



**uniongas**

A Spectra Energy Company

January 10, 2008

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: The Corporation of the Township of Wellington North  
Franchise Agreement and Certificate of Public Convenience and Necessity

Attached is an Application by Union Gas Limited for Orders of the Board with respect to a Franchise Agreement and Certificate of Public Convenience and Necessity with the Corporation of the Township of Wellington North. An agreement has been reached between Union and the Corporation of the Township of Wellington North with regards to associated terms and conditions.

Should you have any questions, please do not hesitate to contact me or Lynda Anderson ((519) 436-4600 ext. 2161 or landerson@uniongas.com). We look forward to receipt of your instructions.

Yours truly,

*[Original signed by]*

Patrick McMahon  
Manager, Regulatory Research and Records

PM/la

Encl.

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Municipal Franchises Act*, R.S.O. 1990, c.M.55, s.9;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order approving the terms and conditions upon which the Corporation of the Township of Wellington North is, by by-law, to grant to Union Gas Limited the right to construct or operate works for the distribution, transmission and storage of natural gas and the right to extend or add to the works;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order declaring and directing that the assent of the electors is not necessary;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order to supersede those parts of the existing Certificate of Public Convenience and Necessity (E.B.C. 29) pertaining to the former Township of Arthur, the former Village of Arthur, the former Town of Mount Forest and the former Township of West Luther within the Township of Wellington North and issuing a single Certificate of Public Convenience and Necessity for the amalgamated Corporation of the Township of Wellington North.

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**-: UNION GAS LIMITED :-**

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1. Union Gas Limited ("Union"), a regulated public utility, is a corporation incorporated under the laws of the Province of Ontario, with its head office at the Municipality of Chatham-Kent, in the Province of Ontario.
2. The Corporation of the Township of Wellington North (the "Municipality") is a municipal corporation incorporated under the laws of the Province of Ontario. Attached hereto and marked as Schedule "A" is a map showing the location of the Municipality.
3. Union applied to the Council of the Municipality for a franchise permitting Union to construct or operate works for the distribution, transmission and storage of natural gas and the right to extend or add to the works in the Township of Wellington North.
4. On December 10, 2007, the Council of the Municipality gave approval to the form of a Franchise Agreement in favour of Union to apply to the Ontario Energy Board for approval of the terms and conditions upon which and the period for which the Franchise Agreement is proposed to be granted.

5. Attached hereto as Schedule "B" is a copy of the Resolution of the Council of the Municipality approving the form of the proposed Franchise Agreement and requesting the Ontario Energy Board to direct and declare that the assent of the municipal electors is not necessary.
6. Attached hereto as Schedule "C" is the form of By-law No. 97-07 granting to Union the franchise and a copy of the proposed Franchise Agreement between Union and the Municipality.
7. On January 1, 1999, the former Township of Arthur, the former Village of Arthur, the former Town of Mount Forest and the former Township of West Luther were amalgamated to form the Township of Wellington North by Minister's Order.
8. Union has Franchise Agreements with the former Township of Arthur (E.B.A. 645) effective April 19, 1993, which expires April 19, 2008; the former Village of Arthur (E.B.A. 640) effective April 8, 1993, which expires April 8, 2008; the former Town of Mount Forest (E.B.A. 637) effective April 12, 1993, which expires April 12, 2008; and the former Township of West Luther (E.B.A. 657) effective May 2, 1994, which expires May 2, 2009.
9. Union also has Certificates of Public Convenience and Necessity for the former municipalities as shown above, all under E.B.C. 29 which was issued for a total of 25 municipalities on April 17, 1963 granting Union the right to construct works to supply natural gas within the said municipalities.
10. Union has Certificates and Franchise Agreements for the former Township of Egremont (now the Township of Southgate); the Town of Minto; the former Township of Maryborough, the former Village of Drayton and the former Township of Peel (now the Township of Mapleton) and the Township of Centre Wellington, which are immediately adjacent to the Municipality. The nearest natural gas utility other than Union is Enbridge Gas Distribution Inc.
11. The proposed Franchise Agreement covers the same territory as that covered by the existing Franchise Agreements.
12. The proposed Franchise Agreement is in the form of the 2000 Model Franchise Agreement with no amendments and is for a term of twenty (20) years.
13. The address of the Municipality is as follows:  
The Corporation of the Township of Wellington North  
7490 Sideroad 7 W.  
Kenilworth, ON N0G 2E0  
Attention: Ms. Lorraine Heinbuch, Chief Administrative Officer/Clerk  
Telephone: (519) 848-3620 Fax: (519) 848-3551

The address for Union's district office is as follows:

Union Gas Limited

603 Kumpf Drive

P.O. Box 340

Waterloo, Ontario N2J 4A4

Attention: Murray Costello, Operations Manager, Waterloo/Brantford

Telephone: (519) 885-7425 Fax: (519) 885-7575

14. Union now applies to the Ontario Energy Board for:
- (a) an Order under s.9(3) approving the terms and conditions upon which and the period for which the Municipality is, by by-law, to grant Union Gas the right to construct or operate works for the distribution, transmission and storage of natural gas and the right to extend or add to the works;
  - (b) an Order pursuant to s.9(4) directing and declaring that the assent of the electors of the Municipality is not necessary for the proposed franchise by-law under the circumstances; and
  - (c) an Order to supersede those parts of the existing Certificate of Public Convenience and Necessity (E.B.C. 29) pertaining to the former Township of Arthur, the former Village of Arthur, the former Town of Mount Forest and the former Township of West Luther within the Township of Wellington North and issuing a single Certificate of Public Convenience and Necessity for the amalgamated Corporation of the Township of Wellington North..

**DATED** at the Municipality of Chatham-Kent, in the Province of Ontario this 10<sup>th</sup> day of January, 2008.

**UNION GAS LIMITED**

*[Original signed by]*

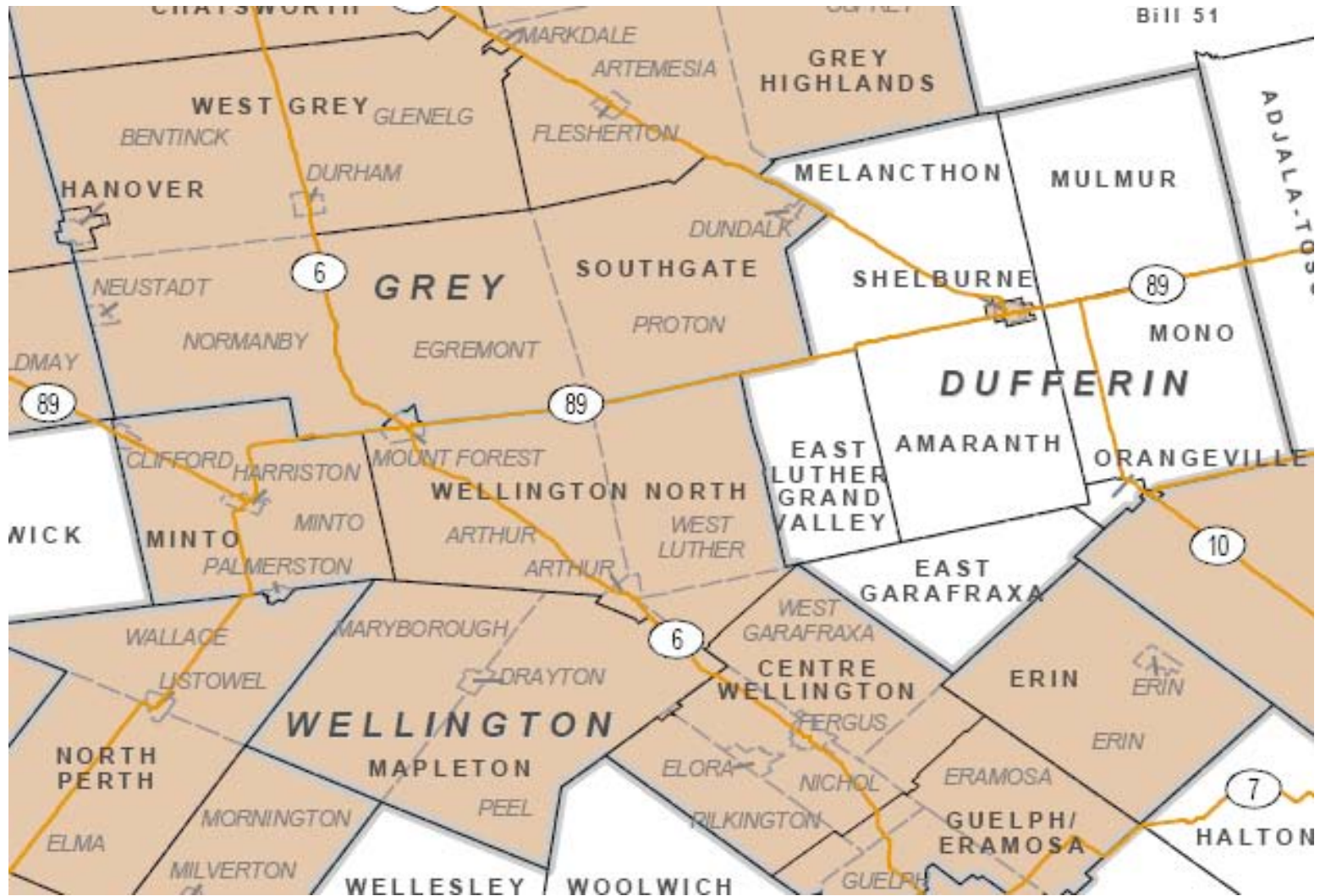
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Dan Jones  
Assistant General Counsel

Comments respecting this Application should be directed to:

Mr. Patrick McMahon  
Manager, Regulatory Research and Records  
Union Gas Limited  
50 Keil Drive North  
CHATHAM, ON N7M 5M1  
Telephone: (519) 436-5325  
Fax: (519) 436-4641

# Township of Wellington North



Schedule "A"

**THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH**


**RESOLUTION**

**RESOLVED THAT:**

1. This Council approves the form of draft by-law and franchise agreement 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.
2. This Council requests that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors to the attached draft by-law and franchise agreement pertaining to the Corporation of the Township of Wellington North is not necessary pursuant to the provisions of Section 9(4) of the Municipal Franchises Act.

**I HEREBY CERTIFY** the foregoing to be a true copy of a Resolution passed by the Council of the Corporation of the Township of Wellington North on the 10th day of December, 2007.



  
\_\_\_\_\_  
Lorraine Heinbuch,  
Chief Administrative Officer/Clerk

**THE CORPORATION OF THE  
TOWNSHIP OF WELLINGTON NORTH**

**BY-LAW NUMBER 97-07**

**BEING A BY-LAW TO AUTHORIZE A FRANCHISE  
AGREEMENT BETWEEN THE CORPORATION OF THE  
TOWNSHIP OF WELLINGTON NORTH AND UNION GAS  
LIMITED**

**WHEREAS** the Council of the Corporation of the Township of Wellington North deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Union Gas Limited;

**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 in the Franchise 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** the Council of the Corporation of the Township of Wellington North enacts as follows:

1. **THAT** the Franchise Agreement between the Corporation of the Township of Wellington North and Union Gas Limited, attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. **THAT** the Mayor and Chief Administrative Officer/Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the Township of Wellington North to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **THAT** the following by-laws be and the same are hereby repealed:

By-law #18/92 for the former Corporation of the Village of Arthur, passed in Council on the 8<sup>th</sup> day of April, 1993;

By-law #92-24 for the former Corporation of the Township of Arthur, passed in Council on the 19<sup>th</sup> day of April, 1993;

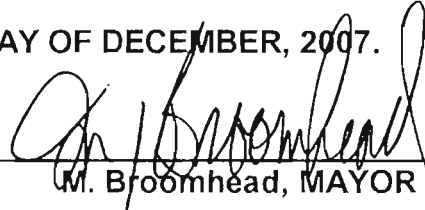
3. (continued)

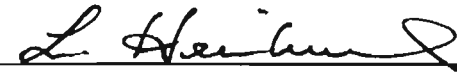
By-law #5-95 for the former Corporation of the Town of Mount Forest,  
passed in Council on the 12<sup>th</sup> day of April, 1993;

By-law #1526/93 for the former Corporation of the Township of Luther  
West, passed in Council on the 2<sup>nd</sup> day of May, 1994.

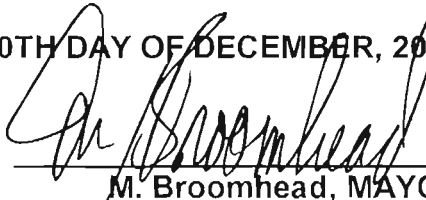
4. **THAT** this by-law shall come into force and take effect as of the final  
passing thereof.

READ A FIRST TIME THIS 10TH DAY OF DECEMBER, 2007.

  
\_\_\_\_\_  
M. Broomhead, MAYOR

  
\_\_\_\_\_  
L. Heinbuch, C.A.O./CLERK

READ A SECOND TIME THIS 10TH DAY OF DECEMBER, 2007.

  
\_\_\_\_\_  
M. Broomhead, MAYOR

  
\_\_\_\_\_  
L. Heinbuch, C.A.O./CLERK

READ A THIRD TIME AND FINALLY PASSED THIS                      DAY OF

\_\_\_\_\_  
M. Broomhead, MAYOR

\_\_\_\_\_  
L. Heinbuch, C.A.O./CLERK





- (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 of this Agreement, the Model Franchise Agreement is changed, then on the 7<sup>th</sup> anniversary and on the 14<sup>th</sup> 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 therefore 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 it 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. Other Conditions

Notwithstanding the cost sharing arrangements described in Paragraph 12, if any part of the gas system altered or relocated in accordance with Paragraph 12 was constructed or installed prior to January 1, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system at the point specified, to a location satisfactory to the Engineer/Road Superintendent.

**19. 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 CORPORATION OF THE  
TOWNSHIP OF WELLINGTON NORTH**

Per: \_\_\_\_\_  
Mike Broomhead, Mayor

Per: \_\_\_\_\_  
Lorraine Heinbuch,  
Chief Administrative Officer/Clerk

**UNION GAS LIMITED**

Per: \_\_\_\_\_  
Michael R. Birmingham, Vice President

Per: \_\_\_\_\_  
Curt Bernardi, Assistant Secretary