



B R O W N L E E
L L P
B a r r i s t e r s & S o l i c i t o r s

Suite 2200, Commerce Place
10155 - 102 Street
Edmonton, AB Canada T5J 4G8
Telephone: (780) 497-4800
Telecopier: (780) 424-3254
E-Mail: e-mail@brownleelaw.com
WebSite: www.brownleelaw.com

February 8, 2010

Yukon Public Utilities Board
Box 31728
Whitehorse, Yukon
Y1A 6L3

Attention: Mr. Bruce McLennan
Interim Chair

Dear Sir:

Re: Application by Yukon Energy Corporation for an Energy Project Certificate and an Energy Operation Certificate regarding the Proposed Mayo Hydro Enhancement Project (Mayo B)

By Yukon Utilities Board Order 2010-1, the Board requested certain information from parties seeking intervenor status in the above cited matter. As the City of Whitehorse (the "City") seeks intervenor status in this proceeding, the City provides its response to the Board's request.

The City requests intervenor status on its own behalf and to represent its ratepayers. The City is a General Service Municipal customer and a Secondary Sales customer. The City also represents the interests of its residents and businesses, who comprise the majority of the residential and general service rate classes respectively. The City's mandate is to represent the interests of all the ratepayers within its municipal boundaries and, in noting that these interests may conflict at times, the City will endeavour to present a balanced position that promotes a fair outcome for all customers.

The City generally supports this project because the City is committed to developing and encouraging initiatives that reduce the use of diesel generation while improving air quality, water quality and reducing green house gas emissions, as set out in its Integrated Community and Sustainability Plan of August, 2007 (available online at: www.whitehorse.ca).

The City is committed to encouraging power users to conserve energy by rethinking and reducing electrical use and, as such, is committed to encouraging Demand Side Management (DSM) initiatives. While the City supports the project, the project should not proceed at the expense of needed DSM measures. The City believes that, where possible, the Utilities should encourage DSM programs and conservation initiatives for all rate classes through innovative thinking on the part of the Utilities and intervenors in order to reduce reliance on diesel generation and improve the environment in the most cost-effective manner possible.

Mayo B Project

The City is encouraged that, from the standpoint of residential and general service ratepayers, the economics of the Mayo B project appear to be satisfactory, primarily because of the substantial amount of grant money from the two senior levels of government. The City notes that of the \$120 million capital cost, this project will be 70% subsidized by the two senior levels of government. Since YEC's portion of the capital cost of this project is only \$36 million, the City expects that the calculation of future annual expense for return and depreciation will be based on the smaller \$36 million figure (not the \$120 million figure). With regard to the economic analysis, grants and contributions should be excluded from the examination of the project's effect on return and depreciation expense to be recovered through rates.

The City also notes that the proposed enhancement of hydro capacity appears to be consistent with the City's policy of reducing diesel generation through displacement by environmentally superior alternatives.

In light of the above two points, and the importance of this substantial grant money to the residential and general service ratepayers of the Yukon, the City believes that due diligence on this project should be done appropriately and promptly so as not to jeopardize the completion of the project by the cited deadlines in the Federal Agreement.

Issues

The City has identified the following issues to date:

1. There is uncertainty regarding the project's effect on the rates of non-industrial customers under different scenarios of forecast load:
 - A) What are the risks of forecast industrial loads of the Minto, Alexco and Carmacks Copper mines to the year 2018 as shown in Table D-2 not materializing? If industrial loads do not materialize as forecast, what happens to residential and commercial rates?
 - B) How much projected industrial load will need to materialize over the lives of the mines to use up all of the additional generation capacity offered by Mayo B?
 - C) What are the risks of the forecast increase in "WAF and MD Normal Non-Industrial loads & losses" over the next 10 years, as shown in Figure D-1, not materializing. If these non-industrial loads do not materialize as forecast, what happens to residential and commercial rates over the next 10 years?
 - D) The City prefers that the non-industrial load forecasts include the effects of DSM measures to properly measure the need for the project.
2. YEC states at page 42 of the Application that: "Mayo B will on balance have no material effects on short-term retail firm rates by ensuring that annual Mayo B costs recovered from ratepayers do not exceed the 10 to 11 cents per kW.h in 2012 applicable to incremental

industrial rate revenues.” The City requires more details of these rate calculations to gauge the effects on non-industrial customers.

3. The Mayo B project will increase rate base when it enters service, with a resulting increase in YEC’s revenue requirement. A large increase in a utility’s revenue requirement should trigger a general rate application. Does YEC anticipate a Phase 1 Application? If not, how does YEC propose adding Mayo B costs to its rate base and revenue requirement? Since the project will likely increase rates, does YEC propose a rate rider or a future general rate application to recover the project costs?
4. The City requires more detail concerning the timing of receipt of the grants and how the interest during construction will be calculated and accounted for regulatory purposes.
5. Cost of Service Study: As discussed in the City’s January 15, 2010 letter to YECL and YEC, the City supports the idea that a cost of service study could be undertaken without the constraint of the OICs to reflect customers’ true cost of service. The City supports the Utilities and intervenors working towards determining costs that are as close as possible to representing the “true costs” to service each rate class. The City understands that the costs of the Mayo B project will not be included in the cost of service study proposed in the current Phase 2 GRA. Is that also YEC’s understanding? If so, will YEC undertake to provide, as part of the Phase 2 proceeding, a pro forma cost of service study to show how rates will be affected when Mayo B enters service?
6. It is unclear whether the numerous assessments, permits and approvals required from Federal and Territorial governments and agencies will substantially affect the timing of the project.
7. The City needs more detail on the economic analysis to determine, among other things, whether it appropriately incorporates the grants as concerning the calculations of return and depreciation.
8. The City needs more information on the risk of the \$120 million estimate being too low compared to actual.

Representation

The City proposes to use Brownlee LLP for its legal representation in this hearing. Brownlee LLP has represented the City in the respective YECL and YEC Phase 1 applications for 2008 and 2009. Legal counsel for this proceeding will be Ms. Kristjana Kellgren. Ms. Kellgren is an associate with Brownlee LLP specializing in regulatory and utilities law.

The City proposes to use Garbutt Consulting Inc. (GCI) as its consultant in this proceeding. GCI allows the City to use either Mr. Greg Garbutt or Mr. Keith Dannacker, who have represented the City in the recent Phase 1 proceedings for YECL and YEC, are involved in the current joint Phase 2 process, and are well versed in regulatory positions taken by the City,. Should the Board require additional information on their qualifications, the c.v.’s of Mr. Garbutt and Mr. Dannacker can be provided to the Board.

The City notes the Mayo B application is very significant to the ratepayers and citizens of Whitehorse. The City requires the services of these professionals to appropriately review this application and recommend and undertake the appropriate action on behalf of the City since the City does not have the expertise in-house to properly review and address this application.

Process and Evidence

The City recommends that the Board adopt an efficient regulatory process to address the timeline required by the Applicant while allowing intervenors to examine the need for the project and the effect on customer rates. In this respect, the City considers that an oral hearing may not be required in this matter. The City believes the requirements of the utility and intervenors could be fairly addressed by means of an interrogatory process, intervenor evidence (if required) and written argument. Depending on the further evidence YEC provides through responses to interrogatories, the City reserves the right to present evidence of its own.

The City welcomes any opportunity to participate in further consultations with YEC and other intervenors in this matter.

Yours truly,

BROWNLEE LLP

PER:

[original signed to follow via facsimile]

KRISTJANA E. KELLGREN

cc. Brian Crist, Wayne Tuck, Greg Garbutt, Keith Dannacker