



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

January 3, 2023

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.  
Application for Renewal of Franchise Agreement  
City of Thunder Bay**

Attached is an application by Enbridge Gas Inc. for Orders of the Ontario Energy Board with respect to a franchise agreement with the City of Thunder Bay. An agreement has been reached between Enbridge Gas Inc. and the City of Thunder Bay regarding 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](mailto: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 City of Thunder Bay 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 City of Thunder Bay;

**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 City of Thunder Bay 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 City of Thunder Bay (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 42,800 customers in the Municipality. Enbridge Gas and its predecessors have been providing access to gas distribution services within the City of Thunder Bay since approximately 1956.
3. The City of Thunder Bay is a single-tier municipality in the Thunder Bay District which was formed on January 1, 1970 through the merger of the City of Fort William, the City of Port Arthur, and the geographic townships of Neebing and McIntyre.
4. Enbridge Gas has an existing franchise agreement (effective February 10, 2003) and associated by-law (By-law 24-2003) with the City of Thunder Bay which is attached as Schedule "B".
5. Enbridge Gas has a Certificate of Public Convenience and Necessity for the City of Thunder Bay (RP-2000-0006 / EB-2002-0374) dated June 20, 2003 which is attached as Schedule "C". Enbridge Gas is not aware of any changes to the municipal boundaries since the Certificate of Public Convenience and Necessity was issued.
6. 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 City of Thunder Bay.

7. On November 14, 2022, the Committee of the Whole of the Municipality recommended approval of the form of a Franchise Agreement in favour of Enbridge Gas, recommended authorizing 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 recommended that a request be sent to the Ontario Energy Board to make an Order declaring and directing that the assent of the municipal electors to the draft by-law and franchise agreement is not necessary pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*. These recommendations were approved by Council on December 19, 2022.
8. Attached hereto as Schedule "D(1)" is a copy of the Resolution of the Committee of the Whole of the Municipality dated November 14, 2022 recommending approval the form of the draft by-law and franchise agreement, recommending this submission to the Ontario Energy Board, and recommending requesting an Order declaring and directing that the assent of the municipal electors to the by-law and franchise agreement is not necessary, as well as the associated R 125/2022 report provided to Council and the minutes of the November 14, 2022 meeting of the Committee of the Whole.
9. Attached as Schedule "D(2)" is a copy of the Resolution of the Council of the Municipality dated December 19, 2022 adopting the November 14, 2022 recommendation resolution of Committee of the Whole.
10. Attached hereto as Schedule "E" is a copy of the draft By-law and the proposed franchise agreement.
11. Enbridge Gas has franchise agreements with and Certificates of Public Convenience and Necessity for the Municipality of Neebing, the Municipality of Oliver Paipoonge and the Municipality of Shuniah, which are immediately adjacent to the Municipality. There is no other natural gas distributor in the area.
12. The proposed franchise agreement is in the form of the 2000 Model Franchise Agreement with no amendments and is for a term of twenty (20) years.
13. The address of the Municipality is as follows:

City of Thunder Bay  
500 Donald Street East  
Thunder Bay, ON P7E 5V3  
Attention: Krista Power, City Clerk  
Telephone: (807) 625-2230  
Email: [cityclerk@thunderbay.ca](mailto:cityclerk@thunderbay.ca)

The address for Enbridge Gas' regional operations office is:

Enbridge Gas Inc.  
1211 Amber Drive  
Thunder Bay, ON P7B 6M4  
Attention: Nicole Lehto, Director, Northern Region Operations  
Email: [nicole.lehto@enbridge.com](mailto:nicole.lehto@enbridge.com)

14. The English language newspaper having the highest circulation in the City of Thunder Bay is the *Chronicle-Journal*. This is the newspaper 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 City of Thunder Bay is, by by-law, to grant Enbridge Gas the right to construct and operate works for the distribution, transmission and storage of natural gas within the City of Thunder Bay 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 City of Thunder Bay 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 3<sup>rd</sup> day of January, 2023.

**ENBRIDGE GAS INC.**

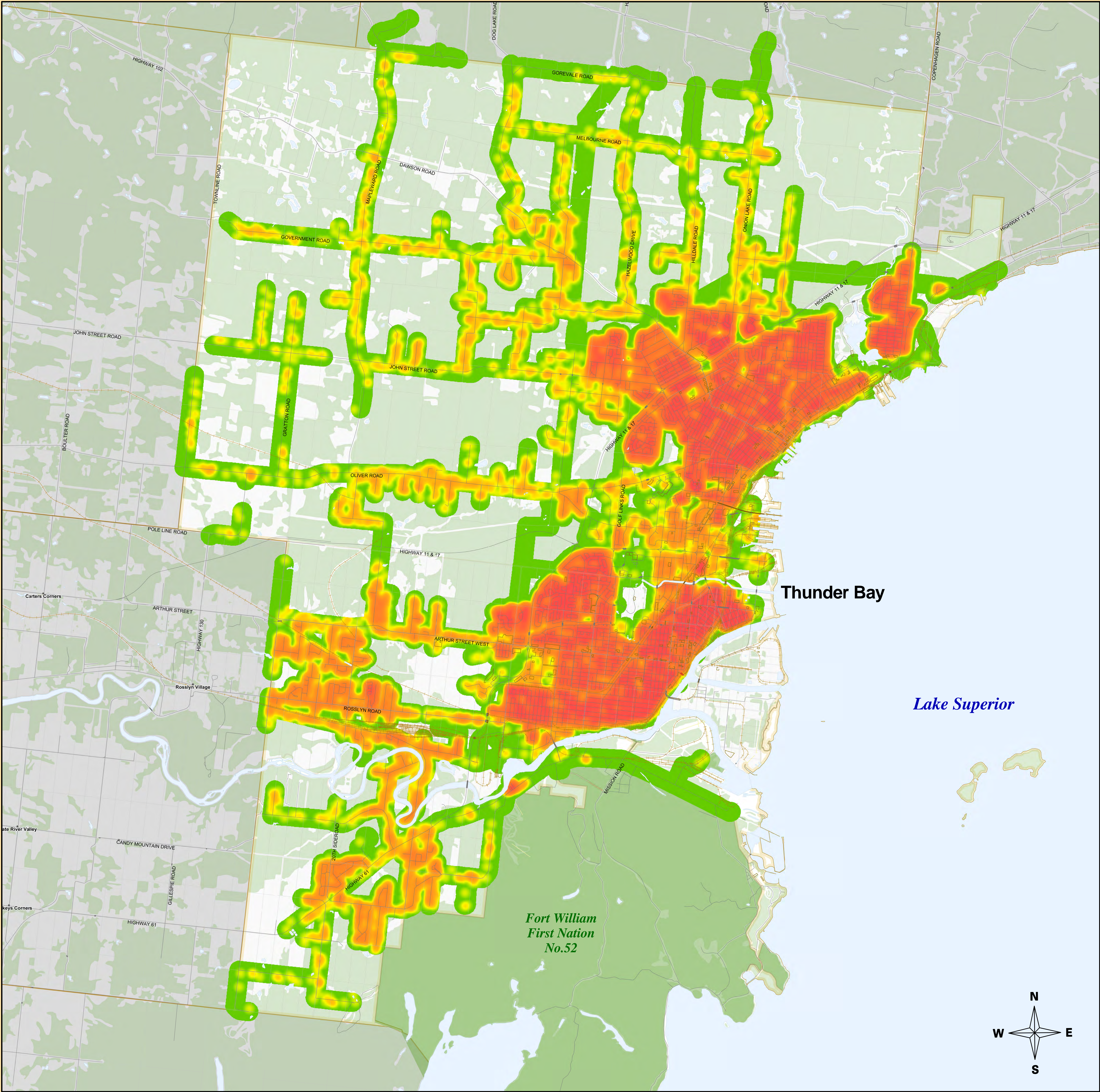
---

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](mailto:patrick.mcmahon@enbridge.com)  
Telephone: (519) 436-5325



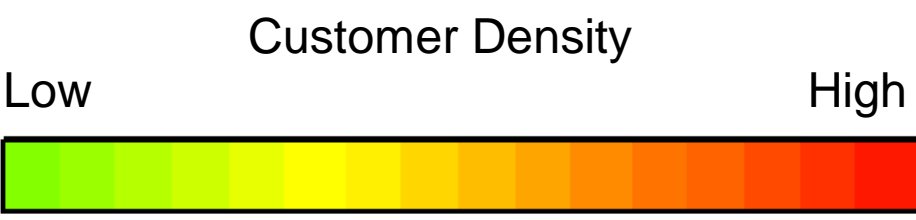


# City of Thunder Bay

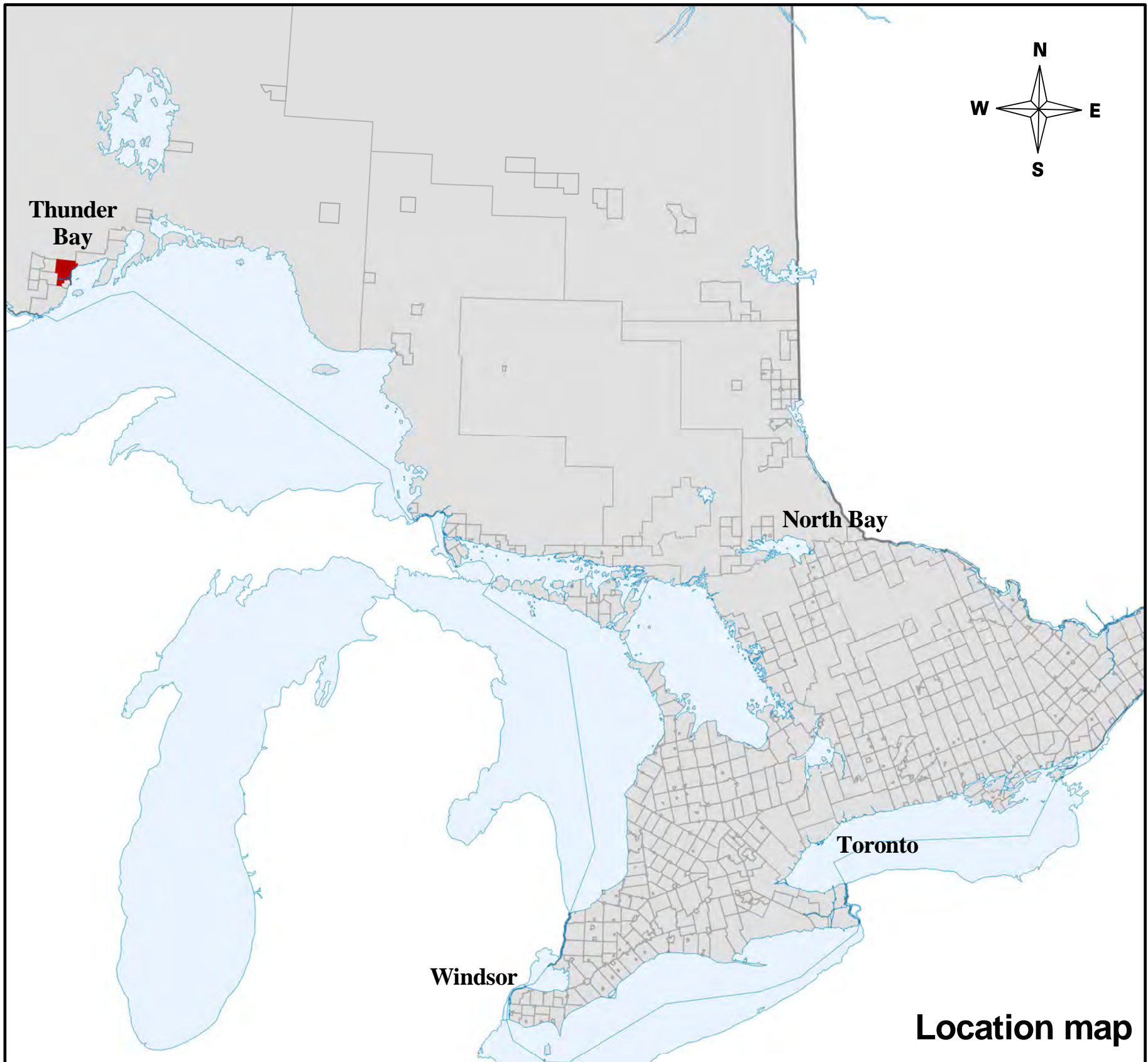


## Legend

- Enbridge Gas Pipeline Coverage Area
- City of Thunder Bay
- Roads
- Railways
- Municipal and Township Boundaries
- First Nation Boundaries



**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







## THE CORPORATION OF THE CITY OF THUNDER BAY

BY-LAW NUMBER 24 - 2003

A By-law to authorize a Franchise Agreement between The Corporation of the City of Thunder Bay and Union Gas Limited.

WHEREAS the Council of The Corporation of the City of Thunder Bay deems it expedient to enter into a Franchise Agreement with Union Gas Limited;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to the Municipal Franchises Act on the 10<sup>th</sup> day of December, 2002, has approved the terms and conditions upon which and the period for which the franchise 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 CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. The Franchise Agreement between The Corporation of the City of Thunder Bay and Union Gas Limited ("the Franchise Agreement"), in the form of Schedule "A" to this By-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. The Mayor and Clerk are hereby authorized and instructed on behalf of The Corporation of the City of Thunder Bay to enter into, execute under its corporate seal and deliver the Franchise Agreement.
3. The following By-law is repealed: By-law No. 178-1978 of The Corporation of the City of Thunder Bay, enacted and passed on the 13<sup>th</sup> day of February, 1979.
4. This By-law shall come into force and take effect upon the final passing thereof.

Enacted and passed this 10th day of February, A.D. 2003 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

*[Original Signed By Ken Boshcoff]*

\_\_\_\_\_  
Mayor

*[Original Signed By Judy Jacobson]*

\_\_\_\_\_  
Deputy City Clerk

Read a First and Second time this 10th day of February, A.D., 2003

Read a Third Time and finally passed this 10th day of February, A.D., 2003

## 2000 Model Franchise Agreement

---

THIS AGREEMENT effective this 10<sup>TH</sup> day of February, 2003

BETWEEN:

**THE CORPORATION OF THE CITY OF THUNDER BAY**

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 Municipality to the Corporation and to the inhabitants of the Municipality.

### **3. To Use Highways**

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

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

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

or

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

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



### **Part III – Conditions**

#### **5. Approval of Construction**

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



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

**6. As Built Drawings**

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

**7. Emergencies**

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



**8. Restoration**

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

**9. Indemnification**

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

**10. Insurance**

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



**11. Alternative Easement**

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

**12. Pipeline Relocation**

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



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

#### **Part IV - Procedural And Other Matters**

##### **13. Municipal By-laws of General Application**

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

##### **14. Giving Notice**

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

##### **15. Disposition of Gas System**

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



loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

**16. Use of Decommissioned Gas System**

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

**17. Franchise Handbook**

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

**18. Other Conditions**

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  
CITY OF THUNDER BAY**

Per: *[Original Signed By]*

\_\_\_\_\_  
Ken Boschoff, Mayor  
*BOSCHOFF*

Per: *[Original Signed By]*

\_\_\_\_\_  
~~XXXXXXXXXXXXXXXXXXXX~~  
~~M. Elaine Bannister, Clerk~~  
Judy Jacobson, Deputy City Clerk

**UNION GAS LIMITED**

Per: *[Original Signed By]*

\_\_\_\_\_  
Vice-President

*[Original Signed by Christine Jackson]*  
\_\_\_\_\_  
Assistant Secretary



Ontario Energy  
Board

Commission de l'Énergie  
de l'Ontario



RP-2000-0006  
EB-2002-0374

**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 Union Gas Limited for an order cancelling and replacing the existing Certificates of Public Convenience and Necessity for the City of Thunder Bay.

**Before:**

Art Birchenough  
Presiding Member

Paul Vlahos  
Member and Chair

## **ORDER GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

Union Gas Limited ("Union") filed a Letter dated June 10, 2002 (the "Application") with the Ontario Energy Board (the "Board") under the *Municipal Franchises Act*, R.S.O. 1990, c. M.55 as amended (the "Act") for an order cancelling the existing Certificates of Public Convenience and Necessity for the predecessor municipalities of the City of Thunder Bay (the City of Fort William (F.B.C. 70) and the City of Port Arthur (F.B.C. 71)) and replacing them with a Certificate of Public Convenience and Necessity for the new City of Thunder Bay. The Board assigned File No. RP-2000-0006/EB-2002-0374 to this Application.

The Board's Notice of Application was published on October 4, 2002. There were no intervenors. On November 15, 2002 the Board issued a Notice of Written Hearing. No party satisfied the Board that there was a good reason for not holding a written hearing. The replacement Certificate does not grant Union any additional rights to those it held under the predecessor certificates, and is requested by Union in order to recognize new municipal boundaries.

The Board found that, based on the evidence, granting the Application was in the public interest and issued a Decision and Order approving the Application, dated December 10, 2002.

**THE BOARD THEREFORE ORDERS THAT:**

1. A Certificate of Public Convenience and Necessity is granted to Union Gas Limited to construct works to supply gas in the City of Thunder Bay (EB-2002-0374).

**DATED** at Toronto, June 20, 2003.  
**ONTARIO ENERGY BOARD**

A handwritten signature in black ink, appearing to read 'P. O'Dell', is written over a horizontal line.

Peter H. O'Dell  
Assistant Board Secretary



**Resolution  
Committee of the Whole**



**Title:** Report R 125/2022 - Enbridge Gas - Notice of Application  
**Date:** Monday, November 14, 2022

---

**MOVED BY:** Councillor Rebecca Johnson  
**SECONDED BY:** Councillor Peng You

WITH RESPECT to Report R125/2022 (Infrastructure & Operations - Engineering), we recommend the form of draft by-law and franchise agreement, as appended to this report, be approved and authorizes the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act*;

AND THAT a request be sent to the Ontario Energy Board to 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 City of Thunder Bay is not necessary pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*;

AND THAT any by-laws necessary be presented to City Council for ratification.

**CERTIFIED TRUE COPY**  
[Original Signed By Dana Earle]  
\_\_\_\_\_  
Deputy City Clerk

**CARRIED**

# Corporate Report

<b>DEPARTMENT/ DIVISION</b>	Infrastructure & Operations - Engineering	<b>REPORT</b>	R 125/2022
<b>DATE PREPARED</b>	11/02/2022	<b>FILE</b>	
<b>MEETING DATE</b>	11/14/2022 (mm/dd/yyyy)		
<b>SUBJECT</b>	Enbridge Gas - Notice of Application		

## **RECOMMENDATION**

WITH RESPECT to Report R125/2022 (Infrastructure & Operations - Engineering), we recommend the form of draft by-law and franchise agreement, as appended to this report, be approved and authorizes the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act*;

AND THAT a request be sent to the Ontario Energy Board to 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 City of Thunder Bay is not necessary pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*;

AND THAT any by-laws necessary be presented to City Council for ratification.

## **LINK TO STRATEGIC PLAN**

This report supports the 2019-2022 Corporate Strategic Plan under the 'Renew' pillar to enable gas infrastructure to be constructed within the City's right-of-ways.

## **EXECUTIVE SUMMARY**

The Corporation of the City of Thunder Bay has an existing Franchise Agreement with Union Gas Ltd., now Enbridge Gas Inc. allowing them access to city right-of-ways to construct and maintain gas infrastructure. This agreement is expiring. It is recommended that the Corporation enter a new 20 year agreement.

## **DISCUSSION**

In 1979 the Corporation of the City of Thunder Bay and Northern and Central Gas Corporation Limited entered into a franchise agreement to distribute, store and transport



gas in the Municipality. This agreement was for a twenty year term. Extensions were granted to the agreement to August 13, 2002. During the extension period the Association of Municipalities of Ontario (AMO) established a working committee to review the Model Gas Franchise Agreement and met with the Gas companies to discuss and resolve a number of issues both sides had with the agreement. The Model Gas Franchise Agreement was amended to reflect the changes. Thunder Bay signed the Model Gas Franchise Agreement in February 2003.

The Model Gas Franchise Agreement has not materially changed. The term of the agreement is 20 years from the date of final passing of the by-law. If during the twenty year term of the Agreement the Model Franchise Agreement is changed, then on the 7<sup>th</sup> anniversary and on the 14<sup>th</sup> anniversary of the date of the passing of the by-law the Agreement shall be deemed to be amended to incorporate any changes.

The process to renew the agreement is for Council to approve a draft by-law and franchise agreement. Enbridge is expected to bring the application to the OEB, and provide notice to the public through the newspaper. The OEB would then hold a public hearing to authorize the terms, conditions, and period of the agreement, and dispense with the requirement of obtaining the assent of the electors. The by-law will then be brought back to Council for final approval and the old by-law repealed.

### **FINANCIAL IMPLICATION**

There are no financial implications with this report.

### **CONCLUSION**

It is concluded that Council should approve the draft by-law and franchise agreement attached and authorize the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act*.

It is also concluded that Council request 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 City of Thunder Bay is not necessary pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*.

### **BACKGROUND**

At the April 12, 2002, Committee of the Whole, Report R 2002.102 (Transportation & Works) - Union Gas Franchise Agreement was presented, recommending that the Corporation of the City of Thunder Bay enter into the Gas Franchise Agreement with Union Gas.

By-Law 24-2003 – A By-law to authorize a Franchise Agreement between The Corporation of the City of Thunder Bay and Union Gas Limited was enacted and passed February 10, 2003.

**REFERENCE MATERIAL ATTACHED:**

Attachment A – Draft By-law XX-20XX A By-Law to authorize a Franchise Agreement between The Corporation of the City of Thunder Bay and Enbridge Gas Inc.

Attachment B – Draft Franchise Agreement between The Corporation of the City of Thunder Bay and Enbridge Gas Inc.

**PREPARED BY: KAYLA DIXON, DIRECTOR ENGINEERING & OPERATIONS**

THIS REPORT SIGNED AND VERIFIED BY: (NAME OF GENERAL MANAGER)	DATE:
Kerri Marshall, General Manager – Infrastructure & Operations	November 9, 2022



**THE CORPORATION OF THE CITY OF THUNDER BAY**

**BY-LAW NUMBER \_\_\_\_\_**

**A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN  
THE CORPORATION OF THE CITY OF THUNDER BAY  
and  
ENBRIDGE GAS INC.**

**WHEREAS** the Council of the Corporation of the City of Thunder Bay 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 \_\_\_\_\_, 2022 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 City of Thunder Bay enacts as follows:

1. **THAT** the Franchise Agreement between the Corporation of the City of Thunder Bay 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 Mayor and City Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the City of Thunder Bay 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-law be hereby repealed:
  - By-law Number 24-2003 for the Corporation of the City of Thunder Bay, passed in Council on the 10<sup>th</sup> day of February, 2003.
4. **THAT** this by-law shall come into force and take effect on the date is it signed and sealed.

**THE CORPORATION OF THE CITY OF THUNDER BAY**

\_\_\_\_\_  
Albert Aiello, Acting Mayor

\_\_\_\_\_  
Krista Power, City Clerk

## **2000 Model Franchise Agreement**

---

THIS AGREEMENT effective this                      day of                      , 2022

BETWEEN:

**THE CORPORATION OF THE CITY OF THUNDER BAY**

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 Municipality to the Corporation and to the inhabitants of the Municipality.

### **3. To Use Highways**

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

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

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

or

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

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



### **Part III – Conditions**

#### **5. Approval of Construction**

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit 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 CITY OF THUNDER BAY**

Per:

---

Albert Aiello, Mayor

Per:

---

Krista Power, City Clerk

**ENBRIDGE GAS INC.**

Per:

---

Mark Kitchen, Director  
Regulatory Affairs

Per:

---

Nicole Lehto, Director  
Northern Region Operations





**Monday, November 14, 2022**

**Committee of the Whole - Special Session in the McNaughton Room at 6:00 p.m.**

Present:

- Councillor Albert Aiello
- Councillor Mark Bentz
- Councillor Shelby Ch'ng
- Councillor Andrew Foulds
- Councillor Cody Fraser
- Councillor Brian Hamilton
- Councillor Rebecca Johnson
- Councillor Brian McKinnon
- Councillor Kristen Oliver
- Councillor Aldo Ruberto
- Councillor Peng You

Officials:

- Krista Power, City Clerk
- Norm Gale, City Manager
- Patty Robinet, City Solicitor
- Karen Lewis, General Manager – Development & Emergency Services
- Emma Westover, Acting General Manager – Corporate Services & Long-Term Care
- Michael Grimaldi, Solicitor

**1. Committee of the Whole - Special Session**

Chair: Councillor Aldo Ruberto

**2. Disclosures**

None.

### **3. Reports of Municipal Officers**

#### **3.1 Establishment of Committee of the Whole - Closed Session**

At the September 12, 2022 Committee of the Whole meeting the following resolution was passed to establish a Committee of the Whole Closed Session meeting on November 14, 2022 at 6:00 pm.

MOVED BY: Councillor Andrew Foulds  
SECONDED BY: Councillor Aldo Ruberto

THAT a Committee of the Whole - Closed Session meeting be scheduled for Monday, November 14, 2022 at 6:00 p.m. in order to receive information pursuant to the *Municipal Act* (Section 239 (2)) relative to: (b) personal matters about an identifiable individual, including municipal or local board employees.

CARRIED

#### **Amendment - Establishment of Committee of the Whole - Closed Session**

MOVED BY: Councillor Kristen Oliver  
SECONDED BY: Councillor Albert Aiello

WITH RESPECT to the resolution to establish the Monday, November 14, 2022 Committee of the Whole – Closed Session, we recommend that the resolution be amended to include the following reasons:

- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED

#### **Amended - Establishment of Committee of the Whole - Closed Session**

MOVED BY: Councillor Andrew Foulds  
SECONDED BY: Councillor Albert Aiello

THAT a Committee of the Whole - Closed Session meeting be scheduled for Monday, November 14, 2022 at 6:00 p.m. in order to receive information pursuant to the *Municipal Act* (Section 239 (2)) relative to:

(b) personal matters about an identifiable individual, including municipal or local board employees.

(e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;

(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED

**Committee of the Whole - Closed Session in the McNaughton Room at 6:00 p.m.**

Present: Councillor Albert Aiello  
Councillor Mark Bentz  
Councillor Shelby Ch'ng  
Councillor Andrew Foulds  
Councillor Cody Fraser  
Councillor Brian Hamilton  
Councillor Rebecca Johnson  
Councillor Brian McKinnon  
Councillor Kristen Oliver  
Councillor Aldo Ruberto  
Councillor Peng You

Officials: Krista Power, City Clerk  
Norm Gale, City Manager  
Patty Robinet, City Solicitor  
Karen Lewis, General Manager – Development & Emergency Services  
Emma Westover, Acting General Manager – Corporate Services & Long-Term Care  
Michael Grimaldi, Solicitor

**1. Committee of the Whole - Closed Session**

Chair: Councillor Aldo Ruberto



## **1.1 Disclosures of Interest**

Councillor Cody Fraser declared a conflict relative to Board Appointment - Tbaytel Board of Directors as the applicant is known to him through his employment.

## **1.2 Reports of Municipal Officers**

### **1.2.1 Board Appointment - Tbaytel Board of Directors**

Confidential Memorandum from Councillor Brian McKinnon, Chair – Thunder Bay Synergy North/Tbaytel Recruitment Committee, dated November 8, 2022 relative to the above noted was distributed to Members of Council, City Manager, City Solicitor and General Manager – Corporate Services & Long-Term Care, City Treasurer only.

Councillor Cody Fraser declared a conflict and left the meeting room.

City Clerk Krista Power responded to questions.

It was consensus of Committee to proceed as directed.

The City Clerk advised that the recommendation relative to the above noted would be presented at the Committee of the Whole meeting to be held later in the evening.

Councillor Cody Fraser re-entered the meeting room.

### **1.2.2 Property Related Matter**

Joel DePeuter, Director - Development & Emergency Services and Devon McCloskey, Director - Planning Services entered the meeting room.

Confidential Memorandum from Michael Grimaldi, Solicitor, dated November 14, 2022 relative to the above noted was distributed to Members of Council, City Manager, City Solicitor and General Manager – Development & Emergency Services only.

Michael Grimaldi, Solicitor provided an overview and responded to questions.

**1. Committee of the Whole – Open Session in the S.H. Blake Auditorium at 6:30 p.m.**

Present:

- Councillor Albert Aiello
- Councillor Mark Bentz
- Councillor Shelby Ch'ng
- Councillor Andrew Foulds
- Councillor Cody Fraser
- Councillor Trevor Giertuga
- Councillor Brian Hamilton
- Councillor Rebecca Johnson
- Councillor Brian McKinnon
- Councillor Kristen Oliver
- Councillor Aldo Ruberto
- Councillor Peng You

Officials:

- Krista Power, City Clerk
- Norm Gale, City Manager
- Patty Robinet, City Solicitor
- Emma Westover, Acting General Manager - Corporate Services & Long-Term Care
- Karen Lewis, General Manager - Development & Emergency Services
- Kerri Marshall, General Manager - Infrastructure & Operations
- Kelly Robertson, General Manager - Community Services
- Tracie Smith, Director - Corporate Strategic Services
- Kayla Dixon, Director - Engineering & Operations
- Cory Halvorsen, Manager – Parks & Open Spaces
- Kathleen Cannon, Director – Financial Services
- Chantal Harris, Manager – Billing & Collections
- Gordon Stover, Committee & Meeting Management System Coordinator

**2. Open Session Operations**

Chair: Councillor Brian McKinnon

**3. Disclosures of Interest**

Councillor Kristen Oliver declared a conflict relative to Report 125/2022 - Enbridge Gas - Notice of Application as she is employed by Enbridge Gas.

Councillor Cody Fraser declared a conflict relative to Board Appointment - Tbaytel Board of Directors as the applicant is known to him through his employment.

**4. Confirmation of Agenda**

MOVED BY: Councillor Peng You

SECONDED BY: Councillor Trevor Giertuga

WITH RESPECT to the November 14, 2022 Committee of the Whole meeting, we recommend that the agenda as printed, including any additional information and new business, be confirmed.

CARRIED

**5. Presentations**

**5.1 2022 Mayor's Community Safety Awards**

Memorandum from Lee-Ann Chevrette, Community Safety & Well-Being Specialist Thunder Bay, dated November 3, 2022, requesting to provide a presentation relative to the above noted.

General Manager - Development & Emergency Services Karen Lewis, Acting Mayor Albert Aiello, Community Safety & Well-Being Chair - Jeff Upton and Community Safety & Well-being Specialist Lee-Ann Chevrette provided an introduction to the 2022 Mayor's Community Safety Awards and presented a recognition video.

The following individuals and organizations were recognized in the video for their efforts in making our community safer and more welcoming for everyone:



Community Hero Bryan Tucker

Young Leader Tisha Duncan

Outstanding Community Project Team DEK (DEK Foundation)

Outstanding Community Project Elevate NWO (Unsheltered Homelessness Project)

Outstanding Community Project Hospice Northwest (A Personal Lens on Grief)

Outstanding Community Project Niizhaayek Alliance

## **5.2 NorWest Community Health Centres**

Memorandum from Cynthia Olsen, Manager - Community Strategies, dated October 25, 2022, requesting to provide a presentation relative to the above noted, for information.

Juanita Lawson – CEO, NorWest CHC and Jennifer Lawrance – Director of Health Services, NorWest CHC appeared before Committee, provided a PowerPoint presentation and responded to questions.

## **6. Items Arising from Closed Session**

### **6.1 Board Appointment Recommendation – Tbaytel Board of Directors**

Confidential Memorandum from Councillor Brian McKinnon, Chair – Thunder Bay Synergy North/Tbaytel Recruitment Committee, dated November 8, 2022 relative to the above noted distributed separately Thursday, November 10, 2022 to Members of Council, City Manager, City Solicitor and General Manager - Corporate Services & Long-Term Care and City Treasurer only.

Councillor Cody Fraser declared a conflict relative to the above noted and refrained from discussing or voting on the following resolution.

MOVED BY: Councillor Aldo Ruberto

SECONDED BY: Councillor Peng You

WITH RESPECT to the recruitment of one individual to serve as Director on the Tbaytel Board of Directors, we recommend that Doug Shanks be appointed for the remainder of a 3 year term, expiring June 30, 2024, or

until such time as a replacement has been appointed.

CARRIED

The City Clerk advised that the above noted resolution will be presented at City Council to be held later in the evening and will require a two-thirds vote.

## **7. Reports of Municipal Officers**

### **7.1 Report R 125/2022 - Enbridge Gas - Notice of Application**

Report R 125/2022 (Infrastructure & Operations - Engineering & Operations) recommending the form of draft by-law and franchise agreement, as appended to this report, be approved and authorizes the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act* distributed separately on Thursday, November 10, 2022.

Correspondence received from Brian Lennie, Senior Advisor - Municipal and Stakeholder Engagement - Enbridge Gas, dated November 7, 2022, requesting to appear before Committee to provide a deputation relative to the above noted.

Councillor Kristen Oliver declared a conflict relative to the above noted and refrained from discussing or voting on the following resolution.

Brian Lennie, Senior Advisor - Municipal and Stakeholder Engagement - Enbridge Gas, Nicole Lehto, Director, Northern Region Operations and Michelle Samms - Enbridge Gas appeared before Committee via MS Teams, provided a PowerPoint presentation and responded to questions.

MOVED BY: Councillor Rebecca Johnson

SECONDED BY: Councillor Peng You

WITH RESPECT to Report R125/2022 (Infrastructure & Operations - Engineering), we recommend the form of draft by-law and franchise agreement, as appended to this report, be approved and authorizes the submission thereof to the Ontario Energy Board for approval pursuant to the provisions of Section 9 of the *Municipal Franchises Act*;

AND THAT a request be sent to the Ontario Energy Board to 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 City of Thunder Bay is not necessary pursuant to the provisions of Section 9(4) of the *Municipal Franchises Act*;

AND THAT any by-laws necessary be presented to City Council for ratification.

CARRIED

**CERTIFIED TRUE COPY**

*[Original Signed By Dana Earle]*

Deputy City Clerk

## **7.2 Report R 167/2022 - James Whalen Tug Recovery**

Report R 167/2022 (Infrastructure & Operations - Engineering & Operations) outlining the circumstances of the emergency, actions taken and budgetary adjustments relative to the above noted, for information only distributed separately Thursday, November 10, 2022.

City Manager Norm Gale provided introductory remarks.

## **8. Petitions and Communications**

### **8.1 Automated Speed Enforcement – Administration Update**

At the November 2, 2020 Committee of the Whole meeting, a resolution was passed recommending that Administration provide a report to Council with respect to the costs and timelines associated with implementing Automated Speed Enforcement. An extension to the due date was passed by Council on March 7, 2022.

Memorandum from Kayla Dixon, Director - Engineering & Operations, dated November 4, 2022, relative to the above noted.

MOVED BY: Councillor Brian Hamilton

SECONDED BY: Councillor Shelby Ch'ng

WITH RESPECT to the Memorandum from Kayla, Director – Engineering & Operations Division dated November 4, 2022, we recommend that the report back date relating to Outstanding Item No. 2020-048-INO (Automated Speed Enforcement) be changed from December 12, 2022 to February 28, 2022.

CARRIED

## **9. Outstanding Items**

## **9.1 Outstanding List for Operations**

Memorandum from City Clerk Krista Power dated October 31, 2022, providing the Operations Session Outstanding List, for information.

## **10. Open Session Community Services**

Chair: Councillor Shelby Ch'ng

## **11. Reports of Committees, Boards and Outside Agencies**

### **11.1 The District of Thunder Bay Social Services Administration Board**

Minutes of Meetings 12-2022, 13-2022 (Closed), 14-2022, 15-2022 (Closed), 16-2022 and 17-2022 (Closed) of The District of Thunder Bay Social Services Administration Board held on July 21, 2022, September 21, 2022, and October 3, 2022, for information.

### **11.2 Thunder Bay District Health Unit - Board of Health Minutes**

Minutes of Thunder Bay District Health Unit - Board of Health Meeting held on June 15, 2022 and September 21, 2022, respectively, for information.

## **12. Reports of Municipal Officers**

### **12.1 Report R 168/2022 - Preventing Unlawful Activities Within Facility Rentals**

At the April 25, 2022 Committee of the Whole meeting Report R 67/2022 (City Manager's Office - City Solicitor & Corporate Council) was presented. A resolution was passed directing Administration to review existing policies relating to rental of city facilities for public use which may be construed as illegal activities including but not limited to conversion therapy. Administration was directed to report back on or before September 12, 2022.

At the August 8, 2022 Committee of the Whole meeting, Memorandum from Leah Prentice, Director - Recreation & Culture dated July 29, 2022 was presented recommending that the report back date relating to review of policies, processes and practices to prevent unlawful activities within



rentals of public facilities be changed from September 12, 2022 to November 14, 2022.

Report R 168/2022 (Community Services - Recreation & Culture) providing information on existing policies, processes and practices, and the planned go-forward approach to prevent unlawful activities, such as conversion therapy, within a rental of a public facility, for information only.

**13. Petitions and Communications**

**13.1 Update on Enrolment in Canada Wide Early Learning Child Care System and Impacts to Municipal Child Care Operations**

Memorandum from Andrea Morrison, Manager - Central Support dated October 31, 2022, relative to the above noted, for information.

**14. Outstanding Items**

**14.1 Outstanding List for Community Services**

Memorandum from City Clerk Krista Power dated October 31, 2022, providing the Community Services Outstanding List, for information.

**15. Open Session Planning**

Councillor Aldo Ruberto

**16. Petitions and Communications**

**16.1 Request to Postpone Heritage Grant Program - Outstanding Item**

At the June 20, 2022, Committee of the Whole meeting, a resolution was passed relative to the development of a Heritage Grant Program and that Administration report back on or before December 19, 2022.

Memorandum from Devon McCloskey, Director - Planning Services, dated October 27, 2022, containing a recommendation to remove the Outstanding Item relative to the above noted.

MOVED BY: Councillor Trevor Giertuga

SECONDED BY: Councillor Cody Fraser

WITH RESPECT to the Memorandum from Devon McCloskey, Manager of Planning Services dated October 25, 2022, we recommend that Outstanding Item 2022-104-DEV (Heritage Grant Program) be removed from the outstanding list.

CARRIED

**17. Outstanding Items**

**17.1 Outstanding List for Planning Services**

Memorandum from City Clerk Krista Power dated October 31, 2022, providing the Planning Services Outstanding List, for information.

**18. Open Session Administration**

Councillor Mark Bentz

**19. Reports of Committees, Boards and Outside Agencies**

**19.1 Police Service Board Minutes**

Minutes of Meeting(s) 16-2022, 19-2022, 20-2022 and 22-2022 of the Thunder Bay Police Services Board, held on March 22, 2022, April 19, 2022, May 24, 2022 and June 28, 2022, for information.

**20. Reports of Municipal Officers**

**20.1 Report R 164/2022 - Uncollectable Accounts**

Report R 164/2022 (Corporate Services & Long Term Care - Revenue) seeking approval to write off uncollectible accounts which remain unpaid on the 2022 General Accounts Receivable files.

Confidential Memorandum from Chantal Harris, Manager – Billings & Collections, dated October 26, 2022, relative to Report R 164/2022 (Corporate Services & Long Term Care – Revenue) Uncollectable Accounts, distributed separately to Members of Council, City Manager, City Solicitor and General Manager – Corporate Services & Long Term Care and City Treasurer only on Thursday, November 10, 2022.

MOVED BY: Councillor Cody Fraser

SECONDED BY: Councillor Brian McKinnon

WITH RESPECT to Report R 164/2022 (Corporate Services & Long Term Care - Revenue), we recommend that the uncollectible accounts, which remain unpaid on the 2022 receivable files, be written off as follows:

General Accounts (including interest)	\$ 77,151.64
Municipal Child Care	\$ 486.69

AND THAT any necessary by-laws be presented to City Council for ratification.

CARRIED

**20.2 Report R 165/2022 - Follow-up Report – City of Thunder Bay 2019-2022 Corporate Strategic Plan**

Report R 165/2022 (City Manager's Office - Strategic Initiatives & Engagement) providing a report relative to Follow-up Report – City of Thunder Bay 2019-2022 Corporate Strategic Plan, for information.

**20.3 Report R 166/2022 - Budget Variance Report #3**

Report R 166/2022 (Corporate Services & Long-Term Care - Financial Services) reviewing year-to-date revenues and expenditures and completes a forecast of the City's financial position to year-end (December 31, 2022). The forecast is compared to the 2022 approved budget and presented to City Council, for information.

**21. Outstanding Items**

**21.1 Outstanding List for Administrative Services**

Memorandum from City Clerk Krista Power dated October 31, 2022, providing the Administrative Services Outstanding List, for information.

**22. New Business**

**22.1 Establishment of Committee of the Whole - Closed Session Meetings**

THAT a Committee of the Whole – Closed Session meeting be scheduled for Tuesday, November 15, Wednesday, November 16, Thursday, November 17, Tuesday, November 22, Wednesday, November 23 and

Thursday, November 24, 2022 at 5:00 p.m. in order to receive information pursuant to the *Municipal Act* (Section 239) relative to:

(3.1) the purpose of educating or training the members relative to City Council orientation;

AND THAT a Committee of the Whole – Closed Session meeting be scheduled for Tuesday, November 29, 2022 at 4:30 p.m. in order to receive information pursuant to the *Municipal Act* (Section 239 (2)) relative to:

(b) personal matters about an identifiable individual, including municipal or local board employees;

AND THAT a Committee of the Whole Closed Session meeting be scheduled for Monday, December 5, 2022 at 5:00 p.m. in order to receive information pursuant to the *Municipal Act* (section 239 (2)) relative to:

(a) the security of the property of the municipality or local board;

(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

(i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;

(j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or

(k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

(3.1) the purpose of educating or training the members relative to City Council orientation.

MOVED BY: Councillor Shelby Ch'ng

SECONDED BY: Councillor Albert Aiello



THAT a Committee of the Whole – Closed Session meeting be scheduled for Tuesday, November 15, Wednesday, November 16, Thursday, November 17, Tuesday, November 22, Wednesday, November 23 and Thursday, November 24, 2022 at 5:00 p.m. in order to receive information pursuant to the *Municipal Act* (Section 239) relative to:

(3.1) the purpose of educating or training the members relative to City Council orientation;

AND THAT a Committee of the Whole – Closed Session meeting be scheduled for Tuesday, November 29, 2022 at 4:30 p.m. in order to receive information pursuant to the *Municipal Act* (Section 239 (2)) relative to:

(b) personal matters about an identifiable individual, including municipal or local board employees;

AND THAT a Committee of the Whole Closed Session meeting be scheduled for Monday, December 5, 2022 at 5:00 p.m. in order to receive information pursuant to the *Municipal Act* (section 239 (2)) relative to:

(a) the security of the property of the municipality or local board;

(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

(i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;

(j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or

(k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

(3.1) the purpose of educating or training the members relative to City Council orientation.

CARRIED

**23. Adjournment**

The meeting adjourned at 9:02 p.m.

**Resolution  
City Council**



**Title:** Committee of the Whole Minutes  
**Date:** Monday, December 19, 2022

Schedule D(2)

---

**MOVED BY:** Councillor Andrew Foulds  
**SECONDED BY:** Councillor Kasey Etreni

THAT the Minutes of the following Committee of the Whole meeting, be adopted:

1. October 4, 2022 Committee of the Whole - Special Session;
2. November 14, 2022 Committee of the Whole;
3. November 16, 17, 22, 23, 24 Committee of the Whole - Closed Session;
4. November 29, 2022 Committee of the Whole;
5. December 5, 2022 Committee of the Whole;
6. December 6, 2022 Committee of the Whole - Closed Session;
7. December 12, 2022 Committee of the Whole.

**CARRIED**

CERTIFIED TRUE COPY  
[Original Signed By Dana Earle]  
\_\_\_\_\_  
Deputy City Clerk

**THE CORPORATION OF THE CITY OF THUNDER BAY****BY-LAW NUMBER \_\_\_\_\_****A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN  
THE CORPORATION OF THE CITY OF THUNDER BAY  
and  
ENBRIDGE GAS INC.**

**WHEREAS** the Council of the Corporation of the City of Thunder Bay 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 \_\_\_\_\_, 2022 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 City of Thunder Bay enacts as follows:

1. **THAT** the Franchise Agreement between the Corporation of the City of Thunder Bay 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 Mayor and City Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the City of Thunder Bay 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-law be hereby repealed:
  - By-law Number 24-2003 for the Corporation of the City of Thunder Bay, passed in Council on the 10<sup>th</sup> day of February, 2003.
4. **THAT** this by-law shall come into force and take effect on the date is it signed and sealed.

**THE CORPORATION OF THE CITY OF THUNDER BAY**

---

Albert Aiello, Acting Mayor

---

Krista Power, City Clerk



## **2000 Model Franchise Agreement**

---

THIS AGREEMENT effective this                      day of                      , 2023

BETWEEN:

**THE CORPORATION OF THE CITY OF THUNDER BAY**

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 Municipality to the Corporation and to the inhabitants of the Municipality.

### **3. To Use Highways**

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

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

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

or

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

### **Part III – Conditions**

#### **5. Approval of Construction**

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit 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 CITY OF THUNDER BAY**

Per:

---

Ken Boshcoff, Mayor

Per:

---

Krista Power, City Clerk

**ENBRIDGE GAS INC.**

Per:

---

Mark Kitchen, Director  
Regulatory Affairs

Per:

---

Nicole Lehto, Director  
Northern Region Operations