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VIA COURIER AND RESS

July 29, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc. (“Enbridge”) Application for Franchise
Renewal with the Regional Municipality of Niagara (“Region”)**

Enbridge wishes to apply to the Ontario Energy Board (the “Board”) for an order granting approval for the renewal of its franchise with the Region, using the 2000 Model Franchise Agreement. The agreement between the Region and Enbridge is set to expire on January 17, 2010.

Enbridge is submitting this application through the Board’s RESS system; as well please find enclosed two paper copies and one cd of the following:

1. The aforementioned application,
2. Schedule A – A map showing the location of the Regional Municipality of Niagara,
3. Schedule B – The current By-Law 2468-80 and Franchise Agreement – January 17, 1980, and
4. Schedule C – The signed Resolution from the Region, the form of the by-law and the proposed franchise agreement.

Enbridge looks forward to receiving the direction from the Board in this matter.

2009-07-29
Ms. Kirsten Walli
Page 2

The contact information for this matter follows below:

Corporation of the Regional Municipality of Niagara
2201 St. David's Road
Thorold, Ontario L2V 4T7
Tel: (905) 685-1571
Fax: (905) 687-4977
Attn: Pam Gilroy
Regional Clerk

Enbridge Gas Distribution Inc. (Head Office)
500 Consumers' Road
Toronto, Ontario M2J 1P8
Tel: (416) 495-5499 or 1-888-659-0685
Fax: (416) 495-6072
Email: EGDRRegulatoryProceedings@Enbridge.com
Attn: Tania Persad
Senior Legal Counsel, Regulatory

Enbridge Gas Distribution Inc. (Regional Office)
3401 Schmon Parkway
Tel: 905-641-4853
Fax: 905-984-4758
Attn: Catherine Hanlon
General Manager – Niagara Region

Sincerely,



Lesley Austin
Regulatory Coordinator

Attachment

cc: Tania Persad – EGD, Senior Legal Counsel, Regulatory
Catherine Hanlon – General Manager – Niagara Region

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Municipal Franchises Act*,
R.S.O. 1990, c. M.55; as amended;

AND IN THE MATTER OF an application by
Enbridge Gas Distribution Inc. for an order extending
the term of the right to construct or operate works for
the distribution of gas, and the right to extend or add
to the works, in the Regional Municipality of Niagara.

A P P L I C A T I O N

1. Enbridge Gas Distribution Inc. (the "Applicant") is an Ontario corporation with its head office in the City of Toronto.
2. The Corporation of the Regional Municipality of Niagara ("Corporation") is a municipal Ontario corporation with its head office at 2201 St. David's Road, Thorold, Ontario, L2V 4T7. The Corporation's Clerk is Ms. Pam Gilroy. Attached hereto and marked as Schedule "A" is a map showing the geographical location of the Regional Municipality of Niagara ("Municipality").
3. The Applicant and the Corporation are party to a municipal gas franchise agreement. Attached hereto and marked as Schedule "B" is a copy of the franchise agreement and by-law 2468-80 enacted January 17, 1980. Section 10 of the franchise agreement states that the current agreement is for a term of thirty years and therefore will expire on January 17, 2010.
4. The Applicant wishes to renew its municipal gas franchise with the Corporation. The Applicant respectfully submits that it is in the public interest to do so. Attached hereto and marked as Schedule "C" is the Corporation's signed resolution, the form of the Corporation's by-law granting to the Applicant the franchise renewal and a copy of the proposed franchise agreement between the Applicant and the Corporation ("the Agreement").
5. The proposed franchise agreement is in the form of the Ontario Energy Board ("Board") approved 2000 Model Franchise Agreement, with no amendments and is for a term of twenty years.

6. The Applicant hereby applies to the Board, pursuant to Section 9 of the *Municipal Franchises Act*, R.S.O. c. M.55, for:

- i) an Order renewing the Applicant's right to distribute, store, and transmit gas in and through the Municipality for such period of time and upon the terms set out in the Agreement, or as may otherwise be prescribed by the Board; and
- ii) an Order directing and declaring that the assent of the municipal electors to the terms and conditions of the franchise agreement is not necessary.

7. The persons affected by this application are the customers and other residents in the Municipality. Because of the number of such persons, it is impractical to set out their names and addresses herein.

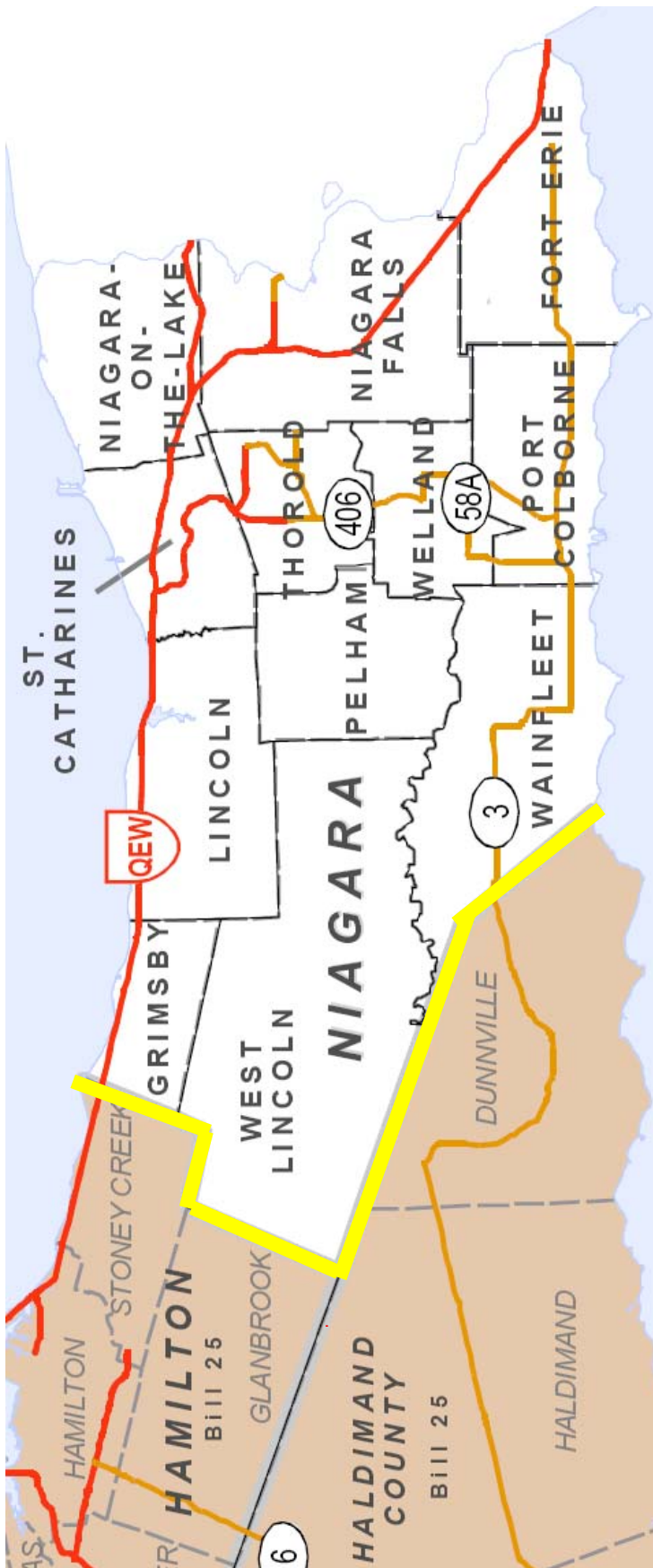
DATED at Toronto this 29th day of July, 2009.

ENBRIDGE GAS DISTRIBUTION INC.
500 Consumers Road
Toronto ON M2J 1P8
by its Solicitor



Tania Persad
Senior Legal Counsel, Regulatory
Tel: (416) 495-5891
Fax: (416) 495-5994
E-mail: Tania.Persad@enbridge.com

Mailing Address:
P.O. Box 650
Toronto ON M1K 5E3



THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NUMBER 2468 - 80

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT
BETWEEN THE REGIONAL MUNICIPALITY AND
THE CONSUMERS' GAS COMPANY


WHEREAS the Council of the Regional Municipality of Niagara deems it expedient to enter into the attached franchise agreement with The Consumers' Gas Company;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on the 3rd day of January , 1980 has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted, and has declared that the assent of the municipal electors in respect of this By-Law is not necessary;

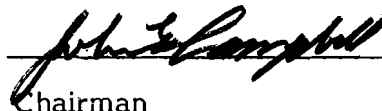
NOW THEREFORE BE IT ENACTED:

1. That the attached franchise agreement between the Regional Municipality and The Consumers' Gas Company is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Chairman and the Clerk are hereby authorized and instructed on behalf of the Regional Municipality to enter into and execute under its corporate seal and deliver the aforesaid agreement, which agreement is hereby incorporated into and shall form part of this By-Law.

ENACTED AND PASSED this 17 day of January , 1980.



Clerk


Chairman

THIS AGREEMENT made the 31ST day of JANUARY , 1980.

B E T W E E N :

THE CONSUMERS' GAS COMPANY

hereinafter called the "Company"

OF THE FIRST PART

- and -

THE REGIONAL MUNICIPALITY
OF NIAGARA

hereinafter called the "Regional Municipality"

OF THE SECOND PART

WHEREAS the Company distributes and sells gas (which term means and includes natural gas, manufactured gas, synthetic gas or liquified petroleum gas and includes any mixture of natural gas, manufactured gas, synthetic gas or liquified petroleum gas, but does not include a liquified petroleum gas that is distributed by means other than a pipeline) to consumers throughout the Regional Municipality pursuant to and in accordance with franchise agreements granted the Company by the area municipalities and their predecessors within the said Regional Municipality;

AND WHEREAS the Company transmits and distributes gas within the Regional Municipality by means of a pipeline system;

AND WHEREAS the Company anticipates that it will be expedient, necessary or advantageous to use and continue to use the highways within the said Regional Municipality for the purpose of constructing and maintaining its transmission and distribution pipeline system;

AND WHEREAS the Regional Municipality has jurisdiction over certain of the highways within the Regional Municipality and has agreed to allow the Company the use thereof for the purposes aforesaid.

NOW THEREFORE THIS AGREEMENT WITNESSETH that for and in consideration of the covenants and agreements herein contained, the parties hereto mutually covenant and agree as follows:

1. The consent, permission and authority of the Regional Municipality is hereby given and granted to the Company to enter upon all highways from time to time within the jurisdiction of the Regional Municipality and to lay, maintain, operate and repair such mains and pipes as the Company may require therein and thereon for the transmission and supply of gas in and through the Regional Municipality together with the right to construct, maintain and repair all necessary regulators, valves, curb boxes, safety appliances and other appurtenances that may be necessary in connection with the transmission and distribution of gas in or through the said Regional Municipality.

2. The Company shall well and sufficiently restore to as good condition as they were in before the commencement of the Company's operations to the satisfaction of the Regional Engineer (which term means from time to time such employee of the Regional Municipality as the Regional Municipality shall have designated as such for the purposes of this Agreement, or failing such designation, the senior employee of the Regional Municipality for the time being charged with the administration of public works and highways in the Regional Municipality) all highways within the jurisdiction of the Regional Municipality which it may excavate or interfere with in the course of laying, constructing or repairing or removing any of its mains, pipes, regulators, valves, curb boxes, safety appliances and other appurtenances and shall make good any settling or subsidence thereafter caused by such excavation, and further, in the event of the Company failing at any time to do any work required by this section the Regional Municipality may

forthwith have such work done and charge to and collect from the Company the cost thereof and the Company shall on demand pay any reasonable account therefor certified by the said Regional Engineer.

3. The Company shall at all times wholly indemnify the Regional Municipality from and against all loss, damage and injury and expense to which the Regional Municipality may be put by reason of any damage or injury to persons or property resulting from the imprudence, neglect or want of skill of the employees or agents of the Company in connection with the construction, repair, maintenance or operation by the Company of any of its works in the Regional Municipality.

4. Except in the event of emergency, no excavation, opening or work which will disturb or interfere with the surface of any highway shall be made or done unless a permit therefor has first been obtained from the said Regional Engineer and all such works shall be done under his supervision and to his satisfaction.

5. The location of all pipes and works on said highways shall be subject to the direction of the said Regional Engineer and all such pipes and works, whenever it may be reasonable and practicable, shall be laid in and along the sides of said highways.

6. The Company before beginning any new work in, upon or under the said highways within the jurisdiction of the Regional Municipality under this Agreement, save and except lateral service pipes, shall file with the said Regional Engineer a plan drawn to scale showing the highways in which it proposes to lay mains and pipes, and the particular parts thereof it proposes to occupy for any of such purposes together with definite written specifications of the mains, pipes and works proposed to be laid or constructed by it, specifying the materials and

dimensions thereof and the depth at which the same are to be laid, and similar plans and specifications shall be filed with the said Regional Engineer of all extension of, or additions to such mains, pipes or works before any such extension or addition shall be begun. Provided further that the Company shall provide the said Regional Engineer with the revised plan of the location of any main should there be any alteration in the plan originally filed with the said Regional Engineer.

7. The Regional Municipality will not build any structure or structures encasing any mains or pipes of the Company without the consent of the Company.

8. (a) This Agreement and the respective rights and obligations hereunto of the parties hereto are hereby declared to be subject to the provisions of all regulating statutes and to all orders and regulations made thereunder and from time to time remaining in effect; and in event of any dispute or disagreement between the parties hereto as to the meaning or interpretation of anything herein contained or as to the performance or non-performance by either of such parties of any of the provisions hereof or as to the respective rights and obligations of the parties hereto hereunder, either of such parties may refer such dispute or disagreement to arbitration under the provisions of paragraph 8(b) hereof.

(b) Whenever The Municipal Arbitrations Act R.S.O. 1970, Chapter 286 shall extend and apply to the Regional Municipality any references to arbitration pursuant to the provisions of paragraph 8(a) hereof shall be to the Official Arbitrator appointed under the Act and shall be governed by the provisions of that Act. At any other time the procedure upon an arbitration pursuant to the provisions of the said paragraph 8(a) shall be as follows:

Within twenty days after the written request of either of the parties hereto for arbitration each of them shall appoint one arbitrator and the two so appointed shall, within twenty days after the expiring of

such twenty day period select a third. In case either of the parties hereto shall fail to name an arbitrator within twenty days after the said written request for arbitration, the arbitrator appointed shall be the only arbitrator. In case the two arbitrators so appointed are unable to agree on a third arbitrator within twenty days after the expiry of the first twenty day period above mentioned, application shall be made as soon as reasonably possible to any Judge of the Supreme Court of Ontario for the appointment of such third arbitrator. The arbitrator or arbitrators so appointed shall have all the powers accorded arbitrators by The Arbitration Act, R.S.O. 1970, Chapter 25 as from time to time amended, or any Act in substitution therefor. The decision of the said arbitrator or arbitrators (or of a majority of such arbitrators) shall be final and binding on the parties hereto.

9. In the event of the Company being prevented from carrying out its obligations under this Agreement by reason of any cause beyond its control, the Company shall be relieved from such obligations while such disability continues and in the event of dispute as to the existence of such disability such dispute shall be determined as hereinbefore provided. Provided, however, that the provisions of this paragraph 9 shall not relieve the Company from any of its obligations as set out in paragraph 3 hereof.

10. This Agreement shall continue in effect for a term of thirty years from the date of this Agreement provided that while and so long as the Company is distributing gas within the Regional Municipality, if the Company at any time prior to expiration of the said thirty year period or prior to the expiration of any renewal hereof notifies the Regional Municipality in writing that it desires a renewal hereof for a further period the Regional Municipality may, but shall not be obliged to, renew this Agreement from time to time for further periods not exceeding thirty years at any one time.

11. Wherever the word "highway" is used in this Agreement, it shall mean common and public highways within the jurisdiction of the Regional Municipality and shall include any street or bridge forming part of a highway or over and across

which a highway passes and shall include not only the travelled portion of such highway but also ditches, driveways, sidewalks and sodded areas forming part of the road allowance.

12. Upon the expiration of this franchise or any renewal thereof the Company shall have the right, but nothing herein contained shall require it, to remove its mains, pipes, plant and works laid in the said highways. Provided that forthwith upon the expiration of this franchise or any renewal thereof the Company shall deactivate such pipelines in the Regional Municipality. Provided further that if the Company should leave its mains, pipes, plant and works in the highway as aforesaid and the Regional Municipality at any time after a lapse of one year from termination require the removal of all or any of the Company's said facilities for the purpose of altering or improving the highway or in order to facilitate the construction of utility or other works in the highway, the Regional Municipality may remove and dispose of so much of the Company's said facilities as the Regional Municipality may require for such purposes and neither party shall have recourse against the other for any loss, cost or expense occasioned thereby.

13. Any notice to be given under any of the provisions hereof may be effectually given to the Regional Municipality by delivering same to the Clerk or by sending the same to him by registered mail, postage prepaid, addressed to "the Clerk of the Regional Municipality of Niagara, Box 3025, 140 Berryman Street, St. Catharines, Ontario, L2R 7E9" and to the Company by delivering same to its Manager or other Chief Officer in charge of its place of business in the City of St. Catharines, or by sending the same by registered mail, postage prepaid, addressed to "The Consumers' Gas Company, Suite 4200, 1 First Canadian Place, Post Office Box 90, Toronto, Ontario, M5X 1C5". If any notice is sent by mail the same shall be deemed to have been given on the day succeeding the posting thereof.

14 Upon the execution of this Agreement, all previous agreements made by the Company and the Region, or between the Company and any area municipality or any predecessor municipality within the Region, shall be terminated to the extent that such agreements apply to highways within the jurisdiction of the Regional Municipality at the time of such execution; provided that nothing in this Agreement shall affect the application of any such previous agreement to local roads under the jurisdiction of the area municipality.

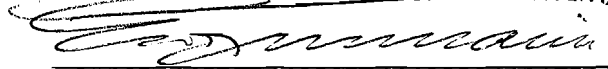
15. This Agreement shall extend to, benefit and bind the parties hereto, their successors and assigns respectively.

IN WITNESS WHEREOF the said Company has hereunto caused its Corporate Seal to be affixed and these presents signed by its proper officers in that behalf and the said Regional Municipality has hereunto caused its Corporate Seal to be affixed and these presents signed by its proper officers in that behalf.

THE CONSUMERS' GAS COMPANY



SR. VICE-PRESIDENT

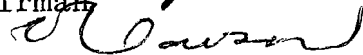


SECRETARY

THE REGIONAL MUNICIPALITY OF
NIAGARA



Chairman



Clerk

THE REGIONAL MUNICIPALITY OF NIAGARA

Council Session: 10-2009

Date: July 9, 2009

Moved by Councillor Smeaton

Seconded by Councillor Rigby

That Report PWA 67-2009, July 2, 2009 respecting Enbridge Gas Distribution Inc. ("Enbridge") Renewal of Franchise Agreement, be received;

That Regional Council approves the form of draft By-law (including the franchise agreement forming part thereof) attached hereto and authorizes the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act*;

That Regional Council requests the Ontario Energy Board to make an order dispensing with the assent of municipal electors of the attached draft By-law (including the franchise agreement forming part thereof) pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*;

That a certified copy of the above resolutions approved by Regional Council be forwarded to Enbridge Gas Distribution Inc. in support of the application to the Ontario Energy Board to approve the renewal of the franchise agreement in Niagara Region with Enbridge Gas Distribution Inc. and dispensing with the assent of municipal electors;

That Legal Services be authorized by Council to provide any other assistance required by Enbridge Gas Distribution Inc. in its application to the Ontario Energy Board;

That the Chair and Clerk be authorized to execute the draft By-law in the form attached and the franchise agreement in form substantially similar to that attached and as approved for execution by Legal Services, following receipt of the necessary approval of the franchise agreement by the Ontario Energy Board.

Carried.

CERTIFIED A TRUE COPY

CLERK, Regional Municipality of Niagara

THE CORPORATION OF THE REGIONAL MUNICIPALITY OF NIAGARA
("CORPORATION")

BY-LAW NUMBER _____

**A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT
BETWEEN THE CORPORATION AND
ENBRIDGE GAS DISTRIBUTION INC.**

WHEREAS the Council of the Corporation deems it expedient to enter into the attached franchise agreement with Enbridge Gas Distribution Inc.;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on the _____ day of _____, 20____ has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-law is not necessary;

NOW THEREFORE BE IT ENACTED:

1. That the attached franchise agreement between the Corporation Enbridge Gas Distribution Inc. is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Mayor and the Clerk are hereby authorized and instructed on behalf of the Corporation to enter into and execute under its corporate seal and deliver the aforesaid agreement, which agreement is hereby incorporated into and shall form part of this By-law.

Read the first and second time this _____ day of _____, 20____ .

Clerk **Mayor**

Read the third time and ENACTED AND PASSED this _____ day of _____, 20____ .

Clerk **Mayor**

Model Franchise Agreement

THIS AGREEMENT effective this day of , 20 .

BETWEEN: The Regional Municipality of Niagara hereinafter called the
"Corporation"

- and -

Enbridge Gas Distribution Inc. hereinafter called the "Gas Company"

WHEREAS the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

AND WHEREAS by by-law passed by the Council of the Corporation (the "By-law"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement:
 - a. "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the Assessment Act;
 - b. "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
 - c. "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
 - d. "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment

as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;

- e. "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- f. "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the Municipal Franchises Act. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- g. "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- h. "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- i. whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

Part II - Rights Granted

2. To provide gas service:

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

3. To Use Highways.

Subject to the terms and conditions of this Agreement the consent of the corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

4. Duration of Agreement and Renewal Procedures.

- a. If the Corporation has not previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law.

or

- b. If the Corporation has previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20-year term this agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20-year term.
- c. At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the Municipal Franchises Act.

Part III - Conditions

5. Approval of Construction
 - a. The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
 - b. Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
 - c. The Plan filed by the Gas Company shall include geodetic information for a particular location:
 - i. where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
 - ii. when requested, where the Corporation has geodetic information for its own services and all others at the same location.
 - d. The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
 - e. Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
 - f. In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special

conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.

- g. Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the Drainage Act, or such other person designated by the Corporation as responsible for the drain.
- h. The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- i. The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- j. The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

6. As Built Drawings

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

7. Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

8. Restoration

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

9. Indemnification

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

10. Insurance

- a. The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 9. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- b. The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.

- c. Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.

11. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 12 of this Agreement.

12. Pipeline Relocation

- a. If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- b. Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- c. Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
 - i. the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,

- ii. the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
 - iii. the amount paid by the Gas Company to contractors for work related to the project,
 - iv. the cost to the Gas Company for materials used in connection with the project, and
 - v. a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- d. The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

14. Giving Notice

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

15. Disposition of Gas System

- a. If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- b. If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan

as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- a. The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
 - i. the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
 - ii. the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- b. The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
 - i. the third party has entered into a municipal access agreement with the Corporation; and
 - ii. the Gas Company does not charge a fee for the third party's right of access to the highways.
- c. Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues

such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.

18. Agreement Binding Parties

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties have executed this Agreement effective from the date written above.

THE REGIONAL MUNICIPALITY OF NIAGARA

By: _____

By: _____

Duly Authorized Officer

ENBRIDGE GAS DISTRIBUTION INC.

By: _____

By: _____

DATED this day of , 20 .

THE REGIONAL MUNICIPALITY OF NIAGARA

- and -

ENBRIDGE GAS DISTRIBUTION INC.

FRANCHISE AGREEMENT

ENBRIDGE GAS DISTRIBUTION INC.

500 Consumers Road
North York, Ontario
M2J 1P8

Attention: Regulatory Affairs Department