

1999-4

**YUKON UTILITIES BOARD**

**ORDER 1999 - 4**

**October 27, 1999**

**RE:**

**THE YUKON ENERGY CORPORATION**

**and**

**THE YUKON ELECTRICAL COMPANY LIMITED**

**RATES SCHEDULE 42 SETTLEMENT**

AN ORDER IN THE MATTER OF the Public Utilities Act  
Revised Statutes, 1986, c. 143, as amended

and

Yukon Energy Corporation and The Yukon Electrical Company Limited  
Rate Schedule 42 Settlement

**BEFORE:** B. Morris, Chair )  
G. Leslie, Member )  
C. Metz Murray, Member )  
D. Schmekel, Member )  
W. Shanks, Member ) October 27, 1999

**ORDER 1999-4**

**WHEREAS:**

- A. Yukon Energy Corporation's April 28, 1998 Revised Application requested that certain amendments be approved with respect to the wholesale rate applicable during 1996 and 1997.
- B. As this matter directly affects amounts paid to Yukon Energy Corporation and The Yukon Electrical Company Limited pursuant to Rate Schedule 42 (Wholesale Primary) for 1996 and 1997, and does not affect other ratepayers, Board Order 1998-5 agreed that the matter should be dealt with in a separate process after the public hearing.
- C. By letter of February 5, 1999 the Board agreed that the outstanding issues be resolved between the Companies utilizing the British Columbia Utilities Commission negotiated settlement process guidelines.
- D. Having reached a settlement, on October 7, 1999 the Companies requested that the Energy Charge Rate under Wholesale Rate Schedule 42 be approved at the amounts reflected in the Revised Application, being:  
  
1996 - 6.755 cents/kW.h  
1997 - 6.840 cents/kW.h
- E. The Companies provided a copy of the Settlement Agreement, clarifying certain items in the Energy Reconciliation Adjustment mechanism in Rate Schedule 42.
- F. The Board has reviewed the Settlement Agreement and has determined that no changes to the wording of Rate Schedule 42 are required but that the clarifications are consistent with the intent of Rate Schedule 42.

**NOW THEREFORE** the Board orders that:

1. Energy Charge Rate under Wholesale Rate Schedule 42 is approved as follows:

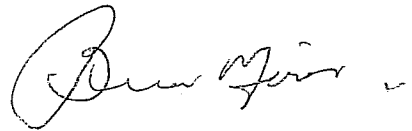
1996 - 6.755 cents/kW.h

1997 - 6.840 cents/kW.h

2. The terms of the Settlement Agreement (Appendix A) are approved.

Dated at the City of Whitehorse, in the Yukon Territory, this 5<sup>th</sup> day of November 1999.

**BY ORDER**

A handwritten signature in cursive script, appearing to read "Brian Morris".

Brian Morris  
Chair

## Settlement Agreement and Mutual Release Concerning Outstanding Rate Schedule 42 Issues

This record of settlement and mutual release dated July 15, 1999 records the settlement reached between Yukon Energy Corporation ("Yukon Energy") and The Yukon Electrical Company Limited ("Yukon Electrical") concerning outstanding Rate Schedule 42 issues. This document is to be presented to the Yukon Utilities Board ("Board") for action pursuant to the process suggested by the Board's letter of February 5, 1999. This agreement is binding on both parties and represents a package proposal with no issue capable of being severed.

### Summary of Outstanding Rate Schedule 42 Issues

**Energy Reconciliation Adjustment (ERA) +10% Issue:** Yukon Energy had requested confirmation that the ERA applies without limit to all actual wholesale purchases that exceed forecast wholesale purchases without reference to a +10% limit. Yukon Electrical claimed there was agreement to a +10% limit. The +10% mechanism had been considered by the companies as an approach to address risks of both utilities. The +10% mechanism was included in the original March 17, 1993 filing. It was deleted from the final October 7, 1993 filing. The parties are in dispute as to whether or not there was an agreement dealing with the October 7, 1993 deletion.

**ERA Diesel on the Margin Issue:** Yukon Energy requested confirmation that the ERA applies only during months when diesel is on the margin for the WAF system. Yukon Electrical has disagreed with that interpretation.

**Energy Charge Rate Correction - 1993 - 1995 Issue:** Yukon Energy requested changes to the calculation of Energy Charge rates for 1993 through 1995. Yukon Electrical responded that this issue was dealt with in late 1994.

### Settlement re: Outstanding Rate Schedule 42 Issues

**ERA +10% issue:** On an ongoing basis from January 1, 1999, and until such time as the Board approves an amended wholesale rate, Yukon Energy and Yukon Electrical agree the ERA applies without any +10% limit.

**ERA Diesel on the Margin Issue:** Yukon Energy and Yukon Electrical agree the companies will not adjust payments made January 1, 1993 through to December 31, 1998 with respect to the ERA Diesel on the Margin issue under the Wholesale

Rate Schedule 42. On an ongoing basis from January 1, 1999, and until such time as the Board approves an amended wholesale rate, Yukon Energy and Yukon Electrical agree that the ERA mechanism will apply only during months when diesel is on the margin for the WAF system. This treatment recognizes the fact that this principle is not explicitly set out in the currently approved wording of Rate Schedule 42.

**Energy Charge Rate Corrections for 1993 to 1997:** Yukon Energy and Yukon Electrical agree that the companies will not adjust any Energy Charge rates or payments made under the Wholesale Rate Schedule 42 for the period up to December 31, 1995 and have made adjustments for the period thereafter up to the date hereof as noted below:

1996 – 6.755 cents/kW.h

1997 – 6.840 cents/kW.h

The required payments reflecting these 1996 and 1997 corrections have already been made to Yukon Energy by Yukon Electrical. On a go forward basis, the 1997 rate of 6.840 cents/kW.h will continue to apply until such time as the Board approves an amended rate.

#### **Board Approval**

The companies request that the Board approve the above changes to the 1996 and 1997 Energy Charge rates.

#### **Settlement Payment**

In settlement of all claims relating to the three aforementioned matters, Yukon Electrical agrees to pay Yukon Energy \$210,737 for the period January 1, 1993 through to December 31, 1998.

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## MUTUAL RELEASE

BETWEEN:

YUKON ENERGY CORPORATION, a body corporate  
registered to carry on business in the Yukon Territory  
(hereinafter called "Yukon Energy")

OF THE FIRST PART

- and -

THE YUKON ELECTRICAL COMPANY LIMITED,  
a body corporate registered to carry on business  
in the Yukon Territory  
(hereinafter called "Yukon Electrical")

OF THE SECOND PART

WHEREAS:

- A. Yukon Electrical and its affiliated and associated companies performed certain functions for Yukon Energy, including providing assistance under the direction of Yukon Energy in the preparation of regulatory filings, under a Management Agreement that was in effect for the period April 1, 1987 through to December 31, 1997.
- B. Subsequent to the 1993/94 General Rate Application filing, a dispute arose between Yukon Energy and Yukon Electrical concerning the Wholesale Rate Schedule 42 that was in effect for the period January 1, 1993 through to December 31, 1998. ("Outstanding Rate Schedule 42 Issues").
- C. During the negotiations concerning the Outstanding Rate Schedule 42 Issues, Yukon Electrical raised certain claims it had against Yukon Energy relative to
  - (i) the negotiations to extend the Management Agreement which took place in 1996 and 1997 and the subsequent termination of that Agreement including the claim that Yukon Energy did not negotiate in good faith; and
  - (ii) the transition costs arising from the Management Agreement, including costs of employee relocation, costs of severance packages, costs of negotiation and the assumption of costs related

to supplemental pensions collectively referred to as the "Management Agreement Claims".

- D. Yukon Energy and Yukon Electrical reached a Settlement Agreement regarding the Outstanding Rate Schedule 42 Issues and the Management Agreement Claims on May 7, 1999 and this mutual release is meant to bring to a close all claims raised by Yukon Energy and Yukon Electrical in relation to the Outstanding Rate Schedule 42 Issues and the Management Agreement Claims.

NOW THEREFORE in consideration of the sum of Two Hundred and Ten Thousand Seven Hundred and Thirty Seven Dollars (\$210,737) now paid by Yukon Electrical to Yukon Energy and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) and in consideration of the sum of Ninety Five Thousand Five Hundred and Forty Two Dollars (\$95,542) now paid by Yukon Energy to Yukon Electrical and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) Yukon Energy and Yukon Electrical hereby agree as follows:

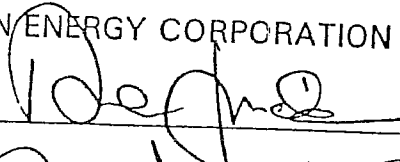
1. YUKON ENERGY DOES HEREBY RELEASE AND FOREVER DISCHARGE YUKON ELECTRICAL, its directors, its officers, employees, agents, successors and assigns, and its affiliated and associated companies, their directors, their officers, employees, agents, successors, and assigns ("Yukon Electrical Releasees") of and from any and all actions, causes of action, claims or demands against Yukon Electrical which Yukon Energy had, has or will have with respect to the Outstanding Rate Schedule 42 Issues.
2. YUKON ELECTRICAL DOES HEREBY RELEASE AND FOREVER DISCHARGE YUKON ENERGY, its directors, its officers, employees, agents, successors and assigns, and its affiliated and associated companies, their directors, their officers, employees, agents, successors, and assigns ("Yukon Energy Releasees") of and from any and all actions, causes of action, claims or demands against Yukon Energy which Yukon Electrical had, has or will have with respect to the Management Agreement Claims.
3. The consideration for this release is accepted voluntarily, and uninfluenced by representations on the part of Yukon Energy or Yukon Electrical.
4. Neither Yukon Energy nor Yukon Electrical admits any liability arising out of the consultation processes, events or decisions which led to the Outstanding Rate Schedule 42 Issues or the Management Agreement Claims.

- 5. This Release binds the successors and assigns of Yukon Energy and Yukon Electrical and enures to the benefit of those persons or corporations.
- 6. Nothing in this Release shall be construed to in any way extinguish or limit the rights of Yukon Energy against any person or corporation other than the Yukon Electrical Releasees, and Yukon Energy specifically preserves any and all rights, manner of action, causes of action, claims or demand it has or may have against any person or corporation other than Yukon Electrical and its affiliated and associated companies.
- 7. Nothing in this Release shall be construed to in any way extinguish or limit the rights of Yukon Electrical against any person or corporation other than the Yukon Energy Releasees, and Yukon Electrical specifically preserves any and all rights, manner of action, causes of action, claims or demand it has or may have against any person or corporation other than Yukon Energy and its affiliated and associated companies.

IN WITNESS WHEREOF Yukon Energy and Yukon Electrical have hereunto fixed their seals attested by the hands of their duly authorized proper officers, this 15th day of July, 1999.

YUKON ENERGY CORPORATION

Per:

  
\_\_\_\_\_

THE YUKON ELECTRICAL COMPANY LIMITED

Per:

  
\_\_\_\_\_

**YUKON UTILITIES BOARD**

**P.O. Box 6070, 19 - 1114 First Avenue,**

**Whitehorse, Yukon Y1A 5L7**

**Telephone (403) 667-5058, Fax (403) 667-5059**

**Our file no.: 3011**

**Your file no.:**

November 5, 1999

R. McWilliam  
Yukon Energy Corporation  
P.O. Box 5920  
Whitehorse, Yukon  
Y1A 5L7

J. Carroll  
Yukon Electrical Co. Ltd.  
P.O. Box 4190  
Whitehorse, Yukon  
Y1A 3T4

Dear Sirs:

**Re: Board Order 1999 - 4**

I enclose a copy of Board Order 1999-4 accepting the utilities' agreement on Rate Schedule 42

Yours truly,



Jim Slater  
Board Secretary

Enclosure

cc	L. Bagnell	Association of Yukon Communities
	J. McLaughlin	AYC Energy Committee
	G. Everitt	Town of the City of Dawson City
	R. Clarkson	New Era Engineering Corp.
	R. Rondeau	Utilities Consumers' Group
	B. Newell	City of Whitehorse
	P. Percival	
	F. Roberts	
	P McMahan	YTG Dept. of Economic Development