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October 18, 2011

Delivered by Email and Courier

Ms. Kristen Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
PO Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: PORT COLBORNE HYDRO INC. - SECTION 86 MAADs APPLICATION
SALE OF DISTRIBUTION ASSETS TO CANADIAN NIAGARA POWER INC.**

We are counsel to Port Colborne Hydro Inc. ("PCHI") and the City of Port Colborne. Pursuant to Section 86 of the *Ontario Energy Board Act, 1998* (the "OEB Act"), PCHI attaches the enclosed MAADs application (the "MAADs Application") for leave to sell its existing distribution system in its entirety to Canadian Niagara Power Inc. ("CNPI"). Accompanying the MAADs Application is a Notice of Proposal by CNPI made pursuant to Section 81 of the OEB Act (the "Notice of Proposal").

Background to the MAADs Application:

On July 19, 2001, CNPI and PCHI entered into an agreement whereby CNPI would lease the distribution assets of PCHI for ten years and CNPI would operate PCHI's electricity distribution facilities within the City of Port Colborne. On April 12, 2002, the Ontario Energy Board (the "Board") issued a Decision and Order approving the lease arrangement (OEB File No.: RP-2001-0041). The lease was implemented on April 15, 2002 and in effect until April 15, 2012. At the end of the lease, CNPI has the option to purchase the assets included in the lease and assume complete ownership and operation of the existing distribution system in Port Colborne. After successfully operating PCHI's distribution system in Port Colborne since 2002, CNPI has

advised PCHI that it wishes to exercise its option to purchase the assets included in the lease and continue serving distribution customers in Port Colborne.

The "No Harm" Test:

PCHI submits that the proposed transaction satisfies the Board's "no harm" test for the following reasons:

- i) the transfer of the distribution assets will have no adverse operational impacts (i.e., service quality and reliability will not be adversely affected); and
- ii) the transfer of the distribution assets will be rate neutral.

Each of these reasons is discussed below.

i) No Adverse Operational Impacts:

As mentioned above CNPI has been operating PCHI's distribution system since 2002. At the onset of the lease, PCHI had a defined workforce of 20 employees. Upon execution of the lease, CNPI had the skills and resources available to immediately take the necessary steps to ensure PCHI was prepared for the Ontario's new electricity market, had the proper customer service systems and infrastructure in place, and to begin the engineering required to address the most immediate technical issues related to the distribution system. This was accomplished effectively and today CNPI operates the Port Colborne service territory with a full time equivalent employee workforce of 20.14 employees; essentially at the same level as was in place in 2001.

Today, CNPI provides the full range of administration, customer service, engineering and operations and all support staff functions. Further, the distribution system in Port Colborne has been steadily integrated into the CNPI SCADA system and more recently, smart meter and time-of-use billing implementation is nearly complete.

CNPI has invested in the necessary capital projects required to maintain the system integrity and high quality customer service. Of the more notable were the immediate installation of a new submarine cables and the replacement of the Elm Street and the Wilhelm Substations. Over the term of the lease, CNPI continued with the prudent investment required to maintain system integrity and provide reliable service. CNPI advises that in 2012 it intends to replace aging

switchgear at the Barrick Street Substation, continue to expand its SCADA system capabilities and deploy intelligent protective switching devices in the distribution system. Public and employee safety concerns continue to be addressed with the continued replacement of the existing Poletran style of underground residential transformation.

Clearly, from an operational perspective, the proposed transaction poses no harm to PCHI's customers, as CNPI has improved upon PCHI's distribution since 2002 and it expects CNPI will continue to do so going forward.

ii) Rate Neutrality:

The proposed transaction will be rate neutral. All transaction costs will be borne by the parties, and at CNPI's next cost of service rate application, CNPI will only seek approval to include the net book value of the transferred assets in its rate base. CNPI – Port Colborne rebased in 2009 (EB-2008-0224). CNPI - Port Colborne's next cost of service distribution rate application will be for rates effective in 2013. In terms of anticipated impacts on future Port Colborne distribution rates, beyond the projects described above, CNPI advises that it does not foresee any additional major new capital expenditures for Port Colborne in the near or mid-term given the investments it has already made over the past decade. CNPI advises that contemplated future expenditures focus largely on sustainment investments so CNPI's expectation is that associated distribution rate increases, if any, will be modest.

Maintaining Port Colborne Hydro's Distribution Licence

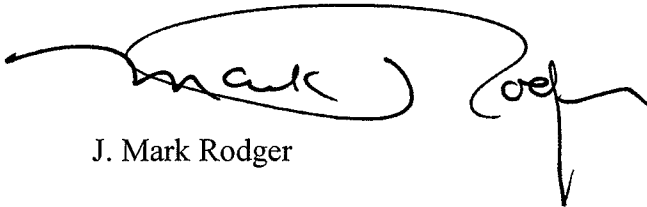
Since the time the lease arrangement became effective in 2001 there have been various legislative and regulatory changes which have expanded the scope of opportunities licensed distributors can pursue (for example, the ability of distributors to now incorporate certain street lighting infrastructure as regulated distribution assets). Accordingly, Port Colborne Hydro will maintain its distribution licence after the lease transaction has expired in order to consider these new opportunities for the benefit of the City of Port Colborne and its taxpayers and ratepayers.

Conclusion:

CNPI and PCHI have maintained an excellent working relationship throughout the period of the lease and the parties fully expect this cooperation to continue into the future. Approval of the Application will facilitate the continued improvement and allow CNPI to deliver a high level of customer service and distribute reliable and safe electricity to Port Colborne consumers.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink, appearing to read "mark rodger", with a large loop at the end.

J. Mark Rodger

JMR/ld

Encl.

copy to:

Vance M. Badawey, Mayor of Port Colborne
Leonard Hunt, Chairman, Port Colborne Hydro Inc.
Douglas Bradbury, CNPI

TOR01: 4725882: v5

Application form for Applications under Section 86 of the *Ontario Energy Board Act, 1998*



PART I: GENERAL INFORMATION

1.1 Nature of Application

1.1.1 Application Type

- ☒ For leave for a transmitter or distributor to sell, lease or otherwise dispose of its transmission or distribution system as an entirety or substantially as an entirety (section 86(1)(a))
- ☐ For leave for a transmitter or distributor to sell, lease or otherwise dispose of that part of its transmission or distribution system that is necessary in serving the public (section 86(1)(b))
- ☐ For leave for a transmitter or distributor to amalgamate with any other corporation (section 86(1)(c))
- ☐ For leave for a person to acquire voting securities that will exceed 20% of a distributor or transmitter (section 86(2)(a))
- ☐ For leave for a person to acquire control of a company that holds more than 20% of the voting securities of a transmitter or distributor if such voting securities constitute a significant asset of the corporation (section 86(2)(b))

1.1.2 Notice under section 80 or 81 of the Act

Is a notice of proposal required under section 80 or 81 of the Act?

- ☒ Yes
- ☐ No

If yes, the applicant must also file a completed "Preliminary Filing Requirements for a Notice of Proposal Under Sections 80 and 81 of the *Ontario Energy Board Act, 1998*" with the Board.

A Notice of Proposal by Canadian Niagara Power Inc. ("CNPI") made pursuant to Section 81 of the *Ontario Energy Board Act, 1998* has been filed in conjunction with this MAADs application.

Application form for Applications under Section 86 of the *Ontario Energy Board Act, 1998***1.2 Identification of the Parties****1.2.1 Name of Applicant**Legal name of the applicant: **Port Colborne Hydro Inc.**

Name of Primary Contact:

Mr.	<input checked="" type="checkbox"/>	Mrs.	<input type="checkbox"/>	Last Name	First Name	Initial
Miss	<input type="checkbox"/>	Ms.	<input type="checkbox"/>	Hunt	Leonard	
Other	<input type="checkbox"/>					
				Title/Position		
				Chairman		

Address of Head Office:

c/o the City of Port Colborne
66 Charlotte Street

City	Province/State	Country	Postal/Zip Code
Port Colborne	Ontario	Canada	L3K 3C8
Phone Number	Fax Number	E-mail Address	

1.2.2 Other Party to the Transaction (if more than one attach a list)Name of the other party: **The Corporation of the City of Port Colborne**

The Corporation of the City of Port Colborne has been listed as an "other party to the transaction" because it was a party to the original lease agreement executed in 2002 ("Lease Agreement").

Name of Primary Contact:

Mr.	<input checked="" type="checkbox"/>	Mrs.	<input type="checkbox"/>	Last Name	First Name	Initial
Miss	<input type="checkbox"/>	Ms.	<input type="checkbox"/>	Heil	Robert	
Other	<input type="checkbox"/>					
				Title/Position		
				Chief Administrative Officer		

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Address of Head Office:

c/o the City of Port Colborne
66 Charlotte Street

City

Port Colborne

Province/State

Ontario

Country

Canada

Postal/Zip Code

L3K 3C8

Phone Number

Fax Number

E-mail Address

Name of the other party: **Port Colborne Energy Inc.**

Port Colborne Energy Inc. is the sole shareholder of Port Colborne Hydro Inc. Port Colborne Energy Inc. is wholly-owned by the Corporation of the City of Port Colborne.

Name of Primary Contact:

Mr.
Miss
Other☒
☐
☐Mrs.
Ms.☐
☐

Last Name

Heil

First Name

Robert

Initial

Title/Position

General Manager

Address of Head Office:

c/o the City of Port Colborne
66 Charlotte Street

City

Port Colborne

Province/State

Ontario

Country

Canada

Postal/Zip Code

L3K 3C8

Phone Number

Fax Number

E-mail Address

Application form for Applications under Section 86 of the Ontario Energy Board Act, 1998Name of the other party: **Canadian Niagara Power Inc.**

Name of Primary Contact:

Mr.	<input checked="" type="checkbox"/>	Mrs.	<input type="checkbox"/>	Last Name	First Name	Initial
Miss	<input type="checkbox"/>	Ms.	<input type="checkbox"/>	Bradbury	Douglas	R
Other	<input type="checkbox"/>					
				Title/Position		
				Director Regulatory Affairs		

Address of Head Office:

1130 Bertie Street
P.O. Box 1218

City
Fort Erie

Province/State
Ontario

Country
Canada

Postal/Zip Code
L2A 5Y2

Phone Number
(905) 871-0330

Fax Number
(905) 871-8676

E-mail Address

Name of the other party: **FortisOntario**

FortisOntario has been listed as an "other party to the transaction" because it is the sole shareholder of Canadian Niagara Power Inc. and is a party to the Lease Agreement as guarantor of Canadian Niagara Power Inc.

Name of Primary Contact:

Mr.	<input checked="" type="checkbox"/>	Mrs.	<input type="checkbox"/>	Last Name	First Name	Initial
Miss	<input type="checkbox"/>	Ms.	<input type="checkbox"/>	Bradbury	Douglas	R
Other	<input type="checkbox"/>					
				Title/Position		
				Director Regulatory Affairs		

Application form for Applications under Section 86 of the *Ontario Energy Board Act, 1998*

Address of Head Office:

1130 Bertie Street
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Canada

Postal/Zip Code

L2A 5Y2

Phone Number

(905) 871-0330

Fax Number

(905) 871-8676

E-mail Address

1.3 Description of the Business of Each of the Parties

- 1.3.1 Please provide a description of the business of each of the parties to the proposed transaction, including each of their affiliates engaged in, or providing goods or services to anyone engaged in, the generation, transmission, distribution or retailing of electricity ("Electricity Sector Affiliates").

Port Colborne Hydro Inc./City of Port Colborne

On January 31, 2000 the City of Port Colborne (the "City") passed a transfer by-law that transferred the employees, assets, liabilities, rights and obligations of the Port Colborne Hydro Electric Commission ("Port Colborne HEC") to Port Colborne Hydro Inc. ("PC Hydro"), effective March 1, 2000. PC Hydro was incorporated under the *Business Corporations Act* (Ontario) ("OBCA") in accordance with section 142 of the *Electricity Act, 1998*, as the corporate successor to the Port Colborne HEC. A copy of the transfer by-law is provided in Attachment 1.3.1A. By virtue of this transfer by-law, PC Hydro owns and is responsible for the operation, maintenance and management of the assets associated with the distribution of electrical power and energy within its service territory, as specified in Distribution Licence ED-2003-0042 (a copy of which is provided in Attachment 1.3.1B). PC Hydro owns property rights for the purposes of operating and maintaining the distribution facilities.

Effective January 13, 2003, the City's shares in PC Hydro were transferred to Port Colborne Energy Inc., the sole shareholder of PC Hydro as of the date of this application (a copy of the transfer by-law is attached as Attachment 1.3.1C). Port Colborne Energy Inc. is wholly-owned by the City.

FortisOntario Inc. ("FortisOntario")

Application form for Applications under Section 86 of the Ontario Energy Board Act, 1998

FortisOntario, which is headquartered in Fort Erie, Ontario, is a licenced owner and operator of generation, transmission and distribution businesses in the province of Ontario. FortisOntario is the Ontario-based subsidiary of Fortis Inc., which is the largest investor-owned distribution utility in Canada. With total assets exceeding \$12 billion and annual revenues exceeding \$3.9 billion, Fortis Inc. serves almost 2,000,000 gas and electricity consumers. Its regulated holdings include a natural gas distribution utility in British Columbia, and electric distribution utilities in five Canadian provinces and two Caribbean countries. Fortis Inc. owns non-regulated hydroelectric generation assets in Newfoundland and Labrador, Ontario, British Columbia, Belize and New York State. Fortis Inc. is a publicly-traded company listed on the TSX (Ticker Symbol: FTS).

Founded in 1892, FortisOntario began generating electricity in 1905 from its Rankine Generating Station located on the Canadian side of the Niagara River, and subsequently began distributing electricity to the Town of Fort Erie in 1907. FortisOntario ceased operation of the Rankine Generating Station on April 30, 2009. Most of FortisOntario's remaining generation assets have been transferred to Fortis Properties Corporation. The exception to this is a 5.5 MW cogeneration district heating plant located in Cornwall, Ontario. This facility is an embedded generator selling district heating to local customers, and electricity to Cornwall Street Railway, Light and Power Company Limited and is licenced by the OEB EG-2003-0107. FortisOntario's electricity transmission and distribution businesses are carried on through three subsidiaries – Algoma Power Inc., Cornwall Street Railway, Light and Power Company Limited and Canadian Niagara Power Inc.

FortisOntario also holds a ten percent (10%) interest in Westario Power Inc. (a 21,000 customer electricity distributor located in mid-western Ontario), Rideau St. Lawrence Holdings Inc. (a 6,000 customer electricity distributor located in southeastern Ontario), and Grimsby Power Inc. (a 10,000 customer electricity distributor located in the Niagara region of Ontario).

Canadian Niagara Power Inc. ("CNPI")

FortisOntario owns CNPI, which serves over 27,000 electricity distribution customers in Fort Erie, Port Colborne and Gananoque. CNPI is also a licenced electricity transmission company (ET-2003-0073). Its transmission system is interconnected with Hydro One Networks Inc. in Niagara Falls, Ontario and provides service in and around the area of Fort Erie, Ontario. The transmission system is also

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interconnected, through an emergency tie line, with the transmission system owned and operated by US National Grid in New York State.

With respect to its distribution business, CNPI owns the electricity distribution systems for the service areas of Fort Erie and Gananoque. The electricity distribution system for the service area of Port Colborne is leased by CNPI from PC Hydro. CNPI – Gananoque serves over 3,000 customers, CNPI – Fort Erie serves over 15,000 customers, and CNPI – Port Colborne serves over 9,000 customers. The specific service areas are set out in CNPI's Electricity Distribution Licence ED-2002-0572 which is provided in Attachment 1.3.1 D.

Fortis Properties Corporation ("FPC")

FPC owns and operates six hydroelectric generating stations: five located on the Rideau Canal system in eastern Ontario with combined capacity of 5.6 MW (embedded generators for CNPI), and a 2 MW hydroelectric generating station located at Rideau Falls in Ottawa. These stations are licensed by the OEB (EG-2003-0106).

Cornwall Street Railway, Light and Power Company Limited ("Cornwall Electric")

FortisOntario owns Cornwall Electric, which serves over 23,000 electricity distribution customers in Cornwall, Ontario. Cornwall Electric is not connected to the IESO-controlled grid. The specific service area is set out in Cornwall Electric's Electricity Distribution Licence ED-2004-0405.

Algoma Power Inc. ("API")

FortisOntario owns API, which serves over 11,500 electricity distribution customers in an area of more than 14,200 square kilometres in a remote area of Northern Ontario, north and east of the City of Sault Ste. Marie. The specific service area is set out in API's Electricity Distribution Licence ED-2009-0072.

- 1.3.2 Please provide a description of the geographic territory served by each of the parties to the proposed transaction, including each of their Electricity Sector Affiliates, if applicable.

Port Colborne Hydro Inc.

PC Hydro serves the geographical territory of the City of Port Colborne, as is defined in its Distribution

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Licence as the City of Port Colborne as of December 31, 1990 as per Regional Municipality of Niagara Act R.S.O. 1990. This is evidenced in Distribution Licence ED-2003-0042 (Attachment 1.3.1B).

Subsequent to the OEB's approval of CNPI's lease of the PC Hydro distribution system; RP-2001-0041, CNPI has operated and maintained the PC Hydro electricity distribution system and, in accordance with the Lease Agreement, CNPI owns the capital assets it invested in PC Hydro's distribution system .

CNPI

As a distributor, CNPI serves the geographic territory of the Town of Fort Erie, the City of Port Colborne and the Eastern Ontario Power service territory primarily situated in the Town of Gananoque. This is evidenced in Distribution Licence ED-2002-0572 (Attachment 1.3.1D). The geographic service territory of CNPI in Fort Erie is contiguous with the geographical service territory of PC Hydro.

As a Transmitter, CNPI owns, operates and maintains certain transmission facilities in Niagara Falls, Ontario and Fort Erie as specified in its Transmitter Licence, ET-2003-0073.

Cornwall Electric

Cornwall Electric serves the geographic territory of the City of Cornwall, the Ontario portion of the Mohawk Territory of Akwesasne, the Township of South Stormont and the Township of South Glengarry, more specifically described in its Distribution Licence, ED-2004-0405.

API

API serves a vast geographic territory of more than 14,200 square kilometres in a remote area of Northern Ontario, north and east of the City of Sault Ste. Marie. The specific service area is set out in API's Electricity Distribution Licence ED-2009-0072.

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- 1.3.3 Please provide a description of the customers, including the number of customers in each class, served by each of the parties to the proposed transaction.

Port Colborne Hydro Inc. (operated and maintained by Canadian Niagara Power Inc.)

PC Hydro's distribution system serves approximately 9,200 residential, commercial and industrial customers in the City of Port Colborne. As a result of the Lease Agreement, CNPI currently operates and maintains the PC Hydro distribution system. The City of Port Colborne has a population of approximately 19,000. The following service classifications are included in CNPI – Port Colborne's Tariff of Rates and Charges, EB-2010-0069.

Residential

The Residential Class (Regular) refers to a service taking electricity normally at 750 volts or less where the electricity is used for domestic and household purposes in a single family unit. A single family unit being a permanent structure located on a single parcel of land and approved by a civic authority as a dwelling and occupied for that purpose by a single customer.

Residential rates are also applied to apartment buildings with 6 units or less that are bulk metered. Apartment buildings with more than 6 units that are bulk metered are deemed to be General Service.

General Service Less Than 50 kW

This classification refers to the supply of electrical energy to single commercial or industrial customer and whose average peak demand is (or is forecasted to be) less than 50 kW. Single commercial or industrial customers are interpreted as a structure or structures on a single parcel of land occupied by one customer. An apartment building with more than 6 units that is bulk metered and has an average peak demand less than 50 kW is deemed to be General Service less than 50 kW. The common area of a separately metered apartment building having a demand less than 50 kW is also deemed to be General Service less than 50 kW.

General Service 50 to 4,999 kW

This classification refers to the supply of electrical energy to single commercial or industrial customer and whose average peak demand is (or is forecasted to be) equal to or greater than 50 kW but less

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than 5000 kW. Single commercial or industrial customers are interpreted as a structure or structures on a single parcel of land occupied by one customer.

Unmetered Scattered Load

This classification refers to the supply of electrical service to a customer that is deemed to have a constant load over a billing period, normally with minimum electrical consumption and the consumption is unmetered. Energy consumption is based on connected wattage and calculated hours of use. Examples of unmetered scattered load are cable television amplifiers, billboards, area lighting.

Standby Power

The Standby subclass charge is applied to a customer with load displacement facilities behind its meter but is dependent on Canadian Niagara Power Inc. to supply a minimum amount of electricity in the event the customer's own facilities are out of service. The minimum amount of supply that Canadian Niagara Power Inc. must supply is a contracted amount agreed upon between the customer and Canadian Niagara Power Inc.

Sentinel Lighting

This classification refers to all services required to supply sentinel lighting equipment.

Street Lighting

This classification refers to the supply of electrical service for roadway lighting. Energy consumption is based on connected wattage and calculated hours of use. Customers are usually a Municipality, Region or the Ministry of Transportation.

microFIT Generator

This classification applies to an electricity generation facility contracted under the Ontario Power Authority's microFIT program and connected to the distributor's distribution system. Further servicing details are available in the distributor's Conditions of Service.

The number of customers / connections for each of these service classifications as of December 2010

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follows:

Residential	8,151
General Service Less Than 50 kW	937
General Service 50 to 4,999 kW	81
Unmetered Scattered Load	14
Standby Power	2 (These are a subset of General Service 50 to 4,999 kW)
Sentinel Lighting (connections)	38
Street Lighting (connections)	1996
microFIT Generator	3

CNPI – Fort Erie

CNPI serves approximately 15,600 residential, commercial, and industrial customers in the Town of Fort Erie. The Town of Fort Erie has a population of approximately 30,000. The CNPI-Fort Erie service classifications are included in its Tariff of Rates and Charges, EB-2010-0070 (please refer to above for description of services).

The number of customers / connections for each of the service classifications as of December 2010 are as follows:

Residential	14,278
General Service Less Than 50 kW	1,232
General Service 50 to 4,999 kW	125
Unmetered Scattered Load	19
Sentinel Lighting (connections)	961
Street Lighting (connections)	2,127
microFIT Generator	4

CNPI – Gananoque

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CNPI serves approximately 3,600 residential, commercial, and industrial customers in the Town of Gananoque. The Town of Gananoque has a population of approximately 5,300. The CNPI - Gananoque service classifications are included in its Tariff of Rates and Charges, EB-2010-0071 (please refer to above for description of services).

The number of customers / connections for each of the service classifications as of December 2010 are as follows:

Residential	3,100
General Service Less Than 50 kW	438
General Service 50 to 4,999 kW	23
Unmetered Scattered Load	6
Sentinel Lighting (connections)	69
Street Lighting (connections)	532
microFIT Generator	1

- 1.3.4 Please provide a description of the proposed geographic service area of each of the parties after completion of the proposed transaction.

CNPI's service territory, as described in its current Distribution Licence, includes the Town of Fort Erie, the Town of Gananoque and the City of Port Colborne. Therefore, the proposed transaction will not affect CNPI's geographic service area.

As described in the attached cover letter, PC Hydro intends to maintain its electricity distribution licence after the lease transaction has expired in order to consider future opportunities for the benefit of the City of Port Colborne and its ratepayers, such as the ability for distributors to now incorporate certain street lighting infrastructure as regulated distribution assets.

- 1.3.5 Please attach a corporate chart describing the relationship between each of the parties to the proposed transaction and each of their respective affiliates.

Please refer to Attachment 1.3.5 for copies of the corporate organizational charts for CNPI and PC Hydro.

Application form for Applications under Section 86 of the *Ontario Energy Board Act, 1998***1.4 Description of the Proposed Transaction****1.4.1 Please provide a detailed description of the proposed transaction.**

On July 19, 2001 PC Hydro as Lessor and CNPI as Lessee executed the Lease Agreement and the Master Implementation Agreement (collectively the "Agreements") to lease PC Hydro's distribution system to CNPI for the purposes of distributing electricity in the Port Colborne area. Under the Agreements, CNPI agreed to pay PC Hydro over a ten year lease term, subject to certain adjustments at closing, monthly lease payments of approximately \$127,350 per month. In exchange, CNPI received all revenues from the distribution system pursuant to the terms of the Agreements.

Under the Lease Agreement, CNPI was provided with the option to purchase the distribution system of PC Hydro at the end of the lease term for the purchase price of \$6,900,000, an amount equal to the fair market value of the distribution system at the time as agreed to by the parties. The Expiration Date under the Lease Agreement is April 15, 2012.

On August 20, 2001, the City, PC Hydro, CNPI and FortisOntario (the "Applicants") filed an application (the "Original Application") with the OEB, under section 86(1) of the *Ontario Energy Board Act, 1998*. In the Original Application, PC Hydro sought an order from the OEB granting leave for PC Hydro to lease to CNPI its distribution system assets, pursuant to the terms of the Agreements. On April 12, 2002, the OEB released its Decision in which it granted leave for PC Hydro to lease its assets as provided for in the Agreements. However, the Decision explicitly noted that it did not include approval of the final disposition of the electricity distribution assets under the Lease Agreement (i.e. the subject of this MAADs application).

CNPI and PC Hydro obtained an advanced tax ruling from the Ministry of Finance in 2002 confirming that the leasing transaction did not result in a transfer of property for the purposes of applying the transfer tax described under s.94(1) of the *Electricity Act, 1998*. However, the end of term purchase and transfer of leased assets will be subject to transfer tax which will be payable on the fair market value of the distribution system.

On April 8, 2011, CNPI provided PC Hydro with written notice of its election to exercise its purchase option under the Lease Agreement. Consequently, PC Hydro is applying to the OEB for approval of

Application form for Applications under Section 86 of the *Ontario Energy Board Act, 1998*



the disposition of its electricity distribution assets to CNPI.

- 1.4.2 Please provide the details of the consideration (e.g. cash, assets, shares) to be given and received by each of the parties to the proposed transaction.

Pursuant to the Lease Agreement, CNPI will purchase PC Hydro's distribution system assets for a fixed price of \$6,900,000.

- 1.4.3 Please attach the financial statements (including balance sheet, income statement, and cash flow statement) of the parties to the proposed transaction for the past two most recent years.

Please refer to Attachment 1.4.3A and 1.4.3B for a copy of the financial statements for the past two most recent years for PC Hydro and CNPI, respectively.

- 1.4.4 Please attach the pro forma financial statements for each of the parties (or if amalgamation, the one party) for the first full year following the completion of the proposed transaction.

Please refer to Attachment 1.8.5A for a copy of the pro form financial statements for CNPI, and Attachment 1.8.5B for a copy of the pro forma financial statements for PC Hydro for the year ended December 31, 2012, with comparable balances for December 31, 2011.

1.5 Documentation

- 1.5.1 Please provide copies of all annual reports, proxy circulars, prospectuses or other information filed with securities commissions or similar authorities or sent to shareholders for each of the parties to the proposed transaction and their affiliates within the past 2 years.

To date, neither party or their affiliates has publicly filed annual reports, proxy circulars, prospectuses or other information with securities commissions or similar authorities.

PC Hydro's Chairman's Report to the Annual General Meeting for the past 2 years are attached to this application as Attachment 1.5.1A.

- 1.5.2 Please list all legal documents (including those currently in draft form if not yet executed) to be used to implement the proposed transaction.

Attached please find:

- 1) A copy of the Lease Agreement, executed on July 19, 2001 by PC Hydro as Lessor, the City of Port Colborne as Shareholder of the Lessor, CNPI as Lessee and FortisOntario as the Lessee Guarantor

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as Attachment 1.5.2A, and

2) A Bill of Sale to be executed upon sale as Attachment 1.5.2B; and

3) Deeds conveying real property and other instruments of conveyance for the various assets comprising the transferred business to be finalized upon close of the option to purchase, as Attachment 1.5.2C.

- 1.5.3 Please list all Board issued licences held by the parties and confirm that the parties will be in compliance with all licence, code and rule requirements both before and after the proposed transaction. If any of the parties will not be in compliance with all applicable licences, codes and rules after completion of the proposed transaction, please explain the reasons for such non-compliance. (Note: any application for an exemption from a provision of a rule or code is subject to a separate application process.)

PC Hydro and CNPI have Distribution Licences valid until November 5, 2023 (ED-2003-0042 and ED-2002-0572, respectively). To the best of their knowledge, all parties are currently in compliance with all licence and code requirements. It is expected that following the completion of this transaction, PC Hydro and CNPI will be fully compliant with all applicable licences and codes.

1.6 Consumer Protection

- 1.6.1 Please explain whether the proposed transaction will cause a change of control of any of the transmission or distribution system assets, at any time, during or by the end of the transaction.

Since the execution of the Lease in July 2001 CNPI has operated and managed the electricity distribution system in Port Colborne. From this aspect, there will be no change in the operations of the distribution assets.

During the term of the lease CNPI is obligated to liaise with City officials. Upon termination of the lease this obligation ends. Nevertheless, CNPI will continue to liaise with its stakeholders in Port Colborne in a prudent manner in its capacity as a licenced distributor for the service territory.

- 1.6.2 Please indicate the impact the proposed transaction will have on consumers with respect to prices and the adequacy, reliability and quality of electricity service.

CNPI has filed complete cost of service applications for its operations in Port Colborne ("CNPI – PC") with the OEB in September 2005, the 2006 EDR, and in August 2008, the 2009 EDR, and has filed IRM applications for 2007, 2008, 2010 and 2011. In each application, CNPI – PC has fully complied

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with the Board orders and decisions and any direction contained therein.

During the respective regulatory reviews of these applications, CNPI has demonstrated prudent maintenance of reliability and quality of electricity service. Following termination of the lease CNPI will continue with its prudent investment in the electricity distribution system and continue to present evidence to the Board in the form mandated. Therefore, the proposed transaction will not adversely impact consumers with respect to prices and adequacy of reliability and quality of electricity service.

- 1.6.3 Please describe the steps, including details of any capital expenditure plans, that will be taken to ensure that operational safety and system integrity are maintained after completion of the proposed transaction.

CNPI has operated and managed the electricity distribution system in Port Colborne since April 2002. CNPI provides the full range of administration, customer service, engineering and operations and all ancillary staff functions. CNPI has invested in the necessary capital projects required to maintain the system integrity and quality customer service. Further, the distribution system in Port Colborne has been steadily integrated into the CNPI SCADA system and more recently, smart meter and time-of-use billing implementation is nearly complete.

During the respective regulatory reviews of 2006 EDR, EB-2005-0345, and the 2009 EDR, EB-2008-0224, CNPI has demonstrated prudent capital investment together with well administered operation, maintenance and administration. Following acquisition of the remaining assets, CNPI will continue with its prudent capital investment in and operation of the electricity distribution system and continue to present evidence to the Board in the form mandated.

CNPI has invested in the necessary capital projects required to maintain the system integrity and quality customer service. This includes successful integration into the electricity market in May 2002, and the introduction of a customer service and back office systems. The more salient capital investments in the distribution system include the immediate installation of a new submarine cable crossing of the Welland Canal and the replacement of the Elm Street Substation. Earlier failure of aging submarine cables resulted in protracted outages in the time preceding the lease, CNPI immediately addressed this with the installation of a new 27.6 kV cable installation. At the time of the

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lease the Elm Street Substation was identified as being at end-of-life and represented both a safety concern as well as a reliability concern. CNPI undertook engineering to replace the substation and the new Fieldan Street Station was commissioned in 2004.

Over the period of the lease, CNPI has continued with the prudent investment required to maintain system integrity and provide reliable service. In 2009, the fifty year old Wilhelm Substation was replaced with the modern Beach Road Substation, safety concerns related to existing PoleTran installations are being addressed, and electronic reclosers are being deployed in conjunction with SCADA integration to provide improved system control and reliability.

- 1.6.4 Please provide details, including any capital expenditure plans, of how quality and reliability of service will be maintained after completion of the proposed transaction. Indicate where service centres will be located and expected response times.

The service territories of Fort Erie and Port Colborne are contiguous and since the implementation of the Lease Agreement in 2001 the operations of the two service territories have become fully integrated. CNPI maintains service centers at 1130 Bertie Street in Fort Erie and at 380 Elm Street in Port Colborne with approximately 25 km separation between the two. The service territories are operated with a common staff of line maintainers, engineering, customer service personnel and administration.

During the term of lease, 2002 to 2012, CNPI has and will continue to provide excellent customer service and has maintained a better than 83% customer approval rating with reliability and safety exceeding 90%. Through the Board's Regulatory Record Keeping and Reporting, CNPI has consistently achieved the Board's metrics with respect to performance. There will be no adverse impact to the provision of customer service as a result of this proposed transaction.

Over the past 10 years, CNPI has invested in the necessary capital projects required to maintain the system integrity and quality customer service. Of the more notable was the installation of a new submarine cable crossing of the Welland Canal, the replacement of the Elm Street Substation, construction of the Beach Road Substation and installation of the smart meter infrastructure together

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with implementation of time-of-use billing. CNPI has addressed safety concerns associated with the legacy of poletran style distribution transformers and CNPI continues to modernize the distribution system with the implementation of SCADA and electronic reclosers to provide improved system control and reliability.

Future plans include continued attention to aging distribution stations with switchgear refurbishment, the continued replacement of the PoleTran installations and continued expansion of SCADA and electronic reclosers.

- 1.6.5 Please indicate whether the parties to the proposed transaction intend to undertake a rate harmonization process after the proposed transaction is completed. If yes, please provide a description of the plan.

The Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors, issued on July 14, 2008, established a three year plan term for third generation incentive regulation. The rates of a distributor were not expected to be subject to rebasing before the end of the plan term other than through an eligible off ramp.

In accordance with the multi-year rate-setting plan, the rates of each distributor would be rebased in only one of the years 2008, 2009, 2010 or 2011. CNPI – PC rebased in 2009, EB-2008-0224. Following the year of rebasing, 2009, CNPI – PC is subject to third generation IR for a fixed term of three years other than through an eligible off ramp. Therefore it is CNPI's intention to file a cost of service electricity distribution rate application in 2012 using a 2013 test year for electricity distribution rates effective in 2013.

Throughout the term of the lease, CNPI has had to make several significant capital investments into the distribution system in Port Colborne. These include the replacement of Elm Street Substation which was at eminent end of life with the new Fielden Substation, the replacement of the near end of life Wilhelm Substation with the Beach Road Substation and the installation of submarine cables traversing the Welland Canal to provide capacity to the west side of the canal. With these significant projects completed, CNPI's capital investment plan for Port Colborne has now become projects best described as sustainment capital. CNPI will continue to address the PoleTran installations which represent a safety and integrity risk, replacement of aging indoor switchgear which represents safety

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and reliability risks and the introduction of additional intelligent switching devices in conjunction with the expanded SCADA to ensure system reliability.

In the 2009 EDR, CNPI successfully harmonized the electricity distribution rates in its service territories in Fort Erie and Gananoque. Harmonization will reduce the increased regulatory burden associated with managing multiple service territories. CNPI will explore means of harmonizing the revenue requirement associated with operations in Port Colborne with the already harmonized revenue requirement of Fort Erie and Gananoque in the 2013 EDR.

CNPI uses a common administration and workforce to operate the various operating territories. CNPI's segregation of costs is based on a methodology of shared services allocated through determination of full time equivalent employees. CNPI proposes to establish an overall revenue requirement established on the basis of the combined full time employees assigned to its distribution operations of Port Colborne, Fort Erie and Gananoque.

- 1.6.6 If the application is for an amalgamation, please provide a proposal for the time of rebasing the consolidated entity in accordance with the five-year limit set by the Board.

N/A

- 1.6.7 Please identify all incremental costs that the parties to the proposed transaction expect to incur. These may include incremental transaction costs, (i.e., legal), incremental merged costs (i.e., employee severances), and incremental ongoing costs (i.e., purchase and maintenance of new IT systems). Please explain how the new utility plans to finance these costs.

The incremental transaction costs are not material as the Port Colborne operations are currently integrated into CNPI's operations. Legal fees will be incurred but are not expected to be material. CNPI does not intend to recover any incremental costs associated with the proposed transaction from its electricity customers.

- 1.6.8 Please describe the changes, if any, in distribution or transmission rate levels (as applicable) and the impact on the total bill that may result from the proposed transaction.

As described previously the CNPI – PC electricity distribution rates are set in accordance with the Board's multi-year rate-setting plan. CNPI – PC rebased in 2009, EB-2008-0224. Following the 2009 rebasing, CNPI – PC has been subject to third generation IR. It is CNPI's intention to follow the

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Board's mandate process and file a third generation IRM application for rates effective May 1, 2012 followed by a cost of service electricity distribution rate application in 2012 using a 2013 test year for electricity distribution rates effective in 2013.

Until CNPI applies to harmonize rates in 2013 as described in section 1.6.5 above, CNPI does not anticipate any changes to electricity distribution rates resulting from the proposed transaction. At this time, it is unknown how harmonization would impact distribution rates in Port Colborne, however any harmonization will be scrutinized by the OEB in CNPI's 2013 cost of service application.

1.6.9 Please provide details of the costs and benefits of the proposed transaction to the customers of the parties to the proposed transaction.

The genesis of this transaction occurred with the Board's approval on April 15, 2002 of an application by the City, PC Hydro and FortisOntario for an order from the Board granting leave for PC Hydro to lease to CNPI its distribution system assets; RP-2001-0041.

With respect to the costs and benefits of the transaction to the customers of the parties; the vast majority have been realized over the life of the lease agreement. The more salient of these for the customers in Port Colborne have been as follows; preparing for market readiness for May 1, 2002, the immediate response to critical capital sustainment requirements and the expansion of CNPI's SCADA system into the Port Colborne distribution system.

Over the period of the lease CNPI has filed complete cost of service applications for its operations in Fort Erie, Gananoque and Port Colborne with the OEB in September 2005, the 2006 EDR, and in August 2008, the 2009 EDR, and has filed IRM applications for 2007, 2008, 2010 and 2011. In each application, CNPI has fully complied with the Board orders and decisions and any direction contained therein.

During the respective regulatory reviews of these applications, CNPI has demonstrated prudent capital investment, maintenance and operation, reliability and quality of electricity service. Following termination of the lease and completion of this transaction, CNPI will continue with its prudent investment in the electricity distribution system and continue to present evidence to the Board in the

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form mandated, of which the customers will enjoy the associated benefits.

As explained in the cover letter to this application, the proposed transaction is cost neutral for electricity customers in the Port Colborne service area.

1.7 Economic Efficiency

- 1.7.1 Please indicate the impact the proposed transaction will have on economic efficiency and cost effectiveness (in the distribution or transmission of electricity). Details on the impacts of the proposed transaction on economic efficiency and cost effectiveness should include, but are not limited to, impacts on administration support functions such as IT, accounting, and customer service.

CNPI has achieved system, operational and administrative efficiencies by providing PC Hydro customers a fully integrated distribution system using CNPI's SCADA system and a common workforce for all operational and ancillary services. PC Hydro's customer service and billing system is entirely integrated into the CNPI customer service system which allowed the PC Hydro customers participate in the open electricity market and will prepare them for the introduction of smart meters and time-of-use billing. As such PC Hydro customers have benefited and will continue to benefit from the economic efficiency and cost effectiveness gained in the distribution of electricity and provision of electricity service. Furthermore, PC Hydro expects the reduced regulatory reporting requirements, after the completion of the transaction, to bring about additional incremental economic and cost efficiencies for both CNPI and the Board.

1.8 Financial Viability

- 1.8.1 Please provide a valuation of any assets or shares that will be transferred in the proposed transaction. Provide details on how this value was determined, including any assumptions made about future rate levels.

Pursuant to Section 16 of the Lease Agreement, CNPI will purchase PC Hydro's distribution system assets for a fixed purchase price of \$6,900,000. A valuation of the assets including the value of the purchase option was negotiated and completed when the lease transaction was signed in 2001. A third party appraiser assisted with the evaluation. No definitive assumptions were made regarding future rate levels.

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- 1.8.2 If the price paid as part of the proposed transaction is significantly more than the book value of the assets of the selling utility, please provide details as to why this price will not have an adverse affect on the economic viability of the acquiring utility.

The \$6.9 million purchase price is expected to be greater than the yet to be determined book value of the assets being acquired creating goodwill. CNPI has the financial capacity to finance and carry the acquired assets including the goodwill. The total purchase price represents less than 6% of the assets of Canadian Niagara Power Inc. The carrying cost of the goodwill acquired is expected to be less than 1% of revenue requirement

Canadian Niagara Power Inc. is wholly owned by FortisOntario which is wholly owned by Fortis Inc. Fortis Inc. is the largest investor-owned distribution utility in Canada with total assets of approximately \$13 billion and fiscal revenue totalling approximately \$3.7 billion.

- 1.8.3 Please provide details of the financing of the proposed transaction.

Financing of the proposal will be completed through a combination of internally generated cash and affiliated debt through either FortisOntario Inc. or Fortis Inc. The affiliated debt will be replaced with third party debt.

- 1.8.4 If the proposed transaction involves a leasing arrangement, please identify separately any assets in the service area that are owned, from those assets that are encumbered by any means, e.g., subject to a lease or debt covenant.

The proposed transaction does not involve a leasing arrangement.

- 1.8.5 Please outline the capital (debt/equity) structure, on an actual basis, of the parties to the proposed transaction prior to the transaction and on a pro forma basis after completion of the proposed transaction. In order to allow the Board to assess any potential impacts on the utility's financial viability, please include the terms associated with the debt structure of the utility as well as the utility's dividend policy after the completion of the proposed transaction. Please ensure that any debt covenants associated with the debt issue are also disclosed.

Attached as Attachment 1.8.5A is Canadian Niagara Power Inc.'s pro forma balance sheet, including the acquisition of the lease assets, as at December 31, 2012. The capital structure of the company as of December 31, 2010 was 59/41 (i.e. debt/equity). The capital structure of the pro forma financial

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statements is 60/40. The dividend policy is based on maintaining a 60/40 capital structure.

Canadian Niagara Power Inc.'s short term credit facility and senior unsecured notes both have debt covenants. After completing the purchase transaction, CNPI will be in compliance with its debt covenants.

A copy of PC Hydro's pro forma balance sheet, including the sale of the leased assets, for the year ended December 31, 2012 with comparable balances for December 31, 2011, is attached to this application (Attachment 1.8.5B). Also, attached is PC Hydro's audited financial statement for the year ended December 31, 2010.

The capital structure of PC Hydro must not assume any financial obligation which would increase the debt/equity ratio of it above the ratio of 1.4:1. As at December 31, 2010, the capital structure was 0.64:1 (debt/equity). The capital structure of the pro forma financial statements is projected to be 0.08:1 at December 31, 2011 and 0:1 at December 31, 2012.

The dividend policy states that PC Hydro will pay to its shareholder a dividend of all cash in excess of the requirements for working capital and capital expenditures. The amount of the dividend paid may be subject to adjustment by the shareholder from time to time based on the financial requirements of the company.

PC Hydro will have no debt after completing the sale transaction.

- 1.8.6 Please provide details of any potential liabilities associated with the proposed transaction in relation to public health and safety matters or environmental matters. These may be matters that have been identified in the audited financial statements or they may be matters that the parties have become aware of since the release of the most recently audited financial statements. If there are any pre-existing potential liabilities regarding public health and safety matters or environmental matters for any party to the proposed transaction, provide details on how the parties propose to deal with those potential liabilities after the transaction is completed. Specify who will have on-going liability for the pre-existing potential liabilities.

The parties to this application are not aware of any potential liabilities associated with the proposed transaction.

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1.9 Other Information

- 1.9.1 If the proposed transaction requires the approval of a parent company, municipal council or any other entity please provide a copy of appropriate resolutions indicating that all such parties have approved the proposed transaction.

Please find attached the following:

- 1) Copy of the FortisOntario Certified Resolution, as Attachment 1.9.1A;
- 2) Copy of Port Colborne Hydro Resolution, as Attachment 1.9.1B;
- 3) Copy of Port Colborne Energy Inc. Resolution, as Attachment 1.9.1C; and
- 4) Copy of City of Port Colborne Resolution, as Attachment 1.9.1D.

- 1.9.2 Please list all suits, actions, investigations, inquiries or proceedings by any government body, or other legal or administrative proceeding, except proceedings before the Board, that have been instituted or threatened against each of the parties to the proposed transaction or any of their respective affiliates.

There are none associated with the parties to this application.

- 1.9.3 Regarding net metering thresholds, the Board will, absent exceptional circumstances, add together the kW threshold amounts allocated to the individual utilities and assign the sum to the new or remaining utility. Please indicate the current net metering thresholds of the utilities involved in the proposed transaction. Please also indicate if there are any special circumstances that may warrant the Board using a different methodology to determine the net metering threshold for the new or remaining utility.

The net metering thresholds of the parties are;

CNPI – Fort Erie	524 kW
CNPI – Port Colborne	386 kW

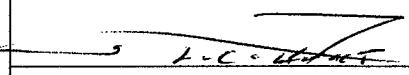
There are no exceptional circumstance, therefore the combined net metering threshold is arithmetic sum of the two and is 910 kW.

- 1.9.4 Please provide the Board with any other information that is relevant to the application. When providing this additional information, please have due regard to the Board's objectives in relation to electricity.

N/A.

Application form for Applications under Section 86 of the *Ontario Energy Board Act, 1998***PART II: CERTIFICATION AND ACKNOWLEDGMENT****2.1 Certification and Acknowledgment**

I certify that the information contained in this application and in documents provided are true and accurate.

Signature of Key Individual 	Print Name of Key Individual Leonard Hunt	Title/Position Chairman Company Port Colborne Hydro Inc.
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(Must be signed by a key individual. A key individual is one that is responsible for executing the following functions for the applicant: matters related to regulatory requirements and conduct, financial matters and technical matters. These key individuals may include the Chief Executive Officer, the Chief Financial Officer, other officers, directors or proprietors.)

Attachment 1.3.1A

PC Hydro Transfer By-law

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 3867/12/00

BEING A BY-LAW OF THE CITY OF PORT COLBORNE (THE "CITY")
RESPECTING THE TRANSFER TO PORT COLBORNE HYDRO INC.
(THE "CORPORATION") OF THE EMPLOYEES, ASSETS, LIABILITIES, RIGHTS
AND OBLIGATIONS OF PORT COLBORNE HYDRO-ELECTRIC COMMISSION
(THE "COMMISSION") AND THE CITY ASSOCIATED WITH THE BUSINESS OF
DISTRIBUTING AND TRANSMITTING ELECTRICITY AND ASSOCIATED
BUSINESS ACTIVITIES (THE "DISTRIBUTION BUSINESS")

WHEREAS under Section 145(1) of the Electricity Act, 1998 the Council of the
City may make by-law transferring employees, assets, liabilities, rights, and obligations
of the City or the Commission which are associated with the Distribution Business to
a corporation incorporated under Section 142 of the Electricity Act, 1998;

AND WHEREAS the City conducts the Distribution Business through the
Commission;

AND WHEREAS the Corporation has been incorporated under Section 142 of
the Electricity Act, 1998 for the purpose of conducting the Distribution Business;

NOW THEREFORE THE COUNCIL OF THE CITY ENACTS AS FOLLOWS:

1. Definitions

As used in this By-law, the following terms shall have the meanings indicated:

- (a) "Act" - The Electricity Act, 1998 (Ontario), and any regulations thereunder.
- (b) "Assets" - All assets, interests, property, rights and undertakings, registered or unregistered, secured or unsecured, of the Commission and the City held or used by either of them in connection with the Distribution Business on the Effective Date, including without limitation:
 - (i) Cash, Accounts Receivable - All of the cash on hand and all accounts receivable of the Commission including without limitation all customer and trade accounts, notes receivable, book debts and other debts due or accruing to the Commission and the benefits of all security and security deposits for such accounts and debts.

- (ii) Computer Hardware and Software - All computer hardware and software including all rights under licences and other agreements or instruments relating thereto.
- (iii) Contracts, Rights - The full benefit of all franchise, licence or management agreements and all other contracts, commitments, rights, choses in action, benefits, arrangements, understandings, and agreements, written or oral, to which the Commission is a party or otherwise including:
 - (A) all written or oral contracts, agreements, commitments, undertakings, rights and arrangements; and
 - (B) all forward commitments to the Commission for supplies or materials whether or not there are any written contracts with respect thereto.
- (iv) Employee Agreements - All contracts, agreements, and commitments in respect of Employees as at the Effective Date to which the Commission is a party or by which it is bound, including:
 - (A) all collective agreements;
 - (B) all contracts of employment;
- (v) Employee Plans - All employee benefit plans, pension plans, bonus or incentive plans, employee medical insurance and disability plans and savings plans.
- (vi) Goodwill - The goodwill of the Commission including:
 - (A) the exclusive right of the Corporation to represent itself as carrying on a business in continuation of and in succession to the Commission and the right to use any words indicating that its business is so carried on; and

- (B) all records of sales, customer lists, customer data and supplier lists of or used by the Commission.
- (vii) Insurance Policies - The full benefit of all policies of insurance of the Commission.
- (viii) Intellectual Property - All of the right, title, benefit and interest of the Commission in and to all registered trade marks, trade names, brand names, patents and copyrights, all unregistered trade marks, trade names and copyrights and all patent applications, trade mark registration applications and copyright registration applications, both domestic and foreign, owned or made by the Commission.
- (ix) Inventories - All inventories and supplies including, but without limitation, all finished goods, work in progress, raw materials, production and shipping supplies and maintenance items and all other materials and supplies on hand to be used or consumed in the production of products.
- (x) Know-How - All patterns, plans, designs, research data, copyrights, trade secrets and other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow-sheets, equipment and parts lists and descriptions and related instructions, manuals, data, records and procedures and any and all data owned or used by the Commission, and all licences, agreements and other contracts and commitments relating to any of the foregoing to which the Commission is a party.
- (xi) Licences and Permits - The full benefit of all licences, registrations, permits, consents, quotas, approvals, certificates, and other authorizations including those described in Schedule A.

- (xii) Machinery and Equipment - All machinery and equipment, metering and measurement devices, and appliances and all goods and chattels and other personal property and all tools, handling equipment, furniture, furnishings and accessories.
- (xiii) Plant, Building, Fixtures - All plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) conduits, pipes, poles, wires, rods, cables, fibres and other apparatus, devices, appliances and equipment, materials, works, transformer stations, transformers, vaults, transmission lines, distribution lines, ducts, pipelines, fittings, apparatus, meters, wheresoever situate on property owned by the Commission or the City, on private property and on public property.
- (xiv) Prepaid Expenses - All prepaid expenses and deposits
- (xv) Real Property Interests - All lands, premises, freehold and leasehold property interests, mortgages, charges, agreements, notices of agreements, debentures and security interests which create an interest in land, liens, easements, rights of way, licences, and rights to use or occupy real property, and all other rights or interests therein and fixtures thereon, including the relevant interests in the assets listed in Schedule B.
- (xvi) Records - All personnel records, inspection records and all other records, books, documents and data bases relating to Employees, the Assumed Liabilities, the business of the Commission, or to the Assets in the possession or under the control of the Commission.

- (xvii) Reserves - The portion of any reserve fund established pursuant to section 63 of the Development Charges Act, 1997 (Ontario) that relates to development charges collected in respect of electrical power services, and the portion of any reserve fund referred to in section 63 of the Development Charges Act, 1997 (Ontario) that relates to development charges collected in respect of electrical power services, as set out in Schedule C.
- (xviii) Vehicles - All trucks, cars and vehicles of all kinds.
- (xix) Warranties - The full benefit of all warranties and warranty rights, implied, express or otherwise, against manufacturers, suppliers or sellers which apply to any of the Assets and the value of any warranty claims relating to the Assets outstanding as of the Effective Date.
- (c) **"Effective Date"** - The date for the transfers set out in Section 9.
- (d) **"Employees"** - All full-time and part-time, union and non-union, employees and officers of the Commission, including all trainees, and probationary employees, on the Effective Date.
- (e) **"Excluded Assets"** - The Assets described in Schedule D.
- (f) **"Excluded Liabilities"** - The Liabilities described in Schedule E.
- (g) **"Liabilities"** - All of the debts, liabilities and obligations of the Commission including without limitation those debts, liabilities and obligations of the Commission in relation to the items referred to in Sections 1(b) (iv) and (v).
- (h) **"OBCA"** - The Business Corporations Act (Ontario), and any regulations thereunder.
- (i) **"OEB"** - The Ontario Energy Board.
- (j) **"OEBA"** - The Ontario Energy Board Act, 1998 (Ontario), and any regulations thereunder.

- (k) **"Person"** - A firm, partnership, unincorporated association, joint venture, body corporate, corporation, bank, trust, pension fund, union, government agency, board, tribunal, ministry, commission, other legal entity of any kind whatsoever, individual or natural person.

2. **Interpretation**

In this By-law, unless a contrary intention appears:

- (a) Words importing the singular shall include the plural and vice versa, and words importing gender shall include all genders.
- (b) If any section of this By-law is invalid or ultra vires the City it shall not affect the operation of the remaining portions of this By-law.
- (c) The following Schedules are attached and form part of this By-law:
- (i) Schedule A - Licences and Permits
 - (ii) Schedule B - Real Property Interests
 - (iii) Schedule C - Reserves
 - (iv) Schedule D - Excluded Assets
 - (v) Schedule E - Excluded Liabilities
- (d) This by-law is binding on the City, the Commission, the Corporation and all other Persons.
- (e) In accordance with the Act, this By-law applies despite any general or special act or any rule of law, including any act or rule of law which requires notice or registration of transfers, provided, however, the Corporation may register such documents, instruments and agreements, including certified copies of this By-law, as may be necessary or desirable in order to evidence or confirm such transfers.
- (f) Any word or term that is used in this By-law which is defined in the Act shall have the same meaning in this By-law as in the Act.

3. **Incorporation of the Corporation**

The incorporation of the Corporation under Section 142 of the Act to acquire and continue the Distribution Business is hereby confirmed.

4. **Shareholder Administration of the Corporation**

- (a) The City is hereby authorized from time to time to deliver any shareholder agreement, direction or declaration which may provide for the organization, management and administration of the Corporation, in a form approved by Council of the City.
- (b) The City and the Commission shall execute and deliver to the Corporation, where necessary, in form suitable for registration, recording and filing with such public authorities as may be reasonably required by the Corporation, any bills of sale, assignments, instruments or transfer, assurances, consents and other documents necessary to effectively transfer to the Corporation of the Assets other than the Excluded Assets.

5. **Transfers to Corporation**

- (a) On the Effective Date and in accordance with sections 145 and 147 of the Act, all the Assets, Liabilities and Employees of the Commission and the City associated with the Distribution Business, except for the Excluded Assets and Excluded Liabilities, are transferred to and assumed by the Corporation in accordance with the Act and this By-law. Excluded Assets will not be transferred to the Corporation and Excluded Liabilities will not be assumed by the Corporation.
- (b) The Employees transferred to the Corporation, in accordance with sections 145 and 147 of the Act, shall cease to be Employees of the Commission from and including the Effective Date and shall thereupon be employees of the Corporation.

- (c) Despite any other provision of this By-law or the Act, if any of the Assets shall not be assignable, or shall only be assignable with the consent or approval of any other third party, the City or the Commission shall:
 - (i) use all efforts in co-operation with the Corporation to secure the consent required in connection with those assignments and all costs of obtaining any consent will be paid by the Corporation; and
 - (ii) pending the effective transfer thereof, hold all rights or entitlements that the City or the Commission has thereto in trust for the exclusive benefit of the Corporation provided that the Corporation shall pay, perform and discharge all obligations arising or accruing with respect thereto during such period.
- (d) The Corporation shall be bound by, assume, pay, satisfy, discharge, observe, perform and fulfill, and indemnify and save harmless the City from and against the Liabilities assumed by the Corporation.

6. Consideration and Financing

- (a) All costs and expenses incurred or to be incurred by the City and the Commission and all provincial and other taxes incurred or payable in connection with the transfer of the Assets shall be borne by the Corporation and the Corporation shall reimburse the City and the Commission on demand for any such costs, expenses or taxes.
- (b) The Assets transferred to the Corporation under Section 5(a) shall be transferred at their respective fair market values on the Effective Date. The fair market value of the Assets shall be deemed to be book value on the Effective Date subject to adjustment pursuant to Sections 6(1) and 8.
- (c) The consideration payable by the Corporation for the Assets transferred pursuant to Section 5(a) shall be satisfied as follows:

- (i) by the assumption by the Corporation of the Liabilities (other than the Excluded Liabilities) associated with the Distribution Business:
- (ii) the issuance by the Corporation to the City of one or more promissory notes having an aggregate principal amount equal to \$3,112,000.00, such note or notes to be in the form and content satisfactory to the Chief Administrative Officer of the City as evidenced by the written acceptance of such promissory note or notes by such person.
- (iii) as to the balance by the issuance and allotment to the City of 1,000 fully paid and non-assessable common share of the Corporation having an ascribed value equal to such balance which amounts shall be added to the stated capital account for such shares.
- (d) On or before the maturity date of the promissory note, the City, after consultation with the Corporation, may exchange the promissory note for one or more promissory notes or other debt instruments of the Corporation having a form and content satisfactory to the City as evidenced by the written acceptance of the Chief Administrative Officer of the City.
- (e) The Reserves are transferred to the Corporation to be used only to pay for capital costs in respect of electrical power services for which the Reserves were collected.

- (f) The fair market value of the Assets and the amount of the Liabilities transferred to and assumed by the Corporation under this By-law on the Effective Date, the consideration or revised consideration payable under this By-law (including the allocation thereof) and the reporting of such matters, shall be determined by the Chief Administrative Officer of the City in consultation with the Corporation.

7. Transfer Exemptions

- (a) The exemptions from legislation which are specified in Section 159 of the Act shall apply to the transactions referred to in this By-law.
- (b) Any transfer under this By-law will constitute the transfer of all or substantially all of the assets necessary for the Corporation to carry on the Distribution Business as a business. Unless otherwise agreed by the City and the Corporation, the City and the Corporation, both being registered for Goods and Services Tax purposes, undertake to sign the election provided for in section 167 of the Excise Tax Act (Canada) and the Corporation shall file the election in accordance with the provisions of that section so that the transfer is not subject to Goods and Services Tax.

8. Fair Market Value and Consideration Adjustment

- (a) The fair market value of the Assets transferred and the consideration payable for the Assets may be adjusted as a consequence of any OEB rate decision or order or any valuation of any or all of the Assets.
- (b) All necessary adjustments to the consideration payable under this By-law shall have the same effect as if they were made on the Effective Date.

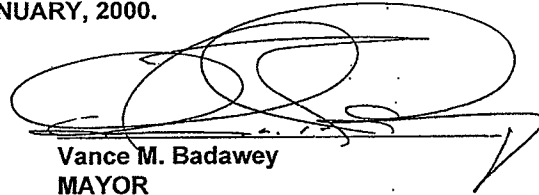
9. Effective Date of Transfers

The Effective Date of the transfers set out in Section 5(a) is March 1, 2000.


10. Further Assurances

Either the Mayor, the Clerk or the Chief Administrative Officer of the City is hereby authorized to do whatever is, in such official's opinion, necessary or desirable to carry out the transactions contemplated by this By-law, including the execution and delivery of any additional documents or agreements, under the Seal of the City, as such officer may consider necessary or desirable to effect the transactions contemplated by this By-law or of any other by-law of the City relevant to the transactions contemplated by this By-law.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED BY
COUNCIL THIS 31ST DAY OF JANUARY, 2000.



Vance M. Badawey
MAYOR



Janet Beckett
CITY CLERK

AMENDED BY
BY-LAW No. <u>4304/140102</u>
<u>OCTOBER 28, 2002</u>
DATE

Schedule A - Licences and Permits

1. Radio Licenses

Issued By: Industry Canada
Title: Radio Licenses
Description: various radio licenses permitting possession, installation and operation of radio equipment

2. Interim Distributor License issued to the Commission pursuant to Section 129 of the Ontario Energy Board Act, 1998 (Ontario).

3. Excess Hours Permit

Issued by: Ontario Ministry of Labour
Title: Permit to Work Excess Hours under Section 20(1) of the Employment Standards Act
Description: permits certain excess hours to be worked

4. PCB Generator Licence

Issued By: Ministry of Environment for MOE Generator #ON603800

5. Licences for CNR Property

<u>Licence No.</u>	<u>Location</u>
<u>72394</u>	<u>Crossing of the tracks north of Main St. east of Bridge 19</u>
<u>72416</u>	<u>Crossing of the tracks at the south end of Elizabeth St. to Durham St.</u>
<u>50139</u>	<u>Crossing of the tracks on Ramey Rd.</u>
<u>70523</u>	<u>43M11 that crosses the tracks at Snider Rd. and runs along the tracks from Reuter Rd.</u>

6. Licences for St. Lawrence Seaway Property

<u>Licence No.</u>	<u>Location</u>
<u>66-42</u>	<u>Canal Bank Rd. north of Ramey Ave. to point on Island</u>
<u>66-463</u>	<u>Pole line on Amelia St. from Mellanby Ave. to Weir Canal</u>
<u>66-607</u>	<u>27.6 KV line under the Canal at Bridge 19 north along new canal, west on the island to the new canal, Weir Canal crossing behind Robin Hood</u>
<u>66-820</u>	<u>Primary line on east side of canal from Barber Dr. to E.G. Marsh plant</u>

<u>66-825</u>	<u>Primary line on West St. from north side of Clarence St. south to rear of City Yard</u>
<u>66-1092</u>	<u>3 Poles that feed the Marine School</u>
<u>66-1132</u>	<u>4KV overhead line running from Welland St. at Rodney St. to feed boat service on old Algoma Property</u>
<u>66-1133</u>	<u>4 KV crossing at Bridge 21</u>
<u>66-1155</u>	<u>Overhead Weir crossing at Neff St., and 4 pole line at rear of Catharine Station</u>
<u>66-1248</u>	<u>27.6 KV line that runs from south end of Robin Hood mill north through quarry to Barrick Rd.</u>
<u>66-1408</u>	<u>Feed to Catharine Station, Feed to Goderich Elevator from King St. to feed to Casco along west side of old canal</u>

7. Long Load Permit Licence #A 205690

Issued By: Ministry of Transportation

Description: Issued Under Section 110 of the Highway Traffic Act

8. Transitional Distributor Licence Issued to the Commission Pursuant to Section 129 of the Act

Schedule B - Real Property Interests

	<u>Municipal Addresses</u>	<u>Roll Number</u>
1.	445 Barrick Road	2711-030-037-01200-0000
2.	Catharine St. East Side	2711-010-017-13901-0000
3.	380 Elm Street	2711-030-031-10300-0000
4.	Killaly Street East NS	2711-020-014-00400-0000
5.	South Crescent NS	2711-010-024-03900-0000
6.	1069 Wilhelm Road ES	2711-040-001-38900-0000

Schedule C - Reserves

Development Charges Fund

The funds received are for specific growth related capital works to be undertaken

Reserve Deposits

Represents amounts received from third parties which are restricted as to use for specific purposes

Construction Deposit Collateral Funds

Advance deposits received from contractors

Schedule D - Excluded Assets

A. Real Property Interests

Address	Location Roll #	Type Vacant	Assessment Value
Canal Bank ES	2711-020-016-22300-0000	Land	\$13,600.00

B. Other

Cash in the amount of Seven Hundred Thousand Dollars (\$700,000.00)

To be adjusted to the Effective Date.

Schedule E - Excluded Liabilities

Long Term Debt (net of sinking funds) incurred by the City on behalf of the Commission

As at December 31, 1999

Debenture	\$612,000
-----------	-----------

To be adjusted to the Effective Date

Attachment 1.3.1B

PC Hydro Distribution Licence



Electricity Distribution Licence

ED-2003-0042

Port Colborne Hydro Inc.

Valid Until
November 5, 2023

A handwritten signature in cursive script, reading "M.C. Garner".

Mark C. Garner
Secretary
Ontario Energy Board

Date of Issuance: November 6, 2003

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
26th. Floor
Toronto, ON M4P 1E4

Commission de l'Énergie de l'Ontario
C.P. 2319
2300, rue Yonge
26e étage
Toronto ON M4P 1E4

1 Definitions

In this Licence:

“Accounting Procedures Handbook” means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

“Act” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“Affiliate Relationships Code for Electricity Distributors and Transmitters” means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

“distribution services” means services related to the distribution of electricity and the services the Board has required distributors to carry out, including the sales of electricity to consumers under section 29 of the Act, for which a charge or rate has been established in the Rate Order;

“Distribution System Code” means the code approved by the Board which, among other things, establishes the obligations of the distributor with respect to the services and terms of service to be offered to customers and retailers and provides minimum, technical operating standards of distribution systems;

“Electricity Act” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“Lease” means the Master Implementation Agreement and the Lease Agreement, both dated as of July 19, 2001, between Port Colborne Hydro Inc. as Lessor, and the Corporation of the City of Port Colborne as Shareholder of the Lessor, and Canadian Niagara Power Inc. as Lessee, and Canadian Niagara Power Company Limited as the Lessee Guarantor.

“Licensee” means: Port Colborne Hydro Inc.;

“Market Rules” means the rules made under section 32 of the Electricity Act;

“Performance Standards” means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

“Rate Order” means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

“regulation” means a regulation made under the Act or the Electricity Act;

“Retail Settlement Code” means the code approved by the Board which, among other things, establishes a distributor’s obligations and responsibilities associated with financial settlement among retailers and consumers and provides for tracking and facilitating consumer transfers among competitive retailers;

“service area” with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity;

“Standard Supply Service Code” means the code approved by the Board which, among other things, establishes the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under section 29 of the Electricity Act;

“wholesaler” means a person that purchases electricity or ancillary services in the IMO-administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IMO-administered markets or directly to another person other than a consumer.

2 Interpretation

- 2.1 In this Licence words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this licence where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day.

3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence:
- a) to own a distribution system in the service area described in Schedule 1 of this Licence;
 - b) to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act in the manner specified in Schedule 2 of this Licence; and

c)	to act as a wholesaler for the purposes of fulfilling its obligations under the Retail Settlement Code or under section 29 of the Electricity Act.	25
4	Obligation to Comply with Legislation, Regulations and Market Rules	26
4.1	The Licensee shall comply with all applicable provisions of the Act and the Electricity Act and regulations under these Acts except where the Licensee has been exempted from such compliance by regulation.	27
4.2	The Licensee shall comply with all applicable Market Rules.	28
5	Obligation to Comply with Codes	29
5.1	The Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the licensee are set out in Schedule 3 of this Licence. The following Codes apply to this Licence:	30
a)	the Affiliate Relationships Code for Electricity Distributors and Transmitters;	31
b)	the Distribution System Code;	32
c)	the Retail Settlement Code; and	33
d)	the Standard Supply Service Code.	34
5.2	The Licensee shall:	35
a)	make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and	36
b)	provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.	37
6	Obligation to Provide Non-discriminatory Access	38
6.1	The Licensee shall, upon the request of a consumer, generator or retailer, provide such consumer, generator or retailer with access to the Licensee's distribution system and shall convey electricity on behalf of such consumer, generator or retailer in accordance with the terms of this Licence.	39

7	Obligation to Connect	40
7.1	The Licensee shall connect a building to its distribution system if:	41
a)	the building lies along any of the lines of the distributor's distribution system; and	42
b)	the owner, occupant or other person in charge of the building requests the connection in writing.	43
7.2	The Licensee shall make an offer to connect a building to its distribution system if:	44
a)	the building is within the Licensee's service area as described in Schedule 1; and	45
b)	the owner, occupant or other person in charge of the building requests the connection in writing.	46
7.3	The terms of such connection or offer to connect shall be fair and reasonable and made in accordance with the Distribution System Code, and the Licensee's Rate Order as approved by the Board.	47
7.4	The Licensee shall not refuse to connect or refuse to make an offer to connect unless it is permitted to do so by the <i>Act</i> or a regulation or any Codes to which the Licensee is obligated to comply with as a condition of this Licence.	48
8	Obligation to Sell Electricity	49
8.1	The Licensee shall fulfill its obligation under section 29 of the Electricity Act to sell electricity in accordance with the requirements established in the Standard Supply Service Code, the Retail Settlement Code and the Licensee's Rate Order as approved by the Board.	50
9	Obligation to Maintain System Integrity	51
9.1	The Licensee shall maintain its distribution system in accordance with the standards established in the Distribution System Code and Market Rules, and have regard to any other recognized industry operating or planning standards adopted by the Board.	52
10	Market Power Mitigation Rebates	53
10.1	The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.	54

11	Distribution Rates	55
11.1	The Licensee shall not charge for connection to the distribution system, the distribution of electricity or the retailing of electricity to meet its obligation under section 29 of the Electricity Act except in accordance with a Rate Order of the Board.	56
12	Separation of Business Activities	57
12.1	The Licensee shall keep financial records associated with distributing electricity separate from its financial records associated with transmitting electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.	58
13	Expansion of Distribution System	59
13.1	The Licensee shall not construct, expand or reinforce an electricity distribution system or make an interconnection except in accordance with the Act and Regulations, the Distribution System Code and applicable provisions of the Market Rules.	60
13.2	In order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its distribution system in accordance with Market Rules and the Distribution System Code, or in such a manner as the Board may determine.	61
14	Provision of Information to the Board	62
14.1	The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.	63
14.2	Without limiting the generality of condition 14.1 the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.	64
14.3	The Licensee shall forthwith provide the Board with a copy of any written notice issued under Section 12 of the Lease and any Termination Notice given under Section 13 of the Lease.	65
14.4	The Licensee shall promptly notify the Board of a termination of the Lease for any reason.	66

15	Restrictions on Provision of Information	67
15.1	The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.	68
15.2	The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:	69
a)	to comply with any legislative or regulatory requirements, including the conditions of this Licence;	70
b)	for billing, settlement or market operations purposes;	71
c)	for law enforcement purposes; or	72
d)	to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator.	73
15.3	The Licensee may disclose information regarding consumers, retailers, wholesalers or generators where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.	74
15.4	The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent.	75
15.5	If the Licensee discloses information under this section, the Licensee shall ensure that the information provided will not be used for any other purpose except the purpose for which it was disclosed.	76
16	Disposal of Assets	77
16.1	The Licensee shall not assign its interest in the Lease without obtaining the prior approval of the Board, except for a mortgage or charge to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness.	78
16.2	The Licensee shall not make any material change to the terms and conditions of the Lease without obtaining the prior approval of the Board.	79

17	Customer Complaint and Dispute Resolution	80
17.1	The Licensee shall:	81
a)	have a process for resolving disputes with customers that deals with disputes in a fair, reasonable and timely manner;	82
b)	publish information which will make its customers aware of and help them to use its dispute resolution process;	83
c)	make a copy of the dispute resolution process available for inspection by members of the public at each of the Licensee's premises during normal business hours;	84
d)	give or send free of charge a copy of the process to any person who reasonably requests it; and	85
e)	subscribe to and refer unresolved complaints to an independent third party complaints resolution service provider selected by the Board. This condition will become effective on a date to be determined by the Board. The Board will provide reasonable notice to the Licensee of the date this condition becomes effective.	86
18	Term of Licence	87
18.1	This Licence shall take effect on November 6, 2003 and expire on November 5, 2023. The term of this Licence may be extended by the Board.	88
19	Fees and Assessments	89
19.1	The Licensee shall pay all fees charged and amounts assessed by the Board.	90
20	Communication	91
20.1	The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.	92
20.2	All official communication relating to this Licence shall be in writing.	93
20.3	All written communication is to be regarded as having been given by the sender and received by the addressee:	94

- a) when delivered in person to the addressee by hand, by registered mail or by courier; 95
- b) ten (10) business days after the date of posting if the communication is sent by regular mail; and 96
- c) when received by facsimile transmission by the addressee, according to the sender's transmission report. 97

21 Copies of the Licence

98

21.1 The Licensee shall:

99

- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and 100
- b) provide a copy of the Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies. 101

SCHEDULE 1 DEFINITION OF DISTRIBUTION SERVICE AREA

102

This Schedule specifies the area in which the Licensee is authorized to distribute and sell electricity in accordance with condition 8.1 of this Licence.

103

The Town of Port Colborne as of December 31, 1990 as per Regional Municipality of Niagara Act R.S.O. 1990.

104

SCHEDULE 2 PROVISION OF STANDARD SUPPLY SERVICE

105

This Schedule specifies the manner in which the Licensee is authorized to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act.

106

The Licensee is authorized to retail electricity directly to consumers within its service area in accordance with condition 8.1 of this Licence, any applicable exemptions to this Licence, and at the rates set out in the Rate Orders.

107

SCHEDULE 3 LIST OF CODE EXEMPTIONS

108

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.

109

The Licensee is exempt from the requirements of section 2.5.3 of the Standard Supply Service Code with respect to the price for small volume/residential consumers, subject to the Licensee offering an equal billing plan as described in its application for exemption from Fixed Reference Price, and meeting all other undertakings and material representations contained in the application and the materials filed in connection with it.

110

APPENDIX A MARKET POWER MITIGATION REBATES 111

1 Definitions and Interpretation 112

In this Licence, 113

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity; 114

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates; 115

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant. 116

In this Licence, a reference to the payment of a rebate amount by the IMO includes interim payments made by the IMO. 117

2 Information Given to IMO 118

a Prior to the payment of a rebate amount by the IMO to a distributor, the distributor shall provide the IMO, in the form specified by the IMO and before the expiry of the period specified by the IMO, with information in respect of the volumes of electricity withdrawn by the distributor from the IMO-controlled grid during the rebate period and distributed by the distributor in the distributor’s service area to: 119

i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and 120

ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*. 121

b Prior to the payment of a rebate amount by the IMO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IMO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor’s host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor’s service area to: 122

i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and 123

ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*. 124

c Prior to the payment of a rebate amount by the IMO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IMO, in the form specified by the IMO and before the expiry of the period specified by the IMO, with the information provided to the host distributor by the embedded distributor in accordance with section 2. 125

The IMO may issue instructions or directions providing for any information to be given under this section. The IMO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment. 126

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IMO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IMO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period. 127

3 Pass Through of Rebate 128

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IMO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to: 129

a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented; 130

b consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and 131

c embedded distributors to whom the distributor distributes electricity. 132

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor. 133

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

“ONTARIO POWER GENERATION INC. rebate”

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IMO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

Pending pass-through or return to the IMO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

Attachment 1.3.1C

City Transfer By-law

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 4304/140/02

BEING A BY-LAW TO AMEND BYLAW
3867/12/00, BEING A BY-LAW OF THE CITY OF PORT
COLBORNE (the "CITY") RESPECTING THE TRANSFER
TO PORT COLBORNE HYDRO INC. (THE
"CORPORATION") OF THE EMPLOYEES, ASSETS,
LIABILITIES, RIGHTS AND OBLIGATIONS OF PORT
COLBORNE HYDRO-ELECTRIC COMMISSION (THE
"COMMISSION") AND THE CITY ASSOCIATED WITH
THE BUSINESS OF DISTRIBUTING AND TRANSMITTING
ELECTRICITY AND ASSOCIATED BUSINESS
ACTIVITIES (THE "DISTRIBUTION BUSINESS")

WHEREAS at its meeting of January 31, 2000 the Council of the City enacted By-law 3867/12/00;

AND WHEREAS the Council of the City deems it in the best interests of the City to amend Bylaw 3867/12/00;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PORT COLBORNE ENACTS AS FOLLOWS:

1. That By-law No. 3867/12/00 (the "Transfer By-law") enacted on January 31, 2000 be amended as follows and that the amendment be effective as of October 28th, 2002:

A. Section 3 is deleted in its entirety and replaced with the following:

"3. Authorization of Incorporation

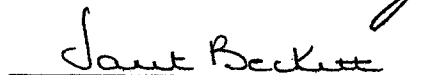
- (a) The incorporation of the Corporation under the OBCA pursuant to Section 142 of the Act to acquire and continue the Distribution Business is hereby confirmed.
- (b) The incorporation, at any time on or after the Effective Date, of a corporation ("Port Colborne Energy Inc.") under the OBCA pursuant to Section 142 of the Act to carry on any activities authorized by the Act including, without limitation, holding the shares of the Corporation and any additional subsidiaries of Port Colborne Energy Inc. is hereby authorized.
- (c) On or after the incorporation of Port Colborne Energy Inc. as authorized by Section 3(b) of this By-law, the City shall transfer all of the common shares of the Corporation issued to the City to Port Colborne Energy Inc. in consideration for common shares of Port Colborne Energy Inc. in such number as the directors of Port Colborne Energy Inc. may determine.

- (d) the incorporation of additional subsidiaries of Port Colborne Energy Inc. under the OBCA pursuant to Section 142 of the Act to carry on any activities authorized by the Act as may be deemed to be necessary by the board of directors of Port Colborne Energy Inc. from time to time is also hereby authorized".
- B. Subsection 4(a) is deleted in its entirety and replaced with the following:
- "(a) The City is hereby authorized from time to time to deliver any shareholder agreement, direction or declaration which may provide for the organization, management and administration of Port Colborne Energy Inc., the Corporation or any other subsidiaries of Port Colborne Energy Inc. incorporated from time to time, in a form approved by Council of the City".
- C. Section 11 is added to the Transfer By-law:
- "11. Amendment of By-law
- In the event of any omission or error made in connection with the passage of this By-law, including, without limitation, the unintended transfer or failure to transfer any assets or liabilities of the Commission and/or the City, the City may amend this By-law in accordance with the procedures applicable to amend a by-law of the City".
2. All capitalized terms herein shall have the meaning ascribed in the Transfer By-law.
3. In all other respects, the Transfer By-law remains unaltered and in full force and effect in accordance with its terms.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 28th
DAY OF OCTOBER , 2002.**



Vance M. Badawey
MAYOR



Janet Beckett
CITY CLERK

Attachment 1.3.1D

CNPI Distribution Licence



Electricity Distribution Licence

ED-2002-0572

Canadian Niagara Power Inc.

Valid Until

November 5, 2023

Original signed by

Jennifer Lea

Counsel, Special Projects

Ontario Energy Board

Date of Issuance: November 6, 2003

Date of Amendment: August 31, 2004

Date of Amendment: November 23, 2004

Date of Amendment: November 20, 2006

Date of Amendment: September 10, 2008

Date of Amendment: November 12, 2010

Date of Amendment: March 29, 2011

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

Commission de l'énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4

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1 Definitions

In this Licence:

“Accounting Procedures Handbook” means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

“Act” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“Affiliate Relationships Code for Electricity Distributors and Transmitters” means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

“Conservation and Demand Management” and **“CDM”** means distribution activities and programs to reduce electricity consumption and peak provincial electricity demand;

“Conservation and Demand Management Code for Electricity Distributors” means the code approved by the Board which, among other things, establishes the rules and obligations surrounding Board approved programs to help distributors meet their CDM Targets;

“distribution services” means services related to the distribution of electricity and the services the Board has required distributors to carry out, including the sales of electricity to consumers under section 29 of the Act, for which a charge or rate has been established in a Rate Order;

“Distribution System Code” means the code approved by the Board which, among other things, establishes the obligations of the distributor with respect to the services and terms of service to be offered to customers and retailers and provides minimum, technical operating standards of distribution systems;

“Electricity Act” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“Lease” means the Master Implementation Agreement and the Lease Agreement, both dated as of July 19, 2001, between Port Colborne Hydro Inc. as Lessor, the Corporation of the City of Port Colborne as Shareholder of the Lessor, Canadian Niagara Power Inc. as Lessee, and FortisOntario Inc. (formerly Canadian Niagara Power Company Limited) as the Lessee Guarantor;

“Licensee” means Canadian Niagara Power Inc.;

“Market Rules” means the rules made under section 32 of the Electricity Act;

“Net Annual Peak Demand Energy Savings Target” means the reduction in a distributor's peak electricity demand persisting at the end of the four-year period (i.e. December 31, 2014) that coincides with the provincial peak electricity demand that is associated with the implementation of CDM Programs;

“Net Cumulative Energy Savings Target” means the total amount of reduction in electricity consumption associated with the implementation of CDM Programs between 2011-2014;

“OPA” means the Ontario Power Authority;

“Performance Standards” means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

“Provincial Brand” means any mark or logo that the Province has used or is using, created or to be created by or on behalf of the Province, and which will be identified to the Board by the Ministry as a provincial mark or logo for its conservation programs;

“Rate Order” means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

“regulation” means a regulation made under the Act or the Electricity Act;

“Retail Settlement Code” means the code approved by the Board which, among other things, establishes a distributor's obligations and responsibilities associated with financial settlement among retailers and consumers and provides for tracking and facilitating consumer transfers among competitive retailers;

“service area” with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity;

“Standard Supply Service Code” means the code approved by the Board which, among other things, establishes the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under section 29 of the Electricity Act;

“wholesaler” means a person that purchases electricity or ancillary services in the IESO-administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence:

- a) to own and operate a distribution system in the service area described in Schedule 1, parts 1 to 7 of this Licence;
- b) to operate the distribution system located within the municipal boundaries of the City of Port Colborne, as described in part 8 of Schedule 1 of this Licence, in accordance with the Lease, provided that in the event of an inconsistency between a provision of the Lease and a condition of this Licence, the condition of this Licence shall prevail;
- c) to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act in the manner specified in Schedule 2 of this Licence; and
- d) to act as a wholesaler for the purposes of fulfilling its obligations under the Retail Settlement Code or under section 29 of the Electricity Act.

4 Obligation to Comply with Legislation, Regulations and Market Rules

- 4.1 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules that apply to the Licensee.

5 Obligation to Comply with Codes

- 5.1 The Licensee shall at all times comply with the following Codes (collectively the “Codes”) except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the licensee are set out in Schedule 3 of this Licence. The following Codes apply to this Licence:
 - a) the Affiliate Relationships Code for Electricity Distributors and Transmitters;
 - b) the Distribution System Code;
 - c) the Retail Settlement Code; and
 - d) the Standard Supply Service Code.
- 5.2 The Licensee shall:
 - a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

6 Obligation to Provide Non-discriminatory Access

- 6.1 The Licensee shall, upon the request of a consumer, generator or retailer, provide such consumer, generator or retailer with access to the Licensee’s distribution system and shall convey electricity on behalf of such consumer, generator or retailer in accordance with the terms of this Licence.

7 Obligation to Connect

- 7.1 The Licensee shall connect a building to its distribution system if:
- a) the building lies along any of the lines of the distributor's distribution system; and
 - b) the owner, occupant or other person in charge of the building requests the connection in writing.
- 7.2 The Licensee shall make an offer to connect a building to its distribution system if:
- a) the building is within the Licensee's service area as described in Schedule 1; and
 - b) the owner, occupant or other person in charge of the building requests the connection in writing.
- 7.3 The terms of such connection or offer to connect shall be fair and reasonable and made in accordance with the Distribution System Code, and the Licensee's Rate Order as approved by the Board.
- 7.4 The Licensee shall not refuse to connect or refuse to make an offer to connect unless it is permitted to do so by the Act or a regulation or any Codes to which the Licensee is obligated to comply with as a condition of this Licence.

8 Obligation to Sell Electricity

- 8.1 Except to the extent of any exemption set out in Schedule 3, the Licensee shall fulfill its obligation to sell electricity under section 29 of the Electricity Act in accordance with the requirements established in Schedule 2 of this Licence.

9 Obligation to Maintain System Integrity

- 9.1 The Licensee shall maintain its distribution system in accordance with the standards established in the Distribution System Code and Market Rules, and have regard to any other recognized industry operating or planning standards adopted by the Board.

10 Market Power Mitigation Rebates

- 10.1 The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.

11 Distribution Rates

- 11.1 The Licensee shall not charge for connection to the distribution system, the distribution of electricity or the retailing of electricity to meet its obligation under section 29 of the Electricity Act except in accordance with a Rate Order.

12 Separation of Business Activities

- 12.1 The Licensee shall keep financial records associated with distributing electricity separate from its financial records associated with transmitting electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.
- 12.2 The Licensee shall maintain separate accounting and financial records, including records of capital investments, and shall file separate rates applications with respect to the electricity distribution business operated by the Licensee within the municipal boundaries of the City of Port Colborne, as described in part 8 of Schedule 1 of this Licence.
- 12.3 The Licensee shall maintain separate accounting and financial records, including records of capital investments, with respect to the electricity distribution business operated by the Licensee in the service area formerly served by Eastern Ontario Power Inc. as described in Schedule 1, parts 3 to 7 of this Licence.

13 Expansion of Distribution System

- 13.1 Except to the extent of any exemption stated in Schedule 3, the Licensee shall not construct, expand or reinforce an electricity distribution system or make an interconnection except in accordance with the Act and Regulations, the Distribution System Code and applicable provisions of the Market Rules.
- 13.2 Except to the extent of any exemption set out in Schedule 3, in order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity, the Board may order the Licensee to expand or reinforce its distribution system in accordance with Market Rules and the Distribution System Code, or in such a manner as the Board may determine.

14 Provision of Information to the Board

- 14.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 14.2 Without limiting the generality of paragraph 14.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

15 Restrictions on Provision of Information

- 15.1 The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.
- 15.2 The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:
- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;

- b) for billing, settlement or market operations purposes;
 - c) for law enforcement purposes; or
 - d) to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator.
- 15.3 The Licensee may disclose information regarding consumers, retailers, wholesalers or generators where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.
- 15.4 The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent.
- 15.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information provided will not be used for any other purpose except the purpose for which it was disclosed.

16 Customer Complaint and Dispute Resolution

- 16.1 The Licensee shall:
- a) have a process for resolving disputes with customers that deals with disputes in a fair, reasonable and timely manner;
 - b) publish information which will make its customers aware of and help them to use its dispute resolution process;
 - c) make a copy of the dispute resolution process available for inspection by members of the public at each of the Licensee's premises during normal business hours;
 - d) give or send free of charge a copy of the process to any person who reasonably requests it; and
 - e) subscribe to and refer unresolved complaints to an independent third party complaints resolution service provider selected by the Board. This condition will become effective on a date to be determined by the Board. The Board will provide reasonable notice to the Licensee of the date this condition becomes effective.

17 Term of Licence

- 17.1 This Licence shall take effect on November 6, 2003 and expire on November 5, 2023. The term of this Licence may be extended by the Board.

18 Fees and Assessments

- 18.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

19 Communication

- 19.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.
- 19.2 All official communication relating to this Licence shall be in writing.
- 19.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
- a) when delivered in person to the addressee by hand, by registered mail or by courier;
 - b) ten (10) business days after the date of posting if the communication is sent by regular mail; and
 - c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

20 Copies of the Licence

- 20.1 The Licensee shall:
- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

21 Conservation and Demand Management

- 21.1 The Licensee shall achieve reductions in electricity consumption and reductions in peak provincial electricity demand through the delivery of CDM programs. The Licensee shall meet its 2014 Net Annual Peak Demand Savings Target of 4.070 MW, and its 2011-2014 Net Cumulative Energy Savings Target of 15.810 GWh (collectively the "CDM Targets"), over a four-year period beginning January 1, 2011.
- 21.2 The Licensee shall meet its CDM Targets through:
- a) the delivery of Board approved CDM Programs delivered in the Licensee's service area ("Board-Approved CDM Programs");
 - b) the delivery of CDM Programs that are made available by the OPA to distributors in the Licensee's service area under contract with the OPA ("OPA-Contracted Province-Wide CDM Programs"); or
 - c) a combination of a) and b).
- 21.3 The Licensee shall make its best efforts to deliver a mix of CDM Programs to all consumer types in the Licensee's service area.

- 21.4 The Licensee shall comply with the rules mandated by the Board's Conservation and Demand Management Code for Electricity Distributors.
- 21.5 The Licensee shall utilize the common Provincial brand, once available, with all Board-Approved CDM Programs, OPA-Contracted Province-Wide Programs, and in conjunction with or co-branded with the Licensee's own brand or marks.

SCHEDULE 1 DEFINITION OF DISTRIBUTION SERVICE AREA

This Schedule specifies the area in which the Licensee is authorized to distribute and sell electricity in accordance with paragraph 8.1 of this Licence.

1. The Town of Fort Erie as of December 31, 1990 as per *Regional Municipality of Niagara Act*, R.S.O. 1990.
2. The customer located at 7780 Stanley Avenue, Niagara Falls.
3. The Town of Gananoque as of the date of this Licence.
4. The customers located in the Township of Leeds and the Thousand Islands, formerly in the Townships of the Front of Leeds and Lansdowne:
 - Concession 1 Broken Front lots 1-8 and the west half of lot 9, the south half (south of Hwy 401) of Concession 1 lot 9 and the islands of Pike Island, Sister Island, Cherry Island, Cunningham Island and part of Red Horse Island.
5. The customers located in the Township of Frontenac Islands, formerly in the Township of Howe Islands:
 - Fuller Road: Lot 21, Concession NR.
6. The customers located at the following lots and concessions or with the following civic numbers and future customers that lie along the Licensee's distribution system in the City of Kingston, formerly the Township of Pittsburgh:
 - Concession 2 lots 7 – 18 excluding existing customers that front on Joyceville Road and future customers that lie along that Hydro One Networks Inc. (HONI) distribution system, but including CNPI customers with civic numbers 1680,1682 and 1776 Joyceville Road, and including lots 25 to 38 excluding one HONI navigation light service in lot 27.
 - Concession 3 lots 2 to 38, south of Hwy 401 including the existing customers on John F Scott Rd and future customers that lie along that CNPI distribution system, excluding existing customers that front on Joyceville Road and future customers that lie along that HONI distribution system and excluding one customer lot 18 with address Highway 401 at Exit 632 and excluding lot 38 customers with civic numbers 2101,2931,2131 and 2173 Deer Ridge Road and excluding future customers that lie along that HONI distribution system.
 - Concession 7: one station service Washburn Generating Station.
 - Concession 8: one house with civic address 3012 Brewer's Mill Road and one station service Brewers Mills Generating Station.
 - Concession 9: one station service at Jones Falls Generating Station.
 - Kingston Mills Road: 563, 537, 531, 513, 509, 501, 500, 497, 493, 492, 490, 480, 473, 474, 464, 462, 460, 456, 452, 448, 444, 436, 432, 429, and 431.

- Old Kingston Mills Road: 946 and 950.
 - County Road #15: 1986 and 1993.
 - Abbey Dawn Road: 1560, 1707, 1671, 1655, 1635, 1619, 1597, 1570 and 1569.
 - County Road #2: 3206, 3211, 3122 and 3275.
7. The customers located at the following civic numbers and future customers that lie along the Licensee's distribution system in the City of Kingston, formerly in the Township of Kingston:
- Italia Lane: 1174, 1110 and 104.
 - Montreal Street: 401 Parking lot, 1648, 1620, 1684, 1670, 1658 and 1702.
 - Thompson Crescent: 965, 949, 943, 937, 931, 927, 924, 921, 916, 905, 906 and 903.
 - Kingston Mills Road: 892, 885, 876, 875, 799, 793, 787, 781, 775, 773, 765, 759, 753, 749, 743, 737, 733, 727, 723, 719, 715, 71, 709, 707, 703, 697, 693, 689, 685, 681, 675, 669 and 661.
 - Daylan Avenue: 1628, 1633, 1632, 1672, 1668, 1646, 1650, 1654, 1656, 1655, 1658, 1660, 1682, 1692, and 1686.
8. The Town of Port Colborne as of December 31, 1990 as per *Regional Municipality of Niagara Act*, R.S.O. 1990.

SCHEDULE 2 PROVISION OF STANDARD SUPPLY SERVICE

This Schedule specifies the manner in which the Licensee is authorized to retail electricity for the purposes of fulfilling its obligation under section 29 of the Electricity Act.

Subject to any applicable exemptions set out in Schedule 3, the Licensee shall retail electricity directly to consumers within its service area in accordance with this Licence, the Standard Supply Service Code and the Retail Settlement Code, and shall do so at the rates set out in the Licensee's Rate Order.

SCHEDULE 3 LIST OF CODE EXEMPTIONS

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.

1. The Licensee is exempt from the requirements of the following sections of the Affiliate Relationships Code for Electricity Distributors and Transmitters under the conditions specified in section 2 of this Schedule:

Section 2.2.2

Where a utility shares information services with an affiliate, all confidential information must be protected from access by the affiliate. Access to a utility's information services shall include appropriate computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols. A utility shall, if required to do so by the Board, conduct a review of the adequacy, implementation or operating effectiveness of the access protocols and associated contractual provisions which complies with the provision of section 5970 of the CICA Handbook. A utility shall also conduct such a review when the utility considers that there may have been a breach of the access protocols or associated contractual provisions and that such review is required to identify any corrective action that may be required to address the matter. The utility shall comply with such directions as may be given by the Board in relations to the terms of section 5970 review. The results of any such review shall be made available to the Board.

Section 2.2.3

A utility shall not share with an affiliate that is an energy service provider employees that are directly involved in collecting, or have access to, confidential information.

2. The Exemptions from the requirements of the Affiliate Relationship Code for Electricity Distributors and Transmitters referred to section 1 of this Schedule (the "Exemptions") are subject to the following conditions:
 - a) The exemptions only apply in respect of the relationship between the Licensee and the following affiliates and not with respect to any other affiliates of the Licensee:
 - FortisOntario Inc.;
 - Fortis Properties Corporation; and
 - Cornwall Street Railway Light and Power Company Limited.
 - b) The Licensee shall not share facilities, confidential information or employees with any affiliate identified in paragraph a) for any purpose other than the provision of services to, or the receipt of services from, the affiliate under the Services Agreements dated September 15, 2005 (the "Services Agreements") as filed with the Board as part of the materials filed in support of the application for the Exemptions, as such Services Agreements may be amended from time to time.

- c) The activities of the Licensee relative to the affiliates identified in paragraph a) shall be governed by, and the Licensee shall be bound by and comply with, the Services Agreements, as amended from time to time.
 - d) The Licensee shall notify the Board of any material change relative to the materials filed in support of the application for the Exemptions as soon as possible upon becoming aware of such change and in no event later than fifteen days following the date on which the change occurs. Without limiting the generality of the foregoing, this obligation includes notifying the Board in the event of a change in the market activities of either FortisOntario Inc. or Fortis Properties Corporation.
 - e) The Board may, on its own initiative or upon receipt of notice from the Licensee under paragraph d), by order revoke one or more of the Exemptions, vary one or more of the conditions set out above or impose additional conditions upon becoming aware of any material change relative to the materials filed in support of the application for Exemptions, or for such other reason as the Board considers appropriate.
3. The Licensee is exempt from the requirements of section 2.5.3 of the Standard Supply Service Code with respect to the price for small/residential consumers, subject to the Licensee offering an equal billing plan as described in its application for exemption from the Fixed Reference Price, and meeting all other undertakings and material representations contained in the application and the materials filed in connection with it.
4. The Licensee is exempt from the provisions of the Standard Supply Service Code for Electricity Distributors requiring time-of-use pricing for Regulated Price Plan consumers with eligible time-of-use meters, as of the mandatory date in the areas served by Canadian Niagara Power Inc. – Port Colborne and Canadian Niagara Power Inc. – Fort Erie. This exemption expires January 31, 2012.

APPENDIX A

MARKET POWER MITIGATION REBATES

1. Definitions and Interpretations

In this Licence

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IESO includes interim payments made by the IESO.

2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-controlled grid during the rebate period and distributed by the distributor in the distributor's service area to:
 - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IESO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor's host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:
 - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity

consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IESO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IESO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

3. Pass Through of Rebate

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IESO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to:

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented;
- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
- c embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

“ONTARIO POWER GENERATION INC. rebate”

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IESO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

Pending pass-through or return to the IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

ONTARIO POWER GENERATION INC. REBATES

For the payments that relate to the period from May 1, 2006 to April 30, 2009, the rules set out below shall apply.

1. Definitions and Interpretations

In this Licence

“embedded distributor” means a distributor who is not a market participant and to whom a host distributor distributes electricity;

“embedded generator” means a generator who is not a market participant and whose generation facility is connected to a distribution system of a distributor, but does not include a generator who consumes more electricity than it generates;

“host distributor” means a distributor who is a market participant and who distributes electricity to another distributor who is not a market participant.

In this Licence, a reference to the payment of a rebate amount by the IESO includes interim payments made by the IESO.

2. Information Given to IESO

- a Prior to the payment of a rebate amount by the IESO to a distributor, the distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with information in respect of the volumes of electricity withdrawn by the distributor from the IESO-controlled grid during the rebate period and distributed by the distributor in the distributor's service area to:
 - i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented and the consumer is not receiving the prices established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- b Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the embedded distributor shall provide the host distributor, in the form specified by the IESO and before the expiry of the period specified in the Retail Settlement Code, with the volumes of electricity distributed during the rebate period by the embedded distributor's host distributor to the embedded distributor net of any electricity distributed to the embedded distributor which is attributable to embedded generation and distributed by the embedded distributor in the embedded distributor's service area to:

- i consumers served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
 - ii consumers other than consumers referred to in clause (i) who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*.
- c Prior to the payment of a rebate amount by the IESO to a distributor which relates to electricity consumed in the service area of an embedded distributor, the host distributor shall provide the IESO, in the form specified by the IESO and before the expiry of the period specified by the IESO, with the information provided to the host distributor by the embedded distributor in accordance with section 2.

The IESO may issue instructions or directions providing for any information to be given under this section. The IESO shall rely on the information provided to it by distributors and there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

For the purposes of attributing electricity distributed to an embedded distributor to embedded generation, the volume of electricity distributed by a host distributor to an embedded distributor shall be deemed to consist of electricity withdrawn from the IESO-controlled grid or supplied to the host distributor by an embedded generator in the same proportion as the total volume of electricity withdrawn from the IESO-controlled grid by the distributor in the rebate period bears to the total volume of electricity supplied to the distributor by embedded generators during the rebate period.

3. Pass Through of Rebate

A distributor shall promptly pass through, with the next regular bill or settlement statement after the rebate amount is received, any rebate received from the IESO, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt, to:

- a retailers who serve one or more consumers in the distributor's service area where a service transaction request as defined in the Retail Settlement Code has been implemented and the consumer is not receiving the prices established under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*;
- b consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are not served by a retailer where a service transaction request as defined in the Retail Settlement Code has been implemented; and
- c embedded distributors to whom the distributor distributes electricity.

The amounts paid out to the recipients listed above shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code. These payments may be made by way of set off at the option of the distributor.

If requested in writing by OPGI, the distributor shall ensure that all rebates are identified as coming from OPGI in the following form on or with each applicable bill or settlement statement:

"ONTARIO POWER GENERATION INC. rebate"

Any rebate amount which cannot be distributed as provided above or which is returned by a retailer to the distributor in accordance with its licence shall be promptly returned to the host distributor or IESO as applicable, together with interest at the Prime Rate, calculated and accrued daily, on such amount from the date of receipt.

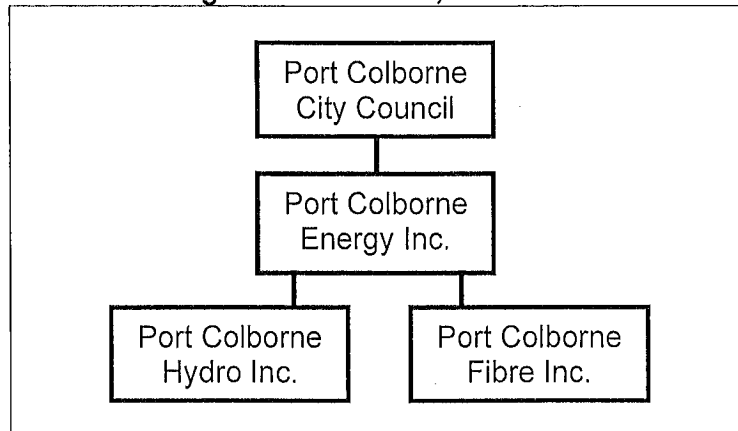
Nothing shall preclude an agreement whereby a consumer assigns the benefit of a rebate payment to a retailer or another party.

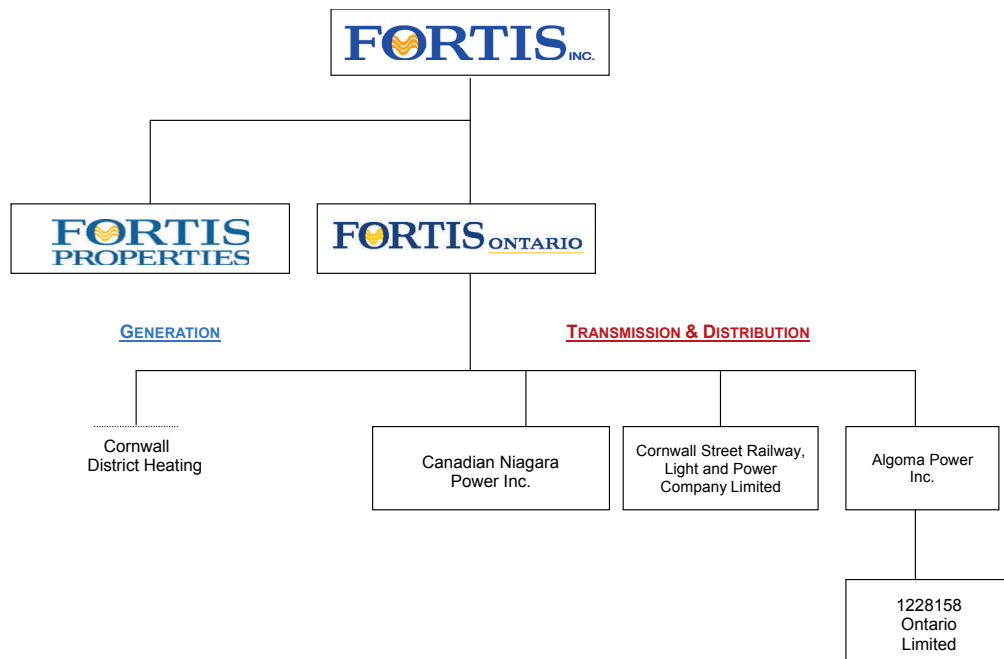
Pending pass-through or return to the IESO of any rebate received, the distributor shall hold the funds received in trust for the beneficiaries thereof in a segregated account.

Attachment 1.3.5

Corporate Organizational Charts

Organization Chart, Illustration





Attachment 1.4.3A

PC Hydro Financial Statements



Grant Thornton

Financial Statements

Port Colborne Hydro Inc.

December 31, 2009

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Grant Thornton

Auditors' report

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To the Shareholder of

Port Colborne Hydro Inc.

We have audited the balance sheet of Port Colborne Hydro Inc. as at December 31, 2009 and the statements of earnings, retained earnings and cash flows for the year then ended. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of Port Colborne Hydro Inc. as at December 31, 2009 and the results of its operations for the year then ended in accordance with Canadian generally accepted accounting principles.

Grant Thornton LLP

Port Colborne, Ontario
May 27, 2010

Grant Thornton LLP
Chartered Accountants
Licensed Public Accountants

Port Colborne Hydro Inc.**Statements of Earnings and Retained Earnings**

Year Ended December 31

2009

2008

Revenue		
Lease	\$ 1,528,200	\$ 1,528,200
Interest	40,278	106,264
Other	<u>230</u>	<u>1,302</u>
	<u>1,568,708</u>	<u>1,635,766</u>
Expenses		
Depreciation	502,042	509,724
General administration expense	152,957	239,426
Interest on long term debt	<u>201,024</u>	<u>249,133</u>
	<u>856,023</u>	<u>998,283</u>
Earnings before payments in lieu of taxes	712,685	637,483
Payments in lieu of taxes		
Payment in lieu of taxes	245,143	245,959
Future payment in lieu of taxes	<u>54,996</u>	<u>(62,645)</u>
Net earnings	<u>\$ 412,546</u>	<u>\$ 454,169</u>
Retained earnings, beginning of year	\$ 17,242	\$ 13,073
Net earnings	412,546	454,169
Dividends	<u>(420,000)</u>	<u>(450,000)</u>
Retained earnings, end of year	<u>\$ 9,788</u>	<u>\$ 17,242</u>

See accompanying notes to the financial statements

Port Colborne Hydro Inc.

Balance Sheet

December 31

2009

2008

Assets

Current

Cash and cash equivalents (Note 3)	\$ 1,639,335	\$ 2,131,841
Receivables	58	
Payments in lieu of taxes receivable	10,816	
Prepays	61,652	
Due from Port Colborne Fibre Inc., non-interest bearing with no set terms of repayment	<u>390,358</u>	<u>383,053</u>
	2,102,219	2,514,894
Inventories (Note 4)	550,000	550,000
Loan receivable from City of Port Colborne (Note 5)		442,653
Land, buildings and equipment (Note 6)	3,980,612	4,482,652
Future payments in lieu of taxes	<u>445,264</u>	<u>500,260</u>
	<u>\$ 7,078,095</u>	<u>\$ 8,490,459</u>

Liabilities

Current

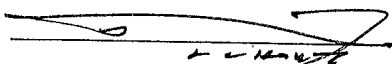
Payables and accruals	\$ 31,483	\$ 30,307
Payments in lieu of taxes payable		12,229
Current portion of deferred revenue	57,537	53,663
Due to Port Colborne Energy Inc., non-interest bearing with no set terms of repayment	401,134	433,649
Due to City of Port Colborne	<u>305</u>	<u>13,452</u>
	490,459	543,300
Liability for future benefits (Note 7)	42,623	332,611
Deferred revenue (Note 8)	80,504	138,041
Note payable (Note 9)	<u>2,220,526</u>	<u>3,225,070</u>
	<u>2,834,112</u>	<u>4,239,022</u>

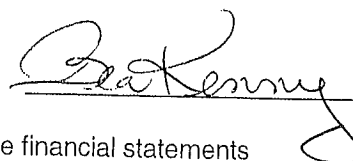
Shareholder's Equity

Capital stock (Note 10)	4,234,195	4,234,195
Retained earnings	<u>9,788</u>	<u>17,242</u>
	<u>4,243,983</u>	<u>4,251,437</u>
	<u>\$ 7,078,095</u>	<u>\$ 8,490,459</u>

Contingency (Note 14)

On behalf of the Board

 Chairman

 Director

See accompanying notes to the financial statements

Port Colborne Hydro Inc.

Statement of Cash Flows

Year Ended December 31

2009

2008

Increase (decrease) in cash and cash equivalents

Operating

Net earnings	\$ 412,546	\$ 454,169
Depreciation	502,042	509,724
Future payments in lieu of taxes	<u>54,996</u>	<u>(62,645)</u>
	969,584	901,248
Change in non-cash operating working capital (Note 11)	<u>(136,548)</u>	<u>179,123</u>
	<u>833,036</u>	<u>1,080,371</u>

Financing

Decrease (increase) in loan receivable from City of Port Colborne	442,653	(29,923)
Decrease in future employee benefits	(289,988)	(16,461)
Decrease in deferred revenue	(53,663)	(50,050)
Repayment of note payable	(1,004,544)	
Dividends	<u>(420,000)</u>	<u>(450,000)</u>
	<u>(1,325,542)</u>	<u>(546,434)</u>

Increase (decrease) in cash and cash equivalents	(492,506)	533,937
---	------------------	----------------

Cash and cash equivalents

Beginning of year	<u>2,131,841</u>	<u>1,597,904</u>
End of year	<u>\$ 1,639,335</u>	<u>\$ 2,131,841</u>

Cash and cash equivalents consist of:

Balances with banks	\$ 236,331	\$ 587,621
Guaranteed investment certificates	<u>1,403,004</u>	<u>1,544,220</u>
	<u>\$ 1,639,335</u>	<u>\$ 2,131,841</u>

See accompanying notes to the financial statements

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

1. Nature of operations

The company owned and operated a local electricity distribution business until April 15, 2002. The company entered into an agreement with Canadian Niagara Power Inc. (CNP) effective April 15, 2002 to lease the assets of the business for a period of ten years. The agreement includes the leasing of all capital assets and inventory and the assumption of customer deposits and certain future employee benefit liabilities. The base monthly lease payment is in the amount of \$ 127,350. The agreement also provides for an option to purchase the capital assets and inventory at the expiration of the lease for \$ 6.9 million.

The Ontario Energy Board Act, 1998 (Ontario) (OEBA) conferred on the Ontario Energy Board (OEB) increased powers and responsibilities to regulate the electricity industry. These powers and responsibilities include the power to approve or fix rates for the transmission and distribution of electricity, the power to provide continued rate protection for rural and remote electricity consumers, and the responsibility for ensuring that distribution companies fulfil obligations to connect and service customers. The OEB may also prescribe license requirements and conditions to electricity distributors, which may include among other things, specified accounting records, regulatory accounting principles, separation of accounts for distinct businesses and filing and process requirements for rate-setting purposes.

The assets leased to CNP are involved in the distribution of electricity under license from the OEB.

2. Summary of significant accounting policies

Cash and cash equivalents

Cash and cash equivalents include cash on hand and balances with banks. Bank borrowings are considered to be financing activities.

Inventories

Inventories are valued at the lower of cost and net realizable value.

Depreciation and amortization

Rates of depreciation and amortization applied to write-off the cost of land, buildings and equipment over their estimated lives on the straight-line method, are as follows:

Land rights	2%
Buildings	1.67%
Equipment	3.33% - 20%
Vehicles	12.5% - 25%

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

2. Summary of significant accounting policies (continued)

Employee future benefits

The company pays certain benefits on behalf of its retired employees. These post-retirement costs are recognized in the period in which the employees rendered their services to the company. The actuarial determination of the accrued benefit obligations for pension benefits earned by employees uses the projected benefit method prorated on service (which incorporates management's best estimate of future salary levels, other cost escalation, retirement ages of employees and other actuarial factors).

Revenue recognition

Lease and interest revenue are recognized on a monthly basis as earned.

Payments in lieu of taxes (PILs)

The company is currently exempt from taxes under the Income Tax Act (Canada) ("ITA") and the Ontario Corporations Tax Act ("OCTA").

Commencing October 1, 2001 and pursuant to the EA, the company is required to compute taxes under the ITA and OCTA and remit such amounts there under computed to the Ministry of Finance (Ontario). These amounts, referred to as PILs under the EA, are applied to reduce certain debt obligations of the former Ontario Hydro continuing in Ontario Electricity Financial Corporation.

The company has accounted for all significant timing differences between amounts computed for accounting and tax purposes. Timing differences are recorded in future payments in lieu of taxes on the balance sheet at current enacted statutory tax rates (under the ITA and OCTA).

Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may vary from the current estimates. These estimates are reviewed periodically and, as adjustments become necessary, they are reported in earnings in the periods in which they become known.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

2. Summary of significant accounting policies (continued)

Financial instruments

Financial instruments classified as held-for-trading are measured at fair value with changes in fair value recognized in net income. Financial assets classified as held-to-maturity or as loans and receivables and financial liabilities not classified as held-for-trading are measured at amortized cost. Available-for-sale financial assets are measured at fair value.

(i) Financial assets and liabilities

The company has classified its financial instruments as follows:

Cash and cash equivalents	Held-for-trading
Receivables	Loans and receivables
Due from Port Colborne Energy Inc.	Loans and receivables
Loan receivable from City of Port Colborne	Loans and receivables
Payables and accruals	Other liabilities
Due from Port Colborne Fibre Inc.	Loans and receivables
Due to City of Port Colborne	Loans and receivables
Note payable	Other liabilities

(ii) Derivatives and hedge accounting

The company does not have any derivatives and does not engage in derivative trading or speculative activities. Hedge accounting has not been used in the preparation of these financial statements.

Change in accounting policy

Effective January 1, 2009, the company adopted the CICA's new accounting standard, Section 1535, "Capital Disclosures" which requires the disclosure of both quantitative and qualitative information that enables users of financial statements to evaluate the organization's objectives, policies and processes for managing capital. This new standard did not have a material effect on the financial statements.

3. Restricted cash

Cash in the amount of \$ 80,000 has been restricted for the payment of future employee benefits.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

4. Inventories

Under the terms of the lease agreement with CNP, the inventories are part of the leased assets. The level was determined to be \$ 550,000 and if CNP exercises the purchase option at the termination of the lease, the inventories would be purchased along with the capital assets.

5. Loan receivable from City of Port Colborne

The loan receivable from the City of Port Colborne was repaid during the year.

6. Land, buildings and equipment

			<u>2009</u>	<u>2008</u>
	<u>Cost</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>	<u>Net Book Value</u>
Land and land rights	\$ 84,702	\$ 35,003	\$ 49,699	\$ 50,963
Buildings	519,778	389,958	129,820	143,503
Equipment	<u>14,848,132</u>	<u>11,047,039</u>	<u>3,801,093</u>	<u>4,288,186</u>
	<u>\$ 15,452,612</u>	<u>\$ 11,472,000</u>	<u>\$ 3,980,612</u>	<u>\$ 4,482,652</u>

7. Liability for future benefits

The company pays certain benefits of its retired employees who had retired prior to April 15, 2002, the effective date of the CNP lease. The company recognizes these post-retirement costs in the period in which the employees rendered the services. The accrued benefit liability at December 31, 2009 of \$ 42,623 (2008 - \$ 332,611) is based on actuarial valuation as of January 1, 2009 in the amount of \$ 42,623 using a discount rate of 5.75%, less benefits paid subsequent to January 1, 2009.

The main actuarial assumptions employed for the valuation are as follows:

(a) General inflation

Future general inflation levels, as measured by changes in the Consumer Price Index ("CPI"), were assumed at 2% in 2009 and thereafter.

(b) Interest (discount rate)

The obligations as at December 31, 2009 of the present value of future liabilities were determined using a discount rate of 5.75%. This rate reflects the assumed long term yield on high quality bonds as at January 1, 2009.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

7. Liability for future benefits (continued)

(c) Health costs

Health costs were assumed to increase 9% in 2009, 8.33% in 2010, 7.67% in 2011, 7% in 2012, 6.33% in 2013, 5.67% in 2014, 5% in 2015 and thereafter.

(d) Dental costs

Dental costs were assumed to increase 5% in 2009 and thereafter.

	<u>2009</u>	<u>2008</u>
Accrued benefit obligation		
Balance, beginning of year	\$ 332,611	\$ 349,072
Interest cost	15,319	16,333
Unrecognized gain	803	
Actuarial loss	(48,883)	
Settlement	(222,605)	
Benefit payments	<u>(34,622)</u>	<u>(32,794)</u>
Balance, end of year	<u>\$ 42,623</u>	<u>\$ 332,611</u>
Funded status – deficit (Note 3)	<u>\$ 42,623</u>	<u>\$ 332,611</u>

During the year, the company settled the life insurance portion of the benefits through an arrangement with Sun Life Financial, which will administer and pay out any future life insurance benefits.

8. Deferred revenue

Under the terms of the lease agreement with CNP, the liabilities for customers' deposits and the portion of employee future benefits associated with employees who were offered employment with CNP, were assumed by CNP. The agreement allowed for these liabilities to be paid over the ten year term of the lease at an interest rate of 6.99% and the monthly payments of \$ 5,447 would be deducted from the monthly lease payments.

9. Note payable

	<u>2009</u>	<u>2008</u>
Note payable to City of Port Colborne	<u>\$ 2,220,526</u>	<u>\$ 3,225,070</u>

Interest has been set at a rate of 7.25% and there are no set repayment terms for principal, however the City has no intention of requesting repayment of all or any portion of the note within the next year. Repayments made to the City of Port Colborne during the year totalled \$ 1,004,544 (2008 - \$ Nil). The City of Port Colborne has the option to convert some, or all of the principal into common shares of the company.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

10. Capital stock

Authorized:

The company is authorized to issue an unlimited number of common shares and an unlimited number of preference shares.

Issued:	<u>2009</u>	<u>2008</u>
1,100 common shares	<u>\$ 4,234,195</u>	<u>\$ 4,234,195</u>

11. Supplemental cash flow information

Change in non-cash operating working capital

Increase in prepaids	\$ (61,652)	
Increase in receivables	(58)	
Decrease in due from Canadian Niagara Power		\$ 14,449
Change in due from/to Port Colborne Energy Inc.	(32,515)	171,945
Increase in due from Port Colborne Fibre Inc.	(7,305)	(6,796)
Increase (decrease) in payables and accruals	1,174	(22,206)
Increase in due to City of Port Colborne	(13,147)	13,242
Increase (decrease) in payments in lieu of taxes receivable/payable	<u>(23,045)</u>	<u>8,489</u>
	<u>\$ (136,548)</u>	<u>\$ 179,123</u>
Interest received	\$ 40,278	\$ 106,264
Interest paid	201,024	249,133
Payments in lieu of taxes paid	268,188	237,470

12. Related party transactions

The following summarizes the company's related party transactions with the City of Port Colborne for the year. All transactions are in the normal course of operations, and are recorded at the exchange value based on normal commercial rates, or as agreed to by the parties.

	<u>2009</u>	<u>2008</u>
Interest received on loan receivable	\$ 12,485	\$ 29,922
Interest paid on note payable	189,357	233,818
Management fees paid	147,500	143,000

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2009

13. Capital management

Port Colborne Hydro Inc. considers its cash and investments as capital and its capital management objective is to establish a strong investment base for future growth and an income flow to fund its operations and to ensure future working capital needs are met. Port Colborne Hydro Inc. has no externally imposed capital requirements.

14. Contingency

A class action lawsuit claiming \$ 500 million in restitution payments plus interest was served on Toronto Hydro on November 18, 1998. The action was initiated against Toronto Hydro Electric Commission as the representative of the Defendant Class consisting of all municipal electric utilities in Ontario which have charged late payment charges on overdue utility bills at any time after April 1, 1981.

The claim is that late payment penalties result in municipal electric utilities receiving interest at effective rates in excess of 60% per year, which is illegal under Section 347(1)(b) of the Criminal Code.

The Municipal Electric Association is undertaking the defense of this class action. At this time it is not possible to quantify the effect, if any, on the financial statements of the company. During the period in question the commission charged \$ 858,700 in late payment charges on overdue utility bills.

15. Subsequent event

Subsequent to year end, the company provided a loan in the amount of \$ 400,000 to Port Colborne Fibre Inc. which will be repaid within two years. The funds were provided to Niagara Regional Broadband Network Limited (NRBN) as additional contributed capital representing Fibre's 25% share to purchase the telecommunication equipment and fibre optic network in the Regional Municipality of Niagara from Connex, for which the total purchase price was \$ 1.6 million. Connex was the company which built and operated the fibre optic network located in the Region.



Grant Thornton

Financial Report

Port Colborne Hydro Inc.

December 31, 2010

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Independent auditors' report

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To the Shareholder of
Port Colborne Hydro Inc.

We have audited the accompanying financial statements of Port Colborne Hydro Inc., which comprise the balance sheet as at December 31, 2010, and the statements of earnings, retained earnings and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's responsibility for the financial statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian generally accepted accounting principles, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of Port Colborne Hydro Inc. as at December 31, 2010, and its financial performance and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Grant Thornton LLP

Port Colborne, Ontario
June 20, 2011

Chartered Accountants
Licensed Public Accountants

Port Colborne Hydro Inc.**Statements of Earnings and Retained Earnings**

For the Year Ended December 31

2010

2009

Revenue		
Lease	\$ 1,528,200	\$ 1,528,200
Interest	27,120	40,278
Other	<u>29,985</u>	<u>230</u>
	<u>1,585,305</u>	<u>1,568,708</u>
Expenses		
Amortization	489,882	502,042
General administration expense	355,750	152,957
Interest on long term debt	<u>168,817</u>	<u>201,024</u>
	<u>1,014,449</u>	<u>856,023</u>
Earnings before payments in lieu of taxes	570,856	712,685
Payments in lieu of taxes		
Payment in lieu of taxes	238,022	245,143
Future payment in lieu of taxes	<u>46,103</u>	<u>54,996</u>
Net earnings	<u>\$ 286,731</u>	<u>\$ 412,546</u>
Retained earnings, beginning of year	\$ 9,788	\$ 17,242
Net earnings	286,731	412,546
Dividends	<u>(290,000)</u>	<u>(420,000)</u>
Retained earnings, end of year	<u>\$ 6,519</u>	<u>\$ 9,788</u>

See accompanying notes to the financial statements

Port Colborne Hydro Inc.

Balance Sheet

As at December 31

2010

2009

Assets

Current

Cash and cash equivalents (Note 3)	\$ 1,924,644	\$ 1,639,335
Receivables	1,471	58
Payments in lieu of taxes receivable	11,593	10,816
Prepays	4,656	61,652
Due from Port Colborne Fibre Inc., non-interest bearing with no set terms of repayment	528,906	390,358
Current portion of long term receivable (Note 4)	<u>5,543</u>	
	2,476,813	2,102,219

Long term receivable (Note 4)	23,329	
Inventories (Note 5)	550,000	550,000
Land, buildings and equipment (Note 6)	3,490,729	3,980,612
Future payments in lieu of taxes	<u>399,161</u>	<u>445,264</u>
	<u>\$ 6,940,032</u>	<u>\$ 7,078,095</u>

Liabilities

Current

Payables and accruals	\$ 99,093	\$ 31,483
Current portion of deferred revenue	61,690	57,537
Due to Port Colborne Energy Inc., non-interest bearing with no set terms of repayment	261,382	401,134
Due to City of Port Colborne	<u>1,109</u>	<u>305</u>
	423,274	490,459

Liability for future benefits (Note 7)	36,704	42,623
Deferred revenue (Note 8)	18,814	80,504
Note payable (Note 9)	<u>2,220,526</u>	<u>2,220,526</u>
	<u>2,699,318</u>	<u>2,834,112</u>

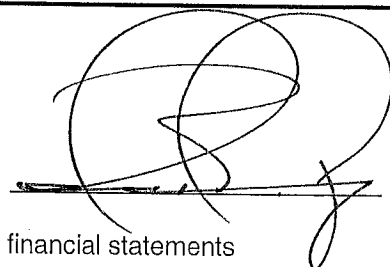
Shareholder's Equity

Capital stock (Note 10)	4,234,195	4,234,195
Retained earnings	<u>6,519</u>	<u>9,788</u>
	<u>4,240,714</u>	<u>4,243,983</u>
	<u>\$ 6,940,032</u>	<u>\$ 7,078,095</u>

Contingency (Note 14)

On behalf of the Board

 Chairman

 Director

See accompanying notes to the financial statements

Port Colborne Hydro Inc.

Statement of Cash Flows

For the Year Ended December 31

2010

2009

Increase (decrease) in cash and cash equivalents

Operating

Net earnings	\$ 286,731	\$ 412,546
Depreciation	489,882	502,042
Future payments in lieu of taxes	<u>46,103</u>	<u>54,996</u>
	822,716	969,584
Change in non-cash operating working capital (Note 11)	<u>(155,079)</u>	<u>(136,548)</u>
	<u>667,637</u>	<u>833,036</u>

Financing

Decrease in loan receivable from City of Port Colborne		442,653
Increase in due from Canadian Niagara Power	(28,872)	
Decrease in future employee benefits	(5,919)	(289,988)
Decrease in deferred revenue	(57,537)	(53,663)
Repayment of note payable		(1,004,544)
Dividends	<u>(290,000)</u>	<u>(420,000)</u>
	<u>(382,328)</u>	<u>(1,325,542)</u>

Increase (decrease) in cash and cash equivalents

285,309 (492,506)

Cash and cash equivalents

Beginning of year	<u>1,639,335</u>	<u>2,131,841</u>
End of year	<u>\$ 1,924,644</u>	<u>\$ 1,639,335</u>

Cash and cash equivalents consist of:

Balances with banks	\$ (78,808)	\$ 236,331
Guaranteed investment certificates	<u>2,003,452</u>	<u>1,403,004</u>
	<u>\$ 1,924,644</u>	<u>\$ 1,639,335</u>

See accompanying notes to the financial statements

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

1. Nature of operations

The company owned and operated a local electricity distribution business until April 15, 2002. The company entered into an agreement with Canadian Niagara Power Inc. (CNP) effective April 15, 2002 to lease the assets of the business for a period of ten years. The agreement includes the leasing of all capital assets and inventory and the assumption of customer deposits and certain future employee benefit liabilities. The base monthly lease payment is in the amount of \$ 127,350. The agreement also provides for an option to purchase the capital assets and inventory at the expiration of the lease for \$ 6.9 million.

The Ontario Energy Board Act, 1998 (Ontario) (OEBA) conferred on the Ontario Energy Board (OEB) increased powers and responsibilities to regulate the electricity industry. These powers and responsibilities include the power to approve or fix rates for the transmission and distribution of electricity, the power to provide continued rate protection for rural and remote electricity consumers, and the responsibility for ensuring that distribution companies fulfil obligations to connect and service customers. The OEB may also prescribe license requirements and conditions to electricity distributors, which may include among other things, specified accounting records, regulatory accounting principles, separation of accounts for distinct businesses and filing and process requirements for rate-setting purposes.

The assets leased to CNP are involved in the distribution of electricity under license from the OEB.

Subsequent to year end, Port Colborne Hydro received notice from CNP in a letter dated April 8, 2011 that it intends to exercise its option in the lease agreement to purchase the assets of Port Colborne Hydro for \$ 6.9 million at the conclusion of the lease in April, 2012.

2. Summary of significant accounting policies

Cash and cash equivalents

Cash and cash equivalents include cash on hand and balances with banks. Bank borrowings are considered to be financing activities.

Inventories

Inventories are valued at the lower of cost and net realizable value.

Amortization

Rates of amortization applied to write-off the cost of land, buildings and equipment over their estimated lives on the straight-line method, are as follows:

Land rights	2%
Buildings	1.67%
Equipment	3.33% - 20%
Vehicles	12.5% - 25%

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

2. Summary of significant accounting policies (continued)

Employee future benefits

The company pays certain benefits on behalf of its retired employees. These post-retirement costs are recognized in the period in which the employees rendered their services to the company. The actuarial determination of the accrued benefit obligations for pension benefits earned by employees uses the projected benefit method prorated on service (which incorporates management's best estimate of future salary levels, other cost escalation, retirement ages of employees and other actuarial factors).

Revenue recognition

Lease and interest revenue are recognized on a monthly basis as earned.

Payments in lieu of taxes (PILs)

The company is currently exempt from taxes under the Income Tax Act (Canada) ("ITA") and the Ontario Corporations Tax Act ("OCTA").

Commencing October 1, 2001 and pursuant to the EA, the company is required to compute taxes under the ITA and OCTA and remit such amounts there under computed to the Ministry of Finance (Ontario). These amounts, referred to as PILs under the EA, are applied to reduce certain debt obligations of the former Ontario Hydro continuing in Ontario Electricity Financial Corporation.

The company has accounted for all significant timing differences between amounts computed for accounting and tax purposes. Timing differences are recorded in future payments in lieu of taxes on the balance sheet at current enacted statutory tax rates (under the ITA and OCTA).

Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may vary from the current estimates. These estimates are reviewed periodically and, as adjustments become necessary, they are reported in earnings in the periods in which they become known.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

2. Summary of significant accounting policies (continued)

Financial instruments

Financial instruments classified as held-for-trading are measured at fair value with changes in fair value recognized in net income. Financial assets classified as held-to-maturity or as loans and receivables and financial liabilities not classified as held-for-trading are measured at amortized cost. Available-for-sale financial assets are measured at fair value.

(i) Financial assets and liabilities

The company has classified its financial instruments as follows:

Cash and cash equivalents	Held-for-trading
Receivables	Loans and receivables
Due to/from Port Colborne Energy Inc.	Loans and receivables
Payables and accruals	Other liabilities
Due from Port Colborne Fibre Inc.	Loans and receivables
Due to City of Port Colborne	Loans and receivables
Note payable	Other liabilities

(ii) Derivatives and hedge accounting

The company does not have any derivatives and does not engage in derivative trading or speculative activities. Hedge accounting has not been used in the preparation of these financial statements.

3. Restricted cash

Cash in the amount of \$ 40,000 (2009 - \$ 80,000) has been restricted for the payment of future employee benefits.

4. Long term receivable	<u>2010</u>
Due from Canadian Niagara Power	\$ 28,872
Less : current portion	<u>5,543</u>
	<u>\$ 23,329</u>

The balance due from Canadian Niagara Power relates to the class action lawsuit against Toronto Hydro for restitution of excessive late payment charges on overdue utility bills after April 1, 1981. In accordance with the lawsuit settlement and the Ontario Energy Board ruling, the company's share of the settlement will be recovered by CNP from customers over the period commencing May 1, 2011 and ending April 30, 2013.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

5. Inventories

Under the terms of the lease agreement with CNP, the inventories are part of the leased assets. The level was determined to be \$ 550,000 and if CNP exercises the purchase option at the termination of the lease, the inventories would be purchased along with the capital assets.

6. Land, buildings and equipment

			<u>2010</u>	<u>2009</u>
	<u>Cost</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>	<u>Net Book Value</u>
Land and land rights	\$ 84,702	\$ 36,268	\$ 48,434	\$ 49,699
Buildings	519,778	403,641	116,137	129,820
Equipment	<u>14,848,132</u>	<u>11,521,974</u>	<u>3,326,158</u>	<u>3,801,093</u>
	<u>\$ 15,452,612</u>	<u>\$ 11,961,883</u>	<u>\$ 3,490,729</u>	<u>\$ 3,980,612</u>

7. Liability for future benefits

The company pays certain benefits of its retired employees who had retired prior to April 15, 2002, the effective date of the CNP lease. The company recognizes these post-retirement costs in the period in which the employees rendered the services. The accrued benefit liability at December 31, 2010 of \$ 36,704 (2009 - \$ 42,623) is based on actuarial valuation as of January 1, 2009 in the amount of \$ 42,623 using a discount rate of 5.75%, less benefits paid subsequent to January 1, 2009.

The main actuarial assumptions employed for the valuation are as follows:

(a) General inflation

Future general inflation levels, as measured by changes in the Consumer Price Index ("CPI"), were assumed at 2% in 2010 and thereafter.

(b) Interest (discount rate)

The obligations as at December 31, 2010 of the present value of future liabilities were determined using a discount rate of 5.75%. This rate reflects the assumed long term yield on high quality bonds as at January 1, 2010.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

7. Liability for future benefits (continued)

(c) Health costs

Health costs were assumed to increase 9% in 2009, 8.33% in 2010, 7.67% in 2011, 7% in 2012, 6.33% in 2013, 5.67% in 2014, 5% in 2015 and thereafter.

(d) Dental costs

Dental costs were assumed to increase 5% in 2009 and thereafter.

	<u>2010</u>	<u>2009</u>
Accrued benefit obligation		
Balance, beginning of year	\$ 42,623	\$ 332,611
Interest cost	1,935	15,319
Unrecognized gain		803
Actuarial loss		(48,883)
Settlement		(222,605)
Benefit payments	<u>(7,854)</u>	<u>(34,622)</u>
Balance, end of year	<u>\$ 36,704</u>	<u>\$ 42,623</u>
Funded status – deficit (Note 3)	<u>\$ 36,704</u>	<u>\$ 42,623</u>

In 2009, the company settled the life insurance portion of the benefits through an arrangement with Sun Life Financial, which will administer and pay out any future life insurance benefits.

8. Deferred revenue

Under the terms of the lease agreement with CNP, the liabilities for customers' deposits and the portion of employee future benefits associated with employees who were offered employment with CNP, were assumed by CNP. The agreement allowed for these liabilities to be paid over the ten year term of the lease at an interest rate of 6.99% and the monthly payments of \$ 5,447 would be deducted from the monthly lease payments.

9. Note payable

	<u>2010</u>	<u>2009</u>
Note payable to City of Port Colborne	<u>\$ 2,220,526</u>	<u>\$ 2,220,526</u>

Interest has been set at a rate of 7.25% and there are no set repayment terms for principal, however the City has no intention of requesting repayment of all or any portion of the note within the next year. Repayments made to the City of Port Colborne during the year totalled \$ Nil (2009 - \$ 1,004,544). The City of Port Colborne has the option to convert some, or all of the principal into common shares of the company.

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

10. Capital stock

Authorized:

The company is authorized to issue an unlimited number of common shares and an unlimited number of preference shares.

Issued:

	<u>2010</u>	<u>2009</u>
1,100 common shares	<u>\$ 4,234,195</u>	<u>\$ 4,234,195</u>

11. Supplemental cash flow information

	<u>2010</u>	<u>2009</u>
Change in non-cash operating working capital		
Increase in receivables	\$ (1,412)	\$ (58)
Decrease in payments in lieu of taxes receivable/payable	(777)	(23,045)
Decrease (increase) in prepaids	56,996	(61,652)
Increase in due from/to Port Colborne Energy Inc.	(139,752)	(32,515)
Increase in due from Port Colborne Fibre Inc.	(138,548)	(7,305)
Increase in payables and accruals	67,610	1,174
Increase (decrease) in due to City of Port Colborne	<u>804</u>	<u>(13,147)</u>
	<u>\$ (155,079)</u>	<u>\$ (136,548)</u>
Interest received	\$ 27,120	\$ 40,278
Interest paid	168,817	201,024
Payments in lieu of taxes paid	247,972	268,188

12. Related party transactions

The following summarizes the company's related party transactions with the City of Port Colborne for the year. All transactions are in the normal course of operations, and are recorded at the exchange value based on normal commercial rates, or as agreed to by the parties.

	<u>2010</u>	<u>2009</u>
Interest received on loan receivable	\$ Nil	\$ 12,485
Interest paid on note payable	160,988	189,357
Management fees paid	150,450	147,500

Port Colborne Hydro Inc.

Notes to the Financial Statements

December 31, 2010

13. Capital management

Port Colborne Hydro Inc. considers its cash and investments as capital and its capital management objective is to establish a strong investment base for future growth and an income flow to fund its operations and to ensure future working capital needs are met. Port Colborne Hydro Inc. has no externally imposed capital requirements.

14. Contingency

A class action lawsuit claiming \$ 500 million in restitution payments plus interest was served on Toronto Hydro on November 18, 1998. The action was initiated against Toronto Hydro Electric Commission as the representative of the Defendant Class consisting of all municipal electric utilities in Ontario which have charged late payment charges on overdue utility bills at any time after April 1, 1981.

The claim is that late payment penalties result in municipal electric utilities receiving interest at effective rates in excess of 60% per year, which is illegal under Section 347(1)(b) of the Criminal Code.

During the year, by court order dated July 22, 2010, the Ontario Superior Court of Justice approved the settlement of the class action lawsuit. The court order formalized a settlement pursuant to which the defendants will pay the amount of \$ 17,000,000 plus costs and taxes in settlement of all claims. The amount allocated for payment by each MEU is its proportionate share of the settlement amount based on its percentage of distribution service revenue over the period for which it has exposure for repayment of late payment penalties exceeding the interest rate limit in the Criminal Code. Hydro's share of the settlement amount is \$ 28,872 and is expected to be payable on June 30, 2011. Under the settlement, all the MEUs involved in the settlement requested an order from the Ontario Energy Board ("OEB") allowing for the future recovery from customers of all costs related to the settlement.

On February 22, 2011, the OEB issued its final decision allowing for Hydro to recover the settlement amount from customers over the period commencing May 1, 2011 and ending April 30, 2013. This amount will be collected by CNP on behalf of Hydro (Note 4).

Attachment 1.4.3B

CNPI Financial Statements

Financial Statements

Canadian Niagara Power Inc.
December 31, 2010

INDEPENDENT AUDITORS' REPORT

To the Shareholder of
Canadian Niagara Power Inc.

We have audited the accompanying financial statements of **Canadian Niagara Power Inc.**, which comprise the balance sheet as at December 31, 2010 and the statements of earnings and retained earnings and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's responsibility for the financial statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian generally accepted accounting principles, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained in our audit is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of **Canadian Niagara Power Inc.** as at December 31, 2010 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Toronto, Canada,
March 14, 2011.

Ernst & Young LLP

Chartered Accountants
Licensed Public Accountants

Canadian Niagara Power Inc.
Incorporated under the laws of Ontario

BALANCE SHEETS
[in thousands of dollars]

As at December 31

	2010	2009
	\$	\$
ASSETS [notes 12 and 13]		
Current		
Cash [notes 12 and 13]	3,701	1,501
Accounts receivable [notes 12 and 13]	10,527	11,332
Income taxes receivable	279	511
Materials and supplies [note 1]	103	102
Regulatory assets [note 15]	664	67
Prepaid expenses	447	187
Total current assets	15,721	13,700
Utility capital assets, net [note 2]	76,847	75,160
Intangible assets [note 3]	7,799	6,866
Accrued pension benefit asset [note 4]	2,011	1,544
Other assets, net	343	58
Regulatory assets [note 15]	10,997	10,903
Goodwill	3,214	3,214
	116,932	111,445
LIABILITIES AND SHAREHOLDER'S EQUITY		
Current		
Accounts payable and accrued liabilities [notes 12 and 13]	7,823	7,802
Regulatory liabilities [note 15]	—	318
Due to related parties [note 6]	4,036	617
Total current liabilities	11,859	8,737
Promissory notes due to parent [notes 6, 12 and 13]	20,000	20,000
Long-term debt [notes 7, 12 and 13]	29,757	29,725
Future tax liabilities [note 5]	3,185	2,809
Accrued other retirement benefit liability [note 4]	4,170	3,901
Contributions in aid of construction	7,543	6,979
Regulatory liabilities [note 15]	3,094	2,092
Total liabilities	79,608	74,243
Commitments and contingencies [notes 11 and 13]		
Shareholder's equity		
Capital stock [note 8]	23,900	23,900
Retained earnings	13,424	13,302
Total shareholder's equity	37,324	37,202
	116,932	111,445

See accompanying notes

On behalf of the Board:

Director

Director

Canadian Niagara Power Inc.

**STATEMENTS OF EARNINGS AND
RETAINED EARNINGS**

[in thousands of dollars]

Years ended December 31

	2010 \$	2009 \$
Operating revenue	67,964	62,154
Expenses		
Operating	55,093	49,597
Operating lease	1,523	1,525
Amortization [note 9]	4,262	4,075
	60,878	55,197
Operating earnings	7,086	6,957
Interest expense [notes 6, 7 and 13]	(3,390)	(3,054)
Earnings before income taxes	3,696	3,903
Provision for income taxes [note 5]	574	878
Net earnings for the year	3,122	3,025
Retained earnings, beginning of year	13,302	7,480
Prior years regulatory assets on future income tax liabilities [note 1]	—	2,797
Dividends paid	(3,000)	—
Retained earnings, end of year	13,424	13,302

See accompanying notes

Canadian Niagara Power Inc.

STATEMENTS OF CASH FLOWS

[in thousands of dollars]

Years ended December 31

	2010	2009
	\$	\$
OPERATING ACTIVITIES		
Net earnings for the year	3,122	3,025
Add (deduct) items not involving cash		
Amortization [note 9]	4,262	4,075
Future income taxes	376	12
Gain on sale of utility capital assets	(38)	(31)
Accrued pension benefits	(467)	(138)
Accrued other retirement benefits	269	108
Long-term regulatory assets and liabilities	908	(6,002)
	8,432	1,049
Net change in non-cash working capital balances related to operations [note 10]	3,301	1,980
Cash provided by operating activities	11,733	3,029
INVESTING ACTIVITIES		
Additions to utility capital assets	(5,690)	(8,605)
Additions to intangible assets	(1,481)	(403)
Proceeds on sale of utility capital assets	43	83
Change in other assets	(252)	86
Cash used in investing activities	(7,380)	(8,839)
FINANCING ACTIVITIES		
Dividends paid	(3,000)	—
Affiliate promissory note payable	—	5,000
Increase in contributions in aid of construction	847	1,501
Cash provided by (used in) financing activities	(2,153)	6,501
Net increase in cash during the year	2,200	691
Cash, beginning of year	1,501	810
Cash, end of year	3,701	1,501

See accompanying notes

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Incorporation and financial statements

Canadian Niagara Power Inc. [the "Corporation"], a wholly owned subsidiary of FortisOntario Inc. [the "parent company"] [formerly Canadian Niagara Power Company, Limited], was incorporated on February 17, 1999 to comply with the Electricity Act, 1998 (Ontario) [the "Act"]. The Act requires that the electric power transmission and distribution businesses, previously carried out by the parent company, be carried out in a separate legal entity. Effective March 31, 1999, the Corporation purchased the electric power transmission and distribution assets of its parent company and commenced operations. On January 1, 2004, the Corporation was amalgamated with Eastern Ontario Power Inc. and continued as Canadian Niagara Power Inc. The business of the Corporation is the transmission and distribution of electricity to customers within Ontario. The business is regulated by the Ontario Energy Board ["OEB"].

These financial statements include the operating results of the Fort Erie, Port Colborne and Eastern Ontario Power [Gananoque] distribution centres and the Fort Erie transmission centre.

Future accounting policies

Transition to new Canadian Financial Reporting Standards

Effective January 1, 2011, publicly accountable enterprises in Canada will be required to apply International Financial Reporting Standards ["IFRS"], with the exception of qualifying entities with rate-regulated activities which are permitted a one-year deferral. The Corporation qualifies for the one-year deferral option and, in co-ordination with its parent company, has elected to defer the adoption of IFRS and will, therefore, continue to prepare its financial statements in accordance with existing Canadian generally accepted accounting principles ["GAAP"] [i.e. Part V of the CICA Handbook] for all interim and annual periods ending on or before December 31, 2011.

Effective January 1, 2012, the Corporation will no longer be permitted to use Part V of the CICA Handbook in the presentation of its financial statements, at which time the transition to a new set of accounting standards will be required. The Corporation, as a non-publicly accountable enterprise in Canada, has two choices when selecting a new set of accounting standards: [i] IFRS; or [ii] Part II, *Accounting Standards for Private Enterprises*, of the CICA Handbook. In co-ordination with its parent company, the Corporation will not be adopting IFRS. The Corporation is currently assessing the financial reporting impacts of adopting Part II of the CICA Handbook. The Corporation currently does not expect any material financial reporting changes with the adoption of Part II of the CICA Handbook.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Regulation

The transmission and distribution rates of the Corporation are based upon cost-of-service rate regulation by the OEB. Earnings are regulated on the basis of a rate of return on rate-base, plus a recovery of all allowable distribution costs of the Corporation.

On August 26, 2009, the OEB issued a Rate Order of harmonized electricity distribution rates for Fort Erie and Gananoque. The rates were effective May 1, 2009 and were implemented on September 1, 2009. The final distribution rate increases for Fort Erie and Gananoque were 5.1% and 11.7%, respectively. These increases included the recovery of foregone revenue for the intervening period between the effective date and the implementation date of rates. The rates were based on a deemed equity of 43.3% and an allowed return on equity ["ROE"] of 8.01%.

On October 28, 2009, the OEB issued an Amended Decision and Rate Order in the matter of the Port Colborne electricity distribution rate application. The rates were implemented November 1, 2009 and were effective May 1, 2009; Port Colborne was permitted to collect the foregone revenue for the period from May 1, 2009 to October 31, 2009. The final distribution rate increase was 8.4%. The rates were based on a deemed equity of 43.3% and an allowed ROE of 8.01%.

In 2009, the Corporation filed Third-Generation Incentive Rate Mechanism ["IRM"] electricity distribution rate applications for rates in Fort Erie, Gananoque and Port Colborne, effective May 1, 2010. The OEB issued its Decisions and Orders in relation to these applications on April 16, 2010. The Decisions resulted in average increases of 1.4% in Fort Erie and 6.6% in Port Colborne and an average decrease of 5.6% in Gananoque. Core distribution rates were increased based on an inflation factor of 1.3% offset by a productivity factor of 0.72% and stretch factors ranging from 0.4% to 0.6%. Other factors influencing final rates were the discontinuance of certain rate riders from the 2009 applications, the disposition of December 31, 2008 regulatory deferral accounts, the final stage of transition to the 60/40 debt/equity structure and capital tax adjustments.

In November 2010, the Corporation filed IRM electricity rate applications for rates in Fort Erie, Gananoque and Port Colborne, effective May 1, 2011. As at the year end, no Decisions and Orders on these applications have been issued by the OEB.

Materials and supplies

Materials and supplies are recorded at average cost. Materials and supplies expensed to operating expenses in 2010 were \$105 [2009 - \$110].

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Utility capital assets

Nature of distribution and transmission assets

Distribution assets

Distribution assets are those used to distribute electricity at lower voltages [generally below 50 kilovolts]. These assets include poles, towers and fixtures, low-voltage wires, transformers, overhead and underground conductors, street lighting, meters, metering equipment and other related equipment.

Transmission assets

Transmission assets are those used to transmit electricity at higher voltages [generally at 50 kilovolts and above]. These assets include poles, wires and conductors, substations, support structures and other related equipment.

Utility capital assets are stated at cost less accumulated amortization. Amortization is provided over the estimated useful lives of the utility capital assets using the straight-line method at a composite rate of 3.4% [2009 - 3.3%].

Contributions in aid of construction represent funding of utility capital assets contributed by customers. These accounts are being reduced annually by an amount equal to the charge for amortization provided on the contribution portion of the assets involved.

General expenses capitalized ["GEC"] are capitalized overhead costs which are not directly attributable to specific utility capital assets but relate to the Corporation's overall capital program. GEC is permitted by the OEB's Distribution Rate Handbook and Accounting Procedures Handbook. In the absence of rate regulation, utility overhead costs which are not directly attributable to construction activity would not be capitalized. GEC is allocated over constructed utility capital assets and amortized based on the rate applicable to these assets.

Intangible assets

Intangible assets are stated at cost less accumulated amortization. Amortization is provided over the estimated useful lives of the intangible assets using the straight-line method.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Asset retirement obligations

The Corporation follows the CICA Handbook which requires the recording of the fair value of the future expenditures required to settle legal obligations associated with asset retirements. The Corporation has determined that there are asset retirement obligations associated with some parts of its transmission and distribution systems, however, none of these are material requiring recognition under Emerging Issues Committee 159 at this time.

Goodwill

Goodwill represents the excess of the acquisition cost of the shares of the Corporation, Eastern Ontario Power Inc. [amalgamated with the Corporation as of January 1, 2004] over the assigned value of identifiable net assets acquired. Goodwill is not amortized but, instead, is tested for impairment annually by comparing the fair value of the goodwill to its carrying value. Any impairment in value is charged against net earnings for the year.

In 2009, the Corporation changed the date of the annual goodwill impairment test from July 31 to October 1 to better correspond with the timing of the preparation of its annual financial budgets. Accordingly, this accounting change was preferable in the Corporation's circumstance. The change in timing of the test did not delay, accelerate or avoid any impairment charge. The change in the timing of the impairment test had no impact on the 2009 financial statements. The Corporation performed the annual goodwill impairment test as at October 1, 2010. To assess for impairment, the fair value of each of the Corporation's reporting units is determined and compared to the book value of the reporting unit. If the fair value of the reporting unit is less than the book value, then a second test is performed to determine the amount of the impairment.

Other assets

Other assets are amortized over their useful lives.

Operating lease

The Corporation has entered into an operating lease, which expires in 2012, with the City of Port Colborne, whereby the Corporation operates and maintains the City of Port Colborne's electricity distribution assets and provides service to the residents of Port Colborne. The Corporation recognizes all revenue relating to this agreement in operating revenue and records the cost of the lease as operating lease expense. At the end of the lease term, the Corporation has the option to purchase the assets at a pre-determined amount.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Revenue recognition

Revenue from the sale, transmission and distribution of electricity is recognized on the accrual basis. Electricity is metered upon delivery to customers and is recognized as revenue using approved rates when consumed. Meters are read periodically and bills are issued to customers based on these readings. At the end of the year a certain amount of consumed electricity will not have been billed. Electricity that is consumed but not yet billed to the customers is estimated and accrued as revenue in the current year. Unbilled revenue included in accounts receivable as at December 31, 2010 is \$4,642 [2009 - \$5,593].

Translation of foreign currencies

Monetary assets and liabilities denominated in foreign currencies are translated into Canadian dollars at the exchange rate prevailing at the balance sheet date. Gains and losses on translation are included in the statement of earnings and retained earnings. Revenue and expenses are translated at the exchange rate prevailing on the transaction date.

Employee benefit plans

The Corporation accrues its obligations under employee benefit plans. The cost of pension benefits and other retirement benefits earned by employees is actuarially determined using the projected benefit method pro-rated on service and management's best estimate of discount rates, salary escalation, retirement ages of employees and expected health care costs. Pension plan assets are valued at fair value. The excess of any cumulative net actuarial gain (loss) over 10% of the greater of the benefit obligation and the fair value of plan assets is amortized over the average remaining service period of active employees.

Income taxes

The Corporation follows the asset and liability method of accounting for income taxes. Under this method, future tax assets and liabilities are recognized for the temporary differences between the tax and accounting bases of assets and liabilities. Future tax assets and liabilities are measured using the enacted and substantively enacted tax rates and laws expected to apply to taxable income in the years in which temporary differences are expected to be recovered or settled. Effective January 1, 2009, the Corporation recognizes regulatory assets related to future income tax liabilities for the amount of future income taxes expected to be recovered from customers in future electricity rates.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Use of estimates

The preparation of financial statements in conformity with Canadian GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting periods. Actual results may vary from the current estimates. These estimates are reviewed periodically and, as adjustments become necessary, they are reported in earnings in the period in which they become known.

Financial instruments

At inception, all financial instruments which meet the definition of a financial asset or financial liability are to be recorded at their fair value, unless fair value cannot be reliably determined. Depending on the nature of the financial instrument, revenues, expenses, gains and losses thereon would be reported in either net income or other comprehensive income. Subsequent measurement of each financial instrument will depend on the balance sheet classification selected by the Corporation. The Corporation has selected the following balance sheet classification with respect to its financial assets and financial liabilities:

- [i] Cash is a financial asset classified as "held for trading" and is measured at fair value;
- [ii] Accounts receivable and unbilled revenue are financial assets classified as "loans and receivables" and are measured at amortized cost, which, upon initial recognition, is considered equivalent to fair value; subsequent measurements are recorded at amortized cost using the effective interest rate method; and
- [iii] Accounts payable and accrued liabilities, promissory notes due to parent and long term debt are financial liabilities classified as "other financial liabilities" and are initially measured at their fair value. Subsequent measurements are recorded at amortized cost using the effective interest rate method.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS
[in thousands of dollars]

December 31, 2010

2. UTILITY CAPITAL ASSETS

Utility capital assets consist of the following:

	2010		
	Cost	Accumulated	Net book
	\$	amortization	value
		\$	\$
Transmission	22,556	10,606	11,950
Distribution	86,356	26,754	59,602
Other	12,167	6,872	5,295
	121,079	44,232	76,847

	2009		
	Cost	Accumulated	Net book
	\$	amortization	value
		\$	\$
Transmission	22,356	10,005	12,351
Distribution	81,675	24,207	57,468
Other	11,438	6,097	5,341
	115,469	40,309	75,160

The amounts above include assets under construction, which are not subject to amortization, of \$2,906 [2009 - \$3,866].

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

3. INTANGIBLE ASSETS

Intangible assets consist of the following:

	2010		
	Cost	Accumulated amortization	Net book value
	\$	\$	\$
Software costs	7,162	4,265	2,897
Land and transmission rights	6,779	2,080	4,699
Other	255	52	203
	14,196	6,397	7,799

	2009		
	Cost	Accumulated amortization	Net book value
	\$	\$	\$
Software costs	5,730	3,891	1,839
Land and transmission rights	6,730	1,913	4,817
Other	255	45	210
	12,715	5,849	6,866

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

4. EMPLOYEE FUTURE BENEFITS

The Corporation is a participating employer with its parent company in a defined benefit pension plan and a defined benefit plan providing other retirement benefits. The Corporation also maintains a defined contribution pension plan providing pension benefits and makes contributions to the Ontario Municipal Employees' Retirement System ["OMERS"] plan on behalf of some of its employees. OMERS is a multi-employer defined benefit pension plan providing pension benefits and is accounted for as a defined contribution pension plan.

Information about the Corporation's defined benefit plans is as follows:

	Pension benefit plan		Other retirement plan	
	2010	2009	2010	2009
	\$	\$	\$	\$
Accrued benefit obligation				
Balance, beginning of year	12,022	11,970	4,042	4,160
Current service cost	282	263	65	78
Interest cost	757	764	269	279
Benefits paid	(897)	(913)	(159)	(293)
Actuarial losses (gains)	835	(62)	807	(182)
Balance, end of year	12,999	12,022	5,024	4,042
Plan assets				
Fair value, beginning of year	11,737	11,357	—	—
Actual return on plan assets	166	746	—	—
Contributions	985	631	—	—
Benefits paid	(897)	(914)	—	—
Plan expenses	(120)	(83)	—	—
Fair value, end of year	11,871	11,737	—	—
Funded status - deficit	(1,128)	(285)	(5,024)	(4,042)
Unamortized amounts				
Actuarial losses	2,900	1,567	767	4
Prior service costs	33	38	87	137
Transitional obligation	206	224	—	—
Accrued benefit asset (liability)	2,011	1,544	(4,170)	(3,901)

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

The measurement date for the plan assets and the accrued benefit obligation is September 30, 2010. The effective date of the most recent actuarial valuation was as of December 31, 2009 and the next required valuation for funding purposes is as of December 31, 2012.

The defined benefit pension plan assets held at the measurement date are represented by the following categories:

	%
Canadian equity funds	15
U.S. equity funds	11
EAFE equity funds	12
Canadian fixed income funds	57
Cash and short-term investments	5

	Pension benefit plan		Other retirement plan	
	2010	2009	2010	2009
	\$	\$	\$	\$
Significant assumptions used				
Discount rate	5.20%	6.40%	5.40%	6.60%
Expected long-term rate of return on plan assets	6.25%	6.75%	—	—
Rate of compensation increase	4.00%	4.00%	—	—
Assumed health care trend rate	—	—	4.50%	4.50%
Average remaining service period of active employees [years]	9	9	17	16
Net benefit expense for the year				
Current service cost	385	365	65	78
Interest cost	757	764	269	279
Expected return on plan assets	(711)	(740)	—	—
Actuarial losses (gains)	64	81	—	(15)
Amortization of transitional obligation and past service costs	23	23	44	46
Net benefit expense	518	493	378	388

The impact on 2010 of a one-percentage-point increase in the assumed health care cost trend rate would be to increase the current service cost and interest cost of other retirement plan benefits by \$108 and increase the other retirement benefit liability by \$880. The impact of a one-percentage-

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

point decrease in the assumed health care cost trend rate would be to decrease the current service cost and interest cost of other retirement plan benefits by \$85 and decrease the other retirement benefit liability by \$693.

The total expense for the Corporation's defined contribution pension plan for the year amounted to \$200 [2009 - \$187]. The pension cost associated with the OMERS plan was \$72 [2009 - \$66].

5. INCOME TAXES

The provision for income taxes (recovery) consists of the following:

	2010 \$	2009 \$
Current income taxes	574	878
Future income taxes	376	12
Future taxes transferred to regulatory assets	(376)	(12)
	<u>574</u>	<u>878</u>

As per note 1, during the year the Corporation recorded \$376 in regulatory assets and a corresponding offset to future income tax expense, for the amount of future income taxes expected to be recovered from customers in future electricity rates.

Future income taxes are provided for temporary differences. Future tax assets and liabilities consist of the following:

	2010 \$	2009 \$
Future tax liabilities (assets)		
Utility capital assets	3,641	3,286
Employee future benefits	(539)	(589)
Other assets	83	112
Net future tax liabilities	<u>3,185</u>	<u>2,809</u>

Canadian Niagara Power Inc.**NOTES TO FINANCIAL STATEMENTS**

[in thousands of dollars]

December 31, 2010

6. RELATED PARTY TRANSACTIONS

During the year, the Corporation entered into the following transactions with related parties:

	2010 \$	2009 \$
Receipts		
Administrative services to		
FortisOntario Inc.	147	160
Cornwall Street Railway, Light and Power Company Limited	1,483	1,404
Reimbursement of expenses paid on behalf of and services provided to		
FortisOntario Inc.	292	521
Fortis Properties Corporation	242	190
Algoma Power Inc.	1,452	249
Westario Power Holdings Inc.	228	200
Grimsby Power Inc.	85	128
Cornwall Street Railway, Light and Power Company Limited	94	—
Payments		
Purchased power from Fortis Properties Corporation	848	714
Management fees paid to FortisOntario Inc.	831	709
Rent paid to FortisOntario Inc.	485	475
Interest expenses paid to (received from)		
Cornwall Street Railway, Light and Power Company Limited	(7)	22
FortisOntario Inc.	1,329	944
Reimbursement for expense paid on behalf of and services provided from		
FortisOntario Inc.	3,769	3,769
Cornwall Street Railway, Light and Power Company Limited	—	200
FortisBC Inc.	—	1

These transactions are in the normal course of operations and are measured at the exchange amount, which is the amount of consideration established and agreed to by the related parties.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS
[in thousands of dollars]

December 31, 2010

At December 31, the amounts due to (from) related parties are as follows:

	2010 \$	2009 \$
Due to (from) FortisOntario Inc.	4,047	(16)
Due to Fortis Inc.	—	23
Due to Fortis Properties Corporation	260	93
Due to Cornwall Street Railway, Light and Power Company Limited	—	671
Due from Westario Power Holdings Inc.	(65)	(23)
Due from Grimsby Power Inc.	(37)	—
Due from Algoma Power Inc.	(169)	(131)
	<u>4,036</u>	<u>617</u>
Promissory notes due to parent	<u>20,000</u>	<u>20,000</u>

A promissory note of \$15,000 due to the parent company bears interest at a rate of 6.13% and is payable on demand. A promissory note of \$5,000 due to the parent company bears interest at a rate of 7.62% and is payable on demand. There are no due dates for these notes.

7. LONG-TERM DEBT

Long-term debt consists of the following:

	2010 \$	2009 \$
7.092% senior unsecured notes due August 14, 2018	30,000	30,000
Unamortized debt issue costs	(243)	(275)
	<u>29,757</u>	<u>29,725</u>

The senior unsecured notes bear interest of 7.092% and are repayable at maturity on August 14, 2018. Interest expense on long-term debt for the year was \$2,128 [2009 - \$2,128].

The Corporation incurred costs of \$480 that are being amortized over the term of the loan. As at December 31, 2010, the accumulated amortization was \$237 [2009 - \$205].

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

8. CAPITAL STOCK

The authorized and issued shares consist of 23,900,001 common shares without par value.

9. AMORTIZATION

Amortization consists of the following:

	2010 \$	2009 \$
Amortization of utility capital assets	4,051	3,695
Amortization of contributions in aid of construction	(337)	(239)
Amortization of intangible assets and other	548	619
	<u>4,262</u>	<u>4,075</u>

10. STATEMENTS OF CASH FLOWS

The net change in non-cash working capital balances related to operations consists of the following:

	2010 \$	2009 \$
Accounts receivable	805	(1,000)
Due to related parties	3,419	(208)
Materials and supplies	(1)	(35)
Prepaid expenses	(260)	150
Accounts payable and accrued liabilities	21	(57)
Regulatory assets/liabilities	(915)	2,489
Income taxes payable/receivable	232	641
	<u>3,301</u>	<u>1,980</u>

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Supplemental cash flow information:

	2010 \$	2009 \$
Interest paid	3,375	3,138
Income taxes paid	940	1,331

11. LEASE COMMITMENT

The Corporation has a commitment under an operating lease agreement for the lease of the electricity distribution assets of Port Colborne Hydro. Future minimum annual lease payments under the agreement, which runs until April 2012, amount to \$1,467.

12. FINANCIAL INSTRUMENTS

The Corporation has designated its financial instruments as follows:

	2010		2009	
	Carrying value \$	Estimated fair value \$	Carrying value \$	Estimated fair value \$
Held-for-trading				
Cash	3,701	3,701	1,501	1,501
Loans and receivables				
Accounts receivable	10,527	10,527	11,332	11,332
Other financial liabilities				
Accounts payable and accrued liabilities	7,823	7,823	7,802	7,802
Promissory notes due to parent	20,000	20,000	20,000	20,000
Long-term debt	29,757	34,385	29,725	32,792

The fair value of cash approximates its carrying value due to the short-term nature of this instrument.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Accounts receivable, promissory note due to parent and accounts payable and accrued liabilities are initially measured at fair value and the carrying value approximates the amortized cost.

The fair value of the Corporation's long-term debt is estimated using present value techniques based on borrowing rates at year end for debt with similar terms and maturities. Long-term debt is shown net of unamortized debt issue costs.

13. FINANCIAL RISK MANAGEMENT

The Corporation is primarily exposed to credit risk, liquidity risk and market risk as a result of holding financial instruments in the normal course of business.

- | | |
|-----------------|---|
| Credit risk: | Risk that a third party to a financial instrument might fail to meet its obligations under the terms of the financial instrument. |
| Liquidity risk: | Risk that an entity will encounter difficulty in raising funds to meet commitments associated with financial instruments. |
| Market risk: | Risk that the fair value or future cash flows of a financial instrument will fluctuate due to changes in market prices. |

Credit risk

For cash, trade and other accounts receivable due from customers, the Corporation's credit risk is limited to the carrying value on the balance sheet.

The Corporation is exposed to credit risk from its distribution customers but has various policies to minimize this risk. These policies include requiring customer deposits, performing disconnections and using third-party collection agencies for overdue accounts. The Corporation has a large and diversified distribution customer base which minimizes the concentration of this risk.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

The aging of the Corporations trade and other receivables due from customers is as follows:

	As at December 31, 2010 \$
Not past due	9,878
Past due 0-30 days	515
Past due 31-60 days	121
Past due 61 days and over	176
	<u>10,690</u>
Less allowance for doubtful accounts	<u>163</u>
	<u>10,527</u>

Liquidity risk

Liquidity risk to the Corporation is minimized. Financing of regulated capital and other expenditures is done through internally generated funds. These funds are a result of allowable rate-regulated returns and recoveries under the OEB rate regulation mechanism.

The Corporation is a subsidiary of Fortis Inc., a large investor-owned utility, which has had the ability to raise sufficient and cost-effective financing. However, the ability to arrange financing on a go-forward basis is subject to numerous factors, including the results of operations and financial position of Fortis Inc. and its subsidiaries, conditions in the capital and bank credit markets, ratings assigned by rating agencies and general economic conditions. The recent volatility in the global markets may increase the cost of and timing of issuance of long-term capital by Fortis Inc. and its subsidiaries.

Also to mitigate any liquidity risk, the Corporation has committed revolving credits and letter of credit facilities totaling \$8,000, of which approximately \$3,700 is unused. The revolving credits and letters of credit facilities are renewed on an annual basis. The following summary outlines the credit facilities of the Corporation:

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

	2010 \$	2009 \$
Total credit facilities	8,000	8,000
Letters of credit outstanding	(4,282)	(4,282)
Credit facilities available	3,718	3,718

The facilities are collateralized by a general security agreement covering all assets of the Corporation and are guaranteed by the Corporation and its parent company. The lines of credit bear interest at the bankers' acceptance rate plus 2.0% in the case of bankers' acceptances, and the bank's prime lending rate plus 1.0% in the case of bank loans.

The following is an analysis of the contractual maturities of the Corporation's financial liabilities as at December 31, 2010.

	< 1 year \$	1-3 years \$	4-5 years \$	> 5 years \$	Total \$
Accounts payable and accrued liabilities	6,987	—	—	—	6,987
Customer deposits	355	314	167	—	836
Promissory notes due to parent	—	—	—	20,000	20,000
Long-term debt	—	—	—	29,757	29,757
	7,342	314	167	49,757	57,580

Interest rate risk

Long-term debt is at fixed interest rates thereby minimizing cash flow and interest rate fluctuation exposure. The Corporation is primarily subject to risks associated with fluctuating interest rates on its short-term borrowings. Short-term borrowings for 2010 and 2009 are nil.

14. CAPITAL MANAGEMENT

The Corporation manages its capital to approximate the deemed capital structure reflected in the utility's customer rates. Effective May 1, 2010, the distribution rates are based on a deemed capital structure of 60% debt and 40% equity. The Corporation's capital structure consists of third-party debt, affiliated debt and common equity but excludes unamortized debt issue costs.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

The managed capital is as follows:

	2010 Actual		2009 Actual	
	\$	%	\$	%
Debt	50,000	57	50,000	57
Equity	37,324	43	37,202	43
	87,324	100	87,202	100

The Corporation's long-term debt obligations and credit facility agreements have covenants that restrict the issuance of additional debt such that debt cannot exceed 65% to 70% of their respective capital structures as defined in the agreements. As of December 31, 2010, the Corporation was in compliance with its debt covenants.

15. REGULATORY ASSETS AND LIABILITIES

Regulatory assets and regulatory liabilities arise as a result of regulatory requirements.

The Corporation pays the cost of power on behalf of its customers and recovers these costs through retail billings to its customers. The cost of power includes charges for transmission, wholesale market operations and the power itself from Ontario's Independent Electricity System Operator. The balance of the retail settlement variance account represents the costs that have not been recovered from, or settled through, customers as of the balance sheet dates. The OEB's Distribution Rate Handbook and Accounting Procedures Handbook allow these costs to be deferred and recovered through future rate adjustments, as discussed in note 1. In the absence of rate regulation, these costs would be expensed in the period they are incurred.

In 2006, the Ontario Government committed to install a smart electricity meter in all Ontario homes and small businesses by the end of 2010. The Corporation will be eligible to recover all prudent and reasonable costs that arise from this smart metering initiative. These costs represent incremental operating, administrative and capital costs directly related to smart meters.

The OEB has the general power to include or exclude costs, revenues, gains or losses in the rates of a specific period, resulting in the timing of revenue and expense recognition which may differ in the Corporation's regulated operations from those otherwise expected in non-regulated businesses. This change in timing gives rise to the recognition of regulatory assets and liabilities. The Corporation continually assesses the likelihood of recovery of its regulatory assets and believes that its regulatory assets and liabilities will be factored into the setting of future rates, as discussed in note 1. If future recovery through rates is no longer considered probable, the appropriate carrying amount will be written off in the period that the assessment is made.

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

Regulatory assets and liabilities are not subject to a regulatory return, however, the balances include an accrual for interest recovery/payable as permitted by the regulators.

	2010 \$	2009 \$	Remaining rebate period
Current regulatory assets			
Amounts approved in current rates	664	67	1 year
Long-term regulatory assets			
Retail settlement and other variance accounts	3,984	5,675	1.5+ years
Smart meter variance account	3,711	2,076	2+ years
Future taxes to be recovered from customers	3,185	2,809	life of assets
Other	117	343	
	<u>10,997</u>	<u>10,903</u>	
Current regulatory liabilities			
Amounts approved in current rates	—	318	1 year
Long-term regulatory liabilities			
Retail settlement and other variance accounts	3,040	1,921	2+ years
Other	54	171	2+ years
	<u>3,094</u>	<u>2,092</u>	

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

16. SEGMENTED INFORMATION

[a] Earnings

	2010			
	Fort Erie & Eastern Ontario Power Distribution \$	Port Colborne Distribution \$	Fort Erie Transmission \$	Total \$
Operating revenue	41,405	21,789	4,770	67,964
Operating expenses	34,417	19,099	1,577	55,093
Operating lease	—	1,523	—	1,523
Amortization	3,048	452	762	4,262
Operating earnings	3,940	715	2,431	7,086
Interest expense	(2,196)	(542)	(652)	(3,390)
Income taxes	(272)	(27)	(275)	(574)
Net earnings	1,472	146	1,504	3,122

	2009			
	Fort Erie & Eastern Ontario Power Distribution \$	Port Colborne Distribution \$	Fort Erie Transmission \$	Total \$
Operating revenue	37,744	19,921	4,489	62,154
Operating expenses	30,772	17,438	1,387	49,597
Operating lease	—	1,525	—	1,525
Amortization	2,942	377	756	4,075
Operating earnings	4,030	581	2,346	6,957
Interest expense	(2,031)	(396)	(627)	(3,054)
Income taxes	(442)	(40)	(396)	(878)
Net earnings	1,557	145	1,323	3,025

Canadian Niagara Power Inc.

NOTES TO FINANCIAL STATEMENTS

[in thousands of dollars]

December 31, 2010

[b] Utility capital assets

2010				
	Fort Erie & Eastern Ontario Power Distribution \$	Port Colborne Distribution \$	Fort Erie Transmission \$	Total \$
Cost	82,812	15,711	22,556	121,079
Accumulated amortization	31,527	2,099	10,606	44,232
	51,285	13,612	11,950	76,847
2009				
	Fort Erie & Eastern Ontario Power Distribution \$	Port Colborne Distribution \$	Fort Erie Transmission \$	Total \$
Cost	78,902	14,211	22,356	115,469
Accumulated amortization	28,684	1,620	10,005	40,309
	50,218	12,591	12,351	75,160

17. COMPARATIVE FINANCIAL STATEMENTS

The comparative financial statements have been reclassified from statements previously presented to conform to the presentation of the 2010 financial statements.

Attachment 1.5.1A

PC Hydro Chairman's Reports to Annual General Meeting

PORT COLBORNE HYDRO INC.

CHAIRMAN'S REPORT TO THE ANNUAL GENERAL MEETING **JUNE 27TH, 2011**

Members of Council, fellow Board Members, Members of the News Media, Staff and Ladies and Gentlemen.

Welcome to the 8th annual General Meeting of Port Colborne Hydro Inc., formerly known as Port Colborne Hydro Commission.

On behalf of the Board of Directors I welcome you here this evening. My name is Len Hunt and I am Chair of the Board of Directors. On my right is Director Bea Kenny Vice Chair, Director Mayor Vance Badawey, Director Bill Steele a new member of the Board and Director Dan O'Hara Citizen member. Former member of the Board Gary Bruno is in the audience.

As everyone is aware the operation of Port Colborne Hydro is done under lease with Canadian Niagara Power (CNP). The operation of an electrical distribution company is regulated by the Ontario Energy Board. The assets leased to CNP are those involved in the distribution of electricity under license from the Ontario Energy Board.

The Board is provided with information on the operation of the system including capital work being carried out by CNP by Pat Beaudoin, Manager of Operations and Kristine Carmicheal who attend the monthly Board Meetings. Pat will bring us a summary of the work done by CNP this past year as well as projects now underway or planned in the future. Capital work done in 2010 amount to \$1,353,890. Since the beginning of the Lease, capital improvements to the system total \$16,547,375.

CNP has given written notice of its intent to exercise the provisions of the lease to purchase the assets of Port Colborne Hydro Inc. This will take place in 2012.

The Board has continued to provide donations and sponsorships of over \$40,000 to various organizations so they may continue their respective efforts in strengthening the cultural, recreational, social and leadership fabric of our great City. While funds are very limited the Board has decided to break the fund in half and will advertise in the spring and fall that the Board will receive applications for support twice a year.

The Board is pleased to advise that it declared a dividend of \$420,000 to Port Colborne Energy which in turn passed it on to the share holder. In closing I would like to express my appreciation to my fellow Board Members for their valuable input and support. In addition appreciation on behalf of the Board is extended to Bob Heil, City CAO and our General Manager, Peter Senese, City Treasurer and our Treasurer and Nancy Giles, Secretary.

I respectively submit their report to the Board and ask for a mover and seconder to accept same as presented.

LEN HUNT
Board Chairman

PORT COLBORNE HYDRO INC.

Chairman of the Board Report to the Annual General Meeting June 14, 2010

Members of Council, fellow Board Members, Members of the Press, Ladies and Gentlemen

Welcome to the Annual General Meeting of Port Colborne Hydro Inc., formerly known as Port Colborne Hydro Commission.

On behalf of the Board of Directors, I welcome you here this evening. My name is Len Hunt and I am Chair of the Board of Directors. On my right is Director Kenny, Vice Chair of the Board; Director Mayor Vance Badawey and Director Gary Bruno. Director Dan O'Hara, citizen member, is unable to be with us this evening due to being out of province working for his company.

The operation of Port Colborne Hydro is done under lease with Canadian Niagara Power (CNP). The operation of an electrical distribution company is regulated by the Ontario Energy Board. The assets leased to CNP are those involved in the distribution of electricity under licence from the Ontario Energy Board.

Representatives of CNP Pat Beaudoin and Kristine Carmichael attend the board's monthly Board Meetings. They provide the Board with information on the operation of the system including capital work being carried out by CNP. Pat Beaudoin, Manager of Operations for CNP, will bring us a summary of the work done by CNP this past year as well as on projects now underway or planned for the future. Accompanying Pat is Jennifer Fretz-Joseph.

CNP is a first class technical and administrative organization for the provision of electric power to the Town of Fort Erie and the City of Port Colborne.

The Board has continued to provide donations and sponsorships of more than \$40,000 to various organizations so they may continue their respective efforts in strengthening the cultural, recreational, social and leadership fabric of our great city. We do advise that funds are limited and will be exhausted in another 2 years.

The Board is pleased to declare a dividend of \$420,000 to Port Colborne Energy. Director Mayor Badawey, Chair of Port Colborne Energy, has already advised the dividend was passed on to the Shareholder.

In closing, I express my appreciation to my fellow Board Members for their valuable input and support. In addition, appreciation on behalf of the Board is extended to Bob Heil City CAO and our General Manager; Peter Senese City Treasurer and our Treasurer; Nancy Giles, our secretary; and Gail Todd, our acting secretary.

I respectfully submit this report to the Board and ask for a mover and seconder to accept same as presented.

LEN HUNT
CHAIRMAN

Attachment 1.5.2A

Lease Agreement, executed on July 19, 2001

LEASE AGREEMENT

dated as of July 19, 2001

between

PORT COLBORNE HYDRO INC.,
as Lessor

and

THE CORPORATION OF THE CITY OF PORT COLBORNE,
as Shareholder of the Lessor

and

CANADIAN NIAGARA POWER INC.,
as Lessee

and

CANADIAN NIAGARA POWER COMPANY LIMITED,
as Lessee Guarantor

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APPENDIX A - Definitions

EXHIBIT 1 - Real Property Legal Descriptions

LEASE AGREEMENT dated as of July 19, 2001 (this "Lease") among Port Colborne Hydro Inc., a corporation organized under the laws of Ontario ("Lessor"), The Corporation of the City of Port Colborne, a municipal corporation organized under the laws of Ontario (the "City"), Canadian Niagara Power Inc., a corporation organized under the laws of Ontario ("Lessee") and Canadian Niagara Power Company Limited, a corporation organized under the laws of Ontario ("Lessee Guarantor").

In consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS.

1.1 **Definitions.** Capitalized terms used herein have the meanings assigned to them in Appendix A attached hereto and the rules of usage set forth therein shall apply herein.

SECTION 2. LEASE; ACCEPTANCE OF LEASED ASSETS.

2.1 **Lease.** Lessor hereby leases the Equipment to Lessee and demises and leases the Leased Property to Lessee to have and to hold, in each case pursuant to the terms and conditions set forth herein and subject to the terms and conditions of the other Basic Documents. Lessee hereby agrees that execution and delivery of this Lease by Lessee shall, without further act, irrevocably constitute acceptance by Lessee of the Leased Assets for all purposes of this Lease. All risk of loss of the Leased Assets during the Lease Term shall pass to Lessee upon such acceptance of the Leased Assets.

2.2 **Rights of Lessee.** Subject to Section 2.3, during the Lease Term the Lessor and the City hereby demise and grant to the Lessee the exclusive right to use the Leased Assets for the purpose of distributing electricity in Port Colborne and for such other purposes and uses as may be determined by the Lessee, acting reasonably, provided, however, that any such other purposes or uses are in compliance with all Authorizations and Applicable Law and do not have a material adverse effect on (a) the distribution of electricity in Port Colborne, (b) the use or operation of the Leased Assets or the Additional Assets or the improvements thereon for the purpose of distributing electricity in Port Colborne or (c) the ability of the Lessee to comply with the terms of the Master Implementation Agreement, this Lease or any other Basic Document. All revenues derived from the use of the Leased Property during the Lease Term in accordance with this Lease shall accrue to Lessee.

2.3 **Reservation of Rights.** The City and the Lessor hereby reserve the right to use the Leased Property for purposes of a fibre optics or telecommunications undertaking or business, in accordance with the terms of an agreement to be negotiated by Lessor and Lessee upon request of Lessor. Such agreement shall provide appropriate consideration to be paid by Lessor to Lessee for such use.

SECTION 3. TERM AND RENT.

3.1 Lease Term. The term of this Lease (the "Lease Term") for the Leased Assets shall begin on the Closing Date and shall expire at 11:59 p.m. (Toronto time) on the Expiration Date, unless earlier terminated in accordance with the terms of this Lease, in which case the term shall expire on the date of such earlier termination.

3.2 Rent. Lessee hereby agrees to pay to the Lessor a monthly rent (excluding taxes) of \$127,350, adjusted in accordance with Section 3.3, for the Leased Assets during the Lease Term, to be paid in advance on the first Business Day of each month in respect of that month. Payment by the Lessee of the said rental payments shall be in full satisfaction of the Lessee's obligations to make rental payments during the Lease Term in respect of the Leased Assets pursuant to this Lease or the other Basic Documents. The first rental payment shall be made on the Closing Date in respect of the month in which the Closing Date occurs, the amount of such rental payment to be adjusted downwards to reflect the number of days remaining in such month in the event the Closing Date does not fall on the first day of such month. In the event the Lease does not end on the last day of a month, a similar downward adjustment will be made in respect of the final rental payment made pursuant to this Lease.

3.3 Rent Adjustments.

(a) Closing Date Financial Statements. Within 60 days of the Closing Date Lessee shall, in consultation with Lessor, prepare and deliver to Lessor audited financial statements presenting in all material respects the financial position of the Business as at the Closing Date (the "Closing Date Financial Statements"), such financial statements to be prepared in a manner consistent with the policies and practices utilized in the preparation of the Financial Statements and in accordance with the OEB Accounting Procedures Handbook. Lessee shall make Lessee's accountants available for reasonable inquiry by Lessor and its advisors. Lessor shall notify Lessee in writing within 30 days of the receipt of the Closing Date Financial Statements if it does not agree with the said Closing Date Financial Statements, in which case Lessor and Lessee will use good faith efforts during the 30-day period following the date of such written notice of objection to resolve the objections stated. If Lessor and Lessee cannot reach agreement during such 30-day period, their disagreements shall be promptly submitted to an independent chartered accounting firm (the "Independent Accountant") jointly selected by Lessor's Accountant and by an accountant nominated by Lessee. The Independent Accountant shall conduct such additional review as it deems necessary and, based thereon and having regard to the policies and practices utilized in the preparation of the Financial Statements, shall finally and conclusively resolve the disagreements referred to it. The Closing Date Financial Statements as agreed by the parties or as determined by the Independent Accountant shall be final and binding on the Parties. Lessor and Lessee shall each bear the fees and expenses of the accountants which they have retained, and the fees and expenses of the Independent Accountant will be shared equally by Lessor and Lessee.

(b) Assumption of Certain Liabilities. Lessee agrees to assume the liability, as reflected on the Closing Date Financial Statements, for (i) customer deposits of the Business as at the Closing Date; (ii) vested sick leave benefits earned by Employees as of the Closing; and (iii) post-retirement benefits (other than pension entitlements) for Employees and former employees of the Business as at the Closing Date (collectively, the "Assumed Liabilities").

(c) Rent Adjustments. The monthly rental payment of \$127,350 provided for pursuant to Section 3.2 is subject to adjustment as follows:

(i) each monthly rental payment shall be decreased by an identical amount to take account of the Assumed Liabilities such that the net present value, calculated as of the Closing Date, of the decrease in the stream of monthly payments to be made over the entire Lease Term, discounted at an interest rate of 6.99 per cent, equals the value of the Assumed Liabilities as at the Closing;

(ii) the decrease in the monthly rent contemplated by clause (c)(i) above shall be calculated as soon as practicable following the confirmation of the Closing Date Financial Statements in accordance with Section 3.3(a) above, and the monthly rental payment adjusted accordingly immediately thereafter in accordance with such calculation (the "Adjusted Rent");

(iii) the aggregate difference between the Adjusted Rent and the rent actually paid for the months of the Lease Term preceding the calculation of the Adjusted Rent (the "Rent Overpayments") shall be deducted (with interest as calculated below) against the next rental payment due under the Lease; in the event that such deduction does not result in the entire amount of the Rent Overpayments being credited to Lessee and deducted from the rent due, then any balance remaining (with interest continuing to accrue on such uncredited balance) shall be deducted from each subsequent rental payment until such time as the entire amount of the Rent Overpayments has been credited to Lessee. The Rent Overpayments shall bear interest at the Interest Rate from the date that each such Rent Overpayment was made until the date that such Rent Overpayment has been credited to Lessee in accordance with the terms hereof;

(iv) in any month during the Lease Term in which Lessee makes use of prepaid expenses of the Business as at the Closing, as reflected in the balance sheet in the Closing Date Financial Statements, the rental payment for such month shall be increased to the extent of the value to Lessee of the prepaid expenses so utilized; and

(v) in the event that the net book value of the inventory of the Business as of the Closing Date as reflected in the Closing Date Financial Statements (the "Closing Date Inventory") exceeds \$550,000, such difference shall be added to the next monthly rental payment due under the Lease following the confirmation of the Closing Date Financial Statements in accordance with Section 3.3(a) above; and in the event that the Closing Date Inventory is less than \$550,000, such difference shall be deducted from the next monthly rental payment due

under the Lease following the confirmation of the Closing Date Financial Statements in accordance with Section 3.3(a) above.

(d) Conversion to Lump Sum Payment. If requested in writing by Lessor, Lessee agrees to consider in good faith any request made by Lessor to pay in a single lump sum the net present value of the remaining Adjusted Rent payments to be paid over the balance of the Lease Term, and to negotiate in good faith with a view to concluding an agreement providing for such a lump sum payment.

3.4 Accounts Receivable and Payable.

(a) Report on Lessor Accounts. The Lessor hereby appoints Lessee as its agent to collect and manage on Lessor's behalf accounts receivable of the Business existing as of the Closing Date ("Accounts Receivable") and to pay on Lessor's behalf accounts payable and accrued liabilities of the Business existing as of the Closing Date (other than liabilities which Lessee has expressly agreed to assume hereunder) ("Accounts Payable"), in each case as reflected on the Closing Date Financial Statements and in accordance with procedures to be established by the Lessee and approved by the Lessor, acting reasonably. Within 120 days of the Closing Date, Lessee shall prepare and deliver to Lessor a report (the "Report on Lessor Accounts") setting out: (i) the amount of the Accounts Receivable collected by Lessee on Lessor's behalf between the Closing Date and the date of the Report on Lessor Accounts (the "Accounts Receivable Collected"); and (ii) the amount of the Accounts Payable that have been paid by Lessee on Lessor's behalf between the Closing Date and the date of the Report on Lessor Accounts (the "Accounts Payable Paid"). Any disputes between the parties with respect to the Report on Lessor Accounts shall be resolved in accordance with the procedures in Section 3.4(b) below. In the event that the Accounts Receivable Collected exceeds the Accounts Payable Paid (as reflected in the Report on Lessor Accounts as settled in accordance with Section 3.4(b), if applicable), the Lessee shall, within 10 Business Days of the resolution of any differences between the parties as to the Report, pay over such excess to Lessor in cash or by certified cheque. In the event that the Accounts Receivable Collected is less than the Accounts Payable Paid (as reflected in the Report on Lessor Accounts as settled in accordance with Section 3.4(b), if applicable), the Lessor shall, within 10 Business Days of the resolution of any differences between the parties as to the Report, reimburse Lessee for such deficiency in cash or by certified cheque. In the event that there are further Accounts Receivable or Accounts Payable which have not been collected or paid, as the case may be, as of the date of the Report on Lessor Accounts, but which Lessee reasonably believes can still be collected or paid on Lessor's behalf, then it shall continue to collect or pay, as the case may be, such accounts on Lessor's behalf for a further 120 days. Lessee shall then prepare, after the expiry of the said further 120 day period, a final Report on Lessor Accounts (the "Final Report on Lessor Accounts"), calculating each of the amounts referred to in subparagraphs (i) and (ii) above, except that the relevant period for purposes of the said calculations in the Final Report on Lessor Accounts shall be the period commencing on the date of the Report on Lessor Accounts and ending on the date of the Final Report on Lessor Accounts. Any differences respecting the Final Report on Lessor Accounts

shall be resolved in the manner above provided, the Accounts Receivables Collected and the Accounts Payable Paid calculated as above provided, and any excess or deficiency paid or reimbursed, as the case may be, in the same manner as in respect of the Report on Lessor Accounts. Lessee shall have no obligation or responsibility of any kind with respect to any further accounts payable or receivable of Lessor after the delivery of the Final Report on Lessor Accounts.

(b) Dispute Resolution. Promptly following receipt by Lessor of the Report on Lessor Accounts Lessor shall review the same and, within 10 Business Days after such receipt, may deliver to Lessee objections to the Report on Lessor Accounts, together with a summary of the reasons therefor and adjustments which, in its view, are necessary to eliminate such objections. The Lessor and Lessee will use reasonable best efforts during the following 30 Business Day period to resolve any such objections and, in the event that such objections are resolved to the satisfaction of Lessee as indicated in writing from Lessee to Lessor to such effect, the Report on Lessor Accounts shall be deemed final and binding between the Parties. In the event that Lessor and Lessee cannot resolve such objections within the said 30 Business Day period, then such differences will be resolved by an Independent Accountant in accordance with such dispute resolution procedures as the parties may agree (or, in the absence of such agreement, as such Independent Accountant shall determine in its discretion). The written report of the Independent Accountant resolving the remaining differences shall be delivered within 30 Business Days of the expiry of the period referred to in the immediately preceding sentence, and shall be final and binding on the Parties. The expenses of the Independent Accountant will be shared equally by the Lessor and the Lessee.

3.5 GST, PST and Other Taxes. All amounts specified herein or in any other Basic Document are exclusive of any applicable Commodity Taxes. All Commodity Taxes that are imposed shall be added to each amount required to be paid by Lessee to Lessor pursuant to this Lease (except any amount that is not subject to the Taxes described in this Section), including GST at the rate of 7% and provincial sales tax in respect of personal property at the rate of 8% (or such other rates as may be imposed at the relevant time) and shall be paid contemporaneously with any such payment required to be paid by Lessee.

3.6 Allocation. The Parties agree that sixty (60) per cent of the Leased Assets constitute tangible personal property for Commodity Tax purposes and that the remainder constitutes real property for Commodity Tax purposes. The parties agree that they will prepare and file their Commodity Tax returns consistent with this allocation unless assessed otherwise or unless the Parties agree to a different allocation.

3.7 Indemnity for Mis-Allocation. If for any reason, a Government Authority reviews, audits, challenges or re-assesses Lessor on the basis that the allocation in Section 3.6 is not correct, and such review, audit, challenge or reassessment is confirmed by a judicial determination beyond any further right of appeal or by the expiry or waiver of the right to appeal, or agreed to between Lessor and Lessee, Lessee shall indemnify, defend and save harmless

Lessor from and against any Commodity Tax levied upon Lessor along with any interest or penalties levied upon Lessor by such Government Authority.

SECTION 4. OWNERSHIP OF LEASED ASSETS.

4.1 Retention of Title. Subject to the leasehold interest in the Leased Assets granted by the Lessor to the Lessee pursuant to this Lease, the Lessor shall retain full legal and beneficial title to and ownership of the Leased Assets notwithstanding the delivery to and possession and use of the Leased Assets by Lessee hereunder. Lessee does not and will not have or obtain any title, right, or interest, legal or equitable, in the Leased Assets, other than its rights and interests as Lessee and subject to all the terms hereof.

SECTION 5. REPRESENTATIONS AND WARRANTIES.

5.1 Representations and Warranties. The representations and warranties of the Parties set out in the Master Implementation Agreement, to the extent applicable to the Leased Assets, are hereby incorporated into this Lease (subject, for certainty, to any limitations or exclusions in the said representations and warranties in the Master Implementation Agreement) and may be relied upon by the Parties as if they formed part of this Lease.

SECTION 6. SURRENDER OF EQUIPMENT; CONDITION.

6.1 Surrender. At the end of the Lease Term, unless Lessee acquires the Leased Assets, Lessee, at its expense, will (a) surrender possession of the Equipment to Lessor in place at the Leased Property and Lessee will vacate the Leased Property, (b) deliver to Lessor up-to-date, complete and accurate copies of all Documents including all documents relating to the Leased Property and Additional Property, (c) subject to Sections 16.2 and 16.3, surrender possession of the Additional Equipment in place at the Additional Property or the Real Property (as Lessor may direct) and Lessee shall vacate the Additional Property and (d) procure the transfer to Lessor of Authorizations relating to the Leased Assets, the Additional Assets and the use of the Leased Assets and Additional Assets in conducting an electricity distribution system in Ontario and copies of all budgets, forecasts, financial statements and other data used in the preparation of all Rate Applications and Rate Orders during the Lease Term.

6.2 Condition of Assets. The Leased Assets and Additional Assets when surrendered to Lessor pursuant to Section 6.1 shall be free and clear of all Liens other than Lessor Liens and Permitted Encumbrances, and the Equipment and the Additional Equipment shall be in the condition required by Section 8. If Lessee serves notice pursuant to Section 16.1 that it does not wish to exercise its right to acquire the Leased Assets then, no sooner than 180 days and no later than 90 days before the end of the Lease Term, Lessor shall have the right, at its sole expense, to undertake with respect to the Leased Assets and Additional Assets (i) an environmental site assessment by an Environmental Consultant and (ii) a report on the condition of the Leased Assets and the Additional Assets prepared by an Independent Engineer (collectively, the

"Reports"). The Environmental Consultant and the Independent Engineer, as applicable, will consult with the Lessee in preparing their Reports and shall provide the Lessee with an opportunity to comment upon draft copies of the Reports at least ten (10) Business Days prior to submitting final copies of the Reports to the Lessor and Lessee. Upon receipt of the Reports, Lessee shall (except with respect to any matters or conditions that existed as at the Closing Date, in respect of which Lessee shall have no obligation hereunder or pursuant to Section 6.3) (i) promptly undertake the Cleanup, at its sole expense, of any contamination identified in the Report from the Environmental Consultant to compliance with the standards acceptable under the SSRA Provisions or otherwise under the Cleanup Guideline, including the SSRA Provisions and (ii) take such steps as are appropriate to remedy any Equipment Event of Loss or Property Event of Loss identified in the Report of the Independent Engineer.

6.3 Purchase by Lessee. Notwithstanding Section 6.2, but taking into account the Cleanup and/or other remediation being undertaken or that will be undertaken by the Lessee prior to the Expiration Date pursuant to Section 6.2, if either the Environmental Consultant or the Independent Engineer are of the written opinion that an Equipment Event of Loss or a Property Event of Loss continues to exist and that such condition will not be satisfactorily remedied as of the Expiration Date (provided that where the Lessee is in the process of undertaking or proposes to undertake remediation which will be satisfactorily completed within 30 days following the Expiration Date, the provisions of this Section 6.3 shall have no further application) then, at its sole option and discretion, Lessor may require, by serving a written notice to that effect upon the Lessee no later than 30 days prior to the expiry of the Lease Term, that Lessee purchase, and Lessee shall purchase, all the Leased Assets for a price equal to the Purchase Option Price. Payment of such Purchase Option Price shall be made at the expiry of the Lease Term in immediately available funds from a Canadian chartered bank and Lessor shall transfer to Lessee all of its right, title and interest in and to the Leased Assets on an "as-is, where-is" basis. Lessor shall not be required to make any representation or warranty as to the condition of the Leased Assets or as to any other matters, except for the absence of Lessor Liens and may specifically disclaim any such representations or warranties.

SECTION 7. LIENS.

Except for Permitted Encumbrances and CNP Permitted Liens, Lessee will not directly or indirectly create, incur, assume, permit or suffer to exist any Lien on or with respect to the Leased Assets or Lessee's interest therein and Lessee shall promptly, at its own expense, take such action or cause such action to be taken as may be necessary to duly discharge (by bonding or otherwise) any such Lien not excepted above if the same shall arise at any time.

SECTION 8. MAINTENANCE; OPERATION; POSSESSION.

8.1 Maintenance, Operation and Utilities.

(a) **Maintenance and Operation.** Lessee, at its own cost and expense, shall maintain, service, repair, protect and keep, or shall cause to be maintained, serviced, repaired, protected and kept, the Leased Assets and the Additional Assets and shall operate the Leased Assets and the Additional Assets (i) in good operating order and repair (including structural and non-structural repairs to the Leased Property), (ii) in a manner comparable to and no less favourable than maintenance and repair practices (including the periodicity of maintenance or record keeping) that is in accordance with the stricter of customary industry standards for prudent owners of assets similar to the Leased Assets and Lessee's standards for assets similar to the Leased Assets and Additional Assets, and (iii) in accordance with all insurance policies required to be maintained pursuant to Section 11. Lessee shall maintain all blueprints, operating manuals, maintenance manuals, parts lists and other technical documents and information necessary for the assembly and operation of the Leased Assets and the Additional Assets in accordance with past practices of Lessor and all records, logs and other materials for the Leased Assets and the Additional Assets or any component or part thereof required by any Government Authority (all such blueprints, operating manuals, maintenance manuals, parts lists, technical documents, records and logs collectively, "Documents"), all as if Lessee were the owner of such Leased Assets, and regardless of whether any such requirements, by their terms, are nominally imposed on Lessee or Lessor.

(b) **Utilities.** Lessee shall pay directly to the party providing such service the cost of all separately metered utilities in respect of the Leased Property and the Additional Property and for all work or services performed by any corporation or commission in connection with such public or private utilities which are supplied to the Leased Property or Additional Property.

8.2 Possession and Use. Subject to Permitted Encumbrances and CNP Permitted Liens, the Leased Assets will at all times remain in the possession and control of Lessee and the Equipment shall remain on the Real Property or Additional Property, on real estate on which Lessee has the right to place the Equipment or other locations for temporary maintenance or modification. Lessee will maintain, use and operate the Leased Assets at all times under and in compliance with all Authorizations and all Applicable Laws and as required by any Government Authority having power to regulate or supervise the use of the Leased Assets including in compliance with the requirements of the OEB and the IMO.

8.3 Sublease or Assignment. Except for Permitted Encumbrances and CNP Permitted Liens, Lessee shall not sublease or assign all or a portion of the Leased Assets or any of its rights under this Lease or subcontract the operations of the Distribution System conducted using the Leased Assets. Any assignment or sublease of the Leased Assets permitted hereunder shall not relieve Lessee or Lessee Guarantor of its obligations under this Lease or the other Basic Documents.

8.4 Replacement of Parts. Subject to Section 11, Lessee, at its sole cost and expense, will promptly replace all appliances, parts, instruments, appurtenances, accessories, furnishings, fixtures and other equipment of whatever nature (herein collectively called "Parts") from time to time incorporated or installed in or attached to any Leased Asset and which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use by damage or obsolescence so that upon completion of any replacing, restoration or repairing of Parts, the Equipment is in the condition as required by Section 8.1. All replacement Parts shall be free and clear of all Liens, other than Permitted Encumbrances and CNP Permitted Liens, and shall be in good operating condition.

8.5 Maintenance of Authorizations. In the furtherance of, and not in limitation of, Lessee's obligations under Section 8.2, throughout the Lease Term, Lessee shall, subject to its rights to engage in Permitted Contests, do and cause to be done all things necessary to preserve and keep in full force and effect all Authorizations required for the conduct of its business and operations with respect to the Leased Assets from time to time in effect, including the Distribution Licence. Lessee shall retain copies of all records and reports required pursuant to all Authorizations, for the period mandated by Applicable Law, and shall, upon return of the Leased Assets to Lessor and sale of Additional Assets to Lessor, turn over to Lessor all such records and reports required to be maintained under Applicable Law by the owner or operator of the Leased Assets or Additional Assets.

8.6 Inspection. During the Lease Term, Lessor shall have the right, but not the obligation, at its sole cost and expense by its authorized representatives to inspect the Leased Assets and Additional Assets and to discuss the operations of the Leased Assets and Additional Assets with Lessee's officers, in each case during Lessee's normal business hours and, unless a Lease Default or Lease Event of Default exists, upon reasonable prior notice to Lessee (such notice being waived by Lessee during the continuance of a Lease Default or Lease Event of Default). If a Lease Default or Lease Event of Default exists, Lessee shall promptly furnish to Lessor, such information with respect to the Leased Assets and Additional Assets, including where applicable all logs, records, books and other materials relating to the use, damage, repair and maintenance of the Leased Assets and Additional Assets, and make copies and take extracts therefrom, as Lessor may from time to time reasonably request.

8.7 Limited Expropriation. If during the Lease Term the use of any Leased Asset or Additional Asset is requisitioned or taken by any Government Authority (other than the City) under the power of expropriation or otherwise for a period which does not constitute an Event of Loss, Lessee shall not be entitled to any repayment of the Rent and there shall be no adjustment to the Purchase Option Price. Lessee shall be entitled to receive and retain for its own account all sums payable by such Government Authority as compensation for requisition or taking of possession.

8.8 Sale or Disposal of Equipment. Lessor hereby irrevocably appoints Lessee as the agent and attorney of Lessor in order to effect the arm's length sale or disposal in the ordinary course of business of Equipment that is surplus, is not being used or is obsolete to the needs of the Business, is damaged, or is otherwise appropriate for sale, provided that no sale of any Equipment shall be made by Lessee if such sale would impose an obligation to pay transfer tax and that all of the proceeds obtained by Lessee from such sale or disposal ("Proceeds") shall be held by Lessee for the benefit of Lessor and shall be applied by Lessee to the purchase of Equipment for use in the Business and provided, further, that Lessee shall have no authority to sell any land or Buildings forming part of the Leased Assets without the prior written consent of Lessor. Title to any Equipment (or an identifiable portion thereof) purchased by Lessee with Proceeds shall vest in Lessor, shall be deemed to be Leased Property, and shall be governed by the terms of this Lease and the other Basic Documents.

SECTION 9. MODIFICATIONS.

9.1 Required Modifications. Subject to any approval required by any Government Authority and to Applicable Law, Lessee, in its sole discretion but in accordance with Applicable Law and at its own expense, may make, build or acquire such alterations, modifications, reinforcements, reconfigurations, improvements and additions to the Leased Assets or Additional Assets or any component thereof (collectively, "Modifications") as may be required from time to time to meet the requirements of Section 8, to comply with Applicable Law, to increase the efficiency of the Distribution System or to expand the Distribution System within Port Colborne.

9.2 Title to Modifications. Title to any Modification to the Leased Assets to the extent such is categorized by Lessee as an operating expense shall immediately vest in Lessor and to such extent such Modification shall form part of the Leased Assets. Title to any Modification to the extent such is not categorized by Lessee as an operating expense that:

- (a) is or required a capital expenditure by Lessee;
- (b) is permitted by the OEB for inclusion in Lessee's Rate Base; and
- (c) is not a Contributed Asset,

shall vest in Lessee (such Modification referred to as an "Expansion Asset").

9.3 Contributed Assets. Lessee shall be entitled to make, build or acquire any Modification that requires a capital expenditure by it or have any third party contribute such Modification to Lessee, where such Modification is not permitted by the OEB to be included in Lessee's Rate Base (the assets resulting from such Modifications referred to as "Contributed Assets"). Title to all Contributed Assets shall be retained by Lessee.

9.4 Partly Contributed Assets. To the extent that the OEB permits part of the cost of a Modification to be included in Lessee's Rate Base:

(a) Expansion Assets shall include a fractional undivided interest in such Modification (the "Included Interest") which is equal to a fraction, the numerator of which is equal to the portion of the cost of such Modification included in Lessee's Rate Base, and the denominator of which is equal to the cost of such Modification; and

(b) Contributed Assets shall include a fractional undivided interest in such Modification, which is equal to a fraction obtained by subtracting the Included Interest of such Modification from one (1).

9.5 Limitation on Modifications. Without the prior written approval of Lessor (which shall not be unreasonably withheld or delayed), Lessee shall not make or acquire any Modification which would result in the expansion of the Distribution System beyond Port Colborne's municipal boundaries.

SECTION 10. REPORTS OF MODIFICATIONS.

10.1 Reports of Modifications. On or before March 1 of each year during the Lease Term, and upon expiration of the Lease Term, if during the prior calendar year (or the portion thereof that the Lease was in effect), Lessee made or acquired any Modification resulting in an Expansion Asset or a Contributed Asset, Lessee shall furnish to Lessor a report stating the total cost of all such Modifications made during such period and describing separately and in reasonable detail each such Modification.

SECTION 11. INSURANCE.

11.1 Property Damage and Public Liability Insurance. Lessee will at all times at its own expense cause to be carried and maintained with reputable insurance companies such insurance in such amounts against such risks and with such terms (including co-insurance, deductibles and limits of liability and loss payment provisions) as is maintained by prudent owners or operators in respect of similar equipment and real estate owned or leased by them including (a) all risk property insurance in respect of Leased Assets and Additional Assets in an amount at all times equal to the full replacement costs of the assets insured under such policies and (b) commercial general liability insurance (including contractual liability) against loss or damage including for personal injury, death or property damage occurring as a result of the ownership, use, maintenance or operation of the Leased Assets and Additional Assets with limits of not less than \$2,000,000 per occurrence. Such liability insurance may be carried under blanket policies maintained by Lessee, an Affiliate of Lessee or by Fortis Inc., so long as such policies otherwise comply with the provisions of this Section 11.

11.2 Policy Provisions.

(a) All policies required by Section 11.1 which cover loss or damage to any Leased Asset or Additional Asset shall be in the name of the Lessee and shall name Lessee as sole loss payee.

(b) Liability policies required by Section 11.1 shall name Lessor and the City as an additional insured under the policy (each an "Additional Insured").

(c) All policies described in this Section 11 or the certificates of insurance issued in relation to such policies shall expressly provide that: (i) coverage thereunder shall not be cancelled, reduced or otherwise materially adversely changed without at least 30 days' prior written notice from the insurer to Lessor except, with respect to liability policies only, where such endorsement is not commercially available, (ii) no Additional Insured shall have any obligation or liability for premiums or deductibles in connection with such insurance, (iii) the insurers waive any rights of subrogation against each Additional Insured, except for claims that arise from the wilful misconduct or gross negligence of such Additional Insured, (iv) such insurance shall be primary, without right of contribution from any other insurance carried by any Additional Insured with respect to its interest in the Leased Assets or the Additional Assets as to the interest of the Additional Insured therein and shall not be invalidated as against the Additional Insured by any act or neglect of Lessee or of any other Person (other than, with respect to such Person, the acts of such Person) or by any breach or violation by Lessee or by any other Person (other than, with respect to such Person, breaches or violations by such Person) of any warranties, declarations or conditions contained in such policies or by any change in the title or ownership of the Leased Assets or Additional Assets or any interest therein or with respect thereto, and (v) except for limits of liability and deductibles, the provisions of such insurance shall operate in the same manner as if there were a separate policy insuring each insured and Additional Insured.

11.3 Proceeds of Insurance. Any loss with respect to the Leased Assets or Additional Assets under any policy carried by Lessee covering the Leased Assets or Additional Assets shall be adjusted with the insurance companies by Lessee. If a loss relating to damage to the Leased Assets or Additional Assets occurs, (i) the insurance proceeds with respect to the loss to the extent payable in respect of the Leased Assets or Additional Assets, as the case may be, shall be paid under the policy directly to Lessee and (ii) Lessee shall provide Lessor with notice of such payment.

11.4 Notice, Etc. Lessee will, or will cause Lessee's independent insurance broker to, advise Lessor in writing promptly of any default in the payment of any premium and of any other act or omission on the part of Lessee that might invalidate or render unenforceable any insurance on any Leased Asset or Additional Asset. Lessee will, or will cause Lessee's independent insurance broker to, advise Lessor in writing of the expiration, termination or any other material change of any insurance carried and maintained on any Leased Asset or Additional Asset

pursuant to this Section 11 at least 30 days before the expiration, termination date or effective date of such material change unless such insurance has been replaced. If Lessee fails to maintain insurance as herein provided, Lessor may at its sole option provide such insurance and, in such event, Lessee shall thereupon reimburse Lessor for the cost thereof. The exercise by Lessor of that option shall not otherwise affect the provisions of this Lease, including the requirement by Lessee to maintain the prescribed insurance.

11.5 Reports and Certificates. Annually upon renewal of the insurance policies carried by Lessee pursuant to this Section 11, and upon any material modification of the insurance policies required by this Section 11, Lessee will furnish to Lessor all applicable certificates of insurance from Lessee's insurance broker, which shall include a reasonably detailed description of the insurance then carried and maintained on the Leased Assets and Additional Assets.

11.6 Additional Insurance. Subject to the consent of Lessee as described in this Section 11.6, Lessor may at its own expense carry insurance with respect to the Leased Assets or Additional Assets. At least 60 days prior to obtaining any such insurance, Lessor shall notify Lessee of its intention to purchase such additional insurance. Lessee may withhold its consent to such additional insurance by Lessor if, in Lessee's opinion, acting reasonably, such insurance could interfere with Lessee's ability to insure the Leased Assets or Additional Assets as required by this Section 11 or adversely affect Lessee's insurance, or the ability of Lessee to collect a claim under any such insurance policy, it being understood that all salvage rights to such Leased Assets or Additional Assets and all primary subrogation rights shall remain with Lessee's insurers at all times. Any insurance payments received from policies maintained by Lessor in accordance with this Section 11.6 shall be retained by Lessor without reducing or otherwise affecting Lessee's obligations hereunder.

SECTION 12. LEASE EVENTS OF DEFAULT.

12.1 Lease Events of Default. The following events shall constitute "Lease Events of Default" hereunder (whether any such event is voluntary or involuntary or comes about or is effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any Government Authority) provided, however, that no such Lease Event of Default shall be deemed to have arisen (i) in respect of events of Force Majeure as defined below or (ii) until the expiry of any applicable notice periods, and provided that each such Lease Event of Default shall be deemed to exist and continue so long as, but only as long as, it is not remedied:

- (a) the occurrence of an Insolvency Event in respect of Lessee or Lessee Guarantor;
- (b) either Lessee or Lessee Guarantor fails to observe or perform any of its covenants or agreements to be observed or performed by Lessee or Lessee Guarantor, as applicable, hereunder or under any other Basic Document and as a result there is (i) a material risk of sale, forfeiture or loss of all or a substantial portion of the Leased Assets or Additional Assets, or (ii) an interference in any material manner with the distribution of electricity in Port Colborne, and failure continues unremedied for 30 days after written notice thereof having been provided to the Lessee or the Lessee Guarantor by the Lessor, provided, however, that no such default shall constitute a Lease Event of Default if (i) the default is capable of being remedied, (ii) failure cannot with diligence be cured within 30 days, and (iii) Lessee or Lessee Guarantor, as applicable, has commenced the remedying of such default and such party is diligently proceeding in good faith to cure such default but failure cannot continue unremedied for the lesser of 90 days or remainder of Lease Term;
- (c) Lessee fails to pay the Rent or applicable Commodity Taxes when due and such failure continues unwaived and uncured for 15 Business Days following written notice thereof being delivered to Lessee by Lessor;
- (d) the Lessee Guarantor repudiates, otherwise declares unenforceable or fails to perform any of its covenants or obligations under the Lessee Guarantee or fails to make any payments when due under the Lessee Guarantee and such failure continues unwaived and uncured for 30 Business Days following written notice thereof being delivered to the Lessee Guarantor by the Lessor; or
- (e) subject to Permitted Contests, the Lessee or the Lessee Guarantor fails to comply with an order or direction of a Government Authority with respect to the Leased Assets and, as a result there is (i) a material risk of sale, forfeiture or loss of all or a substantial portion of the Leased Assets or Additional Assets, or (ii) an interference in any material manner with the distribution of electricity in Port Colborne, and such failure continues unwaived and uncured for thirty (30) Business Day following written notice hereof being delivered to the Lessee or the Lessee Guarantor by the Lessor.

For greater certainty, events, conditions or circumstances that are beyond the reasonable control of a Party which prevent, delay or restrict, in whole or in substantial part, the performance by a Party of that Party's obligations hereunder (a "Force Majeure") shall not be regarded as a breach of the Lease and shall not give rise to a right to terminate the Lease, provided that the Party shall provide prompt notice of such fact to the other Parties and take such action as is reasonable in the circumstances to attempt to remedy or respond to the circumstances resulting from the Force Majeure. Lessee shall not be relieved of its obligation to perform if such failure is due to causes arising out of its own negligence or due to causes which it is capable of removing or remedying and which it fails to remove or remedy within a reasonable time period.

SECTION 13. RIGHTS AND REMEDIES.

13.1 Remedies. If a Lease Event of Default exists Lessor may, at its option, provide a Termination Notice to Lessee stating that it wishes to terminate the Lease as a result of the Lease Event of Default and, in accordance with the Termination Notice, so long as Lessee has not remedied all outstanding Lease Events of Default before the exercise of any remedy below but subject to Section 13.2, Lessor may do one or more of the following as Lessor in its sole discretion shall elect, to the extent permitted by and subject to compliance with any requirement of Applicable Law then in effect:

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or the other Basic Documents or to recover damages for the breach thereof;

(b) rescind or terminate the Lease as to the Leased Assets and/or demand of Lessee, and Lessee shall, upon written demand of Lessor forthwith surrender the Leased Assets and Additional Assets to Lessor or its order in the manner and condition required by and otherwise in accordance with all of the provisions of this Lease;

(c) if Lessee refuses to surrender the Leased Assets and the Additional Assets to Lessor upon demand, Lessor may, with or without further notice or judicial process and without the necessity for first instituting any proceedings, or by summary proceedings or otherwise, by its agents enter upon the Leased Property or Additional Property or other premises where any of the Equipment or Additional Equipment may be located, or are believed to be located, and take immediate possession of the Leased Assets and Additional Assets (to the exclusion of Lessee) and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its successor or assigns, to use such Leased Assets and Additional Assets for any purpose whatever; and

(d) Lessor may exercise any other right or remedy that may be available to it under Applicable Law, whether at law, in equity or by statute.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during and after the exercise of any of the foregoing remedies (together with interest thereon at the Late Rate from the due date thereof until paid), for all amounts payable by Lessee under the Basic Documents before and after any termination thereof, and for legal fees and other Out-of-Pocket expenses incurred by Lessor by reason of the occurrence of any Lease Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the surrender of such Leased Assets and Additional Assets in accordance with the terms of this Lease or in placing such Leased Assets and Additional Assets in the condition required by this Lease or in connection with any use, operation, maintenance, storage or leasing carried out as part of such exercise of remedies.

13.2 Rights of Lessee. In the event that the Lessor wishes to exercise its right to rescind or terminate the Lease pursuant to Section 13.1, Lessor shall, as a condition of exercising such right:

- (a) issue a Termination Notice; and
- (b) purchase the Additional Assets from the Lessee for the Expansion Cost by paying to Lessee on or before the date specified in the Termination Notice the Expansion Cost by certified cheque or bank draft in immediately available funds from a Canadian chartered bank.

13.3 Cumulative Remedies. Except as otherwise provided in this Section 13, each right, power and remedy in this Lease shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other rights, powers and remedies existing at law, in equity or by statute; and the exercise or beginning of exercise by a Party of any one or more of such remedies shall not preclude the simultaneous or later exercise of any or all other remedies.

13.4 No Waiver. No delay or omission to exercise any right, power or remedy accruing to a Party upon any breach or default by another Party shall impair any such right, power or remedy, nor shall any such delay or omission be construed as a waiver of any breach or default, or of any similar breach or default, thereafter occurring; nor shall any express or implied waiver of a single breach or default be deemed a waiver of any subsequent breach or default. No receipt of monies by Lessor from Lessee after the termination of this Lease in any lawful manner shall reinstate, continue or extend the Lease Term or operate as a waiver of the right of Lessor to enforce the obligations of Lessee hereunder.

13.5 Transitional Services. For greater certainty, the provisions of Section 5.5(g) of the Master Implementation Agreement apply in respect of any termination of this Lease.

SECTION 14. FURTHER ASSURANCES.

14.1 Further Assurances. The Parties will, at their own expense, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, transfers and assurances as may reasonably be requested in order to protect the right, title and interest of the Parties hereunder or in the Leased Assets and the Additional Assets, including ordering such searches for recorded liens as may reasonably be requested. Without limiting the foregoing, Lessee, at its own expense (except as otherwise provided herein or in the other Basic Documents), at the request of Lessor identifying specific actions to be taken will take, or cause to be taken, such action with respect to the recording, filing, re-recording and re-filing of this Lease, any supplements thereto or hereto and any financing statements and continuation statements or other instruments as are necessary, or requested by Lessor and appropriate, to protect Lessor's right and title to the Leased Assets and Additional Assets as against Lessee and any third parties, or will furnish to Lessor timely notice of the necessity of such action, together with such instruments, in execution and recordable form, and such information as may be

reasonably required to enable Lessor to take such action in a timely manner and at Lessor's own expense.

SECTION 15. LESSOR RIGHT TO PERFORM.

15.1 Lessor Right to Perform. If a Lease Event of Default exists, upon providing at least 48 hours advance notice in writing to Lessee, Lessor may itself cure such Lease Event of Default, but shall not be obligated hereunder to do so, and the amount of any payment made by Lessor and of the reasonable expenses of Lessor incurred in connection with such payment or the actions necessary to cure the said Lease Event of Default, as the case may be, together with interest thereon at the Late Rate from the date of such payment or incurrence of expenditure until Lessor has been fully reimbursed therefor, to the extent permitted by Applicable Law, shall be payable by Lessee to Lessor on demand. Lessor shall be permitted, upon providing at least 48 hours advance notice in writing to Lessee, to enter the Leased Property or the Additional Property for the purpose of performing any obligations or agreements of Lessee referred to in this section and may enter the Leased Property or the Additional Property using reasonable force, without rendering Lessor or its agents liable therefor, if Lessee is not present to open or permit entry into same in accordance with the notice provided by the Lessor.

SECTION 16. END OF TERM OPTIONS.

16.1 Option to Purchase. Subject to Section 16.2, Lessee shall have the right to purchase all (but not less than all) of the Leased Assets then leased hereunder (the "Purchase Option") on the Expiration Date at a price equal to the Purchase Option Price. Lessee shall be deemed to have not exercised the Purchase Option unless Lessee shall have given Lessor irrevocable written notice not more than 18 months and not less than 6 months before the Expiration Date, of its election to exercise the Purchase Option. Payment of the Purchase Option Price shall be made by certified cheque or bank draft from a Canadian chartered bank in immediately available funds. Upon receipt of such payment, Lessor shall transfer to Lessee all of its right, title and interest in and to the Leased Assets on an "as-is, where-is" basis. Lessor shall not be required to make any representation or warranty as to the condition of the Leased Assets and may specifically disclaim any such representations and warranties, but shall provide Lessee, at Lessor's own expense, with: (a) a Bill of Sale and/or Deed with respect to the Leased Assets; (b) an opinion of Lessor's counsel to the effect that (subject to customary qualifications as to bankruptcy and equitable principles and that no opinion is given as to title to, or Liens against, personal property) (i) each of the Bill of Sale and/or Deed, as applicable, referred to in subsection (a) above is effective to transfer all of Lessor's right and title to the Leased Assets to Lessee and (ii) there are no Lessor Liens affecting the Leased Assets; (c) a customary indemnification against any liability which the Lessee may incur arising from the failure to comply with the *Bulk Sales Act* (Ontario); and (d) such other documents and evidence as Lessee or its counsel may reasonably request in order to establish the consummation of the transaction contemplated by this Section 16.1.

16.2 Purchase by Lessor. Subject to Section 16.3 and in accordance with the provisions of Section 6, if Lessee has not exercised its Purchase Option in the manner provided

in Section 16.1, Lessor shall purchase from Lessee, free and clear of any Liens (other than Liens created by the Basic Documents and Permitted Encumbrances), the Additional Assets for the Expansion Cost.

16.3 Conveyance of Additional Assets. If Lessor purchases the Additional Assets in accordance with Section 16.2, Lessee, at its own expense, will: (a) furnish Lessor with a Bill of Sale and/or Deed (as applicable) with respect to the Additional Assets; (b) furnish Lessor with an opinion of Lessee's counsel to the effect that (subject to customary qualifications as to bankruptcy and equitable principles and that no opinion is given as to title to, or Liens against, personal property) (i) each of the Bill of Sale and/or Deed, as applicable, referred to in subsection (a) above is effective to transfer all of Lessee's right and title to the Additional Assets to Lessor and (ii) there are no Liens affecting the Additional Assets (other than Liens created by the Basic Documents and Permitted Encumbrances); and (c) furnish such other documents and evidence as Lessor or its counsel may reasonably request in order to establish the consummation of the transactions contemplated by Section 16.2 and Section 16.3.

SECTION 17. MISCELLANEOUS.

17.1 Governing Law; Severability. This Lease, and any extensions, amendments, modifications, renewals or supplements hereto shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada and the federal laws of Canada applicable therein. Whenever possible, each provision of this Lease shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Lease shall be prohibited by or invalid under the laws of any jurisdiction, such provision, as to such jurisdiction, shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Lease as to such jurisdiction or in any other jurisdiction.

17.2 Execution in Counterparts. This Lease is being executed in a number of counterparts and by the parties hereto on separate signature pages, each such executed counterpart constituting an original, but all together constituting only one agreement.

17.3 Assignment. Except as provided herein or in the Master Implementation Agreement, no Party may assign its interests herein without the consent of the other Parties, which consent shall not unreasonably be withheld or delayed.

17.4 Amendments and Waivers. No term, covenant, agreement or condition of this Lease may be terminated, amended or compliance therewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in writing executed by the relevant Party.

17.5 Lessee's Right of Use and Enjoyment. Subject to Section 2.3, neither Lessor nor the City shall take, or cause or permit to be taken, any action contrary to Lessee's rights under this Lease, including the right to possession, use and quiet enjoyment by Lessee of the Leased Assets during the Lease Term.

17.6 No Merger. There shall be no merger of this Lease or of the leasehold estate created hereby with any other estate in the Leased Assets or any part thereof, by reason of the fact that the same Person may acquire or own such estates, directly or indirectly.

17.7 No Partnership. No provision of this Lease is intended to nor creates a joint venture or partnership or any other similar relationship between Lessor and Lessee, it being agreed that the only relationship created by this Lease is that of Lessor and Lessee.

17.8 Planning Act. It is an express condition of this Lease that the provisions of section 50 of the *Planning Act* (Ontario) and amendments thereto be complied with.

17.9 Exhibit. The following Exhibit is attached to and forms part of this Lease:

Exhibit 1 - Real Property Legal Descriptions.

* * * * *

IN WITNESS WHEREOF, Lessor, Lessee, the City and Lessee Guarantor have caused this **Lease Agreement** to be duly executed and delivered on the date first above written.

LESSOR:

PORT COLBORNE HYDRO INC.

By: _____



Name: Ross L. Tuck

Title: Chairman

By: _____




Name: Evan L. Weaver

Title: Director

IN WITNESS WHEREOF, Lessor, Lessee, the City and Lessee Guarantor have caused this **Lease Agreement** to be duly executed and delivered on the date first above written.

LESSEE:

CANADIAN NIAGARA POWER INC.

By: 

Name: Mardon J. Erbland

Title: President and Chief Executive
Officer

By: 

Name: Timothy B. Curtis

Title: Vice President Finance and
Chief Financial Officer

IN WITNESS WHEREOF, Lessor, Lessee, the City and Lessee Guarantor have caused this **Lease Agreement** to be duly executed and delivered on the date first above written.

THE CITY:

**THE CORPORATION OF THE CITY OF PORT
COLBORNE**

By: 

Name: Vance M. Badawey

Title: Mayor

By: 

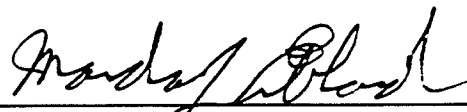
Name: Merlin J. Dewing

Title: Acting Clerk

IN WITNESS WHEREOF, Lessor, Lessee, the City and Lessee Guarantor have caused this **Lease Agreement** to be duly executed and delivered on the date first above written.

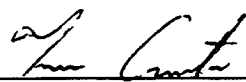
LESSEE GUARANTOR:

**CANADIAN NIAGARA POWER COMPANY
LIMITED**

By: 

Name: Mardon J. England

Title: President and Chief Executive Officer

By: 

Name: Timothy B. Curtis

Title: Vice President Finance and
Chief Financial Officer

APPENDIX A - DEFINITIONS

APPENDIX A

DEFINITIONS

I. Rules of Usage.

The following rules of usage shall apply to this Appendix A and the Basic Documents unless otherwise required by the context:

(a) Singular words shall connote the plural as well as the singular, and vice versa (except as indicated), as may be appropriate.

(b) Unless otherwise indicated, references within any document to appendices, articles, schedules, sections, paragraphs, clauses or exhibits are references to appendices, articles, schedules, sections, paragraphs, clauses or exhibits in or to such document.

(c) The headings, subheadings and table of contents are solely for convenience of reference and shall not constitute a part of any such document; nor shall they affect the meaning, construction or effect of any provision thereof.

(d) References to any Person shall include such Person, its successors and permitted assigns and transferees.

(e) Except as otherwise expressly provided, reference to any agreement means such agreement and any amendment or supplement to, or replacement or novation of that document in accordance with the applicable provisions thereof.

(f) References to "including" shall mean including without limiting the generality of any description preceding such term, and for purposes hereof the rule of *ejusdem generis* shall not be applicable to limit a general statement, followed by or referable to an enumeration of specific matters, to matters similar to those specifically mentioned.

(g) Any term defined below by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.

(h) References to any statute, regulation, proclamation, ordinance or law includes all statutes, regulations, proclamations, ordinances or laws amending, supplementing, supplanting, varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations and ordinances issued or otherwise applicable under that statute.

II. Definitions.

The following terms shall have the following meanings in the Basic Documents unless otherwise required by the context:

"Accounts Payable" - as defined in Section 3.4(a) of the Lease.

"Accounts Payable Paid" - as defined in Section 3.4(a) of the Lease.

"Accounts Receivable" - as defined in Section 3.4(a) of the Lease.

"Accounts Receivable Collected" - as defined in Section 3.4(a) of the Lease.

"Additional Assets" - the Expansion Assets and the Contributed Assets.

"Additional Equipment" - equipment forming part of the Additional Assets that is similar in nature to Equipment.

"Additional Insured" - as defined in Section 11.2 of the Lease.

"Additional Property" - real property and interests in real property forming part of the Additional Assets that is similar in nature to the Leased Property.

"Adjusted Rent" - means the Estimated Rent adjusted in accordance with the provisions of Section 3.3(c)(i) and (c)(ii) of the Lease.

"Adverse Effect" - means any change or effect that has a material adverse effect on the value or the prospects for or the operations or results of operations of the Business taken as a whole, after taking into account any insurance which is available with respect to such a change or effect, and for greater certainty, shall not include any of the following:

- (a) change or effect resulting solely from a decision or order of the OEB;
- (b) the enactment, introduction or tabling of any Canadian federal, provincial or municipal legislation (whether by statute, regulation, order-in-council, notice of ways and means motion, by-law or otherwise) which in the opinion of Lessee materially and adversely affects or may materially and adversely affect the Business;
- (c) any change or effect resulting from a delay in the opening of any of the Independent Electricity Market Operator - Administered Markets; or
- (d) any change or effect resulting from the modification by Lessor, at the request of the OEB, the Minister of Energy, Science and Technology, or the Minister of Finance and in compliance with Section 4.2 of the Master Implementation Agreement, of Lessor's Rate Application, or of the electricity distribution rates proposed therein.

"Affiliate" - as defined in the OBCA.

"Ancillary Agreements" - means the agreements referred to in Section 2.3 of the Master Implementation Agreement.

"Applicable Law" - with respect to any Person or property all laws, including the common law and Canadian federal, provincial, state, municipal and local banking, securities, tax, personal and real property security, environmental, water, energy, investment, doing business, property ownership, land use and zoning, sanitary, occupational health and safety laws, treaties, statutes, by-laws, ordinances, judgments, decrees, injunctions, writs, certificates and orders of any Government Authority (to the extent the Person or property is subject to the jurisdiction of such Government Authority) and codes of conduct, rules, regulations, orders, policies and guidelines (having the force of law), directives, instructions, interpretations, licences, exemptions, approvals and permits of any Government Authority, in each case applicable from time to time to such Person or property within the jurisdiction of such Government Authority including the Guidelines, Codes, Market Rules, OEB codes and IMO rules.

"Appraisers" - Vantage Appraisals & Management Services Inc. (in respect of the Equipment) and Regional Appraisals Inc. (in respect of the Real Property and the Buildings).

"Assumed Liabilities" - as defined in Section 3.3(b) of the Lease.

"Authorizations" - all permits, entitlements, licences, orders, consents, approvals, exemptions, authorities, certifications, franchises, building permits, authorities to construct, permits to operate, certificates of occupancy, plot plan approvals, subdivision approvals, site plan reviews, environmental approvals, registrations, certificates and licences (including an environmental impact assessment, statement or report if required under Applicable Law), sewer and waste discharge permits, industrial development permits, water pollution discharge permits, water and air permits, zoning and land use entitlements and other authorizations whether now existing or hereafter issued to or obtained by or required to be issued to or obtained by or on behalf of Lessee or Lessor or that relate to or concern in any way the Leased Assets or Additional Assets or any ground lease (including the Lease), including, pursuant to any Environmental Laws or pursuant to any requirement of the OEB or OEB Act, and are given or issued by any Government Authority pursuant to Applicable Law and "Authorizations" shall include the Distribution Licence.

"Basic Documents" - the Master Implementation Agreement, the Lease, the City Guarantee, the Lessee Guarantee, the Ancillary Agreements and other documents delivered on Closing required by the Master Implementation Agreement.

"Bill of Sale" - one or more bills of sale selling, assigning, transferring and conveying all of the transferor's right, title and interest in and to the Leased Assets or the Additional Assets (as applicable) unto Lessor or Lessee (as applicable), and their respective successors and assigns.

"Books and Records" - all books, ledgers, files, lists, reports, plans, logs, deeds, surveys, correspondence, operating records and other data and information, financial or otherwise, relating

to the Business, including all such data and information stored on computer-related or other electronic media.

"Buildings" - means all buildings, structures, and improvements erected on or under the Real Property together with all fixtures (including above- and under-ground tanks), sprinklers, heating, ventilating, air-conditioning and mechanical and electrical equipment and machinery and water, gas, sewage, telephone and other communication facilities and utilities comprised therein, belonging thereto, connected therewith or used in the operation thereof, (other than the Poles) and, to the extent provided in the Lease, all alterations, additions, and replacements thereto.

"Business" - means the business of operating a Distribution System in Port Colborne, including, without limitation, the distribution and retailing of electricity, on-bill financing, sale and lease of electrical equipment and the provision of utility and ancillary services to third parties (including other municipal electrical utilities and the City).

"Business Day" - any day other than a Saturday, Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in Toronto.

"Change in Law" - any change after the date hereof in federal or provincial law or regulations or the adoption or making after such date of any interpretation, directive or request applying to distributors of electricity in Ontario by any Government Authority charged with the administration or interpretation thereof.

"City" - the Corporation of the City of Port Colborne.

"City Guarantee" - the guarantee executed by the City in favour of Lessee and Lessee Guarantor, substantially in the form of Exhibit 2 to the Master Implementation Agreement.

"Cleanup" - all actions required to:

- (a) clean up, remove, treat or remediate Specified Substances in the natural environment to standards acceptable under SSRA Provisions or otherwise under the Cleanup Guideline;
- (b) prevent the Release of Specified Substances so that they do not migrate, endanger or threaten to endanger public health or welfare of the natural environment in a manner contrary to Environmental Laws;
- (c) perform pre-remedial studies and investigations and post-remedial monitoring and care as properly required by any Environmental Law or by any Government Authority pursuant thereto; or
- (d) respond to any government requests for information or documents in any way relating to cleanup, removal, treatment or remediation or potential cleanup, removal,

treatment or remediation of Specified Substances in the natural environment which is properly authorized by Environmental Laws.

"Cleanup Guideline" - means the Guideline for Use at Contaminated Sites in Ontario, as amended from time to time.

"Closing" or "Closing Date" - a date (which shall be a Business Day) not later than the fifteenth (15th) day following the date that all of the regulatory approvals set forth in Section 6 of the Master Implementation Agreement are obtained or such earlier or later date as may be agreed upon in writing by the Parties, provided that in no event shall any such date be on or after 12 months from the date of the Master Implementation Agreement.

"Closing Date Financial Statements" - as defined in Section 3.3(a) of the Lease.

"Closing Date Inventory" - as defined in Section 3.3(c) of the Lease.

"CNP Permitted Liens" - means:

- (a) any assignment or sublease of the Lease or of the Lessee's interest therein to an Affiliate, or to Fortis Inc. or Niagara Mohawk Holdings, Inc. or any of their subsidiaries or successors;
- (b) any sublease of the Leased Property made in accordance with Section 8.5 of the Master Implementation Agreement; and
- (c) any pledge or grant of a security interest, mortgage or other charge over or in relation to the Leased Property granted by the Lessee or the Lessee Guarantor in favour of a bank, financial institution or other lender in connection with a financing, the proceeds of which will be used by the Lessee or its Affiliates exclusively in connection with their business activities in the energy sector in Ontario, provided that a condition of any such pledge or grant of security interest is that Lessor have the right to approve the selection of any receiver, manager or operator that might be appointed for the Business pursuant to such pledge or grant of security, such approval not to be unreasonably withheld or delayed.

"Codes" - as defined in Section 8.3 of the Master Implementation Agreement.

"Commission" - the Port Colborne Hydro-Electric Commission.

"Commodity Taxes" - GST, and any sales, use, value added or goods and services Taxes or land transfer taxes imposed by any jurisdiction in which the Leased Assets or Additional Assets are or have been or are intended to be located.

"Confidential Information" - as defined in Section 8.2(a) of the Master Implementation Agreement.

"Confidentiality Agreement" - means the confidentiality agreement between Lessor, Lessee Guarantor and the City substantially in the form attached as Exhibit 1 to the Master Implementation Agreement.

"Contributed Assets" - as defined in Section 9.3 of the Lease.

"Current Liabilities" - with respect to any Person, at any time, the current liabilities of such Person in accordance with GAAP.

"Customer Class" - as defined in the applicable distribution rate order as approved by the OEB.

"Debt" - means all indebtedness created, assumed or guaranteed by Lessor excluding Current Liabilities.

"Deed" - one or more deeds conveying to Lessor or Lessee (as applicable) good and marketable title in Leased Property or Additional Property (as applicable).

"Distribution Licence" - a Distributor's licence issued by the OEB to Lessee to authorize it to operate the Leased Assets and/or Additional Assets as a Distribution System.

"Distribution System" - as defined in the OEB Act.

"Distributor" - as defined in the OEB Act.

"Documents" - as defined in Section 8.1 of the Lease.

"Dollars" or **"\$"** - lawful currency of Canada.

"Easements" - means all easements and rights-of-way, registered and unregistered; and all permits, licences and permissions received, used or enjoyed by Lessor in connection with the generation, transmission, distribution and retailing of electricity in Port Colborne.

"Electricity Act" - the *Electricity Act, 1998* (Ontario).

"Electricity Safety Authority" - shall have the meaning ascribed to that term in the Electricity Act.

"Employee Benefits" - as defined in Section 3.1(j) of the Master Implementation Agreement.

"Employees" - as defined in Section 3.1(l) of the Master Implementation Agreement.

"Environmental Consultant" - a reputable and qualified environmental consulting firm selected by Lessee and approved by Lessor, such approval not to be unreasonably withheld, or, if a Lease Event of Default exists, reasonably selected by Lessor.

"Environmental Laws" - all federal, state, provincial, municipal or local laws, statutes, ordinances, orders, judgments, decrees, injunctions, writs, policies and guidelines, directives, approvals, notices, rules and regulations and other Applicable Laws (but solely to the extent any of the foregoing have the force of law) relating in whole or in part to environmental matters or occupational health and safety matters, including those relating to the Release or threatened Release of Specified Substances and to the manufacture, processing, distribution, treatment, generation, use, storage, transportation, disposal, discharge or other handling of Specified Substances, including without limitation the *Environmental Protection Act* (Ontario) and the *Ontario Water Resources Act*.

"Estimated Rent" - means the monthly payment of \$127,350 provided for under Section 3.2 of the Lease, subject to adjustments in accordance with Section 3.3 of the Lease.

"Equipment" - means:

- (a) all of the improvements and facilities constructed or installed on the Leased Property,
- (b) all machinery and equipment which are incorporated into, attached to, placed upon or used or useable in connection with the use, occupancy, maintenance or operation of the Leased Property and other portions of the Equipment, as applicable;
- (c) inventory; and
- (d) to the extent provided in the Lease, all replacements and substitutions of, additions to and accessions to the foregoing,

but "Equipment" does not include Buildings or Poles.

"Equipment Event of Loss" - means any of the following events:

- (a) the Equipment and Additional Equipment or a substantial portion thereof is destroyed, or there shall occur a constructive loss of the Equipment and Additional Equipment or a substantial portion thereof, under applicable insurance policies and in accordance with standard industry practice, or a compromised loss of the Equipment and Additional Equipment or a substantial portion thereof, where such loss is not fully covered by insurance less applicable deductibles;
- (b) the Equipment and Additional Equipment, or a substantial portion thereof, is, in Lessee's opinion in good faith, totally damaged beyond economic repair, is condemned or otherwise permanently rendered unfit for normal use and such condition is not fully covered by insurance less applicable deductibles;
- (c) the Equipment and Additional Equipment, in its entirety or a substantial portion thereof (such that the then remaining portion cannot practically be utilized for the purposes intended) is confiscated or seized, or title thereto or use thereof is expropriated, by any Government Authority and, in the case of any such

expropriation, Lessor or Lessee with respect to the Leased Assets and Lessee with respect to the Additional Assets loses the use or possession of all or a substantial portion of the Leased Assets and Additional Assets for a period exceeding 12 months or ending after the Lease Term; or

- (d) the occurrence of a Material Event that is not covered in all material respects by insurance.

"Event of Loss" - an Equipment Event of Loss or a Property Event of Loss.

"Excluded Assets" - means: (a) cash; (b) accounts receivable of the Business as of the Closing Date; and (c) prepaid expenses.

"Excluded Liabilities" - any liabilities in relation to or associated with:

- (a) accounts payable and accruals of the Business on the Closing Date;
- (b) the debenture issued by the Regional Municipality of Niagara dated September 15, 1986;
- (c) any promissory notes issued by the Lessor to the City;
- (d) the credit agreement between the Lessor and Canadian Imperial Bank of Commerce dated March 2, 2000;
- (e) any other loans, debt, credit agreements, mortgages, trusts, bonds, debentures, security agreements or similar instruments and agreements entered into by the Lessor prior to the Closing Date;
- (f) except to the extent expressly assumed pursuant to the Master Implementation Agreement, any liabilities to or in respect of Employees or former employees of the Business relating to or arising from the period prior to the Closing Date;
- (g) any cause of action or other legal proceeding involving the City or the Lessor relating to the Business or the Leased Assets, whether or not pending or threatened on the Closing Date, where the action or proceeding relates to or arises from acts or omissions which occurred prior to the Closing Date;
- (h) any failure or alleged failure by the City or Lessor to comply with applicable law or any contract, where the failure or alleged failure occurred or is alleged to have occurred prior to the Closing Date;
- (i) any Taxes arising from the operation of the Leased Assets prior to the Closing Date;
- (j) the presence of any underground storage tanks (other than as set out in Schedule 3.1(o) to the Master Implementation Agreement) or other structures on or around the

Leased Property prior to the Closing Date and, without limitation, any Specified Substances therein or therefrom.

"Expansion Asset" - as defined in Section 9.2 of the Lease.

"Expansion Cost" - in the case where Lessor purchases the Additional Assets pursuant to Section 16.2 of the Lease, the Expansion Cost is the net book value of the Expansion Assets (specifically not including any Contributed Assets) as at the date of purchase minus \$160,000.

"Expiration Date" - the date that is the tenth anniversary of the Closing Date.

"Fair Market Value" - with respect to the Leased Assets or Additional Assets, as the case may be, or part thereof with respect to which a determination is being made, the cash sale price obtainable for such Leased Assets or Additional Assets, as the case may be, or part thereof in an arm's length sale between an informed and willing buyer (including a lessee in possession) under no compulsion to purchase, and an informed and willing seller, under no compulsion to sell. Fair Market Value shall be determined on the assumption that the Leased Assets or Additional Assets, as the case may be, are in the condition and repair required under the Lease, free of any Liens other than Lessor Liens and in service. Unless Lessor otherwise consents, Fair Market Value shall be determined by an independent appraisal (assuming the Parties, after consultation, have been unable to agree on the Fair Market Value), determinations under which shall be conclusively binding on both Lessor and Lessee.

"Final Report on Lessor Accounts" - as defined in Section 3.4(a) of the Lease.

"Financial Statements" - the audited financial statements of the Commission or the Lessor, as applicable, for the years 1995 to 2000 inclusive.

"Force Majeure" - as defined and provided for in Section 12 of the Lease.

"GAAP" - means Canadian generally accepted accounting principles.

"Government Actions" - all consents, approvals or Authorizations of, or filings, registrations or qualifications with, or the giving of notice or taking of any other action with respect to, any Government Authority.

"Government Authority" - any nation or government, any state, province, county, territory, municipality, or other government, quasi-government, administrative or regulatory authority, agency, board, body, commission, instrumentality, court or tribunal or other political subdivision thereof, or any central bank (or similar monetary or regulatory authority) thereof, any tax authority, any ministry or department or agency of the foregoing, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other

entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing, or any arbitrator or panel of arbitrators including without limitation, the OEB, the IMO and the Electricity Safety Authority.

"GST" - the goods and services tax levied under Part IX of the *Excise Tax Act* (Canada).

"Guidelines" - as defined in Section 8.3 of the Master Implementation Agreement.

"Handbook" - as defined in Section 8.3 of the Master Implementation Agreement.

"IMO" - the Independent Electricity Market Operator or any successor authority thereto.

"Included Interest" - as defined in Section 9.4 of the Lease.

"Income Tax Act (Canada)" - the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c.1.

"Indemnified Person" - a Person with a claim to indemnification pursuant to Section 9.1 of the Master Implementation Agreement.

"Indemnifying Party" - a Person who is subject to a claim of indemnification pursuant to Section 9.1 of the Master Implementation Agreement.

"Independent Accountant" - an accountant appointed jointly by the Lessor's Accountant and by an accountant nominated by Lessee, as contemplated by Section 3.3(a) or 3.4(b) of the Lease.

"Independent Engineer" - an engineer licensed to practise under the *Professional Engineers Act* (Ontario), selected by Lessor and approved by Lessee.

"Insolvency Event" - in relation to a Person means the occurrence of any of the following events:

- (a) an order is made that the Person be wound up;
- (b) an order appointing a liquidator, an administrator or a provisional liquidator in respect of the Person is made, or one of them is appointed;
- (c) a receiver, receiver and manager, statutory manager, trustee or other similar official, is appointed in respect of the Person or all or substantially all of its assets (other than assets which are subject to a limited recourse obligation of such Person);
- (d) the Person enters into, or resolves to enter into, an arrangement or reconstruction or composition with, or assignment for the benefit of, all or any class of its creditors or it proposes a reorganization, moratorium or other administration involving any of them for reasons relating to insolvency;

- (e) the Person is or states that it is unable to pay its debts generally when they fall due (other than limited recourse obligations of such Person);
- (f) the Person resolves to wind itself up, assigns itself into bankruptcy or commits any act of bankruptcy as such term is defined in section 42 of the *Bankruptcy and Insolvency Act* (Canada), or gives notice of intention to do so for reasons relating to insolvency;
- (g) the Person takes any steps to obtain or is granted protection from its creditors, under any applicable legislation relating to insolvency; or
- (h) (i) commencement of an involuntary proceeding against the Person:
 - (A) seeking bankruptcy, liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts, or other relief with respect to it or its debts under the federal bankruptcy or insolvency laws of Canada; or
 - (B) seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets, the issuance of a writ of attachment, execution, or similar process against all or any substantial part of its assets, or like relief if, in each such case, subparagraphs (ii), (iii) and (iv) of this paragraph do not apply and such involuntary proceeding shall remain undismissed and unstayed for a period of 60 days;
- (ii) an order for relief is entered against the Person under the federal bankruptcy or insolvency laws of Canada as now or hereafter in effect, or under any proceeding referred to in this paragraph (h);
- (iii) filing by the Person of an answer admitting the material allegations of a petition filed against it in any involuntary proceeding referred to in subparagraph (h)(i) above commenced against it; or
- (iv) consent by the Person to any relief referred to in this paragraph (h) or to the appointment of or taking possession by any such official in any involuntary proceeding referred to in subparagraph (h)(i) above commenced against it.

“Intellectual and Industrial Property Rights” - means:

- (a) all registered and unregistered trademarks, brands, trade dress, business names, Uniform Resource Locators (URLs), domain names, designs, graphics, logos and other commercial symbols and indicia of origin whether registered or not and any goodwill associated therewith;

- (b) all issued patents and inventions and pending applications therefor and patents which may be issued from current applications (including divisions, reissues, renewals, re-examinations, continuations, continuations-in-part and extensions) applied for or registered;
- (c) all copyrights, industrial designs and other industrial property rights and all applications or registrations therefor; and
- (d) all trade secrets, inventions, licences, patterns, drawings, computer software, formulae, technical information, research data, concepts methods, procedures, designs, know-how and all other intellectual property, in each case the absence of which would have a Material Adverse Effect.

"Interest Rate" - means, on any day, the annual rate of interest equal to the annual rate of interest announced by Canadian Imperial Bank of Commerce and in effect as its prime rate at its principal office in Toronto, Ontario on such day for determining interest rates on Cdn. Dollar-denominated commercial loans in Canada.

"Late Rate" - the Interest Rate plus 2% per annum, compounded on each anniversary date of the Lease.

"Lease" - the agreement substantially in the form of the agreement among Lessor, Lessee, the City and Lessee Guarantor attached as Exhibit 3 to the Master Implementation Agreement.

"Lease Default" - an event which with notice or lapse of time or both would become a Lease Event of Default.

"Lease Event of Default" - as defined in Section 12 of the Lease.

"Lease Term" - as defined in Section 3.1 of the Lease.

"Leased Assets" - the Equipment, the Leased Property and other assets used by Lessor in connection with or otherwise relating to the Business.

"Leased Property" - means the Real Property, Easements, Poles, and Buildings but, for greater certainty, does not include the Excluded Assets.

"Lessee" - Canadian Niagara Power Inc., its successors and permitted assigns.

"Lessee Guarantee" - the guarantee executed by Lessee Guarantor in favour of Lessor and the City, substantially in the form of Exhibit 4 to the Master Implementation Agreement.

"Lessee Guarantor" - Canadian Niagara Power Company Limited.

"Lessee's Counsel" - Davies Ward Phillips & Vineberg LLP.

"Lessee Indemnified Party" and "Lessee Indemnified Parties" - as defined in Section 9.1(a) of the Master Implementation Agreement.

"Lessee's Notice" - as defined in Section 8.5 of the Master Implementation Agreement.

"Lessor" - Port Colborne Hydro Inc., its successors and permitted assigns.

"Lessor's Accountant" - Grant Thornton LLP or such other independent accounting firm selected by Lessor and approved by Lessee, acting reasonably.

"Lessor Indemnified Party" and "Lessor Indemnified Parties" - as defined in Section 9.1(b) of the Master Implementation Agreement.

"Lessor's Knowledge" - means the actual knowledge of the Chief Executive Officer or the General Manager of the Lessor, after due enquiry with management staff of Lessor, with the Treasurer and the solicitors of the City, with Lessor's Counsel, and with such other employees, consultants, auditors or agents of the City as would reasonably be likely to have material knowledge respecting the matters or the transactions referred to or contemplated in the Basic Documents.

"Lessor Liens" - any Liens in favour of Lessor created by the Basic Documents.

"Lessor's Counsel" - means Borden Ladner Gervais LLP.

"Lessor's Rate Application" - as defined in Section 4.2(a) of the Master Implementation Agreement.

"Lien" - any security interest, mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, garnishment, trust (actual or deemed) intended as a security or collection device, encumbrance, lease intended as a security device, lien (statutory or other) or preferential arrangement of any kind or nature whatsoever in respect of any property including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, a lease having the characteristics of a secured lending arrangement, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner or conditional lessee of the asset to which such lien relates as debtor, under the *Personal Property Security Act* (Ontario) or any comparable law, but not including the interest of a lessor under an operating lease.

"Losses" - any and all costs, expenses, liabilities, obligations, losses, damages (including consequential damages and economic loss), penalties, proceedings, actions or suits or claims of whatsoever kind or nature (whether or not on the basis of statutory duty, negligence, strict or absolute liability or liability in tort or arising out of regulatory requirements of any kind).

"Market Opening Period" - as defined in Section 8.1(f) of the Master Implementation Agreement.

"Market Rules" - the market rules made from time to time by the IMO pursuant to the Electricity Act.

"Master Implementation Agreement" - the master implementation agreement among Lessor, Lessee, the City and Lessee Guarantor dated as of July 19, 2001.

"Material Adverse Effect" - with respect to any Person, any change, effect or condition that individually or in the aggregate are or are reasonably expected to be materially adverse to:

- (a) the financial position or operations of such Person;
- (b) the ability of such Person to perform its obligations under the Basic Documents to which it is a party; or
- (c) the validity or enforceability of any of the Basic Documents to which it is a party or any rights or remedies under any thereof with respect to such Person.

"Material Contract" - any contract for the supply of goods or services which has a value exceeding Fifty Thousand Dollars (\$50,000) in total payments excluding any collective bargaining agreements or employment agreements.

"Material Event" - the occurrence of any event or the discovery of any condition in, on, beneath or involving all or a substantial portion of the Leased Assets and Additional Assets (including the presence, emission or Release of any Specified Substance or the violation of any applicable Environmental Law) that would have a material adverse effect on the use, occupancy, possession, ownership, or operation of all or a substantial portion of the Leased Assets and Additional Assets or the improvements thereon.

"Modifications" - as defined in Section 9.1 of the Lease.

"OBCA" - the *Business Corporations Act* (Ontario).

"OEB" - the Ontario Energy Board.

"OEB Act" - the *Ontario Energy Board Act, 1998*.

"OEB Approval" - the approval of the OEB to the transactions contemplated under the Basic Documents pursuant to the OEB Act.

"Officer's Certificate" - a certificate signed by an authorized signing officer.

"OMERS" - Ontario Municipal Employees Retirement System.

"Option" - as defined in Section 8.5 of the Master Implementation Agreement.

"Out-of-Pocket expenses" - properly documented costs and expenses of travel, lodging, meals and other incidental expenses of a Person or its Affiliates which are directly related to the consummation of the related transactions and which are paid to any Person who is not an Affiliate of the payor.

"Parts" - as defined in Section 8.4 of the Lease.

"Party" - means a party to the Master Implementation Agreement, and "Parties" means all parties to the Master Implementation Agreement.

"PBR" - defined in Section 8.3 of the Master Implementation Agreement.

"Permitted Contest" - a contest of any claim, Tax, Lien or Applicable Law in good faith and by appropriate proceedings diligently conducted.

"Permitted Encumbrances" - means:

- (a) servitudes, easements, restrictions, rights-of-way and other similar rights in real property or any interest therein, provided that in the aggregate the same are not of such nature as to materially adversely affect the use of the property subject thereto;
- (b) undetermined or inchoate liens, charges and privileges incidental to current construction or current operations save and except for liens, charges and privileges related to Taxes;
- (c) statutory liens, adverse claims, security interests or encumbrances of any nature whatsoever claimed or held by any Governmental Authority:
 - (i) that have not at the time been filed or registered against the title to the asset or served upon the owner of the asset pursuant to law; or
 - (ii) that relate to obligations not due or delinquent, save and except for liens, adverse claims, security interests or encumbrances related to Taxes;
- (d) assignments of insurance provided to landlords (or their mortgagees) pursuant to the terms of any lease, and liens or rights reserved in any lease for rent or for compliance with the terms of such lease;
- (e) security given in the ordinary course of the Business to any municipality or government or to any statutory or public authority in connection with the operations of the Business, other than security for borrowed money; and
- (f) the reservations in any original grants from the Crown of any real property or interest therein and statutory exceptions to title, which do not materially detract from the

value of the real property concerned or materially adversely affect its use in the operation of the Business.

"Person" - an individual, partnership, joint venture, corporation, trust, limited liability company, unlimited liability company, association or unincorporated organization, and a government or agency or political subdivision thereof.

"Poles" - means the utility poles used by Lessor in connection with its distribution of electricity in Port Colborne (including any ducts used for the same purposes).

"Port Colborne" - the City of Port Colborne.

"Proceeds" - as defined in Section 8.8 of the Lease.

"Property Event of Loss" - with respect to Leased Property or Additional Property, shall mean any of the following events:

- (a) all or a substantial portion of the Leased Property and Additional Property is wholly destroyed or damaged by any cause whatsoever or the demolition of all or a substantial portion of the Leased Property and Additional Property is necessitated thereby or all or a substantial portion of the Leased Property and Additional Property becomes unfit for occupancy by Lessee, and any such loss, damage, condition or destruction is not fully covered by insurance;
- (b) all or a substantial portion of the Leased Property and Additional Property (such that the remaining portion cannot practically be utilized for the purposes intended) is confiscated or seized, or title thereto or use thereof is expropriated by any Government Authority and, in case of any such expropriation, Lessor or Lessee with respect to such Leased Property and Lessee with respect to such Additional Property loses the use or possession of such Leased Property and Additional Property for a period exceeding 12 months or ending after the Lease Term; or
- (c) the occurrence of a Material Event that is not covered in all material respects by insurance less applicable deductibles.

"Purchase Option" - as defined in Section 16.1 of the Lease.

"Purchase Option Price" - \$6,900,000.

"Rate Application" - each application made by Lessee to the OEB for an order approving or fixing its Rates.

"Rate Base" - shall have the meaning ascribed to that term in Section 3.4.1.1 of the Handbook.

"Rate Order" - each order issued by the OEB approving or fixing the Rates.

"Rates" - the rates approved for the distribution of electricity and for the retailing of electricity in order to meet Lessor's or Lessee's Standard Supply Service Obligations, as applicable.

"Real Property" - means the parcels of land owned by Lessor in Port Colborne, the legal descriptions of which are attached to the Lease as Exhibit 1.

"Realty Taxes" - means all real estate taxes (including local improvement rates), levies, rates, duties, and assessments whatsoever, and the cost of appealing such assessments which may be levied or assessed against the Leased Property and/or Additional Property, as applicable, or on Lessor, or the owners of the Leased Property and/or Additional Property, as applicable, and any and all taxes which may, in the future, be levied in lieu thereof.

"Release" - any presence, release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, leaching or migration in, into or out of the natural environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Specified Substance), or in, into or out of any vessel or facility into or out of the natural environment, including the movement of any Specified Substance through the air, soil, surface water, groundwater or property, and when used as a verb has a like meaning.

"Rent" - means the rent to be paid by Lessee to Lessor pursuant to Section 3.2 of the Lease for the Leased Assets during the Lease Term adjusted in accordance with Section 3.3 of the Lease.

"Rent Overpayments" - as defined in Section 3.3(c) of the Lease.

"Report on Lessor Accounts" - as defined in Section 3.4(a) of the Lease.

"Reports" - as defined in Section 6.2 of the Lease.

"Responsible Officer" - an officer of Lessee with the power to legally bind Lessee.

"Specified Substances" - any solid, liquid, gas, odor, sound, vibration, heat, radiation or other form of energy and any other chemical, waste, material or substance, exposure to which is prohibited, limited or regulated by any Environmental Law or Government Authority, including without limitation:

- (a) any contaminant, pollutant, waste and includes without limitation any substance defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste" or "toxic substances" or words of similar import under any applicable Environmental Laws;

- (b) any substance, waste or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, pathological, or otherwise hazardous by listing, characteristic or definition under any Environmental Law;
- (c) any:
 - (i) oil, natural gas, petroleum, petroleum derived substance or other hydrocarbons, crude oil or any fraction thereof, any drilling fluids, wastes produced in association with the exploration, development or production of crude oil, natural gas or geothermal fluid, any flammable substances or explosives, any radioactive materials, any hazardous wastes or substances, any toxic wastes or substances; or
 - (ii) other materials or pollutants that, in the case of both (i) and (ii), are likely to cause Lessor or the Leased Assets or the Additional Assets to be in violation of any Environmental Law; and
- (d) asbestos, lead, urea formaldehyde foam insulation, radon gas, polychlorinated biphenyls and any out-of-service electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty parts per million.

"SSRA Provisions" - means the site specific risk assessment provisions of the Cleanup Guideline excluding those solely applicable to Level 2 site specific risk assessments and those requiring public consultation, peer review, agreement with a municipality and consultation with or approval by the Ministry of the Environment.

"Standard Supply Service Application" - means the application to be made by Lessor to the OEB for an order pursuant to section 78 of the OEB Act approving the manner in which Lessor intends to satisfy the Standard Supply Service Obligations.

"Standard Supply Service Obligations" - the obligation of a Distributor under section 29 of the Electricity Act to Persons connected to the Distributor's Distribution System, except Persons who advise the Distributor that they do not wish to purchase electricity from the Distributor.

"Taxes" - "Tax" or "Taxes" means any present or future taxes, surtaxes, withholding taxes, duties, levies, imposts, fees, assessments or other similar governmental charges of any nature whether in respect of income, gross receipts, profits, franchise, transfer, sales, use, value added, customs, payroll, occupation, health, property, business, excise, GST, Realty Taxes or Commodity Taxes, (including interest, penalties and additions to such taxes or charges) imposed upon or in respect of any Party or related Person or the Leased Assets or the Additional Assets by any national, federal, territorial, state, provincial or local government, political subdivision or taxing authority in Canada or by any other international taxing authority or by any taxing authority or governmental subdivision of a country other than Canada.

"Termination Notice" - the notice that may be provided by Lessor to Lessee in the circumstances identified in Section 13.1 of the Lease stating that Lessor wishes to terminate the Lease as a result of the Lease Event of Default, stating the date upon which the Lessor wishes to terminate the Lease (which date shall be not less than ten (10) Business Days from the date of the Termination Notice, or such later date as the Lessor may specify from time to time for so long as the circumstances identified in Section 13.1 of the Lease are continuing), as provided for under Sections 13.1 and 13.2 of the Lease.

"Third Party Claim" - as defined in Section 9.1 of the Master Implementation Agreement.

"Time of Closing" - 10:00 a.m. (Toronto time) on the Closing Date.

"Transfer By-Law" - means By-law No. 3867/12/00 of Port Colborne dated January 31, 2000.

"Vacant Space" - as defined in Section 8.5 of the Master Implementation Agreement.

EXHIBIT 1 - REAL PROPERTY LEGAL DESCRIPTIONS

EXHIBIT 1

REAL PROPERTY LEGAL DESCRIPTIONS

445 Barrick Road, Port Colborne, Ontario

PIN #64138-0450 (LT)

Part of Lot 1, Plan 822, City of Port Colborne, Regional Municipality of Niagara, as described in Instrument No. BB52827.

SUBJECT TO an easement in favour of The Hydro-Electric Power Commission of Ontario as set out in instrument No. RO69679.

380 Elm Street, Port Colborne, Ontario

Firstly: PIN #64156-0025 (LT)

Part of Lot 29, Concession 1, City of Port Colborne (formerly in the Township of Humberstone), in the Regional Municipality of Niagara, as in Instrument No. RO63008, except those lands in Instrument No. BB93172.

SUBJECT TO and TOGETHER with an easement over part of said Lot 29, Concession 1 as set out in Instrument No. 63008.

TOGETHER with an easement as set out in Instrument No. BB93172.

TOGETHER with easements as set out in Instrument No. LT152177.

Secondly: PIN #64156-0109 (LT)

Part of Lot 29, Concession 1, in the City of Port Colborne (formerly in the Township of Humberstone), in the Regional Municipality of Niagara, as in Instrument No. BB93172.

SUBJECT TO an easement as set out in Instrument No. BB93172.

North Side of Killaly Street East, Port Colborne, Ontario

PIN #64151-0171 (LT)

Part of Lot 26, Concession 6 in the City of Port Colborne (formerly in the Township of Humberstone), in the Regional Municipality of Niagara, as described in Instrument No. BB93172, except Parts 3 and 4 on Plan 59R-4635.

SUBJECT TO an easement as set out in Instrument No. BB93172.

TOGETHER with a right of way as set out in Instrument No. BB93173.

3 South Crescent, Port Colborne, Ontario

PIN #64159-0095 (LT)

Lot 96, Plan 814, City of Port Colborne (formerly Township of Humberstone), in the Regional Municipality of Niagara.

1069 Wilhelm Road, Port Colborne, Ontario

PIN #64171-0026(LT)

Part of Lot 4, Concession 2, City of Port Colborne (formerly Township of Humberstone), Regional Municipality of Niagara as described in Instrument No. RO360854.

East Side of Catharine Street, Port Colborne, Ontario

Surface rights in that part of Water Lot in front of strip of Township Lot 28, Concession 1, fronting Lots 2 and 3 on the shore of Lake Erie as shown on Merritt's Plan No. 1, also known as Merritt's Survey for the Village of Port Colborne, now known as Plans 987, 988 and 989, and which said parcel or tract of land is more particularly designated as Part 1 on Reference Plan 59R-2071, City of Port Colborne, Regional Municipality of Niagara.

TOGETHER with an easement over that part of the said water lot designated as Part 5 on Plan 59R-6501 as set out in Instrument No. 565039.

EXHIBIT 4

LESSEE GUARANTEE

Please see attached.

LESSEE GUARANTEE

This Guarantee made as of the 19th day of July, 2001.

BETWEEN:

CANADIAN NIAGARA POWER COMPANY LIMITED, a
corporation organized under the laws of Ontario ("Lessee Guarantor")

OF THE FIRST PART

- and -

PORT COLBORNE HYDRO INC., a corporation organized under
the laws of Ontario ("Lessor")

OF THE SECOND PART

- and -

THE CORPORATION OF THE CITY OF PORT COLBORNE,
a municipal corporation organized under the laws of Ontario (the
"City")

OF THE THIRD PART

WHEREAS pursuant to a master implementation agreement dated as of July 19, 2001 (the "Master Implementation Agreement") between Lessor, Canadian Niagara Power Inc. ("Lessee"), the City and Lessee Guarantor, Lessor and Lessee have agreed to *inter alia* enter into a lease agreement relating to the lease of the electricity distribution assets of Lessor by Lessee;

AND WHEREAS Lessee Guarantor is the sole shareholder of Lessee;

AND WHEREAS pursuant to the terms of the Master Implementation Agreement, Lessee Guarantor has agreed to guarantee the obligations of Lessee under the Basic Documents (as such term is defined in the Master Implementation Agreement) in favour of Lessor and the City;

AND WHEREAS for valuable consideration Lessee Guarantor has agreed to provide this Guarantee;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of \$1.00 now paid by each of Lessor and the City to Lessee Guarantor, the entering into of

the Master Implementation Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), Lessee Guarantor covenants and agrees as follows:

1. **Defined Terms**

Unless otherwise defined herein, terms denoted with initial capital letters shall have the respective meanings ascribed thereto in the Master Implementation Agreement.

2. **Guarantee**

Lessee Guarantor hereby unconditionally and irrevocably guarantees to Lessor and the City the due and punctual performance by Lessee of all obligations of Lessee under the Basic Documents and any other documents governing or evidencing such obligations (such obligations being hereinafter referred to as the "Obligations"). Lessee Guarantor also agrees to pay all costs and expenses incurred by Lessor and the City in enforcing their rights hereunder and under the other Basic Documents including, without limitation, the reasonable fees and disbursements of counsel for Lessor and the City in connection with such enforcement.

3. **Guarantee Absolute**

(a) Lessee Guarantor guarantees that the Obligations will be performed strictly in accordance with the terms of the Basic Documents and any other documents governing or evidencing the Obligations. The liability of Lessee Guarantor hereunder shall be absolute and unconditional, and shall remain in full force and effect without regard to, and shall not be released, discharged or in any way affected by any circumstances or condition other than performance in full of the Obligations, including, without limiting the generality of the foregoing, Lessee Guarantor's obligations hereunder shall not be affected:

- (i) by any change in any term of, or any other amendment or waiver of or any consent to departure from the Basic Documents or any other documents relating to the Obligations;
- (ii) by any change in the name, objects, powers, capital or constitution of Lessee;
- (iii) if any of the Basic Documents shall be terminated, rejected or disaffirmed as a result of bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar proceedings with respect to Lessee;
- (iv) by any notices which may be required by statute or rule or law to preserve any rights against Lessee Guarantor hereunder as guarantor;

- (v) by a requirement for the enforcement, assertion or exercise of any right, remedy, power or privilege under or in respect of Lessee prior to Lessor or the City enforcing their rights hereunder;
- (vi) by any requirement that Lessee be joined as a party to any proceedings for the enforcement of any provision hereunder; or
- (vii) by the grant by Lessor or the City to Lessee of any extension of time to perform, or the waiver of any requirement of Lessee to perform, any Obligation of Lessee.

(b) Lessor and the City shall not be bound or obliged to exhaust their recourse against Lessee Guarantor or any other persons or to take any other action (other than make demand pursuant to section 6) before being entitled to demand performance by Lessee Guarantor hereunder.

4. **Continuing Guarantee**

This Guarantee shall be an absolute and continuing guarantee and shall cover any current Obligations of Lessee and all Obligations incurred after the date hereof and shall be binding as a continuing obligation of Lessee Guarantor. This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time performance of any of the Obligations is rescinded or must otherwise be returned by Lessor or the City upon the insolvency, bankruptcy, dissolution or reorganization of Lessee or upon, or as a result of, the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to Lessee of any substantial part of its property, or otherwise, all as though such performance of the Obligation had not been made.

5. **Limited Recourse Guarantee**

Notwithstanding any other provisions hereof, the liability of Lessee Guarantor to Lessor and the City under this Guarantee is subject to the limitations prescribed under Section 9.3 of the Master Implementation Agreement.

6. **Demand for Performance**

Lessee Guarantor shall perform all Obligations of Lessee to the benefit of Lessor and the City hereunder within five Business Days after demand therefor is made to Lessee Guarantor in writing.

7. **Waiver**

Lessee Guarantor hereby waives notice of acceptance of this instrument and presentment, demand, protest, notice of protest, notice of non-payment or default and all other notices to which Lessee or Lessee Guarantor are entitled are hereby waived by Lessee Guarantor.

8. **Additional Guarantees**

This Guarantee is in addition and without prejudice to any guarantees or securities of any kind (including, without limitation, guarantees whether or not in the same form as this instrument) now or hereafter held by Lessor or the City.

9. **Release and Discharge**

Upon performance of all of the Obligations of Lessee to the benefit of Lessor and the City and the fulfilment of all obligations of Lessee Guarantor pursuant to this Guarantee, the rights hereby granted shall cease and become null and void and Lessor and the City shall, at the request and at the expense of Lessee Guarantor, execute and deliver to Lessee Guarantor such instruments as shall be required to release and discharge Lessee Guarantor from its covenants herein contained.

10. **Governing Law**

This Guarantee shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

11. **Notices**

Unless otherwise specified herein, all notices, requests, demands or other communications to or from the parties hereto shall be in writing and shall be delivered in person, or transmitted by telecopy, charges prepaid, addressed as follows:

(a) if to Lessee Guarantor, at:

Canadian Niagara Power Company Limited
1130 Bertie Street
P.O. Box 1218
Fort Erie, Ontario
L2A 5Y2

Attention: President
Facsimile: (905) 871-8676

(b) if to Lessor, at:

Port Colborne Hydro Inc.
c/o The City of Port Colborne
66 Charlotte Street
Port Colborne, Ontario
L3K 3C8

Attention: Office of the Mayor
Facsimile: (905) 835-2969

(c) if to the City, at:

The City of Port Colborne
66 Charlotte Street
Port Colborne, Ontario
L3K 3C8

Attention: Office of the Mayor
Facsimile: (905) 835-2969

All such notices, requests, demands or other communications shall be deemed to have been given and received on the day on which it was delivered or transmitted, provided that if any notice, request, demand or other communication is delivered on a day other than a Business Day the same shall be deemed to have been given and received on the next following Business Day.

12. **No Waiver, Remedies**

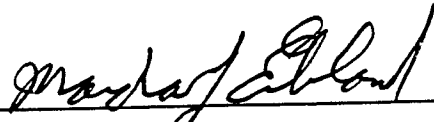
Lessor and the City shall not by any act, delay, omission or otherwise be deemed to have waived any of their rights or remedies hereunder and no waiver shall be valid unless in writing and signed by Lessor or the City, and then only to the extent therein set forth. A waiver by Lessor or the City of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Lessor or the City would otherwise have on any future occasion. No failure to exercise nor any delay in exercising any right, power or privilege of Lessor or the City hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights or remedies provided by law.


13. **Benefit and Binding Nature**

This Guarantee is a continuing guarantee and shall (a) remain in full force and effect until performance in full of the Obligations, (b) be binding upon Lessee Guarantor, its successors and assigns, and (c) enure to the benefit of and be enforceable by Lessor and the City and their successors and assigns.

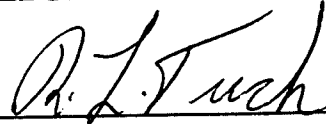
IN WITNESS WHEREOF the parties have executed this Guarantee as of the date first above written.


**CANADIAN NIAGARA POWER
COMPANY LIMITED**

By: 
Name: Mardon G. Erbland
Title: President and Chief Executive Officer

By: 
Name: Timothy B. Curtis
Title: Vice President Finance and Chief Financial Officer

PORT COLBORNE HYDRO INC.

By: 
Name: Ross L. Tuck
Title: Chairman

By: 
Name: Evan L. Weaver
Title: Director

**THE CORPORATION OF THE CITY OF
PORT COLBORNE**

By: 

Name: Vance M. Badawey
Title: Mayor

By: 

Name: Merlin J. Dewing
Title: Acting Clerk

Attachment 1.5.2B

Bill of Sale

BILL OF SALE

THIS BILL OF SALE is made as of the [•] day of [•],[•].

BETWEEN:

PORT COLBORNE HYDRO INC., a corporation organized under the laws of Ontario (hereinafter called the “**Vendor**”)

- and –

CANADIAN NIAGARA POWER INC., a corporation organized under the laws of Ontario (hereinafter called the “**Purchaser**”).

The Vendor and the Purchaser hereinafter also referred to individually as a “**Party**” and collectively as the “**Parties**”

WHEREAS:

- A. Pursuant to a lease agreement made as of the 19th day of July, 2001 (the “**Lease Agreement**”) between the Vendor, the Corporation of the City of Port Colborne as shareholder of the Vendor, the Purchase and Canadian Niagara Power Company Limited as Purchaser’s guarantor, the Vendor agreed to lease certain assets used in connection with the distribution of electricity in the City of Port Colborne to the Purchaser;
- B. The Purchaser provided the Vendor with written notice on April 8, 2011 of the Purchaser’s intention to exercise the Purchase Option in accordance with Section 16 of the Lease Agreement;
- C. The Parties will be executing one or more deeds conveying to the Purchaser good and marketable title in the Leased Property (“**Deed**”);
- D. Capitalized terms used in this Bill of Sale but not defined herein shall have the same meaning as are given to them in the Lease Agreement; and
- E. The Vendor has agreed to sell, transfer, assign and convey to the Purchaser, on an “as-is, where-is” basis, all of its respective undivided interest in and to those parts of the Leased Assets not otherwise being conveyed by the Deed (“**Assets**”).

NOW THEREFORE in consideration of the completion of the purchase of the Assets by the Purchaser and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereto covenant and agree as follows.

1. TRANSFER OF ASSETS

Effective from and after the date hereof, the Vendor hereby sells, transfers, assigns and conveys to the Purchaser, and the Purchaser hereby purchases and accepts the transfer, assignment and conveyance of, all of the Vendor’s respective right, title and interest in and to the Assets.

2. CONDITION OF ASSETS

The Purchaser acknowledges and agrees that in accordance with the terms of the Lease Agreement, the Vendor is not making any representation or warranty as to the condition of the Assets and that the sale, transfer, assignment and conveyance of the Vendor's rights, title and interest in and to the Assets, as contemplated by this Bill of Sale, is on an "as-is, where-is" basis.

3. FURTHER ASSURANCES

Each of the Parties shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Party may reasonably require from time to time for the purpose of giving effect to this Bill of Sale and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement their full extent the provisions of this Bill of Sale.

4. BINDING EFFECT

This Bill of Sale shall enure to the benefit of and shall be binding on and enforceable by the Parties.

5. SEVERABILITY

If any provision contained in this Bill of Sale or its application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Bill of Sale or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected, and each provision of this Bill of Sale shall be separately valid and enforceable to the fullest extent permitted by law.

6. AMENDMENT

No amendment or waiver of any provision of this Bill of Sale shall be binding on either Party unless consented to in writing by the other Party. No waiver of any provision of this Bill of Sale shall constitute waiver of any other provision nor shall any waiver constitute a continuing waiver unless otherwise provided.

7. COUNTERPARTS

This Bill of Sale may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or electronic form, and the Parties shall adopt any signatures received electronically as original signatures of the Parties.

TO EVIDENCE THIS BILL OF SALE each of the Parties has executed this Bill of Sale as of the day and year first written above.

PORT COLBORNE HYDRO INC.

Name:

Title:

I have authority to bind the corporation.

Name:

Title:

I have authority to bind the corporation.

CANADIAN NIAGARA POWER INC.

Name:

Title:

I have authority to bind the corporation.

Name:

Title:

I have authority to bind the corporation.

Attachment 1.5.2C

**Deeds conveying real property and other
instruments of conveyance**

This document has not been submitted and may be incomplete.

Properties

PIN 64138 - 0450 LT Interest/Estate Fee Simple
Description PT LT 1, PL 822 , AS IN BB52827 ; S/T RO69679 PORT COLBORNE
Address 445 BARRICK ROAD
 PORT COLBORNE

Consideration

Consideration \$ 0.00

Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s).

Name PORT COLBORNE HYDRO INC.
 Acting as a company
Address for Service 66 Charlotte Street
 Port Colborne, ON L3K 3C8

I, _____, the _____, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Transferee(s)

Capacity Share

Name CANADIAN NIAGARA POWER INC.
 Acting as a company
Address for Service 1130 Bertie Street
 P.O. Box 1218
 Fort Erie, ON L2A 5Y2

Registered Owner

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFeree (S): I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Calculated Taxes

Provincial Land Transfer Tax \$0.00

File Number

Transferor Client File Number : 101419-000006

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 64138 - 0450 PT LT 1, PL 822 , AS IN BB52827 ; S/T RO69679 PORT COLBORNE

BY: PORT COLBORNE HYDRO INC.
TO: CANADIAN NIAGARA POWER INC. Registered Owner %(all PINs)

1. I am
- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
 - ☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
 - ☐ (c) A transferee named in the above-described conveyance;
 - ☐ (d) The authorized agent or solicitor acting in this transaction for ____ described in paragraph(s) () above.
 - ☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for CANADIAN NIAGARA POWER INC. described in paragraph(s) (c) above.
 - ☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of _____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposited to.

3. The total consideration for this transaction is allocated as follows:	
(a) Monies paid or to be paid in cash	0.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price) (ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	0.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	0.00

PROPERTY Information Record

A. Nature of Instrument:	Transfer	LRO	59	Registration No.	Date:
B. Property(s):	PIN	64138 - 0450	Address	445 BARRICK ROAD	Assessment
				PORT COLBORNE	Roll No
C. Address for Service:			1130 Bertie Street		
			P.O. Box 1218		
			Fort Erie, ON	L2A 5Y2	
D. (i) Last Conveyance(s):	PIN	64138 - 0450	Registration No.		
(ii) Legal Description for Property Conveyed :	Same as in last conveyance?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Not known <input type="checkbox"/>	

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 64156 - 0025 PT LT 29 CON 1 HUMBERSTONE AS IN RO63008 EXCEPT BB93172; T/W RO63008; T/W B93172; T/W EASE OVER PT 1 ON 59R10966 AS IN LT152177; T/W EASE OVER PT LT 22, CON 1, PT 5 ON 59R11490, AS IN LT195326; PORT COLBORNE

64156 - 0109 PT LT 29 CON 1 HUMBERSTONE AS IN BB93172 ; S/T BB93172 ; PORT COLBORNE

BY: PORT COLBORNE HYDRO INC.

TO: CANADIAN NIAGARA POWER INC. Registered Owner %(all PINs)

1. I am
- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
 - ☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
 - ☐ (c) A transferee named in the above-described conveyance;
 - ☐ (d) The authorized agent or solicitor acting in this transaction for ____ described in paragraph(s) () above.
 - ☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for CANADIAN NIAGARA POWER INC. described in paragraph(s) (c) above.
 - ☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of ____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposited to.

3. The total consideration for this transaction is allocated as follows:

(a) Monies paid or to be paid in cash	0.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price) (ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	0.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	0.00

PROPERTY Information Record

A. Nature of Instrument:	Transfer	LRO	59	Registration No.	Date:
B. Property(s):	PIN 64156 - 0025	Address	380 ELM STREET	Assessment Roll No	2711030 - 03110300
			PORT COLBORNE		
C. Address for Service:	PIN 64156 - 0109	Address	380 ELM STREET	Assessment Roll No	-
			PORT COLBORNE		
		1130 Bertie Street			
		P.O. Box 1218			
		Fort Erie, ON L2A 5Y2			
D. (i) Last Conveyance(s):	PIN 64156 - 0025	Registration No.			
	PIN 64156 - 0109	Registration No.			
(ii) Legal Description for Property Conveyed :	Same as in last conveyance? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not known <input type="checkbox"/>				

Properties

<i>PIN</i>	64151 - 0171	LT	<i>Interest/Estate</i>	<i>Fee Simple</i>
<i>Description</i>	PT LT 26 CON 2 HUMBERSTONE AS IN BB93172, EXCEPT PTS 3 & 4, 59R4635; S/T BB93172 & T/W BB93173 ; PORT COLBORNE			
<i>Address</i>	NORTH SIDE KILLALY STREET EAST PORT COLBORNE			

Consideration

Consideration	\$ 0.00
---------------	---------

Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s).

Name	PORT COLBORNE HYDRO INC.
	Acting as a company
Address for Service	66 Charlotte Street Port Colbourne, ON L3K 3C8

I, _____, the _____, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Transferee(s)

Capacity Share

Name	CANADIAN NIAGARA POWER INC. Acting as a company	Registered Owner
Address for Service	1130 Bertie Street P.O. Box 1218 Fort Erie, ON L2A 5Y2	

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEREE (S): I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Calculated Taxes

Provincial Land Transfer Tax \$0.00

File Number

Transferor Client File Number : 101419-0000006

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 64151 - 0171 PT LT 26 CON 2 HUMBERSTONE AS IN BB93172, EXCEPT PTS 3 & 4, 59R4635; S/T BB93172 & T/W BB93173 ; PORT COLBORNE

BY: PORT COLBORNE HYDRO INC.
TO: CANADIAN NIAGARA POWER INC. Registered Owner %(all PINs)

1. I am
- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
 - ☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
 - ☐ (c) A transferee named in the above-described conveyance;
 - ☐ (d) The authorized agent or solicitor acting in this transaction for _____ described in paragraph(s) () above.
 - ☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for CANADIAN NIAGARA POWER INC. described in paragraph(s) (c) above.
 - ☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of _____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposited to.

3. The total consideration for this transaction is allocated as follows:

(a) Monies paid or to be paid in cash	0.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price) (ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	0.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	0.00

PROPERTY Information Record

A. Nature of Instrument: Transfer
LRO 59 Registration No. Date:
B. Property(s): PIN 64151 - 0171 Address NORTH SIDE KILLALY STREET Assessment Roll No EAST PORT COLBORNE
C. Address for Service: 1130 Bertie Street P.O. Box 1218 Fort Erie, ON L2A 5Y2
D. (i) Last Conveyance(s): PIN 64151 - 0171 Registration No. (ii) Legal Description for Property Conveyed : Same as in last conveyance? Yes ☒ No ☐ Not known ☐

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 64159 - 0095 LT 96 PL 814 HUMBERSTONE ; PORT COLBORNE

BY: PORT COLBORNE HYDRO INC.
TO: CANADIAN NIAGARA POWER INC. Registered Owner %(all PINs)

1. I am
- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
 - ☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
 - ☐ (c) A transferee named in the above-described conveyance;
 - ☐ (d) The authorized agent or solicitor acting in this transaction for ____ described in paragraph(s) () above.
 - ☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for CANADIAN NIAGARA POWER INC. described in paragraph(s) (c) above.
 - ☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of ____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposited to.

3. The total consideration for this transaction is allocated as follows:	
(a) Monies paid or to be paid in cash	0.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price) (ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	0.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	0.00

PROPERTY Information Record

A. Nature of Instrument: Transfer
LRO 59 Registration No. Date:
B. Property(s): PIN 64159 - 0095 Address 3 SOUTH CRESCENT Assessment -
PORT COLBORNE Roll No
C. Address for Service: 1130 Bertie Street
P.O. Box 1218
Fort Erie, ON L2A 5Y2
D. (i) Last Conveyance(s): PIN 64159 - 0095 Registration No.
(ii) Legal Description for Property Conveyed : Same as in last conveyance? Yes ☒ No ☐ Not known ☐

Properties

PIN	64171 - 0026	LT	Interest/Estate	Fee Simple
Description	PT LT 4 CON 2 HUMBERSTONE AS IN RO360854 ; PORT COLBORNE			
Address	1069 WILHELM ROAD PORT COLBORNE			

Consideration

Consideration \$ 0.00

Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s).

Name	PORT COLBORNE HYDRO INC. Acting as a company
Address for Service	66 Charlotte Street Port Colbourne, ON L3K 3C8

I, _____, the _____, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Transferee(s)	Capacity	Share
---------------	----------	-------

Name	CANADIAN NIAGARA POWER INC. Acting as a company	Registered Owner
Address for Service	1130 Bertie Street P.O. Box 1218 Fort Erie, ON L2A 5Y2	

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEREE (S): I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Calculated Taxes

Provincial Land Transfer Tax \$0.00

File Number

Transferor Client File Number : 101419-000006

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 64171 - 0026 PT LT 4 CON 2 HUMBERSTONE AS IN RO360854 ; PORT COLBORNE

BY: PORT COLBORNE HYDRO INC.

TO: CANADIAN NIAGARA POWER INC. Registered Owner %(all PINs)

1. I am
- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;

☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;

☐ (c) A transferee named in the above-described conveyance;

☐ (d) The authorized agent or solicitor acting in this transaction for _____ described in paragraph(s) () above.

☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for CANADIAN NIAGARA POWER INC. described in paragraph(s) (c) above.

☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of _____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposited to.

3. The total consideration for this transaction is allocated as follows:

(a) Monies paid or to be paid in cash	0.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price) (ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	0.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	0.00

PROPERTY Information Record

A. Nature of Instrument: Transfer

LRO 59 Registration No. Date:

B. Property(s):

PIN 64171 - 0026 Address 1069 WILHELM ROAD Assessment Roll No -

PORT COLBORNE

C. Address for Service:

1130 Bertie Street
P.O. Box 1218
Fort Erie, ON L2A 5Y2

D. (i) Last Conveyance(s): PIN 64171 - 0026 Registration No.

(ii) Legal Description for Property Conveyed : Same as in last conveyance? Yes ☒ No ☐ Not known ☐

This document has not been submitted and may be incomplete.

Properties

PIN	64457 - 0098	LT	Interest/Estate	Fee Simple
Description	PT WATER LT IN FRONT OF STRIP FRONTING LT 2 LAKESHORE, IN REAR OF LT 4 S/S SUGAR LOAF ST PL 987, 988 & 989; PT WATER LT IN FRONT OF STRIP FRONTING LT 3 LAKESHORE, IN REAR OF LT 5 S/S SUGAR LOAF ST PL 987, 988 & 989 SRO PT 1, 59R2071, T/W R0773858 AMENDED BY R0775091; PORT COLBORNE			
Address	SURFACE RIGHTS/E/S/CATHERINE STREE PORT COLBORNE			

Consideration

Consideration \$ 0.00

Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s).

Name	PORT COLBORNE HYDRO INC. Acting as a company
Address for Service	66 Charlotte Street Port Colbourne, ON L3K 3C8

I, , have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Name	THE HYDRO-ELECTRIC COMMISSION OF THE CITY OF PORT COLBORNE
Address for Service	Acting as a company

Transferee(s)	Capacity	Share
---------------	----------	-------

Name	CANADIAN NIAGARA POWER INC. Acting as a company	Registered Owner
Address for Service	1130 Bertie Street P.O. Box 1218 Fort Erie, ON L2A 5Y2	

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFeree (S): I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Calculated Taxes

Provincial Land Transfer Tax \$0.00

File Number

Transferor Client File Number : 101419-000006

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 64457 - 0098 PT WATER LT IN FRONT OF STRIP FRONTING LT 2 LAKESHORE, IN REAR OF LT 4 S/S SUGAR LOAF ST PL 987, 988 & 989; PT WATER LT IN FRONT OF STRIP FRONTING LT 3 LAKESHORE, IN REAR OF LT 5 S/S SUGAR LOAF ST PL 987, 988 & 989 SRO PT 1, 59R2071, T/W R0773858 AMENDED BY R0775091; PORT COLBORNE

BY:	PORT COLBORNE HYDRO INC. THE HYDRO-ELECTRIC COMMISSION OF THE CITY OF PORT COLBORNE		
TO:	CANADIAN NIAGARA POWER INC.	Registered Owner	%(all PINs)

1. I am
- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;

☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;

☐ (c) A transferee named in the above-described conveyance;

☐ (d) The authorized agent or solicitor acting in this transaction for _____ described in paragraph(s) () above.

☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for CANADIAN NIAGARA POWER INC. described in paragraph(s) (c) above.

☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of _____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposited to.

3. The total consideration for this transaction is allocated as follows:	
(a) Monies paid or to be paid in cash	0.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price) (ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	0.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	0.00

PROPERTY Information Record

A. Nature of Instrument:	Transfer					
	LRO	59	Registration No.	Date:		
B. Property(s):	PIN	64457 - 0098	Address	SURFACE RIGHTS/E/S/CATHERI STREET	Assessment Roll No -	
	PORT COLBORNE					
C. Address for Service:	1130 Bertie Street P.O. Box 1218 Fort Erie, ON L2A 5Y2					
D. (i) Last Conveyance(s):	PIN	64457 - 0098	Registration No.			
(ii) Legal Description for Property Conveyed : Same as in last conveyance? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not known <input type="checkbox"/>						

Attachment 1.8.5A

CNPI Pro Forma Balance Sheet

Canadian Niagara Power Inc.
Pro Forma Balance Sheet
As at December 31

	<u>2012</u>
Current assets	
Cash and temporary investments	\$ 2,798
Accounts receivable	10,876
Inventory	107
Regulatory assets	600
Other current assets	464
	<u>14,845</u>
Utility plants	
Cost	140,095
Less: accumulated amortization	<u>(53,299)</u>
	<u>86,796</u>
Accrued pension benefit asset	2,923
Goodwill	7,274
Regulatory assets, non current	10,744
Intangible assets	8,162
Other assets	219
	<u> </u>
Total assets	<u><u>\$ 130,963</u></u>
Current liabilities	
Accounts payable and accrued liabilities	\$ 7,485
Customer deposits	930
Due to affiliates	4,000
	<u>12,415</u>
Affiliate long-term debt	28,000
Long-term debt	29,821
Future income taxes payable	4,340
Accrued post retirement benefit liability	4,547
Contributions	7,834
Regulatory liabilities, non current	4,000
Shareholder's equity	
Common stock	23,900
Retained earnings	<u>16,104</u>
Total shareholder's equity and liabilities	<u><u>\$ 130,963</u></u>
Total debt	60%
Shareholder's equity	40%

Attachment 1.8.5B

PC Hydro Pro Forma Balance Sheet

Port Colborne Hydro Inc.

Pro Forma Financial Statements

December 31, 2012

Contents

	Page
Statements of Earnings and Retained Earnings	2
Balance Sheet	3
Statement of Cash Flows	4

Port Colborne Hydro Inc.**Pro Forma Statements of Earnings and Retained Earnings**

For the Year Ended December 31

2012**2011**

Revenue

Lease	\$ 445,666	\$ 1,528,200
Interest	0	26,000
Other/Gain on sale of assets	<u>3,468,171</u>	<u>0</u>
	<u>3,913,837</u>	<u>1,554,200</u>

Expenses

Amortization	118,900	490,000
General administration expense	118,050	260,860
Interest on long term debt	<u>250</u>	<u>164,700</u>
	<u>237,200</u>	<u>915,560</u>

Earnings before payments in lieu of taxes

3,676,637 638,640

Payments in lieu of taxes

Payment in lieu of taxes	720,000	220,000
Future payment in lieu of taxes	<u>(347,584)</u>	<u>51,577</u>

Net earnings

\$ 3,304,221 **\$ 367,063**

Retained earnings, beginning of year

\$ 53,582 \$ 6,519

Net earnings

3,304,221 367,063

Dividends

0 (320,000)

Retained earnings, end of year

\$ 3,357,803 **\$ 53,582**

Port Colborne Hydro Inc. Pro forma Balance Sheet

As at December 31

2012

2011

Assets

Current

Cash and cash equivalents (Note 3)	\$ 7,616,702	\$ 193,465
Receivables	0	1,471
Payments in lieu of taxes receivable	0	11,593
Prepays	0	4,656
Due from Port Colborne Fibre Inc., non-interest bearing with no set terms of repayment	0	528,906
Current portion of long term receivable (Note 4)	0	

7,616,702 740,091

Long term receivable (Note 4)	0	
Inventories (Note 5)	0	550,000
Land, buildings and equipment (Note 6)	0	3,000,729
Future payments in lieu of taxes	0	347,584

\$ 7,616,702 \$ 4,638,404

Liabilities

Current

Payables and accruals	\$ 0	\$ 10,000
Current portion of deferred revenue	0	18,814
Due to Port Colborne Energy Inc., non-interest bearing with no set terms of repayment	0	290,000
Due to City of Port Colborne	0	1,109

0 319,923

Liability for future benefits (Note 7)	24,704	30,704
Deferred revenue (Note 8)	0	0
Note payable (Note 9)	0	0

24,704 350,627

Shareholder's Equity

Capital stock (Note 10)	4,234,195	4,234,195
Retained earnings	3,657,803	53,582

7,591,998 4,287,777

\$ 7,616,702 \$ 4,638,404

Port Colborne Hydro Inc.

Pro Forma Statement of Cash Flows

For the Year Ended December 31

2012

2011

Increase (decrease) in cash and cash equivalents

Operating

Net earnings	\$ 3,304,221	\$ 367,063
Gain on sale of assets	(3,468,171)	0
Depreciation	118,900	490,000
Future payments in lieu of taxes	<u>347,584</u>	<u>51,577</u>
	302,534	908,640
Change in non-cash operating working capital (Note 11)	<u>6,611</u>	<u>(89,093)</u>
	<u>309,145</u>	<u>819,547</u>

Financing

Decrease in loan receivable from Port Colborne Energy Inc.	(290,000)	28,618
Port Colborne Fibre Inc.	528,906	0
Increase in long term receivable	0	28,872
Decrease in future employee benefits	(6,000)	(6,000)
Decrease in deferred revenue	(18,814)	(61,690)
Repayment of note payable	0	(2,220,526)
Proceeds from sale of assets	6,900,000	0
Dividends	<u>0</u>	<u>(320,000)</u>
	<u>7,114,092</u>	<u>(2,550,726)</u>

Increase (decrease) in cash and cash equivalents

7,423,237 (1,731,179)

Cash and cash equivalents

Beginning of year	<u>193,465</u>	<u>1,924,644</u>
End of year	<u>\$ 7,616,702</u>	<u>\$ 193,465</u>

Attachment 1.9.1A

Copy of FortisOntario Certified Resolution

**CERTIFIED RESOLUTION OF THE BOARD OF DIRECTORS
OF FORTISONTARIO INC.**

**EXERCISE OF PURCHASE OPTION UNDER
LEASE AGREEMENT WITH PORT COLBORNE HYDRO INC.**

WHEREAS Canadian Niagara Power Inc. (the "**Lessee**"), a wholly owned subsidiary of FortisOntario Inc. (the "**Corporation**"), is a party to a Lease Agreement dated July 19, 2001 (the "**Lease**") among Port Colborne Hydro Inc. (the "**Lessor**"), The Corporation of the City of Port Colborne, the Lessee and Canadian Niagara Power Company Limited;

AND WHEREAS pursuant to the Lease, the Lessee has agreed to lease all of the electricity distribution assets of the Lessor for a ten year term, which term expires on April 15, 2012;

AND WHEREAS pursuant to section 16.1 of the Lease, the Lessee has the right to purchase all of the leased assets on the expiration of the term of the Lease for a purchase price of \$6,900,000 (the "**Purchase Option**"), provided that the Lessee gives the Lessor irrevocable written notice of its election to exercise the Purchase Option not more than 18 months and not less than 6 months before the expiration of the lease term;

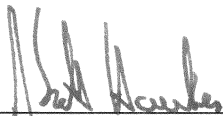
AND WHEREAS the Corporation desires to exercise the Purchase Option at the expiry of the term of the lease in April 2012.

NOW THEREFORE BE IT RESOLVED THAT:

1. the Corporation is hereby authorized to cause the Lessee to exercise the Purchase Option at the expiry of the term of the Lease in April 2012, in accordance with the terms of the Lease and to cause the Lessee to execute and deliver an irrevocable notice of its election to exercise the Purchase Option;
2. any two officers of the Corporation are hereby authorized and directed, for and in the name of and on behalf of the Corporation, to execute (whether under the corporate seal of the Corporation or otherwise) and deliver, and to cause the Lessee to execute and deliver, all such agreements, instruments, certificates and other documents, and to apply for and obtain such regulatory approvals as he may deem necessary, and to do all such other acts and things as such officers may determine to be necessary or advisable in connection with the matters referred to in this resolution, the execution of any such document or the doing of any such other act or thing being conclusive evidence of such determination.

I, R. Scott Hawkes, Vice President, Corporate Services and General Counsel, Corporate Secretary of FortisOntario Inc. (the "Corporation") for and on behalf of the Corporation, and not in my personal capacity, hereby certify that the foregoing is a true and correct copy of resolutions passed by the Board of Directors of the Corporation on February 22, 2011, pursuant to the Business Corporations Act (Ontario), which resolutions are in full force and effect, and unamended on the date hereof.

DATED this 26th day of July, 2011.



R. Scott Hawkes
Vice President, Corporate Services and General Counsel,
Corporate Secretary

Attachment 1.9.1B

Copy of Port Colborne Hydro Resolution

RESOLUTION OF THE DIRECTORS

OF

PORT COLBORNE HYDRO INC.

(the "Corporation")

WHEREAS the Corporation entered into a lease agreement with Canadian Niagara Power Inc. ("CNPI") dated July 19, 2001 (the "Lease Agreement") whereby the Corporation leased its distribution system assets and related real property to CNPI for the purposes of distributing electricity in the City of Port Colborne;

AND WHEREAS under the Lease Agreement, CNPI was provided with the option to purchase the Leased Assets (as therein defined) at the end of the lease term for a fixed purchase price of \$6,900,000. The lease term expires April 15, 2012 (the "Expiration Date") and CNPI has provided the Corporation with notice of intention to purchase the Leased Assets upon the Expiration Date pursuant to the provisions of the Lease Agreement (the "Transaction");

AND WHEREAS the Transaction is subject to approval by the Ontario Energy Board pursuant to section 86 of the *Ontario Energy Board Act, 1998* and the Ontario Energy Board's Preliminary Filing Requirements for Mergers, Acquisitions, Amalgamations and Divestitures in the Ontario Electricity Transmission and Distribution Sector ("MAADs Application");

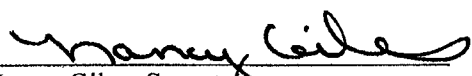
AND WHEREAS the Corporation intends to maintain its electricity distribution licence for the purposes of exploring future opportunities for the benefit of the City of Port Colborne;

AND WHEREAS the directors of the Corporation have approved proceeding with the Transaction and submission of the MAADs Application to the Ontario Energy Board.

BE IT RESOLVED THAT:

1. The board of directors of the Corporation approve proceeding with the Transaction according to the terms of the Lease Agreement;
2. The board of directors of the Corporation approve the submission of the MAADs Application to the Ontario Energy Board substantially in the form attached hereto as Schedule "A";
3. The board of directors of the Corporation approve maintaining the Corporation's electricity distribution licence upon completion of the Transaction; and
4. The Chairman of the Corporation together with another director of the Corporation (the "Signing Officers") are authorized in the name of and on behalf of the Corporation, to do and perform all acts and things and to execute or cause to be executed whether under the corporate seal of the Corporation or otherwise, all such deeds, transfers, assignments, instruments, agreements, documents and certificates and to make and file all required applications to all necessary governmental ministries, agencies and tribunals, as in their opinion may be necessary or desirable to complete the sale of the Leased Assets as contemplated by the Lease Agreement, including without limiting the generality of the foregoing, the MAADs Application.

Certified to be a true copy of the original resolution
passed by the Board of Directors of Port Colborne Hydro Inc.
on September 22, 2011.


Nancy Giles, Secretary

Attachment 1.9.1C

Copy of Port Colborne Energy Inc. Resolution

PORT COLBORNE ENERGY INC.

(the "Corporation")

RESOLUTION OF SHAREHOLDER

WHEREAS the Corporation is the sole shareholder of Port Colborne Hydro Inc. ("PC Hydro");

AND WHEREAS PC Hydro entered into a lease agreement with Canadian Niagara Power Inc. ("CNPI") dated July 19, 2001 (the "Lease Agreement") whereby PC Hydro leased its distribution system assets and related real property to CNPI for the purposes of distributing electricity in the City of Port Colborne;

AND WHEREAS under the Lease Agreement, CNPI was provided with the option to purchase the Leased Assets (as therein defined) at the end of the lease term for a fixed purchase price of \$6,900,000. The lease term expires April 15, 2012 (the "Expiration Date") and CNPI has provided PC Hydro with notice of intention to purchase the Leased Assets upon the Expiration Date pursuant to the provisions of the Lease Agreement (the "Transaction");

AND WHEREAS the Transaction is subject to approval by the Ontario Energy Board pursuant to section 86 of the *Ontario Energy Board Act, 1998* and the Ontario Energy Board's Preliminary Filing Requirements for Mergers, Acquisitions, Amalgamations and Divestitures in the Ontario Electricity Transmission and Distribution Sector ("MAADs Application");

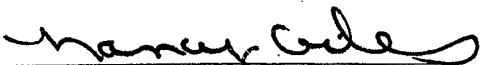
AND WHEREAS PC Hydro intends to maintain its electricity distribution licence for the purposes of exploring future opportunities for the benefit of the City of Port Colborne;

AND WHEREAS the Corporation has approved proceeding with the Transaction and submission of the MAADs Application to the Ontario Energy Board.

BE IT RESOLVED THAT:

1. The Corporation approves proceeding with the Transaction according to the terms of the Lease Agreement;
2. The Corporation approves the submission of the MAADs Application to the Ontario Energy Board substantially in the form attached hereto as Schedule "A";
3. The Corporation approves maintaining PC Hydro's electricity distribution licence upon completion of the Transaction;
4. The Chairman of PC Hydro together with another director of PC Hydro (the "Signing Officers") are authorized in the name of and on behalf of PC Hydro, to do and perform all acts and things and to execute or cause to be executed whether under the corporate seal of PC Hydro or otherwise, all such deeds, transfers, assignments, instruments, agreements, documents and certificates and to make and file all required applications to all necessary governmental ministries, agencies and tribunals, as in their opinion may be necessary or desirable to complete the sale of the Leased Assets as contemplated by the Lease Agreement, including without limiting the generality of the foregoing, the MAADs Application.

Certified to be a true copy of the original resolution
passed by the Board of Directors of Port Colborne Energy Inc.
on September 22, 2011.


Nancy Giles, Secretary

Attachment 1.9.1D

Copy of City Resolution

THE CORPORATION OF THE CITY OF PORT COLBORNE

(the "Corporation")

RESOLUTION OF SHAREHOLDER

WHEREAS the Corporation is the sole shareholder of Port Colborne Energy Inc. ("PC Energy"), and PC Energy is the sole shareholder of Port Colborne Hydro Inc. ("PC Hydro");

AND WHEREAS pursuant to section 3.2(f) of Schedule A to By-Law 4325/161/02, being a by-law to authorize the entering into of a Shareholder Direction to PC Energy, dated December 16, 2002, the Corporation must approve the sale of all or substantially all of PC Energy or PC Hydro's assets or undertakings;

AND WHEREAS PC Hydro entered into a lease agreement with Canadian Niagara Power Inc. ("CNPI") dated July 19, 2001 (the "Lease Agreement") whereby PC Hydro leased its distribution system assets and related real property to CNPI for the purposes of distributing electricity in the City of Port Colborne;

AND WHEREAS under the Lease Agreement, CNPI was provided with the option to purchase the Leased Assets (as therein defined) at the end of the lease term for a fixed purchase price of \$6,900,000. The lease term expires April 15, 2012 (the "Expiration Date") and CNPI has provided PC Hydro with notice of intention to purchase the Leased Assets upon the Expiration Date pursuant to the provisions of the Lease Agreement (the "Transaction");

AND WHEREAS the Transaction is subject to approval by the Ontario Energy Board pursuant to section 86 of the *Ontario Energy Board Act, 1998* and the Ontario Energy Board's Preliminary Filing Requirements for Mergers, Acquisitions, Amalgamations and Divestitures in the Ontario Electricity Transmission and Distribution Sector ("MAADs Application");

AND WHEREAS PC Hydro intends to maintain its electricity distribution licence for the purposes of exploring future opportunities for the benefit of the City of Port Colborne; and

AND WHEREAS the Corporation has approved proceeding with the Transaction and submission of the MAADs Application to the Ontario Energy Board.

BE IT RESOLVED THAT:

1. The Corporation approves proceeding with the Transaction according to the terms of the Lease Agreement;
2. The Corporation approves the submission of the MAADs Application to the Ontario Energy Board substantially in the form attached hereto as Schedule "A" for the purposes of proceeding with and completing the proposed Transaction;
3. The Corporation approves maintaining PC Hydro's electricity distribution licence upon completion of the Transaction;

4. The Chairman of PC Hydro together with another director of PC Hydro (the "Signing Officers") are authorized in the name of and on behalf of PC Hydro, to do and perform all acts and things and to execute or cause to be executed whether under the corporate seal of PC Hydro or otherwise, all such deeds, transfers, assignments, instruments, agreements, documents and certificates and to make and file all required applications to all necessary governmental ministries, agencies and tribunals, as in their opinion may be necessary or desirable to complete the sale of the Leased Assets as contemplated by the Lease Agreement, including without limiting the generality of the foregoing, the MAADs Application.

CITY OF PORT COLBORNE
CERTIFIED TRUE AND CORRECT COPY

City Clerk

10/03/11.

ASHLEY GRIGG

Municipal Clerk
City of Port Colborne

