



Enbridge Gas Inc.
50 Keil Drive North
Chatham, Ontario, Canada
N7M 5M1

May 6, 2022

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.
Application for Renewal of Franchise Agreement
County of Northumberland**

Attached is an Application by Enbridge Gas Inc. for Orders of the Ontario Energy Board with respect to a Franchise Agreement with the County of Northumberland. An agreement has been reached between Enbridge Gas Inc. and the County of Northumberland with regards to the terms and conditions of the proposed Franchise Agreement.

Should you have any questions on this application, please do not hesitate to contact me. I look forward to the receipt of your instructions.

Yours truly,

Patrick McMahon
Technical Manager
Regulatory Research and Records
patrick.mcmahon@enbridge.com
(519) 436-5325

Encl.

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Enbridge Gas Inc. for an Order approving the terms and conditions upon which, and the period for which, the Corporation of the County of Northumberland is, by by-law, to grant to Enbridge Gas Inc. 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 Northumberland;

AND IN THE MATTER OF an Application by Enbridge Gas Inc. for an Order directing and declaring that the assent of the municipal electors of the County of Northumberland to the by-law is not necessary.

APPLICATION

1. Enbridge Gas Inc. (Enbridge Gas), a regulated public utility, is a corporation incorporated under the laws of the Province of Ontario, with its offices in the City of Toronto and the Municipality of Chatham-Kent.
2. The Corporation of the County of Northumberland (Municipality) is a municipal corporation incorporated under the laws of the Province of Ontario. Attached hereto and marked as Schedule "A" is a map showing the geographical location of the Municipality and a customer density representation of Enbridge Gas' service area. Enbridge Gas currently serves approximately 21,260 customers within the Municipality.
3. The County of Northumberland is an upper-tier regional municipality comprised of seven municipalities in Central Ontario - the Township of Alnwick-Haldimand, the Municipality of Brighton, the Town of Cobourg, the Township of Cramahe, the Township of Hamilton, the Municipality of Port Hope and the Municipality of Trent Hills. The Alderville First Nation is located within the County of Northumberland but is independent of county administration.
4. Enbridge Gas has Franchise Agreements with and Certificates of Public Convenience and Necessity for each of the municipalities within the County of Northumberland. Enbridge Gas does not currently have a Certificate of Public Convenience and Necessity for the County of Northumberland.
5. Enbridge Gas applied to the Council of the Municipality for a franchise agreement permitting Enbridge Gas 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 Northumberland.

6. On September 15, 2021, the Council of the Municipality gave approval to the form of a Franchise Agreement in favour of Enbridge Gas. Attached hereto as Schedule "B" is a copy of Resolution 2021-08-30-576 (and associated Report 2021-141) of the Public Works Committee as well as Resolution 2021-09-15-627 and Resolution 2021-09-15-629 of the Council of the Municipality approving the form of the franchise agreement.
7. Attached hereto as Schedule "C" is a copy of By-law 27-2021 and the proposed franchise agreement. The County of Northumberland has provided first, second and third readings of its by-law.
8. On April 20, 2022, the Council of the Municipality gave its approval to Enbridge Gas to apply to the Ontario Energy Board for approval of the terms and conditions upon which and the period for which the franchise agreement is proposed to be granted, and requested an Order declaring and directing that the assent of the municipal electors to the by-law and franchise agreement is not necessary pursuant to the provisions of the *Municipal Franchises Act*.
9. Attached hereto as Schedule "D" is a copy of Resolution 2022-04-04-183 (and associated Report 2022-057) of the Public Works Committee as well as Resolution 2022-04-20-235 of the Council of the Municipality authorizing this submission to the Ontario Energy Board and requesting an Order declaring and directing that the assent of the municipal electors to the by-law and franchise agreement is not necessary.
10. Enbridge Gas has franchise agreements with and Certificates of Public Convenience and Necessity for the Township of Asphodel-Norwood, the Township of Cavan-Monaghan, the Municipality of Clarington, the Township of Havelock-Belmont-Methuen, the Municipality of Marmora and Lake, the Township of Otonabee-South Monaghan, the City of Quinte West and the Township of Stirling-Rawdon which are immediately adjacent to the County of Northumberland. There is no other natural gas distributor in the area.
11. The proposed franchise agreement is in the form of the 2000 Model Franchise Agreement with no amendments and is for a term of twenty (20) years.
12. The address of the Municipality is as follows:

County of Northumberland
555 Courthouse Road
Cobourg, ON K9A 5J6
Attention: Nancy MacDonald, County Clerk
Telephone: (905) 372-3329 Ext. 2238
Email: macdonald@northumberlandcounty.ca

13. The address for Enbridge Gas' regional operations office is:

Enbridge Gas Inc.
706 Boulevard Gréber
Gatineau, QC J8V 3P8
Attention: Jean-Benoit Trahan, Director, Eastern Region Operations
Telephone: (819) 776-8876
Email: jean-benoit.trahan@enbridge.com

14. The newspapers having the highest circulation in the County of Northumberland are the *Brighton Independent*, the *Community Press* and the *Northumberland News*. These are the newspapers used by the Municipality for its notices.

15. Enbridge Gas now applies to the Ontario Energy Board for:

- (a) an Order under s.9(3) approving the terms and conditions upon which, and the period for which, the County of Northumberland is, by by-law, to grant Enbridge Gas 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
- (b) an Order pursuant to s.9(4) directing and declaring that the assent of the municipal electors of the County of Northumberland is not necessary for the proposed franchise agreement by-law under the circumstances.

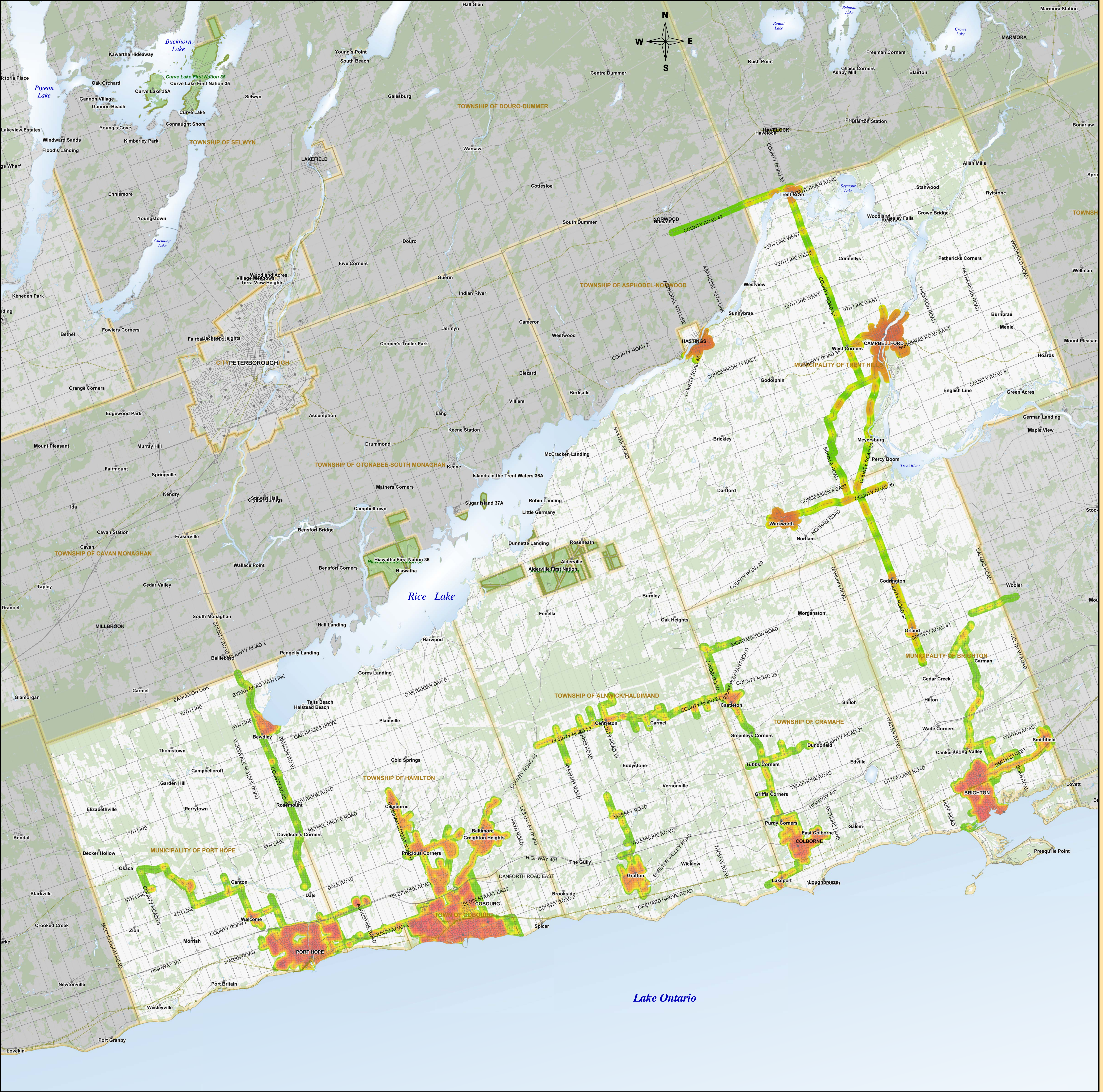
DATED at the Municipality of Chatham-Kent, in the Province of Ontario this 6th day of May, 2022.

ENBRIDGE GAS INC.

Patrick McMahon
Technical Manager
Regulatory Research and Records

Comments respecting this Application should be directed to:

Mr. Patrick McMahon
Technical Manager, Regulatory Research and Records
Enbridge Gas Inc.
50 Keil Drive North
Chatham, ON N7M 5M1
patrick.mcmahon@enbridge.com
Telephone: (519) 436-5325



Northumberland County

Legend

- Enbridge Gas Pipeline Coverage Area
- Northumberland County
- Roads
- Railway
- Municipal and Township Boundaries
- First Nation Boundaries

Customer Density



Disclaimer:
The map is provided with no warranty express or Implied and is subject to change at any time. Any Person using the Density Map shall do so at its own Risk and the Density Map is not intended in any way As a tool to locate underground infrastructure for the purposes of excavation



Location map



Public Works Committee Resolution

Committee Meeting Date: August 30, 2021

Agenda Item: 7.c

Resolution Number: 2021-08-30-576

Moved by: M. Martin

Seconded by: B. Crake

Council Meeting Date: September 15, 2021

"That the Public Works Committee, having considered Report 2021-141 'Enbridge Gas Inc. Franchise Agreement', deem it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Enbridge Gas Inc.; and

Further That the Committee recommend County Council enact the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc., attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted; and

Further That the Warden and County Clerk be authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law 26-2021; and

Further That the following by-laws be hereby repealed:

- By-law No. 69-01 for the Corporation of the County of Northumberland passed in Council on the 26th day of June 2002;
- By-law No. 16-07 for the Corporation of the County of Northumberland passed in Council on the 28th day of March 2007."

Carried attended by virtual conference
Committee Chair's Signature

Defeated _____
Committee Chair's Signature

Deferred _____
Committee Chair's Signature

I hereby certify, this being a true and correct copy
this 25 day of April, 2022.
[Original Signed By]

Maddison Ellis, County Deputy Clerk
County of Northumberland

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Report 2021-141

Report Title: Enbridge Gas Inc. Franchise Agreement

Committee Name: Public Works Committee

Committee Meeting Date: August 30, 2021

Prepared by: Brooke Gillispie, Road Operations Manager
(Developmental), Transportation, Waste & Facilities

Reviewed by: Mo Pannu
Director, Transportation, Waste & Facilities

Approved by: Jennifer Moore, C.A.O.

Council Meeting Date: September 15, 2021

Strategic Plan Priorities: Sustainable Infrastructure and Services

Recommendation

“That the Public Works Committee, having considered Report 2021-141 ‘Enbridge Gas Inc. Franchise Agreement’, deem it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Enbridge Gas Inc.; and

Further That the Committee recommend County Council to enact the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc., attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted; and

Further That the Warden and County Clerk be authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law 26-2021; and

Further That the following by-laws be hereby repealed:

- By-law No. 69-01 for the Corporation of the County of Northumberland passed in Council on the 26th day of June 2002.
- By-law No. 16-07 for the Corporation of the County of Northumberland passed in Council on the 28th day of March 2007.

Purpose

To renew a 20-year agreement with Enbridge Gas Inc., using the approved 2000 Model Franchise Agreement.

Background

Franchise agreements are agreements between municipalities and service providers that have facilities within the municipal right-of-way. The franchise agreements identify the rights and obligations of both parties regarding the right-of-way and the services.

Currently, the County has existing agreements in place with Union Gas Limited, By-Law 69-01 and legacy Enbridge Gas Distribution, By-Law 16-07. Union Gas Limited and Enbridge Gas Distribution merged under the corporate name Enbridge Gas Inc. on January 1st, 2019.

On June 26, 2022, the current franchise agreement between the County of Northumberland and the former Union Gas Limited expires. Based on the most recent customer count report, they currently provide service to approximately 21,260 customers within the lower-tier municipalities within the County of Northumberland.

Provincial legislation requires a franchise agreement between the municipal corporation and the gas company serving that municipality. The Ontario Energy Board (OEB) has directed that the current 2000 Model Franchise Agreement be used as the model for such agreements.

As a result, Enbridge Gas Inc. and the County of Northumberland need to commence the process to renew a 20-year franchise agreement using the approved model. The new franchise agreement will replace the existing franchise agreements in place with legacy Union Gas Limited and legacy Enbridge Gas Distribution.

In order for the regulatory approval process to begin, Council is required to pass a Resolution so that the regulatory approval process can commence.

Consultations

N/A

Legislative Authority/Risk Considerations

In accordance with the Municipal Franchise Act, franchise agreements are required and subject to OEB approval.

To assist municipalities across Ontario, the Association of Municipalities of Ontario (AMO), in consultation with the gas industry, developed the Model Agreement. The OEB approved the latest Model Agreement in 2000. Any alterations to the Model Agreement would require OEB approval.

Discussion/Options

N/A

Financial Impact

N/A

Member Municipality Impacts

Member municipalities are each required to enter into a separate franchise agreement with Enbridge Gas Inc.

Conclusion/Outcomes

It is recommended that this Report regarding the 2000 Model Franchise Agreement be received and to enact a By-Law to authorize the Warden and Clerk to execute the franchise agreement with Enbridge Gas Inc. utilizing the approved 2000 Model Franchise Agreement.

Attachments

2000 Model Franchise Agreement

2000 Model Franchise Agreement

THIS AGREEMENT effective this day of , 2021

BETWEEN:

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

hereinafter called the "Corporation"

- and -

ENBRIDGE GAS INC.

hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;

- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

Part II - Rights Granted

2. To provide gas service

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

3. To Use Highways

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

4. Duration of Agreement and Renewal Procedures

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

or

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

Part III – Conditions

5. Approval of Construction

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

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

6. As Built Drawings

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

7. Emergencies

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

8. **Restoration**

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

9. **Indemnification**

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

10. **Insurance**

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

11. **Alternative Easement**

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

12. **Pipeline Relocation**

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

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

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

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

14. Giving Notice

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

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation

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

16. Use of Decommissioned Gas System

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

17. Franchise Handbook

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

18. **Other Conditions**

None.

19. **Agreement Binding Parties**

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

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

**THE CORPORATION OF THE
COUNTY OF NORTHUMBERLAND**

Per:

Robert Crate, Warden

Per:

Nancy MacDonald, County Clerk

ENBRIDGE GAS INC.

Per:

Mark Kitchen, Director
Regulatory Affairs

Per:

Jean-Benoit Trahan, Director
Eastern Region Operations & Gazifère

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

BY-LAW NUMBER _____

**A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN
THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND
and
ENBRIDGE GAS INC.**

WHEREAS the Council of the Corporation of the County of Northumberland deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Enbridge Gas Inc.;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to the *Municipal Franchises Act* on the _____ day of _____, 2021 has approved the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-Law is not necessary:

NOW THEREFORE the Council of the Corporation of the County of Northumberland enacts as follows:

1. **THAT** the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc. attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. **THAT** the Warden and County Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **THAT** the following by-laws be hereby repealed:
 - By-law No. 69-01 for the Corporation of the County of Northumberland, passed in Council on the 26th day of June, 2002.
 - By-law No. 16-07 for the Corporation of the County of Northumberland, passed in Council on the 28th day of March, 2007.
4. **THAT** this by-law shall come into force and take effect as of the final passing thereof.

Read a first time this _____ day of _____, 2021.

Read a second time this _____ day of _____, 2021.

Read a third time and finally passed this _____ day of _____, 2021.

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

R.J. (Bob) Crate, Warden

Nancy MacDonald, County Clerk

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

RESOLUTION

BE IT HEREBY RESOLVED THAT:

1. This Council approves the form of draft by-law and franchise agreement attached hereto and authorizes the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act*.
2. This Council requests that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors to the attached draft by-law and franchise agreement pertaining to the Corporation of the County of Northumberland is not necessary pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*.

I HEREBY CERTIFY the foregoing to be a true copy of a Resolution passed by the Council of the Corporation of the County of Northumberland on the ____ day of _____, 2021.

Nancy MacDonald, County Clerk

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

BY-LAW NO. 16-07

BEING A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT
BETWEEN THE CORPORATION OF THE COUNTY OF
NORTHUMBERLAND AND ENBRIDGE GAS DISTRIBUTION INC.

WHEREAS the Ontario Municipal Act, 2001, S.O. 2001, c. 25, as amended, Section 8 provides that a municipality has the capacity, 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 deems it expedient to enter into the attached franchise agreement with Enbridge Gas Distribution Inc.

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to the *Municipal Franchises Act* on this 21st day of December, 2006 has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-law is not necessary;

NOW THEREFORE BE IT ENACTED as a By-law of the Council of the Corporation of the County of Northumberland, as follows:

1. That the attached franchise agreement between the Corporation and Enbridge Gas Distribution Inc. is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Clerk and the Warden are hereby authorized and instructed on behalf of the Corporation to enter into and execute under its corporate seal and deliver the aforesaid agreement, which agreement is hereby incorporated into and shall form part of this By-law.
3. That the By-law referred to in **Schedule "A"** annexed hereto and forming part of this By-law is hereby repealed insofar as it applies to any area within the present geographic limits of the Corporation.

THAT By-law No. 16-07 be introduced and be deemed to be read a first, second and third time, be passed and be properly signed and sealed at the Town of Cobourg this 28 day of MARCH, 2007.

[Original Signed By]

Warden

I, DIANE CANE, Clerk
of the Corporation of the County of
Northumberland do hereby certify
that this is a true copy of By-law
No. 16-07 of the said Corporation
Passed on the 28th of March 2007.

[Original Signed By]

Diane Cane, Clerk

[Original Signed By]

Clerk

SCHEDULE "A"

By-law No. 2307 passed by the Council of the Corporation of the United Counties of Northumberland and Durham on this 24th day of January, 1972, A.D.

Model Franchise Agreement

THIS AGREEMENT effective this 28th day of March, 2007.

BETWEEN: The Corporation of the County of Northumberland hereinafter called
the

"Corporation"

- and -

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

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement:

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

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

Part II - Rights Granted

- 2. To provide gas service:

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

3. To Use Highways.

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

4. Duration of Agreement and Renewal Procedures.

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

or

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

Part III - Conditions

5. Approval of Construction

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

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

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

6. As Built Drawings

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

7. Emergencies

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

8. Restoration

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

9. Indemnification

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

10. Insurance

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

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

11. Alternative Easement

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

12. Pipeline Relocation

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

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

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

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

14. Giving Notice

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

15. Disposition of Gas System

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

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

16. Use of Decommissioned Gas System

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

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

17. Franchise Handbook

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

18. Agreement Binding Parties

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

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

THE CORPORATION OF THE
COUNTY OF NORTHUMBERLAND

By: [Original Signed By Warden]

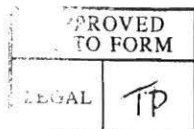
By: [Original Signed By Diane Cane, Clerk]

Duly Authorized Officer

ENBRIDGE GAS DISTRIBUTION INC.

By: [Original Signed By] **Lino Luison**
Vice President
Opportunity Development

By: [Original Signed By] **Mark R. Boyce**
Associate General Counsel
& Corporate Secretary



DATED this 28th day of March , 2007 .

THE CORPORATION OF THE
COUNTY OF NORTHUMBERLAND

- and -

ENBRIDGE GAS DISTRIBUTION INC.

FRANCHISE AGREEMENT

ENBRIDGE GAS DISTRIBUTION INC.

500 Consumers Road
North York, Ontario
M2J 1P8

Attention: Regulatory Affairs Department

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

BY-LAW NO 69-01

Being a By-law to authorize a Franchise Agreement Between the Corporation and Union Gas

WHEREAS the Franchise Agreement between the Corporation and Union Gas has or will soon expire; and

WHEREAS the Council of the Corporation deems it expedient to enter into the attached franchise agreement with Union Gas; and

WHEREAS the Ontario Energy board by its Order issued pursuant to the *Municipal Franchises Act* on the 30th day of April, 2002, has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-law is not necessary; and

NOW THEREFORE BE IT ENACTED as a By-law of the Council of the Corporation of the County of Northumberland as follows:

1. That the attached franchise agreement between the Corporation and Union Gas is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Warden and the Chief Administrative Officer/Clerk are hereby authorized and instructed on behalf of the Corporation to enter into and execute under its corporate seal and deliver the aforesaid agreement, which agreement is hereby incorporated into and shall form part of this By-law.
3. This By-law shall come into full force and effect upon the final passing thereof.

That By-law No. 69-01 be introduced and be deemed to be read a first and second only, at the Town of Cobourg this 29th day of August, 2001.

That By-law No. 69-01 be introduced and be deemed to be read a third and final time and passed, at the Town of Cobourg this 26th day of June, 2002.

[Original Signed By]

Warden

[Original Signed By]

*Chief Administrative Officer/
Clerk*

Model Franchise Agreement

THIS AGREEMENT effective this 26 day of JUNE, 2002.

BETWEEN:

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

hereinafter called the "Corporation"

- and -



uniongas

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:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;

- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

Part II - Rights Granted

2. To provide gas service

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

3. To Use Highways

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all

highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

4. **Duration of Agreement and Renewal Procedures**

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

or

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

Part III – Conditions

5. **Approval of Construction**

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefore has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
- (b) Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.

- (c) The Plan filed by the Gas Company shall include geodetic information for a particular location:
 - (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
 - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
- (e) Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.
- (g) Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

6. As Built Drawings

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately

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

7. Emergencies

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

8. Restoration

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

9. Indemnification

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

10. Insurance

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

11. Alternative Easement

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

12. Pipeline Relocation

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on

the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:

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

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

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

14. Giving Notice

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

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
 - (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
 - (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
 - (i) the third party has entered into a municipal access agreement with the Corporation; and

- (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

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

18. Other Conditions

None.

19. Agreement Binding Parties

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

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

**THE CORPORATION OF THE
COUNTY OF NORTHUMBERLAND**

Per: [Original Signed By]

~~Bill Finley, Warden~~
JAMES WILLIAMS, WARDEN

Per: [Original Signed By]

~~Lynda Mitchell, CAO/Clerk~~
BILL HATT, CAO

UNION GAS LIMITED

Per: [Original Signed By]

~~(Authorized Signing Officer)~~



Council Resolution

Moved By J. Henderson

Seconded By B. Ostrander

Agenda
Item 10.

Resolution Number
2021-09-15- 627

Council Date: September 15, 2021

"That County Council adopt all recommendations from the six Standing Committees, as contained within the Committees' Minutes (August 30, 31, and September 1, 2021 meetings), with the exception of the items noted within the agenda which require separate discussion, and, any items identified by Members which require separate discussion."

I hereby certify, this being a true and correct copy
this 25 day of April, 20 22.

[Original Signed By]

Maddison Ellis, County Deputy Clerk
County of Northumberland

Recorded Vote
Requested by

Councillor's Name

Deferred

Warden's Signature

Carried [Original Signed By Bob Crate]

Warden's Signature

Defeated

Warden's Signature



Council Resolution

Moved By G. Latchford

Agenda
Item 12.a

Resolution Number
2021-09-15-629

Seconded By R. Sanderson

Council Date: September 15, 2021

"That By-law 27-2021, being a by-law to:

- authorize a Franchise Agreement between The Corporation of The County of Northumberland and Enbridge Gas Inc; and
- repeal By-law 69-01 and Repeal By-law 16-07;

be introduced, and be deemed to be read a first, second and third time, passed, signed and sealed this 15th day of September, 2021."

I hereby certify, this being a true and correct copy
this 25 day of April, 20 22

[Original Signed By]

Maddison Ellis, County Deputy Clerk
County of Northumberland

Recorded Vote
Requested by

Councillor's Name

Deferred

Warden's Signature

Carried

[Original Signed By Bob Crate]

Warden's Signature

Defeated

Warden's Signature

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I hereby certify, this being a true and correct copy
this 25 day of April, 2022.

[Original Signed By] _____

Maddison Ellis, County Deputy Clerk
County of Northumberland



By-law 27-2021

A By-law to Authorize a Franchise Agreement Between The Corporation of The County of Northumberland and Enbridge Gas Inc, and Repeal By-law 69-01 and Repeal By-law 16-07

Whereas the Council of the Corporation of the County of Northumberland deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Enbridge Gas Inc.; and

Whereas the Ontario Energy Board by an Order issued pursuant to the *Municipal Franchises Act* on a date yet to be determined will approve the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and will declare and direct that the assent of the municipal electors in respect of this By-Law is not necessary:

Now Therefore the Council of the Corporation of the County of Northumberland enacts as follows:

1. **That** the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc. attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. **That** the Warden and County Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **That** the following by-laws be hereby repealed:
 - By-law No. 69-01 for the Corporation of the County of Northumberland, passed in Council on the 26th day of June, 2002.
 - By-law No. 16-07 for the Corporation of the County of Northumberland, passed in Council on the 28th day of March, 2007.

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

That By-law 27-2021 be introduced and be deemed to be read a first, second and third time, passed, signed and sealed this 15th day of September, 2021.



[Original Signed By]

R.J. (Bob) Crate, Warden

[Original Signed By]

Nancy MacDonald, Clerk

I hereby certify, this being a true and correct copy
this 25 day of April, 2022.

Maddison Ellis, County Deputy Clerk
County of Northumberland

2000 Model Franchise Agreement

THIS AGREEMENT effective this day of , 2022

BETWEEN:

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

hereinafter called the "Corporation"

- and -

ENBRIDGE GAS INC.

hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;

- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

Part II - Rights Granted

2. To provide gas service

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

3. To Use Highways

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

4. Duration of Agreement and Renewal Procedures

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

or

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

Part III – Conditions

5. Approval of Construction

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

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

6. As Built Drawings

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

7. Emergencies

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

8. **Restoration**

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

9. **Indemnification**

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

10. **Insurance**

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

11. **Alternative Easement**

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

12. **Pipeline Relocation**

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

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

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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.

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- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation

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

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

17. Franchise Handbook

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

18. Other Conditions

None.

19. Agreement Binding Parties

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

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

**THE CORPORATION OF THE
COUNTY OF NORTHUMBERLAND**

Per:

Robert Crate, Warden

Per:

Nancy MacDonald, County Clerk

ENBRIDGE GAS INC.

Per:

Mark Kitchen, Director
Regulatory Affairs

Per:

Jean-Benoit Trahan, Director
Eastern Region Operations & Gazifère



Public Works Committee Resolution

Committee Meeting Date: April 4, 2022

Agenda Item: 7.e

Resolution Number: 2022-04-04-183

Moved by: M. Martin

Seconded by: R. Crate

Council Meeting Date: April 20, 2022

Whereas at the September 15, 2021 Northumberland County Council meeting, Council enacted By-law #27-2021, authorizing the Warden and County Clerk to enter into and execute a Franchise Agreement with Enbridge Gas Inc;

Whereas upon Enbridge Gas' receipt of the documentation from the municipality, an application will be forwarded to the Ontario Energy Board (OEB) for approval of the Franchise Agreement;

Whereas Northumberland County's documentation was sent to Enbridge Gas and County staff were recently advised that standardized wording was missing from the original Council resolution;

Be It Resolved That the Public Works Committee recommend that County Council authorize the submission of By-Law 27-2021 and Franchise Agreement to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the Municipal Franchises Act; and

Further Be It Resolved That the Committee recommend that County Council request that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors to the attached by-law and franchise agreement pertaining to the Corporation of the County of Northumberland is not necessary, pursuant to the provisions of Section 9(4) of the "Municipal Franchises Act."

☒ **Carried**

attended by virtual conference

Committee Chair's Signature

☐ **Defeated**

Committee Chair's Signature

☐ **Deferred**

Committee Chair's Signature

I hereby certify, this being a true and correct copy
this 25 day of April, 2022

[Original Signed By]

Maddison Ellis, County Deputy Clerk
County of Northumberland

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Report 2022-057

Report Title: Enbridge Natural Gas Franchise Agreement

Committee Name: Public Works

Committee Meeting Date: April 4, 2022

Prepared by: Maddison Ellis
Deputy Clerk
Corporate Services

Reviewed by: Nancy MacDonald
Manager of Legislative Services / Clerk
Corporate Services

Denise Marshall
Director, Public Works
Public Works

Approved by: Jennifer Moore, CAO

Council Meeting Date: April 20, 2022

Strategic Plan Priorities: ☐ Economic Prosperity and Innovation
☒ Sustainable Growth
☐ Thriving and Inclusive Communities
☐ Leadership in Change

Recommendation

Whereas at the September 15, 2021 Northumberland County Council meeting, Council enacted By-law #27-2021, authorizing the Warden and County Clerk to enter into and execute a Franchise Agreement with Enbridge Gas Inc;

Whereas upon Enbridge Gas' receipt of the documentation from the municipality, an application will be forwarded to the Ontario Energy Board (OEB) for approval of the Franchise Agreement;

Whereas Northumberland County's documentation was sent to Enbridge Gas and County staff were recently advised that standardized wording was missing from the original Council resolution;

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Further Be It Resolved That the Committee recommend that County Council request that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors to the attached by-law and franchise agreement pertaining to the Corporation of the County of Northumberland is not necessary, pursuant to the provisions of Section 9(4) of the “Municipal Franchises Act.”

Purpose

The purpose of this report is to provide Council with information on the status of the renewal of Northumberland County’s Franchise Agreement with Enbridge Gas, and to recommend that County Council pass an additional resolution containing the required provisions for approval by the Ontario Energy Board.

Background

Franchise agreements are agreements between municipalities and service providers that have facilities within the municipal right-of-way. The franchise agreements identify the rights and obligations of both parties regarding the right-of-way and the services. Provincial legislation requires a franchise agreement between the municipal corporation and the gas company serving that municipality.

At the September 15, 2021 Northumberland County Council meeting, Council enacted By-Law 27-2021 ‘A By-law to Authorize a Franchise Agreement Between the Corporation of the County of Northumberland and Enbridge Gas Inc, and Repeal By-law 69-01 and Repeal By-law 16-07’. By-Law 27-2021 authorized the Warden and County Clerk to enter into and execute the Franchise Agreement with Enbridge Gas Inc.

Upon Enbridge Gas’ receipt of the documentation from the municipality, an application will be forwarded to the Ontario Energy Board for approval of the Franchise Agreement. Legislative Services staff were recently advised by Enbridge Gas Regulatory staff that the resolution authorizing the County to enter into the Franchise Agreement (Resolution 2021-08-30-576) with Enbridge Gas was missing required provisions. Thus, the documentation from Northumberland County has yet to be forwarded to the Ontario Energy Board for approval.

Due to the timing required by the OEB, this report is being added to the previously published April 4, 2022 Public Works Committee Agenda.

Consultations

County staff have worked closely with Enbridge Gas Regulatory and Municipal Stakeholder staff on the renewal of the Franchise Agreement. Enbridge Gas staff have reviewed this report and the recommended motion to ensure that it meets the needs of Enbridge and the Ontario Energy Board.

Legislative Authority / Risk Considerations

In accordance with the Municipal Franchise Act, Franchise Agreements are required and subject to Ontario Energy Board approval.

The current Franchise Agreement between the County of Northumberland and the former Union Gas will expire on June 26, 2022. Although County Council did authorize Northumberland County to enter into a new Franchise Agreement with Enbridge Gas in 2021, the documentation has yet to be forwarded to the Ontario Energy Board for approval due to the missing provisions in the resolution. Thus, both County and Enbridge Gas staff are working expediently to resolve this issue to ensure that a new Franchise Agreement is in place prior to June 26, 2022.

Discussion / Options

Enbridge Gas staff confirmed that By-law 27-2021, authorizing the County to enter into a Franchise Agreement with Enbridge Gas contains the required wording, and the by-law does not need to be repealed.

However, the September 15, 2021 Council resolution did not include the following provisions:

- Authorizing the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the Municipal Franchises Act; and
- Requesting that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors is not necessary pursuant to the provisions of Section 9(4) of the Municipal Franchises Act.

In short, Legislative Services staff recommend that County Council pass an additional resolution to include these required provisions.

Financial Impact

N/A

Member Municipality Impacts

Member municipalities are each required to enter into a separate franchise agreement with Enbridge Gas Inc.

Conclusion / Outcomes

In summary, staff recommend that County Council:

- Authorize the submission of By-Law 27-2021 and Franchise Agreement to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the Municipal Franchises Act; and
- Request that the Ontario Energy Board make an Order declaring and directing that the assent of the municipal electors to the attached by-law and franchise agreement pertaining to the Corporation of the County of Northumberland is not necessary pursuant to the provisions of Section 9(4) of the Municipal Franchises Act.”

Attachments

- 1) Report 2021-141 'Enbridge Gas Inc. Franchise Agreement'
- 2) Resolution 2021-08-30-576 (Public Works Committee Resolution)
- 3) Resolution 2021-09-15-627 (Council Consent Resolution)
- 4) Resolution 2021-09-15-629 (Council Resolution)
- 5) By-Law 27-2021 'A By-law to Authorize a Franchise Agreement Between the Corporation of the County of Northumberland and Enbridge Gas Inc, and Repeal By-law 69-01 and Repeal By-law 16-07'.

If you require this information in an alternate format, please contact the Accessibility Coordinator at accessibility@northumberlandcounty.ca or 1-800-354-7050 ext. 2327



Report 2021-141

Report Title: Enbridge Gas Inc. Franchise Agreement

Committee Name: Public Works Committee

Committee Meeting Date: August 30, 2021

Prepared by: Brooke Gillispie, Road Operations Manager
(Developmental), Transportation, Waste & Facilities

Reviewed by: Mo Pannu
Director, Transportation, Waste & Facilities

Approved by: Jennifer Moore, C.A.O.

Council Meeting Date: September 15, 2021

Strategic Plan Priorities: Sustainable Infrastructure and Services

Recommendation

“That the Public Works Committee, having considered Report 2021-141 ‘Enbridge Gas Inc. Franchise Agreement’, deem it expedient to enter into the attached franchise agreement (the “Franchise Agreement”) with Enbridge Gas Inc.; and

Further That the Committee recommend County Council to enact the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc., attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted; and

Further That the Warden and County Clerk be authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law 26-2021; and

Further That the following by-laws be hereby repealed:

- By-law No. 69-01 for the Corporation of the County of Northumberland passed in Council on the 26th day of June 2002.
- By-law No. 16-07 for the Corporation of the County of Northumberland passed in Council on the 28th day of March 2007.

Purpose

To renew a 20-year agreement with Enbridge Gas Inc., using the approved 2000 Model Franchise Agreement.

Background

Franchise agreements are agreements between municipalities and service providers that have facilities within the municipal right-of-way. The franchise agreements identify the rights and obligations of both parties regarding the right-of-way and the services.

Currently, the County has existing agreements in place with Union Gas Limited, By-Law 69-01 and legacy Enbridge Gas Distribution, By-Law 16-07. Union Gas Limited and Enbridge Gas Distribution merged under the corporate name Enbridge Gas Inc. on January 1st, 2019.

On June 26, 2022, the current franchise agreement between the County of Northumberland and the former Union Gas Limited expires. Based on the most recent customer count report, they currently provide service to approximately 21,260 customers within the lower-tier municipalities within the County of Northumberland.

Provincial legislation requires a franchise agreement between the municipal corporation and the gas company serving that municipality. The Ontario Energy Board (OEB) has directed that the current 2000 Model Franchise Agreement be used as the model for such agreements.

As a result, Enbridge Gas Inc. and the County of Northumberland need to commence the process to renew a 20-year franchise agreement using the approved model. The new franchise agreement will replace the existing franchise agreements in place with legacy Union Gas Limited and legacy Enbridge Gas Distribution.

In order for the regulatory approval process to begin, Council is required to pass a Resolution so that the regulatory approval process can commence.

Consultations

N/A

Legislative Authority/Risk Considerations

In accordance with the Municipal Franchise Act, franchise agreements are required and subject to OEB approval.

To assist municipalities across Ontario, the Association of Municipalities of Ontario (AMO), in consultation with the gas industry, developed the Model Agreement. The OEB approved the latest Model Agreement in 2000. Any alterations to the Model Agreement would require OEB approval.

Discussion/Options

N/A

Financial Impact

N/A

Member Municipality Impacts

Member municipalities are each required to enter into a separate franchise agreement with Enbridge Gas Inc.

Conclusion/Outcomes

It is recommended that this Report regarding the 2000 Model Franchise Agreement be received and to enact a By-Law to authorize the Warden and Clerk to execute the franchise agreement with Enbridge Gas Inc. utilizing the approved 2000 Model Franchise Agreement.

Attachments

2000 Model Franchise Agreement

Public Works Committee Resolution

Committee Meeting Date: August 30, 2021

Agenda Item: 7.c

Resolution Number: 2021-08-30-576

Moved by: M. Martin

Seconded by: B. Crake

Council Meeting Date: September 15, 2021

"That the Public Works Committee, having considered Report 2021-141 'Enbridge Gas Inc. Franchise Agreement', deem it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Enbridge Gas Inc.; and

Further That the Committee recommend County Council enact the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc., attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted; and

Further That the Warden and County Clerk be authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law 26-2021; and

Further That the following by-laws be hereby repealed:

- By-law No. 69-01 for the Corporation of the County of Northumberland passed in Council on the 26th day of June 2002;
- By-law No. 16-07 for the Corporation of the County of Northumberland passed in Council on the 28th day of March 2007."

Carried B. O'Strander
attended by virtual conference
Committee Chair's Signature

Defeated _____
Committee Chair's Signature

Deferred _____
Committee Chair's Signature



By-law 27-2021

A By-law to Authorize a Franchise Agreement Between The Corporation of The County of Northumberland and Enbridge Gas Inc, and Repeal By-law 69-01 and Repeal By-law 16-07

Whereas the Council of the Corporation of the County of Northumberland deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Enbridge Gas Inc.; and

Whereas the Ontario Energy Board by an Order issued pursuant to the *Municipal Franchises Act* on a date yet to be determined will approve the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and will declare and direct that the assent of the municipal electors in respect of this By-Law is not necessary:

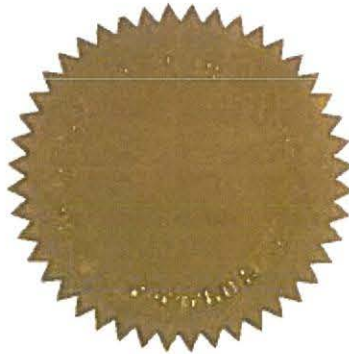
Now Therefore the Council of the Corporation of the County of Northumberland enacts as follows:

1. **That** the Franchise Agreement between the Corporation of the County of Northumberland and Enbridge Gas Inc. attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. **That** the Warden and County Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the County of Northumberland to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **That** the following by-laws be hereby repealed:
 - By-law No. 69-01 for the Corporation of the County of Northumberland, passed in Council on the 26th day of June, 2002.
 - By-law No. 16-07 for the Corporation of the County of Northumberland, passed in Council on the 28th day of March, 2007.

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

That By-law 27-2021 be introduced and be deemed to be read a first, second and third time, passed, signed and sealed this 15th day of September, 2021.



[Original Signed By]

R.J. (Bob) Crate, Warden

[Original Signed By]

Nancy MacDonald, Clerk

2000 Model Franchise Agreement

THIS AGREEMENT effective this day of , 2021

BETWEEN:

THE CORPORATION OF THE COUNTY OF NORTHUMBERLAND

hereinafter called the "Corporation"

- and -

ENBRIDGE GAS INC.

hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;

- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

Part II - Rights Granted

2. To provide gas service

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

3. To Use Highways

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

4. Duration of Agreement and Renewal Procedures

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

or

(b) If the Corporation has previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20 year term of this Agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20 year term.

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

Part III – Conditions

5. Approval of Construction

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

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

6. As Built Drawings

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

7. Emergencies

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

8. Restoration

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

9. Indemnification

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

10. Insurance

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

11. Alternative Easement

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

12. Pipeline Relocation

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

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

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

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

14. Giving Notice

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

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation

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

16. Use of Decommissioned Gas System

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

17. Franchise Handbook

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

18. Other Conditions

None.

19. Agreement Binding Parties

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

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

**THE CORPORATION OF THE
COUNTY OF NORTHUMBERLAND**

Per: *[Original Signed By]*

~~Robert Crate, Warden~~

Per: *[Original Signed By]*

~~Nancy MacDonald, County Clerk~~

ENBRIDGE GAS INC.

Per:

Mark Kitchen, Director
Regulatory Affairs

Per:

Jean-Benoit Trahan, Director
Eastern Region Operations & Gazifère

Council Resolution

Moved By J. Henderson

Seconded By B. Ostrander

Agenda
Item 10.

Resolution Number
2021-09-15-627

Council Date: September 15, 2021

"That County Council adopt all recommendations from the six Standing Committees, as contained within the Committees' Minutes (August 30, 31, and September 1, 2021 meetings), with the exception of the items noted within the agenda which require separate discussion, and, any items identified by Members which require separate discussion."

Recorded Vote
Requested by _____

Councillor's Name

Deferred _____

Warden's Signature

Carried *[Original Signed by Bob Crate]*

Warden's Signature

Defeated _____

Warden's Signature

Council Resolution

Moved By G. Latchford

Seconded By R. Sanderson

Agenda
Item 12.a

Resolution Number
2021-09-15-629

Council Date: September 15, 2021

"That By-law 27-2021, being a by-law to:

- authorize a Franchise Agreement between The Corporation of The County of Northumberland and Enbridge Gas Inc; and
- repeal By-law 69-01 and Repeal By-law 16-07;

be introduced, and be deemed to be read a first, second and third time, passed, signed and sealed this 15th day of September, 2021."

Recorded Vote
Requested by

Councillor's Name

Deferred

Warden's Signature

Carried *[Original Signed By Bob Crate]*

Warden's Signature

Defeated

Warden's Signature



Council Resolution

Moved By M. Martin

Agenda
Item 10

Resolution Number
2022-04-20- 235

Seconded By R. Sanderson

Council Date: April 20, 2022

"That Council adopt all recommendations from the five Standing Committees, as contained within the Committees' Minutes (meetings held on April 4, 5, and 6, 2022), with the exception of any items noted which require separate discussion, and/or any items identified by Members which require separate discussion."

I hereby certify, this being a true and correct copy
this 25 day of April, 20 22.

[Original Signed By]

Maddison Ellis, County Deputy Clerk
County of Northumberland

Recorded Vote
Requested by

Councillor's Name

Deferred

Warden's Signature

Carried, [Original Signed By Bob Crate]

Warden's Signature

Defeated

Warden's Signature