

EB-2011-0291

New Application
Adrian Aye.



August 8, 2011

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

RECEIVED

AUG 10 2011

ONTARIO ENERGY BOARD
OFFICE OF THE BOARD SECRETARY

Dear Ms. Walli:

Re: Application for Extension of Payment Priority Compliance Date

On July 2, 2010, the Board issued a Notice of Amendments to Codes in relation to EB-2007-0722. Among these were rules dealing with the allocation of partial payments between electricity and non-electricity charges set out in sections 2.6.6 to 2.6.6.3 of the Distribution System Code. Those rules were further amended in a Notice of Amendments to Codes in relation to the same proceeding on March 30, 2011. Those sections, as they currently read, are replicated below:

- 2.6.6 Where a bill issued to a residential customer includes charges for goods or services other than electricity charges, a distributor shall allocate any payment made by the customer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.
- 2.6.6.1 Section 2.6.6 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 2.6.6 will be deemed applicable.
- 2.6.6.2A Where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is sufficient to cover electricity charges, security deposits and billing adjustments, the distributor shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.
- 2.6.6.2B Subject to section 2.6.6.1, where payment on account of a bill referred to in section 2.6.6 or 2.6.6.1 is not sufficient to cover electricity charges, security deposits and billing adjustments, the distributor shall allocate the payments in the following order: electricity charges as defined in section 2.6.6.3, payments towards an arrears payment agreement, outstanding security deposit, under-billing adjustments and non-electricity charges.
- 2.6.6.3 For the purpose of this section, "electricity charges" are:
 - (a) charges that appear under the sub-headings "Electricity", "Delivery", "Regulatory Charges" and "Debt Retirement Charge" as described in Ontario Regulation 275/04 (Information on Invoices to Low-volume

- Consumers of Electricity) made under the Act, and all applicable taxes on those charges;
- (b) where applicable, charges prescribed by regulations under section 25.33 of the Electricity Act, 1998 and all applicable taxes on those charges; and
 - (c) Board-approved specific service charges, including late payment charges, and such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this section, but not including security deposits or amounts owed by a customer pursuant to an arrears payment agreement or a billing adjustment.

These provisions in the Distribution System Code were the first to require specific prioritization of partial payments where the LDC performs billing for another organization.

As the Board is aware, EnWin Utilities is the billing contractor for the Windsor Utilities Commission (WUC) in respect of water and waste water billing. Prior to the corporatization of electricity distributors, the Windsor Utilities Commission was responsible for both electricity and water services in the City of Windsor, including billing for those services. WUC also billed for waste water services on behalf of the City of Windsor. When the EnWin group of companies were established in response to the *Electricity Act, 1998*, the EnWin ServeCo of the day was assigned billing responsibilities for electricity, water and waste water. In 2007, the EnWin ServeCo and EnWin LDC merged under the name EnWin Utilities Ltd. and henceforth provided all billing services from within that reconstituted LDC. The arrangement is documented in a Managed Services Agreement (MSA) effective January 1, 2007 (see Attachment A). The MSA automatically renews annually.

EnWin performs its billing function primarily through a Customer Information System (CIS). The CIS allows EnWin to perform billing for approximately 85,000 electricity and 75,000 water and waste water ratepayers in the City of Windsor. The vast majority of these ratepayers are billed for all three utility services on the same bill. One bill for the three services results in efficiencies: for example, one envelope, one stamp, one payment per month to be processed.

The current CIS is programmed and configured on the basis of allocated partial payments among utility services rather than priority partial payments to electricity services. Altering that programming and those configurations is considered extremely risky and imprudent by EnWin's Information Technology staff. Applying payments to charges is a central element of the billing cycle and shifting from an allocated to a priority methodology would have extensive trickle down effects. In short, the logic of the system would need a comprehensive review and significant reprogramming and reconfiguration. Without this additional effort, EnWin anticipates that other functions would not work properly (e.g. security deposits, credit & collections, write-offs, past

due notices) and almost certainly result in billing errors and compliance violations of other sections of the Distribution System Code.

As the Board is also aware, EnWin Utilities is in the process of replacing its current CIS as part of a Comprehensive ERP project. EnWin's plan is for the replacement CIS to be operational in or around June 2012. EnWin's plan is to stabilize the system over the following quarter or so. During implementation of the new CIS, EnWin will incur costs to enable prioritization of partial payments, irrespective of any investments in the existing CIS.

The implementation of the new CIS presents a much less risky opportunity to shift from an allocation to a prioritization methodology. The logic of the system can be built that way from the ground up, rather than as a series of revisions to circumvent the embedded logic.

Given the cost saving and risk avoiding opportunity at hand, EnWin requests that the Board grant EnWin a temporary exemption from Distribution System Code sections 2.6.6 through 2.6.6.3.

Section 2.6.6.1 permits a temporary exemption until January 1, 2013 if the LDC has an existing joint billing agreement with no renewal prior to that date. EnWin originally anticipated that it would be covered under this clause. On more careful examination of the DSC section and the MSA, EnWin realized that the MSA's automatic annual renewal clause would put EnWin in non-compliance on January 1, 2012 – the first renewal date after the coming into force of sections 2.6.6 through 2.6.6.3.

EnWin perceives that the intention of the section 2.6.6.1 is to provide a measure of fairness to parties that have contracted with LDCs in good faith for joint billing services. Third parties would be less inclined to contract with LDCs if regulatory uncertainty were an issue. This would deprive the electricity ratepayer and LDC, as well as the third party and its ratepayers, with the cost saving opportunity inherent in joint billing arrangements.

EnWin requests that the Board grant EnWin a temporary exemption until that same date of January 1, 2013. Just as it is in the public interest to protect cost saving arrangements, it is also in the public interest to prevent introducing avoidable risks and costs into existing cost saving arrangements. In the context of billing rules and CIS functionality, these would be "front line risks", directly affecting ratepayers and the LDC's meter-to-cash processes.

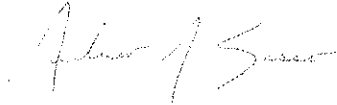
In light of the Board's section 2.6.6.1 compliance allowance provision, and given the justification for a temporary exemption for EnWin, EnWin submits that its proposal for an exemption from sections 2.6.6 through 2.6.6.3 until January 1, 2013 is reasonable.

EnWin requests that this matter proceed by way of a written hearing.

All correspondence in this matter should be addressed to the undersigned.

Respectfully,

ENWin Utilities Ltd.

A handwritten signature in dark ink, appearing to read "Andrew J. Sasso", is written over a light blue horizontal line.

Per: Andrew J. Sasso
Director, Regulatory Affairs

P.O. Box 1625
787 Ouellette Avenue
Windsor, ON N9A 5T7

T: 519-255-2735
F: 519-973-7812
E: regulatory@enwin.com

WINDSOR UTILITIES COMMISSION

- and -

ENWIN UTILITIES LTD.

MANAGED SERVICES AGREEMENT

Effective: January 1, 2007

TABLE OF CONTENTS

ARTICLE 1 INTERPRETATION.....	2
1.01 Definitions.....	2
1.02 Purpose of Agreement.....	3
1.03 Construction of Agreement.....	4
1.04 Schedules	5
ARTICLE 2 TERM.....	5
2.01 Term.....	5
2.02 Termination of Prior Agreement with Adjustments	5
ARTICLE 3 MANAGED SERVICES	6
3.01 Managed Services	6
3.02 Provision of Managed Services & Authority of WUC	6
3.03 Relationship	6
3.04 Modifications to the Managed Services.....	7
ARTICLE 4 RESPONSIBILITIES	7
4.01 Access	7
4.02 Co-operation	7
4.03 Notification of Changes of Circumstances	8
4.04 Notice of Proceedings.....	8
4.05 Permits	8
4.06 Insurance.....	8
4.07 Compliance with Applicable Law	8
ARTICLE 5 FEES AND PAYMENTS	9
5.01 Fees	9
5.02 Payment.....	9
5.03 Adjustment to the Fees.....	9
5.04 Taxes	10
5.05 Late Payment	10
ARTICLE 6 REPRESENTATIONS AND WARRANTIES.....	10
6.01 Representations and Warranties of Utilities	10
6.02 Representations and Warranties of WUC	11
ARTICLE 7 INDEMNIFICATION.....	11
7.01 Indemnification by WUC.....	11
7.02 Indemnification by Utilities.....	11
7.03 Limitation of Liability.....	12
ARTICLE 8 DEFAULT	12
8.01 Default by WUC	12
ARTICLE 9 TERMINATION.....	13
9.01 Termination on Default.....	13
9.02 Termination on Notice	13
9.03 Termination for Change in Applicable Law	13
9.04 Consequences of Termination.....	13
ARTICLE 10 CONFIDENTIALITY.....	14
10.01 Confidential Information	14
10.02 Permitted Disclosure.....	15
10.03 Liability for Breach.....	16

10.04 Return of Confidential Information	16
ARTICLE 11 FORCE MAJEURE	16
11.01 Force Majeure	16
11.02 Notice of Force Majeure	16
11.03 Strikes	17
ARTICLE 12 DISPUTE RESOLUTION	17
12.01 Disputes	17
12.02 Notice of Dispute	17
12.03 Arbitrators	17
12.04 Arbitration	18
ARTICLE 13 GENERAL	18
13.01 Change of Control	18
13.02 Assignment	18
13.03 Notices	19
13.04 Severability	19
13.05 Waiver	19
13.06 Entire Agreement	20
13.07 Amendments	20
13.08 Governing Law	20
13.09 Survival	20
13.10 Third Party Beneficiaries	20
13.11 Covenant of Further Assurances	20

MANAGED SERVICES AGREEMENT

This Agreement made to take effect as and from the 1st day of January, 2007 (the “Effective Date”)

BETWEEN:

WINDSOR UTILITIES COMMISSION

a Commission established pursuant to the laws of the Province of Ontario
(hereinafter referred to as “WUC”)

- and -

ENWIN UTILITIES LTD.

a corporation incorporated pursuant to the laws of the Province of Ontario
(hereinafter referred to as “Utilities”)

RECITALS:

R1 The Corporation of the City of Windsor, pursuant to the Section 142 of the *Electricity Act, 1998* caused Enwin Utilities Ltd. (“EUL”) and EnWin Powerlines Ltd. to be incorporated on December 13, 1999;

R2 WUC is a statutory body corporate created by special legislation of the Legislature of Ontario, and is deemed to be as a local board of the municipality;

R3 EUL and EnWin Powerlines Ltd. were amalgamated on December 31, 2006 to create Enwin Utilities Ltd. (“Utilities”);

R4 Utilities, the electricity Local Distribution Company serving the City of Windsor regulated by the Ontario Energy Board, is required to comply with the provisions of its distribution licence including the Affiliate Relationships Code for Electricity Distributors and Transmitters;

R5 WUC has requested that its Affiliate, Utilities provide the managed services described in this Agreement to WUC;

R6 Utilities has agreed to provide the services described in the Schedules to this Agreement on the terms set out in this Agreement and in accordance with the provisions of the Affiliate Relationships Code;

NOW THEREFORE in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto hereby agree as follows:

ARTICLE 1

INTERPRETATION

1.01 DEFINITIONS

Unless the context otherwise specifies or requires, for the purposes of this Agreement all capitalized terms herein shall have the meanings set forth below:

"Affiliate", with respect to a corporation, shall have the same meaning as is ascribed to such term in the *Business Corporations Act* (Ontario) and shall be deemed to include the relationship between WUC and Utilities;

"Affiliate Relationships Code" or **"ARC"** shall mean the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB, as amended from time to time;

"Agreement", **"This Agreement"**, **"The Agreement"**, **"Managed Services Agreement"**, **"hereto"**, **"hereof"**, **"herein"**, **"hereby"**, **"hereunder"** and similar expressions mean this Managed Services Agreement together with all Schedules attached hereto, as they may be amended from time to time;

"Applicable Law" means, collectively, all applicable laws, treaties, statutes, codes, codes of conduct, ordinances, decrees, rules, regulations, municipal by-laws, including, without limitation, policies, codes or guidelines of a Governmental Authority, judicial, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives or rulings and conditions of any licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority that apply to the Parties to this Agreement;

"Business Day" means any day other than a Saturday or Sunday or a statutory or bank holiday in the Province of Ontario;

"Confidential Information" has the meaning ascribed to such term in Section 10.01;

"Disclosing Party" has the meaning ascribed to such term in Section 10.01;

"Dispute" has the meaning ascribed to such term in Section 12.01;

"Effective Date" means January 1, 2007;

"Event of Default" has the meaning ascribed to such term in Section 8.01;

"Fees" has the meaning ascribed to such term in Section 5.01 and Schedule I hereto;

"Force Majeure Event" has the meaning ascribed to such term in Section 11.01;

“Governmental Authority” means any government, parliament, legislature or any regulatory authority, agency, commission or a board of any government, parliament or legislature, or any political subdivision thereof, or any court or, without limitation to the foregoing, any other law, regulation or rule making entity or any person acting under the authority of any of the foregoing or any other authority charged with the administration or enforcement of laws, including the OEB, IESO, the Privacy Commissioner of Canada and the Information and Privacy Commissioner of Ontario;

“KPMG Cost Allocation Methodology” means the cost allocation methodology prepared by accounting firm of KPMG LLP and approved by both WUC and Utilities on [insert dates] respectively;

“IESO” means the Independent Electricity System Operator for Ontario;

“includes” or “including” means includes (or as applicable, including) without limitation;

“Managed Services” has the meaning ascribed to such term in Section 3.01;

“MFIPPA” means the *Municipal Freedom of Information Act and Protection of Privacy Act* of Ontario, as amended from time to time;

“OEB” means the Ontario Energy Board and any successor thereto;

“Party” means a party to this Agreement and any reference to a Party includes its successors and permitted assigns; **“Parties”** means every Party;

“PIPEDA” means the *Personal Information Protection and Electronic Documents Act* of Canada, as amended from time to time;

“Prime Rate” means, in respect of each calendar month, a rate of interest equal to the Prime rate for loans to commercial customers in Canadian dollars as declared by the principal banker from time to time for Utilities as of the first Business Day of such month;

“Prior Agreement” has the meaning ascribed to such term in Section 2.02;

“Representatives” in reference to Party, means the Party's directors, officers, commissioners, employees, agents and contractors;

“Receiving Party” has the meaning ascribed to such term in Section 10.01;

“Term” has the meaning ascribed thereto in Section 2.01.

1.02 PURPOSE OF AGREEMENT

The purpose of this Agreement is to describe the Managed Services provided by Utilities to its Affiliate, WUC, the Fees payable by WUC for the Managed Services and the relationship between Utilities and WUC in respect of such Managed Services.

1.03 CONSTRUCTION OF AGREEMENT

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated there under, as the same may be amended, re-enacted, consolidated and/or replaced, from time to time, and any successor statute thereto, unless otherwise expressly provided;
- (c) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;
- (d) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded; and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (e) all dollar amounts are expressed in Canadian dollars;
- (f) the division of this Agreement into separate Articles, Sections, Subsections and Schedule(s), the provision of a table of contents and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (g) words or abbreviations which have well known or trade meanings are used herein in accordance with their recognized meanings;
- (h) the terms and conditions hereof are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.
- (i) In the event of any inconsistency between the provisions set forth in the Schedules and the provisions set forth in the body of this Agreement, this Agreement shall prevail.

1.04 SCHEDULES

The Schedules set out below are attached to and form an integral part of this Agreement:

<u>Schedule</u>	<u>Description</u>
A	Human Resources Management and Support Services
B	Finance and Accounting Services
C	Billing and Collection Services
D	Purchasing and Inventory Managed Services
E	Fleet and Site Managed Services
F	Information Services
G	Technical and Customer Services
H	Other Services
I	Fees

ARTICLE 2 **TERM**

2.01 TERM

The term of this Agreement shall commence on the Effective Date and the terms, conditions and covenants hereof shall have deemed to have been in force and performed by the Parties from that date. The initial term of this Agreement shall be a period of one (1) year. The term shall automatically be renewed annually for successive one (1) year periods, or for such longer or shorter period as may be agreed in writing by the Parties hereto, unless terminated as provided in Sections 9 of this Agreement or abbreviated pursuant to Section 13.01.

2.02 TERMINATION OF PRIOR AGREEMENT WITH ADJUSTMENTS

The Parties acknowledge that immediately preceding the Effective Date of this Agreement, Utilities was providing certain Managed Services to WUC pursuant to an agreement entered into in 2003 (the "**Prior Agreement**"). The Parties acknowledge that upon Effective Date of this Agreement, the Prior Agreement shall be terminated, and the Parties shall make all closing adjustments as are appropriate and necessary to finalize the accounts pursuant to the Prior Agreement.

ARTICLE 3
MANAGED SERVICES

3.01 MANAGED SERVICES

Subject to the terms, covenants and conditions contained in this Agreement and to the observance and performance by WUC of all terms, covenants and conditions hereof, Utilities will provide or cause to be provided to WUC the following services (collectively, the “**Managed Services**”):

- (a) the Human Resources Management and Support Services described in Schedule A;
- (b) the Finance and Accounting Services described in Schedule B;
- (c) the Billing and Collection Services described in Schedule C;
- (d) the Purchasing and Inventory Managed Services described in Schedule D;
- (e) the Fleet and Site Managed Services described in Schedule E;
- (f) the Information Services described in Schedule F;
- (g) the Technical and Customer Services described in Schedule G; and
- (h) Other Services as described in Schedule H.

3.02 PROVISION OF MANAGED SERVICES & AUTHORITY OF WUC

Utilities shall be responsible for the provision of the Managed Services provided hereunder and the methods employed in providing the same, subject always to Utilities providing such Managed Services in a diligent and competent manner and according to the same standards as Utilities provides for its own use and benefit from time to time. Notwithstanding any other provision in this Agreement, WUC shall have and retain the ultimate authority for ensuring that the Managed Services are performed in accordance with Applicable Law.

3.03 RELATIONSHIP

In performing this Agreement, Utilities shall operate as an independent contractor and not as an agent of WUC, and shall maintain its own organization as a distinct and separate legal entity from WUC. Utilities and its Representatives shall have no authority to legally bind WUC without the prior written authority from WUC to do so. Nothing in this Agreement shall be deemed to constitute a partnership or a joint venture or to create any fiduciary relationship between Utilities and WUC.

3.04 MODIFICATIONS TO THE MANAGED SERVICES

WUC may, from time to time, request modifications to the Managed Services, and Utilities agrees to consider such requests, acting reasonably. If Utilities accepts a request for modification to the Managed Services, the Parties shall negotiate appropriate changes to the descriptions of the Managed Services, the terms and conditions for the provision of those modified Managed Services and the Fees in connection with such changes and shall initial and attach amended schedules hereto.

Utilities may, from time to time, request modifications to the Managed Services, and WUC agrees to consider such requests, acting reasonably. If WUC accepts a request for modification to the Managed Services, the Parties shall negotiate appropriate changes to the descriptions of the Managed Services, the terms and conditions for the provision of those modified Managed Services and the Fees in connection with such changes and shall initial and attach amended schedules hereto.

In the event that the Party requesting modifications is unable to reach agreement with the other Party, the requesting Party shall have the right to terminate in accordance with Section 9.2 the specific Managed Services that modifications are being requested to.

ARTICLE 4 **RESPONSIBILITIES**

4.01 ACCESS

Utilities will maintain all relevant records, including employee records, on behalf of WUC relating to the performance of the Managed Services hereunder. WUC will grant reasonable access by Utilities to WUC's facilities and records, including employee records, in connection with the provision of the Managed Services. Utilities agrees that when performing the Managed Services on the premises of WUC, Utilities' employees will comply with all health and safety rules and regulations which are brought to their attention from time to time.

4.02 CO-OPERATION

The Parties shall cooperate with each other during and after the term of this Agreement to effect a smooth and orderly transition of the Managed Services upon the termination of this Agreement, and also with respect to audits or other inquiries, filings, reports and payment of taxes arising under this Agreement, which may be required, initiated or requested from or by the OEB or any other duly authorized Governmental Authority. In particular, WUC agrees to provide any documentation which may be requested by the OEB or any Governmental Authority to the OEB or Governmental Authority in accordance with this Section.

4.03 NOTIFICATION OF CHANGES OF CIRCUMSTANCES

The Parties shall promptly notify each other of any changes or prospective changes in circumstances that would materially affect the resources required for the performance of the Managed Services, including any anticipated material change in the nature or level of business of WUC, the number of employees of a Party, or any efforts relating to the organization of or collective bargaining by employees of a Party.

4.04 NOTICE OF PROCEEDINGS

The Parties shall promptly give notice to each other of all actual or potential claims, proceedings, notice of regulatory non-compliance from the OEB or any Governmental Authority, disputes (including labour disputes) or litigation which it reasonably believes could have a adverse effect on the fulfillment of any of the terms hereof by either party (whether or not any such claim, proceeding, dispute or litigation is covered by insurance) in respect of its own operations of which any of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such claims, proceedings, notices, disputes, or litigation, and any developments relating thereto.

4.05 PERMITS

Each Party shall, at its sole expense, obtain and maintain during the Term, all permits, licenses and approvals required by Applicable Law to perform its duties and obligations under this Agreement and upon request, shall provide the other Party with proof thereof.

4.06 INSURANCE

Each Party shall, during the Term, and at its own expense, maintain and keep in full force and effect general liability insurance on an occurrence basis having a minimum inclusive coverage limit, including personal injury and property damage of not less than five million dollars (\$5,000,000.00) per occurrence, and upon request, shall provide the other Party with proof thereof.

4.07 COMPLIANCE WITH APPLICABLE LAW

Each Party and its Representatives shall comply with all Applicable Laws in performing their duties and obligations under this Agreement and upon request, shall provide the other Party with proof thereof.

ARTICLE 5
FEES AND PAYMENTS

5.01 FEES

In consideration of the provision of the Managed Services, WUC shall pay monthly in arrears to Utilities the Fees set out in Schedule I. The obligation of WUC to pay Fees to Utilities shall commence on the Effective Date of this Agreement.

5.02 PAYMENT

Each calendar month, Utilities shall render to WUC in connection with the Managed Services, an invoice setting forth the Fees due by WUC to Utilities and any other amounts due between the Parties with respect to the immediately preceding calendar month.

Within thirty (30) days from WUC's receipt of such invoice, WUC shall pay the invoice(s) to Utilities by direct deposit to any account designated by Utilities.

5.03 ADJUSTMENT TO THE FEES

The Parties acknowledge that the Fees being charged to WUC have been determined in accordance with the ARC insofar as they are based upon Utilities' cost of providing the Managed Services using the KPMG Cost Allocation Methodology plus a return on its invested capital as specified in the ARC. The Fees set forth in Schedule I shall be reviewed by the Parties and adjusted from time to time as may be necessary to comply with ARC and in any event within three (3) months prior to each anniversary of the Effective Date to account for:

- (a) any changes in the cost of complying with any Applicable Law affecting the provision of Managed Services;
- (b) any changes to the nature or scope of the Managed Services;
- (c) reasonably anticipated changes (based on experience or expected developments) in the historical or reasonably anticipated costs to Utilities of providing Managed Services; and
- (d) any decision by the OEB in respect of any aspect of the ARC as it relates to Utilities or any other licensed distributor in Ontario.

Upon WUC's agreement to the increased cost, the applicable Fee shall be increased effective on the anniversary of the Effective Date or such other date as may be agreed upon by the Parties. In the event that the Parties are unable to agree upon any adjustment, Utilities shall nonetheless have the right to charge the increased applicable Fee as of the date such Fee has been communicated to WUC, but WUC shall have the right to terminate those Managed Services subject to the increase by providing ninety (90) days written notice to Utilities.

5.04 TAXES

In addition to the Fees, WUC shall pay to Utilities an amount equal to any and all applicable taxes under the Excise Tax Act of Canada, sales taxes, value-added taxes or any other taxes (excluding income taxes) properly exigible on the supply of the Managed Services provided for under this Agreement.

5.05 LATE PAYMENT

If WUC fails to pay any amounts payable hereunder when due, such unpaid amounts shall bear interest from the due date thereof to the date of payment at Prime Rate plus one percent (1%).

ARTICLE 6 **REPRESENTATIONS AND WARRANTIES**

6.01 REPRESENTATIONS AND WARRANTIES OF UTILITIES

Utilities hereby represents and warrants to WUC as follows and acknowledges that WUC is relying on such representations and warranties in connection herewith:

- (a) Utilities is a corporation, duly incorporated, validly existing and in good standing under the laws of the Province of Ontario and it has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement has been duly executed and delivered by Utilities and constitutes a legal, valid and binding obligation of Utilities, enforceable against Utilities by WUC in accordance with its terms; and
- (d) Utilities has the necessary resources and expertise to perform the Managed Services.

6.02 REPRESENTATIONS AND WARRANTIES OF WUC

WUC hereby represents and warrants to Utilities as follows and acknowledges that Utilities is relying on such representations and warranties in connection herewith:

- (a) WUC is a Commission, duly organized, validly existing and in good standing under the laws of the Province of Ontario and it has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement has been duly executed and delivered by WUC and constitutes a legal, valid and binding obligation of WUC, enforceable against WUC by Utilities in accordance with its terms; and
- (d) WUC has the necessary resources to pay for the Managed Services.

ARTICLE 7 INDEMNIFICATION

7.01 INDEMNIFICATION BY WUC

WUC shall indemnify and hold Utilities and its Representatives harmless from and against any and all claims, demands, suits, losses, damages, liabilities, penalties, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest on, any and all actions, suits, proceedings for personal injury (including death) or property damage, assessments, judgments, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) asserted against or suffered by Utilities and its Representatives relating to, in connection with, resulting from, or arising out of (a) breaches of WUC's obligations herein; (b) any misrepresentation, inaccuracy, incorrectness or breach of any representation or warranty made by WUC contained in this Agreement; (c) any of WUC's acts or omissions, whether negligent or otherwise; and/or (d) the physical infrastructure and assets owned or under the control of WUC including but not limited to the water treatment and water distribution systems.

7.02 INDEMNIFICATION BY UTILITIES

Utilities shall indemnify and hold WUC and its Representatives harmless from and against any and all claims, demands, suits, losses, damages, liabilities, penalties, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest on, any and all actions, suits, proceedings for personal injury (including death) or property damage, assessments, judgments, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) asserted against or suffered by WUC and its Representatives relating to, in connection with,

resulting from, or arising out of (a) breaches of Utilities' obligations herein; (b) any misrepresentation, inaccuracy, incorrectness or breach of any representation or warranty made by Utilities contained in this Agreement; and/or (c) any of Utilities' acts or omissions, whether negligent or otherwise.

7.03 LIMITATION OF LIABILITY

Each Party's liability in connection with this Agreement shall not exceed the aggregate of the Fees paid by WUC during the year for the specific Managed Services in which the event giving rise to the indemnity claim occurred. In addition, each Party's liability in connection with this Agreement will be limited to direct damages and neither Party will be liable to the other for any special, incidental, indirect or consequential damages, lost business revenue, loss of profits, failure to realize expected profits or savings, or any damages or losses, whether based on breach of contract or tort (including negligence) or otherwise, even if the Party causing such loss or damages has been advised of the possibility of same. The foregoing limitations shall not apply in respect of Section 7.01(d).

ARTICLE 8

DEFAULT

8.01 DEFAULT

The occurrence of any one or more of the following shall constitute an event of default on the part of a Party (an "**Event of Default**"):

- (a) if a Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for thirty (30) days following notice thereof to the defaulting Party by the non-defaulting Party; and
- (b) breach of any material representation or warranty or failure to perform or observe any material covenant or obligation of the Party under this Agreement if such failure is not remedied within thirty (30) days following notice thereof (giving particulars of the failure in reasonable detail) from the non-defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that:
 - (i) the defaulting Party proceeds with all due diligence to cure or cause to be cured such failure;
 - (ii) the failure can be reasonably expected to be cured or caused to be cured within a reasonable time frame acceptable to the non-defaulting Party, acting reasonably.

ARTICLE 9

TERMINATION

9.01 TERMINATION ON DEFAULT

Upon the occurrence of an Event of Default under this Agreement which is not cured within the permitted time period specified, the non-defaulting Party shall have the right to terminate this Agreement by giving notice of termination to the defaulting Party whereupon this Agreement shall terminate as at the effective date of termination specified in the notice.

9.02 TERMINATION ON NOTICE

In addition to the right of termination on notice provided for in Section 5.03, either Party may terminate this Agreement by giving notice to the other Party no less than ninety (90) days in advance of the termination date of the then current Term. The Party exercising its right to terminate shall provide as much advance notice to the other Party as reasonably possible in the circumstances of its intent to terminate any specified Managed Services in accordance with this section.

9.03 TERMINATION FOR CHANGE IN APPLICABLE LAW

In the event that:

- (a) there is a change in Applicable Law which materially affects Utilities;
- (b) Utilities is advised by the OEB in writing that the provision of any or all of the Managed Services is not acceptable to the OEB;
- (c) Utilities is unable to perform any or all of the Managed Services due to a change in policy, guidelines, codes, directives, order, decision or other regulatory action of the OEB or any other Governmental Authority;
- (d) the OEB amends the Affiliate Relationships Code which amendment materially affects Utilities;

then Utilities shall have the right to terminate any or all of the Managed Services by giving notice of termination to WUC whereupon the specified Managed Services shall terminate as of the effective date of termination specified in the notice. Utilities shall provide as much advance notice to WUC as reasonably possible in the circumstances of its intent to terminate any specified Managed Services in accordance with this section.

9.04 CONSEQUENCES OF TERMINATION

Upon termination of any or all of the Managed Services under this Agreement or upon termination of this Agreement for any reason:

- (a) the relevant provisions of this Agreement shall continue in effect after termination to the extent necessary to provide for any billings, adjustments and payments related to the period prior to termination;
- (b) the termination shall not affect any rights or obligations which may have accrued prior to such termination or any other rights which the terminating Party may have arising out of the termination or the event giving rise to the termination and shall not effect the continuing obligations of either Parties under this Agreement which are expressed to continue after termination of this Agreement; and
- (c) except as provided in (a) or (b) above, the terminating Party shall have no liability whatsoever to the other Party arising from such termination. For greater certainty, the terminating Party shall have no liability whosoever to the other Party for any special, incidental, indirect or consequential damages, lost business revenue, loss of profits, failure to realize expected profits or savings, or any damages or losses, whether based on breach of contract or tort (including negligence) or otherwise, even if the Party causing such loss or damages has been advised of the possibility of same, which the other Party may incur as a result of the termination.

ARTICLE 10

CONFIDENTIALITY

10.01 CONFIDENTIAL INFORMATION

Each Party (the “**Receiving Party**”) shall maintain in strict confidence any and all proprietary and confidential information about the business or operations or customers of the other Party or any of their Affiliates, which it acquires in any form from the other Party (the “**Disclosing Party**”) by virtue of this Agreement (“**Confidential Information**”) and will not disclose to any third party or make use of such Confidential Information (except for the purposes of this Agreement) for itself or any third party without the prior written consent of the Disclosing Party, except as permitted herein and except where required by law. Notwithstanding the foregoing, “**Confidential Information**” shall not include information which:

- (a) is in the public domain at the time of its disclosure to the Receiving Party or which thereafter enters the public domain otherwise than by any breach of this Agreement;
- (b) is already known to or in the possession of the Receiving Party at the time of its disclosure by the Disclosing Party as evidenced by the Receiving Party's records;
- (c) is lawfully acquired at any time by the Receiving Party without restrictions from a third party without breach of confidentiality by such third party;

- (d) required to be disclosed under Applicable Law, judicial decision or by order, decree, rule, regulation or requirement of any Governmental Authority, including the OEB; or
- (e) is required to be disclosed in the course of an arbitration conducted in accordance with Article 12 of this Master Agreement.

10.02 PERMITTED DISCLOSURE

Notwithstanding Section 10.01,

- (a) the Parties hereby acknowledge and agree that Utilities shall be permitted to disclose Confidential Information relating to this Agreement to the OEB and any other Governmental Authority to which Utilities may be required to report under the Affiliate Relationships Code, the Reporting and Record Keeping Requirements ("RRR") and other Applicable Law;
- (b) the Parties hereby acknowledge that they are both subject to the MFIPPA and that as a result either Party may be required to disclose Confidential Information concerning this Agreement or the other Party in accordance with the provisions of MFIPPA;
- (c) in the event that a Receiving Party is required by law to disclose any Confidential Information to a Governmental Authority, or any other person, including, without limitation, any disclosure required pursuant to a request under MFIPPA, such Party may so disclose; provided that it shall, to the extent permitted by law, first inform the Disclosing Party of the request or requirement for disclosure to allow an opportunity for the Disclosing Party to apply for an order to prohibit or restrict such disclosure;
- (d) WUC acknowledges and agrees that the use and disclosure of any information relating to the customers of Utilities is governed by requirements of the *Ontario Energy Board Act, 1998*, and regulations, licences, codes and procedures established by the OEB ("**OEB Requirements**"). WUC agrees and acknowledges that if any information relating to Utilities or the customers of Utilities is disclosed to WUC or its Representatives, WUC shall strictly comply, and shall cause its Representatives to strictly comply with the OEB Requirements, the requirements, policies or procedures of Utilities, and if and to the extent that PIPEDA may be or become applicable, with the requirements of PIPEDA related to or arising from such disclosures;
- (e) If and to the extent that PIPEDA may be or become applicable, Utilities agrees and acknowledges that if any information relating to the customers of WUC is disclosed to Utilities or its Representatives, Utilities shall strictly comply and shall cause its Representatives to strictly comply with the requirements of PIPEDA and such other requirements, policies or procedures of WUC related to or arising from such disclosures.

10.03 LIABILITY FOR BREACH

Except for disclosures made pursuant to Section 10.02 of this Agreement or as required by law, or to the OEB or any Governmental Authority as required pursuant to the policies, codes, directives or other requirements of the OEB or other Governmental Authority, or as required to fulfil the terms of this Agreement, each Party shall be responsible for any breach of this Agreement by the Party, its Representatives and any person to whom it discloses any Confidential Information or personal information as that term is defined in applicable privacy legislation such as MFIPPA and PIPEDA ("**Personal Information**"). The Parties agree that a Disclosing Party would be irreparably injured by a breach of this Agreement by a Receiving Party or by any person to whom it discloses any Confidential Information or Personal Information and that monetary damages would not be a sufficient remedy. Therefore, in such event, the Disclosing Party shall be entitled to equitable relief, including injunctive relief without proof of actual damages, as well as specific performance. Such remedies shall not be deemed to be exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity.

10.04 RETURN OF CONFIDENTIAL INFORMATION

Subject to Applicable Law, upon completion or termination of this Agreement, or upon ten (10) days written notice from the Disclosing Party requesting return of any or all Confidential Information, the Receiving Party shall forthwith return to the Disclosing Party, without retaining any copies thereof, all such information.

ARTICLE 11 **FORCE MAJEURE**

11.01 FORCE MAJEURE

Except for the payment of any monies required hereunder, neither Party shall be deemed to be in default of this Agreement where the failure to perform or the delay in performing any obligation is due to a cause beyond its reasonable control, including, but not limited to, an act of God, act of any Governmental Authority, civil commotion, acts of terrorism including threatened acts, strikes, lockouts and other labour disputes, fires, floods, sabotage, earthquakes, ice storms, tornado, severe and imminent weather warnings and conditions, and epidemics ("**Force Majeure**").

11.02 NOTICE OF FORCE MAJEURE

Once a Party becomes subject to such an event of Force Majeure, it shall promptly notify the other Party of its inability to perform, or of any delay in performing, due to an event of Force Majeure and shall provide an estimate, as soon as practicable, as to when the obligation will be performed. The Party subject to the Force Majeure event shall also continue to furnish timely reports to the other Party with respect to the Force Majeure event during the continuation of the

said event and the said Party shall exercise all commercially reasonable efforts to mitigate or limit damages to the other Party. The Party subject to the Force Majeure event shall use its commercially reasonable best efforts to continue to perform its obligations under this Agreement and to correct or cure the event or condition excusing performance and when the said Party is able to resume performance of its obligations thereunder, it shall give the other Party written notice to that effect and shall promptly resume performance thereunder. The time for performing the obligation shall be extended for a period equal to the time during which the Party was subject to the event of Force Majeure. The Parties shall explore all commercially reasonable avenues available to avoid or resolve events of Force Majeure in the shortest time possible.

11.03 STRIKES

Notwithstanding the two preceding paragraphs, the settlement of any strike, lockout, restrictive work practice or other labour disturbance constituting a Force Majeure event shall be within the sole discretion of the Party involved in such strike, lockout, restrictive work practice or other labour disturbance and nothing in the two preceding paragraphs shall require the said Party to mitigate or alleviate the effects of such strike, lockout, restrictive work practice or other labour disturbance.

ARTICLE 12

DISPUTE RESOLUTION

12.01 DISPUTES

Any controversy, dispute, difference, question or claim arising between the Parties in connection with the interpretation, performance, construction or implementation of this Agreement that cannot be resolved by a director or manager from each Party (collectively, the “Dispute”), shall be settled in accordance with this Article.

12.02 NOTICE OF DISPUTE

The aggrieved Party shall send the other Party written notice identifying the Dispute, the amount involved, if any, and the remedy sought, and invoking the procedures of this Article. A senior officer with authority to bind WUC as selected by the WUC in its discretion and a senior officer with authority to bind Utilities as selected by Utilities in its discretion, shall confer in an effort to resolve the Dispute. If the Dispute cannot be resolved in accordance with this Section 12.02 within thirty (30) days of the date the Dispute arose, the Dispute shall be resolved by arbitration in accordance with Sections 12.03 and 12.04.

12.03 ARBITRATORS

The Parties shall submit any arbitration under this Article to a single arbitrator agreed upon by both Parties. If the Parties cannot agree upon a single arbitrator within ten (10) days after the Dispute is referred to arbitration, each Party shall within ten (10) more days choose one individual who shall sit on a three-member arbitration panel. The two (2) arbitrators appointed shall name the third arbitrator within ten (10) days or, if they fail to do so within that time period,

either Party may make application to a court of competent jurisdiction for appointment of the third arbitrator. Any arbitrator selected to act under this Agreement shall be qualified by education, training and experience to pass on the particular question in Dispute and shall have no connection to either of the Parties other than acting in previous arbitrations.

12.04 ARBITRATION

The arbitration shall be conducted in accordance with the provisions of the *Arbitration Act, 1991* (Ontario). The arbitration shall be conducted in the City of Windsor, Ontario unless the Parties agree otherwise. The decisions of the arbitrator or arbitration panel shall be made in writing and shall be final and binding on the Parties as to the questions submitted and the Parties shall have no right of appeal therefrom. All costs and expenses relating to a Dispute which is finally determined or settled by arbitration, including reasonable legal fees, will be borne by the Party determined to be liable in respect of such Dispute; provided, however, that if complete liability is not assessed against only one Party, the Parties will share the total costs in proportion to their respective amounts of liability so determined. The Parties agree to keep all details of the arbitration proceeding and the arbitral award strictly confidential. Notwithstanding the provisions to arbitrate any Dispute hereunder, either Party may seek from a court any equitable relief (including, without limitation, injunctive relief) that may be necessary to protect such Party's rights.

ARTICLE 13 **GENERAL**

13.01 CHANGE OF CONTROL

In the event that WUC ceases to serve as a public utility, is no longer a local board of the municipality, and is no longer owned or controlled directly or indirectly by the City or Windsor or Corporation of the City of Windsor, the Parties agree to negotiate diligently and in good faith any amendments to this Agreement necessary or advisable in connection with such event including an early termination.

13.02 ASSIGNMENT

Neither Utilities or WUC shall, without the prior approval of the other Party which shall not be unreasonably withheld, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this section shall be void.

13.03 NOTICES

All notices, requests, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

- (a) if to Utilities:

787 Ouellette Avenue
P.O. Box 1625, Station "A",
Windsor, Ontario N9A 5T7
Attention: Chief Financial Officer

- (b) if to WUC:

4545 Rhodes Drive
P.O. Box 1625, Station "A",
Windsor, Ontario N9A 5T7
Attention: Chief Financial Officer

and shall be delivered to the other Party's address, with the Party sending such notice to telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by registered express mail or courier with the capacity to verify receipt of delivery. Any Party may change its address for notification purposes by giving the other Party notice of the new address and the date upon which it will become effective in accordance with the terms of this Section 13.03. A notice shall be deemed to have been received as of the date of receipt by the Party to whom the notice is addressed.

13.04 SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law.

13.05 WAIVER

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of any other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

13.06 ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement among the Parties with respect to the Managed Services, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as herein set forth.

13.07 AMENDMENTS

No amendment to, or change, waiver or discharge of any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

13.08 GOVERNING LAW

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, excluding their rules governing conflicts of laws. Subject to Article 11, the Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

13.09 SURVIVAL

Section 4.02, Article 5, Article 7, Section 9.03, Article 10, Article 12, Schedule I and this Section 13.09 shall survive the termination of this Agreement and shall remain in full force and effect.

13.10 THIRD PARTY BENEFICIARIES

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

13.11 COVENANT OF FURTHER ASSURANCES

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated hereunder.

SIGNED, SEALED AND DELIVERED

By: Maxwell Zale ✓

Its: Acting General Manager

I have authority to bind the Commission.

By: VICTORIA ZUBOR

Its: VA FINANCE & CFO

I have authority to bind the Corporation.

SCHEDULE A
HUMAN RESOURCES MANAGEMENT AND SUPPORT SERVICES

The following human resources management and support services shall be provided by Utilities Ltd. to WUC in accordance with this Agreement:

- (a) provision, maintenance and administration of management staffing requirements, including:
 - (i) Employee recruitment and selection
 - (ii) Organizational employee training and orientation, excluding WUC provided on-the-job training, first aid training, health & safety, and director approved WUC programs
 - (iii) Employee performance and evaluation
 - (iv) Assisting WUC safety supervisor with compliance matters pursuant to Occupational Health and Safety Act
 - (v) Workplace Safety and Insurance Board filings
 - (vi) Employee termination
 - (vii) Employee retirement
 - (viii) Employee master files
 - (ix) Dispute resolution / arbitration
 - (x) Quality systems (ISO 9001 and Measurements Canada)
- (b) administration of the following management compensation requirements:
 - (i) Salary benchmarking and determination
 - (ii) OMERS Pension Plan
 - (iii) Employee Assistance Program
 - (iv) Employee Benefits Program
- (c) provision, maintenance and administration of unionized staffing requirements, including:
 - (i) Employee recruitment and selection
 - (ii) Organizational employee training and orientation
 - (iii) Employee performance and evaluation
 - (iv) assist Compliance with Occupational Health and Safety Act
 - (v) Workplace Safety and Insurance Board filings
 - (vi) Worksite safety inspections / safety training
 - (vii) Employee termination
 - (viii) Employee retirement
 - (ix) Employee master files
 - (x) Contract interpretation and negotiation
 - (xi) Grievance administration / arbitration
 - (xii) Quality systems (ISO 9001 and Measurements Canada)
- (d) administration of the following unionized employee compensation requirements:
 - (i) Contract administration and negotiation — wage rates
 - (ii) OMERS Pension Plan
 - (iii) Employee Assistance Program

(iv) Employee Benefits Program

- (e) periodic review and evaluation of performance by Utilities under this Agreement [not less than annually], with mandatory input from WUC which input may include WUC's own independent review and evaluation, as to effectiveness of Utilities' senior management group taken as a whole, and the Chief Executive Officer of Utilities in particular, in attaining WUC's established goals and objectives in respect to provision of Managed Services. The review and evaluation shall include co-operative efforts to establish mutually agreed upon goals and objectives for the continuance of Managed Services.

SCHEDULE B
FINANCE AND ACCOUNTING SERVICES

The following finance and accounting services shall be provided by Utilities to WUC in accordance with this Agreement:

- (a) preparation of all financial reports as required, including but not limited to:
 - (i) Annual operating and capital budgets
 - (ii) Monthly reporting package, including monthly and year to date financial statements and variance from budget by category
 - (iii) Special or general purpose reports and analysis as requested
 - (iv) Supporting schedules as required by internal and external auditors
 - (v) Supporting schedules as required to prepare applicable tax, property tax, and other tax filings and returns as may be required by law from time to time
- (b) assistance with our financial needs, including:
 - (i) Cash management
 - (ii) Adequacy and appropriateness of insurance coverage
 - (iii) Processing all daily accounting transactions, including required data entry, payments by due dates and deposits
- (c) administration of periodic management and union payroll, including:
 - (i) Calculation of gross pay and required statutory, contractual, pension, benefit related and miscellaneous deductions per employee, as applicable
 - (ii) Preparation of periodic employee pay stubs and pay cheques / direct deposits
 - (iii) Preparation of periodic remittance forms related to source deductions, Employer Health Tax and Workplace Safety and Insurance Board
 - (iv) Establishment of new employee record on hire
 - (v) Assistance with statutory obligations relating to employee terminations
 - (vi) Payments to all employees
 - (vii) Preparation of all statutory and contractual annual compliance forms including but not limited to, the T4 statement of remuneration reporting forms, the related summary and the Employer Health Tax annual return
- (d) administration of periodic statutory compliance, including:
 - (i) the Federal Goods and Services tax returns and remittances on a monthly basis
 - (ii) Federal and Provincial payments of applicable tax, property tax, and other taxes exigible by law from time to time on a monthly and annual basis, as required

- (iii) funding all payroll related obligations on a periodic basis in conjunction with required compliance deadlines
- (iv) Annual pension and benefit reporting forms, as required
- (v) Provincial Retail Sales Tax compliance and application for exemption, as required

SCHEDULE C
BILLING AND COLLECTION SERVICES

The following billing and collection services shall be provided by Utilities to WUC in accordance with this Agreement:

- (a) Maintenance and periodic updating of all customer master files
- (b) Preparation and distribution of monthly invoices
- (c) Payment in full of amounts received on a monthly basis in respect to billing and collection services on behalf of WUC
- (d) Ensuring rates are in compliance with WUC requirements and any regulating body requirements
- (e) Prepare variance reports
- (f) Advise Directors/Managers of observed inaccurate or questionable readings for further action

SCHEDULE D
PURCHASING AND INVENTORY MANAGED SERVICES

The following purchasing and inventory Managed Services shall be provided by Utilities to WUC in accordance with this Agreement:

- (a) Administration of the purchasing function in conjunction with the existing Purchasing Policy, including the following:
 - (i) Coordinate the procurement of all inventory, non-inventory, purchased services, capital and special needs items
 - (ii) Obtain competitive quotes and select the optimal supplier based on the requirements as indicated on the authorized purchase order
 - (iii) Administer the logistics related to the purchases, including shipping, receiving and expediting as required
 - (iv) Provide draft RFQ as applicable
 - (v) Penalties for expired or late deliveries
- (b) Provision of inventory Managed Services, including the following:
 - (i) Control of purchased items, including receipt, warehousing, release and re-stock as required Monitoring quantities in conjunction with lead times and assistance with requirements planning
 - (ii) Delivery of items from vendor and/or inventory to job sites, as applicable
 - (iii) When required, allocation of items used to the correct project for accounting purposes and processing required adjustments
- (c) Compliance with all industry and statutory requirements as they apply to purchasing and inventory management, including but not limited to annual testing and certification.

SCHEDULE E
FLEET AND SITE MANAGED SERVICES

The following fleet and site Managed Services shall be provided by Utilities to WUC in accordance with this Agreement:

- (a) Assistance with requirements planning
- (b) Provision of all vehicles and equipment as required to operate
- (c) Assistance in management of WUC owned/controlled sites, and provision and management of additional facilities as may be necessary from time to time to meet WUC operations requirements [eg. Meter Shop located at Rhodes Drive facility] and as necessary to support the Managed Services being provided
- (d) Provide after hours Fueling service for WUC vehicles
- (e) Provide inside parking for WUC vehicles and allocate space as required

SCHEDULE F
INFORMATION SERVICES

The following information services shall be provided by Utilities to WUC in accordance with this Agreement:

- (a) Assistance with all purchase decisions related to computer hardware and software in conjunction with the Schedule D
- (b) Installation of all required software updates and upgrades, as required;
- (c) Assistance with respect to all licensing issues regarding hardware and software, except for software and hardware excluded by mutual agreement;
- (d) Coordination of user training, as required
- (e) Provision of a "Help Desk" available for desktop management and trouble shooting during normal business
- (f) Provision and monitoring of WUC Internet policy
- (g) Security, storage and safekeeping of all electronic data
- (h) Application research related new applicable technology and capacity management
- (i) Provision and monitoring of services arising out of privacy and access legislation, including the Municipal Freedom of Information and Protection of Privacy Act to the extent and subject to any conditions as may be delegated by WUC to EnWin or any officer of EnWin from time to time, and arising out of WUC's Privacy Policy, including supervision and assistance regarding WUC compliance with all applicable privacy legislation
- (j) Provision of and assistance with phone system including use of 255-2727 number and use for WUC purposes of 311 System [ownership and licencing rights of both foregoing held by Utilities] including securing of all necessary hardware, software, licencing, and also including training of staff, and ongoing monitoring of system.
- (k) Provide assistance in running queries requested by WUC efficiently

SCHEDULE G
TECHNICAL AND CUSTOMER SERVICES

The following technical and customer services shall be provided by Utilities to WUC in accordance with this Agreement:

- (a) Provision of a call center to accept, log and monitor responses to external requests for service work
- (b) When required, assistance with aspects of Development Servicing, including:
 - (i) Discussions with developers and their representatives to ensure preliminary engineering plans are in compliance with existing municipal codes and standards
 - (ii) Negotiations with developers and their representatives with respect to required or requested changes to the agreements
 - (iii) Approval of final designs
 - (iv) Ensuring that adequate securities are in place
- (c) Provision of meter testing, repair and accreditation services in compliance with all statutory requirements, as requested
- (d) Provision of meter reading services, including periodic and single purpose reads, as required
- (e) To the extent required, control over accuracy and integrity of meter data as it relates to billing, settlement, water management and planning, and provision of general and special purpose reports, as required
- (f) To the extent required, Control over accuracy and integrity of account master files, including processing required changes and updates for names, addresses, meter specific information and deposits held on account (where applicable)
- (g) Monitor the development of and updates to the company website, and assist in the development and implementation of electronic commerce and external communication strategies
- (h) Assist and perform to the extent required, services related to water testing
- (i) Accept other methods of payment for customers/contractors
- (j) Advise WUC of observed inaccuracies in billing/reading data.

SCHEDULE H
OTHER SERVICES

The following services shall be provided by Utilities Ltd. to WUC in accordance with this Agreement:

- (a) Additional Services
 - (i) Sorting and delivering all incoming mail and coordinating the posting and processing of outgoing mail
 - (ii) Forms management, including design as required
 - (iii) Control over office supplies inventory, including disbursements to all areas
 - (iv) Supply of Records Management System, providing for coding, tracking, storage, retention and purging in compliance with all governmental standards and requirements
 - (v) Coordinate communication with the Board of Directors and shareholder, as required
 - (vi) Coordinate communication with outside legal counsel on general corporate issues, as required
 - (vii) Provide corporate secretary and official witness services, as required
 - (viii) Freedom of Information coordinator, as required
 - (ix) Provide President & CEO (General Manager), COO, CFO, and other executive level management as required;
 - (x) Provision of all other Senior Management Personnel as may be required by WUC from time to time to perform, Administrative, and Operational Services, including Director of Engineering, Director of Operations Infrastructure, Director Water Production, Chief Engineer, and other engineering management as required
- (b) Assist with Water Management Related Services including as required
 - (i) Arranging and coordinating Water Engineering Services
 - (ii) Arranging and coordinating Water Lab Services
 - (iii) Arranging and coordinating Water Metering Services
 - (iv) Arranging and coordinating Training Services

SCHEDULE I
FEES

EFFECTIVE AS AT JANUARY 1, 2007

Fees for the services as described in the Agreement shall be calculated based upon Utilities' cost of providing the Managed Services (using the KPMG Cost Allocation Methodology) plus such other return on assets/capital or otherwise permitted in the OEB's Affiliate Relationships Code.

The monthly fee to be paid WUC to Utilities until otherwise mutually agreed shall be \$700,000.00 (plus all applicable taxes), being approximately one-twelfth (1/12) of the annual estimated amounts as follows:

Item	Annual Estimated Amount
Administration	\$1,852,424.00
Corporate Communications	97,547.00
Customer Service and Billing	972,008.00
Employee Future Benefits	742,885.00
Finance	451,002.00
Fleet Management	500,414.00
Human Resources	317,750.00
Information Technology Support	1,244,695.00
Meter Reading	563,019.00
Purchasing and Inventory Management	169,355.00
Site Services	367,308.00
Operating Costs	\$7,278,407.00
Depreciation and Interest	314,316.00
Return on Assets	668,915.00
CIS Asset Charge	296,976.00
Total MSA Fees for 2007	\$8,558,614.00
Notes	
Amounts shown are based on EnWin Utilities Ltd.'s 2007 approved budget and are subject to change based on the actual financial results on EnWin Utilities Ltd. in 2007.	
Amounts shown only represent fees for Managed Services to be charged to WUC.	

Within two months after the end of each calendar year the monthly fee paid by WUC shall be reconciled with the actual costs of Utilities providing the Managed Services in that calendar year. Any adjustments arising out of such reconciliation will be paid by the Party owing such adjustment within thirty days after such reconciliation has been completed. Such reconciliations shall be performed by the Auditors of Utilities, and at the request of WUC verified by the Auditors of WUC.

