management of customers, billing, and revenues.[248] Considering AEY's reliance on its customer care and billing system, as well as the increased cost and difficulty associated with ATCO CIS as it neared end of life,[249] it was clearly necessary for AEY to undertake the CIS Replacement. Beyond increased cost, the age of the CIS system presented risk to customers from sudden or unexpected system outages and cybersecurity threats.[250] As demonstrated in AEY's evaluation of viable alternatives, the Oracle CCS system was the least cost alternative to customers for replacing ATCO CIS.[251] At the hearing, Mr. Maissan, confirmed that it was necessary to replace the legacy ATCO CIS system with a new billing system.[252] He also explained that the new billing system, which is a cloud-based service, provides additional benefits regarding easier updating of the system and increased security.[253] In addition, having completed the CIS Replacement project, AEY will now be able to assess functionality of the billing system in the context of grid modernization and what information it may be able to provide to customers in that regard.[254] Further benefits are detailed in Business Case #22.

121. The CIS Replacement project was driven largely by the age of the legacy billing system such that it was necessary and prudent to implement Oracle CCS. However, there are additional benefits to the CCS system, described above, which further confirm the reasonableness and prudency of the project costs.

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[247] Exhibit B-1.8, PDF p. 2.
[248] Exhibit B-1.8, PDF p. 4.
[249] Exhibit B-1.8, PDF pp. 2-3.
[250] Exhibit B-1.8, PDF p. 4.
[251] Exhibit B-1.8, PDF p. 5.
[252] Transcript, Vol. 2, PDF p. 36, line 23 to PDF p. 37, line 5.
[253] Transcript, Vol. 2, PDF p. 37, lines 9-20.
[254] Transcript, Vol. 2, PDF p. 37, line 21 to PDF p. 38, line 2.

2. Advanced Meter Infrastructure ("AMI")

122. AEY considers AMI to be a fundamental building block for grid modernization.[255] As explained in the Application, grid modernization is considered to be a necessary response for utilities navigating the energy transition space as a result of developments in policy, technology, and customer behaviour.[256] AMI supports grid modernization by enabling remote meter reading, improved data presentation, and real-time monitoring and reactions to grid conditions.[257] AMI benefits are detailed further in the Application[258] and in the AMI Business Case provided in AEY's response to AEY-YUB-065.[259]

123. Mr. Massie explained at the hearing that AEY is considering a phased approach to AMI deployment, and that starting with the AMI program in Whistle Bend is reasonable given the significant customer growth in the area and the efficiencies associated with deploying AMI as part of meter installation for new customers.[260] As provided in AEY's response to Undertaking Number 4, a residential AMI meter costs less than a non-AMI residential meter.[261] In response to questions from Mr. Rondeau regarding the timing of the program, Mr. Massie noted the benefits of proceeding with AMI at this time, now that the technology is mature and offers benefits beyond simple meter reading.[262]

124. The AMI program will allow AEY to work with the AMI technology as it assesses a larger deployment strategy.[263] For example, the cost information from the proposed initial deployment will improve AEY's ability to estimate future installation costs in other communities and assess which communities may be targeted for program expansion.[264] Other benefits associated with the AMI program include less frequent testing requirements for the newer meters,[265] the ability to continue collecting data in the event of cold weather (compared with challenges associated with frozen screens preventing meter reads in cold weather for traditional meters),[266] and having regular

[255] Exhibit B-4.1, PDF p. 7.
[256] Exhibit B-1, PDF p. 22.
[257] Exhibit B-1, PDF p. 22.
[258] Exhibit B-1, PDF p. 22.
[259] Exhibit B-4.1, starting at PDF p. 2.
[260] Transcript, Vol. 1, PDF p. 53, lines 5-15.
[261] Transcript, Vol. 3, PDF p. 48, lines 1-3.
[262] Transcript, Vol. 1, PDF p. 80, lines 7-20.
[263] Transcript, Vol. 1, PDF p. 53, line 23 to PDF p. 54, line 7.
[264] Transcript, Vol. 1, PDF p. 81, lines 3-12.
[265] Transcript, Vol. 2, PDF p. 90, lines 18-25.
[266] See Transcript, Vol. 3., PDF p. 56, lines 12-25.

and accurate meter reads for customers that are aligned with billing block intervals.[267] There are also associated benefits for generators, and AEY is working with YEC on AMI deployment for that reason.[268]

125. Accordingly, AMI is not only a building block that will enable significant future work in support of grid modernization and larger energy transition initiatives, but also presents several immediate benefits to customers by allowing AEY to collect more regular and accurate metering information. AEY submits that the expenditures associated with this project are both prudent and reasonable, and of significant value to the AEY system.

3. Asset Management

126. AEY's proposed development of an Asset Management program is an important step that will align AEY's business practices with those of a modern utility and is expected to provide valuable benefits as discussed in Business Case #24.[269] AEY's proposal is supported by a business-wide gap assessment by METSCO Energy Solutions Inc. ("**METSCO**"), which indicated that AEY's asset management maturity level falls behind that of its peers.[270] METSCO provided recommendations for AEY to improve its maturity with respect to asset management practices and closer align with its utility peers.[271] As noted in the Asset Management Business Case and confirmed at the hearing, AEY proposes to complete the first two years of a five-year Asset Management implementation plan in the Test Period, guided by the recommendations from the METSCO assessment.[272]

127. In response to questions from Board staff, Mr. Massie explained that AEY expects that the implementation of an Asset Management program would provide AEY with cost savings as a result of risk mitigation, as well as improved system reliability.[273] AEY anticipates benefits from the project will be of a qualitative nature,[274] but submits that this does not detract from their importance. As stated by Mr. Massie:

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[267] See Transcript, Vol. 3., PDF p. 57, lines 1-7.
[268] Transcript, Vol 1., PDF p. 55, lines 4-18.
[269] Exhibit B-1.8, starting at PDF p. 12.
[270] Exhibit B-1.8, PDF pp. 13-14.
[271] Exhibit B-1.8, PDF pp. 13, 20.
[272] Exhibit B-1.8, PDF p. 13; Transcript, Vol. 2, PDF p. 77, lines 3-6.
[273] Transcript, Vol. 3, PDF p. 115, lines 1-21.
[274] Transcript, Vol. 3, PDF p. 116, lines 5-6.

> So I would say it will be qualitative, of course. But when we think about the asset management and being a little more proactive, being able to tie your assets into a bit of a risk mitigation strategy as well as that structured maintenance program that flows out of it, we would expect that would result in one, more efficiencies; and two, less failures or any issues that may pop up that we aren't covering right now through our more manual system.[275]

128. In AEY's submission, the Asset Management project is one that has a number of qualitative benefits that warrant its completion, even if all benefits may not tie directly to lower revenue requirements. Mr. Massie explained that AEY can anticipate benefits simply from having a more structured program in place for tracking its business, and at minimum that improved structure would facilitate improved understanding of AEY's processes by the Board and customers.[276]

129. Accordingly, AEY submits that its proposal to introduce asset management into its business is important, reasonable, and prudent, and should be approved by the Board.

4. Replace Watson Lake Generating Units (N-1-1 Criteria)

130. In AEY's Business Case #07 (2018-2022 period) with respect to the replacement of three outdated generating units at the Watson Lake Generating Facility, AEY had explained that it follows a risk management principle called the "N-1-1 criteria":

> To allow for basic contingencies and plant maintenance, AEY employs a risk management principle that generating facilities on isolated community grids must have sufficient capacity to meet their peak load despite the loss of one operating unit while another unit is undergoing maintenance (N-1-1 criteria). The capacity that can be met under this N-1-1 criterion is known as the facility's Firm Capacity.[277]

131. In AEY-YUB-047, the Board sought further information regarding the N-1-1 criteria and whether it had been previously approved by the Board.[278] In response, AEY noted that the principle of risk management with respect to generating plant capacity had been addressed in AEY's 2016-2017 GRA, with reference to relevant discussion from the transcript of that proceeding.[279] At the hearing, Board staff inquired about whether the N-1-1 criteria had been specifically brought forward for Board consideration in prior years and AEY's policies related to the N-1-1 criteria.[280]

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[275] Transcript, Vol. 3, PDF p. 116, lines 5-13.
[276] Transcript, Vol. 3, PDF p. 117, line 21 to PDF p. 118, line 10.
[277] Exhibit B-1.7, PDF p. 18.
[278] Exhibit B-4, starting at PDF p. 1207.
[279] Exhibit B-4, PDF p. 1209.
[280] Transcript, Vol. 3, starting at PDF p. 98, line 7.

132. By way of an Undertaking response,[281] AEY explained that the N-1-1 criteria is used specifically at the Watson Lake generation facilities, which supplies load using six generating units. This is in comparison to other facilities which would not be able to meet load in the event of the loss of their two largest units, for which AEY would not use the N-1-1 criteria.

133. AEY has been using the N-1-1 criteria for several years, including referencing it specifically in business cases submitted to the Board in the 2013-2015 GRA.[282] AEY confirmed in its Undertaking response that Manitoba Hydro uses the N-1-1 criteria, and Mr. Massie noted during the hearing that the principle is recognized by a number of utilities in the North American Off Grid Utilities Association, which is an association working on policy for Canadian and North American utilities operating on isolated grids.[283] The fact that the N-1-1 criteria has been developed and thoroughly discussed by a number of utilities, including Canadian utilities,[284] and known to be utilized elsewhere in Canada, demonstrates that it is a generally accepted criteria with respect to generation in isolated communities. In AEY's submission, it is an appropriate consideration as part of AEY's operations and in support of the Replace Watson Lake Generating Units project.

XII. INCOME TAX

A. Overview

134. AEY is forecasting income tax expenses of -$2,357,00 in the 2023 Test Year and $1,134,000 in the 2024 Test Year.[285] AEY's decrease in income tax expense between 2022 and 2023 is due primarily to CCA deductions resulting from AEY's completion of the ATCO CIS Replacement project.[286] As confirmed in IR Response AEY-UCG-062, AEY applied for the full available CCA tax deduction for the ATCO CIS Replacement in a single year to ensure customers receive the full benefit immediately.[287] The increase in income tax expense from 2023 to 2024

[281] AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 13, PDF p. 643.
[282] AEY Hearing Undertakings, Dec. 4, 2023, response to Undertaking Number 13, PDF p. 643.
[283] Transcript, Vol. 3, PDF p. 99, lines 17-24 and PDF p. 100, lines 12-19.
[284] Transcript, Vol. 3, PDF p. 99, lines 12-20.
[285] Exhibit B-1, PDF p. 182.
[286] Exhibit B-1, PDF p. 182.
[287] Exhibit B-4, PDF p. 671.

primarily reflects lower CCA deductions following the full CIS Replacement CCA deduction in 2023.[288]

135. AEY continues to use the flow through method in calculating the income tax expenses,[289] approved by the Board in Board Order 2017-01.[290] In response to AEY-YUB-001(a) and AEY-YUB-069(a), AEY explained that it follows the *Income Tax Act* and Canada Revenue Agency tax rules and guidelines with respect to its income tax amounts and deductions.[291] Therefore, although AEY management has some discretion regarding income tax deductions,[292] it is exercised in accordance with all applicable rules, as well as good utility practices. For example, AEY minimizes its income tax expense by claiming the maximum of all available deductions.[293]

XIII. PRIOR BOARD DIRECTIVES

136. AEY submits that it has responded comprehensively to all prior Board Directions, as discussed in Section 11 of the Application.[294] AEY notes that no parties appear to have suggested otherwise.

XIV. CONCLUSIONS AND RELIEF SOUGHT

137. In summary, AEY submits that it has provided comprehensive support for, and justification of, all approvals requested in the Application. The evidence on the record demonstrates that AEY has presented a forecast that is accurate to the best of its ability, and AEY's forecast flows various benefits to customers based on events which have occurred since AEY's last GRA. AEY has also proposed reasonable and prudent measures to allow it to navigate challenges presented by various factors such as the uncertainty associated with energy transition, increased system requirements from population growth, and anticipated expense associated with an aging rate base, and that will allow it to continue to provide safe and reliable services to the Yukon.

138. AEY respectfully requests the following approvals from the Board:

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[288] Exhibit B-1, PDF p. 182.
[289] Exhibit B-1, PDF p. 182.
[290] Board Order 2017-01, *supra* note 17, p. 77.
[291] Exhibit B-4, PDF pp. 990, 1304.
[292] Exhibit B-4, PDF p. 1304.
[293] Exhibit B-1, PDF p. 182.
[294] Exhibit B-1, starting at PDF p. 183.

(a) Approval of AEY's revenue requirement for the two-year test period of 2023-2024;

(b) Approval for continuation of AEY's currently approved deferral accounts, and the addition of two new deferral accounts:

(i) a deferral to allow AEY to flow-through costs and savings related to Board Orders and Legislative Changes which impact its 2023-2024 revenues or revenue requirement, as described in section 1B.6 of the Application, and

(ii) deferral treatment for Constraint Payments, maintenance costs, and third party consulting costs (including legal costs) related to Independent Power Producer (IPP) projects under the IPP program directed by the Yukon Government and associated EPAs, as described in Section 3.4 of the Application; and

(c) Such further and other relief as the Board may determine is appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 13th day of December, 2023

BENNETT JONES LLP

Per: ____________________________
Tim Myers / Erin Anderson
Counsel for ATCO Electric Yukon