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September 19, 2006

Wendy Shanks, Vice-Chair
Yukon Utilities Board
19-1114 First Avenue
Whitehorse, Yukon Y1A 1A3

Dear Ms Shanks,

**Re: Yukon Energy Corporation (“YEC”)
20-Year Resource Plan 2006-2025
YEC Reply to Comments on Pre-Hearing Conference Issues**

On September 8, 2006, YEC provided comments on the following two issues requested by the Yukon Utilities Board (“YUB”) at the August 30, 2006 pre-hearing conference:

1. Applicability of Part 3 of the Act and the Minister of Justice’s August 29th letter.
2. Whether YESAB legislation precludes the YUB from considering environmental and socio-economic issues?

The following is YEC’s reply to the September 15, 2006 submissions of Yukon Electrical Company Limited (“YECL”) and the Utilities Consumers’ Group (“UCG”) on these two issues. YEC has not received comments on these issues from any other participant.

1. Applicability of Part 3 of the Act and the Minister of Justice’s August 29th letter

YEC’s reply below addresses comments received on this matter from YECL and UCG, focusing on the two options suggested by YECL and the more general UCG focus to limit the current proceeding’s scope.

YECL’s “Options” for the YUB

YEC does not agree that either of YECL’s alleged “two options” are in fact options open to the YUB. Those two alleged options may be summarized as follows:

Option 1: To continue the current review process under section 18 of the *Public Utilities Act*, but restrict the proceeding to a “high level assessment of the near-term projects that have been identified”, apparently to involve only an examination of planning criteria, with “a subsequent Part 3 process (as anticipated by the Minister)” to be carried out a later date for the purpose of a “detailed decision” on specific projects.

Option 2: To direct YEC to “approach the Minister on an expedited basis” to “seek to have the current near-term projects designated under Part 3 of the *Act* and have them considered in the forthcoming hearing.”

These options ignore the YUB’s clear mandate under the directions contained in the June 5, 2006 letter from the Minister. Pursuant to section 18 of the *Act*, those directions require the YUB to carry out a comprehensive review of YEC’s planned near-term projects costing \$3 million or more (as reviewed in detail in YEC’s September 8, 2006 submission), which must include consideration of all the matters set out in the Minister’s letter. Further, there is nothing in the subsequent August 29, 2006 letter from the Minister or in YECL’s comments that would suggest it is open to the YUB to ignore that mandate, or to interpret that mandate in the way YECL is apparently proposing.

YECL’s “Option 1” is inconsistent with the Minister’s June 5, 2006 directions

With respect to “Option 1” in particular, the Minister’s June 5, 2006 letter does not contemplate that the YUB’s review could or should be restricted to the kind of “high level” assessment suggested by YECL (whatever that may mean).

Such a restriction on the scope of the YUB’s review would strip away the emphasis on review of specific near-term projects mandated by the Minister’s letter, thereby calling into question the relevance and usefulness of the current proceeding. Moreover, there is simply no merit to YECL’s assertion that the review would have to be restricted in that way because of alleged “limitations on the information available.”

The YUB must carry out the full scope of the review as directed by the Minister, based on the available information (i.e. “to the extent currently known”), in accordance with the directions in the June 5, 2006 letter and section 18 of the *Act*. And, in so doing, the YUB’s statutory powers to seek information for the purposes of that review are not restricted, regardless of whether the review is being conducted under section 18, as opposed to Part 3 of the *Act*.

There is simply no reasonable basis for YECL to suggest at this time that there are limitations on the available information that could make it “impossible” for the YUB to determine needs and timing with respect to the three near-term projects

with costs in excess of \$3 million (i.e. the Carmacks-Stewart Project, the Aishihik Third Turbine Project, and the Mirrlees Life Extension Project).

For example, with respect to the alleged limitation on information about accurate capital cost forecasts, YECL's suggestion that this is a concern that should somehow limit the YUB to carrying out a "high level" assessment ignores the entire rationale for the type of review which the Minister has directed the YUB to undertake, and defeats the purpose of that review. To usefully assess the merits of proposed YEC spending commitments while protecting YEC's ability to deliver projects in a timely manner to meet Yukon needs, the type of project review contemplated by the Minister's letter should ordinarily proceed well in advance of planned construction start dates, so that final design, contract tenders, environmental reviews and approvals, and potentially other matters would often still be outstanding. Any suggestion that YEC should have to wait to come to the YUB for a review of this nature until after having already spent substantial funds carrying out final design and tendering, and obtaining other required approvals, invites substantial delay and uncertainty and potentially wasted cost, and could create serious and unacceptable risks to YEC's ability to complete projects within the time required to serve Yukon needs (for example, the ability to complete the Carmacks-Stewart Project in time to deliver power as needed to the Minto Mine before the end of 2008, or to complete the first unit of the Mirrlees Life Extension as needed for 2007/08).

With respect to the alleged limitation on information about current sales forecasts, YECL's argument that YEC will not make sufficient information about such forecasts available to allow considered decision making on the proposed project is both premature and somewhat ironic. YEC's position on data limitations with respect to load forecasts, to the extent they exist, is set out in response to YUB-YEC-1-18 in this proceeding, where YEC noted:

"On a number of occasions, Yukon Energy sought from YECL support in the form of load and generation data (in July 2005), and had planned on further discussing with YECL the capacity criteria and the long-term plans to meet YEC's requirement to service those WAF loads at the bulk power level. However, Yukon Energy was informed by YECL in August 2005 that YECL viewed their load data as commercially sensitive and sharing such data with YEC would put YECL at a competitive disadvantage in Yukon (although such data was routinely shared in preparing the 1992 Resource Plan and in all Yukon General Rate Applications). YECL did ultimately offer to provide some data in December 2005 and suggested a meeting to discuss the requirements, however, this was too late in the process for this detail to be incorporated into the January 2006 Resource Plan."

In any event, YEC is satisfied that the data available to it (and presented in the materials filed) is both sufficient and complete as required to justify each of the proposed projects in the Resource Plan, and presumes that full examination and testing of this data will form a major part of the Resource Plan proceeding.

With respect to the alleged limitation on information about “the government’s position on contributions (if any)” to the proposed projects, this provides no support for YECL’s assertion that the scope of the YUB’s review should in any way be narrower or more limited than the comprehensive review contemplated by the Minister’s June 5, 2006 letter. It must be presumed that, in issuing the June 5, 2006 letter, the Minister provided the YUB with all information that was considered necessary to enable the YUB to carry out the requested comprehensive review on the terms directed by the Minister. Also, as with the alleged information limitations concerning capital cost forecasts noted above, it is simply not possible or practicable to have all detailed information on every subject prior to a YUB review, while fulfilling the objective of ensuring that no decisions, activities or major capital investments are undertaken until after the YUB review is complete (so as to have the review conclusions play a positive role in shaping decisions about the projects and plans).

Apart from the alleged limitations on presently available information, YECL goes on to assert that, under Option 1, “no detailed decision could be made on specific projects, and a subsequent Part 3 process (as anticipated by the Minister) would be necessary.” YECL notes that this aspect of its proposal “... would result in a measure of duplication...” In considering these comments, the Board should also note the following:

- Regardless of whether the review is conducted under section 18 or under Part 3 of the *Act*, the YUB has only the advisory authority to provide a report and recommendations to the Minister or the Commissioner in Executive Council, and does not make a final “decision” on any project in either case. So, no “detailed decision” will be made by the Board under either proceeding.
- The question of whether or not a subsequent Part 3 process may be required for any energy project within the scope of the present review will be determined entirely by whether or not the Commissioner in Executive Council decides to designate that project as a regulated project. In the absence of such an OIC, a Part 3 review will not be necessary -- nor indeed would it even be possible under the existing provisions of the *Act*. As YEC noted on September 8, the Board can comment fully in its January report on the “need” and implications of any further YUB review of any of the specified projects.

The foregoing is not affected by the passage quoted by YECL from the YUB’s 1992 recommendation, where the YUB stated that “before the Companies [i.e. YECL as well as YEC] proceed with a specific project a full regulatory review

must be undertaken, including an assessment of the prudence and costs of each project.” In the context of current Yukon legislation, the Minister’s June 5 letter in fact provides, before YEC proceeds with specific near-term projects costing at least \$3 million, for “a full regulatory review [by the YUB]..., including an assessment of the prudence and costs of each project.”¹ And as YECL has itself previously argued, the YUB’s 1992 recommendation does not remove or alter the statutory requirement for the Commissioner in Executive Council to designate a project as a regulated project before the provisions of Part 3 of the *Act* apply.² Indeed, since the 1992 hearing (as before that date), neither YECL nor YEC has ever had a review of any project by the YUB, other than as part of a YUB review of revenue or rate matters.

The overall effect of the limited scope “high level” review that YECL is proposing under “Option 1” would be to practically eliminate the opportunity created by the Minister’s June 5, 2006 letter for YEC to receive timely YUB review, as it has consistently committed to do, of its major near-term projects costing \$3 million or more. Even if such an approach were open to the YUB -- which it clearly is not -- it should be rejected.

YECL’s “Option 2” is not within the control or mandate of YEC or the YUB

As for “Option 2” as described by YECL, that option is based on the premise that duplication and delay (as anticipated under YECL’s “Option 1”) could be avoided by YEC attempting now to obtain a direction from the Minister to enable a Part 3 review to be carried out as part of the existing process at the upcoming hearing. However, YECL’s proposal ignores the requirements of the *Act* and the comments in YEC’s September 8, 2006 submission.

Contrary to YECL’s submission, only the Commissioner in Executive Council (not the Minister) can designate specific projects as regulated energy projects, by an OIC under Part 3 of the *Act*.

Unless and until the Commissioner in Executive Council makes such an OIC -- which (as noted above) has to date never occurred for any project in Yukon -- neither YEC nor the YUB has any mandate to do anything with regard to Part 3 matters.

¹ YEC’s September 8, 2006 comments reviewed (point (ii) at pages 2 and 3) how the Minister’s June 5th letter mandates a comprehensive review of significant near term energy projects’ being proposed by YEC.

² YECL and YEC jointly filed a 1993/94 GRA which, in section 5.3, responded (at page 5.3-21) to this same Board recommendation, stating as follows specifically as regards application of Part 3 of the *Act*: “...the Companies would note that Sections 38-42 inclusive of the Yukon Public Utilities Act dealing with an “Energy operation certificate” are applicable only to those projects which are “regulated projects”, as defined in Section 38 (namely ‘any energy project that the Commissioner in Executive Council considers to be significant in the matter of any form of energy and, by order, designates as a regulated project’).”

While ignoring this fundamental limitation, YECL also states:

“The difficulty with this approach [i.e. Option 2] is that the limitations on the information presently available, as discussed above [i.e. in the context of Option 1], will make it very difficult to appropriately test the need for and timing of the identified projects. This will be a challenge for the Board and parties if this approach is selected.”

Given that comment, it should be noted that it is apparently YECL’s position that its proposal for a concurrent Part 3 review will make no difference with respect to the alleged “limitations on information” which YECL says will prevent the YUB, under Option 1, from carrying out the full scope of the review that was directed by the Minister. Thus, the alleged “limitations on information” would seem to have no bearing on YECL’s assessment of the two options it has described.

Neither “option” proposed by YECL is available to the YUB

Overall, YECL’s two options are consistent in their net effect of neutering the current proceeding, either in respect of timely progression, or in respect of scope. On the one hand, YECL proposes that the YUB direct YEC to request the Commissioner in Executive Council to issue an OIC - which presumes that the Board will set aside its schedule and wait to determine the response (if any) until after the current election. On the other hand, YECL implies that the Board should ignore the scope of review required by the Minister’s June 5, 2006 letter (as well as the comments in the Minister’s August 29, 2006 letter that the Minister expects “several complex financial, economic and policy issues” to be considered in the current proceeding), and instead limit the review to an undefined “high level” exercise which must not review the near-term projects in any useful way. Under either scenario, the current proceeding would be effectively guaranteed to fail to fulfill the Minister’s June 5, 2006 directions, in terms of timeliness, scope of review, or both.

In short, neither of the two “options” proposed by YECL are in fact available to the YUB. The YUB cannot ignore the clear broad scope of the Minister’s June 5, 2006 letter by choosing to only do some form of “high level” review; and, neither can the YUB effectively amend its own mandate for the hearing, to include Part 3 of the Act (through directions or requests), where the authority to do that rests solely with the Commissioner in Executive Council.

Other Issues Raised by YECL

YECL’s comments raised other “process” issues which go beyond the two “options.” YEC’s reply on these other matters is provided in Attachment A.

UCG's proposal for a "moratorium on spending" should be rejected

UCG's comments on the first part of the Minister's letter (as so identified by UCG) argue "...that the YUB should place a moratorium on spending on any of the projects proposed within the resource plan until the review processes [which UCG assumes to include a separate Part 3 process] are completed." However, there is no basis for UCG's interpretation of this part of the Minister's letter, which would create an impractical situation, especially in light of the critical importance of continuing with the planning activities for the projects under review.

YEC has made it clear that no decisions to proceed with the relevant near-term projects can or will be finalized until the current YUB review is completed, as well as all other preconditions are satisfied and a final YEC Board of Director's decision can be made as outlined in the Resource Plan (see Overview, page 4 and Resource Plan, Figure 1.1). However, ongoing expenditures are obviously needed to carry out the current YUB review, other regulatory reviews where needed, engineering and final design, completion of various agreements, tendering and other activities as needed for any final decisions - and delays in these activities will seriously compromise YEC's ability to meet ongoing Yukon utility ratepayer needs.

In the specific case of the Mirrlees Life Extension Project and other work needed at the Whitehorse Diesel Plant, YEC has also made it clear that in order to meet WAF capacity planning needs for 2007, certain commitments for construction/implementation have had to begin already in 2006 to order parts and carry out other plans particularly for the first Mirrlees unit (see 20-Year Resource Plan: Supplemental Materials, May 2006 - Tab 1). Any approach that would prevent YEC from proceeding with that required work now must clearly be rejected.

UCG's proposal to limit the scope of current proceedings should also be rejected

With regard to the balance of the Minister's letter, UCG argues that the scope of the current proceeding should be limited, and that a subsequent proceeding should be required. Unlike YECL and other parties, UCG does not suggest that any Part 3 review should be attempted at this time, concurrent with the present review. UCG also does not express any concern with regard to needless duplication, costs, or delay associated with two separate YUB review processes.

UCG simply observes that "... the Minister's intention is to make significant energy projects subject to a review under Part 3 of the *Public Utilities Act*." However, although UCG does not question any of YEC's comments as to what is needed under the Act for any such Part 3 review to proceed. The UCG fails to recognize that the Minister's August 29 2006 letter includes no directions to the

YUB regarding Part 3 review of any project, nor does it modify in any way the clear and direct scope for the YUB's current proceeding to review specific projects as set out in the Minister's June 5 direction to the YUB.

UCG's comments suggest that the YUB should provide its recommendations in the current review "...without having to issue any decisions regarding the need for any specific project within the proposed the proposed resource plan." UCG supports this view by saying that "The need for any project could be determined as part of a formal Part 3 review." These comments by UCG ignore the Minister's specific request in the June 5 letter for the Board to provide its review and recommendations as regards "the necessity" for the specified generation and transmission projects.

UCG states, with regard to the \$3 million threshold in the Minister's June 5th letter, that "...it is an illogical stretch to suggest that the Minister was defining any type of monetary threshold that would preclude the YUB from reviewing any proposed project under Part 3 or any other part of the *Public Utilities Act*."

YEC has never attempted to suggest any such "stretch". YEC's comments have noted that the specific near-term projects to be reviewed by the YUB in the current proceeding pursuant to the June 5th letter are very clear. However, beyond the Minister's reference in the August 29th letter to the Carmacks-Stewart Project, it is not known what criteria might be used by the Commissioner in Executive Council in the future to determine what projects might be designated under OIC as requiring a Part 3 review. YEC has noted its serious concerns about such uncertainties as well as other matters if the near-term projects reviewed by the Board in the current proceeding are required to be reviewed again after this hearing by the YUB prior to construction.

The YUB must proceed with the review required by the Minister's June 5, 2006 letter

In summary, the comments from YECL and UCG propose actions to limit the scope of the current proceeding as regards proper review of specific near term projects proposed by YEC, and argue an alleged need for a subsequent Part 3 YUB review of these same projects. The YECL and UCG comments provide no cogent justification for the needless duplication, costs and delay that would result from such an approach - nor do they challenge the fact that the YUB currently has a mandate to review these projects to the same extent as it would if a Part 3 review(s) was to be somehow established at this time following the necessary OIC(s) and other steps.

In YEC's view, the June 5 letter from the Minister of Justice provides very clear and specific direction on the details that the Board is to review and report on with regard to specific near term projects. The August 29th letter provides no new direction to the YUB in this regard. Accordingly, the only option available to the

Board is as set out in YEC's September 8th submission: that is, to proceed with the broad review as required by the Minister's June 5, 2006 letter.

2. Whether YESAB legislation precludes the YUB from considering environmental and socio-economic issues?

YEC received two comments in respect of the review of environmental and socio-economic issues. YECL indicates that they concur with YEC's position in its September 8 submission. Only UCG provided any detailed comments on this matter.

Aside from review of the YESAA purposes and the role of YESAB, the UCG appears to argue that the YUB "can't and shouldn't" attempt in this proceeding to "make a determination on the value of any project within the proposed 20-year resource plan without first seeing the results of the YESAB review." YEC submits that this position is contrary to the Minister's Section 18 request in the June 5th letter, and contrary to sound regulatory review practice needed for the relevant projects. It would be entirely impractical to require all projects in the Resource Plan to have completed all YESAB reviews before the YUB could undertake its review.

YESAB is not currently in receipt of any submissions from YEC on any of the relevant projects. By way of information, YEC notes as follows:

- YEC plans to make a submission shortly to YESAB on the Carmacks-Stewart/Minto Spur Transmission Project. If matters proceed in a timely way with the YESAB review, YEC would expect a final YESAB report on this matter to decision bodies by next May/June at the earliest. To meet in-service timing needs for Stage One of this project, YEC will need to begin construction next summer.
- YEC does not plan any YESAB submissions with regard to the other two major near term proposed projects costing at least \$3 million (i.e., the Mirrlees Life Extension Project and the Aishihik Third Turbine Project). YEC does note that it already possesses all major environmental licences and approvals for the Aishihik Third Turbine Project as proposed, and as such no YESAB submission is anticipated.

UCG proposes that the YUB consider establishing a cooperative agreement with the YESAB similar to the June 2006 agreements between YESAB and the Mackenzie Valley Environmental Review Board. YEC sees no basis for considering such a suggestion in the context of the current YUB review. This comment by UCG does not address the question posed by the Board. In addition, the Mackenzie Valley Board is an environmental review Board similar to YESAB, and entirely apart from utility regulation in NWT (which is conducted by the NWT Public Utilities Board). As such, UCG's comments have not relevance to the current proceeding.

The UCG appears to question the relevance of YEC's attachment from a recent BCUC Project Decision, and indicates they do not have the context for the BCUC review on this matter. The full decisions are publicly available should UCG require further context. To assist UCG and the Board, YEC can also note that the YUB addressed similar issues in its December 1992 report reviewing the Capital Resource Plans of YEC and YECL (which UCG participated in), as did the Manitoba PUB in its similar OIC mandated review in 1990 of the Conawapa Project:

- At page 95 of the YUB's 1992 report, the Board stated: "In making its recommendation with respect to the management of Aishihik and Marsh Lakes, the Board is cognizant of the fact that it does not have the jurisdiction to decide on environmental issues. However, the Board considers that it must be fully aware of all potential environmental costs that may impact the Companies' resource plan."
- At page 1-2 of the "Report of the Public Utilities Board [Manitoba] in respect of Major Capital Projects of Manitoba Hydro Vol. 1 November, 1990", the Manitoba PUB states: "The environmental aspects of the Manitoba Hydro Preferred Development Plan will be the subject of hearings before the Clean Environment Commission and are not within the scope of the Board's review. However, in its comparison of scenarios, the Board considered risks due to possible project modifications required to meet environmental requirements and finds that all the scenarios examined involve risk of this nature."

If you have any questions on the above, please call.

Yours truly,



Dave Morrison
President and CEO

Attachment A - YEC's Reply to Other Process Issues Raised by YECL

YECL, in its comments, expressed concerns about the need for further clarification of the process intended to be followed for review of these projects, as follows:

“...that the present and future significant facility projects would benefit from a better defined process, which could be easily implemented without any delay in the current proceedings....Such an approach [the new approach advocated by YECL] would provide an effective precedent for future facilities applications and remove the ambiguity which reportedly has driven YEC to adopt the current approach it is using in these proceedings. It would also effectively address the duplication concerns expressed by YECL regarding two-potential reviews of the same project.”

A review of the specific process issues identified by YECL in their submission provides no support for the approaches they are advocating. YECL's comments reflect a fundamental misunderstanding and confusion over the long-standing utility regulation framework in Yukon. If anything, review of YECL's concerns serves to underline the current risks of delay and duplication as noted in YEC's September 8 submission and the direction proposed therein. More detailed comments are provided below.

Duplication Concerns

The “duplication concerns”, as well as concerns about needless added costs and serious delays, have been noted by many parties, including YEC.

YEC agrees that any Part 3 review, if it is to be done for the current near term projects, should obviously be done concurrent with the present YUB review in order to avoid needless duplication, cost and delay. Until the necessary OICs are in place, however, YEC and the YUB each have no choice but to continue with the current review and provide comments as needed therein on the implications of any subsequent Part 3 review being required.

Ambiguity and Lack of Structured Process

YECL states that it is very concerned “...with the lack of a structured process for the examination of major facility projects that significantly impact ratepayers in Yukon.”

As reviewed in its September 8 comments, YEC has committed for some time to seek a structured review process by the YUB of at least YEC's major projects. In YEC's view, the Minister's June 5 request to the Board established a structured process consistent with past Yukon practice and fully suited to the need for comprehensive and timely YUB review of major near term YEC projects.

YECL is incorrect in arguing that a review under Part 3 is required in order to provide a structured process or in some way resolve the fact, as set out in YEC's September 8

comments, that there is no legislative framework currently in place in Yukon (outside of a revenue requirements or rate hearing process) to mandate the YUB to review or approve capital projects of YEC or YECL. YECL's comments, in questioning the adequacy of the current review, ignore that the legislative framework in Yukon, which both utilities have operated under since at least 1987, allows for both YUB reviews and for various forms of approvals with respect to capital projects as the situation may require:

Reviews of Capital Projects and Plans: Two types of YUB reviews of capital projects or plans are possible in Yukon outside of rate hearings:

- ***Review of Capital Projects or Plans under Section 17 or 18 of the Act:*** A review under section 18 (the current proceeding) or section 17 (the 1992 capital plan review proceeding) of the Act can be conducted upon request by the Minister (section 18) or OIC (section 17). Yukon has a history of YUB reviews of such integrated utility capital plans and associated proposed projects when desired by the Yukon government.
- ***Review of “regulated projects” under Part 3 of the Act:*** This entails a review of “energy projects” (as defined by the Public Utilities Act) designated by the Commissioner in Executive Council to be “regulated projects” under Part 3 of the Act. Neither YEC nor YECL has been subject to having any project so designated.

A review by the YUB under either of these two approaches may be conducted only when mandated by the Minister or by OIC. Such a review may only result in a report with recommendations from the YUB to either the Minister or Commissioner in Executive Council, but no specific YUB approvals.

Approvals of Capital Projects: There is no current legislative authority in Yukon for the YUB to “approve” specific capital projects per se of YEC or YECL in advance of construction. Approvals of capital projects can only take place under one or more of the following mechanisms:

- ***As part of Rate Review, by YUB:*** Projects are effectively “approved” by the Yukon Utilities Board when the YUB determines that the projects are prudent and useful and therefore included in the rates charged by the utilities in any General Rate Application or similar proceeding,
- ***In advance of construction, under Part 3 of the Act, by Minister:*** For YECL and YEC, projects that qualify as an “energy project” under the Public Utilities Act can be designated under Part 3 as a “regulated project” by OIC. In such cases, following a review by the YUB, the Minister may provide their “approval” by way of an Energy Project Certificate.
- ***In advance of construction, under OIC 1993/108, by YDC Minister:*** For YEC, in addition to any approval under the above two approaches, there is a requirement under OIC 1993/108 that certain types of major projects must be approved by the Minister for YDC prior to construction (including for

transmission lines such as Carmacks-Stewart). This requirement for approval does not apply to YECL.

YECL's advocacy of a review under Part 3 also ignores the following aspects of the legislative system and the existing review under Section 18 of the Act:

- Under any process that involves Part 3, the legislation requires separate OIC designation for each project to be so reviewed. The resultant approvals by the Minister are specific to the designated project, i.e., the process for each new project apparently must be initiated anew each time by a new OIC.
- Absent an OIC, and until such time as there is the needed OIC, no Part 3 review of any project is “necessary” or indeed possible under the Act.
- The current section 18 review by the YUB mandated by the Minister's June 5 letter provides, with regard to the specific near-term projects in question, for concurrent comprehensive review of all relevant matters for all of these projects.
 - There is no suggestion in YECL's comments that a Part 3 review per se would or could, by its nature, in fact mandate any wider review than that currently directed for the YUB to carry out, nor in any way empower the YUB to do anything that it is not already empowered to do in the current proceeding.
 - In fact the Minister's June 5 letter not only requires a broader review of YEC's proposed major projects than may be required under Part 3, but also major planning activities and planning criteria for the integrated systems such that the proposed projects are reviewed in the context of an integrated, comprehensive Resource Plan for the entire bulk power system. Such review, through its broader mandate relative to any project-specific review of one development such as presumably would occur under Part 3, will assist the YUB and participants to assess need and alternatives for each specific project in as meaningful a context as is feasible at this time.
 - In summary, the section 18 approach set out in the Minister's June 5 letter mandates the scope needed for a full regulatory review by the YUB of each of the relevant projects, inducing an assessment of the prudence and costs of each project and all relevant alternatives and risks, while also providing for review of other related and relevant matters without needless added costs, duplication or delay.
- As noted in YEC's September 8 comments, the Carmacks Stewart Project in particular cannot proceed without approval of the Minister responsible for YDC under OIC 1993/108. The YUB's report in the current proceeding will provide the type of review required to help guide YEC and the Yukon Government before proceeding on this specific project.

In summary, the current process as directed by the Minister's June 5 letter gives the YUB a mandate to conduct the desired review of specific YEC near term projects that will give all parties a sound basis for subsequent decisions. YEC remains unaware of the benefits, let alone the need, for the view that a second new part 3 process should now also be called for by YECL or others. Such new review proposals create serious concerns about duplication, costs and delay given the clear process already established by the Minister's June 5 letter.

Although the Yukon regime differs from those of many other jurisdictions, there are appropriate utility regulation and capital spending approval processes in place in Yukon. These processes are neither ambiguous nor unstructured. Capital projects in Yukon will not be charged to ratepayers via rates unless they are determined by the YUB to be prudent and useful and thus put into the utility's rate base. The Yukon Government also has the tools to request a review of a project (or an underlying capital plan) prior to being put into service should it so desire (via Section 17, 18 or Part 3 of the Public Utilities Act).

YECL suggestion YEC "has chosen to adopt" the current approach

YECL states that "...a measure of duplication... would be unavoidable, given the approach YEC has chosen to adopt".

YEC rejects any suggestion that it is somehow forcing duplication on the parties. The Minister provided the direction to the Board on June 5th to undertake the current review. YEC is not the party advocating any Part 3 process that would create duplication of the current process; indeed (for the reasons set out above) YEC does not have any ability to obtain a Part 3 OIC direction so as to effect what YECL is advocating (a process which would amount to asking the YUB to do, under Part 3, to do what it is already directed to do under the June 5 letter).