PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC
ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7
Tel: (613) 562-4002 ext 26 Fax: (613) 562-0007 e-mail: mjanigan@piac.ca http://www.piac.ca

December 2, 2013

Yukon Utilities Board
Box 31728
Whitehorse, Yukon Y1A 6L3

Attention: Mr. Bruce McLennan, Chair

Re: Yukon Electrical Company Limited – 2013 - 2015 General Rates Application
UCG Final Argument

Dear Mr. McLennan:

Enclosed are the final argument submissions of the Utilities Consumers' Group in the above noted proceeding.

If there are any questions concerning the contents of this submission, I would ask that they be directed to me by email at mjanigan@piac.ca or by phone at (613) 562-4002 ext 26.

Yours truly,

Michael Janigan
Counsel for UCG

cc (by email): Yukon Electrical Company Limited
Registered Intervenors

YUKON UTILITIES BOARD

IN THE MATTER OF the *Public Utilities Act*
Revised Statutes of Yukon, 2002 c.186, as amended

and

IN THE MATTER OF Yukon Electrical Company Limited's General
Rate Application for 2013, 2014 and 2015

FINAL ARGUMENT OF

UTILITIES CONSUMERS' GROUP

December 2, 2013

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INTRODUCTION and OVERVIEW

1. The Utilities Consumers' Group ("UCG") is a not-for-profit organization registered as a society in the Yukon since 1993. UCG represents residential and small business ratepayers in regulatory proceedings, conducts research, makes submissions, communicates with active stakeholders, including government, and helps consumers with any type of problem with utility service providers.

2. This submission summarizes positions of UCG for the Yukon Utilities Board's ("Board") consideration. UCG's final arguments follow the evidence outline contained in Yukon Electrical Company Limited's ("YECL") application dated May 27, 2013. While UCG has attempted to be as thorough as possible, it should not be assumed that UCG is in agreement with YECL's position on any issue for which UCG has not provided specific comment in this argument. Where UCG has not specifically addressed an issue, it is believed that the Board has the benefit of arguments of other intervenors and the extensive record in this proceeding to make informed decisions.

3. UCG views YECL's current General Rate Application as an application for approval of revenue requirements for calendar years 2013, 2014 and 2015. Ultimately, the purpose of the Board's review is to ensure that the revenue requirement to be recovered in rates allows adequate, reliable and affordable supply, transmission and distribution of electricity in the Yukon.

4. UCG submits that YECL was not forthcoming and accurate with its claim during its opening statement at the oral hearing that changes in the amount paid by Yukoners for electricity over the last 5 years (2009-2013) have been limited to YECL flowing through the impact of changes in diesel fuel prices and the impact of Yukon Energy Corporation's 2012-2013 general rate application[1].

5. In its Order 2009-5 dated May 21, 2009, the Board approved a number of rate riders reflecting the results of the review of YECL's 2008-2009 general rates application that were in addition to the interim rate rider approved on July 17, 2008 in Board Order 2008-6. Since that time, Board Order 2011-05 dated April 28, 2011 approved increases in revenues recovered in rates for both YECL and Yukon Energy Corporation ("YEC") as well as increases to various fees (connection charges, late payment fees, etc.) paid by Yukoners. The Board also approved an interim rate increase for YECL in its Order 2013-05 effective July 1, 2013. UCG submits that ongoing adjustments to rates, rate riders and fees, especially retroactively, causes confusion, bill instability and affordability issues that Yukon ratepayers are looking to avoid.

6. The public review of YECL's current General Rate Application has raised many important issues for current and longer term consideration. Of particular concern to UCG is the lack of a comprehensive and multi-stakeholder approach to the development of the General Rate Application. UCG submits that, as part of its decision in these proceedings, the Board should consider making very specific directions to YECL with regards to the timing of general rates

[1] Transcript Volume 1, November 4, 2013, page 16, lines 16-22

applications and the need for comprehensive stakeholder consultations prior to a general rates application being finalized for submission to the Board.

7. UCG is concerned with the continued inability of YECL and YEC to work together on a more complete application and analysis of the cumulative impacts on electricity end-users. This is all the more concerning given the recommendations and directions that the Board has provided both YECL and YEC over the last few years in this regard. UCG submits that what is needed in the Yukon is a coordinated effort protocol or regulatory partnership between the two utilities. UCG is asking the Board to take this opportunity to provide specific direction to the utilities in this regard.

8. UCG submits that given that rates are set on a Yukon-wide basis, the utilities should be required to file annual consolidated operating results so that comparisons can be made to the allowed costs of service and revenue recovery on a more timely basis. UCG submits that it is difficult to make retroactive adjustments when the utilities wait several years between revenue requirement applications. At the very least, YECL and YEC should be directed to avoid submissions of individual rate applications since, to some degree, all customers pay the same combined rates.

9. UCG is also concerned with the lack of cooperation that YECL displayed during this proceeding with respect to providing requested information. UCG submits that it should not be necessary for intervenors to continually submit motions regarding incomplete responses to information requests and incur these additional costs.

10. Likewise, during an oral hearing, UCG submits that it does not assist the Board or intervenors to have YECL continually refer to documents in unspecified regulatory proceedings or public web sites that the questioner can try to look up on their own. YECL's lack of co-operation was never more evident than when they continually requested that questions of cross-examiners be repeated because they were conferring with others instead of focusing on the questions that were being asked. UCG submits that this is a complete disregard for the regulatory process that creates frustration for intervenors trying to add value to the process.

11. UCG submits that one way to help control the costs of these regulatory proceedings is to have the Board direct YECL (and YEC) to be more forthcoming with requested information and to agree to provide the information they reference rather than have intervenors search and incur additional costs.

SUMMARY OF UCG's PRIMARY ARGUMENTS

12. As part of its decision in these proceedings, the Board should consider making very specific directions to YECL (and YEC) with regards to the timing of general rates applications and the need for comprehensive stakeholder consultations prior to a general rates application being finalized for submission to the Board.

13. YECL must be directed to change their budgeting and application processes to allow for reviews of their budgets and general rates applications in advance of the effective dates of the

test years. This is standard operating procedure in other jurisdictions in which utilities are just as busy if not busier than YECL.

14. Planning for an efficient and effective regulatory review of utility revenue requirements and rates should include comprehensive stakeholder input, not only in the review stages of a proposed filing, but also during the development of a filing.

15. Submissions related to revenue requirement and rates approval in the Yukon should be a joint undertaking between the YEC and YECL with input from government entities (e.g., the Energy Solutions Centre) as opposed to a process that each entity undertakes on its own without regard for other stakeholders and each other.

16. Once YECL's 2013, 2014 and 2015 revenue requirements are established by the Board, existing rates should continue to be applied until the Board makes a determination on cost allocation, rates and terms and conditions of service following the completion of a Phase 2 review based on the allowed revenue requirements. A variance account should be established to record the revenue surplus / deficit realized in 2013 and 2014 pending the results of a Phase 2 review.

17. There should be no recovery of any foregone revenue from January 1, 2013 to the date on which the Board approves rates following the compliance filing related to this application.

18. Given the commitment of YECL to work with YEC to assemble cost of service and other Phase 2-related evidence by June 30, 2014, UCG submits that any adjustments to rates and charges applied to the bills of Yukon ratepayers should be deferred until after the Phase 2 evidence has been reviewed and the Board has rendered a final decision.

19. Given the filing deadline for the Phase 2 application, the utilities should be directed to involve stakeholders in consultations as soon as practical so that the filing deadline does not start to slip and the review process is not unnecessarily extended. There should be no excuse to request an extension to the filing deadline.

20. It may be that the result of a Phase 2 cost of service analysis is that the industrial rates determined by OIC 2012/68 do not recover the full costs incurred on behalf of industrial customers pursuant to OIC 1995/90. Under that scenario, the Board will have to determine who should bear the cost of the deficiency.

21. If the Phase 2 review indicates that the industrial rates established by the Yukon government do not recover the full cost of service for that class, then UCG submits that the Yukon government, not the non-industrial ratepayers, should be held liable for the revenue deficiency in the event that the preferred policy is to continue to charge industrial customers artificially lower rates. UCG contends that the utilities' franchise obligations to serve should not carry with it an implicit obligation on the part of ratepayers to subsidize service to industrial customers. If the Board stays firm in its decision that non-industrial ratepayers should not subsidize industrial customers, then UCG believes that this will force the Yukon government to finally take responsibility for its actions.

22. UCG submits that YECL should study the use of weather normalization for load forecasting and results reporting so that load variances resulting from weather can be isolated.

23. Load forecasting for the 15,000 or so non-industrial customers of electricity in the Yukon should be undertaken in a comprehensive way by YECL and YEC in full cooperation, not, as is currently the case, in a piecemeal and apparently inconsistent manner.

24. Load forecasting and planning for load growth should account for the base, non-industrial load separately from the more transitory industrial load potential so as to protect longer term ratepayers from adverse rate impacts associated with capital spending made necessary for the purpose of meeting short term industrial loads.

25. The Board should deny YECL's request for a Whitehorse Copper Sales Uncertainty deferral account because it simply transfers the risk of serving this industrial customer to non-industrial customers and the impact of any forecast error during the test period of 2013-2015 will be minimal.

26. The incremental purchased power costs incurred when Fish Lake was out of service served an immediate need just as any source of power would in an emergency situation and should be expensed not capitalized.

27. The Board cannot approve the proposed Fuel Price Flow-Through Deferral Account and the proposed methodology for calculating the deferral for fuel used in Watson Lake without changing the Fuel Adjustment Rider & Deferred Fuel Price Variance policy and without having Section 8 of the Rate Policy Directive Order in Council 1995/90 changed to account for LNG.

28. The Board should direct YECL to reduce O&M costs per customer by 10% in each of the test years and establish a clear plan of actions that will reduce these escalating costs.

29. The Board should reject YECL's proposal to capitalize 33% to 34% of its labour costs and instead 27% - 30% of labour should be assumed to be capitalized in the test years until a more formal industry standard can be determined.

30. YECL should not be granted any increase to property taxes for the test years given the over collections since base rates were last set and the lack of evidence indicating that assessments and the resulting property taxes will actually increase during the test period.

31. Without any detail being provided on what work will incur these costs, at least 50% of costs associated with the ATCO-directed transition to IFRS should be paid for by YECL's parent company.

32. UCG challenges whether a one-time acceptance of the results of the depreciation study is warranted versus a phased-in approach given the significant change and associated rate impacts.

33. YECL should continue with the previously directed cancellation of recording any provision for Future Reserve for Site Restoration.

34. The proposed increase to equity thickness should be denied.

35. YECL's request for a deferral account for 2014 and 2015 to flow through any change to the return on equity resulting from the BCUC's Automatic Adjustment Mechanism formula should be denied.

36. Given YECL's consistent excess earnings every year since its last general rates application, YECL should not receive a bonus risk premium as part of its allowed return on equity.

37. The Board should establish YECL's capital structure with a 38.5% equity component with a related return on equity equal to the 8.75% established as the BCUC Generic Cost of Capital benchmark.

38. A deferral account should be established to track differences between forecast and issued debt interest rates.

39. YECL should not be allowed to add cost overruns to rate base unless they can provide evidence as to the reasons for the cost overruns given the approved scope of the projects.

40. All deferred study costs should be removed from rate base and either amortized (if prudent) outside of rate base or rolled into a related capital asset.

41. Any conclusive review of a plan to expand on the facilities operated by YECL should include a review of both YECL's and YEC's existing facilities, resources, and plans to determine whether they can provide reliable electrical power generation to meet the forecast load requirements in the Yukon.

42. The Board should consider the engagement of an independent expert to assist in the benchmarking of the cost components of YECL and YEC operations to appropriate comparators within North America. The Board and intervenors require this information to assess the performance of these utilities relative to industry standards and to assist in the important task of adjudicating the prudency of utility decision-making.

43. Ratepayers should be credited back with any recoveries that YECL has made on regulatory costs that have not yet been determined for Phase I and Phase II of the current general rates application.

44. UCG submits that there is no reason why a Performance-Based Regulation (PBR) mechanism could not be considered following the completion of a Phase 2 review and several compelling reasons to do so. It appears to UCG that there are considerable asymmetries in information between YECL and the Board and intervenors that make it difficult to ensure that YECL is carrying on operations in an efficient manner. PBR can alleviate the difficulty associated with that regulatory duty by incorporating a formula that provides both ratepayer protection together with a productivity dividend and a financial incentive on the part of YECL to become more efficient. As well, there should be a considerable reduction in regulatory costs which are significant considering the size of the customer base.

45. UCG submits that there has not been enough customer impact analysis evidence placed on the record to fully inform the Board what is happening to revenue-to-(true)-cost ratios nor the end user's bill.

46. All significant capital projects should be designated by the Yukon government as regulated projects pursuant to Part 3 of the *Public Utilities Act* (or by equivalent government order for review) so that they can be individually reviewed by the Board and stakeholders prior to significant investment and construction. In the case of large, time sensitive projects, an ongoing audit process can be implemented to ensure project transparency and to provide ongoing approval as the project develops, while allowing the project to proceed without undue delay.

47. While it is understandable that YECL will need to spend some money on detailed engineering to properly define capital projects and on regulatory proceedings, any money spent should be held with all other project management costs in a deferral account and not rolled into rate base until the Board first approves the need and then later approves any expenditure for recovery in rates.

48. UCG submits that any project proposed to be included in a utility's rate base requires a sound rationale that must include a business case analysis (without recourse to government funding in order to offset costs and eliminate impact), an analysis of the natural environmental impact and the alternatives to the project.

49. Deferred costs related to studies looking into the Watson Lake Bi-Fuel project and Kluane Wind project should remain in Work in Progress until the related capital projects have been commissioned and all costs have undergone a comprehensive prudency review.

50. All costs related to the Watson Lake Bi-Fuel project should remain in Work in Progress until the project is completed and deemed used and useful following a comprehensive prudency review of actual costs incurred and validation of benefits to be realized.

51. The budget for additions to rate base related to Miscellaneous O/H Services, Miscellaneous New U/G Services, Transportation Equipment and Right-of-Way Widening for each of the test years should be limited to the average of the net expenditures over the last 5 years of actual expenditures (i.e., net of customer contributions).

52. Any components of the $4.6 million Fish Lake Unit #1 capital program, the $1.6 million Meters program and the $550,000 Whitehorse Service Storage Complex projects that have not been justified as part of a business case should not be added to YECL's rate base.

53. YECL has not justified the $3.9 million project to convert conventional electronic and mechanical meters to Automated Meter Reading (AMR) technology.

54. The proposed Carcross 2 MVA Generation Standby Unit project has not been justified and should be rejected.

55. Until details of the actual costs and cost savings can be identified and verified for the CIS Billing System Conversion, this project cannot be comprehensively reviewed for prudency and should not be added to rate base.

56. Additional costs incurred for the Hamilton Boulevard Extension (Streetlighting) project, the Fish Lake Unit #1 – Generator End-of-Life Rebuild project, the Connect Pelly Crossing into Yukon Interconnected System project, the Oracle HRxcellence HR Management project, the Ketza Court Live Front Transformers Replacement project, and the 5L628 Squanga Road Rebuild project beyond the approved budget should not be allowed into rate base.

57. The unspent budgets on Other Projects should be removed from rate base.

58. YECL and YEC should be directed to address the question of DSM Plan optimization, in particular, the optimum savings with the minimum ratepayer impact, before a DSM Plan is approved.

59. YECL and YEC have failed to demonstrate that the proposed DSM Plan and programs adhere to the most basic of cost-effectiveness principles (i.e., users and those that benefit pay for the programs).

60. The proposed DSM Plan and resulting programs should not be approved until YECL and YEC come back with programs that are geared toward low-income ratepayers along with details of the associated budget.

61. A significant portion of the costs associated with internal DSM programs conducted within the utilities themselves should be recovered from the shareholders who benefit. UCG submits that it is not clear how much of the total cost of these programs are to be recovered from the shareholders.

62. YECL's reliability performance measures should include customer-specific reliability measures (e.g., customers experiencing multiple interruptions) as well as ways to monitor momentary outages which are a significant issue for Yukon residences and business.

63. YECL should be directed to not only address bill mitigation but to develop and implement a policy in this regard.

GENERAL COMMENTS

64. On May 27, 2013, YECL submitted an application to the Board requesting approval of forecast revenue requirements for 2013, 2014 and 2015 as well as approval of an interim refundable rate rider effective July 1, 2013. Beyond approval of its revenue requirements for 2013, 2014 and 2015, YECL is also seeking recovery for any revenue shortfall arising in 2013 from rates charged its customers up to the date of the approval of the revenue requirement.

65. UCG notes that YECL waited until nearly 5 months of 2013 had passed before submitting an application to the Board to approve a 2013 revenue requirement. YECL also requested an interim rate adjustment be approved for implementation within 5 weeks of its application.

66. UCG submits that this is not a standard for a public utility from a regulatory perspective. Given the ongoing financial monitoring and shareholder reporting conducted by every utility, it is obvious that YECL knew well in advance of its application date that it wanted to apply for an increase in rates.

67. While an interim refundable rate adjustment was granted by Board Order 2013-05, UCG submits that in order to consider the reasonableness of YECL's request, the Board must consider the prevailing utility practice when it comes to approval of retroactive rates[2]. Just because the Board has ruled on past applications brought by both YECL and YEC where rates were implemented on a full year basis even though the applications were filed after January 1 of the relevant test year in question, it should not be concluded that this can be considered normal industry practice from both the standpoint of the factual backdrop and the statutory requirements.

68. Most jurisdictions in Canada and the United States have adopted a forward-looking test year as the basis for approving a regulated company revenue requirements. UCG submits that there are a number of reasons for the adoption of this method. First, it reduces the risk on the utilities of being unable to recover for capital and operating expenses already committed, as is the case when the test year is backward looking and historical. Secondly, it provides more fairness to ratepayers in that they are aware of the rate they are actually paying for using the service, and the expenses associated with the rate charged affect the rates in the year for which the ratepayer is billed. In other words, there are no generational issues in the recovery of revenue requirement.

69. The revenue requirement and, in turn, rates are set prospectively in order to attempt to match the costs that are embedded in the rates with the time period in which the rates are in effect. Conceptually, prices are intended to reflect the costs of the utility at the time service is provided. YECL testified that it subscribes to the concept of cost causation and that customers that are responsible for the costs would be responsible for paying for those costs[3].

70. YECL also apparently believes that it is important that rate signals be sent to customers in a timely fashion to allow them to take whatever measures may be possible to respond to changes in rates. During the oral hearing, YECL acknowledged and supported the desirability of advance rate signals when it is in their interest to do so[4]:

> *Q. Thank you. Panel, I would like to begin with a question to Mr. Grattan. And I remember from your conversation this morning in relation to depreciation policy, you indicated that it was in your opinion of some great importance that the proper pricing*

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[2] OIC 1995/090 – Section 3 - Normal principles to apply
[3] Transcript Volume 1, November 4, 2013, page 135
[4] Transcript Volume 1, November 4, 2013, pages 134-135

signals are sent to the customers of YECL. And I take it that's a policy that should be applied across the board to --

A. MR. GRATTAN: What do you mean by "across the board"?

Q. Well, with respect to issues associated with rates, that the customer should get price signals and be able to adjust their behaviour in accordance with the same?

A. MR. GRATTAN: I think that would be a fair comment, that Yukon Electrical subscribes to the concepts of cost causation and that customers that are responsible for the costs would be responsible for paying for those costs.

71. However, unlike YEC in its 2012-2013 General Rates Application, YECL does not allege some inability to file on time arising from some obstacle that management could not overcome. Instead, YECL advanced a new regulatory proposition during the oral hearing that it is more efficient to file in a test year period in order to get the previous year's numbers correct[5]:

Q.What you're saying to me now is that the historical record of the previous year is more important to establish than it is to establish a test year or to have your rates in place for the test year. Isn't that what you're saying to me?

A. MR. GRATTAN: I am saying in this jurisdiction it is Yukon Electrical's position that that is the most efficient way of going about it. Yes, that's exactly what I'm saying.

72. While YECL may deserve commendation for candor, it is advancing a regulatory ideal that lacks support in any principled framework of ratemaking.

73. The practice of limiting retroactive recovery of revenue requirement from a period predating the regulated companies rate application or subsequent rate order has been considered by Canadian tribunals and courts. The 1978 Supreme Court of Canada Decision in *P.U.B. v. City of Edmonton*[6], set out in the judgment of Estey, J. , the standard approach to the setting of rates on a prospective basis applicable to the *Gas Utilities Act of Alberta*:

"The statutory pattern is founded upon the concept of the establishment of rates in futuro for the recovery of the total forecast revenue requirement of the utility as determined by the Board. The establishment of the rates is thus a matching process whereby forecast revenues under the proposed rates will match the total revenue requirement of the utility. It is clear from many provisions of The Gas Utilities Act that the Board must act prospectively and may not award rates which will recover expenses incurred in the past and not recovered under rates established for past periods".[7]

74. YECL stated that it was not aware of any examples of decisions by regulators in other jurisdictions which denied utilities from recovering the full test year revenue requirement in a

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5 Transcript Volume 1, November 4, 2013, page 139

6 [1979] 1 S.C.R. 684

7 Ibid at p. 690

filing situation similar to what has happened with YECL's current application[8]. This claim was made despite the fact that YECL was a registered intervenor in the regulatory proceeding addressing YEC's 2012-2013 general rates application and Exhibit C3-24 in that proceeding contained excerpts from three Ontario Energy Board Decisions that clearly prohibited small utilities faced with similar regulatory challenges as YECL from recovering applied-for revenue within applications that were filed later than required[9]. In these decisions, the Ontario Energy Board was not simply considering circumstances wherein the rates applications were being filed mid-way through a year when new rates were being sought for the entire year (such as the case here) but rather that the utilities' tardy filings necessitated the making of an order after the proposed in-service date of the rates order sought.

75. YECL is not providing any benefit to ratepayers by ignoring what is happening in other jurisdictions by focusing its benchmarking efforts on utilities that are either related to them or utilities that are themselves not keeping up with regulatory precedents and best practices established in other jurisdictions. UCG submits that it is time that the regulation of Yukon utilities looks beyond its immediate borders in order to catch up to the standards being established and accepted in other jurisdictions.

76. In this case, YECL wishes to rely on Section 29 of the *Public Utilities Act*[10] to allow consideration of revenues and costs throughout the financial year in a way that allows the Board to give effect to an excess or deficiency if just and reasonable to do so[11]. The Board may also consider the matter of undue delay in making such decision[12].

77. UCG submits that it is essential that the language of the statute here be examined. Section 29 of the *Public Utilities Act* states the grounds for an exception not the grounds for a rule. It clearly does not provide a pass for all late applications given the passage associated with undue delay.

78. There is little to commend the approach of YECL in relation to the timing of this application. YECL seems heedless of the ratemaking principles challenged by the retroactivity, and the effect of seeking recovery of any deficiency in revenue requirement after the expenses have occurred and ratepayers have made decisions on how and when to use electricity based at least in part on the rates in effect at the time. In essence, YECL pleads it is more convenient to adequately assemble a rate application out of time than within the required time frame, and the fact that the Board always lets YECL file its rate applications well into the test year. YECL simply claims that there are regulatory efficiencies achieved by delaying its filing for the current application until nearly 5 full months had passed in the 2013 test year[13].

79. YECL testified that a reasonable approach for regulatory efficiency purposes should be to hold rate applications until actual results for the year prior to the test period are known[14]. UCG

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8 Response to UCG-YECL-1(c)
9 OEB Decisions – EB-2008-0241 (June 1, 2009), EB-2008-0246 (July 10, 2009) and EB-2009-0177 (January 25, 2010)
10 Revised Statutes of the Yukon, 2002, c. 186
11 Ibid, sec. 29(b)
12 Ibid, sec. 29(c)
13 Transcript Volume 1, pages 147-151
14 Transcript Volume 1, page 137

submits that this flies in the face of standard regulatory practice to classify the year prior to the test period as a "bridge" year and update the application (as required) for actual when they are known.

80. The Director of Regulatory for ATCO Electric testified on behalf of YECL that he does not know what goes on in other jurisdictions with respect to the timing of the filing of applications[15]. UCG finds it hard to believe that this is an accurate statement given his employment with an Alberta-based utility.

81. Given the prominence of YECL's Alberta-based witnesses during the oral hearing[16], UCG does not understand YECL's positioning on filing requirements given the minimum filing requirements for utilities in Alberta which govern the regulatory applications of its parent and affiliates. The minimum filing requirements of the Alberta Utilities Commission clearly state that the information schedules of the components of revenue requirement are to be provided for a minimum of two years of actual results and any forecast years prior to the application in addition to the forecast test years of the application. UCG submits that this is standard industry practice in most jurisdictions. UCG submits that to suggest that there is a need to wait for actual results of the year immediately prior to the test years is simply an excuse to delay being tested on forecast test years and to delay completing the regulatory review such that the utility must live within a forecasted revenue requirement.

82. While it is not clear exactly what "process" YECL was referring to that would need to take place if actual results for years prior to the test period were filed during the regulatory proceeding[17], UCG submits that updates related to actual results are filed during regulatory proceedings in every jurisdiction and, while these actual results may persuade the utility to adjust some of its test year forecasts, regulators and interested parties typically use the updated numbers as a reference for argument and only require an opportunity to submit information requests on the updated information if there are significant changes to proposed programs and procedures. Any requirement for additional information is entirely dependent on how forthcoming the utility is with its impact analysis.

83. YECL admitted that the perceived and non-quantified regulatory efficiencies are countered by deferring the recovery of the allowed 2013 revenue requirement until 2014 since this results in YECL recovering costs incurred in 2013 from customers in 2014 that did not incur the costs[18]. Deferring the recovery of the allowed revenue requirement until a subsequent year also exposes YECL and ratepayers to the possibility of paying higher tax rates on those revenues than would have been paid in the year in which the associated costs were incurred.

84. Electricity rates need to accomplish two basic goals: impart information that helps consumers and investors make economic decisions about their consumption and investment decisions, and ensure that regulated utilities are given an opportunity to recover prudently incurred costs from

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15 Transcript Volume 1, November 4, 2013, page 150
16 Out of 9 YECL witnesses, 3 work for ATCO Electric and 1 consultant is based in Calgary.
17 Transcript Volume 1, November 4, 2013, page 138
18 Transcript Volume 1, November 4, 2013, page 153

those causing the costs to be incurred. UCG submits that utility rates to end-user customers should be designed to provide better price signals by better reflecting cost causation.

85. UCG submits that YECL appears confused at how better price signals are delivered. YECL testified that interim rates that were approved beginning July 1, 2013 were in fact beginning to send the price signal associated with the revenue requirement that YECL sought to recover as part of this general rate application[19]. UCG submits that the only price signal received by Yukon ratepayers in July was that "interim" means that higher rates will be retroactively applied.

86. UCG submits that cost causality should drive retail rate design approved by the Board. The "cost causer pays" rule says that costs should be assigned to customers so that the party that causes an incurred cost will pay for those costs when they are incurred. Failure to reflect cost causation in rates results in cross-subsidies, whereby some customers would subsidize other customers. UCG submits that the perpetual design of rates and rate riders to retroactively recover costs incurred in past consumption periods does not follow normal practices of fair rate making principles.

87. UCG submits that there appears to be a lack of management ability on the part of YECL to adhere to the expectations in every other jurisdiction in which regulators and stakeholders have opportunity to adequately review and test assumptions related to revenue requirements prior to their effective date. UCG submits that Yukon ratepayers should not continually be faced with the instability and uncertainty associated with interim rate adjustment on top of interim rate adjustment that may or may not be retroactively changed in the future.

88. UCG suggests that this pattern of regulatory behaviour is most unsatisfactory and continued acceptance by the Board at this juncture might be tantamount to an effective repeal of the well-recognized principle of avoidance of rate retroactivity. It is not reasonable to expect Yukon ratepayers to be burdened with retroactivity, no matter how the retroactivity is morphed into rates or bills.

89. UCG submits that once a 2013 revenue requirement is determined, YECL should, at a minimum, be denied recovery of revenue requirement associated with the 2013 rate year prior to the date of the first interim rate order. UCG submits that making new rates effective January 1, 2013 would constitute rate retroactivity and an unreasonable burden on Yukon ratepayers who could not know the cost of their electricity use decisions prior to the Board making a final decision on this application. UCG submits that YECL should not be allowed to retroactively recover revenues on approved final rates / rate riders. UCG submits that there should be a strong statement by the Board that rate retroactivity in the fashion desired here by YECL should be the exception and not the norm.

90. For additional clarity, UCG submits that there should be no recovery of any foregone revenue from January 1, 2013 to the date on which the Board approves rates following the compliance filing related to this application. This implies that the interim rate rider implemented July 1,

[19] Transcript Volume 1, November 4, 2013, page 135

2013 would be replaced by any rate adjustment approved by the Board resulting from this application effective at the first of the month following approval of the compliance filing.

Lack of Consultation

91. YECL confirmed during oral testimony that most of its consultation related to this current application was based on a blend of contacts that arise out of the ordinary course of business (e.g., customers coming into the office for additional services, etc.) as well as special meetings or discussions that were convened for the purpose of discussing particular items with stakeholders or other groups (e.g., consultants, YEC, project town halls, etc.)[20].

92. UCG submits that YECL did not conduct stakeholder consultations with ratepayers, municipalities and other interested parties on the contents of its general rates application prior to filing including proposals related to new policies contained within the application because it has not been a practice in the Yukon for either utility to do comprehensive, end-user consultation prior to filing an application with the Board.

93. While YECL's approach to its regulation does not surprise UCG, it ignores the fact that consultations are an important part of regulatory evolution and appears to require firm direction from the Board to meaningfully consult affected stakeholders prior to submitting applications to the regulator. Given the widespread acceptance in other jurisdictions of stakeholder consultations prior to applications being finalized and submitted, UCG submits that this is a normal principle to apply to the Yukon's regulatory processes.

94. UCG submits that the Board should not have to direct a regulated utility to consult and inform their applications with views from stakeholders directly impacted by the proposals, but the behaviour of the Yukon's utilities over the last several years implies that specific direction from the Board in this regard is needed. Without consultations, the utilities are encouraging a more confrontational approach to regulatory proceedings than is warranted.

95. UCG submits that planning for an efficient and effective regulatory review of utility revenue requirements and rates should include comprehensive stakeholder input, not only in the review stages of a proposed filing, but also during the development of a filing. UCG submits that YECL was negligent in this regard, especially in regards to input from ratepayers.

96. For the future, UCG submits that submissions related to revenue requirement and rates approval in the Yukon should be a joint undertaking between YECL and YEC with input from government entities (e.g., the Energy Solutions Centre) and end-use stakeholders as opposed to a process that each entity undertakes on its own without regard for others. The timing of these submissions should be in advance of the test years for which they apply.

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[20] Transcript Volume 1, November 4, 2013, pages 153-156

SALES AND REVENUE

97. In its application, YECL forecasts the total primary non-industrial sales in 2013 to increase 2.3% over 2012 actual (on a weather-normalized basis) and an additional 1.9% in each of 2014 and 2015. Given the delay in the start-up of YECL's industrial customer, Whitehorse Copper Tailings[21], the overall growth in total sales in 2014 and 2015 is expected to be 3.2% and 2.0% respectively.

98. UCG has concerns that YECL's current forecast product, calculated retrospectively, but utilized prospectively, can have an impact on energy prices. The weather normalization process may have a big impact on the determination of test year sales used in a rate proceeding because electricity service and revenues are weather-dependent. At the very least, YECL should have sought input from stakeholders and other utilities on products that may be more representative of climate normals and current climate trends.

99. UCG submits that the Board must satisfy itself that YECL has used an appropriate industry standard methodology to assess energy requirements. The most significant factor for the Yukon is the lack of economies of scale. The large capital and operating costs of providing electricity are spread across vast distances to a small population base. Before any resource planning is done and capital commitments made, UCG submits that the Board should ensure that stakeholders have an opportunity to provide input on a number of questions that need to be considered in developing a policy framework to guide the generation, transmission and distribution resource development including:

- How do we manage energy development decisions to meet the Yukon's commitments to environmental stewardship, now and in the future?
- What is the most effective way to provide residents of the Yukon with equitable access to affordable and reliable electricity?
- What role should governments play in the energy sector, recognizing the unique nature of the Yukon environment?
- How do we foster an energy sector that is efficient and effective while maintaining public accountability and transparency?

100. In other jurisdictions (e.g., British Columbia), utilities are required to develop multiple resource portfolios for their demand forecasts, each consisting of a combination of supply and demand resources needed to meet the demand forecast.

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21 Exhibit B-17 – Response to Undertaking #11

Deferral Account – Whitehorse Copper Sales Uncertainty

101. In its application[22], YECL requested a deferral account relating to Whitehorse Copper sales uncertainty. This deferral account is proposed to capture the difference between Whitehorse Copper's net revenue on existing Rate 39 less forecast purchase power price applied to forecast sales, and Whitehorse Copper's net revenue on existing Rate 39 less forecast purchased power price applied to actual sales.

102. In response to UCG-YECL-10(a), YECL refers to a deferral account related to Rate Schedule 34. YECL confirmed during the oral hearing that Rate Schedule 34 was associated with the provision of site maintenance energy when Rate Schedule 39 was not in effect and no mining or milling activities were taking place[23].

103. When asked whether Rate Schedule 34 had ever been used and whether any amounts had ever been cleared from the deferral account, YECL testified that there was revenue put into that deferral account related to site maintenance energy sold to the Faro mine back in the 1990s and that the deferral account was cleared at a subsequent YEC proceeding[24]. UCG notes that YECL did not provide any follow up to these comments.

104. It is UCG understands that under Rate Schedule 34, YEC collected revenues from the Federal Government for the ongoing shutdown and de-watering power requirements at the Faro mine site. Pursuant to Board Order 1998-5, all revenue received under Schedule 34, less reasonable incremental costs associated with supplying power to the mine site, were placed in a deferral account for future application to the benefit of customers. YEC argued in the 2005 revenue requirement proceeding that these accounts were set up to the benefit of ratepayers.

105. Despite the fact that the Faro mine de-watering deferral account was being used to the benefit of ratepayers in that it was providing YEC with a source of no-cost capital, thereby reducing revenue requirements through a lower rate base than otherwise would occur, the Board decided that the Faro mine de-watering deferral account could and should be drawn down to provide rate stability to customers. In its Order 2005-12, the Board directed YEC, commencing January 1, 2005, to amortize the Faro mine de-watering deferral account credit balance in such a manner as to offset the need for general service rate increases at the amount equal to the revenue shortfall approved by the Board for 2005 to 2007.

106. In response to YECL-YEC-1-25 in YEC's 2008-2009 GRA proceeding, YEC provided details of a "Faro Dewatering Account" into which net proceeds from sales of site maintenance at the Faro mine site over the period 1998-2004 (when the total amount of these sales was being deferred) were accumulated. This account carried a balance of $2.1 million at the end of 2004. In 2005, 2006 and 2007, annual "Faro Mine Trust Transfers" of $292,000 were made from the Faro Dewatering Account to YEC's revenues to partially defer the need for rate increases. This left a balance of approximately $1.2 million.

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22 YECL 2013-2015 GRA, page 2-8
23 Transcript Volume 2, November 5, 2013, page 196
24 Transcript Volume 2, November 5, 2013, page 197

107. In its 2008-2009 GRA, YEC applied to have $463,000 of the remaining Faro Dewatering Account applied in 2008 against the outstanding balance in Reserve for Injuries and Damages (RFID). YEC also applied to have additional funds transferred from the Faro Dewatering Account to offset any net revenue losses due to delays in the final connection timing of Minto mine and Pelly Crossing loads to the Carmacks-Stewart Transmission Project from the October 1, 2008 connection date assumed in the Application and secondary sales revenue losses, if any, arising due to below average water flows in any year after 2008.

108. In its Order 2009-8, the Board directed YEC to apply $413,000 from the Faro Mine Dewatering Account against the then current balance in the Reserve for Injuries and Damages.

109. Subsequent to Order 2009-8, additional transfers from the Faro Dewatering Account were also used (as approved by the Board) to address revenue deficiencies following the final Order on YEC's GRA (i.e., $26,000 in 2008 and $355,000 in 2009.

110. In its 2012-2013 GRA, YEC applied to have the remaining $398,000 of the Faro Dewatering Account applied against the outstanding balance in Reserve for Injuries and Damages (RFID). The Board approved the transfer in its Order 2013-01 which effectively closed this deferral account.

111. In UCG's opinion, the Faro Dewatering Account is a completely different account than the deferral account currently being requested by YECL. UCG submits that the proposed Whitehorse Copper Sales Uncertainty deferral account simply transfers the risk of serving this industrial customer to non-industrial customers despite YECL's fight to take on this industrial customer during YEC's 2012-2013 GRA proceeding.

112. Given the delay in the start-up of Whitehorse Copper as an industrial customer for YECL, UCG submits that the impact of any forecast error during the test period of 2013-2015 will be minimal so there is no need for a deferral account to protect YECL from its own forecast.

<u>Yukon-Specific Load Data</u>

113. In the Joint Agreement on Outstanding Matters from the 2008/2009 GRA Phase II (Exhibit B-9, Appendix A), YECL and YEC proposed to re-evaluate the cost allocation to various rate classes to ensure the results are consistent with the load characteristics in Yukon.

114. Among other things, Board Order 2010-13 directed YECL and YEC to collaborate to identify and select appropriate cost-effective measures that will effectively measure actual Yukon-specific customer loads (proxy study) so that the ATCO Alberta models can be calibrated to provide reliable Yukon-specific load information, and to implement these measures prior to the next Phase II Application.

115. UCG submits that this will require an extensive effort by the utilities and, given their claims of being too busy for other initiatives and their record of ignoring stakeholder consultations, UCG submits that YECL should be directed (again) to conduct this work well in advance of the

development of a Phase II application that is due in June 2014 and that they be directed to consult stakeholders during the development.

116. UCG submits that this appears to be an example of the failure of YECL to ensure that the best forecasts are included in the general rates application. UCG submits that the most accurate up-to-date use per customer should be used to allow for an accurate forecast of load growth.

117. To the extent that industrial loads (i.e., major industrial and/or isolated industrial customers) make up part of YECL's and YEC's load requirement, UCG asserts that the needs of those loads must necessarily be treated separate and apart from YECL's and YEC's non-industrial load. UCG submits that utility revenue volatility created by transient industrial loads in the Yukon is a significant issue.

118. Per the Rate Policy Directive, industrial rates are to recover 100% of the costs incurred to serve these loads. While the industrial rates are artificially held constant by OIC, UCG submits that the cost of service for industrial loads should still be determined and any revenue surplus / deficiency created by the frozen rates should be isolated to protect the non-industrial classes from any adverse impacts and instability. It may be that the result of the Phase 2 cost of service analysis is that the industrial rates determined by OIC 2012/68 do not recover the full costs incurred on behalf of industrial customers pursuant to OIC 1995/90. Under that scenario, the Board will have to determine who should bear the cost of the deficiency.

119. In the Yukon, industrial customers are synonymous with mines, which by their nature are transitory and unpredictable. Planning for such loads within the load forecast for the rest of YECL's and YEC's non-industrial customers can result in excessive capital expenditures to account for temporary mine loads, expenditures which could then be left to non-industrial customers to bear. UCG has specific comments on capital projects elsewhere in this submission which highlight the risks involved in combining the mine related requirements and non-industrial load requirements of YECL and YEC in planning.

120. UCG submits that YECL should study the use of weather normalization for load forecasting and results reporting so that load variances resulting from weather can be isolated. UCG submits any hesitation by the utility may in part be because they do not understand how weather normalization is effectively undertaken and accepted in other jurisdictions.

121. Without any knowledge about what will result from the DSM programs proposed by the utilities, YECL states that the DSM programs will result in lower energy consumption and that it is counter-intuitive to be investing in this DSM program while, at the same time, not sending the right price signal by not fully charging current customers the cost associated with net salvage.

122. The utilities admit in their evidence that DSM is a mechanism, or suite of options for reducing, shifting or reallocating electrical demand. UCG submits that there is no evidence provided by the utilities that their proposed DSM programs will do anything other than shift energy consumption rather than actually reduce it so factual claims to the contrary are not supportable.

PURCHASED POWER

123. In response to UCG-YECL-11, YECL provides details of the incremental purchased power costs incurred when Fish Lake was out of service following the March 2010 failure. YECL notes that its proposal to capitalize the incremental purchase power costs incurred when Fish Lake Unit #1 was out of service is consistent with the Board's direction to capitalize the incremental purchased power costs incurred due to Fish Lake rebuilds in 2008 and 2009.

124. In its Order 2009-2 Reasons for Decision, the Board noted that it allowed the amortization of capital costs associated with the incremental purchase power costs because they were related to the rebuild which would have enduring benefits[25].

125. When asked at the oral hearing whether they knew of any other instance where incremental purchased power costs resulting from unavailable generation due to a planned or unplanned outage had been capitalized, YECL referred to generation costs associated with the Carmacks-Stewart transmission line project (CSTP) being incurred by YECL that were capitalized as part of YEC's capital project. UCG submits that there is no evidence on the record of this current proceeding that validates this claim by YECL. As far as UCG can determine, there was no mention of generation costs in the costs associated with the CSTP[26].

126. UCG submits that the incremental purchased power costs incurred when Fish Lake was out of service served an immediate need just as any source of power might have in an emergency situation and does not provide enduring benefits to ratepayers. As a result, these costs should not be capitalized.

FUEL COSTS

127. YECL is proposing to continue the Fuel Price Flow-Through Deferral Account for fuel prices for the 2013-2015 test period but is requesting a change in the methodology for calculating the deferral for fuel used in Watson Lake. As a result of the proposed conversion of the diesel units in Watson Lake to bi-fuel (diesel and LNG) beginning in 2014, generation with be based on a variable mix of diesel and LNG.

128. Section 8 of the rate Policy Directive (OIC 1995/090) states:

> *8. The Board must permit Yukon Energy Corporation and The Yukon Electrical Company Limited to adjust their rates to retail customers, major industrial customers, and isolated industrial customers so as to reflect fluctuations in the prices for which the two utilities pay for <u>diesel fuel</u>, without the requirement for specific application to, and approval from, the Board.*

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[25] Board Order 2009-2, page 10

[26] 2008-2009 General Rate Application, LE-YEC-1-46

129. The Fuel Adjustment Rider & Deferral Price Variance Policy (Rider F) was last approved by the Board in Order 2012-02 dated February 29, 2012. The Board confirmed in its Order 2011-15 that the Deferred Fuel Price Variance Account applies to all diesel fuel consumed in a period[27].

130. Despite the fact that the Fuel Adjustment Rider & Deferral Price Variance Policy clearly addresses only variances in diesel fuel (and not any type of equivalent), in response to UCG-YECL-19(b), YECL states that it is premature at this time to make application to the Board regarding changing the Fuel Adjustment Rider & Deferral Price Variance Policy for the inclusion of LNG.

131. UCG submits that the Board cannot approve the proposed Fuel Price Flow-Through Deferral Account and the proposed methodology for calculating the deferral for fuel used in Watson Lake without changing the Fuel Adjustment Rider & Deferred Fuel Price Variance policy and without having Section 8 of the Rate Policy Directive Order in Council 1995/90 changed to account for LNG.

OPERATIONS AND MAINTENANCE EXPENSES

132. UCG submits that Yukon utilities need to adopt an overall cost-conscious culture and follow a formal cost optimization program. YECL (and YEC) needs to devise new strategies to control rising costs and show the Board and other stakeholders that they are seriously working on limiting rate increases. In UCG's view, if YECL does not have a clear, defensible, systematic plan to manage operating costs, the Board should not approve requested increases in controllable revenue requirements.

133. UCG submits that rather than just cutting costs, YECL should be directed to look at doing more with the same amount of money or doing the same with less. Some of this is necessarily basic, involving things like restricting travel or reducing training budgets, but YECL also needs to be directed to look at more impactful business-integrated programs, such as undertaking contract reviews, re-opening supplier negotiations or rationalizing one or more functions.

134. In response to Undertaking #13 (Exhibit B-15), YECL provided details of the rapid escalation of the non-fuel operating and maintenance cost per customer since their revenue requirements were last approved by the Board for 2009. The numbers clearly show that YECL has consistently incurred non-fuel O&M expenses well in excess of the amounts allowed to be recovered in rates.

135. Of particular concern to UCG is the complete lack of control that YECL has displayed on its Administration and General expenses which are forecast to be 53% higher in 2013 versus what is currently allowed to be recovered in rates and 58% and 55% higher in 2014 and 2015 respectively.

[27] Board Order 2011-15, Appendix A: Reasons for Decision, page 6

136. Given the fact the YECL sets its proposed operations and maintenance budgets based on a historical review, UCG submits that the Board should direct YECL to reduce O&M costs per customer by 10% in each of the test years and establish a clear plan of actions that will reduce these escalating costs.

137. With respect to labour costs allocated to capital and deferred costs[28], YECL confirmed during the oral hearing that they do not have any evidence that their 33% to 34% level proposed for 2013 through 2015 is comparable to other utilities[29].

138. UCG submits that transferring an arbitrarily set and non-benchmarked 33% of labour costs to YECL's balance sheet as an asset allows YECL and its shareholder to earn returns on what appears to be a fictitious number that appears too high to be reasonable.

139. UCG submits that the Board should reject YECL's proposal to capitalize 33% to 34% of its labour costs because YECL has not adequately demonstrated that the additional overhead included in the test year forecasts is directly attributable to particular capital activity.

140. UCG is also concerned that the 33% to 34% ratio is based on a snapshot calculation with no evidence of consideration of historical trends. UCG submits that 27% - 30% of labour should be assumed to be capitalized in the test years until a more formal industry standard can be determined.

141. UCG submits that the purpose of capitalizing administrative and general overhead as part of the total cost of a capital asset is to ensure that all costs associated with constructing a capital asset, including those related to administrative activities, labour, etc. are included. This allocation results in a better matching of the costs incurred with the timing of the benefits they generate. The amount of capitalized overhead will vary from year to year based on the mix of capital versus operating and maintenance activities undertaken and based on any changes to the methods used to allocate costs between activities.

142. UCG submits that YECL's overhead capitalization policy and implementation of that policy should be subject to an independent study to ensure that capitalized overhead is directly attributable to particular capital activities and that historical trends / industry practice are fully considered.

143. UCG submits that the Financial Reporting and Regulatory Support provided by ATCO to YECL appears to have no limits. YECL states that in 2012, ATCO started charging YECL for the costs of an Edmonton-based corporate accountant as well as 0.5 FTE Manager. This added $235,000 to the costs in 2012 and an additional $166,000 is being layered on for the 2013 budget[30].

144. UCG submits that there is no evidence on the record justifying the skyrocketing allocation of affiliate costs to YECL. UCG submits that Financial Reporting and Regulatory Support related

28 YECL Response to UCG-YECL-1-20(d)
29 Transcript Volume 2, November 5, 2013, page 223
30 YECL Response to Undertaking #14.

cost transfers from ATCO included in the test period revenue requirements should be capped at the level currently approved for recovery in rates.

TAXES OTHER THAN INCOME

145. In its application, YECL is forecasting increases to property taxes paid to Yukon communities of 2.8% in 2013, 3.1% in 2014 and 3.0% in 2015. YECL states that the increases forecast during the test period are primarily due to planned capital work on the downtown office building in Whitehorse and the Fish Lake Unit #1 building, as well as inflation[31].

146. The capital projects identified in the application related to the office building in downtown Whitehorse are:
   - 2012: Downtown Office Interior Renovations - $62,000
   - 2013: Downtown Office Building Envelope Upgrades - $600,000
   - 2013: Downtown Office Interior renovations - $100,000

147. UCG submits that the evidentiary record in this proceeding does not have any cost breakdown of the Fish Lake Unit #1 Turbine and Building Replacement project to allow any determination of how much and when the assessment for this property might change for property tax purposes.

148. In accordance with the legislation and mandate, the Property Assessment & Taxation Branch of the Yukon's Department of Community Services reviews and reassesses land and improvement values every two years. The market value of land is reviewed and any changes in value noted from market evidence may lead to a change in land value for property tax purposes. The cost to build is also reviewed and any changes noted in building costs from the time of the last reassessment may necessitate a change in the building property tax assessment[32].

149. UCG submits that YECL has not provided any evidence to confirm that any improvements to the office building in downtown Whitehorse will result in a reassessment that would impact property taxes paid during the test years.

150. UCG notes that the property tax budget that exists in rates is $254,000 as was approved for 2009 per Board Order 2009-2 and the subsequent compliance filing Order 2009-5.

151. Based on the levels of actual property taxes listed in YECL's application[33], YECL has recovered an additional $62,000 in rates between 2009 and 2012 over the amounts required to be paid for property taxes.

152. UCG submits that YECL should not be granted any increase to property taxes for the test years given the over collections since base rates were last set and the lack of evidence indicating that assessments and the resulting property taxes will actually increase during the test period.

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31 YECL 2013-2015 GRA, page 6-1
32 Frequently-Asked Questions about Property Assessment and Taxation, Property Assessment & Taxation Branch Web Site
33 YECL 2013-2015 GRA, page 6-1

INTERNATIONAL FINANCIAL REPORTING STANDARDS (IFRS)

153. In response to UCG-YECL-7(c), YECL states that, on direction from its parent company, it has already adopted International Financial Reporting Standards in January 2011 despite announced deferrals to the adoption of IFRS. YECL testified that it adopted IFRS in 2011 because of a determination by its parent company that it was adopting IFRS rather than deferring adoption until issues associated with rate-regulated accounting under IFRS could be resolved.

154. YECL confirmed in response to UCG-YECL-7 its understanding that the Canadian Accounting Standards Board has announced a series of deferrals to the adoption of IFRS by rate regulated entities like YECL to January 1, 2013, January 1, 2014 and January 1, 2015 in March 2012, September 2012 and February 2013 respectively. YECL also confirmed that it will not be able to adopt changes that may be made to rate-regulated accounting policies as a result of the current ongoing review by the International Accounting Standards Board because YECL adopted IFRS early on despite the uncertainty surrounding regulated accounting practices.

155. In its 2012/2013 General Rates Application dated April 27, 2012, YEC recognized that the Canadian Accounting Standards Board has allowed entities that meet the criteria for rate regulated activities to defer transition to IFRS for one year (to years beginning on or after January 1, 2012) and to continue to apply CGAAP until that time. YEC elected to take this deferral option and indicated that it would report under IFRS for the first time in its year ended December 31, 2012.

156. In response to UCG-YEC-1-46 in the YEC 2012-2013 GRA proceeding, YEC confirmed its willingness to defer adoption of International Financial Reporting Standards until January 1, 2013 to allow issues associated with rate regulated accounting under IFRS to be resolved.

157. The adoption of IFRS is expected to change the manner in which utilities perform their accounting and the reporting of financial results, and this may create impacts on distribution rates or other charges. While YECL's actions will make it difficult, UCG submits that the Board should ensure that both YEC and YECL are developing and implementing consistent plans to transition to IFRS. UCG submits that the Board should also be involved in order to determine the effects of the adoption of IFRS on regulatory accounting and rate making, to identify necessary changes to the Board's filing and reporting requirements and rate setting methodologies.

158. UCG submits that the Board should determine whether YEC and YECL will be allowed to use deferral and variance accounts for rate making in appropriate circumstances and whether or not these accounts are recognized under IFRS.

159. UCG submits that the Board must carefully consider the potential impacts and costs related to IFRS including:
- the one-time administrative cost to switch-over to the IFRS-based reporting;
- the ongoing administrative costs for IFRS reporting including any related incremental costs for required regulatory reporting; and
- impact on revenue requirement that may arise from changes in rate base and operating costs determinants, driven by changes in the timing of the recognition of expenses.

160. With respect to administrative costs to switch over to the IFRS based reporting, in response to UCG-YECL-7(b) and oral testimony[34], YECL indicated that for 2013, 2014, and 2015, the approximate cost of the time spent to keep two sets of financial records due to IFRS is $44,500, $46,000 and $47,500, respectively. UCG submits that this represents $138,000 being spent on IFRS transition-related work during the 2013-2015 test period that would not have been necessary if YECL's parent company had not prematurely directed YECL to adopt IFRS. Without any detail being provided on what work will incur these costs, UCG submits that at least 50% this amount should be paid for by YECL's parent company.

161. UCG submits that the Board should require utilities to specifically identify financial differences and any resulting revenue requirement impacts that arise from the adoption of IFRS requirements in the utility's first revenue requirement or rates filing after IFRS adoption. Given that YECL is already using IFRS, UCG submits that the Board should require this information as part of the compliance filing associated with this application.

162. UCG submits that rate mitigation or smoothing mechanisms (such as the use of a deferral account and collection of accumulated amounts from ratepayers over a number of years) can be applied to reduce any rate impacts related to the adoption of IFRS, to the extent the Board permits recovery of IFRS-related costs.

163. UCG submits that the Board should direct YECL to provide a report during 2014 on how it will address the IFRS requirements. UCG is especially interested in how YECL intends to address the impact of the requirement to treat 3rd party contributions as deferred income.

DEPRECIATION

164. YECL is looking for approval of updated depreciation rates as supported by a depreciation study conducted by Gannett Fleming. YECL's application is to increase the depreciation expense recovered through rates from $3.661 million (as approved for 2009) to $6.57 million in 2013, $7.509 million in 2014 and $8.569 million in 2015[35]. This represents increases from the previously approved depreciation expense of 79% in 2013, 105% in 2014 and 134% in 2015. While some of this increase is attributable to an increase in assets, the majority appears to be related to the reinstatement of net negative salvage recovery.

165. The annual accrual rates and the accrued depreciation proposed by YECL were calculated in accordance with the straight line method, using the equal life group procedure based on estimates which reflect considerations of current historical evidence and expected future conditions. While UCG does not have any evidence to challenge the asset service lives and depreciation determined by the methods used by Gannett Fleming, UCG challenges whether a one-time acceptance of the results is warranted versus a phased-in approach given the significant change and associated rate impacts.

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34 Transcript Volume 2, November 5, 2013, page 194
35 YECL 2013-2015 GRA, Schedule 1.1

166. Although the proposed change in depreciation methods appears reasonable from YECL management's point of view, the Board is charged with setting rates fairly intended to protect the public interest. UCG submits that the Board has a duty and requirement to exercise its expertise in evaluating the entire effect of utility managerial judgment. If such elected policies do not fairly indicate a reasonable and prudent business expense, which the consuming public may reasonably be required to bear, then the Board must not allow the proposed changes.

167. Negative net salvage refers to the cost of removal of an asset at the time of its retirement from service over the revenue realized from the sale of the retired asset. UCG submits that it is obvious based on the evidentiary record that it was a decision of YECL management to reintroduce net negative salvage recovery into rates and not a recommendation by Gannett Fleming[36].

168. UCG submits that the rate impact of the proposed net negative salvage recovery should cause the Board to scrutinize Gannett Fleming's depreciation study carefully and to approach the increased depreciation rates recommended in the study with considerable caution. UCG submits that Gannett Fleming and YECL have failed to provide analysis of alternative ways to recognize net negative salvage in the accrual process and each alternative's impact on revenue requirements. UCG questions the need to include negative salvage in the accrual system and the associated collection of revenues before the expense is incurred.

169. The impact of the depreciation study is a significant increase in forecast depreciation expense primarily due to the request for reinstatement of a provision for future removal and site restoration in depreciation rates[37]. The dollar impact of the proposed change in depreciation rates is $5.93 per month to a typical residential customer[38]. UCG submits that this is a significant impact that should not be added to the burden of Yukon ratepayers.

170. In response to UCG-YECL-24(a), YECL identified 8 utilities that it considered comparable to YECL that have been allowed to include net salvage estimates within their current depreciation rates:

ENMAX Power Corporation
FortisAlberta Inc.
ATCO Electric
Manitoba Hydro
Nova Scotia Power
Newfoundland Power Inc.
Northland Utilities (NWT) Limited
Northland Utilities (Yellowknife) Ltd.

171. When asked to explain what made these utilities comparable, YECL could only offer that these utilities have a dedicated electricity distribution system and are regulated[39]. YECL could not

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[36] YUB-YECL-80(a)
[37] YECL 2013-2015 GRA, page 7-1
[38] Exhibit B-12, Response to Undertaking #1
[39] Transcript Volume 1, November 4, 2013, pages 32-33

offer any comparative evidence that allows the Board to determine that YECL's circumstances related to negative salvage equate to any of these utilities. In particular, UCG notes that YECL did not make any mention of the ownership characteristics of these "comparable utilities" despite the evidence of Gannett Fleming that ownership does make a difference in the regulatory and depreciation principles as applied by regulatory authorities throughout Canada[40].

172. UCG submits that this does not provide the Board with a comprehensive review of the circumstances that have convinced regulators in other jurisdictions to allow recovery of net negative salvage in depreciation rates nor does it provide details of the circumstances where recovery of negative salvage has been denied or other alternatives implemented (e.g., those listed in response to UCG-YECL-25).

173. In its Order 2009-2 – Reasons for Decision on YECL's last general rates application, the Board noted the following with respect to YEC's Future Reserve for Site Restoration and YECL's approach to collecting for negative salvage:

> *With respect to FRSR, the Board is persuaded by the arguments of YEC and CW that consistency in this area is important. YECL responded that two critical facts were specific to YEC and those facts were not consistent with the circumstances of YECL: (1) YEC has recorded an Asset Retirement Obligation related to the legal requirement for the removal of facilities in compliance with Section 3110 of the CICA handbook; and (2) The company has recorded FRSR requirements into a separate balance sheet account. The Board is of the view that the substance of the circumstance of YECL is similar to that of YEC. That is, YECL has a salvage obligation and YECL has the ability and can account for amounts equivalent to FRSR. Whereas both YECL and YEC utilized acceptable depreciation methods, the treatment of FRSR or negative net salvage is not consistent between the two utilities. Given that the negative net salvage balance continues to grow, the Board does not believe that there is a need to continue to collect such amounts. YECL is to remove these amounts from its depreciation expense for each of the test years and is not to include any amounts for negative net salvage until Board approval is provided. Further, the Board orders that the December 31, 2007, accumulated amount for net negative salvage be shown as a liability and be reduced as salvage costs are incurred for the years commencing with 2008. Similar to YEC, YECL is to inform the Board and interested parties when the balance for this liability account reaches $2 million.*[41]

174. UCG is not aware of any instance where YECL has informed the Board and interested parties that the balance for the negative salvage liability account had reached $2 million. UCG assumes that this means that the liability is still below $2 million.

175. UCG is not clear how the need for regulatory consistency for both utilities (YEC and YECL) that the Board has determined in the past can be maintained with YECL's proposal. UCG

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[40] YECL 2013-2015 GRA, Section 7, Attachment 2, Page 19
[41] YUB Order 2009-2 – Reasons for Decision, page 22

submits that YECL should continue with the previously directed cancellation of recording any provision for Future Reserve for Site Restoration.

176. The depreciation rates proposed by YECL for 2013-2015 are based on the straight-line whole life method using the equal life group procedure. In the depreciation study conducted for YEC for its 2012-2013 general rates application, Gannett Fleming agreed that toll stability is an overall rate making objective that needs to be considered in the development of appropriate depreciation policies and Gannett Fleming accepted the decision of YEC to convert to the average service life procedure in the calculation of the depreciation rates[42]. UCG submits that YECL's proposal in the current application works directly against toll stability.

177. YECL noted that the requested reinstatement of a provision for net negative salvage in depreciation rates results in a reduction in rate base and, as a result, a lower return on rate base[43]. UCG submits that YECL has neglected to provide enough evidence that (1) its assets have a clearly discernable end-of-life; and (2) sales and salvage values of abandoned or retired equipment are fully proven.

178. In fact, Gannett Fleming's depreciation study report indicates that over the history of YECL, only 9% of the plant installed has retired, and less than 1% in any given transaction year.[44]

179. UCG submits that a net negative salvage allowance recovers costs the utility will incur upon retirement of plant. UCG submits that YECL's proposal does not take into account that net negative salvage costs need to be recovered over a term consistent with the expected plant retirement date.

180. UCG notes that Gannett Fleming refused to provide additional detail related to their recommendation in a current Enbridge Gas Distribution rates application to the Ontario Energy Board (EB-2012-0459) to change depreciation rates to reduce the annual amount for future site restoration costs and to implement a rate rider to return to ratepayers over a 5 year period more than $250 million previously over-collected in depreciation rates for site restoration costs because Gannett Fleming's previously recommended depreciation rates were too high[45]. UCG submits that Enbridge Gas Distribution has been asked (through the information request process) by the staff of the Ontario Energy Board to explain what economic and physical factors caused the depreciation rates calculated by Gannett Fleming to over-recover depreciation from customers since 2001 up to 2010 and beyond. A response from Enbridge (Exhibit I.A12b.EGDI.Staff.45) is due on December 11, 2013 and UCG submits that the Board should take the information provided into account before considering YECL's proposal on net negative salvage (http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/search/rec?sm_udf10=EB-2012-0459&sortd1=rs_dateregistered&rows=200).

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42 YEC 2012 – 2013 General Rate Application, YECL-YEC-1-61(b) Attachment 1, page 11
43 UCG-YECL-23(e)
44 YECL 2013-2015 GRA, Section 7, Attachment 2, pages 21- 22
45 UCG-YECL-24(c)

181. According to YECL's application[46], IFRS requires companies to review their depreciation rates annually and implement new depreciation rates if necessary. YECL proposes to record depreciation expense based on the rates set by the latest depreciation study unless the annual review indicates that a change in a rate is required. YECL is requesting a deferral on depreciation rates which would allow for future applications to be filed, as necessary, to change its depreciation rates within the 2013-2015 test period and for the impact of any such change to be flowed through to customers.

182. According to YECL, the intention of its requested Depreciation Parameters deferral account is, to the extent possible, permit YECL to harmonize IFRS and regulatory accounting and avoid the administrative burden of keeping two sets of financial records[47].

183. YECL goes on to explain that changes to depreciation parameters that are not under its control include changes due to functional obsolescence or inadequacy, technological change, changing requirements of customers and market forces, customer growth, and legal and regulatory requirements. Specifically, YECL noted that net negative salvage can be affected by uncontrollable changes in technology in the removal of property, inflation, and changes in market demand and market prices which can affect salvage values[48].

184. YECL could not identify any of its "comparable utilities" that have had a deferral account for depreciation parameters approved by a regulator[49].

185. UCG questions YECL's claim that the need for the changes to its depreciation rates and parameters is driven by a change since Board Order 2009-02 (February 19, 2009) that sending the right price signal to customers has taken on added importance as a result of diesel generation once again being on the margin in the Yukon[50]. This is not a new revelation for Yukon utilities. In fact, the rate design proposed within the 2009 Phase II Rate Application submitted by YECL and YEC on February 19, 2010 was based on "restoring efficient price signals to each customer class with a goal to send reasonable price signals to each customer class recognizing the existing cost structure"[51] and "promoting economy and efficiency by sending customers a price signal at higher levels of consumption in an increasing costing environment"[52]. If this was all known, UCG questions why YECL didn't undertake a depreciation study three years ago and bring the results forward sooner.

186. It is UCG understands that even before IFRS was implemented, Canadian Generally Accepted Accounting Principles (CGAAP) required entities to evaluate their asset useful lives annually and adjust them if necessary. UCG understands that, in practice, useful lives are not adjusted frequently as there would generally need to be new information that would trigger such a

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46 YECL 2013-2015 GRA, Section 1, Attachment 2, Page 4 of 6
47 YUB-YECL-1(c)
48 YUB-YECL-2
49 CW-YECL-31(b)
50 YUB-YECL-80(b)
51 YEC/YECL 2009 Phase II Rate Application, page 2
52 YEC/YECL 2009 Phase II Rate Application, page 1-10

change. UCG submits that unless new information is presented, there shouldn't be a need to adjust asset lives and depreciation rates.

CAPITAL STRUCTURE / COST OF CAPITAL

Capital Structure

187. The current capital structure of YECL provides for a 40% common equity ratio. This capital structure has prevailed following the past three determinations of the same by the Board in its Order 1993-8, Order 1996-6 and Order 2009-2. YECL now seeks in this proceeding, an order increasing its current equity thickness to 44%. UCG submits that the proposed increase to equity thickness should be denied.

188. The capital structure reflects the overall business risk of the utility including its ability to access capital markets. The riskier the firm, the more likely that capital markets will expect that it will be financed by higher levels of equity. Firms with low business risk are able to finance with greater debt and still have ready access to financial markets.

189. Business risk is comprised of many elements. For an electricity utility, these elements include the utility's related ability to attract customers and retain its customer base, which affect throughput levels and system load factors. Consumer sentiment, environmental considerations and government policy also play important roles in the determination of the utility's risk profile. These risk factors determine whether the utility will be able to recover its investments in rate base over time and affect its ability to achieve its allowed return.

190. Financing with debt reduces the revenue requirement of the utility. This is because equity shares carry a higher return than debt, and the cost of debt is deductible from the firm's income while the cost of equity is paid with after-tax income.

191. YECL's parent company, ATCO Ltd., maintains an "A" credit rating.

192. The British Columbia Utilities Commission ("BCUC") in its Generic Cost of Capital Decision issued on May 10, 2013 noted[53]:

> *The Commission Panel will continue to be guided by the Fair Return Standard with its three tests of financial integrity, capital attraction and comparable return in determining an appropriate capital structure and ROE. The Panel supports the maintenance of an "A" category credit rating but only to the extent that it can be maintained without going beyond what is required by the Fair Return Standard.*
>
> *The Commission Panel finds that there is sufficient evidence to conclude that the maintenance of an "A" category credit rating is desirable, but not at all costs.*

53 BCUC Generic Cost of Capital Decision – Stage 1 – May 10, 2013, page 50

193. The Ontario Energy Board's Report on Cost of Capital for Ontario's Regulated Utilities provided guidelines with respect to utility capital structure. The report on page 50 states[54]:

> *The Board has determined that a split of 60% debt, 40% equity is appropriate for all electricity distributors. Capital structure was not a primary focus of the consultation and the Board notes that the comments made by participants in the consultation largely supported the continuation of the Board's existing policy.*
>
> *For electricity transmitters, generators, and gas utilities, the deemed capital structure is determined on a case-by-case basis. The Board's draft guidelines assume that the base capital structure will remain relatively constant over time and that a full reassessment of a gas utility's capital structure will only be undertaken in the event of significant changes in the company's business and/or financial risk.*

194. YECL states in its Application[55] that "in the case of the BCUC, the benchmark common equity ratio has increased from 35.01% to 38.5%". UCG submits that in fact, the BCUC actually reduced the common equity ratio of the benchmark utility[56]:

> *Consideration being given to both long and short-term risk, the Commission Panel determines that <u>a reduction in the common equity ratio of 1.5 percent to 38.5 percent is appropriate</u>.*

195. The request by YECL to finance its capital by an additional 4% in equity will cost Yukon ratepayers an additional $440,000 in 2013, $542,000 in 2014 and $586,000 in 2015 or approximately 1% of the proposed rate increase[57]. UCG submits that this equity thickening is only justified if YECL can show a significant change in business risk.

196. The Ontario Energy Board noted in its Report on Cost of Capital for Ontario's Regulated Utilities that[58]:

> *"As noted in the Board's draft guidelines, capital structure should be reviewed only when there is a significant change in financial, business or corporate fundamentals."*

197. In its Order 2009-2 – Reasons for Decision, the Board confirmed this approach when it indicated[59] :

> *"The Board is not convinced that the YECL situation or risk profile has changed since its last approved equity ratio for 1997[60] to warrant a substantial increase in the equity ratio."*

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[54] Exhibit C3-10 – OEB Report on Cost of Capital for Ontario's Regulated Utilities, page 50
[55] YECL 2013-2015 GRA, page 8-6
[56] BCUC Generic Cost of Capital Decision – Stage 1 – May 10, 2013, page 54
[57] YECL Response to UCG-YECL-30(j)
[58] Exhibit C3-10 – OEB Report on Cost of Capital for Ontario's Regulated Utilities, page 49
[59] Board Order 2009-2 – Reasons for Decision, page 27
[60] Board Order 1996-6, page 11 of 17, Schedule 4B.

198. While in response to UCG-YECL-30(f) YECL states that "*cost of capital reviews may be associated with a material change in market conditions or fundamental risks of the regulated entity, but may also occur periodically due to a pre-arranged schedule or the expiry of existing arrangements*", UCG submits that YECL's current application is bereft of any evidence from a business risk expert as to any significant change in the business risk of YECL since the last time that Board determined the capital structure, nor is there any evidence suggesting a pre-arranged schedule or expiry of existing arrangements.

199. YECL made a deliberate choice not to submit independent cost of capital analysis in this application to support its proposals. YECL extensively refers to and relies upon the evidence of Ms. Kathleen McShane, a cost of capital expert, of some five years in vintage that was offered in YECL's 2008-2009 General Rates Application. This evidence thus does not demonstrate significant change in business risk from the time of the Decision 2009-2.

200. In fact, the evidence on this issue offered by Ms. McShane was implicitly rejected by the Board in maintaining the pre-existing capital structure of YECL.

201. YECL then picks and chooses elements of the most recent BCUC Generic Cost of Capital Decision issued May 10, 2013 to justify its conclusion that YECL's equity should be thickened in accordance with the application.

202. The BCUC Generic Cost of Capital Decision issued on May 10, 2013 determined the capital structure of a benchmark low risk utility, namely Fortis Energy Inc. (FEI) in its pre-amalgamation state, effective January 1, 2013, as having a capital equity ratio of 38.5% and a return on equity (ROE) of 8.75%.

203. BCUC is scheduled to hold another hearing this year that will deal with the capital structure for other smaller utilities other than FEI.

204. In the absence of guidance from the Phase 2 portion of the BCUC Generic Cost of Capital Proceeding still to come, YECL has decided to make its own adjustments to the benchmark capital structure. These include raising the capital equity ratio from 38.5% recommended for the benchmark utility to 44% and to maintain the 46% risk premium allowed in the Board 2009-2 Decision. YECL agreed during the oral hearing that its risk had only changed modestly and that the driving force behind its request for a higher equity thickness is premised on the world changing around them[61].

205. UCG submits that YECL's argument focuses on the first part of the comparable investment standard – that the return on invested capital must be comparable. However, YECL's argument fails to address the second part of the comparable investment standard, that being the issue of "enterprises of like risk". YECL would have the Board increase (and potentially reduce) its deemed common equity ratio in lock-step with the decisions of other regulators, without an analysis of whether the utilities to which it is compared are enterprises of like risk. YECL did not file analytical evidence that demonstrated that these utilities are of like risk to YECL.

[61] Transcript Volume 2, November 5, 2013, page 239

206. UCG submits that there is insufficient evidence offered in this proceeding concerning the differences in the business risk profile of YECL and the benchmark utility FEI to provide an empirical basis to tinker with the BCUC formula. There has been no difficulty in YECL raising capital to finance its capital needs as the debt is raised through its parent and apportioned accordingly[62].

207. While YECL believes that it would have difficulty raising debt capital on a "stand-alone basis", this is largely speculative and there is no independent evidence from an expert in business risk and financial markets to that effect. Here, because debt capital is raised by the parent, ratepayers are not even assured of potentially lower interest rates on any debt arising from a reduction in business risk should there be a thickening of the equity ratio. It is also to be noted that the Board gave short shrift to this YECL approach in the Reasons for Decision of Order 2009-2[63].

208. In any event, as the May 2013 BCUC decision notes, there is no obligation on the part of the regulator to maintain a particular credit rating.

209. YECL submits that because the BCUC had a 35.01% equity ratio at the time of Decision 2009-2, the difference between that ratio and that of YECL should be maintained. YECL offers no evidence from a cost of capital or business risk expert to sustain this opinion.

Return on Equity

210. YECL is requesting to link its return on equity for the 2013-2015 test period to the recently approved BCUC Generic Cost of Capital benchmark rate of 8.75% plus a risk premium of 0.46%. This results in a total requested return on equity of 9.21% for each of 2013, 2014 and 2015.

211. Without requesting that an Automatic Adjustment Mechanism be initiated in the Yukon, YECL has applied for a deferral account for 2014 and 2015 to flow through any change to the 8.75% ROE resulting from the BCUC's Automatic Adjustment Mechanism formula. UCG submits that this should be denied.

212. While the use of cost of capital formulas developed in other jurisdictions can be useful in avoiding the potentially time consuming and expensive process of determining cost of capital issues, UCG submits that tinkering with these formulas and cherry picking components of adjustment mechanisms should not be readily undertaken because of company-perceived differences.

213. In this Board's Decision on YEC's 2012-2013 General Rates Application, the robotic application of a 52 basis point rate premium over the Alberta benchmark ROE was rejected, with the Board noting that the differences of approach between the jurisdictions made such a

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[62] YECL Response to UCG-YECL-30(c)

[63] Board Order 2009-2, Reasons for Decision, pages 26-27

procedure unacceptable[64]. In UCG's view, this same principle applies in relation to the use of elements of previous decisions from the same jurisdiction.

214. The Board's Order 2009-2, made following the cataclysmic effects of the financial crisis of the fall of 2008, rejected the thickening of the equity ratio as proposed by YECL. The BCUC, on the other hand, some ten months later raised its benchmark equity to 40%.

215. In its Order 2009-2, with the benefit of up to date business risk evidence, the Board made a careful determination of YECL's business risk. Nowhere in that decision is there reference to maintenance of a differential capital equity ratio with the BCUC benchmark. It is noted that:

> *"The Board accepts the argument from CW that based on the equity ratio proposed by YECL the FFO[65] interest-coverage ratio is higher than that for other Canadian transmission or distribution utilities. The Board also accepts CW's argument that YECL has not satisfied the Board that YECL's business risks are higher than those of a typical distribution or transmission utility."*

216. Board Order 2009-2 did allow YECL an additional risk premium in its ROE of 46 basis points noting[66]:

> *"In its reply argument, YECL suggested a risk premium of 52 basis points, the same as YEC. However, the Board notes that YECL acknowledges that relative to YECL, YEC has more risk. The Board considered Appendix A of Board Order 2005-12 in finding that without the same inter-tie connections as Fortis BC, YECL is more risky than Fortis BC. As a result, the Board finds it reasonable to place the risk premium for YECL at the midpoint of the risk premiums between YEC and Fortis BC — at 46 basis points."*

217. It should be noted that in the within proceeding, YECL disputed this comparison of riskiness with YEC. Given its level of generation assets, and stake in the generation business, UCG submits there is every likelihood that YEC's and YECL's comparative risk levels remain the same as described above.

218. UCG also notes that YECL's response to UCG-YECL-30(h) identifies the returns on equity actually achieved by YECL:

	Allowed ROE	Actual ROE	Excess Earnings
2009	8.93%	11.35%	2.42%
2010	8.93%	10.54%	1.61%
2011	8.93%	10.74%	1.81%
2012	8.93%	10.18%	1.25%

64 Board Order 2013-01 – Reasons for Decision, page 49
65 FFO – Funds From Operations
66 Board Order 2009-2 – Reasons for Decision, page 29

219. UCG submits that YECL has been consistently achieving earnings well in excess of the allowed return on equity which includes the risk premium bonus. UCG submits that it is time to eliminate the unnecessary risk premium and introduce an earnings sharing mechanism so that ratepayers will get their over-payments back. Since an earnings sharing mechanism also provides an incentive for YECL to introduce more efficiencies, it can yield benefits over and above the recalibration of over-earnings to yield a more equitable result.

220. As a comparison, UCG submits that YEC's capital structure has been set by Board Order 2013-01 at 40% common equity with an ROE of 8.75% effective January 1, 2012. YEC's cost of capital was based on the most recent Alberta Utilities Commission Cost of Capital Decision and the comparison with the utilities referenced therein.

221. The Board in this proceeding only has the benefit of the first half the BCUC Generic Cost of Capital Decision. Adjustments for the three groups of other utilities identified and where YECL might fit into those three groups is unknown.

222. In addition, YECL has failed to consider and quantify the effect on its risk associated with the adoption of the Automatic Adjustment Mechanism and its peculiar proposed deferral account for the effect on revenue of government measures.

223. UCG submits that the Board has the following options with respect to the return on equity:

(1) Accept the capital structure as is (i.e., 40% equity), reflecting no evidence of change in business risk buttressed by the fact of an equivalence with YEC, and allow a return on equity equal to the BCUC Generic Cost of Capital benchmark rate of 8.75%;

(2) Accept the capital structure as is (i.e., 40% equity), and add a risk premium to the BCUC Generic Cost of Capital benchmark rate of 8.75%;

(3) Accept the BCUC benchmark capital structure of 38.5% and allow a return on equity equal to the BCUC Generic Cost of Capital benchmark rate of 8.75%;

(4) Accept the BCUC benchmark capital structure of 38.5% and add a risk premium to the BCUC Generic Cost of Capital benchmark rate of 8.75%;

224. Given YECL's preference to be tied to cost of capital decisions being made by the BCUC, UCG submits that the Board should establish YECL's capital structure with a 38.5% equity component with a related return on equity equal to the 8.75% established as the BCUC Generic Cost of Capital benchmark. While it is difficult to speculate what adjustment, if any, might be made to the cost of capital of other regulated utilities in Phase II of the BCUC Generic Cost of Capital proceeding, the addition of a ROE risk premium should fully capture any possible necessary adjustment to YECL's capital structure and ROE to recognize any differences between YECL and the benchmark utility determined by the BCUC.

Cost of Debt

225. According to YECL[67], the gross proceeds of a CU Inc. debt issue are advanced to YECL's parent, ATCO Electric Ltd. The interest rate on the debenture ATCO Electric issues to CU Inc. is the same coupon interest rate as on the CU Inc. debentures issued to the public. ATCO Electric pays CU Inc. its pro-rata share of CU Inc.'s issue costs at the time the debenture is issued.

226. ATCO Electric, in turn, advances funds to YECL on the same understanding – i.e., that YECL will reimburse ATCO Electric for its pro-rata share of the issue costs incurred by ATCO Electric. However, to facilitate administrative ease, the coupon interest rate on the YECL debenture is actually set equal to the embedded rate (i.e., the coupon interest rate on the CU Inc. debentures issued to the public interest rate plus an amount to cover issue costs. YECL has forecast the amount to be added to the coupon rate for issue costs to be 5 basis points for 2013-2015.

227. In its Order 2013-01, the Board adopted an historical formulaic approach (120 basis points above long-term Canada bonds) for forecasting future costs of debt for YEC. The Board agreed with intervenors that such an approach creates a simplification which reduces the regulatory burden and brings the cost-of-debt approach congruent with YEC's approach for ROE.

228. The only evidence that YECL has put on the record regarding expert advice regarding the cost of debt is the evidence of Kathy McShane provided in April 2008 which states[68]:

> *Based on the indicated spreads for new issues as published by RBC Capital Markets, CU Inc. has been able to raise new 30-year debt on average at approximately 120 basis points over a similar term Government of Canada bond during 2007 and the first quarter of 2008.*

229. UCG submits that the same formulaic approach (120 basis points above long-term Canada bonds) for forecasting future costs of debt for YEC should be used for YECL so that ratepayers are not burdened with additional interest fees related to the financial paper shuffling among YECL and its affiliates.

230. According to the BCUC's Generic Cost of Capital Report, evidence submitted to the BCUC Panel indicated that, at the time of filing, returns available to Canadian investors on long-term Government of Canada default free bonds were in the 2.6 – 3% range. UCG submits that any debt costs associated with this new debt should be based on the range of 3.8% and 4.2% and debt costs contained within the application lowered accordingly.

231. A comparison of the forecast and actual costs of the debt issues for YECL between 2007-2012 clearly shows a high degree of variance mostly in YECL's favour. This variance is as much as 60% from the forecast interest rate[69].

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[67] YECL Response to CW-YECL-11
[68] YECL Response to YUB-YECL-33(b), Attachment 1, Page 16 of 58
[69] CW-YECL-11

232. Notwithstanding YECL's apparent high degree of confidence in the accuracy of their forecast (apparently obtained through discussions with ATCO's Treasury department), UCG suggests that the long term Canada rate is largely a matter of speculation as well as the actual rates that the market will demand when the debt issue may occur. UCG submits that the Board must also be aware of the fact that YECL has some ability to control the date of issuance to garner a favourable rate.

233. In its evidence[70], YECL notes that the standard criteria for the establishment of a deferral account involves the difficulty in forecasting costs that are not reasonably in the control of the company and that an error in forecasting may result in a gain or loss that might be substantial.

234. UCG submits that forecast debt costs meet this criterion. UCG submits that a deferral account should be established to track differences between forecast and issued debt interest rates. Variances may be trued up with customer rates in the subsequent General Rate Application.

235. UCG also submits that the Board should reject YECL's proposal for a deferral account related to Board orders or legislative provisions that impact YECL business revenue[71]. This is simply an end around involving the avoidance of the traditional risks borne by a regulated company that are reflected in its capital structure.

236. UCG submits that any permanent and substantial change in the operating and financial conditions of YECL may be grounds to seek relief by way of a new rate application or simply be considered as a risk that has resulted in an unfavourable result for YECL – or both. It should not be up to YECL to insulate itself from its operating governmental environment in a way that still allows it to have the benefit of such risk built into its cost of capital.

CAPITAL EXPENDITURES / ADDITIONS

237. The last approved mid-year rate base for YECL was $49.478 million for 2009. YECL is now seeking approval of a mid-year forecast rate base of $72.329 million in 2013, $86.063 million in 2014 and $96.812 million for 2015, including costs for capital works projects brought into service (or forecast to be brought into service) since the 2009 General Rate Application, as well as deferred costs[72]. This represents increases of 46% (2013 above 2009), 74% (2014 above 2009) and 96% (2015 above 2009). If effect, YECL is proposing to double its rate base over the 6 year period between 2009 and 2015.

238. UCG submits that while YECL is entitled to rates sufficient to provide YECL with an opportunity to earn a reasonable rate of return upon the value of the property used, at the time it is being used, to render the service, YECL is not entitled to have included any property not used and useful for that purpose.

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70 YECL 2013-2015 GRA, page 1-5
71 YECL 2013-2015 GRA, page 1-6
72 YECL 2013-2015 GRA, Schedule 8.1

239. Since utilities are inherently capital intensive, seeking opportunities to satisfy growth and infrastructure sustainment business needs with less capital investment creates cost efficiency. This may be a challenge for some organizations where "growing the rate base" is viewed as a benefit for shareholders.

240. Prudent investment is the original proposed cost minus any fraudulent, unwise, or extravagant outlays that should not be a burden on ratepayers. "Prudent" imports the requirement that the investment, in order to gain recognition in the rate base, must have been prudently incurred in the light of foresight rather than of hindsight.

241. One set of concerns can be described as failure to reveal flaws. A study which purports to be "fair" has an obligation to reveal warts as well as beauty marks. Yet several areas of major concern are simply ignored in the Application and business cases.

242. Cross-examination of YECL witnesses demonstrated their lack of familiarity with relevant regulatory decisions in other jurisdictions, including recent decisions.

243. A long-standing principle of regulatory law has been that an investment must be "used and useful" for the provision of public service before the public should be asked to bear its cost.

244. UCG is concerned with the significant expenditures over approved budgets for many of the capital projects that have received previous approvals from the Board. YECL testified that when YECL submits its capital expenditures and capital project budgets to the Board for approval in a general rates application, their cost estimates are based on a 100% confidence level[73].

245. UCG submits that YECL should be held to these cost estimates since approvals are granted based on the value that these projects will have to ratepayers which in turn is based on the cost forecast and the associated impact on rates. UCG submits that, while some of the cost overruns are referenced later in this argument, YECL should not be allowed to add cost overruns to rate base unless they can provide evidence as to the reasons for the cost overruns given the approved scope of the projects.

246. UCG also submits that YECL should not be able to arbitrarily add capital projects to rate base that have not been previously approved by the Board. UCG submits that the onus is on YECL to clearly explain and defend all of the capital expenditures that have been made on projects that have not been specifically approved by the Board. UCG submits that this has not been the case in the current application but it must be a condition of any approvals given by the Board.

<u>Deferred Study Costs</u>

247. YECL has included Deferred Study Costs in rate base for 2009 through 2015.

[73] Transcript Volume 2, November 5, 2013, pages 293-294

248. According to the *Public Utilities Act*:

32(1) The board, by order, shall determine a rate base for the property of a public utility used or required to be used to provide service to the public, and may include a rate base for property under construction, or constructed or acquired, and intended to be used in the future to provide service to the public.

249. UCG submits that the “used or required to be used” language in the Act prohibits YECL from earning a return on costs that were never included within a capital project. No utility property can be deemed used and useful until it is providing actual utility service to the customers.

250. UCG submits that prudence is not at issue when a statutory prohibition is applied. YECL's quid pro quo for its obligation to serve was monopoly status, not risk-free investments. UCG submits that prudent investments that never provide service should be excluded from the rate base calculations.

251. UCG submits that amortization of prudently incurred project development costs over a period of years should be done without placing the balance in the rate base thereby allowing a return of, but not on, the investment. In this manner, investors and ratepayers share the burden of project cancellation costs.

252. UCG submits that in many cases, a regulator may determine that utilities cannot recover certain cost components or require that losses be offset by any resulting savings. If an investment is prudent, wouldn’t it be considered used and useful and thus treated as rate base? UCG submits that no costs associated with rate base should be recoverable and earn a return before an asset is fully operational and used for service.

253. UCG submits that all deferred study costs should be removed from rate base and either amortized (if prudent) outside of rate base or rolled into a related capital asset.

<u>Deferred Regulatory Costs</u>

254. YECL states in its application that it is using a deferral account to flow through to customers the costs associated with filing its GRAs and that no rate case write-off is required from 2013-2015 to bring the overall deferred rate case balance to zero by the end of the test period.[74]

255. YECL confirmed that the balance in the rate case costs deferral account was in a credit position (i.e., there had been an over-collection of costs) at the end of every year since 2008 and that YECL has already recovered the costs that it has forecast will be incurred in the current general rates application proceeding as well as the Phase II proceeding anticipated to be conducted in 2014[75].

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[74] YECL 2013-2015 GRA, page 8-10, Schedule 8.8
[75] YECL response to UCG-YECL-34(a) and (b)

256. Given YECL's position that it only records approved costs into its rate case reserve[76], UCG cannot explain why YECL has over-collected for costs that it is currently incurring related to its 2013-2015 revenue requirements and the follow-up Phase II application.

257. While there may be an opportunity to true up regulatory costs actually incurred at the next general rates application, UCG submits that ratepayers should not have to pay rates that are artificially high in the mean time because YECL has over-collected unknown regulatory costs in advance. This flies in the face of recovering costs from those that cause the costs to be incurred and during the period for which these costs apply.

258. UCG submits that ratepayers should be credited back with any recoveries that YECL has made on regulatory costs that have not yet been determined for Phase I and Phase II of the current general rates application.

Watson Lake Bi-Fuel Project Study Costs

259. In its October 31, 2013 evidence update, YECL stated that it is now proposing that the $222,000 deferred charges associated with the Watson Lake Bi-Fuel Project study costs be amortized beginning in 2014, rather than in 2013.

260. The first opportunity that the Board and intervenors have had to test the prudence of the study costs related to the Watson Lake Bi-Fuel Project prior to having them recovered in rates is as part of this current proceeding. YECL has only provided[77] a high level, 5 item summary breakdown of the study costs incurred without providing details such as who undertook the various study components and what are their qualifications, how the service contracts were awarded, and the actual results of the study.

261. UCG submits that with such limited detail available, YECL has not met the burden of justifying the recovery of these costs prior to the in-service date of the proposed Watson Lake Bi-Fuel Project. UCG submits that these study costs should remain in Work in Progress until the project has been commissioned and all costs have undergone a comprehensive prudency review.

Kluane Wind Study

262. During the test period, YECL is looking to recover $20,000 worth of consulting costs to study the feasibility of using wind to generate power in the Burwash and Destruction Bay area. The costs were incurred to investigate the feasibility in advancing the development of a wind-diesel integration project into the Destruction Bay and Burwash Landing electrical grid with the objective of incorporating renewable electricity to reduce the consumption of diesel and its emissions.

[76] YECL response to UCG-YECL-34(c)
[77] YECL response to UCG-YECL-35

263. YECL has not provided details related to this study such as who undertook the various study components and what are their qualifications, how the service contracts were awarded, and the actual results of the study.

264. UCG submits that YECL has failed to provide the necessary information to allow for a proper prudence review of the costs incurred. UCG submits that these costs should not be recovered until a more thorough review can be conducted based on more extensive disclosure and a capital project materializes.

Watson Lake Bi-Fuel Project (Business Case #6)

265. In its October 31, 2013 evidence update, YECL stated that the $363,000 in capital costs for Phase I forecast to be incurred in 2013 have been moved to 2014, the storage and vapourization charges from ATCO Gas included in Operations and Maintenance expenses, which were forecast to begin in September 2013, are now forecast to begin in September 2014, and YECL is now proposing that the $222,000 deferred charges associated with the project study costs be amortized beginning in 2014, rather than in 2013.

266. In response to UCG-YECL-16(c), YECL states that it is not aware of a legislative requirement to have the $1.047 million Watson Lake bi-fuel project reviewed pursuant to Part 3 of the *Public Utilities Act*. While that may be true, UCG submits that the Board made it clear in its January 2007 Report to Commissioner in Executive Council re YEC's 20-Year Resource Plan that, given the smaller rate base in the Yukon compared to many Canadian utilities, and given the relatively small number of ratepayers in the Yukon, a $1 million threshold would be appropriate for capital expenditures to be reviewed by the Board pursuant to Part 3.

267. YECL confirmed that it considers any capital project costing $500,000 or more a "major capital project". If $500,000 is the threshold for a major project, then UCG submits that any project that approaches the $1 million threshold should be reviewed as part of a significantly more comprehensive review process than is afforded within a general rates application.

268. If the Board is not prepared to ensure that significant projects like this are given the attention of a Part 3 review by not allowing them into rate base until a thorough prudency review is conducted, then Yukon ratepayers will continue to pay for the self-serving decision-making practices of the utilities.

269. UCG submits that, as was the case for YEC's deferred feasibility costs related to LNG[78], all costs related to the Watson Lake Bi-Fuel project should remain in Work in Progress until the project is completed and deemed used and useful following a comprehensive prudency review of actual costs incurred and validation of benefits to be realized.

[78] Board Order 2013-01: Reasons for Decision, page 79

Miscellaneous O/H Services – Various Subdivisions

270. On page 1 of Attachment 1 to the response to YUB-YECL-61, YECL shows a dramatic increase in the expenditures listed as "Miscellaneous O/H Services – Various Subdivisions" that total $16.4 million between 2008 and 2015.

2008 actual	$1,304,000	}
2009 actual	$ 969,000	}
2010 actual	$1,022,000	} $5,561,000 (5 years - 2008-2012)
2011 actual	$1,274,000	}
2012 actual	$ 992,000	}
2013 forecast	$3,625,000	|
2014 forecast	$2,900,000	| $10,825,000 (3 years - 2013-2015)
2015 forecast	$4,300,000	|

271. YECL testified at the oral hearing that the budget for Miscellaneous O/H Services was difficult to forecast because it was totally dependent on customers and contractors walking into the office requesting the service[79].

272. UCG submits that it is not appropriate to add fictitious guesses of capital expenditures to rate base in order to start earning a return. UCG submits that rather than simply an exaggerated contingency amount, the forecasted rate base addition should be based on an average of actual experience.

273. UCG submits that the budget for additions to rate base related to Miscellaneous O/H Services for each of the test years should be limited to the average of the net expenditures over the last 5 years of actual expenditures (i.e., net of customer contributions).

Miscellaneous New U/G Services

274. On page 1 of Attachment 1 to the response to YUB-YECL-61, YECL shows a dramatic increase in the expenditures listed as "Miscellaneous U/G Services" that total $3.2 million between 2008 and 2015.

2008 actual	$ 95,000	}
2009 actual	$ 36,000	}
2010 actual	$ 86,000	} $577,000 (5 years - 2008-2012)
2011 actual	$ 216,000	}
2012 actual	$ 144,000	}
2013 forecast	$ 600,000	|
2014 forecast	$1,000,000	| $2,600,000 (3 years - 2013-2015)
2015 forecast	$1,000,000	|

79 Transcript Volume 2, November 5, 2013, page 310

275. As with the overhead services, UCG submits that it is not appropriate to add fictitious guesses of capital expenditures to rate base in order to start earning a return. UCG submits that rather than simply an exaggerated contingency amount, the forecasted rate base addition should be based on an average of actual experience.

276. UCG submits that the budget for additions to rate base related to Miscellaneous U/G Services for each of the test years should be limited to the average of the net expenditures over the last 5 years of actual expenditures (i.e., net of customer contributions).

Fish Lake Unit #1

277. According to Attachment 2 to the response to YUB-YECL-61, there are $4,564,000 in capital projects associated with Fisk Lake Unit #1 that have been completed or are forecast to be completed after the March 2010 catastrophic failure of the Fish Lake Unit #1 plant:

- Fish Lake Unit #1 Spillway - $238,000 (2010)
- Fish Lake Unit #1 Replacement Wheel - $125,000 (2010)
- Fish Lake Unit #1 Tailrace Reconstruction - $173,000 (2011)
- Fish Lake Unit #1 Turbine and Building Replacement - $3,908,000 (2013)
- Fish Lake Unit #1 Spillway Diversion Structure - $120,000 (2014)

278. While YECL has provided a business case for the Turbine and Building Replacement project, nothing has been provided to justify the other 4 projects that appear to be related to getting Unit #1 operational again. YECL testified that they complete formal business cases for projects that are greater than $500,000 but only do unspecified "write-ups" for projects that are greater than $100,000[80].

279. UCG submits that all of the projects listed above are related to getting Fish Lake Unit #1 operational again. UCG submits that when capital work programs are divided up into smaller annual projects, the utility excuses itself from having to justify the overall program.

280. UCG submits that YECL should be directed to ensure that business cases are written for complete capital programs even though individual annual projects related to the same facility are budgeted.

281. With respect to the current application, and to ensure that YECL receives the message regarding Board directions, UCG submits that any components of the $4,564,000 Fish Lake Unit #1 capital program identified above that have not been justified as part of a business case should not be added to YECL's rate base. UCG submits that a $4 million project such as this should be reviewed pursuant to Part 3 of the Public Utilities Act and the Board should direct YECL to seek approval to have this project reviewed pursuant to Part 3.

[80] Transcript Volume 2, November 5, 2013, page 315

Meters

282. In response to UCG-YECL-46(d), YECL states that the average annual capital expenditures for meters over the five year period of 2003-2007 was $42,000.

283. According to page 1 of Attachment 2 to the response to YUB-YECL-61, the meters project starts out at $31,000 spent in 2008, nothing spent in 2009, and then escalates dramatically to $460,000 in 2010, slides back to $199,000 in 2011 and $283,000 in 2012, and then jumps to $600,000 in 2013 before falling off to $50,000 in both 2014 and 2015.

284. UCG submits that YECL is requesting the Board to allow a $1,642,000 capital program (2010-2015) to be added to rate base without the benefit of a business case to justify it.

285. YECL testified that they did not provide a business case for this ongoing capital program since the cost did not exceed the $500,000 limit. UCG submits that (1) expenditures in 2010 and 2013 obviously warrant a business case to justify the expenditures; and (2) it is inappropriate for a utility to excuse themselves from providing a business case for a capital program by looking at annual expenditures only. UCG submits that there is no difference between a capital program with annual expenditures and a capital project with expenditures spread over multiple years.

286. With respect to the current application, and to ensure that YECL receives the message regarding Board directions, UCG submits that any components of the $1.6 million meters program that have not been justified as part of a business case should not be added to YECL's rate base.

Automated Meter Reading (AMR – Business Case #27)

287. YECL has proposed a $3,863,000 project to convert conventional electronic and mechanical meters to Automated Meter Reading (AMR) technology.

288. UCG submits that there is a duplication / redundancy of effort if YECL is replacing approximately 12,903 residential and 1,579 commercial conventional meters with AMR meters starting in 2014 and is still budgeting $600,000 under the 2013 meters project. YECL states in its business case (#27) that the benefits of conversion will be improved customer service, improved safety performance for employees and customers and reduced vehicle emissions, as well as long term cost savings of over $2 million over 25 years as compared to conventional meter reading.

289. While YECL makes reference to the experience of ATCO Electric and Northland Utilities with the AMR technologies, there is no evidence from this experience with which to justify the savings numbers that YECL has included in its economic analysis.

290. YECL confirmed that the proposed AMR meters will remain more expensive for ratepayers for at least 8 years after installation versus the status quo[81]. UCG submits that this continues to put the economic benefits at risk. UCG submits that this payback period is too long for such a small customer base and given the rate at which technology changes.

291. UCG submits that YECL has failed to provide the following information in its business case for this project despite the Board's directions in Board Order 2009-8:

- economic analysis including preliminary engineering estimates
- discussion of the risks of proceeding with the chosen alternative
- discussion of risks of not proceeding with the chosen alternative; and
- discussion of assumptions included in the business case including escalation factors, loading, financial measures, term of project and associated ancillary costs.

292. UCG is particularly concerned with the lack of detail in evidence related to the computer systems, software and training needed to effectively operate an AMR-based system. UCG submits that YECL has understated the overall cost of this project.

293. Despite the concerns raised by parties in every jurisdiction where AMR technology has been introduced, YECL has not conducted any studies related to the possible dangers of high-frequency radio waves associated with smart meters.

294. YECL has also neglected to address allowing ratepayers to keep their analog meters or have the transmitter turned off on their smart meter as was determined most recently in British Columbia.

295. YECL's business case assumes an escalation rate of 2% for its analysis but the key assumptions within their general rates application include a labour inflation rate of 3.5% for each of the test years and an "other" inflation rate of 1.9% in 2013, 2.0% in 2014 and 2.1% in 2015.

296. UCG submits that YECL has not justified the allowance of this project into rate base.

<u>Transportation Equipment</u>

297. According to page 3 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $205,000 in 2008 and $230,000 in 2009 for transportation equipment. YECL only spent $139,000 in 2008 and $100,000 in 2009. YECL is indicating that it spent $358,000 in 2010, $257,000 in 2011 and $421,000 in 2012 on transportation equipment.

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81 Response to UCG-YECL-125(h)

298. YECL's budget for the test years is $424,000 in 2013, $995,000 in 2014 and $400,000 in 2015.

2008 actual	$139,000 (allowed = $205,000)
2009 actual	$100,000 (allowed = $230,000)
2010 actual	$358,000
2011 actual	$257,000
2012 actual	$421,000
2013 forecast	$424,000 }
2014 forecast	$995,000 } $606,333 per year (vs. $255,000 per year 2008-2012)
2015 forecast	$400,000 }

299. YECL testified that they did not provide a business case for this ongoing capital program since the cost did not exceed the $500,000 limit. UCG submits that (1) expenditures in 2014 and 2015 obviously warrant a business case to justify the expenditures; and (2) it is inappropriate for a utility to excuse themselves from providing a business case for a capital program by looking at annual expenditures only. UCG submits that there is no difference between a capital program with annual expenditures and a capital project with expenditures spread over multiple years.

300. UCG submits that the budget for additions to rate base related to Transportation Equipment for each of the test years should be limited to the average of the last 5 years of actual expenditures.

301. With respect to the current application, and to ensure that YECL receives the message regarding Board directions, UCG submits that any components of the $2.855 million (2010-2015) transportation equipment program that have not been justified as part of a business case should not be added to YECL's rate base.

<u>Carcross 2 MVA Generation Standby Unit</u>

302. In its 2008-2009 General Rates Application, YECL included a $2 million 1.5 MW Standby Power Plant in its proposed 2009 capital expenditures. On page 9-23 of that application, YECL states:

> *It has been determined that communities over 1 MW should have local generation to serve them if the grid should stop serving the community in accordance with the YUB approved Yukon Energy 20 year resource plan. Carcross and Tagish are fed off the same 25 kV substation. The peak load in the 2007 winter was close to the 1 MW threshold. Yukon Electrical plans to install a generator in or near the Carcross substation. This generator would be 1.5 MW or larger due to the fact that this size is similar to other communities' generators and it could act as a spare if Yukon Electrical were to lose a significant part of our largest isolated community (Watson Lake). The self contained generator and breaker and the step up transformer would be mounted on skids so they could easily be moved as part of a contingency.*

303. In its Order 2009-2 regarding YECL's 2008-2009 GRA, the Board did not approve the proposed standby generator for Carcross because the Board was not convinced that the

proposed generator was the best option at that time to mitigate outages in the Carcross-Tagish area[82].

304. Regarding any conditions that have changed regarding the need for the standby generator in Carcross since Board Order 2009-02 was issued in 2009, YECL testified that in addition to additional customers and businesses that have appeared in the area, there's been an increase in tourism and just general economic activity[83].

305. In its current application, YECL has identified 312 residential and commercial customers in Carcross[84]. In its last general rates application proceeding, YECL identified 289 residential and commercial customers in Carcross as of December 2009[85]. UCG submits that a total increase of 23 customers (14 residential and 9 commercial) does not appear to be a significant change in circumstance to justify a project that had been previously rejected.

306. UCG submits that there is no evidence in this proceeding to support YECL's claims about an increase to tourism and economic activity in the Carcross area.

307. YECL testified that the load in the Carcross-Tagish area during the 2013-2015 test years is expected to vary between 1 MW and 1.3 MW on average. UCG submits that this does not justify a standby generator any bigger than 1.5 MW.

308. In their letter of comment (Exhibit D-1), the Carcross Area Property Owners Association claim that a petition requesting a diesel backup generator for the Carcross-Tagish area was signed by approximately 330 residents and property owners. YECL's application only contains the wording of the petition but no detail about who signed it. UCG submits that without this detail, the unsubstantiated claims regarding how many people signed it are irrelevant given that no verification can be made of who signed it and how many.

309. In their letter of comment, the Carcross Area Property Owners Association indicate their belief that standby power infrastructure is essential to the success of the area's tourism initiatives. YECL could not provide any evidence to support any claim related to tourism initiatives.

310. While smaller, location-specific, stand-alone standby power installed by property owners is prevalent in other locations throughout the Yukon and other jurisdictions at businesses and homes, YECL had no information on whether any such units currently existed in Carcross[86]. UCG submits that YECL has been unable to determine the size of the problem that it is trying to address with this proposed project and the back-up provisions that it may be duplicating.

311. In the attachments to their letter of comment, the Carcross Area Property Owners Association claim that the area is served by an aging transmission line with "power outages occurring quite frequently" and "power outages in Carcross are frequent and long". YECL's evidence is that

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82 Board Order 2009-2, Raesons for Decision, page 38
83 Transcript Volume 2, November 5, 2013, pages 320-321
84 YECL 2013-2015 GRA, page 2-4
85 YECL 2008-2009 GRA, Response to Undertaking taken at transcript page 293
86 Transcript Volume 2, November 5, 2013, page 324

the transmission line to Carcross and Tagish has not been identified as a particular problem area[87].

312. In their letter of support, the Carcross Area Property Owners Association submits that "most Yukon communities have enjoyed standby power for many years and ratepayers in the Carcross-Tagish area have contributed to their service".

313. YECL testified that there are six other communities (Teslin, Haines Junction, Ross River, Carmacks, Stewart Crossing and Pelly Crossing) that currently have stand-by generation and that the costs of the standby-generation is recovered from all customers[88]. UCG submits that any facilities dedicated to serve a particular finite set of customers should be recovered from those customers. UCG submits that the Board should direct YECL to directly assign the costs of these standby generators to the customers that benefit from them.

314. In their letter of comment (Exhibit D-2), the South Klondike Local Advisory Council submits that standby power is needed to ensure the success of infrastructure investments by the governments of Canada, the Yukon and the Carcross Tagish First Nation. YECL testified that they are not aware of any evidence to support this claim.

315. Given the evidentiary record, UCG submits that:

- YECL has not justified the proposed generator as the best option to mitigate outages in the Carcross-Tagish area
- Conditions have not changed since this project was last rejected by the Board in 2009
- This project is supported by a petition and letters of comment that cannot be verified and contain claims that have either been refuted by YECL or cannot be proven one way or another.
- This project should be rejected by the Board.

Right-of-Way Widening

316. According to page 2 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $110,000 on this project for 2008 and there was no budget included in the 2009 GRA. YECL notes that: "In 2008, the scope increased on the basis of line patrols as Yukon Electrical focused on completing brushing of our mountain top distribution lines in Whitehorse and Stewart Crossing. In 2009, the right of way brushing program continued".

[87] YECL Response to YUB-YECL-46(d)
[88] Transcript Volume 2, November 5, 2013, pages 326-327

2008 actual	$268,000	(allowed = $110,000)
2009 actual	$240,000	(allowed = $0)
2010 actual	$304,000	
2011 actual	$331,000	
2012 actual	$377,000	
2013 forecast	$374,000	
2014 forecast	$389,000	
2015 forecast	$405,000	

317. When questioned about whether the $148,000 cost overruns in 2008 were due to YECL changing the brushing program originally approved by the Board, YECL testified that they didn't think that it was fair to say that the Board approved a specific dollar amount for a specific project[89].

318. UCG submits that in Order 2009-2, the Board accepted the levels of capital expenditures listed in YECL's 2008-2009 general rates application except for 4 specific projects[90]. UCG submits that YECL included a project "ROW Widening Marsh Lake - $110,000" in its list of Distribution Improvements capital projects for 2008 and that this was the specific right-of-way widening project approved by the Board for 2008. YECL did not include any right-of-way widening projects in its list of capital expenditures that were approved by the Board in Order 2009-2.

319. In its Order 2009-2, the Board directed YECL to provide an annual update on its capital plans and expenditures[91]. There is no evidence that YECL advised the Board of the change to the approach to brushing in 2008 and 2009 after the Board issued Order 2009-2. UCG submits that YECL should not be entitled to retroactively change the rate base and revenue requirement used to set rates for 2008 and 2009. UCG submits that given that rates in 2010 through 2012 were based on the last approved revenue requirement, the Board should direct YECL to remove the cost consequences of the right-of-way widening projects that they undertook in excess of approved budgets ($148,000 in 2008, $240,000 in 2009, $304,000 in 2010, $331,000 in 2011 and $377,000 in 2012) from the rate base used to set rates.

320. YECL testified that they did not provide a business case for this ongoing capital program since the cost did not exceed the $500,000 limit. UCG submits that (1) forecast expenditures in the test years total $1,168,000 and warrant a business case to justify the expenditures; and (2) it is inappropriate for a utility to excuse themselves from providing a business case for a capital program by looking at annual expenditures only. UCG submits that there is no difference between a capital program with annual expenditures and a capital project with expenditures spread over multiple years.

321. With respect to the current application, and to ensure that YECL receives the message regarding Board directions, UCG submits that any components of the $1.2 million right-of-way widening

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[89] Transcript Volume 2, November 5, 2013, page 328
[90] Board Order 2009-2 – Reasons for Decision, page 37
[91] Board Order 2009-2 – Reasons for Decision, page 37

program that have not been justified as part of a business case should not be added to YECL's rate base.

CIS Billing System Conversion

322. The business case at Attachment 1 to the response to UCG-YECL-48(c) provides details of the costs associated with the new system but nothing regarding cost savings. In its 2008-2009 general rates application, YECL identified a $1,488,000 Customer Care and Billing System Conversion project with expenditures in 2007 and 2008. YECL testified that the cost savings identified as part of the business case in the 2008-2009 GRA were achieved[92].

323. Since the business case provided at Attachment 1 to the response to UCG-YECL-48(c) does not identify any cost savings related to this project, UCG submits that it is not clear what achievements in this area that YECL is claiming.

324. Until details of the actual costs and cost savings can be identified and verified, UCG submits that this project cannot be comprehensively reviewed for prudency and should not be added to rate base.

Hamilton Boulevard Extension - Streetlighting

325. According to page 3 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $200,000 on this project. As confirmed on this schedule as well as on page 3 of Attachment 2 to the response to YUB-YECL-61, the total cost of this project was $476,000 to install streetlights on the street extension.

326. UCG submits that it is nearly impossible to know how the scope of this project changed from the project reviewed by the Board and intervenors during YECL's 2008-2009 GRA proceeding because there was very little provided in 2008 on this project. In its 2008-2009 GRA application, page 9-20, YECL simply listed "CoW Hamilton Blvd. Extension Lighting - $200,000" and there was no business case provided.

327. UCG submits that when the Board approves a capital expenditure for addition to rate base, it has approved the project based on the evidence provided and the forecast budget. Based on this information, the Board determines what impact it will have on rates as part of its determination of whether the project should proceed.

328. While little is known about this project, UCG submits that any capital expenditure that more than doubles between approved budget and actual expenditure should be subject to review before it is simply added to rate base.

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92 Transcript Volume 2, November 5, 2013, page 333

329. UCG submits that if the Board approves a $200,000 project being added to rate base, then significant evidence needs to be provided to explain another $276,000 being spent on the same project before it is retroactively added to rate base as YECL is proposing here. UCG submits that YECL has not met the evidentiary burden on this project to warrant the additional $276,000 being added to rate base so it should be disallowed.

Fish Lake Unit #1 - Generator End of Life Rebuild

330. According to page 1 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $125,000 on this project. As confirmed on this schedule as well as on page 3 of Attachment 2 to the response to YUB-YECL-61, the total cost of this project was $463,000.

331. According to YECL in its variance explanations in WL-YECL-21(k) - "Original estimate was created from 3rd party shutdown and inspection of generator that recommended the generator needed to be cleaned and stator core work. When unit was removed from service and sent to generator shop, an in-depth inspection found generator at end of life which required a complete rebuild of the unit".

332. UCG submits that this variance explanation conflicts with YECL's testimony that when it submits its capital expenditures and capital project budgets to the Board for approval in a general rates application, their cost estimates are based on a 100% confidence level[93].

333. UCG submits that ratepayers should not be saddled with the burden of an incompetent capital budgeting process. If YECL determines that the scope of a project has completely changed, it should be held at risk for any expenditures until the Board has had an opportunity to thoroughly review the new project. UCG submits that it is beyond any type of industry standard to expect any regulator and affected ratepayers to retroactively review a project that was originally submitted for approval over 5 years ago. UCG submits that this is one of the difficulties that arise when utilities choose to stay away from being regulated for extended periods of time without prior agreement.

334. UCG submits that YECL has not met the evidentiary burden on this project to warrant its addition to rate base so it should be disallowed.

Connect Pelly Crossing into Yukon Interconnected System

335. According to page 2 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $140,000 on this project and YECL notes in the variance explanation that: "*The original scope and budget was to build infrastructure to connect to YEC substation. YEC did not build the substation as planned and temporarily energized the new 138kv line at 25 kV from Minto substation to supply Pelly Crossing from the YIS. Yukon Electrical built a mini*

93 Transcript Volume 2, November 5, 2013, pages 293-294

substation that required site preparation including a ground grid, a regulator bank, metering equipment and temporary underground line to connect to YEC supply on the 138kV pole."

336. UCG submits that this is another project where actual work and expenditures do not match the approved scope and cost. If the approved project assumed that YEC would build a substation but did not and YECL had to incur an additional $295,000, UCG submits that YECL ratepayers should not have to pay for this additional cost. Again, the agreement to approve proceeding with this project was based on the cost estimate and scope proposed by YECL. YECL testified that they proceeded on a totally different project[94].

337. UCG submits that YECL has not met the evidentiary burden on this project to warrant the additional $295,000 being added to rate base so it should be disallowed.

Oracle HRxcellence Human Resource (HR) Management

338. According to page 3 of Attachment 1 to the response to WL-YECL-21(k), the Board did not approve any expenditures for this project in 2008 and 2009 but YECL decided to spend $138,000 in 2008, $117,000 in 2009 and $103,000 in 2010 on this project.

339. YECL has not provided any business case for this project nor have they provided any explanation for moving forward with it other than it was an "unplanned change to company HR management system".

340. As with other projects that YECL decided to proceed with before getting Board approval, UCG submits that YECL has not met the evidentiary burden on this project to warrant its addition to rate base so it should be disallowed.

Ketza Court Live Front Transformers Replacement

341. According to page 2 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $175,000 on this project but YECL actually spent $346,000 by changing the scope of the project. YECL notes that: "Original scope and estimate was for 2 transformers and underground cable. Increased scope to complete all 5 transformers in the complex and associated underground infrastructure".

342. Again, YECL did not prepare any business case to justify expanding the project nor did they advise the Board of the any changes to how this project was being approached.

343. UCG submits that YECL has not met the evidentiary burden on this project to warrant the additional $171,000 being added to rate base so it should be disallowed.

[94] Transcript Volume 2, November 5, 2013, page 341

Whitehorse Service Storage Complex Projects

344. According to Attachment 2 to the response to YUB-YECL-61, there are $550,000 in capital projects planned for the Whitehorse Service Complex during the test years:

- Whitehorse Service Complex Pole Storage - $150,000 (2013)
- Whitehorse Service Complex Parking Lot Expansion and Improvements - $100,000 (2013)
- Whitehorse Service Complex Yard Extension - $300,000 (2015)

345. YECL did not submit a business case for this three part project despite the fact that they were all related to the same facility. UCG submits that it is inappropriate for a utility to excuse themselves from providing a business case for a capital program by looking at annual expenditures only. UCG submits that there is no difference between a capital program with annual expenditures and a capital project with expenditures spread over multiple years.

346. With respect to the current application, and to ensure that YECL receives the message regarding Board directions, UCG submits that any components of this $550,000 program that have not been justified as part of a business case should not be added to YECL's rate base.

5L628 Squanga Road Rebuild

347. According to page 2 of Attachment 1 to the response to WL-YECL-21(k), the Board originally approved expenditures of $140,000 on this project but YECL actually spent $290,000 by changing the scope of the project. YECL notes that: "the original scope and estimate of the project was to rebuild the power line in an overhead configuration. Due to location of existing water lines being different than original plan a new route was needed. Due to conflicts with property lines, existing vegetation, water lines and the existing power line the new power line was built with underground infrastructure".

348. Again, YECL did not prepare any business case to justify expanding the project nor did they advise the Board of the any changes to how this project was being approached.

349. UCG submits that YECL has not met the evidentiary burden on this project to warrant the additional $150,000 being added to rate base so it should be disallowed.

Other Projects

350. On page 1 of Attachment 1 to the response to WL-YECL-21(k), YECL indicates that its 2008 GRA identified $677,500 in "Other Projects" but only $56,000 was spent under "other" because "Other projects were forecasted based on historical capital costs and does not relate to one specific project".

351. Similarly, on page 1 of Attachment 1 to the response to WL-YECL-21(k), YECL indicates that its 2009 GRA identified $590,000 in "Other Projects" but only $69,000 was spent under "other" because "Other projects were forecasted based on historical capital costs and does not relate to one specific project".

352. While YECL was asked to explain how or if the budgeted amounts were spent, the witnesses at the oral hearing were unable to clearly explain how or if money that had been included in rate base was actually spent[95].

353. UCG submits that given the lack of evidence to explain clearly what happened, the unspent budgets on Other Projects ($621,500 in 2008 and $521,000 in 2009) should be removed from rate base.

354. UCG submits that, as part of the compliance filing, YECL should be directed to provide a schedule detailing by project all additions to rate base by listing (1) originally approved budget, (2) actual expenditures, (3) amount current included in rates, and (4) amount proposed to be included in rates.

DEMAND SIDE MANAGEMENT

355. In its Order 2009-8 dated September 8, 2009 related to the review of Yukon Energy Corporation's 2008/2009 general rates application, the Board directed YEC as follows:

> *40. The Board directs YEC in conjunction with YECL, to consult with stakeholders and develop a policy paper with respect to DSM initiatives. YEC and YECL are to jointly lead this process and submit a policy paper (Plan) in their next GRA. Further the utilities are to be cognizant of and work with ESC where necessary so as not to duplicate efforts.*
>
> *41. The Plan should include initiatives developed through negotiations with intervenor groups and communities in the Yukon. The Plan should provide a wide range of energy efficiency and conservation measures that will assist ratepayers in dealing with the high cost of energy in the Yukon and also provide support for local initiatives identified through community energy planning initiatives.*
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> *42. The Board finds the UCG and LE proposals for deferral accounts in support of the DSM initiatives acceptable and both YEC and YECL can propose appropriate treatment of these accounts at the time of their next GRA.*

356. Although YECL has not specifically requested it as part of the approvals they are seeking in this application[96], it is UCG's understanding that YECL is now applying for approval of a Demand Side Management Plan applicable to both YECL and YEC as well as forecast capital additions of $21.6 million in 2013, $23.3 million in 2014 and $20.7 million in 2015 which includes YECL's costs associated with the development and implementation of the joint utility Demand Side Management Plan ($1,734,000[97]) that are incorporated in YECL's proposed revenue requirements for the test years. YECL is also looking to recover revenue requirements that

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[95] Transcript Volume 2, November 5, 2013, pages 350-354
[96] YECL 2013-2015 GRA, pages 1-1 and 1-2
[97] YECL 2013-2015 GRA, Business Case #30, page 6 and Transcript Volume 4, page 692, lines 22-25

include O&M costs related to a Demand Side Management Administrator and depreciation on DSM-related capital additions.

357. At the time of its application on May 27, 2013, YECL had not finalized the specific witnesses it would present to speak to various aspects of the application[98]. It wasn't until October 30, 2013 that YECL informed the Board and intervenors that representatives from YEC would be on a joint DSM witness panel[99]. UCG can only speculate how far in advance of October 30, 2013 that YECL and YEC knew that a joint witness panel was going to be presented. At the very least, since YEC applied for and was granted intervenor status in this proceeding, the Board should have made it clear whether parties could have submitted information requests to YEC per the procedural schedule that permitted information requests to intervenors by September 5, 2013.

358. UCG submits that if proper advance notification had been provided that YEC would present witnesses, information requests could have been submitted to YEC in line with the procedural schedule in order to get additional information on the record without having to take up additional hearing time. As it was, it remained very unclear during the hearing why YEC was responding to questions for which parties were looking for responses from YECL.

359. At the oral hearing, the utilities made it clear that it was only YECL's forecast DSM costs that are before the Board in this proceeding[100]. While the Board has not been asked to approve any of YEC's DSM-related costs, UCG submits that the level of YEC's spending on DSM initiatives must be taken into account in order to understand the burden that Yukon ratepayers are being asked to absorb now and in the future with respect to the DSM programs being delivered jointly by the utilities.

360. UCG submits that in its decision in this proceeding, the Board should specifically indicate that any DSM-related expenditures that have been made by YEC to date or in the future should continue to be tracked in the deferral account (for O&M-related DSM costs) and Work in Progress (for DSM-related capital costs) as directed in Board Order 2013-01 until YEC brings forward an application to include the recovery of prudently incurred DSM costs in rates charged to Yukon ratepayers. In UCG's view, any approval of a DSM Plan in this current proceeding does not in any way approve recovery from ratepayers of any of the DSM-related expenditures that YEC has already undertaken or plans to undertake.

361. UCG considers the DSM plan included in YECL's application as a good faith effort to respond to the directions given by the Board in earlier proceedings. However, UCG is concerned that the utilities appear to have made no attempt to optimize the DSM Plan and have provided very little detail on the programs to be delivered, the mechanics of delivering these programs, and the impact that these programs will have on the bills paid by ratepayers.

362. In UCG's view, a reasonable approach to optimization of the DSM plan, while limiting ratepayer impact, is to examine the rate impact of programs and their results, and favour those

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98 YECL 2013-2015 GRA, page 1-13
99 Exhibit B-9
100 Transcript Volume 4, November 7, 2013, page 661, lines 1-7

programs with the lowest rate impacts and best results. UCG is concerned with rate impacts in all aspects of the utilities' operations and DSM planning is no exception. UCG submits that the utilities should be directed to address the question of DSM Plan optimization, in particular, the optimum savings with the minimum ratepayer impact, before a DSM Plan is approved.

363. UCG submits that a better understanding of all the issues surrounding DSM is needed before DSM principles, programs and mechanisms can be incorporated into the operations and services of the utilities. UCG submits that the utilities need to be directed to show that the DSM programs being delivered are fair and valuable to all customers (i.e., participants and non-participants) but they have failed to meet that burden of proof.

364. UCG submits that the utilities have failed to demonstrate that the proposed DSM Plan and programs adhere to the most basic of cost-effectiveness principles (i.e., users and those that benefit pay for the programs).

365. UCG notes that one of YECL's DSM consultants, during her time as a member of the Ontario Energy Board[101], ruled that acceptable rate and bill impacts resulting from DSM programs was an appropriate objective of a DSM plan and that the acceptable rate impact should be fine-tuned after the post-delivery assessment of DSM programs and portfolios[102]. In that same decision, the OEB panel of which she was a member directed the utility to provide evidence of the avoidance of building additional facilities due to DSM initiatives and stated that in order to screen DSM programs, it is necessary to determine the costs which are being avoided through demand-side reductions in load[103]. This OEB panel's decision also echoed the previous OEB positions that utilities should be expected to work toward developing strong, broad based, self-sustaining DSM programs which continue to improve the level of energy efficiency and control requirements for customer contributions such that they do not seriously reduce overall participation or foreclose the participation of specific customer groups, especially low-income ratepayers[104].

366. UCG submits that the utilities have not adequately addressed the issues of bill impacts, avoided costs and longer term aspects related to their proposed DSM programs to allow the Board to approve them as submitted. It appears to UCG that the proposed DSM programs do not even meet the standards to which YECL's own consultant has held other utilities.

367. UCG submits that rate and bill impacts from DSM programs must be treated in a consistent manner with rate impacts of supply-side programs, since the costs and benefits of both types of programs can affect all ratepayers. For example, supply-side programs may provide service benefits to all customers and may also provide specific benefits to certain customers in the vicinity of the new service. While most DSM programs are targeted to specific customer groups to realize certain benefits (although some information DSM programs may deal with all customers), these programs may also result in avoided system costs for all customers.

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101 Exhibit B-9, pages 19-27
102 EBRO 489 Decision with Reasons – Part 1 dated March 23, 1995, paragraphs 2.1.13 and 2.3.15
103 EBRO 489 Decision with Reasons – Part 1 dated March 23, 1995, paragraphs 2.1.15 and 2.2.1
104 EBRO 489 Decision with Reasons – Part 1 dated March 23, 1995, paragraph 2.3.16

Therefore, rate impacts caused by either demand-side or supply-side programs should be treated in an equivalent manner.

368. UCG submits that the immediate result of most DSM programs is to reduce the energy consumption for the individual consumer with a corresponding short term bill reduction, with a longer term goal of changing consumer consumption and behaviour in general to achieve reduction of system peak demand. At a minimum, sustained DSM programs should reduce the rate of load growth, allowing deferral of capital expenses and the reduced reliance on bill subsidies to the benefit of consumers.

369. In terms of meeting future demand, DSM options should be given equal consideration as supply-side actions, and DSM initiatives should focus on barriers to wise energy use in a manner which provides valued services. UCG submits that supply plans should be based on the expected impact of DSM programs rather than a theoretical demand reduction target or goal. The expected results of DSM programs must have a corresponding impact on supply-side plans. The expected volumetric effects of all adopted DSM programs, including test-marketed programs, should be included in the utilities' demand forecasts.

370. UCG submits that when considering a rate / bill impact, the level of the impact should be based on questions such as:

- Will the immediate impact on customer bills be excessive?
- Is it likely that customer bills will, in the longer term, be unaffected or reduced even if rates increase?
- Will the impact on certain groups, such as low-income customers, be onerous?
- To what degree will the various stakeholders share in the benefits of a particular DSM program?
- Will improvements in the security or overall cost of operating the utility system create benefits beyond the first round impacts of the DSM program?
- Will the long-term net societal benefits of the DSM program override its immediate rate impacts?
- Are the net societal benefits of such magnitude and importance as to give priority to their attainment?
- Do opportunity costs demand prompt action?
- Will an important DSM program be left undone, or poorly done, if a ratepayer subsidy is not provided?
- Will the inclusion of the DSM program contribute to a broader menu of programs and thereby recognize the needs and perspectives of groups, such as low-income customers, that might otherwise be precluded from participating?
- Will the inclusion of a DSM program take advantage of synergies among programs?

371. The impact on rates resulting after evaluating all programs in the DSM portfolio must not impose an undue burden on existing customers. Both short-term and long-term rate impacts should be considered.

372. According to YECL's senior corporate communications advisor, the utilities are currently continuing their joint effort to prepare for the launch of DSM programs to be introduced in the

second quarter of 2014 upon the approval of the program by the Board[105]. Based on the evidentiary record including oral testimony, UCG submits that it is premature to determine when proposed DSM programs will be launched.

373. UCG submits that the Board should direct the utilities to ensure the separation of DSM program components from general marketing activities so that all DSM-related costs can be treated in the same way.

<u>DSM Program Evaluation</u>

374. In order to establish a portfolio of demand-side management programs, the first issue to be addressed is the selection of an appropriate methodology to define program costs and benefits in a consistent manner. UCG submits that only then can candidate programs be compared effectively in order to construct an optimum portfolio.

375. While the report by ICF Marbek refers to avoiding the cost and environmental impact of building new generation[106] and the avoided cost of supply[107], UCG submits that there is no information on the record about how Marbek's avoided cost threshold levels were determined.

376. UCG submits that the appropriate approach to determining the value of demand-side options is an avoided cost methodology where avoided costs include utility capital, operating and energy supply costs monetized environmental and societal externality costs, and incremental or decremental customer equipment and operating costs.

377. In the proposed DSM Plan, the utilities have indicated that they used the following criteria to determine the economic potential and achievable potential results for DSM initiatives in the residential and commercial sectors[108]:

- Measures providing the largest electricity savings potential by 2015 and by 2020
- Measures providing electricity savings at the lowest levelized cost
- Measures providing electricity savings with the shortest customer payback

378. The utilities testified that the savings that they are pursuing under the proposed DSM Plan are those that occur on the customer side of the meter[109]. As is the case in other jurisdictions, UCG submits that avoided costs provide the only practical means of comparing DSM programs. The use of avoided costs would permit comparisons to supply-side options. The use of long-run avoided costs as inputs for the cost-effectiveness tests would allow the utilities to evaluate their DSM programs and compare them fairly with supply-side options. UCG submits that a key consideration of the value of a DSM plan is whether it reduces a utility's supply-side requirements.

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105 Transcript Volume 4, November 7, 2013, page 667, lines 10-13
106 Business Case #30 - ICF Marbek Report, page i
107 Business Case #30 – ICF Marbek Report, page 53
108 YECL 2013-2015 GRA, Yukon 5-Year DSM Plan, page 10
109 Transcript Volume 4, November 7, 2013, page 687, lines 4-9

379. UCG submits that the utilities have purposely focused the proposed DSM programs on the customer side of the meter and have not considered system efficiencies as part of the measurement, evaluation and ranking of proposed DSM programs[110].

380. As a result of their screening of potential DSM programs, the utilities determined that there were three program elements for residential ratepayers:

- The utilities will provide LED Lighting & Automotive Heater Timer Rebates to individuals that purchase LED lighting lamps or fixtures or a timer for a block heater, car warmer and/or battery blanket selected from a prescriptive list of eligible products.

- The utilities will prepare and distribute information on Low-cost Energy Efficient Products that generate electricity savings but do not have a perceptible price increment as compared with the baseline equipment. Certain low-cost items will be provided free of charge by the utilities to community volunteers to test and provide feedback.

- The Utilities will implement pilot projects on three-element hot water heaters, cold climate heat pumps (CCHPs) and ground-source heat pumps (GSHPs). The pilot systems will be subsidized, not provided free of charge, and the results will be disseminated through different channels. After the completion of these pilot projects, the utilities intend to provide a flat amount of money to buyers of new houses or condominium units if they buy a home with a cold climate heat pump (CCHP) or a ground-source heat pump (GSHP) system, or to owners of homes with electric central air heating systems to retrofit their home with a CCHP or a GSHP.

381. While YECL testified that the low-income customer is an important customer to them and that the utilities are not excluding the low-income from any of the proposed DSM programs[111], UCG submits that it is inconceivable and irresponsible for the utilities to expect that a low-income ratepayer will be able to make additional purchases of LED lights, block heater timers or heat pumps when they are already having difficulties paying their bills, including ever increasing electricity charges.

382. Despite hiring consultants that are considered by the utilities as experts in the DSM field and despite the prevalence of DSM programs designed for low-income ratepayers in other jurisdictions, the utilities testified that they have not considered how they might target DSM programs to low-income ratepayers or ensure that low-income is not a barrier to participating in proposed DSM programs. In fact, the utilities' consultant testified that they didn't have sufficient information at this time at the program level to be able to provide a recommendation on how to identify and target low-income ratepayers[112]. UCG submits that identifying those eligible for low-income DSM programs can be as simple as ensuring that applicants for these programs meet a specific income threshold (depending on the number of people in the house) and/or if they receive government payments related to programs such as a Disability Support

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110 Transcript Volume 4, November 7, 2013, page 686
111 Transcript Volume 4, November 7, 2013, page 703, lines 17-20
112 Transcript Volume 4, November 7, 2013, page 701, lines 17-19

Program, Guaranteed Income Supplement, an allowance for Seniors and the National Child Benefit.

383. UCG submits that the utilities have effectively excluded the low-income ratepayers from being able to participate in proposed DSM programs for which they will be paying through their electricity bills. The fact that even the DSM consultants do not have sufficient detail at the program level to make recommendations on implementation issues is concerning given the fact that YECL is looking to start collecting the cost of its DSM programs in rates.

384. UCG submits that the proposed DSM Plan and resulting programs should not be approved until the utilities come back with programs that are geared toward low-income ratepayers along with details of the associated budget. As is the case in other jurisdictions, UCG submits that the Board should direct the utilities to ensure that a percentage of the annual DSM budgets (e.g., 15%) is targeted toward low-income ratepayers.

385. UCG submits that there is an extensive lack of detail available on the DSM programs that have been proposed for residential customers. UCG submits that the utilities have not provided any detail about how an individual will qualify for any of the DSM programs, whether an individual will have to pay up front and then apply for a rebate, nor how the customer contribution for some programs will be determined and how much that will be. UCG submits that without having the mechanics of the DSM programs available to review, it is not possible to approve the DSM Plan and projects.

386. With respect to the internal DSM programs conducted within the utilities themselves, a significant portion of the costs should be recovered from the shareholder who benefits. UCG submits that it is not clear how much of the total cost of these programs are to be recovered from the shareholders.

387. In its 2012-2013 General Rates Application, YEC indicated that it was spending $121,400 in 2011, $200,600 in 2012 and an undisclosed amount in 2013 on DSM initiatives related to its own facilities. It is not clear to UCG from the evidentiary record how much of YECL's proposed DSM budget is associated with its own facilities.

388. UCG submits that within Business Case #29 (Downtown Office Building Envelope Upgrades), the utilities explain that this project is required to improve the energy efficiency of the building. UCG submits that this project appears to be DSM-based so YECL's shareholder should share the cost since they will be realizing the benefits.

389. In fact, it is unclear why expenditures on continual improvement initiatives should be using up any portion of a finite DSM budget designed to deliver programs to ratepayers. UCG submits that all costs associated with expenditures on continual improvement or DSM on the utilities' own facilities should be captured within the non-DSM budgets of the utilities.

Consultations on DSM Programs

390. UCG is concerned about the quality of the consultation process that was carried out by the utilities for the development of their proposed DSM Plan.

391. During the oral hearing, the utilities were not able to identify which stakeholders had been involved in the consultations leading up to the drafting of the proposed DSM Plan nor which stakeholders had been involved in the information session at which the final DSM Plan was presented[113]. The utilities confirmed that stakeholders were not given an opportunity to suggest improvements to the final DSM Plan when it was presented.

392. UCG submits that meaningful consultations must be conducted on DSM programs in an effective manner to obtain meaningful input related to each of the major steps of the DSM planning process before irreversible decisions relating to them are made. This includes educating consultation participants on the approach to DSM adopted by the utilities, involving consultation participants in the portfolio selection process seeking input and preferences of representative groups, and seeking action-oriented feedback from participants.

393. UCG submits that there is considerable mystery surrounding the actual content of the DSM Plan consultation sessions, who exactly attended and effectively contributed, and what was effectively contributed from these sessions.

394. UCG submits that the consultative process used by the utilities on their proposed DSM Plan could have been improved if it had begun earlier in order to allow interested parties more time for consideration and comment, by having wider participation including environmental groups, and by having a more generous shareholder funding mechanism to bring about more broad-based effective participation.

395. In order to receive useful and productive feedback on DSM proposals, UCG submits that consultation participants should be provided information well in advance of the consultation meetings on the cost effectiveness of programs, the administrative feasibility of mounting the individual programs and the portfolio, the diversity of the portfolio, the rate and bill impact on participants and non-participants, and the nature and extent of any cross-subsidization of DSM costs.

DSM Reporting

396. According to YECL's senior corporate communications advisor, the utilities plan to submit annual DSM reports to the YUB for information purposes[114]. These reports are expected to contain, amongst other things, a budget for the upcoming year and any changes anticipated from the filed plan. Although the DSM program design proposes that budgets could be reallocated according to the program results, or new programs added if existing programs have not

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[113] Transcript Volume 4, November 7, 2013, pages 682-683
[114] Transcript Volume 4, November 7, 2013, page 667, lines 17-20

achieved the desired market penetration, the utilities have committed that annual budgets will be respected[115].

397. UCG submits that any DSM reports submitted by the utilities to the Board should contain complete records of expenditures on DSM, amounts of electricity saved, and the benefits realized on the system as a whole as well as a comparison to specific pre-set targets in each of these areas. As was advocated by YECL's consultant while a member of the Ontario Energy Board, UCG submits that any DSM report should also address the fairness of a rate impact from DSM programs on customers who have already implemented conservation measures and alternate supply options on their own.

398. While annual reports can be submitted to the Board and stakeholders for information purposes, UCG submits that submissions for informational purposes do not imply that the actual costs incurred will be subject to a prudency review prior to allowing them to be recovered in rates. UCG submits that the utilities should be directed to track all DSM-related costs in a deferral account (DSM O&M-related costs) and Work in Progress (all DSM-related capital costs) pending a prudency review.

Deferral Accounts

399. In its decision regarding YEC's 2008/2009 general rates application, the Board found the proposed deferral account proposals by UCG and Leading Edge related to DSM initiatives acceptable. The proposal was to establish a deferral account for all DSM-related costs for future prudency review and disposition.

400. In its Order 2013-01 dated March 25, 2013, the Board directed YEC to create a deferral account wherein DSM O&M-related costs are to be held, and to place all DSM-related capital costs in work in progress (WIP) pending a review of a joint DSM plan.

401. In the current application, the utilities have decided not to pursue any type of deferral treatment of DSM-related costs based on their own review and determinations regarding the magnitude of expected DSM cost variations and what is within the utilities' control. While the utilities admit that there will certainly be variability in the numbers that are going to be realized within the participation rates on DSM programs and program costs, they don't believe that would make a deferral account viable[116].

402. UCG submits that the utilities appear to be unaware of or ill-advised on the purpose of deferring the recovery of DSM-related costs. The utilities have proposed an evaluation measurement and verification (EM&V) plan that is described as the process of evaluating the impact from electricity efficiency programs or projects, assessing the cost effectiveness of programs, and using stakeholder feedback to improve current and future program offerings[117].

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[115] Transcript Volume 4, November 7, 2013, page 668, lines 10-15
[116] Transcript Volume 4, November 7, 2013, page 677, lines 2-8
[117] Transcript Volume 4, November 7, 2013, page 667, lines 1-5

403. UCG submits that deferral accounts are appropriate where a utility encounters expenses or revenues that either could not be reasonably forecast at the time rates were being established, or are subject to significant variance from forecast. UCG submits that the testimony and evidence of the utilities confirm that these circumstances exist with respect to the proposed DSM plan.

404. While the utilities have committed to keeping expenditures within the approved DSM budget, they have only committed to cease providing DSM opportunities to ratepayers once expenditures have reached budgeted amounts. There is no mention of what would happen if the utilities did not have significant participation rates in various programs and could not spend all of the budgeted amounts. UCG submits that it would not be reasonable for the utilities to receive the additional benefits from such variances.

405. Given the infancy of the proposed utility DSM plan and associated programs, UCG submits that it is premature and not in keeping with rate design principles to start recovering DSM-related costs from Yukon ratepayers immediately. Yukon ratepayers should not be held responsible for the trial-and-error approach to DSM being proposed by the utilities until the actual costs incurred can be vetted through a comprehensive prudency review. YECL testified that there remains a lot of uncertainty regarding whether proposed DSM programs will attract subscribers and whether program budgets will need to be reallocated according to the program results[118].

406. In fact, while they knew that government sponsored DSM-related activities have been taking place, both YECL and YEC testified that they had no idea how much was spent on DSM-related activities in the Yukon over the last 5 years, how effective these programs were at reducing electricity consumption, nor how many customers participated[119]. YEC then responded to Undertaking DSM #7 that they had undertaken a number of DSM-related projects during the DSM Plan development period between 2011 and 2013 in the residential, commercial, industrial, education and institutional / municipal sectors as well as completing pilot studies of LED streetlights in the Yukon at a total cost of <u>$909,380</u> net of contributions from ratepayers and other stakeholders. This is yet another DSM spending estimate from YEC versus the <u>$3 million</u> (net of contributions) that YEC had forecast to spend on DSM initiatives through the end of 2013 as part of their 2012-2013 General Rates Application[120].

407. Yukon Energy also indicated in response to Undertaking DSM #7 in the current proceeding that they expect the utilities to spend over $2.8 million during the 2013-2015 test years on DSM activities, another $4.1 million on DSM from 2016 to 2018, and YEC themselves expect to incur another $180,000 in administration costs over the 2014-2018 time period.

408. UCG submits that expecting to recover spending on DSM of over $6 million through the 2013-2015 test period and another $5 million between 2016 and 2018 appears to be an extraordinary amount of spending to recover from less than 19,000 ratepayers (2,000 for YEC and 16,700 for YECL) without identifying the quantifiable benefits to be realized directly and indirectly by these ratepayers.

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118 Transcript Volume 4, November 7, 2013, page 668, lines 10-15
119 Transcript Volume 4, November 7, 2013, page 683, lines 20-25 and page 684, lines 1-12
120 YEC 2012-2013 GRA, Table 5.7, page 5-62

409. UCG is concerned that the utilities have no difficulty spending money on projects that they classify as DSM-related but cannot admit to how much they spent during cross-examination nor can they report on how effective these programs were in meeting DSM objectives.

410. UCG submits that the proposed DSM plan automatically includes a level of uncertainty if the developers have no idea what has taken place in the same jurisdiction in recent years nor whether their proposed programs have already been determined to be ineffective in the Yukon.

411. UCG submits that it would be unproductive for the utilities to compete with or replace the effective DSM delivery mechanisms that are currently available from other agencies in the Yukon. The utilities should be directed to gather all information related to DSM programs being delivered by others in order to properly evaluate their own proposed programs.

412. YECL testified that the Demand Side Management Administrator position was filled on September 30, 2013[121] and that this position was involved with the preparation of the plan, and subject to approval by the Board, would continue on with delivery of the DSM plan[122]. UCG questions how anyone hired at the end of September 2013 could have been involved in developing a DSM plan that was submitted to the YUB in May 2013. Given that the only other duties assigned to this position will be related to delivering on an approved DSM plan starting some time in 2014 (if approved), UCG submits that YECL should be directed to identify all of the costs incurred related to the Demand Side Management Administrator position (job posting, interviewing, acquisition, ongoing costs) until a DSM plan is approved by the YUB and omit these costs from any pool of costs potentially recoverable from Yukon ratepayers.

413. In response to UCG-YECL-128(n), YECL states that the allocation of the costs of the proposed DSM Plan between the various rate classes and accounting for differences between the participation levels and savings per participant between the various customer classes will be examined as part of a future GRA Phase II process. However, YECL testified that the DSM-related costs and savings are included in the proposed revenue requirements for 2013, 2014 and 2015. If YECL can't explain to the YUB and other stakeholders how costs will be recovered from ratepayers, UCG submits that it is premature for the YUB to provide an approval of the proposed DSM plan.

414. At this point, the utilities are unable to explain how any of the proposed DSM-related expenditures will defer or avoid capital investment to meet distribution system requirements.

415. Given all of this uncertainty regarding where DSM budgets will be spent and the utilities' approach to focus their DSM efforts on specific customer groups, the lack of experience with any of the proposed DSM programs, the likelihood of inaccurate forecasting by the utilities of the expenditures for the test years, and the cost causation rate design principle to allocate DSM costs to rate classes in proportion of the amount actually spent on each rate class, UCG submits that the recovery of all DSM-related costs should be deferred until (1) actual costs incurred can undergo a prudency review; (2) the review of the utilities' pending Phase 2 cost allocation / rate

[121] Transcript Volume 4, November 7, 2013, page 670, lines 7-8
[122] Transcript Volume 4, November 7, 2013, page 684, lines 20-25

design application can be completed; and (3) the utilities apply to recover deferred costs as part of a general rates application.

416. UCG submits that this plan of action will allow DSM expenditures to be reviewed in light of an approved policy direction from the Board and provide an incentive to the utilities to incur DSM-related costs in a prudent and cost effective manner knowing that the shareholders will be taking the risk that these expenditures won't be recoverable from ratepayers. UCG submits that the lack of a deferral account would act as a disincentive to aggressively pursue DSM participation during the test years and risks unfairness as between customers and shareholders.

417. While DSM cost recovery by class is expected to be achieved pursuant to the approved cost of service study, it appears as though YECL will be using across-the-board rate riders to recover revenue deficiencies in 2013, 2014 and 2015 including DSM costs. UCG submits that this contradicts the principle that costs should be collected equitably from those incurring the benefits. UCG submits that YECL should be directed to establish a DSM recovery fee that can be used to recover DSM-related costs on a more benefit-based basis.

QUALITY OF SERVICE

418. YECL states in its application that it "tracks distribution system performance on an ongoing basis and the performance is reviewed when preparing the capital forecast. Additionally, Yukon Electrical reviews outages that may be attributed to system deficiencies"[123].

419. YECL confirmed that despite spending O&M and capital money to address performance and reliability of its systems, YECL's SAIFI (System Average Interruption Frequency Index), SAIDI (System Average Interruption Duration Index) and CAIDI (Customer Average Interruption Duration Index) reliability performance indices excluding loss of supply from Yukon Energy all increased each year between 2010 until 2012[124].

420. UCG submits that without an established benchmark, the Board and ratepayers cannot determine how well YECL is actually performing in these reliability areas. UCG submits that YECL should be directed to establish performance and reliability benchmarks and report its actual performance against these benchmarks.

421. UCG submits that YECL's reliability performance measures should include customer-specific reliability measures (e.g., customers experiencing multiple interruptions) as well as ways to monitor momentary outages which are a significant issue for Yukon residences and business.

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123 YECL 2013-2015 GRA, Application page 9-2
124 YECL Response to UCG-YECL-1-40(a)

COST OF SERVICE – DISALLOWED COST RECOVERY

422. Over the last few years, the Board has disallowed YECL from recovering $175,642.46 in costs it has claimed in various regulatory proceedings.

> Reference – Board Order 2013-08 (September 13, 2013) - The Board disallowed $4,096.33 in legal costs, affiliate services costs and disbursements claimed by YECL related to the review of the YEC's 2012-2013 GRA.
>
> Reference – YUB Order 2011-08 (June 28, 2011) - The Board disallowed $86,068.45 in legal costs, affiliate services costs and disbursements claimed by YECL related to the review of the YECL / YEC 2009 Joint Phase II Rate Application.
>
> Reference – YUB Order 2009-06 (May 28, 2009) - The Board disallowed $85,477.71 in legal costs, consultant fees, affiliate services costs and disbursements claimed by YECL related to the review of the YECL 2008/2009 Revenue Requirements Application.

423. YECL testified that the hourly rates claimed through the Board's cost claim process for the last few years for legal counsel and outside consultants were not the actual rates charged to and paid by YECL for these services. YECL confirmed that they paid higher hourly rates than the awarded costs as part of the regulatory proceedings[125].

424. In response to Undertaking #21[126], YECL testified that, for the historical years 2008-2012, YECL has coded all disallowed and unrecoverable regulatory costs incurred into account 72200 as indicated in response to CW-YECL-10(d) in the amounts of $120,000 in 2009, $142,000 in 2010 and $103,000 in 2012. UCG submits that it is impossible to determine how these amounts are related to the "Adjustment for Board Order 2009-2" in 2008 of $450,000 listed on line 25 of Schedule 8.8 in YECL's current application. Schedule 8.8 does not include any similar adjustments for subsequent years.

425. YECL testified that these unrecoverable regulatory fees and costs were expensed but were not recovered in rates. UCG submits that for its compliance filing, YECL should be directed to submit a financial schedule clearly showing the itemized detail on where these unrecoverable regulatory costs have been recorded such that they are not included in rates. UCG submits that there has not been a clear explanation provided on exactly how much regulatory costs YECL has incurred that is not recoverable in rates. Without this detail, UCG submits that the Board and intervenors cannot verify that ratepayers are not paying for costs being incurred on behalf of YECL's shareholder.

426. UCG submits that this reconciliation should include a breakdown of what is included in the $450,000 included in Schedule 8.8 as well as details of the amounts and their origins related to costs that have been specifically disallowed by the Board and excessive / unrecoverable costs

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126 Transcript Volume 2, November 5, 2013, pages 365-366

incurred by YECL that have been expensed and not included in any cost claim reviewed by the Board.

RATE IMPACTS AND MITIGATION

427. YECL has requested approval of revenue requirements which YECL claims will result in year-over-year rate increases of 6.1%, 3.4% and 2.2% in 2013, 2014 and 2015 respectively for a cumulative impact of 11.7%[127].

428. UCG submits that from a Yukon ratepayer perspective, the year-over-year increases to their electricity bill are actually 10.9%, 12% and 8.4% in 2013, 2014 and 2015 respectively if the Yukon government's Interim Electrical Relief gets extended beyond its current termination date of March 31, 2014[128].

429. Given that there is no evidence on the record of this proceeding that the Interim Electrical Relief will be extended, the Board has to assume that the year-over-year bill impacts resulting from this application are forecast to be 10.9% in 2013, <u>33.5% in 2014</u> and 7.1% in 2015 when the Interim Electrical Relief is eliminated[129].

430. UCG submits that even if there are no other rate adjustments approved within the next few months, Yukon ratepayers are saddled with a significant increase in their electricity bills this winter when consumption is highest. UCG submits that affordability issues are a significant concern that will not only impact residential ratepayers but also adversely impact potential business expansion and the Yukon economy.

431. In its Order 2013-05 dated June 25, 2013, the Board approved an interim, refundable rate adjustment of 6.5% (Rider R) for all customers effective July 1, 2013. This is on top of the 7.36% YEC Shortfall Rider (J) and the 3.62% YEC True-Up Rider (R1).

432. YECL confirmed, subject to check during the oral hearing that, assuming the Interim Electrical Rebate ends as scheduled on March 31, 2014, the monthly bill in January 2015 for a residential customer using 1000 kWh would be $186.30 (including GST) or 43% higher than the bill in January 2013 ($130.35 after Rebate) and 28% higher than the bill in January 2014 ($146.03 after Rebate)[130]. Upon closer examination of the bill calculation spreadsheet revised by YECL, the monthly bill in January 2015 for a residential customer using 1000 kWh would actually be $221.42 (including GST) or 38% higher than the bill in January 2013 ($160.20 after Rebate), and 24% higher than the bill in January 2014 ($178.84 after IER)[131].

433. For some unexplained reason, YECL testified that these bill impacts were comparing year-over-year bills and not the instantaneous rate changes and that it was the instantaneous rate changes

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127 YECL 2013-2015 GRA, Application Cover Letter and Application page 1-5
128 YECL Response to UCG-YECL-5(b), 1000 kWh, Revised September 5, 2013
129 YECL Response to UCG-YECL-5(b), 1000 kWh, Revised September 5, 2013 with IER set to zero in 2014, 2015 and 2016
130 Transcript Volume 1, November 4, 2013, page 162
131 YECL Response to UCG-YECL-5(b), 1000 kWh, Revised September 5, 2013 with IER set to zero in 2015

that would determine whether ratepayers would experience rate shock[132]. UCG submits that Yukon ratepayers, both residential and commercial, budget for the costs of their electricity use on an annual basis so it doesn't matter from a rate shock perspective what happens to the overall bill between say June and July (when consumption is lower) or September and October but it does matter what happens to the annual cost of electricity from year to year.

434. In response to UCG-YECL-5(d), YECL states that its position has been, and continues to be, that if a bill increase at a point in time (month over month) exceeds 10%, mitigation methods can be employed to address rate shock. UCG submits that YECL is out of touch with what its customers consider when it comes to the cost of electricity. While the month-to-month increase in rates may be less than 10%, the longer term impact of a series of rate adjustments during a year can be significant. UCG submits that any year-over-year increase in bills that are 10% or higher would indicate that rate shock was taking place.

435. As is illustrated in Attachment 1 to UCG-YECL-5(b), residential customers are looking at significant annual bill increases in 2013 and 2014 in excess of 10% per year. Given its position that only month-to-month bill comparisons are valid, YECL has not considered any type of mitigation to help its customers absorb these annual bill impacts.

436. UCG submits that YECL should be directed to not only address bill mitigation but to develop and implement a policy in this regard for the 2013-2015 test years.

437. Despite the fact that affordability was one of the key principles that was reinforced during the Energy Charette hosted in March 2011, YECL has not provided any evidence that it is currently working with any social agencies to address the needs of low income Yukoners nor does YECL appear aware of any low income assistance programs that exist in other jurisdictions.

438. UCG submits that YECL should be directed to address the difficulties faced by low income ratepayers and develop programs in conjunction with Yukon's social agencies to assist these Yukoners.

439. In response to UCG-YECL-6(a), YECL states that YECL and YEC will work together to submit a joint Phase II GRA based on the total 2013 revenue requirement of the two utilities and that the joint cost of service study and rate design will commence in late 2013 utilizing YECL's proposed 2013 revenue requirement and YEC's approved 2013 revenue requirement. While no work has been completed to date on the Phase II application, YECL testified that it will be filed by June 30, 2014[133].

440. UCG submits that YECL should be directed to ensure that the Phase II application addresses bill mitigation for any year-over-year bill impacts of 10% or more and addresses the affordability issue that is affecting ratepayers with low or fixed incomes.

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[132] Transcript Volume 1, November 4, 2013, page 162
[133] Transcript Volume 1, November 4, 2013, pages 167-168

Performance-Based Regulation

441. Over 6 years ago, in its recommendations on the 20-year Resource Plan (January 15, 2007, at page 50), the Board states:

"Now is an appropriate time for YEC and YECL to have a complete review of all GRA Phase I and Phase II matters. The Board recommends that YEC and YECL file a full GRA application before October 31, 2007. The application should include a full cost of service, rate design and an update of the Electric Service Regulations. The Board also suggests that YEC and YECL consider a performance-based regulation mechanism. As well, the Board recommends that evidence be provided as to what other utilities provide for Maximum Company Investment and model theirs accordingly."

442. YECL testified that it had not done a detailed assessment of performance-based regulation in the Yukon nor had it completed a review of the legislation to offer an opinion on YEC's position that performance-based regulation is not possible under current legislation[134].

443. YECL testified that it was aware that the Alberta Utilities Commission has approved a switch to performance-based regulation for electric and gas utility distributors effective January 1, 2013 including its parent companies at ATCO[135].

444. UCG submits that there is no reason why a Performance-Based Regulation (PBR) mechanism could not be considered following the completion of a Phase 2 review and that there are several compelling reasons to do so. It appears to UCG that there are considerable asymmetries in information between YECL, YEC, the Board and intervenors that make it difficult to ensure that the utilities are carrying on operations in an efficient manner. PBR can alleviate the difficulty associated with that regulatory duty by incorporating a formula that provides both ratepayer protection together with a productivity dividend and a financial incentive on the part of the utilities to become more efficient. As well, there should be a considerable reduction in regulatory costs which are significant considering the size of the customer base.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 2nd DAY OF DECEMBER, 2013.

MICHAEL JANIGAN
COUNSEL, UTILITIES CONSUMERS' GROUP

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[134] Transcript Volume 2, November 5, 2013, pages 358-359
[135] Transcript Volume 2, November 5, 2013, page 361