

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

and

**An application by Yukon Energy Corporation
For review of its 20-Year Resource Plan: 2006-2025**

Before: W. Shanks, Vice-Chair)
R. Hancock)
M. Phillips)
B. Morris)

August 30, 2006

YUKON UTILITIES BOARD		
EXHIBIT		A-16
DAY	ENTERED BY	DATE
	YUB	Sept 8/06

Board Order 2006-7

Whereas:

- A. On June 1, 2006, Yukon Energy Corporation (YEC, or the Company) filed an application with the Yukon Utilities Board (the Board) to review its 20-Year Resource Plan: 2006-2025 (Resource Plan) to address Yukon's major electrical generation and transmission needs;
- B. The Resource Plan sets out YEC's expected near-term and longer term requirements. Four near-term projects are proposed in the Resource Plan. Four alternatives, based on various scenarios to meet the needs of industrial customers, are set out to meet longer term requirements. Certain near-term planning activities are proposed to protect longer-term options to address new load requirements;
- C. On June 5, 2006, the Minister of Justice of the Government of Yukon requested the Board to review and hold a hearing on the Resource Plan. The Board is to forward its report on its findings to the Commissioner in Executive Council, and make the report public, by October 31, 2006. Specifically, the Minister of Justice requested the Board review the proposals in the Resource Plan with emphasis on:
 - i) Those projects related to the resource Plan that require commitments by YEC before the year 2009 for major investments with anticipated costs of \$3 million or more for feasibility assessment and engineering, environmental licensing, or construction; and
 - ii) Planning activities related to the Resource Plan which YEC may be required to carry out to commence construction on other projects before the year 2016 to meet the needs of

potential major industrial customers or other major potential developments in Yukon.

Further specifics regarding the scope of the review requested are stated in the June 5, 2006, letter from the Minister of Justice;

- D. In Board Order 2006-6, a Pre-hearing Conference was scheduled for August 30, 2006. At the Pre-hearing Conference the Board heard submissions from parties on the issues list, Intervenor status, the cost process and the hearing process. YEC indicated at the Pre-hearing Conference that one of its witnesses would not be available for the hearing as scheduled and suggested the hearing be moved to commence November 14, 2006;
- E. On August 29, 2006, the Board received a letter from the Minister of Justice. In the letter, the Minister of Justice among other things, noted that "prior to the implementation of any significant energy projects by YEC (e.g. construction of the Carmacks to Stewart transmission line), it is the government's intention to refer the details of such projects to the YUB for review and recommendation under provisions of Part 3 of the Public Utilities Act."; and
- F. The Board requested written comments from parties on the August 29, 2006, letter from the Minister of Justice and on the potential overlap of roles between the Board and the Yukon Environmental Socio-Economic Assessment Board (YESAB).

NOW THEREFORE the Board orders as follows, with Reasons attached in Appendix A:

1. Comments are due from YEC with respect to the August 29, 2006, letter from the Minister of Justice and with respect to whether the review provided by YESAB precludes the YUB from considering environmental, social and economic issues in this proceeding by September 8, 2006. Interested Parties are to provide comments by September 15, 2006, and YEC is to reply to those comments by September 19, 2006.
2. Intervenor status is granted to the following for this proceeding:
 - Yukon Electrical Company Limited (YECL)
 - City of Whitehorse
 - Utilities Consumers' Group (UCG)
 - Yukon Conservation Society (YCS)
 - Peter Percival
 - Marsh Lake Local Advisory Council (LAC)

Observer status is granted to the following for this proceeding:

John Maissan
Gary McRobb
Samson Hartland
Department of Energy, Mines and Resources, Government of Yukon

3. All parties intending to hire legal counsel and/or consultants are to submit signed retainer letters by September 27, 2006.
4. The Schedule of Proceeding is revised as follows:

Action	Date 2006
Decision on Pre-hearing Matters	September 8
Information Requests on Application to YEC	September 26
YEC Responses to Application Information Requests	October 13
Intervenor Evidence Filed	October 23
Information Requests to Intervenors	October 30
Intervenor Responses to Information Requests	November 8
Hearing Commences (at Gold Rush Inn, Whitehorse)	November 14
Written Argument	November 24
Written Reply	December 1
Report to Commissioner in Executive Council	January 15, 2007

5. YEC will arrange for publication in display-ad format, not later than September 15, 2006, of a Revised Notice of Hearing, as per Appendix B, in such appropriate local news publications in the service area of the Company so as to provide adequate notice to the public. The ad will also include notice that an evening session is scheduled for the public to make submissions to the Board on Wednesday, November 15, at 6:00 p.m. at the Gold Rush Inn.

DATED at the City of Whitehorse, in the Yukon Territory, the 07th day of September, 2006.

BY ORDER



Wendy Shanks
Vice Chair

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Reasons for Decision

1.0 Regulatory Timetable

At the Pre-hearing Conference, YEC indicated that one of its key witnesses would likely not be available the week of November 20, 2006, for the hearing as scheduled. YEC requested the date of the hearing be moved to start November 14, 2006. The Board considers this request to be reasonable.

As a result of the additional submissions requested by the Board regarding Part 3 of the *Public Utilities Act*, and the review by the YESAB, the Board will not be able to finalize the issues list until after the current deadline for Information Requests to YEC of September 20, 2006. Therefore, the Board also revised dates for some of the procedural steps. The Board will issue a finalized issues list following the receipt of submissions on these two matters.

2.0 Intervenor Status

The Board has granted Intervenor status to the following:

Yukon Electrical Company Limited (YECL)
City of Whitehorse
Utilities Consumers' Group (UCG)
Yukon Conservation Society (YCS)
Peter Percival
Marsh Lake Local Advisory Council (LAC)

Observer status was granted to the following:

John Maissan
Gary McRobb
Samson Hartland
Department of Energy, Mines and Resources, Government of Yukon

Mr. McRobb had requested Intervenor status. In his request for Intervenor status he simply stated that his interest was broad and he did not plan to attend any workshops. Mr. McRobb did not provide any additional information by the

August 23, 2006, deadline set in Board Order 2006-6, and did not appear at the Pre-hearing Conference. Because Mr. McRobb did not identify a specific interest in the proceeding and his lack of attendance, the Board has granted him observer status.

3.0 Costs

With respect to the Scale of Costs, the issue of professional versus non-professional status was discussed at the Pre-hearing Conference. The Board has reviewed the comments provided by parties, previous orders where professional and non-professional status was addressed, and the YUB Intervenor Costs Award Policy. Based on this review, it appears to the Board that there has been some confusion over the years regarding how the Scale of Costs is to be applied. The Board will take this opportunity to clarify the policy and how it will be applied.

In Schedule 1 of the Intervenor Costs Award Policy, item 3 states:

3. Intervenors

The Board encourages Intervenors with similar interest to combine their interventions. Individual Intervenors accredited under section 24 who provide the Board with a constructive view on a particular regulated part of a utility's operations will in the Board's discretion be eligible for reimbursement of their reasonable disbursements in accordance with the scale above. Intervenors participating generally, throughout proceedings will have any claims for costs assessed on their own merits. The Board will not approve an attendance allowance.

In previous Board Orders, a non-professional fee has been allowed to certain Intervenors. For example, in Board Order 1996-10, UCG was allowed a non-professional fee of \$25/hr. In Order 2005-16, UCG, Mr. Percival, the Ad Hoc Group of Businesses, YCS, and Mr. McMahon were allowed a non-professional fee of \$35/hr. Going forward, and consistent with the Scale of Costs, the Board will assess each Intervenor cost application on its own merits. That is, the Board will consider the value provided by the Intervenor. As the Board Orders cited indicate, in the past the norm has been to allow Intervenors \$35/hr.; however, that does not mean that an Intervenor will necessarily receive \$35/hr.

As provided for in the Scale of Costs, an Intervenor's cost application will be assessed on its own merits. An Intervenor could receive more or less than \$35/hr., depending on the degree to which the Board considers an intervention to be of value to the Board. The Board will continue to refer to the factors set out in the Scale of Costs when making this assessment. However, to provide parties with additional guidance, if an Intervenor provides subject matter expertise in a manner beneficial and of value to the proceeding, then costs will be awarded accordingly; that is, more than the \$35/hr may be awarded. If an intervention is of

limited value to the Board's decision, less than \$35/hr. will be awarded. Interventions of a general or non-specific nature will not generally be valued as subject matter expertise. Intervenors should address these issues in their cost applications.

Costs for retaining lawyers and consultants will be considered under item 1 in the Scale of Costs – Professional Fees. In addition to assessing the value a lawyer or consultant provided, where an Intervenor hires lawyers and/or consultants, the Board will also consider whether these arrangements are arm's-length, third-party arrangements.

The Board reminds parties that for the purposes of its decision in the subject proceeding, the Board will consider all evidence and argument put forward. The Board will not assign more or less weight to a party's position based on hourly rates. Rather, the Board will consider the relevancy and merits of a party's position in making its decision. For cost application purposes, the Board will consider what cost recovery, if any, is appropriate based on the value provided by the party in the proceeding.

At the Pre-hearing Conference, YECL requested the Board determine up front whether YECL is participating in the hearing for its sole business interest. YECL submitted that it is participating on behalf of its customers. The Board is of the view that it cannot prejudge what interest YECL is participating in the proceeding to protect and, therefore, will not determine in advance whether YECL is participating for its sole business interest or for the protection of its customers.

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Revised Notice of Hearing

Hearing

Time: 9:00 a.m.
Date: November 14, 2006
Location: Gold Rush Inn
411 Main Street
Whitehorse, Yukon

Background

On June 19, 2006, the Yukon Utilities Board (Board) issued Order 2006-5 which established a procedural schedule for the review of Yukon Energy Corporation's (YEC) 20-Year Resource Plan: 2006-2025 (Resource Plan). On July 31, 2006, the Board issued Order 2006-6 which revised that procedural schedule, based on the revised deadline for the Board to issue its report on YEC's Resource Plan.

The Resource Plan addresses major electrical and transmission requirements in Yukon during the 2006 to 2025 period. The plan also provides background information on Yukon's electrical system as well as an overview of the forecast short-term and long-term electrical requirements.

To facilitate the oral public hearing process, the Board held a Pre-Hearing Conference into the Application on August 30, 2006, in Whitehorse.

Hearing

An oral public hearing is scheduled to commence at 9:00 a.m. on Tuesday, November 14, 2006, at the Gold Rush Inn, 411 Main Street, Whitehorse, Yukon.

The Acting Board Chair for review of the Application is Wendy Shanks.

Schedule of Proceeding

The Board has established a revised schedule for this proceeding, as follows:

Action	Date 2006
Decision on Pre-hearing Matters	September 8
Information Requests on Application to YEC	September 26
YEC Responses to Application Information Requests	October 13
Intervenor Evidence Filed	October 23
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Written Reply	December 1
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Public Submissions

A meeting is scheduled for **Wednesday, November 15, 2006, at 6:00 p.m.** at the Gold Rush Inn, 411 Main Street, Whitehorse, Yukon, to provide an opportunity for the public to make submissions to the Board.

Public Inspection of the Application

The Application and supporting documents are available for inspection at the following locations:

Yukon Energy Corporation

Head Office: Whitehorse Hydro Dam
Robert Service Way

District Offices: Mayo, Yukon
Faro, Yukon
Dawson, Yukon

All Public Libraries in Yukon communities

Local Post Offices in the following Yukon communities:

Ross River
Old Crow

A copy of the Application and supporting documents are also available for inspection at the office of the Yukon Utilities Board at 19-1114 First Avenue, Whitehorse, Yukon.

A copy of the Application and supporting documents are provided on YEC's website at www.yukonenergy.ca and on the Yukon Utilities Board website at www.yukonutilitiesboard.yk.ca

Clarification

Persons intending to participate, and who are uncertain as to the manner in which to proceed, may contact Ms. Deana Lemke, the Executive Secretary, Yukon Utilities Board, by telephone at (867) 667-5058 or in writing at Box 31728, Whitehorse, Yukon, Y1A 6L3, by email to yub@northwestel.net or by fax at (867) 667-5059.