

# TERMS OF REFERENCE

## IN THE MATTER OF the *Public Utilities Act* and IN THE MATTER OF an Application by Yukon Energy Corporation for an Energy Project Certificate and an Energy Operation Certificate regarding the Proposed Battery Energy Storage System (BESS) Project

### Background

**A.** On June 22, 2017, Yukon Energy Corporation (Yukon Energy, or YEC) filed its 20-Year Resource Plan: 2016-2030 as part of its 2017-2018 General Rate Application (GRA). The 2016 Resource Plan identified a grid scale Battery Energy Storage System (BESS) as a medium-term solution to partially address a dependable capacity shortfall for the Yukon Integrated System under its single contingency (N-1) capacity reliability criterion that at the time approximated 6 MW in 2017, increasing to about 13 MW by 2020 and 23-24 MW by 2021.

**B.** In Board Order 2018-10, the Yukon Utilities Board (YUB) noted a number of risks and concerns regarding proceeding with a grid scale BESS including concern that the technology had not been demonstrated in a northern climate and further that it would be risky to undertake the Project absent third party funding.

**C.** In 2019, Yukon Energy in collaboration with Yukon Development Corporation (YDC) and the Department of Community Services submitted a BESS Project funding application to the Government of Canada's Investing in Canada Infrastructure Program (ICIP). On September 3, 2019, the Government of Canada committed \$16.5 million towards development of the BESS Project by Yukon Energy in the Whitehorse area on the overlapping Traditional Territory of Ta'an Kwach'an Council (TKC) and Kwanlin Dun First Nation (KDFN).

**D.** Yukon Energy has completed a feasibility study for the BESS Project, including engagement with TKC and KDFN and the public on three site options owned by either TKC or KDFN in the Whitehorse area, and has also concluded a Term Sheet with TKC and KDFN for their support for and benefits from the BESS Project that includes a debenture investment opportunity for both TKC and KDFN.

**E.** In November 2020, following completion of the feasibility study and Term Sheet, Yukon Energy decided to proceed with final plans and approvals for the BESS Project to be fully commissioned by fall 2022 on the selected KDFN site, subject to Yukon Energy being able to start construction and procurement in July 2021.

**F.** A proposal for the BESS Project will be submitted in March 2021 to the Yukon Environmental and Socio-economic Assessment Board (YESAB) under the *Yukon*

*Environmental and Socio-economic Assessment Act* (Canada). This process will lead to a recommendation by the Designated Office, and a response by the Yukon Government, KDFN and other decision bodies in the form of a “decision document”. Any government authorizations issued in support of the Project, including any Energy Project Certificate or Energy Operation Certificate under Part 3 of the *Public Utilities Act*, will have to conform to the decision document.

**G.** The BESS Project has been designated, in OIC 2020/180, as a Regulated Project under Part 3 of the *Public Utilities Act* pursuant to section 36 of that Act.

**H.** On January 21, 2021 YEC applied under Part 3 of the *Public Utilities Act* for an energy project certificate and an energy operation certificate regarding the BESS Project.

**THEREFORE**, as required by Part 3 of the *Public Utilities Act*, the YEC application for an Energy Project Certificate and an Energy Operation Certificate is hereby referred to the YUB for a review and hearing as follows:

**General purpose of review and hearing**

1. The general purpose of the review and hearing is to obtain the YUB’s report and recommendations on the potential benefits, costs, risks and customer impacts that influence whether the BESS Project should proceed as proposed by YEC, and any terms and conditions which the YUB considers should apply.

**Public hearing**

2. The YUB shall hold a public hearing in a format to be determined by the YUB and it shall receive submissions from any person or groups or classes of persons who, in the opinion of the YUB, have an interest in the matter.

**Specific aspects of the Project to be reviewed**

3. The YUB shall report on, and make recommendations about, the necessity for the BESS Project and its timing and design, with particular regard to:
  - a. The public need for the BESS Project under various reasonable electric load forecasts, including near term requirements related to industrial and non-industrial loads, and the effect of the Project on the rates of customers and the reliability of electricity service provided to customers.
  - b. The capability of existing and currently committed and expected generation and transmission facilities including thermal generation facilities to provide reliable electric power generation to meet the forecast load requirements and

YEC's capacity planning criteria, and the effect of the BESS Project on this capability.

- c. The risks for the BESS Project and their potential impacts on rates for customers and on the reliability of electricity service provided to customers.
- d. What, if any, reasonable alternatives exist to the BESS Project, or alternative ways of undertaking the BESS Project with its selected technology might be advisable given reasonable load assumptions and risk assessments.
- e. Impacts on YEC and ratepayers of the debenture investment opportunity that YEC is providing to TKC and KDFN in recognition of the BESS Project's location on the overlapping Traditional Territory of TKC and KDFN and the benefits of TKC and KDFN support for this Project's development at this time.
- f. Whether it is prudent to build the BESS Project as proposed at this time.

#### **Timing of report and recommendations**

4. The YUB shall submit its report and recommendations to the Minister of Justice no later than May 17, 2021.

#### **Recommendation respecting certificates**

5. The YUB shall provide a recommendation on whether YEC should be granted an energy project certificate and an energy operation certificate for the BESS Project and if so, whether the certificates should be subject to any terms and conditions and what these terms and conditions should be.

#### **Other Recommendations**

6. The YUB may make any other recommendations or provide any other information that it considers advisable in the circumstances.

Issued by Tracy-Anne McPhee, Minister of Justice

***February 2, 2021***