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OSLER

Toronto

November 6, 2015

Patrick G. Welsh
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Our Matter Number: 1144688

Montréal

Calgary

Sent By Electronic Mail, Regular Mail and RESS Electronic Filing

Ottawa

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

Vancouver

New York

Dear Ms. Walli:

EB-2015-____ - Franchise Renewal Application - Natural Resource Gas Limited and the County of Elgin

Please find enclosed an Application by Natural Resource Gas Limited (NRG) for an Order of the Board with respect to a proposed Franchise Agreement between NRG and the County of Elgin. Pending the Board's approval of the proposed Franchise Agreement, NRG also seeks an Order extending the Existing Franchise Agreement in the interim.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Yours very truly,



Patrick G. Welsh
PW:

Enclosures (4)

c: Richard King, *Osler*
Laurie O`Meara, *NRG*
Mark G. McDonald, *County of Elgin*

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Natural Resource Gas Limited for an Order under subsections 9(3) and 9(4) of the Act, approving the County of Elgin’s By-Law No. 15-25; approving the terms and conditions upon which, and the period for which, the County of Elgin is, by by-law, to grant to Natural Resource Gas Limited the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in the County of Elgin; and directing and declaring that the assent of the municipal electors of the County of Elgin to the by-law is not necessary.

AND IN THE MATTER OF an Application by Natural Resource Gas Limited for an Interim Order under section 10(1) of the Act extending the terms and conditions upon which, and the period for which Elgin County is to grant to Natural Resource Gas Limited the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in Elgin County;

**APPLICATION OF
NATURAL RESOURCE GAS LIMITED**

November 6, 2015

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Richard J. King
Tel: 416.862.6626

Patrick G. Welsh
Tel: 416.862.5951
Fax: 416.862.6666

Counsel for Natural Resource Gas Limited

Background

1. Natural Resource Gas Limited (“**NRG**”), is an Ontario corporation and carries on the business of, among other things, owning and operating natural gas distribution facilities in the County of Elgin (the “**County**”).
2. The County is a municipal corporation incorporated under the laws of Ontario. A map showing the location of the County is attached as Schedule “A”.
3. NRG and the County have an existing franchise agreement dated November 28, 1995, which granted NRG the right to construct and operate works for the distribution of gas within the County’s municipal boundaries and to supply gas to the County’s residents (the “**Existing Franchise Agreement**”) (attached as Schedule “B”). NRG’s franchise rights are set to expire on November 28, 2015.
4. NRG holds a Certificate of Public Convenience and Necessity from the Ontario Energy Board (the “**Board**”) granting it the right to construct works to supply gas and to supply gas in the County, E.B.C. 212, dated February 9, 1996 (attached as Schedule “C”).

Renewal Information

5. NRG approached the County in September 2015 to renew the Existing Franchise Agreement using a 20-year franchise agreement based exclusively on the Board’s 2000 Model Franchise Agreement, a copy of which is attached as Schedule “D” (the “**Proposed Franchise Agreement**”).

6. On October 27, 2015, the Municipal Council of the County passed By-Law No. 15-25 (the “**By-Law**”):

- (a) Authorizing the Proposed Franchise Agreement and granting the franchise rights described in the Proposed Franchise Agreement to NRG;
- (b) authorizing the Warden and the CAO to enter into and execute the Proposed Franchise Agreement; and,
- (c) repealing Elgin County By-Law No. 95-42 (the November 28, 1995 by-law approving the Existing Franchise Agreement).

A copy of the By-Law is attached as Schedule “E”.

7. The County did not seek the Board’s approval pursuant to section 9(1) of the Act prior to passing the By-Law. However, Article 4 of the By-Law states that the By-Law “shall come into force and take effect upon receipt of the written order by the Ontario Energy Board.”

8. Also on October 27, 2015, the County adopted a resolution (the “**Resolution**”):

- (a) approving the Proposed Franchise Agreement;
- (b) approving the “draft” By-Law, to be submitted to the Board; and
- (c) requesting that the Board make an Order declaring and directing that the assent of the municipal electors to the draft By-Law is not necessary.

A copy of a letter from the County advising of the Resolution is attached as Schedule “F”.

9. If the Board ultimately grants the relief requested below, NRG and the County will execute a new franchise agreement in the same form as that attached as Schedule “D” (i.e., the Proposed Franchise Agreement), with an effective date mirroring the date the By-Law was passed (i.e. October 27, 2015) or such other date as the Board directs.

10. Finally, NRG recognizes that the Board may require time to review and consider NRG’s application. Given that the Existing Franchise Agreement is set to expire on November 28, 2015, NRG requests an interim order extending the Existing Franchise Agreement until such time as the Board makes a final determination on this application.

Address and Contact Information

11. The County’s address and contact information is:

*Elgin County
450 Sunset Drive
St. Thomas, ON N5R 5V1
Attention: Mark G. McDonald, Chief Administrative Officer*

12. The contact information for NRG is:

*Osler, Hoskin & Harcourt LLP
1 First Canadian Place, Suite 6300
Toronto, ON M5X 1B8
Attention: Patrick Welsh
pwelsh@osler.com
Tel: 416-862-5951
Fax: 416-862-6666*

Relief Requested

13. NRG now applies to the Board for:

- (a) an Order under section 9(2) of the Act approving the By-Law and permitting the County and NRG to enter into and execute the Proposed Franchise Agreement;


- (b) an Order under section 9(3) of the Act approving the terms and conditions, and the period for which, the County is, by by-law, to grant NRG the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works; and,
- (c) an Order pursuant to section 9(4) directing and declaring that the assent of the municipal electors of the County is not necessary for the By-Law under the circumstances.

14. Additionally, NRG seeks

- (a) an Interim Order pursuant to section 10(1) of the Act extending the terms and conditions, and the period for which, the County is to grant NRG the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works until such time as the Board makes a final determination regarding a new franchise agreement between NRG and the County.

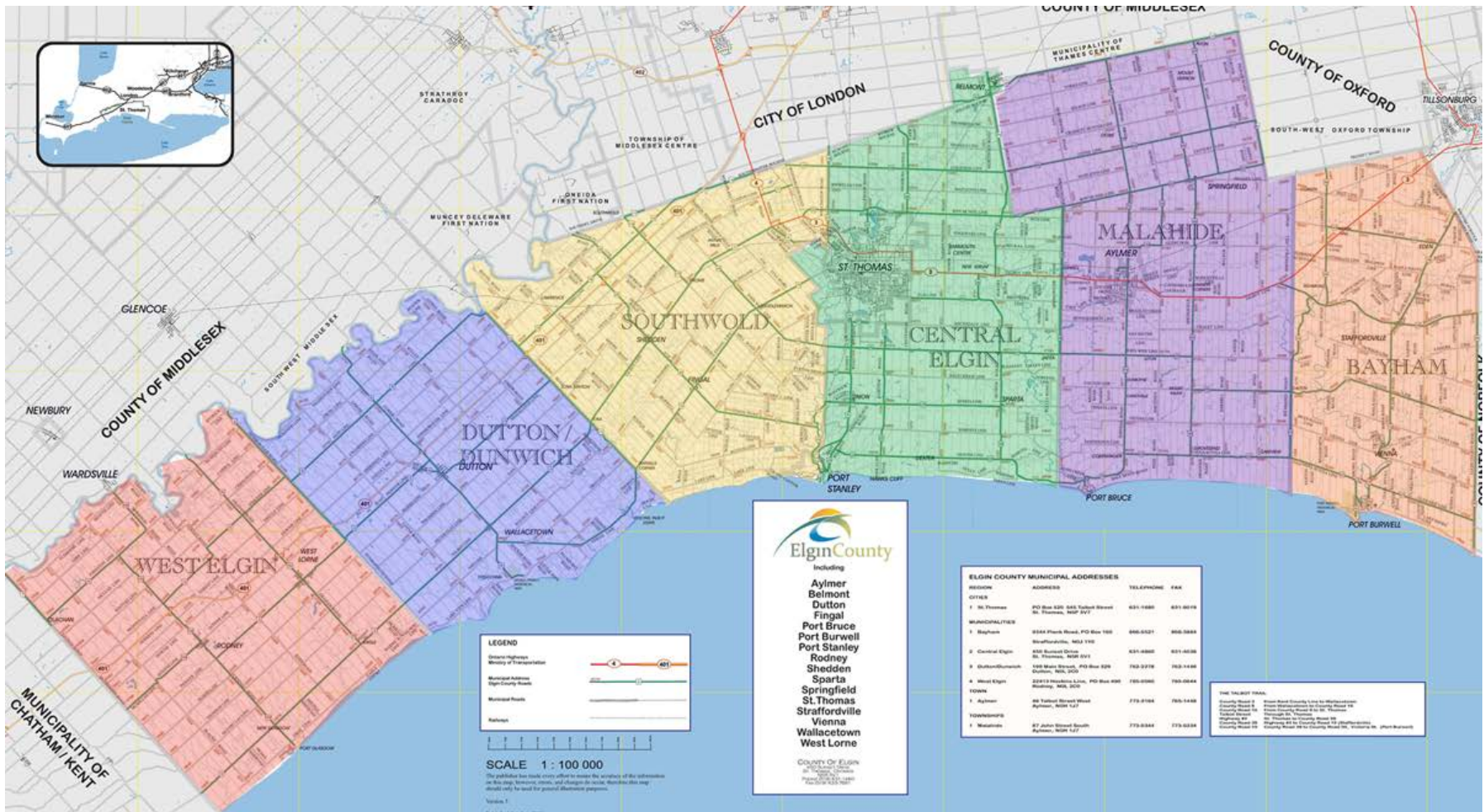
ALL OF WHICH IS RESPECTFULLY SUBMITTED.

November 6, 2015



Patrick G. Welsh

SCHEDULE A



ElginCounty
 Including
 Aymer
 Belmont
 Dutton
 Finlay
 Port Bruce
 Port Burwell
 Port Stanley
 Rodney
 Shedden
 Sparta
 Springfield
 St. Thomas
 Straffordville
 Vienna
 Wallacetown
 West Lorne

COUNTY OF ELGIN
 87 John Street South
 Port Stanley, ON N4R 1Z7
 519-334-7733

MUNICIPALITY	ADDRESS	TELEPHONE	FAX
CITY			
1. St. Thomas	PO Box 452, 442 Taylor Street St. Thomas, ON N5P 2V7	519-336-1000	519-336-1010
MUNICIPALITIES			
1. Bayham	2344 Frank Road, PO Box 160 Stratfordville, ON N1G 1Y0	866-5321	866-5883
2. Central Elgin	438 Burnett Drive St. Thomas, ON N5P 2V1	519-336-0000	519-336-0000
3. Dutton/Bunwich	148 Main Street, PO Box 828 Dutton, ON N0C 2C0	763-3719	763-1490
4. West Elgin	22413 Macklin Lane, PO Box 698 Shedden, ON N0C 2C0	763-0360	763-0844
TOWNS			
1. Aymer	86 Taylor Street West Aymer, ON N4R 1Z7	773-8164	763-1490
TOWNSHIPS			
1. West Lorne	87 John Street South Port Stanley, ON N4R 1Z7	773-3344	773-6334

THE TALENT TEAM

Elgin County	Elgin County
West Lorne	West Lorne
Port Stanley	Port Stanley
Port Burwell	Port Burwell
Port Bruce	Port Bruce
Shedden	Shedden
Sparta	Sparta
Springfield	Springfield
St. Thomas	St. Thomas
Straffordville	Straffordville
Vienna	Vienna
Wallacetown	Wallacetown
West Elgin	West Elgin

LEGEND

- Unimproved Highways
- Ministry of Transportation
- Municipal Address
- High County Roads
- Municipal Roads
- Waterways

SCALE 1 : 100 000

The publisher has made every effort to ensure the accuracy of the information on this map. However, errors, and changes in service, therefore this map should only be used for general information purposes.

Version 1

SCHEDULE B

FRANCHISE AGREEMENT

THIS AGREEMENT made this 28th day of Nov. , 19 95 ,

BETWEEN:

**THE CORPORATION OF THE COUNTY OF
ELGIN**

hereinafter called the "Corporation"

- and -

NATURAL RESOURCE GAS LIMITED

hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

DEFINITIONS

1. In this Agreement:

- (a) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (b) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the supply, transmission and distribution of gas in or through the Municipality;
- (c) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (d) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (e) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation.

RIGHTS GRANTED

1. To provide gas service.

The consent of the Corporation is hereby given and granted to the Gas Company to supply gas to the Corporation and to the inhabitants of those local or lower tier municipalities within the Municipality from which the Gas Company has a valid franchise agreement for that purpose.

2. To use road allowances.

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

3. Duration of Agreement and Renewal Procedures.

The rights hereby given and granted shall be for a term of twenty years (20 years) from the date of final passing of the By-law.

At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. Nothing herein stated shall preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to Section 10 of the Municipal Franchises Act.

CONDITIONS

1. Approval of Construction

Before beginning construction of or any extension or change to the gas system (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific location, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy. Geodetic information will not be required except in complex urban intersections in order to facilitate known projects, being projects which are reasonably anticipated by the Engineer/Road Superintendent. The Engineer/Road Superintendent may require sections of the gas system to be laid at a greater depth than required by CAN/CSA Z184-M92 to facilitate known projects. The location of the work as shown on the said plan must be approved by the Engineer/Road Superintendent before the commencement of the work and the timing, terms and conditions relating to the installation of such works shall be to his satisfaction.

Notwithstanding the provisions of the above noted paragraph, in the event it is proposed to affix a part of the gas system to a bridge, viaduct or structure, the Engineer/Road Superintendent may, if the Engineer/Road Superintendent approves of such location, require special conditions or a separate agreement.

No excavation, opening or work which shall disturb or interfere with the surface of the travelled portion of any highway shall be made or done unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all works shall be done to his satisfaction.

The Engineer/Road Superintendent's approval, where required throughout this

section, shall not be withheld unreasonably.

2. As Built Drawings

The Gas Company shall not deviated from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received. After completion of the construction, where plans were initially filed, an "as built" plan of equal quality to the pre-construction plan or certification that the pre-construction plan is "as built" will be filed with the Engineer/Road Superintendent.

3. Emergencies

In the event of an emergency involving the gas system, the Gas Company will proceed with the work and in any instance where prior approval of the Engineer/Road Superintendent is normally required, shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force having jurisdiction.

4. Restoration

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

5. Indemnification

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

6. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and to provide, if it is feasible, the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation will share, as provided in Clause III, 7 of this Agreement, in the cost of relocating or altering the gas system to facilitate continuity of gas service.

7. Pipeline Relocation

If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas

Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.

Where any part of the gas system relocated in accordance with this section is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system.

Where any part of the gas system relocated in accordance with this section is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:

- (a) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
- (b) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
- (c) the amount paid by the Gas Company to contractors for work related to the project,
- (d) the cost to the Gas Company for materials used in connection with the project, and
- (e) a reasonable amount for project engineering and project administrative

costs which shall be 22.5% of the aggregate of the amounts determined in items (a), (b), (c) and (d) above.

The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company.

8. Notice to Drainage Superintendent

In a case where the gas system may affect a municipal drain, the Gas Company shall file with the Drainage Superintendent, for purposes of the Drainage Act, or other person responsible for the drain, a copy of the plan required to be filed with the Engineer/Road Superintendent.

9. Other Conditions

Notwithstanding the cost sharing arrangements described in Paragraph III-7, if any part of the gas system altered or relocated in accordance with Paragraph III-7 was constructed or installed prior to January 1st, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system at the point specified, to a location satisfactory to the Engineer/Road Superintendent.

IV. PROCEDURAL AND OTHER MATTERS

1. Municipal By-laws of General Application

This Agreement and the respective rights and obligations hereunto of the parties hereto are hereby declared to be subject to the provisions of all regulating statutes and all municipal by-laws of general application and to all orders and regulations made thereunder from time to time remaining in effect save and except by-laws which impose permit fees and by-laws which have the effect of amending this Agreement.

2. Giving Notice

Notices may be given by delivery or by mail, and if mailed, by prepaid registered post, to the Gas Company at its head office or to the Clerk of the Corporation at its municipal offices, as the case may be.

3. Disposition of Gas System

During the term of this Agreement, if the Gas Company abandons a part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove that part of its gas system affixed to the bridge, viaduct or structure.

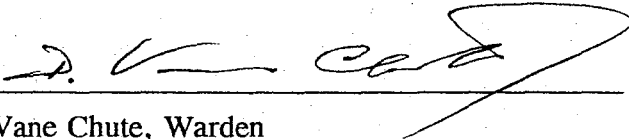
If at any time the Gas Company abandons any other part of its gas system, it shall deactivate that part of its gas system in the Municipality. Thereafter, the Gas Company shall have the right, but nothing herein contained shall require it, to remove its gas system. If the Gas Company fails to remove its gas system and the Corporation requires the removal of all or any of the gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the deactivated gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby.

4. Agreement Binding Parties

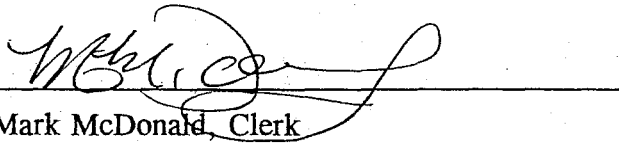
This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties hereto have duly executed these presents with effect from the date first above written.

THE CORPORATION OF THE COUNTY OF
ELGIN



Vane Chute, Warden



Mark McDonald, Clerk

NATURAL RESOURCE GAS LIMITED

Per: 

William K. Blake, President

I HAVE AUTHORITY TO BIND THE CORPORATION

SCHEDULE C



Ontario
Energy
Board

Commission
de l'Énergie
de l'Ontario

E.B.C. 212

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

AND IN THE MATTER OF an Application by Natural
Resource Gas Limited for a certificate of public
convenience and necessity to construct works to supply
gas and to supply gas to the inhabitants of the County of
Elgin.

BEFORE: J. C. Allan
Presiding Member

E. R. Robertson
Member

P. Vlahos
Member

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Natural Resource Gas Limited ("NRG") filed with the Ontario Energy Board ("the Board") an Application dated February 17, 1994 ("the Application") under section 8 of the Municipal Franchises Act, for a certificate of public convenience and necessity to construct works to supply gas and to supply gas in the County of Elgin.

The Board's Notice of Application was published and also served upon the Clerk-Treasurer of the Corporation of the County of Elgin.

The Application was heard in Toronto on October 6, 1995 in the presence of counsel for NRG and counsel for Board Staff.

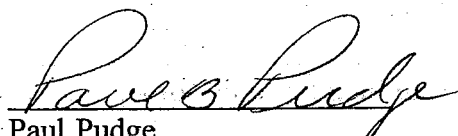
The Board issued an oral decision at the conclusion of the hearing wherein the Board approved the Application.

THEREFORE THE BOARD ORDERS THAT:

1. A Certificate of Public Convenience and Necessity is granted to NRG to construct works to supply gas and to supply gas in the County of Elgin.
2. The Board's costs shall be paid by NRG forthwith upon the issuance of the Board's Invoice.

ISSUED at Toronto, February 9, 1996.

ONTARIO ENERGY BOARD


Paul Pudge
Board Secretary

SCHEDULE D

FRANCHISE AGREEMENT

THIS AGREEMENT effective this ____ day of _____, 20__.

BETWEEN:

CORPORATION OF THE COUNTY OF ELGIN
hereinafter called the “**Corporation**”

- and -

NATURAL RESOURCE GAS LIMITED
hereinafter called the “**Gas Company**”

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 In this Agreement:

- (a) “**decommissioned**” and “**decommissions**” when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term ‘abandoned’ pipeline for the purposes of the *Assessment Act*;
- (b) “**Engineer/Road Superintendent**” means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- (c) “**gas**” means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;

- (d) “**gas system**” means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) “**highway**” means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) “**Model Franchise Agreement**” means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) “**Municipality**” means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) “**Plan**” means the plan described in Paragraph 3.1 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

ARTICLE 2 - RIGHTS GRANTED

2.1 To provide gas service:

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

2.2 To Use Highways.

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

2.3 Duration of Agreement and Renewal Procedures.

- (a) The rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20-year term this Agreement, the Model Franchise Agreement is changed, then on the 7th

anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20-year term.

- (b) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

ARTICLE 3 – CONDITIONS

3.1 Approval of Construction

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

by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.

- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.
- (g) Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

3.2 As Built Drawings.

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

3.3 Emergencies

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

3.4 Restoration

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

3.5 Indemnification

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

3.6 Insurance

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 3.5. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- (b) The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.

3.7 Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas

Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 3.8 of this Agreement.

3.8 Pipeline Relocation

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
 - (i) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
 - (ii) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
 - (iii) the amount paid by the Gas Company to contractors for work related to the project,
 - (iv) the cost to the Gas Company for materials used in connection with the project, and
 - (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened

road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

ARTICLE 4 – PROCEDURAL AND OTHER MATTERS

4.1 Municipal By-laws of General Application

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

4.2 Giving Notice

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

4.3 Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 3.1 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 3.8 applies to the cost of relocation.

4.4 Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:

- (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
 - (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
- (i) the third party has entered into a municipal access agreement with the Corporation; and
 - (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

4.5 Franchise Handbook

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

4.6 Agreement Binding Parties

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

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

**THE CORPORATION OF THE COUNTY
OF ELGIN**

By: _____

By: _____

**NATURAL RESOURCE GAS
LIMITED**

By: _____

SCHEDULE E

COUNTY OF ELGIN

By-Law No. 15-25

“BEING A BY- LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN THE CORPORATION OF THE COUNTY OF ELGIN AND NATURAL RESOURCE GAS LIMITED”

WHEREAS Section 5(3) of the Municipal Act, S.O. 2001, Chapter 25 as amended grants municipal power to exercise its capacity, rights, powers and privileges by by-law; and,

WHEREAS Section 8(1) of said Act confers broad authority to municipalities to govern its affairs as it considers appropriate; and,

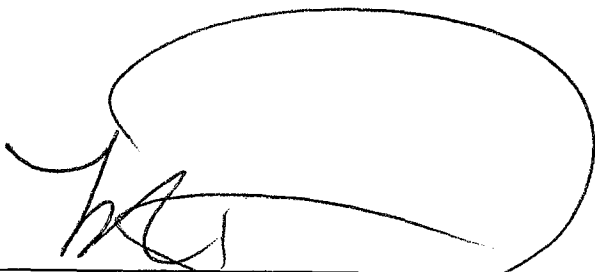
WHEREAS Section 9 of said Act confers upon a Municipality the rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act: and,

WHEREAS the Council of the Corporation of the County of Elgin deems it expedient to enter into the attached franchise agreement with Natural Resource Gas Limited.

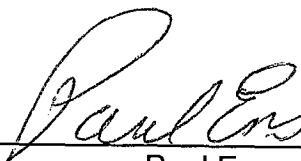
NOW THEREFORE the Municipal Council of the Corporation of the County of Elgin enacts as follows:

1. THAT The franchise agreement between the Corporation of the County of Elgin and Natural Resource Gas Limited, attached hereto and forming part of this By-Law, be authorized and the franchise provided for therein is hereby granted; and,
2. THAT the Warden and Chief Administrative Officer be authorized and directed to enter into and execute the franchise agreement, which is hereby incorporated into and forming part of this By-Law; and,
3. THAT this By-Law shall come into force and take effect upon receipt of the written order by the Ontario Energy Board; and,
4. That By-Law No. 95-42 be repealed.

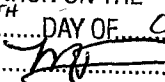
READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 27TH DAY OF OCTOBER 2015.



Mark G. McDonald,
Chief Administrative Officer.



Paul Ens,
Warden.

I, M.G. McDONALD, CHIEF ADMINISTRATIVE OFFICER,
OF THE CORPORATION OF THE COUNTY OF ELGIN,
DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE COPY OF BY-LAW No. 15-25
PASSED BY THE COUNCIL OF THE SAID
CORPORATION ON THE
27TH DAY OF OCTOBER




SCHEDULE F

October 29, 2015

Patrick G. Welsh, Associate
Osler, Hoskin & Harcourt LLP
100 King Street West, Box 50, 1 First Canadian Place,
Toronto, ON M5X 1B8

Dear Mr. Welsh:

Please be advised that Elgin County Council adopted the following resolution at its meeting held on October 27, 2015:

“THAT a franchise agreement between Natural Resource Gas Limited and the Corporation of the County of Elgin to distribute, store and transmit natural gas in Elgin be approved; and,

THAT draft By-Law 15-25 “Being a By-Law to Authorize a Franchise Agreement Between the Corporation of the County of Elgin and Natural Resource Gas Limited” be approved and submitted to the Ontario Energy Board; and,

THAT County Council request that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors to the draft By-Law is not necessary.

- Carried.
(signed) Warden Paul Ens”

Please find attached a certified copy of By-Law No. 15-25 “Being a By-Law to Authorize a Franchise Agreement between the Corporation of the County of Elgin and Natural Resource Gas Limited”.

Elgin County looks forward to a response regarding the Ontario Energy Board’s decision.

Yours truly,

Katherine Thompson,
Marketing and Communications Coordinator

Enclosure

cc Brian Lippold, Natural Resource Gas Limited
Laurie O’Meara, Natural Resource Gas Limited

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