

**YUKON UTILITIES BOARD
BOARD ORDERS 2007 – 01 & 2007 - 03
POWER PURCHASE AGREEMENT ("PPA")
YUKON ENERGY CORPORATION ("YEC") and
MINTO EXPLORATION LTD. ("Minto")**

**YUKON ELECTRICAL COMPANY LIMITED ("YECL")
FINAL ARGUMENT**

Further to the schedule contained in Board Order 2007-01 and revised in Board Order 2007-03, detailed below are the submissions of YECL with respect to a number of issues that arise as a result of the proposed PPA and the rate related Orders associated therewith, as requested by YEC in its application of February 8, 2007. YECL submits that the issues detailed below must be addressed by the Board prior to the granting of any relief requested by YEC in its Application. Failure to adequately address these matters should lead the Board to conclude that the proposal, as currently structured, is unacceptable.

YEC will address each of the matters of concern to it separately, as follows:

1. Capacity Planning Criteria

YEC's response to Information Request YECL-YEC-1-2 confirms that, at this time, there is an outstanding "misunderstanding" between YEC and the Board regarding YEC's capacity planning criteria. YEC states that it looks forward to the next available opportunity to clarify this issue with the Board. YECL submits that such clarification should occur in the context of these proceedings, as the outcome of such clarification would likely materially affect the manner in which the PPA is considered and addressed.

YECL is of the view that a determination needs to be made in the context of these proceedings regarding whether or not LOLE includes or excludes industrial load and specifically, the Minto load. In YECL's view, there is presently a fundamental disconnect, as the underlying premise of the YEC/Minto agreement contemplates firm

service, but the Board appears to be of the view that this is not the case (by excluding industrial load from the LOLE calculation).

A further complication arises with respect to the treatment of industrial load for purposes of the N-1 capacity planning criteria. It appears very clear from YEC's Responses to Information Requests YECL-YEC-1-2 and YECL-YEC-1-9(c) that industrial load is intended to be excluded from the N-1 capacity planning criteria. This is done on the basis that industrial customers would have their own backup supply on site. As illustrated in the PPA, once Minto has sold its existing diesel units to YEC it will not, in fact, have such onsite generation. It is clear from the information presented in the PPA that YEC and Minto cannot say for certain that there will be onsite supply, which is a fundamental premise of being excluded from the N-1 criteria. In this regard, the PPA clearly indicates that the subject diesel units can be used by YEC to serve other customers and that the units may even be removed from the Minto site.

The end result appears to be that the Minto firm load should appropriately be included in both LOLE and the N-1 planning criteria. However, this obviously has significant impacts on customers, as well as on YEC's capacity planning and facilities requirements. As such, serving the load of Minto will result in a requirement for new generation facilities under the N-1 criteria at the onset of grid service to the mine. New generation facilities will also be required under the LOLE criteria sooner than would be the case if the mine did not receive grid service. These consequences need to be properly considered before the PPA moves forward.

2. Quantum of Capital Contribution

YECL is very concerned that the evidence on the record does not provide any reasonable basis upon which to assess whether the proposed \$7.2 million fixed customer contribution is appropriate in the circumstances. YECL understands that the \$7.2 million amount represents the mid-point capital cost estimate for a 35 kV line from Minto Landing to Carmacks as evidenced in YUB-YEC-1-7:

“With regard to the determination of the specific \$7.2 million amount for the CS Project contribution, as explained in section 5.1.1 of the Application, (footnote 17), the 7.2 million represents the mid-point in-service capital cost estimate for a 35 kV line over the Carmacks-Minto Landing segment of the CS Project, i.e., the cost of the additional transmission segment (beyond the Mine Spur facilities) and voltage level that the Mine would otherwise require to receive Grid Electricity (from the WAF grid) without the CS Project. As a condition for agreeing on this amount, the 7.2 million is a fixed amount under the PPA and not subject to any adjustment based on YEC’s final actual capital costs for the CS Project facilities.”

In YEC’s view, the 35 kV solution represents the least cost, technically feasible alternative to connect the mine to the WAF grid. In response to PWP-YEC-1-12, YEC provided an estimate of the 35 kV line costs but with no evidence supporting the reasonableness of using \$85,000 per kilometer, a 10% mark-up for permitting and design or even for using 12% for inflation and AFUDC.

YEC has only now announced that it has contracted Wardrop Engineering to complete the preliminary design work for both the Carmacks to Stewart line and the spur line to the Minto mine. YECL would expect that in an instance where a fixed customer contribution is proposed a detailed design estimate should be available to support the estimated capital cost of the project and the fixed contribution proposal. This is even more important in the instance where a different solution is actually going to be constructed.

Further to the above, YEC states in its March 20, 2007 reply letter to the Board regarding Percival’s Notice of Motion dated March 15, 2007:

“Following the Resource Plan and YESAB filings, YEC’s next step was to conclude negotiation of the PPA with the Minto mine and then table the PPA for review and approval of the YUB. In order to mitigate risks, commitments to

proceed with preliminary engineering costs were planned to be undertaken only after the PPA negotiations were concluded – and the engineering work plan has also been set out to ensure that phase two detailed final design and contract tendering work (as well as ordering of long-lead equipment) only occurs after YUB approval of the PPA.”

In YECL’s opinion, the statement that detailed engineering was not completed “in order to mitigate risks” does the opposite as, in fact, it places all of the construction risk squarely on the backs of all other ratepayers in the Yukon. This situation would not be an issue if the customer was faced with construction cost risk as their customer contribution would be based on actual capital costs.

In addition to the preliminary design work required to provide more accurate forecast costs to construct the above noted facilities, it is expected that Wardrop’s work will also provide YEC with valuable information and recommendations on what, if any, improvements or changes will be required for the existing grid to ensure appropriate power quality standards are met for all other customers served by the WAF grid. If, in fact, improvements to existing infrastructure are required, there should be due consideration to determine whether the costs should be bourn by Minto or, alternatively, by all other customers. Under the proposed PPA with a fixed customer contribution, however, any and all modifications to the existing system will be paid by existing and future customers with none of the costs being charged directly to Minto. This treatment is unfair to other customers.

It is important to note that YECL is not opposed to charging a customer a contribution based on the least cost technically feasible alternative even if some other voltage line is built. There does, however, need to be evidence supporting the reasonableness of the \$7.2 million estimated capital costs of that solution. This is not the case in this Proceeding.

In YUB-YEC-1-9, the YUB questions whether the Capital Cost Contribution will be increased if the costs for stage 1 of the CS project fall between the mid point costs and the high costs. YEC's response is as follows:

"No, the Capital Cost Contribution will not be increased if the costs for Stage One of the CS Project fall between the mid point costs and the high costs....and the PPA as ultimately negotiated on this matter does not involved Minto sharing in any risk related to the CS Project capital costs (other than to the extent such cost adjustments lead to adjustments in the Firm Mine Rate approved by the YUB after 2008)"

Regardless of the justification for the \$7.2 million fixed customer contribution, YECL is of the view that the customer, Minto, should be required to pay a customer contribution based on the actual costs incurred with respect to construction. YECL submits that Minto should appropriately assume some of the construction cost risk, not only YEC and its customers. YECL notes that in Table D-1 of Appendix D of the Application To Approve Minto Mine PPA, there is a NPV savings of \$18.7 million to Minto. It is important to note that this \$18.7 million NPV benefit is based on Minto's internal diesel generation cost estimate of 24 cents/kW.h which comes from a "confidential Feasibility Study" (See YECL-YEC-1-14(a)). While YECL received no answers to its questions on how this diesel generation number was derived, YECL believes the overall \$18.7 million NPV benefit to Minto is understated due to the 24 cents being too low. Surely, in this above noted favourable circumstance, Minto can be expected to assume the cost overrun risk (or receive the corollary benefit of under spending) associated with the subject mainline facilities.

In YUB-YEC-1-29 (Page 10 of 13, lines 12 -18) YEC states the following:

"Behre Dolbear determined that the capital spending of the project to develop the open pit mine and construct processing facilities is well underway and progressing. Although in their view the project is on a very tight schedule and as

a result there is a risk of cost overruns and delay in the mine start-up date, they do not believe that the length of any delay or the amount of any cost overruns, should by (“they”) occur, (given the amount of financing available to Minto) will materially affect the viability of the mine from YEC’s perspective.”

This statement also lends support to the important conclusion that Minto should be able to absorb at least a share of construction risk on the transmission line, in a similar fashion to the approach it is taking with respect to the construction risk on its own facilities.

YECL notes that YEC's proposal to build a 138 kV line (instead of a 35 kV line) does not act as a barrier to establishing a reasonable and appropriate sharing of capital construction cost risk. YECL submits that one way to arrive at an appropriate customer contribution would be to escalate the \$7.2 million contribution otherwise payable for the 35 kV line in proportion to the actual costs of the Minto Landing to Carmacks portion of the 138 kV line divided by the mid-point forecast of the Minto Landing to Carmacks portion of the 138 kV line. Another possible way to establish a reasonable and appropriate sharing of construction cost risk is to use the actual costs for the spur line and gross up the figure to reflect the additional distance that would be required to interconnect with the WAF grid in Carmacks.

3. YEC’s Financing of Capital Contributions

YECL observes that the Alberta Energy and Utilities Board (“AEUB”) has recognized that customer contributions are suitable in circumstances where service to a customer may impose costs on other customers. In AEUB Decision 2000-1, the AEUB recognized that an appropriate contribution policy provides a suitable balance to an unlimited obligation to serve by imposing economic discipline on citing decisions. YECL submits that YEC should be guided by this approach in the current circumstances and require Minto to make an appropriate up front customer contribution that does not shift risk to YEC and its other customers.

As a result, YECL has significant concerns with respect to YEC's proposed methodology to finance the required capital contribution and shift risk to YEC's other customers. While YEC maintains that Minto cannot access bank financing (see YUB-YEC-1-34 and YECL-YEC-1-3(g)) this blanket assertion does not provide sufficient justification to support YEC's proposal. In fact, the rationale put forth by YEC demonstrates why it should not be stepping forward in circumstances that are obviously too risky for the Yukon Territorial Government, financial institutions or the market.

In YUB-YEC-1-14, in response to the Board's question on whether an adverse impact could happen, YEC states it has taken a variety of "key measures" to mitigate risk. These measures in large part are predicated on the mine continuing to be a viable, ongoing entity. In clarifying the matter, however, YEC states:

"Nevertheless, a risk remains that adverse rate impacts can occur in an extreme "worst case" type of scenario where the Mine permanently closes prematurely in its initial years of operation and Minto defaults on the YEC Security. Such a scenario can "create" (create) adverse impacts if the Capital Cost Contribution in particular (with accrued interest) is not fully paid to YEC..."

In YUB-YEC-1-34, YEC states that "YEC was informed that without financing by YEC the Mine would not interconnect with the grid." Given the conservatively estimated \$18.7 million NPV benefit to Minto to hook up to the grid as opposed to using its own on site diesel generation, the validity of this position is questionable.

In YUB-YEC-1-34 and YECL-YEC-1-4, both the Board and YECL question YEC on financing a customer contribution and whether YEC is aware of any other utilities that finance customer contributions. The one "Duck Pond" example cited by YEC to support its proposal hardly can be characterized as normal utility practice. Additionally, the terms of this single example cited appear to be very different from those proposed by YEC.

YECL is also concerned that YEC has chosen to provide financing rather than requiring Minto to seek other avenues such as the Yukon Territorial Government Energy Infrastructure Loan Program. In response to YECL-YEC-1-4, YEC states that the provisions on security and incumbent assets in this program are too stringent. However, this is precisely the reason why YECL suggests that in the current circumstances YEC, on behalf of its other customers, is taking on too much risk. The proposed approach demonstrates that YEC financing is less stringent than a YTG program that is specifically set up to finance industrial customer contributions for grid extensions. The approach adopted by YEC is inappropriate in the circumstances.

Finally, in YECL-1-4(g), YEC states there was no financing available from its shareholder, YDC. Regardless of the reasons for this position, it is clear the use of YDC would have been one more possible source of financing that would have allowed the regulated utility, YEC, to refrain from proposing an approach to financing this customer contribution that places unfair burdens on customers.

Whether it is the Board's opinion that collection risk is related to an "extreme worst case scenario" as suggested by YEC, or alternatively, something less than an extreme worst case scenario, YECL is of the view that the Board should reject YEC's proposal to finance over \$11 million of Minto's customer contribution costs. This denial could be in the form of an outright rejection of this component of the PPA or, alternatively, an Order that states that the shareholder, as opposed to ratepayers, would be responsible for any amounts, including interest, not collected from Minto.

In YUB-YEC-1-34 Page 1 of 4, lines 25-26, YEC states it is "carrying the risk in this instance in response to the special circumstances in this case". In YECL's opinion, there is, in fact, no special circumstance that warrants this treatment. In fact, all of the indicators confirm this treatment is not warranted. Once you digest the large amount of paper created for the PPA, Minto is just like any other industrial, commercial or residential customer. It can choose to incur the costs to generate its own electricity or

pay for the costs, above a normal utility investment, to interconnect to the utility and pay utility rates.

YECL submits that the proposed approach contained in YEC's submission begs a broader question with respect to the financing of capital contributions. A decision to finance Minto in the manner proposed sets a dangerous precedent for the provision of service to industrial customers. Instead of addressing this matter in a haphazard fashion, a preferred approach would be to develop a defined maximum utility investment (MUI) policy for industrials to be included in the Electric Service Regulations (please see next section for further information on Maximum Utility Investment). YECL submits that the preferred approach should also address the need for industrials to seek access to government loan programs for any balance of the required contribution that it could not obtain on the market, instead of looking to the subject utility to provide such financing.

If after considering the above recommendations the Board still finds YEC's proposal acceptable in the "special circumstances in this case", payments made should immediately include principle, as well as interest, as opposed to the principle being deferred for a number of years. YECL observes that even in the Duck Pond example cited by YEC the customer was required to begin blended principle and interest payments immediately upon commencement of service.

4. Maximum Utility Investment (MUI)

In YECL-YEC-1-21 (a) and (b), YEC states that at the end of February 2007 YEC has spent approximately \$400,000 on negotiations for the PPA and that costs are still being incurred for such things as due diligence. While it is unknown as to how much will ultimately be spent by YEC and Minto in negotiating the PPA, it is likely that further ongoing costs will be required for YEC and Minto to administer the PPA.

YECL believes that, in light of the significant costs incurred and to be incurred by YEC, and Minto, to negotiate and manage this PPA; and the fact that other industrial

customers may also be looking to interconnect to the grid, a far more prudent course of action would be to develop a Board approved MUI for industrial customers. This MUI for industrial customers would include provisions for customers with shorter than normal (25 year) life expectations. A MUI approach should allow Yukon utilities to deal with industrial customers, such as mines, as they come forward in the future and not result in new processes for each one on an individual, one-off basis.

In YUB-YEC-1-7 page 4, lines 18-19, YEC states that it has not considered how the principles in the Minto PPA might be applied to other major industrial customers or commercial customers. YECL submits that it is more appropriate to establish a standardized approach for dealing with such situations, thereby saving rate-payers from costly future PPA negotiations. This approach will also ensure consistent and fair treatment over time.

In the current circumstances of the Minto interconnection, YECL submits that an MUI for the current project would not likely be the \$7.2 million number put forth in the Application or as highlighted by YEC as reasonable in their response to YUB-YEC-1-7, as YEC has ignored generation costs in arriving at this number. Appendix C of the Application is YEC's interpretation of the incremental revenues and costs that arise as a result of (a) serving the Minto mine and (b) building the transmission facilities which includes a 138kV line from Carmacks to Pelly and a 35kV mine spur mine to Minto. Part III of Schedule B of the Electric Service Regulations for a General Service Customer (with an estimated life of 25 years) relates to the annual costs allocated to a specific customer, and includes embedded generation and transmission facilities. Given that Minto is not a General Service Customer, it would appear that a reasonable course of action would be for YEC to propose a MUI for an industrial rate class and also for an industrial customer that has less than a "standard life". YECL submits that this would have been a preferred way to handle the current situation.

YEC states that if an MUI was considered it would have been forced to build only the 35kV facilities. YECL submits that this is simply not the case and such a restriction

is certainly not contained in the approved Electric Service Regulations (Yukon's Terms and Conditions). The absence of a specific reference to a situation in the Electric Service Regulations does not appear to have impaired YEC from taking action in other circumstances.

5. Mine Deferral Account

YECL is very concerned with YEC's proposal to establish a mine deferral account and the rationale provided by YEC in this regard. In the original Application (Section 5.1), YEC strongly maintained that it was the intention of YEC and Minto that the costs of the transmission project required to provide grid electricity to the mine will not adversely impact other ratepayers in the Yukon. YEC maintained that the PPA ensures that there is no net cost to Yukon ratepayers; and further that no individual ratepayers will see an increase in their rates due to the transmission project. The strength of this commitment appears to have waned considerably during the course of the information request process.

In response to Information Request, YUB-YEC-1-14, YEC acknowledges that "while there is always risk of adverse impacts related to any development, YEC has taken key measures to mitigate that risk for the Minto mine and the stage 1 CS/MS project...". Likewise, in response to YECL-YEC-1-3, YEC states that ratepayers are "not likely to be impacted." These statements, while arguably more accurate, fall short of a "guarantee" that other ratepayers will not be adversely affected. In reality, YEC appears to be suggesting that ratepayers need not worry because of the contractual measures contained within the PPA. YECL submits that these measures provide little comfort that current customers are not, in fact, assuming material risks associated with the pursuit of this project. The evidence provided by YEC does not readily identify benefits to other current ratepayers from the pursuit of this project. In fact, YECL is concerned that the opposite could indeed be the case.

In response to Information Request YUB-YEC-1-15, YEC states that the purpose of the deferral account is to ensure that incremental annual mine revenue (or net costs) do not affect YEC earnings or the determination of the revenue requirement for other ratepayers and that the deferral account is one of the key terms and conditions to help ensure that the provision of grid service to the mine has no adverse impact on ratepayers in the near or the longer term. As pointed out previously, there is no guarantee of “no adverse impact to ratepayers.”

In YUB-YEC-1-6 page 2, lines 24 to 29, YEC states:

“In summary, the Mine Net Revenue Account is a deferral account that provides rate stability for Yukon ratepayers during the Mine life while ensuring that in the future Yukon ratepayers are eligible to receive any positive net benefits that do in fact remain as a result of the PPA and the Stage One CS/MS Project, i.e., with or without the Mine Net Revenue Account, Yukon ratepayers will ultimately receive all of the direct net benefits that arise from these activities.”

It is important to note the corollary to YEC’s last statement is also correct, that with or without the Mine Net Revenue Account, Yukon ratepayers will ultimately receive all of the direct net costs that arise from these activities.

Therefore, in essence, rate stability is being promoted to the detriment of intergenerational equity. In its response to YECL-YEC-1-6 (e), YEC argues that intergeneration inequities do not occur as a result of the proposed deferral account. However, YECL notes that all current customers enjoy the benefit of the existing hydro infrastructure, while at the same time seeing the total revenues from all customers utilizing that same infrastructure. There is no deferred revenue for other customers. In YECL's view, ensuring that intergenerational equity is respected is more important than attempting to achieve rate stability.

YECL notes that the promotion of rate stability appears to be premised on prior year impacts on customer rates as a result of the closure of the Faro mine. When in operation, the Faro mine represented approximately 40% of the energy sold in the Yukon. In contrast, the Minto mine firm sales will represent approximately 12% of WAF sales (32 GW.h /263 GW.h as per Table B-2 of the Application). The impact of the Minto mine will have a much smaller impact on rate stability than that of the Faro mine.

Should the Board conclude that rate stability is more important than intergenerational equity and hence approve the concept of a deferral account, then the Board needs to adjust the determination of the incremental costs that are included in the deferral account. Given that YEC has included the Minto mine load in its LOLE calculation, the timing of the need for new generation would occur earlier due to the inclusion of an additional 32 GW.h in YEC's base calculations. As such, current customers will see higher generating costs sooner than they would have if this load were not served. YECL submits that these additional costs should be reflected in Appendix C to the PPA. As well, the impact would be even more pronounced as new generation is required at the onset of grid service if the Minto load is included in the N-1 criteria as it no longer meets the on-site generation criteria set out by YEC. As well, to truly have no adverse impact to Yukon rate payers, YEC should include in the deferral account all of the operations and maintenance costs associated with the Mine Spur line as well as the facilities from Carmacks to Pelly Crossing.

6. Cost of Service

YECL wishes to be very clear that any position it takes in these proceedings should in no way be interpreted as compromising its views with respect to the appropriate cost of service principles to be utilized in the Yukon. It appears to YECL that the cost of service principles enunciated in the PPA are directed primarily towards an industrial customer. In the brief time frame permitted to examine matters associated with these proceedings, YECL is not prepared to express any views on the appropriateness of the cost of service principles included in the PPA. Rather, YECL, as

a significant contributor to a cost of service study for the Yukon, will file such a comprehensive study in an appropriate future rate proceeding. In this regard, YECL would observe that a fundamental premise of a cost of service study is cost causation and that this originates from the planning of the needs of the system. As such, it is critical to understand whether industrial load is in fact included in LOLE and the N-1 planning criteria.

7. Material Adverse Impact to Minto Savings

With respect to Board question YUB-YEC-1-16 and the loss of security, should there be a material change to Minto's cost savings as a result of a future Board Order that determines a Firm Mine Rate based on principles and methods which are inconsistent with the cost of service principles and methods in Schedule E, YECL once again notes that Minto's projected NPV of cost savings is conservatively estimated at \$18.7 million per Table D-1 of the Application. Further, YECL notes there is no corollary provision in the PPA, should there be escalations in Minto's cost savings because the actual cost of diesel fuel increases over time. Given YEC's negotiation of security with Minto has clearly placed negative "one sided" implications on future decisions by the Board, the Board should clearly recognize this and discount the value and or importance of this security in its current deliberations. Alternatively, the Board could Order that YEC and Minto develop a more balanced approach to the factors affecting "Minto savings".

8. Applicability of Rates to YECL Service Territory

YECL submits that OIC 1995/90, section 6(1), is very clear and provides that all rates charged to major industrial customers must apply to all customers in the Yukon. Therefore, YECL submits that the proposed rates apply to service provided by both utilities and not just YEC, as suggested in YEC's response to Information Request YECL-1-16(d). In YECL's view, the approved rates apply to an industrial class and not

to a specific customer. As such, the rate should be applicable to all industrial customers in the Yukon.

9. Rate Schedule 35 (Secondary Sales) / Measured Demand / Confirmation of Low Grade Ore

Information Requests YUB-YEC-1-11 and YECL-YEC-1-10 sought to understand how secondary energy demand will be measured as well as the associated impact on the measurement of primary demand. YEC's responses to these questions do not explain how this is going to be achieved. In fact, the responses appear to present a scenario that is inconsistent to normal utility practices. YEC appears to have handed responsibility for this process over to the customer, instead of developing a proposal for addressing the situation itself. This indeed appears unusual. In the end result, YEC has not demonstrated how it intends to measure the split of secondary and primary energy and, as well, has not demonstrated how it intends to confirm the energy measured as secondary was in fact used in accordance with the provisions of the PPA. The evidence is even less compelling in setting out how any energy appropriately determined to be secondary sales can be segregated on the demand meter. That is, if YEC has a method that can allocate the amount of primary and secondary energy in a particular month, how will that translate into separating the 15 minute measured demand on the single meter into primary and secondary demand.

Further to the above issues regarding allocating the use of energy between the primary and secondary rates, YEC states in YUB-YEC-1-11 (2), page 2, lines 22 – 25:

“At such time as Minto decides that it wants to pursue use of this rate, the Parties will work together to establish auditable reporting and controls as reasonably required by YEC to confirm that this secondary energy has been used only to process Low Grade Ore”

Given these circumstances, YECL recommends that the approval of Rate Schedule 35 be deferred until such time as YEC proposes adequate and appropriate measurement and audit procedures.

10. Purchase of Onsite Diesel Units

Based on the information provided in YEC's application, it is impossible to confirm whether or not the proposed purchase of onsite diesel units is reasonable or appropriate. As requested in YEC-YECL-1-9(d)(e), YEC has not provided a business case nor has YEC confirmed whether in fact these units were already "used equipment" prior to their installation at the Minto mine. While YECL understands that the diesel units are, in fact, used and are currently experiencing reliability issues, there is simply no evidence on record to support YEC's statement in YUB-YEC-1-8 (1), lines 27 – 29, that "The price for these units under the PPA (i.e. not exceeding \$350 per kW) is very competitive with costs estimated in the Resource Plan Hearing for the Mirrlees Life Extension Project".

In its answer to YUB-YEC-1-8, YEC makes reference to the following WAF benefits that arise from diesel units. YECL provides comments on each of these stated benefits as follows:

"The purchase payment arrangements for this asset enhance YEC's security with regard to the Minto obligations to pay the Mine Spur Capital Cost Contribution"

As previously stated, YECL does not believe YEC should be financing Minto's customer contribution. YECL is also unclear to as to the inherent logic of putting additional rate payer dollars at risk to better secure YEC financing activities.

"The units provide added security to YEC and Minto as regards reliable supply at the Mine"

Based on YEC's exclusion of N-1 from the capacity planning criteria, as well as the Board's recommendations from the 20 Year Resource Plan Hearing that industrials be excluded from both the N-1 and LOLE capacity planning criteria, the Minto mine should not be afforded added security with respect to reliable supply.

"When WAF diesel operation is required, YEC operation of at least two of the Diesel Units at the Mine Site (especially for baseload operation) is expected to be cost effective (due to the minimization of line losses and related additional diesel generation requirements)"

YEC has not provided any evidence that supports the statement that line loss reductions will offset other incremental costs.

"In the near term these units provide cost effective contingency protection until such time as other potential major mine loads (Carmacks Copper) as well as capacity supply options are better clarified."

Once again, YEC has not provided any evidence that supports this statement.

As such, it is YECL's view that YEC has not provided sufficient justification to support Part 10 of the PPA. .

11. Rate Modifications Applicable to Rate Schedule 39

In its answer to YECL-YEC-1-16(d), YEC states that "Rider F is an account that solely adjusts for changes in diesel fuel (prices) since the respective classes' firm rate was last established". YECL agrees with this statement.

YEC goes on to say that, “unlike the Rate Schedule 39 in place when the Faro mine was on the system, there is no material diesel on WAF today, and the diesel for isolated systems continues to decline with the conversion of Dawson and Stewart Crossing and planned conversion or (of) Pelly Crossing to hydro systems”. While Dawson and Stewart have recently been converted to hydro as a result of the Mayo/Dawson transmission line, YECL must point out there is no evidence on the record to suggest diesel fuel costs will be reduced or eliminated on the isolated systems now or in the near future.

It is clear that rates implemented as part of the next GRA Phase II will be determined, in part, on the cost of fuel at the point in time the rates are derived. It is also clear in OIC 1995/090 (Section 6.(1)) that:

“The Board must ensure that the rates charged to major industrial power customers, whether pursuant to contracts or otherwise, are sufficient to recover the costs of service to that customer class; those costs must be determined by treating the whole Yukon as a single rate zone and that rates charged by both utilities must be the same.”

From this, it is clear that industrials customers must bear some responsibility for any fuel costs incurred throughout the Yukon.

It is also clear that Rider F will continue to exist to address differences between forecast and actual fuel costs for all Yukon retail customers.

Further to this issue, OIC 1995/090 (Section 8) Fuel Price Adjustment, states:

“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 diesel fuel,

without the requirement for specific application to and approval by the Board.”

Regardless of YEC determining their proposed industrial rate, in part, on fuel prices in effect at the time of their cost of service study, it is clear that actual fuel prices will inevitably be different than what was determined for the proposed rate. . For this reason, and consistent with past regulatory practice, Rate Schedule 39 should continue to include the following under Rate Modifications Applicable:

“For fuel adjustment rider, see Rider F. Rider F should be applied to energy charges only.

It is important to note, that Rider F for Rate Schedule 39 would, initially, need to be set at zero as compared to the current Rider F amount of .9638 cents / kW.h for all other applicable rate schedules. This is due to the fact that the proposed Rate Schedule 39 is determined based on current fuel prices as opposed to all other rate schedules being determined based on fuel prices in effect at the time of the 1996/1997 GRA. Rider F would be brought back to a consistent figure for all applicable rate schedules as part of the next GRA.

All of which is respectfully submitted this 4th day of April, 2007.

**BENNETT JONES LLP, counsel for
the Yukon Electrical Company
Limited**

Per: _____