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SENT BY E-MAIL AND COURIER

Toronto, October 18, 2008

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, Suite 2700  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**RE: Union Gas Application to Discontinue Service (EB-2008-0273)  
Pre-filed Evidence of Natural Resource Gas Limited ("NRG")**

We are counsel to NRG in the above-noted matter.

Please find enclosed the Pre-Filed Evidence of David Pallett (Neal, Pallett & Townsend) and the Pre-filed Evidence of NRG. An electronic copy of same was provided to Board counsel and all parties to the proceeding today, and hard copies will be brought to the hearing in Aylmer on Monday, October 20, 2008.

At the commencement of the oral hearing on Monday, NRG will be raising as a preliminary matter the relevance of the pre-filed evidence filed by the two intervenors in this proceeding: the Town of Aylmer (the "Town") and the Integrated Grain Processors Co-operative Inc. and IGPC Ethanol Inc. ("IGPC"). It is NRG's position that both the Town's and IGPC's evidence are unrelated to the matters that are the subject of this proceeding, and clearly fall outside the Issues List approved by the Board. As a result, both the Town's and IGPC's pre-filed evidence should be inadmissible.

**Town of Aylmer Evidence**

The Town filed the Pre-filed Evidence of Margaret Heather Adams on behalf of the Town of Aylmer (the "Town") on Wednesday afternoon, after the conclusion of the Issues Day conference. Ms. Adams, by her own admission, states in her pre-filed evidence that:

“The Town has no knowledge of, and takes no position with respect to the issues regarding the contracts and alleged breach of contracts between Union and NRG in this matter.”

Since the Town has no knowledge and takes no position on these contracts, its pre-filed evidence serves to carry out the Town’s broad communication strategy with the OEB. Accordingly, NRG submits that the Town’s evidence should be rejected by the OEB and removed from the record.

According to the Town’s pre-filed evidence, the purpose of the Town’s evidence is to communicate to the Board the Town’s perspective on “the broader context and recent developments in its relationship with NRG”, as part of a larger communications strategy that is described in the Town’s Council Resolution of October 14, 2008, where Council approved the following:

“Intervening at OEB hearings which involve NRG to ensure the OEB is aware of issues of concern to the Town and its residents generally identified as follows:

- Quality of infrastructure;
- Rates not competitive;
- Reluctance to serve new commercial/industrial customers;
- Significant customer service issues;
- Financial issues raised by customers and suppliers are troubling; and
- Deterrent to local economic development.”

Based on this Council Resolution, it is apparent that the Town intends to raise general concerns with NRG at every OEB hearing that involves NRG, regardless of the scope or nature of the hearing and regardless of the relevance of those issues to the proceeding. This is an abuse of process, and is exactly what the Town has done in this proceeding by introducing evidence on: (a) the Town’s dissatisfaction with NRG’s security deposit policy; (b) the Town’s dissatisfaction with the relationship between NRG and IGPC; and (c) the level of NRG’s distribution rates. While there may be forums before the OEB that are appropriately suited to address the Town’s issues as they arise, this proceeding has nothing to do with any of the issues addressed in the Ms. Adam’s evidence. The purpose of this proceeding is to deal with the issue of financial assurances under the Bundled-T Gas Contract and M9 Delivery Contract between Union and NRG. The Town’s evidence speaks to none of these issues, yet NRG has had to expend significant resources responding to the broad variety of issues raised. The Town should not be permitted to abuse the Board’s process in this way either in this proceeding, or those in the future.

Should the OEB allow the Town's pre-filed evidence to form part of the record in this proceeding, NRG has replied to the misleading and harmful allegations made by the Town in NRG's Pre-filed Evidence.

### **IGPC Evidence**

IGPC's Pre-filed Evidence was only filed at 3:00 pm on Friday afternoon. As with the Town's evidence, IGPC's evidence relates to matters wholly irrelevant to the matter at hand. In the IGPC evidence, IGPC confirms Union "will no longer be seeking an order under subsection 42(1) of the *Act*" to discontinue service to NRG, and that "there is no prospect of Union discontinuing service to NRG as a result of this proceeding". Based on its own evidence, IGPC has no interest in the proceeding and no standing to introduce evidence. IGPC's interests will not be affected by the relief sought, even if it is granted.

IGPC also has confirmed that any allegations made by Union concerning the financial integrity or creditworthiness of NRG have no relationship to the construction and operation of the 28.5 kilometre, six-inch diameter natural gas pipeline and ancillary facilities (the "Pipeline") constructed by NRG to provide service to IGPC.

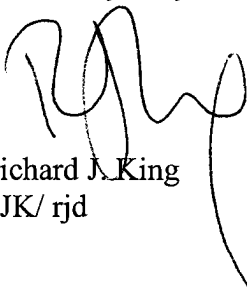
As a result, the IGPC evidence is not relevant to any of the issues raised by Union on the application, and is not admissible. If it is accepted as evidence, NRG will have no choice but to respond. There is a lengthy record of correspondence and conduct that demonstrates the IGPC evidence to be incomplete, misleading and in some aspects simply false.

In the event that the Town's and IGPC's pre-filed evidence is considered admissible and allowed to form part of the record, cross-examination will be conducted by Mr. Lawrence Thacker of Lenczner Slaght Royce Smith Griffin LLP, who will act as NRG's co-counsel with me on Monday and Tuesday. Mr. Thacker has been NRG's external counsel on most matters related to IGPC and dealings with the Town, and can more readily address this evidence. After reviewing the Town's and IGPC's evidence, Mr. Thacker advises that he expects to be approximately two hours cross-examining Ms. Adams and approximately one hour cross-examining IGPC's witness.

**Costs**

Finally, if the evidence of the Town and IGPC is admitted, NRG requests that time be set aside at the end of the hearing to permit NRG to make submissions to recover the significant legal costs incurred by NRG in responding, on a last minute basis, to allegations that are entirely outside the scope of the matters in issue in the Union application.

Yours very truly,



Richard J. King  
RJK/ rjd

cc: Mark Kitchen (Union)  
Michael Penny (Torys)  
Heather Adams (Aylmer)  
Philip Tunley (Stockwoods)  
Jim Grey (IGPC)  
Scott Stoll (Aird & Berlis)  
Michael Millar (OEB)  
Lawrence Thacker (Lenczner)  
Neil McKay (OEB)  
Nabih Mikhail (OEB)  
Mark Bristoll (NRG)



**ONTARIO ENERGY BOARD**

**IN THE MATTER OF the *Ontario Energy Board Act*,  
1998, S.O. 1998, c.15 (Sched. B);**

**AND IN THE MATTER OF an Application by Union  
Gas Limited for an order granting it leave to  
discontinue gas transmission to Natural Resource Gas  
Limited.**

**EB-2008-0273**

**PRE-FILED EVIDENCE**

**of**

**NATURAL RESOURCE GAS LIMITED**

**October 18, 2008**

1. This evidence is organized into three parts, to reply to the pre-filed evidence of Union Gas Limited (“Union”), the Town of Aylmer (“Town”) and the Integrated Grain Processors Cooperative Inc. and IGPC Ethanol Inc. (“IGPC”).

2. The evidence in response to the Town and IGPC is offered notwithstanding NRG’s position that the concerns raised in the Town’s evidence and IGPC’s evidence are wholly outside the scope of this hearing. NRG’s counsel will raise this argument as a preliminary matter. In the event that the Town’s evidence and IGPC’s evidence are admitted into the record, though, NRG will introduce the evidence in response as set out herein.

### **RESPONSE TO PRE-FILED EVIDENCE OF UNION**

3. Union has stated that there are only two reasons for their determination that NRG’s creditworthiness has become unsatisfactory:

- NRG’s 2006 Financial Statements were accompanied by a qualified auditor’s opinion.
- in 2006, NRG pledged all of its present and future assets, property and undertaking to the Bank of Nova Scotia (“BNS”) pursuant to a demand loan.

Each of these issues is addressed in turn. In addition, we respond to Union’s assertions about NRG’s alleged failure to meet with Union on this issue.

#### **(a) NRG’s 2006 Financial Statements**

4. Union’s 2007 credit review of NRG was based on NRG’s 2006 financial statements, which contained a qualified Auditor’s Report. Union states that this was “cause for concern” (Union Pre-filed Evidence, para. 12). Union notes that the reason for the auditor’s qualified opinion was that NRG had Class C retractable shares outstanding (with a redemption value of about \$13.5 million) and that Canadian GAAP rules require the **retractable shares** to be presented on the balance sheet as a liability (Union Pre-filed Evidence, para. 13). According to

Union, decreasing NRG's equity by \$13.5 million and increasing NRG's liabilities by \$13.5 million would mean a negative shareholder's equity "which provides no protection for creditors" (Union Pre-filed Evidence, para. 14).

5. Union's credit reviews of NRG prior to 2007 (which were based on NRG's financial statements from 2005 and earlier) did not cause Union concern, and Union assigned an unsecured credit limit of \$3 million to NRG (Union Pre-filed Evidence, para. 11).

6. Union's "cause for concern" here rests on what Union considers to be a material change in NRG's financial statements as of the 2006 audited financial statements.

7. NRG's reply to this is three-fold:

- the presentation of NRG's financial statements changed in form slightly in 2006, but NRG's underlying share capital and financial condition has not changed at all in recent years;
- the retractable nature of the Class C shares has been postponed for five years, at the request of the Bank of Nova Scotia (i.e., the shares cannot be retracted by NRG for five years); and,
- the Ontario Energy Board ("OEB" or "Board") has in two previous NRG rate cases (for rate years 2005 (EB-2004-0167) and 2007 (EB-2005-0544)) scrutinized NRG's share capital and considered the Class C shares to be equity.

### **NRG's Share Capital Has Remained Unchanged Since 2003**

8. The share transactions that created the Class C retractable shares occurred in 2003, as referred to in Note 7 of NRG's 2003 financial statements (Appendix A to Pre-filed Evidence of David Pallett):

*“During the year the company issued 134,614.18 Class C shares for \$100 each.”*

9. The Class C shares are described in Note 7 of NRG’s 2003 financial statements as:

*“Unlimited Class C shares non-voting, with a preferential 7% non-cumulative dividends redeemable **and retractable** at \$100 per share.”*

10. The nature of these Class C shares has not changed since being issued in 2003.

11. Moreover, NRG’s election to treat the retractable shares as equity instead of a liability in their financial statements has also not changed since the time of the issuance of the shares. In NRG’s 2004 and 2005 financial statements, the following is found in the Notes to the Financial Statements:

*“Share Capital*

*The company has elected to apply the differential reporting measurement option allowed for the accounting for retractable shares and, therefore has presented as equity instead of disclosing as a liability, the issued and outstanding Class A and Class C shares of the company.”*

(NRG 2004 Audited Financial Statements, p. 7; Appendix B to Pallett Evidence)

(NRG 2005 Audited Financial Statements, p. 7; Attachment 2 to Union Supplemental Evidence)

12. In 2006, the qualification was moved from the Notes to the Financial Statements to the Auditor’s Report, and reworded to state:

*“The company has issued and outstanding Class C shares with a redemption value of \$13,461,418. Canadian generally accepted accounting principles require that the company present and classify shares that are retractable at the option of the shareholder as a liability on the balance sheet. The company has presented these shares as part of the Shareholder’s equity. If the shares were*

*classified as liabilities, then the total liabilities would increase by \$13,461,418 and share capital would decrease by \$13,461,418."*

(NRG 2006 Financial Statements, p. 1 – Auditor's Report; Exhibit 1 to Union's Original Pre-Filed Evidence)

13. Although the presentation of how the shares were treated was altered, the substantive nature of the Class C shares and how they were treated from an accounting perspective did not change in 2006, and have not changed to date since issuance of the shares in 2003.

### **Union Has Known of the Retractable Nature of NRG's Shares since 2003**

14. The retractable nature of NRG's Class C shares has been explicitly set out in NRG's financial statements since their issuance in 2003. The accounting treatment of those shares has been explicitly set out in NRG's financial statements since 2004.

15. Union's annual credit review includes an examination of NRG's financial statements every year. Since 2003, then, Union would have been aware of the retractable nature of the Class C shares. Since 2004, NRG would have been aware of NRG's election under GAAP to report these shares as equity. Union would have reviewed these statements as part of their annual credit review, and in NRG's 2005 and 2007 rate cases (which Union regularly intervenes in, and which contain the financial statements for the years 2003, 2004 and 2005 in evidence).

16. Nothing new has occurred in NRG's 2006 audited financial statements to change this, yet Union did not express any concern about this until 2007.

### **NRG's Class C Shares Have Been Postponed**

17. By way of an Assignment, Postponement and Subordination Agreement dated August 22, 2008 (the "Postponement Agreement"), the shareholder of NRG's Class C shares has postponed its right to retract the Class C shares. The Postponement Agreement states as follows:

*"From the date hereof and until such time as all indebtedness, obligations and liabilities of the Borrower to the Bank under the Credit Agreement or arising under any other credit agreement between the Bank and the Borrower are repaid in full, the Subordinator agrees:*

*(a) to postpone the payment and satisfaction by the Borrower of all shareholder loans, dividends and other rights to withdraw capital now or hereafter due and owing by the Borrower to the [Class C shareholder] and all interest accruing thereon (the "Subordinated Obligations") in favour of the Bank, and to subordinate the Subordinated Obligations to all indebtedness, liabilities and obligations of the Borrower to the Bank."*

(Postponement Agreement, page 1; Appendix C to Pallett Evidence)

18. Thus, NRG's Class C shareholder cannot currently retract them, and will not be able to retract them as long as the BNS loan remains in place (which is at least five years from September 2008).

### **The Class C Shares are Equity**

19. The GAAP rules governing how retractable shares are reported under GAAP do not change the fact that NRG's Class C Shares are in fact shares. They represent the legal paid-up capital of NRG, and the equity contributed by the shareholders to the business.

20. The Board has through the past two NRG rate cases treated the Class C shares as equity.

**(b) NRG's Pledging of Assets to BNS**

21. Union's second reason for considering NRG's creditworthiness to have become unsatisfactory is that NRG has pledged all of its assets to BNS pursuant to the demand loan with BNS (Union Pre-filed Evidence, para.15). Because of this, Union asserts, there would not be sufficient current assets to repay the cost of the gas NRG borrows from Union by March 31 of the heating season (Union Pre-filed Evidence, para.16). Again, Union paints this as a material change in NRG's circumstances that occurred in 2006. NRG's response to this is four-fold:

- it is very common in secured financings to have a general security agreement ("GSA") pledging all the borrower's assets to the lender;
- as evidence of this, and the fact that nothing has changed in respect of NRG's financial circumstances, NRG's previous loan had a GSA;
- the existence of a GSA is not indicative of the creditworthiness of any company; and,
- the creditworthiness of NRG has not deteriorated.

Each of these is addressed in turn.

**GSAs are Very Common in Secured Financings**

22. GSAs are common. It is not unusual for financings (even of very large companies) to be secured by the lender. Many large, household name companies have pledged all of their assets as security. For example, Canwest Limited Partnership's credit facilities are secured "by substantially all of its directly held assets", which suggest a GSA or similar security. A very quick website search of some companies' financial statements reveal that many other large, well-know companies such as TransAlta, Hudson's Bay, Toys R Us, Circuit City, Emco, United Rentals, and Wajax, indicate secured financings as well.

23. Attached as Appendix A to this evidence is an excerpt from Canwest's financial statements.

**NRG's Assets Have Always Been Pledged under a GSA (since 1994)**

24. Prior to the re-financing and establishment of the BNS loan, NRG's main debt financing was through a Loan Agreement with the Imperial Life Assurance Company of Canada ("Imperial Life"). This NRG financing was in place for approximately 12 years – from 1994 to 2006, when it was replaced by the BNS loan. The Imperial Life loan had a GSA whereby NRG pledged all of its assets to Imperial Life (attached as Appendix D, Pallett Evidence).

25. The existence of a GSA was disclosed in every financial statement issued by NRG since 1994. For example, in the Notes to the Financial Statements for the 2003 financial statements, Note 6 dealing with long-term debt states:

*"The following has been pledged as security for the Imperial Life loan:*

*a) fixed and floating charge over all of the assets of the company;  
b) general security agreement;  
c) general assignment of accounts receivable; and,  
d) assignment of all risk insurance over the assets of the company."*

(Page 13, NRG's 2003 Financial Statements; Appendix A to Pallett Evidence)

26. NRG's 2004 and 2005 financial statements contain virtually identical statements.

27. NRG's 2006 and 2007 set out a very similar statement in respect of the GSA in relation to the BNS loan:

*"The company has pledged the following as security against the term note payable, the operating line of credit, and the revolving line of credit:*



- a) General assignment of book debts*
- b) General Security Agreement over all of the present and future personal property and undertaking of the company*
- c) Security under Section 427 of the Bank Act with appropriate insurance coverage assigned to the Bank;*
- d) Demand Debenture for \$15,000,000 secured by a first fixed and floating charge over all assets including, but not limited to, the Certificate of Public Convenience and Necessity and all Municipal Franchise Agreements, with replacement cost fire insurance coverage, loss if any, payable to the Bank as mortgagee.”*

(Page 14, NRG’s 2007 Financial Statements; Attachment 1 to Union Supplemental Evidence)

28. It seems highly unlikely that none of Union’s annual credit reviews would have caught this.

#### **Existence of a GSA is Not Indicative of Creditworthiness**

29. The existence (or non-existence) of a GSA does not mean a company is less creditworthy. A GSA simply grants a creditor security over the borrower’s assets. Lenders will not grant credit to a borrower if they do not believe the borrower is creditworthy (regardless of what security is granted).

30. Furthermore, a borrower may choose to grant security (even if it could obtain credit on an unsecured basis) for two reasons: (a) the granting of security may result in less restrictive covenants; and (b) the granting of security may provide the borrower with a better rate.

#### **Union is Alone in Considering NRG’s Financial Position to Have Deteriorated**

31. No other entity with whom NRG has dealings has raised issues with NRG’s creditworthiness. For example, NRG purchases approximately \$4 million of natural gas annually from two suppliers: Shell Energy and Energy Source Canada. Neither have required security

from NRG – and it is very common to be required to post collateral under these types of contracts.

32. If anything, NRG's financial position has consistently improved since the company was purchased by Mr. Graat in 1979. Since then, the company has changed from a smaller system serving approximately 2,000 customers to today's company which services nearly 7,000 customers. That is a 350% increase in customers in 20 years. The company is much larger and on a more sound financial footing today than ever in the past. Indicative of that is the fact that NRG was able to re-finance with BNS.

33. NRG has never missed a payment to Union under the contracts in question.

(d) **NRG's Alleged Failure to Meet Union on this Issue**

34. Union's pre-filed evidence makes a number of allegations about NRG's reluctance to meet with Union about the financial assurance issue. This issue should be clarified. NRG was consistently ready to meet with Union provided Union detailed its exposure calculation for NRG (i.e., how it arrived at the financial assurance calculation). Union did not provide NRG with this information.

**RESPONSE TO PRE-FILED EVIDENCE OF THE TOWN OF AYLMER**

35. The Pre-filed Evidence of Ms. Adams on behalf of the Town raises the following five issues, none of which relate to the issue to be determined in the Union application:

- the fairness of NRG's security deposit policy;
- the level of NRG's distribution rates; and,

- NRG's ability to attract new customers to the Town;
- the Town's argument that any resultant rate impacts ought to be borne by NRG's shareholder not the ratepayer; and,
- NRG's attempts to meet with the Town to resolve concerns.

Each is dealt with in turn.

**(a) Security Deposits**

36. NRG's security deposit policy for residential accounts is set out at Appendix B. It can generally be summarized as follows:

*A credit report will be obtained for all accounts. The General Manager will review the credit report and determine if and how much of a deposit will be required. The maximum deposit that may be required is an amount equal to 2.5 months of the average of the account's three highest months of consumption.*

*Once a security deposit has been received the Customer must satisfy the following requirements in order to receive a 50% security deposit refund:*

*The customer must have a full 12 months of clean payments (i.e. no late payments, NSF Cheques, etc.),*

*The Customer cannot have received any disconnection notices or been disconnected within the last 24 months,*

*If the customer's payment history has no late payments within the last 12 months a 50% of the security deposit will be refunded, and*

*If the customer's payment history has no late payments within the last 24 months the balance of the security deposit will be refunded.*

37. NRG's security deposit policy for residential accounts is similar to Union's, which is set out at Appendix C.

38. Both NRG's and Union's policies provide them with the discretion to require a security deposit based on the risk associated with the account, up to a maximum limit of three months consumption for Union and 2.5 months consumption for NRG.

39. The OEB is currently in the process of considering amendments to the Gas Distribution Access Rule (the "GDAR") (EB-2008-0313), which would establish a standardized regulatory framework for the collection and administration of security deposits by gas distributors. Parties have the opportunity to comment on the Board's proposed amendments to the GDAR by November 19, 2008. According to the Town's Council Resolution dated October 14, 2008 referred to above, the Town's communications strategy includes:

*"...endorsing the OEB proposed amendment to the Gas Distribution Access Rule provide direction to natural gas distributors regarding customer security deposits..."*

Therefore, the Town has acknowledged in this proceeding through its pre-filed evidence that it will attempt to address its concerns with NRG's security deposit policy through the GDAR amendment proceeding.

40. NRG's current security deposit policy set out at Appendix B generally conforms with the proposed GDAR amendments.

41. Curiously, an endorsement by the Town of the proposed GDAR amendments suggests an endorsement of NRG's security deposit policy - the very same policy the Town now purports to condemn.

42. Further, NRG met with the Town's Mayor and Ms. Adams on September 11, 2008. At that meeting, NRG provided them with a copy of its security deposit policy, and discussed the policy with the Mayor and Ms. Adams, requesting the Town to provide comments to NRG on the policy. Neither during nor since that meeting has NRG received any feedback on its security

deposit policy from the Town. In fact, NRG was surprised and disappointed to see the issue raised by the Town in this proceeding.

43. The petition included in the Town's pre-filed evidence should be disregarded by the OEB for the following reasons:

- only 12 of the 457 names were provided;
- of the 12 names provided, 4 are not customers of NRG;
- there are several instances where there is more than one signatory per account;
- some of the 12 customers have a recent late payment history;
- some of the 12 customers have had their security deposit policy refunded; and,
- NRG has never received a copy of the petition, so any refunds occurred in the normal course of NRG's business (i.e., it was not dependent on any petition).

(b) **NRG's Gas Distribution Rates**

44. NRG's last cost of service application for gas distribution rates (for fiscal 2007) was filed on March 28, 2006 (EB-2005-0544). In that proceeding, NRG's rate application was scrutinized by the OEB, Board Staff and intervenors.

45. The Town was served with the Notice of Application in that proceeding, but chose not to intervene. The OEB ultimately approved gas distribution rates for NRG that are in effect today. Pursuant to section 36 of the *Ontario Energy Board Act, 1998* (the "OEB Act"), the Board is required to set rates that are just and reasonable. Thus, NRG's current distribution rates are just and reasonable.

46. NRG's gas distribution rates are also in compliance with the Franchise Agreement between the Town and NRG (included in the Town's pre-filed evidence):

*"7. The rates to be charged and collected and the terms of service to be provided by the Company for gas supplied by it under this franchise shall be the rates and the terms of service approved or fixed by the Ontario Energy Board..."*

47. According to the Town, NRG's gas distribution rates are not competitive with Union's rates. As part of NRG's last cost of service application (EB-2005-0544), a public forum to allow NRG ratepayers to voice their concerns was held in the Town on July 18, 2006 (the "Public Forum"). Customer concerns about the difference in rates between Union and NRG were raised at the Public Forum.

48. In the Board's Decision with Reasons dated September 20, 2006 (EB-2005-0544), the Board summarized this concern and NRG's reasons for the rate differences:

*NRG responded to customer concerns about difference in rates between Union and NRG at the oral hearing in Toronto and provided a detailed explanation. NRG's analysis indicated that its cost of providing gas to a residential customer is approximately 20% higher than a customer in Union's southern operations area and 8% higher than a customer in Union's eastern operations area. With respect to NRG's seasonal customers such as tobacco curing customers, the cost is 17% higher than for a similar Union customer.*

*The Company provided a number of reasons for the difference as outlined below:*

- The volumes consumed by an average NRG customer are considerably less than the volumes consumed by an average Union customer. This is true for all classes of customers and essentially makes the NRG system a more costly system to operate.*
- NRG has a higher return on equity as compared to Union.*

- *Union has embedded debt costs of 7.68% in its rates as compared to NRG's total debt cost of 8.45%.*
- *NRG has a relatively new rate base as compared to Union. This means that its meters, regulators and mains have not depreciated to the same extent as Union's. In other words, NRG is carrying a higher net book value in its rate base.*
- *NRG's franchise area is essentially rural with no urban centres while Union has large urban centres in its Southern Operations Zone including Hamilton, London and Windsor. This means that NRG has to put more pipes in the ground to get to the same number of customers. This is one of the reasons why Union's other operating areas that are sparsely populated reveal smaller differences in rates when compared to NRG.*

49. The OEB accepted NRG's explanations for the rate difference between NRG and Union:

*With respect to differences in rates between Union and NRG which was raised at the town hall meeting, the Board instructed NRG to provide an analysis. That analysis explains the differences to the satisfaction of the Board. There are significant differences in operating costs which flow directly from the nature of the territory in which the two companies operate. Essentially NRG enjoys smaller economies of scale than Union. NRG also has newer plant and therefore higher level of capital costs including a higher level of equity and debt.*

50. The concern now raised by the Town in this proceeding was carefully considered and rejected by the OEB at the Public Forum. At that time, the OEB accepted NRG's explanations for the rate differences in its last rate case. Moreover, the Town is raising these after choosing not to intervene in that rate case. The OEB's analysis and findings were correct and binding. It appears as though the Town will continue to raise this same concern in every OEB proceeding (for rates or otherwise) that NRG is involved in. This is a key element of the Town's broad communication strategy with the OEB. However, the OEB should not permit the Town to manipulate the OEB process for self-interested political purposes.

51. It is worth noting that NRG's distribution charges are about the same as those for an Enbridge customer that uses 2,000 cubic metres of gas per year. Both utilities are in the 14 to 15 cent per cubic metre range for delivery (NRG's monthly charge is lower).

52. According to the Town, the OEB approved rate increases for NRG in March, June and September of 2008, but the Town did not receive notice in regard to the corresponding hearings. NRG wishes to point out that the March, June and September rate increases pertained to commodity cost adjustments under the QRAM methodology. Further, the Town is a customer of NRG and receives the same notices as any other customer.

53. Commodity cost adjustments are beyond NRG's control and generally track the trend of commodity costs of the other two utilities. In fact, NRG's current gas commodity rate (38.9444 cents per cubic metre) is lower than Union's (39.3075 cents per cubic metre).

54. Further, in those proceedings, NRG was directed by the Board to provide notice of those proceedings to intervenors in EB-2005-0544 (NRG's last cost of service proceeding). As mentioned above, the Town did not intervene in that proceeding, and was therefore not entitled to notice in the subsequent QRAM proceedings.

55. The Town also suggested that NRG's gas distribution rates are high relative to NRG's history of investment in the maintenance of its distribution infrastructure in the Town. According to the Town:

*"In recent years, the Town has not been advised of any distribution system improvements in the pipelines within the Town's boundaries. Since our franchise agreement requires that we be notified we must assume that no maintenance or improvement of these underground facilities has been carried out."*



(Town Pre-filed Evidence, Report to Council)

56. NRG carries-out maintenance activities almost every day to maintain the reliability of its distribution system, in accordance with good utility practice.

57. The franchise agreement does not require NRG to provide notice to the Town of day-to-day maintenance. Rather, notice is generally required: (i) for work (exclusive of service connections from the street main to the property line) that interferes with the traveling surface of any highway; and (ii) before laying or installing new (or renewal) mains, pipes and works (exclusive of service connections from the street main to the property line) (Section 4 of Franchise Agreement, Town Pre-File Evidence).

58. The Town's assertion that no maintenance has been carried out is incorrect. Moreover, the Town's purported assumption that no maintenance is being done is contrary to the plain, express words of the franchise agreement and the actual knowledge of the Town. It is an improper attempt to mislead the Board.

59. In fact, NRG's system is relatively new compared to Union's, as acknowledged by the Board and set out in the quotation from the OEB's decision in EB-2005-0544 above:

*NRG has a relatively new rate base as compared to Union. This means that its meters, regulators and mains have not depreciated to the same extent as Union's.*

60. Therefore, it is reasonable to expect that NRG's system requires less maintenance than that of the other two utilities.

(c) **New Commercial/Industrial Customers**

61. The Town argues that NRG's record of support for new industrial development in the Town of Aylmer has been poor. Specifically, the Town refers to two examples (NRG has not been apprised by the Town or anyone else of any other specific customers that have chosen to not invest in Aylmer because of NRG being the gas supply). The first is NRG's conduct in connection with the development of an ethanol plant by IGPC. The second is a brief reference in the Town's Report to Council to "complaints from a business constructing a new facility about the unreasonableness of NRG in its requirements in order to provide natural gas service to the new facility – subsequently company used propane" (Town Pre-filed Evidence, Report to Council, p. 2).

62. With respect to the latter example, the Town has completely misstated the facts surrounding this customer (the "Customer").

63. In dealing with the Customer, NRG made every effort to support the development of its new facility. NRG acted reasonably and did not impose any unreasonable requirements on the Customer in offering to provide natural gas service. Despite this, it was the Customer's preference to instead use propane at the facility because of their longstanding relationship with a propane supplier, which made it possible for the Customer to obtain propane at a more favourable price. NRG is not aware of any complaints related to its dealings with the Customer in connection with this facility.

64. With respect to the IGPC facility, NRG has conducted its business in a manner that has sought to balance the need to act as a commercially responsible and prudent utility (connecting a new company with no financial history that would triple NRG's throughput) with the objective of supporting the development of the IGPC facility.

65. The evidence of Ms. Adams is incomplete and misleading in its description of NRG's conduct. For instance, she alleges that NRG "inexplicably" sought additional payments that resulted in delays to the project (Town Pre-filed Evidence, para.11). As the Board is well aware, these matters have been the subject of prior proceedings before the Board and prior decisions and orders of the Board (discussed somewhat in the next section of this evidence).

66. The "additional payments" sought by NRG did not result in any delays to the project. The payments referred to by Ms. Adams related to the security deposit required from IGPC. This matter was the subject of EB-2006-0243, in which the Board defined the central issue as being "**IGPC's failure to deliver credit** and the dispute as to the proper amount of that letter of credit" (EB-2006-0243, Motion Hearing Transcript, February 28, 2008, p.138, line 20). The delays were caused solely by IGPC's refusal to provide security to NRG.

67. These deficiencies continue to the present day. IGPC to date has failed to fully commission its own ethanol facility.

68. As such, it was not an "inexplicable" effort on the part of NRG to obtain additional payments that caused delays to the project, as alleged by Ms. Adams. Moreover, Ms. Adams was present at the February 28 proceedings and is well aware of what actually transpired and the Board's findings.

69. Moreover, NRG performed all of its obligations relating to the construction of the pipeline servicing the IGPC facility. The agreed-upon in-service date was initially July 1, 2008 and NRG had its work completed by July 3, 2008, but IGPC was not ready to accept delivery then. NRG has since July 3, 2008 been ready to deliver to IGPC, but IGPC has consistently been the source of delay for several reasons including:

- on August 20, the commissioning of the facility could not proceed because IGPC had not purged its system;
- on August 25, the commissioning could not proceed because NRG's inspection of the IGPC facility revealed Code infractions for virtually all of IGPC's equipment (including their hot water heater and furnace)(see Appendix D hereto);
- on September 4, IGPC requested inspection of their hot water heater but NRG's inspection on September 5<sup>th</sup> revealed it still to be non-compliant;
- NRG was asked to visit IGPC's facility on September 15 because of water in the gas line (to determine whether the source was from IGPC or NRG), and it was determined that IGPC had connected a water line to their gas line;
- Lakeside is now temporarily booked for the week of October 25 to install the permanent custody transfer station which should be followed by a NRG inspection;
- after that (and not before), NRG will be able to do a final cost accounting to IGPC.

**(d) Rate Impacts of Financial Assurance/New Contract Date**

70. If NRG is required to provide the financial assurance being requested by Union, this cost (which is associated with gas supply to NRG's customers) would normally be passed on to NRG's customers unless that cost was imprudently incurred. Although we have not had time to do a detailed rate impact analysis, our rate consultant (Mr. Randy Aiken) advises us that the rate impacts would be in the ballpark of:

- \$8 per year for residential customer;
- \$35 per year for a small commercial customer;

- \$68 per year for a grain dryer;
- \$656 per year for a large commercial grain dryer;
- \$1,100 per year for the high school (Large R3 customer).

71. If NRG is required to move its contract date to April 1, then NRG would have gas in inventory as an asset typically included in rate base. Based on a \$10 per GJ cost of gas and previous NRG gas usage figures, the resultant rate impacts are very close to those above (for financial assurance).

**(e) NRG Attempts to Meet with the Town to Resolve Concerns**

72. On June 13, 2008, NRG, through counsel, formally requested an opportunity to meet with the Town to discuss the renewal of NRG's franchise and commence the franchise renewal process. NRG had previously made requests of Heather Adams for a meeting. On June 11, Ms. Adams told NRG that she was unable to provide a meeting date and time.

73. On June 17, Ms. Adams responded advising that the Town would not meet with NRG until "immediately after natural gas is being provided by NRG to site [sic] of the Town's newest business, IGPC Ethanol Inc."

74. On June 20, NRG responded repeating its request for an opportunity to meet with the Town and confirming that construction of the Pipeline was well underway and was expected to be completed by July. NRG specifically wanted to determine if the Town had any concerns about the renewal of NRG's franchise so that NRG could address them immediately.

75. On July 8, the Town responded through counsel again refusing to set a date for the meeting.

76. On August 11, NRG through counsel again repeated its previous requests for an opportunity to meet with the Town to discuss the franchise renewal process.

77. The exchange of correspondence referred to above is attached at Appendix Q.

78. NRG has demonstrated its efforts to maintain an open and productive relationship with the Town, and a willingness to meet with the Town to resolve any concerns it might have. Despite repeated requests, the Town refused for over two months to meet with NRG and never advised NRG of any concerns about the renewal of its franchise. In those circumstances, NRG is surprised that the Town has now chosen the Union proceeding as the forum to raise these concerns that it has specifically refused to discuss with NRG.

#### **RESPONSE TO PRE-FILED EVIDENCE OF IGPC**

79. In the IGPC Evidence, IGPC confirms that the applicant Union “will no longer be seeking an order under subsection 42(1) of the *Act*” to discontinue service to NRG, and that “there is no prospect of Union discontinuing service to NRG as a result of this proceeding”.

80. Based on its own evidence, IGPC has no interest in the proceeding and no standing to introduce evidence. IGPC’s interests will not be affected by the relief sought, even if it is granted.

81. IGPC has also confirmed that any allegations made by Union concerning the financial integrity or credit worthiness of NRG have no relationship to the construction and operation of the 28.5 kilometre, six-inch diameter natural gas pipeline and ancillary facilities (the “Pipeline”) constructed by NRG to provide service to IGPC.

82. As a result, the IGPC Evidence is not relevant to any of the issues raised by Union on the application, and is not admissible.

83. The IGPC Evidence presents a false and misleading picture of the relationship between NRG and IGPC, and fails to disclose IGPC's:

- (a) repeated defaults;
- (b) failures to comply with its obligations owed to NRG; and
- (c) unnecessarily litigious approach to managing the relationship with NRG.

84. IGPC's conduct as outlined below has contributed to unnecessary legal and other costs incurred by NRG, for which IGPC is liable.

**(a) Financing the Pipeline**

85. Pursuant to the Pipeline Cost Recovery Agreement dated as of January 31, 2007 ("PCRA") (Appendix E) among NRG and IGPC, NRG and IGPC agreed to construct the Pipeline on certain terms and conditions. The OEB approved the PCRA and granted NRG leave to construct by Decision and Order dated February 2, 2007.

86. As a regulated utility whose stakeholders include commercial and industrial consumers, customers and municipalities, NRG has an obligation to ensure that any transaction it enters into does not expose it to inappropriate financial liabilities and/or other unacceptable risks. Accordingly, the purpose and intent of the PCRA was to ensure that NRG would at all times be fully secured for all costs related to the construction of the Pipeline. Acknowledging this fundamental principle, the OEB approved the PCRA and other documents necessary to enable NRG and IGPC to work together to construct the Pipeline.

**(b) Letter of Credit**

87. The PCRA provides for NRG to be fully secured for all costs, obligations and risks by way of letters of credit. There are two letters of credit required:

- (a) Customer Letter of Credit (Section 7.1); and

(b) Delivery Letter of Credit (Section 7.3).

88. Article 7.1 of the PCRA provides that IGPC will, prior to NRG ordering the pipe and stations, provide NRG “an irrevocable letter or letters of credit (“Customer Letter of Credit”) in an amount equal to the quoted cost of the pipe and the stations minus any payments made by the Customer to the Utility in respect of the pipe and the stations.”

89. IGPC failed to comply with its obligations under Article 7.1. IGPC never delivered a Customer Letter of Credit.

90. IGPC’s failure to provide the Customer Letter of Credit caused numerous delays with construction. For example, NRG was unable to order components and materials from Lakeside Controls Process Controls Ltd. (“Lakeside Controls”) for the stations, and IGPC refused to pay Lakeside Controls directly the amounts it required to deliver components and materials according to the construction schedule.

91. Article 7.3 of the PCRA provides that prior to the award of the construction agreement by NRG, IGPC will provide to NRG an irrevocable Letter of Credit (“Delivery Letter of Credit”) in an amount equal to the difference between the Revised Estimated Capital Cost and the Revised Estimated Aid-to-Construct.

92. As of February 28, 2008, despite repeated requests by NRG, IGPC refused to provide NRG with the Delivery Letter of Credit.

93. The failure to provide the Delivery Letter of Credit put NRG in a compromised position. Any default by IGPC in the payment of money owed would have had repercussions not only for NRG stakeholders, but also for ratepayers. That is, if NRG were forced to absorb a default, the rates paid by NRG customers would have to be increased. It was fundamentally unfair to place the risk of this project on the shoulders of NRG customers.

94. By letter dated February 15, 2008 (Appendix F), counsel for NRG pointed out that an earlier January 31, 2008 letter – outlining the proposed terms and conditions of the proposed Delivery Letter of Credit – was intended to “form the basis for good faith negotiations towards mutually acceptable terms and conditions for a letter of credit”.



95. Instead of responding to NRG's February 15 proposal, which was provided by NRG at IGPC's specific request, IGPC delivered a 3 volume "Motion Record" to the OEB that contained numerous false and misleading statements. On February 28, 2008, the OEB held a hearing in Aylmer.

**(c) The February 28, 2008 OEB Hearing**

96. The OEB stated in its Decision rendered on February 28, 2008 (EB-2006-0243) that IGPC has failed to deliver the required Delivery Letter of Credit:

"The central issue is, first and foremost, IGPC's failure to deliver credit and the dispute as to the proper amount of that Letter of Credit"  
(Transcript of Proceedings of OEB Hearing held February 28, 2008, T. 138).

97. Despite the OEB's ruling, it was not until April 2008 that IGPC provided the required Delivery Letter of Credit to NRG. IGPC had been in default of its obligations owed to NRG continuously until April 2008. Nonetheless, NRG proceeded with the design and construction of the Pipeline throughout that period, despite having an absolute contractual right to terminate the Pipeline due to IGPC's ongoing default and breach of its contractual obligations owed to NRG.

98. Notwithstanding IGPC's failure to provide security, NRG contracted for and started construction on the Pipeline (in the amount of \$3 million) to keep the project moving forward. This was a \$3 million exposure that NRG took for IGPC's project.

**(d) Union Gas**

99. As a result of IGPC's failure to provide the required Delivery Letter of Credit to NRG, NRG was unable to pay amounts demanded by Union as aid-to-construct for a 1.6 kilometre extension that was an integral part of the Pipeline located in the Union franchise area. This was recognized by the OEB. When NRG demonstrated that the complaints of Union Gas were caused solely by IGPC's default, the OEB directed IGPC to pay the required amount to Union directly. That solution was suggested by NRG, because NRG did not wish to have its progress impaired by IGPC's default of its financial obligations.

100. Subsequently, after being ordered to do so by the OEB, IGPC paid Union \$736,000 as an Aid-To-Construct and delivered a Letter of Credit to Union in the amount of \$73,100. The uniqueness of the situation was caused solely by IGPC's default and breach of its contractual obligation to provide NRG with the Delivery Letter of Credit. IGPC simply refused or failed to comply with its financial obligations.

**(e) Union Gas and Lakeside**

101. Despite IGPC's failure to provide NRG with the Customer Letter of Credit and the consequent breach of the PCRA, NRG continued to move forward with construction of the Facility. NRG obtained quotes from both Union Gas and Lakeside Process Controls for essential components of the pipeline construction that were required to be purchased in advance to ensure timely delivery. NRG forwarded details about the quotes to IGPC as it acquired that information, and conveyed the requests for payment as well.

102. The PCRA does not specifically contemplate a system whereby NRG makes arrangements with subcontractors and asks IGPC for payment to fulfill the contracts. That is because under the PCRA, NRG was required to have received, by that stage, the Customer Letter of Credit from IGPC, thus enabling NRG to remit the payments directly to the subcontractors without delay. However, because IGPC refused to deliver the Customer Letter of Credit, NRG was required to seek *ad hoc* financing or security from IGPC for each advance payment or liability that it incurred to keep the construction on the required timeline.

103. These delays and frustrations were exacerbated by IGPC's refusal to cooperate with NRG. NRG initially asked IGPC to pay directly to Union the \$700,000 it required. IGPC refused to do so. It was not until after the OEB's February 28 decision that IGPC finally made the required payments to Union.

104. The inefficiency inherent in such a process was evident in the inevitable delays in reviewing invoices, requisitioning payments and remitting those payments through multiple parties. Despite NRG's best efforts to relay information as soon as possible, all parties ended up feeling that they were not accorded sufficient time to deal with the demands placed upon them. However, these delays were all caused by IGPC's refusal to provide the Letters of Credit it was contractually bound to deliver.

**(f) IGPC Fails to Pay Security Deposit**

105. A history of negotiations between NRG and IGPC about the security deposit IGPC is required to pay to NRG was set out in detail in a letter dated August 15, 2008 (Appendix G).

106. By letter dated July 8 (Appendix H), NRG issued an invoice to IGPC for the security deposit required pursuant to the Gas Delivery Agreement dated January 30, 2007 ("GDA").

107. By letters dated July 10 and 17 (Appendix I), NRG advised IGPC that the security deposit was required to secure amounts payable by IGPC to NRG. The pipeline was completed and fully commissioned by July 10 and NRG had performed all of its obligations relating to the construction of the pipeline.

108. To accommodate IGPC, NRG had previously agreed with IGPC that the in-service date would be July 15. As a result, IGPC was required to pay NRG all delivery charges commencing July 15. For that reason, IGPC was required to pay the security deposit to NRG by July 15 regardless of whether IGPC was ready to receive gas on that day.

109. NRG again requested that IGPC pay the security deposit. IGPC again refused to pay the security deposit.

110. On July 17, NRG again repeated its request that IGPC pay the security deposit required under the GDA. NRG and IGPC had several discussions subsequently about the form and timing of the delivery of the security deposit. IGPC advised NRG that it was financially unable to pay the security deposit due to limitations on its ability to draw down cash due to the terms and conditions of its credit facility.

111. On July 28, IGPC told NRG that it would provide a letter of credit that could be cashed immediately so that NRG would be in the same position as if IGPC had paid a cash deposit.

112. Subsequently, IGPC demanded that any security paid by IGPC be segregated in a special account and not be accessed by NRG for any purpose until IGPC defaults. On August 13, before NRG could respond to IGPC, IGPC delivered a letter of credit in the amount of \$232,666.84.

113. At no time between July 8 and August 13 did IGPC ever provide NRG with a copy of the proposed letter of credit so that NRG could review its terms and conditions. To the contrary,

IGPC had advised that it was prepared to pay a cash deposit, but simply could not do so until the next regularly scheduled draw down against its credit facility at the end of July.

114. If NRG had known IGPC was refusing to pay the security deposit in cash, it would have demanded an opportunity to review the proposed letter of credit.

115. The letter of credit delivered by IGPC on August 13 contains numerous deficiencies. For example, the letter of credit expires in December 2008. Clearly, the amounts required to be secured will be owing for many years beyond 2008. Accordingly, the current form of letter of credit is not acceptable to NRG.

116. On August 14, 2008 (Appendix J), IGPC, through counsel, responded.

117. By letter dated August 15, 2008 (Appendix G), NRG responded to the new allegations raised by IGPC. As mentioned earlier, NRG was ready to commission the IGPC facility throughout July, but was unable to do so due to technical problems that are the fault of IGPC's (failure to purge lines, water contamination of lines, and non-complaint equipment). IGPC is still not ready to be commissioned.

118. On September 17, 2008 (Appendix K), NRG provided IGPC with a proposed form of Letter of Credit.

119. On September 24, 2008 (Appendix L), IGPC, through counsel provided its comments on NRG's proposed draft Letter of Credit.

120. On September 24, 2008 (Appendix M), NRG provided its response to IGPC on the draft Letter of Credit, and provided a revised draft Letter of Credit.

121. To date, IGPC has not yet provided NRG with the required security deposit in a form acceptable to NRG. This is yet another example of IGPC's breach of the PCRA. Despite being in a position to terminate service, NRG has continued to provide service to IGPC continuously since the agreed in-service date of July 15, except where specifically directed by IGPC not to deliver gas.

(g) **IGPC's Refusal to Pay NRG's Invoice**

122. On January 2, 2008, NRG forwarded its invoice (Appendix N) to IGPC for payment in accordance with the PCRA. Under the PCRA, IGPC is required to pay NRG for all its "reasonable internal, consulting and third party expenses incurred", which explicitly includes "consultant, legal, construction and commission" costs.

123. The fees covered by the invoice included reasonable legal fees paid by NRG to Lenczner Slaght and Ogilvy Renault, as well as consulting fees necessary to protect its NRG stakeholders and to enter into appropriate subcontracts. IGPC rejected this invoice and complained about every aspect of it, including that the legal bills were "not executed". IGPC's refusal to pay what it has committed to paying is further evidence of the frustrations NRG is encountering at every turn, making it difficult to justify continuing with the process. It also forces NRG to question whether IGPC is truly committed to adhering to the PCRA.

124. By letter dated February 22, 2008 (Appendix O), NRG responded fully to IGPC's concern about the NRG invoice of January 2.

NRG has now had an opportunity to fully review your letter of January 9, 2008. I will respond to your comments in the order raised in your letter.

You assert that the invoices of Lenczner Slaght LLP and Ogilvy Renault "are not executed". Attached are copies of the signed invoices from Lenczner Slaght LLP and signed cover letters from Ogilvy Renault. These invoices were rendered to NRG by its solicitors, for work done in connection with the IGPC pipeline project. Whether or not IGPC has paid the amounts invoiced, NRG is liable to pay those amounts. In any event, NRG has paid in full the invoices of Lenczner Slaght and Ogilvy Renault in full.

You criticized the invoices because they "do not attempt to characterize the nature of the amounts" claimed. The legal work done is plainly stated in the detailed time dockets set out in each of the solicitors' invoices. All of the work done by the solicitors was done solely in connection with the IGPC pipeline project. This is clear on the face of the invoices. There is no need to further characterize anything. The work done was "work required to plan, design, construct, install, test and commission the Utility connection facilities."

**Section 3.3(b) of the Pipeline Cost Recovery Agreement dated January 31, 2007 ("PCRA") requires that IGPC will pay NRG "for reasonable internal, consulting and third party expenses incurred in the prior calendar month within fifteen (15) Business Days of receiving such invoice". Paragraph 3.4(b) of the PCRA confirms that those costs**

include, but are not limited to, “overhead, engineering, surveying, consultant, legal, major materials (pipe, metres, major equipment, heating equipment costs), easement, internal and external construction and commission and costs”.

IGPC is liable to pay the costs incurred by NRG pursuant to the PCRA.

Previous invoices rendered by NRG have been paid. NRG followed exactly the same process as it has for previous invoices, by providing you with copies of the invoices for costs incurred by third party advisors or contractors. They are all reasonable costs payable under the PCRA. IGPC’s failure to pay those costs is a breach of its obligations owed to NRG under the PCRA.

...

The fees and expenses incurred for work done by Lenczner Slaght LLP relate to legal work, legal services and other strategic and project management advice rendered to NRG solely in connection with the construction of the IGPC pipeline. All of the services provided by Lenczner Slaght LLP to NRG were related to “pipeline work”. IGPC is required to pay NRG all of its costs associated with the IGPC pipeline construction project.

...

The fees and expenses incurred for work done by Ogilvy Renault LLP for NRG are required to be paid in full by IGPC under the PCRA. Since the commencement of this project, NRG has billed IGPC for its reasonable costs incurred in connection with the construction of the IGPC Pipeline. Paragraph 3.3(b) of the PCRA specifically provides that IGPC is required to pay NRG “for reasonable internal, consulting and third party expenses”. The amounts invoiced by NRG are reasonable, internal expenses which IGPC is required to pay. The hourly rate charged by NRG of \$295 per hour is less than the fees charged by most of the third party contractors to NRG for which NRG has paid and is required to be paid under the PCRA.

...

IGPC appears to be incapable of complying with its financial obligations. It has repeatedly demonstrated either a lack of financial capacity or a simple unwillingness to comply with its obligations to advance funds to NRG or to third party contractors to NRG for the purchase of raw materials and services required to ensure the pipeline project proceeds on a timely basis.

These delays have been caused by its lenders, who apparently are unwilling to allow IGPC to pay amounts it is specifically obligated to pay under the PCRA, within the time required for payment. These are issues between IGPC and its lenders. They in no way mitigate or limit IGPC’s obligation to NRG. In any event, the suggestion that the delays were caused by NRG’s conduct is simply false.

For example, IGPC has failed to pay amounts owing to Union Gas under the Aid-to-Construct provisions. In order to assist IGPC, NRG has obtained several extensions to the deadlines imposed by Union Gas. Yet IGPC refuses to pay the amounts owing and instead chooses to let deadline after deadline lapse.

Similarly, NRG has obtained extensions for IGPC to pay amounts owing to Lakeside Controls. However, for no good reason, IGPC has again refused to pay the amounts owing to Lakeside Controls when required. By its refusal to pay, IGPC has caused a delay in the delivery by Lakeside Controls of components required to complete the pipeline.

Whether this is caused by IGPC's management, or its lender's refusal to authorize the release of funds, it is in no way caused by any act or omission of NRG. NRG is not responsible for IGPC's financial inability or refusal to pay amounts that IGPC is required to pay under the PCRA.

...

IGPC's conduct suggests that it does not have the financial resources to complete the project. Certainly its recent conduct suggest that it is either unwilling or unable to pay amounts due and owing when required to ensure the construction projects proceeds along the timelines required.

IGPC's inability to obtain the finance required to complete the pipeline construction project, or even to ensure that it proceeds along the timelines agreed to in the PCRA, is solely the responsibility of IGPC. NRG has no responsibility for IGPC's inability to obtain the financing required to complete the project, or its refusal to pay amounts payable to NRG under the PCRA on a timely basis.

**(h) Final Accounting**

125. Final Accounting cannot be completed until such time as the custody transfer station has been completed and NRG has received copies of all invoices for services paid by IGPC on behalf of NRG. It was only necessary for services to be paid for by IGPC on behalf of NRG because of IGPC's inability or unwillingness to provide NRG with the required aid-to-construct funds. Otherwise, NRG would have paid for the services itself.

**(i) Delay / Moving Forward**

126. IGPC was in breach of the PCRA from October 2007 to April 2008. Despite this continuing failure, NRG did everything possible to continue with the project, and ensured that the project could proceed. By letter dated February 22, 2008 (Appendix P), NRG described the continuing and deliberate breaches of the PCRA by IGPC:

“IGPC has absolutely failed to comply with its obligations under Article 7.1 and, as a result, IGPC is in breach of the PCRA. Moreover, IGPC’s failure to comply with Article 7.1 has caused delays with construction, and may cause additional delays in the future. For example, despite repeated warnings, IGPC has not provided the letter of credit to NRG, so that NRG can order components and materials from Lakeside Process Controls Ltd. (“Lakeside”) for the stations, and has failed to pay Lakeside directly the amounts required by Lakeside to deliver components and materials in time to allow construction to proceed in a timely manner.

As you know, under Section 3.7 of the PCRA, given IGPC’s failure to make payments required and failure to provide the letter of credit required under Section 7.1, NRG has the right to elect not to proceed further with any of its obligations under the PCRA. Moreover, if NRG elects to exercise this right, the PCRA expressly provides that NRG “shall not be liable for any liabilities, damages, losses, payments, costs or expense that may be incurred by [IGPC] as a result”.

To date, NRG has been proceeding with its obligations under the PCRA and moving forward with construction, despite IGPC’s failure to comply with its obligations under the PCRA. NRG is doing so in order to cooperate with IGPC and move the project forward as fast as possible. However, NRG has obligations to all of its stakeholders and ratepayers and cannot continue with this process indefinitely, given IGPC’s continuing and deliberate failures to comply with its obligations under the PCRA.”

127. The Pipeline was completed by NRG as agreed by July 3, 2008.

**(j) IGPC Fails to Complete Construction by the Agreed Date**

128. Throughout the design and tendering stages, IGPC repeatedly alleged that NRG was incapable of completing the project on time. As a result, at the February 28, 2008 hearing, IGPC demanded that NRG commit to a fixed date for the completion of the Pipeline. NRG was willing to do so, provided that IGPC commit to a fixed date to complete its ethanol facility, or agree to pay for the delivery of gas commencing on the fixed date. IGPC agreed.

129. Accordingly, NRG and IGPC agreed at the February 28, 2008 hearing that the in-service date would be July 15, 2008. Based on that agreement, IGPC was required to commence making payments to NRG for gas on July 15, 2008 whether or not IGPC had completed its ethanol facility.

130. NRG demanded a commitment to a fixed in-service date, because NRG was very concerned based on IGPC’s past defaults, delays and failures that IGPC would not complete its



ethanol facility by the agreed date. NRG would then be in the position of having incurred unnecessary costs to ensure completion by a specific date, only to face a loss of revenue due to IGPC's failure to complete the ethanol facility by that same date.

131. NRG completed and commissioned the Pipeline on July 3, 2008, well before the agreed in-service date of July 15, 2008. By contrast, IGPC failed to complete the construction and commissioning of its ethanol facility by July 15, 2008.

132. Pursuant to the agreement, NRG delivered an invoice to IGPC for the minimum quantity of natural gas commencing on July 15, 2008.

133. IGPC's liability to pay for the minimum quantity of natural gas commencing on the in-service date was caused solely by IGPC's inability to complete the construction and commissioning of its own ethanol facility in a timely and competent manner, and by July 15, 2008.

134. IGPC seems to expect NRG and ultimately NRG's ratepayers to pay for its own lack of adequate financing, construction mismanagement, and commissioning failures. NRG was simply trying to ensure that the interests of all of its ratepayers are protected by insuring that NRG did not suffer a revenue shortfall due to IGPC's conduct.

**(k) Storage Charge for Excess Pipe**

135. Communications have been going back and forth for some time to arrange for delivery of the anodes and samples pipe to IGPC. It is NRG's understanding that this will occur on October 21, 2008. IGPC does not have the capacity to pick up the pipe and is arranging for NRG to deliver the pipe.

# Appendix A

**CANWEST LIMITED PARTNERSHIP  
(FORMERLY "CANWEST MEDIAWORKS LIMITED PARTNERSHIP")  
INTERIM CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE THREE AND NINE MONTHS ENDED  
MAY 31, 2008 AND MAY 31, 2007  
(UNAUDITED)**

## 8. LONG TERM DEBT

	As at May 31, 2008	As at August 31, 2007
Senior Secured Credit Facilities <sup>(1)</sup>	802,085	841,170
Senior Subordinated Unsecured notes	387,943	422,480
Senior Subordinated Unsecured Credit Facility	74,132	75,000
	<u>1,264,160</u>	<u>1,338,650</u>
Effect of foreign currency swap	-	14,100
Long term debt	<u>1,264,160</u>	<u>1,352,750</u>
Less portion due within one year	<u>4,629</u>	<u>5,000</u>
Long term portion	<u>1,259,531</u>	<u>1,347,750</u>

The terms and conditions of the long term debt are the same as disclosed in the August 31, 2007 consolidated financial statements.

As described in note 3, the Limited Partnership has included debt issuance costs in the initial fair value of the related long term debt. Accordingly, as at September 1, 2007, long term debt was decreased by \$20.0 million.

(1) As at May 31, 2008, the Limited Partnership had drawn \$87.0 million (August 31, 2007 - \$85.0 million) on its revolver and had available \$161.4 million (August 31, 2007 - \$164.4 million), net of letters of credit of \$7.6 million (August 31, 2007 - \$0.6 million). This facility matures on July 13, 2012 and is subject to certain restrictions.

Under its Senior Secured Credit Facilities, the Limited Partnership is required to maintain a fair value of interest rate swaps below a prescribed threshold of \$250 million.

As at May 31, 2008, unamortized debt issuance costs of \$18.3 million (net of accumulated amortization of \$2.0 million) are included in long-term debt.

The Senior Secured Credit Facilities noted above are secured by substantially all of the Limited Partnership's directly held assets including the assets of the Limited Partnership, Canwest (Canada) Inc. and Canwest Publishing Inc.

# Appendix B



## NATURAL RESOURCE GAS LIMITED

Supporting Your Natural Gas Lifestyle

### **SECURITY DEPOSIT CALCULATION (NEW GAS APPLICATIONS)**

When a new customer walks through the door and applies for a new gas hookup, the customer's information is given to the Credit/Collections Department. Once approval from the customer to pull a credit report is obtained via signature, a credit report is pulled and reviewed.

**If** the customer's credit report shows that they have a Credit Beacon Score of over 680 and a Credit Utilization Score under 50%, then Natural Resource Gas Limited can waive the security deposit entirely.

New customers coming in to hook up existing gas accounts for gas service -

Calculate the security deposit based on **2.5** times the average of the 3 highest months of MCF consumption of the address that the customer is applying for gas. The receptionist will then inform the customer as to how much the security deposit will be based on the calculation above or if it is waived if the customer's meet the above criteria.

### **SECURITY DEPOSIT POLICY**

#### **SECURITY DEPOSIT REVIEWS ON ANNIVERSARY OF ACCOUNTS**

In reviewing security deposits, we require our customer's to meet the following requirements:

- 1.) If the customer's payment history has no late payments within 12 months= **50% security deposit refund.**
- 2.) If the customer's payment history has no late payments within 24 months= **100% security deposit refund.**
- 3.) If the customer has a disconnection notice within either timeframe, or a late payment, than 0% of the security deposit will be returned. The customer must then have a full 12 months of clean payment history in order to qualify for the 50% refund.



## NATURAL RESOURCE GAS LIMITED

Supporting Your Natural Gas Lifestyle

### RESIDENTIAL SECURITY DEPOSIT CONTRACT

#### **How does our Security Deposit program work? Why does it exist?**

*Thank you for choosing natural gas as your energy source!* NRG takes great pride in being a financially responsible provider of natural gas in our community. Protection of rates and costs associated with servicing our community are our number one priority. As such, the introduction of security deposits is a necessary step to try to protect both NRG & our gas customers from increased rates resulting from non paying customers.

**Security Deposits are not a prepayment of gas.**

#### **When do Security Deposits Apply?**

Security deposits are requested for all new customers – both commercial & residential. The amount of the deposit is determined based on usage history applicable to the specific address in which gas service is installed or will be installed. The security deposit can be held indefinitely with interest paid annually as a credit right on your October statement! Accounts with poor payment history with NRG will likely require a security deposit prior to the continuation of service.

#### **How do I apply?**

Requests for a refund of security deposits can be made after 1 year of service for residential accounts and 3 years for commercial accounts and must be made in writing to our credit department. Your letter must include your address, account number and stating you are applying to have your Security Deposit refunded. Please include a copy of your original receipt. Our Credit Department can be contacted:

Fax 519-773-5335  
Email [creditdept@nrgas.on.ca](mailto:creditdept@nrgas.on.ca)  
Mail 39 Beech Street, PO Box 307, Aylmer, ON N5H 2S1

Once received, a thorough examination of the following criteria will be performed and a decision made.

- 1.) If the customer's payment history has no late payments within 12 months= 50% security deposit refund.
- 2.) If the customer's payment history has no late payments within 24 months= 100% security deposit refund.
- 3.) If the customer has a disconnection notice within either timeframe, or a late payment, then 0% of the security deposit will be returned. The customer must then have a full 12 months of clean payment history in order to qualify for the 50% refund.

You will be notified in writing of our decision and at the discretion of NRG, a portion of your deposit, in whole or in part, will be returned to you. Interest accrued (1% per year) will be applied directly to your account every October. If pre-authorized chequing is setup on your account, you cannot cancel the pre-authorized chequing for 2 years.

NRG believes that the security deposit program is in the best interests of all our natural gas customers. These deposits are not a pre-payment of gas, and are intended as an industry accepted best practice to help manage natural gas rates for our customers.

Please be advised that any future communications should be in writing.

If you have any questions, please feel free to send via mail address below, or via email at [creditdept@nrgas.on.ca](mailto:creditdept@nrgas.on.ca).

Thank You,

Natural Resource Gas Limited  
Credit Department

Customer's Name (Printed): \_\_\_\_\_

Customer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

NRG Representative: \_\_\_\_\_ Date: \_\_\_\_\_

# Appendix C



## 4. Your Account

### 4.1 Establishing an Account

Union Gas may, at its discretion, accept a request for delivery of gas to a premise.

Once you request delivery of gas to your premise, you are in contract with us, and it will be **continued** in full force and effect until delivery is **discontinued**. You agree to pay for **services** provided. You shall be **liable** for all gas supplied to the premises and safe custody of our **property**.

There will be a charge for establishing your account and related activities.

### 4.2 Security Deposits

If **you** are a new customer or if future payment cannot be assured, you are required to provide a security deposit.

**Residential Customers** - The deposit **will** be at a minimum equal to an estimate of the two highest months' consumption to a maximum of three highest months' consumption. Deposits may be refunded, at the option of the Company, to customers who have exhibited financial stability by keeping their account paid in full and whose deposits have been held for the minimum period of one year. Security deposits are not **consi**dered to be advance payments.

**Non-Residential Customers** - A security deposit will be required unless you meet the waiver criteria. The deposit amount will be the minimum of the two highest consecutive months' consumption in the past 24 months to a maximum of the three highest **consecutive** months' consumption. It will be returned after **five** years of **exhibiting** financial **stability**. Security deposits are not considered to be advance payments.

Acceptable types of security deposits are as follows:

- Cash (including money orders, certified cheques)
- Letter of Guarantee (a guarantee of customer payment by a **financial** Institution).

If you do not provide a requested **security** deposit, delivery of gas to you will be discontinued. Re-establishing gas delivery to you will require payment of a **turn-on** charge. **the** security deposit and all arrears.

All cash deposits earn **simple interest** based on the current bank savings rate. The interest is calculated monthly.

If you discontinue delivery of gas and all your accounts have been paid in full, any remaining deposit will be returned to you.

## Security Deposits

To protect against losses, Enbridge reserves the right to request a security deposit from:

- New residential customers
- Existing customers with a poor record of paying gas bills.
- For moving customers with accounts in good standings there is no security deposit required.

Note: All charges, monthly or one-time, are subject to GST

# Appendix D



**NATURAL RESOURCE GAS LIMITED**  
Supporting Your Natural Gas Lifestyle

*DELIVERED NAC.*

*26 AUG 08 11:30 AM.*

**CODE INFRACTIONS PRESENT TREVOR SMITH**

*SLAA (ERIC)  
JIM SMITH ) NRG  
JACK HOWLEY NRG*

**1) Administration Building**

- 4.2.1 - Shut-Off valves not approved for gas service
- 4.5.3 - Furnace converted to Natural Gas using approved conversion kit
- 6.17.1 - Pipe identification
- 4.7.1 - On/Off switch to be installed in Mechanical Room for furnace
  - Furnace to be vented as per Manufacturer's instructions
  - Regulator vents require 90 degree elbows to turn down

**2) Energy Centre**

- 6.17.2 - Piping identity for pressures over 14" W.C.
- 4.2.1 - Driers and Thermal Oxidizer not approved for use in Canada

**3) Process Building**

- Carrier furnaces require  $\frac{1}{4}$ "/Ft slope back to furnace as per Manufacturer's instructions
- Water Heater Power Ventor not interlocked with Draft Damper and Water Heater
- 4.2.1 - Shut-Off valves not approved
  - Regulator Vents require 90 degree elbows and screens to turn down

**4) Flare Stack**

- 4.2.1 - Unit not approved
  - Vent on Regulator requires 90 degree elbow to turn down vent screens
  - T-Stats for Unit Heaters is 24 Volts or 110 Volts  
Control wiring in same conduit as power wires

Signature: \_\_\_\_\_

*Tom Ferguson*

August 26, 2008

# NATURAL RESOURCE GAS LIMITED

Home Owner <i>NRC / IGRP</i>	Phone#	City <i>Albany</i>	Res. <u>Comm.</u>	Apt./Suite Floor
Address <i>PROGRESS DR</i>	Appliance Type <i>TRIALS</i>	Gas Left - On - Off		Meter No.
Contractor's Name	Phone#	Fitter Name		Certificate No.
Gas Company Rep. <i>Mark Tabor</i>	Date <i>AUGUST 25 2008</i>	Time <i>1:30 PM</i>		

**THE APPLIANCE AND/OR PIPING IS UNSAFE .**

☒ **A** the appliance has been disconnected or the meter **locked** off for the reasons listed below

**THE APPLIANCE AND/OR PIPING IS SAFE AT THIS TIME .**

☐ **B** however corrections are required for your protection and to comply with **Government** Regulations. The **corrections** listed below must be completed within **days**, or the Gas Supply will be **disconnected**.

<b>DEFICIENCIES:</b> <i>Clause 4.2.1 of B19.1-05 Code Book</i> <i>TRIALS Not Approved For Use In Canada</i>			
Customer's Signature <i>Tom Ferguson</i>	Owner Tenant	Repaired By	Certificate No.

# NATURAL RESOURCE GAS LIMITED

Home Owner <i>NRC / IGRP</i>	Phone#	City <i>Albany</i>	Res. <u>Comm.</u>	Apt./Suite Floor
Address <i>PROGRESS DR</i>	Appliance Type	Gas Left - On - Off		Meter No.
Contractor's Name	Phone#	Fitter Name		Certificate No.
Gas Company Rep. <i>Mark Tabor</i>	Date <i>AUGUST 25 2008</i>	Time <i>1:30 PM</i>		

**THE APPLIANCE AND/OR PIPING IS UNSAFE .**

☐ **A** the appliance has **been** disconnected or the meter locked off for the reasons listed below

**THE APPLIANCE AND/OR PIPING IS SAFE AT THIS TIME .**

☒ **B** however **corrections** are required for your protection and to comply with **Government** Regulations. The **corrections** listed below must be completed within **30** days, or the Gas Supply will be disconnected:

<b>DEFICIENCIES:</b> <i>Code Infractions Listed Below</i> <i>B19.1-05</i>			
Customer's Signature <i>Tom Ferguson</i>	Owner Tenant	Repaired By	Certificate No.

# NATURAL RESOURCE GAS LIMITED

Home Owner <i>NAC/EGPC</i>	Phone#	City <i>Subar</i>	Res. <u>Comm.</u>	Apt./Suite Floor
Address <i>PROGRESS DR.</i>	Appliance Type <i>FLARE STACK</i>	Gas Left <u>On</u> - Off	Meter No.	
Contractor's Name	Phone#	Fitter Name	Certificate No.	
Gas Company Rep. <i>Mark Tabor</i>	Date <i>AUGUST 25 2008</i>	Time <i>1:30 PM</i>		

**THE APPLIANCE AND/OR PIPING IS UNSAFE -**

☒ **A** the appliance has been disconnected or the meter locked off for the reasons listed below

**THE APPLIANCE AND/OR PIPING IS SAFE AT THIS TIME -**

☐ **B** however **corrections** are required for your protection and to comply with **Government** Regulations. The corrections listed below must be **completed within** \_\_\_\_\_ days, or the Gas Supply will be disconnected.

<b>DEFICIENCIES:</b> <i>Clause 4.2.1 Of B149.1-05 Code Book.</i>			
<i>Appliance Not Approved For Use In Canada.</i>			
Customer's Signature <i>Tom Ferguson</i>	Owner Tenant	Repaired By	Certificate No.

# NATURAL RESOURCE GAS LIMITED

Home Owner <i>NAC/EGPC</i>	Phone#	City <i>Subar</i>	Res. <u>Comm.</u>	Apt./Suite Floor
Address <i>PROGRESS DR.</i>	Appliance Type <i>OXIDIZER</i>	Gas Left <u>On</u> - Off	Meter No.	
Contractor's Name	Phone#	Fitter Name	Certificate No.	
Gas Company Rep. <i>Mark Tabor</i>	Date <i>AUGUST 25 2008</i>	Time <i>1:30 PM</i>		

**THE APPLIANCE AND/OR PIPING IS UNSAFE -**

☒ **A** the appliance has been disconnected or the meter locked off for the reasons listed below

**THE APPLIANCE AND/OR PIPING IS SAFE AT THIS TIME -**

☐ **B** however corrections are required for your protection and to comply with **Government** Regulations. The corrections listed below **must** be completed within \_\_\_\_\_ days, or the Gas Supply **will** be disconnected.

<b>DEFICIENCIES:</b> <i>Clause 4.2.1 Of B149.1-05 Code Book.</i>			
<i>Appliance Not Approved For Use In Canada.</i>			
Customer's Signature <i>Tom Ferguson</i>	Owner Tenant	Repaired By	Certificate No.

# Appendix E

5-11-2008  
J.L.Y.  
ndia notuls

This PIPELINE COST RECOVERY AGREEMENT ("Agreement"), made as of the 31st day of January, 2007.

BETWEEN:

NATURAL RESOURCE GAS LIMITED,  
a corporation formed under the laws of Ontario.

2008  
5-11-2 (d)  
1-19  
(the "Utility")

- and -

INTEGRATED GRAIN PROCESSORS CO-OPERATIVE INC.,  
a w-operative corporation formed under the laws of Ontario.

(the "Customer")  
(collectively the "Parties")

**RECITALS:**

WHEREAS the Customer is developing an ethanol facility (the "Customer Facility") in the Town of Aylmer, Ontario;

AND WHEREAS the Utility ~~must~~ expand its current natural gas distribution infrastructure to deliver natural gas to the Customer Facility to meet the volume, pressure and delivery requirements of the Customer;

AND WHEREAS the Utility has a franchise agreement to distribute natural gas in the Town of Aylmer;

AND WHEREAS the Utility has entered or will enter into an agreement with Union Gas Limited to install new facilities or modify existing facilities to supply the Utility with natural gas, such that Union Gas Limited will be capable of meeting the total supply requirements of the Utility, including the supply needs of the Customer;

AND WHEREAS the Utility and Union Gas Limited have reached an understanding regarding the Utility Connection Facilities crossing the Union Gas Limited franchise area;

AND WHEREAS the Customer has paid to the Utility a deposit of \$130,000.00 against any Aid-to-Construct that may be owed to the Utility;

AND WHEREAS the Utility and the Customer have entered into an agreement dated January 31, 2007, as the same may be amended, modified, supplemented or restated (the "Gas Delivery Contract") providing for the Utility to deliver natural gas to the Customer Facility, among other things;

AND WHEREAS the Customer, or its representative, will be purchasing the Customer's gas directly and arranging for transportation, and the Utility and the Customer will enter into a Bundled T-Service Receipt Contract;



AND WHEREAS the Utility has determined that approximately 28.53km of NPS 6 steel pipeline and related facilities are required to be installed to deliver natural gas to the Customer Facility;

AND WHEREAS the Customer has requested and the Utility has agreed to construct approximately 28.53km of NPS 6 steel pipeline and related facilities (the "Utility Connection Facilities") and to arrange with Union Gas Limited for the construction by Union for facilities required to complete the connection between the Utility Connection Facilities and the Union Gas Limited system (the "Union Gas Connection Facilities"), to deliver natural gas from the Union Gas Limited system to the Customer Facility, on the terms and conditions set forth in this Agreement; and

IN CONSIDERATION of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties to this Agreement agree as follows:

#### ARTICLE I - ATTACHMENTS AND INTERPRETATION

1.1 The Following are hereby incorporated into and form part of this Agreement:

- (a) Schedule A - Pipeline Work
- (b) Schedule B - Project Map

12 For the purpose of this Agreement:

- (a) "Actual Aid-To-Construct" means the Aid-To-Construct calculated by the Utility using the Actual Capital Cost, as provided for in Article III;
- (b) "Actual Capital Cost" means the reasonable actual Capital Cost, as provided for in Article III;
- (c) "Aecon" means Aecon Utilities - A Division of Aecon Construction Inc., or any successor thereto;
- (d) "Aid-to-Construct" means the amount by which the Capital Cost exceeds the revenue recovered by the Utility through rates, as calculated in accordance with EBO 188;
- (e) "Applicable Law" means all federal, provincial, county, municipal or local laws, by-laws, statutes, rules, regulations, ordinances, directives, or any decisions of a Governmental Authority.
- (f) "Business Day" means a day, other than a Saturday or Sunday or statutory holiday in the Province of Ontario or any other day on which banking institutions in Ontario are not open for the transaction of business;

- (g) "Capital Cost" means the total capital **cost** of the Utility Connection Facilities and the Union **Gas Aid-to-Construct**;
- (h) "Construction" ~~means~~ construction and installation of the **Utility** Connection Facilities;
- (i) "Construction Agreement" ~~means~~ the agreement ~~between~~ the Utility and a **contractor** for the completion of the **Construction**;
- (j) "Cubic metres" or "m<sup>3</sup>" means the volume of **gas** which at a temperature of 15 degrees Celsius and at an absolute **pressure** of 101.325 **kilopascals** ("kPa") **occupies one cubic metre**;
- (k) "~~Customer~~ Facility" **means** the ethanol facility proposed to be built and **operated** by ~~the~~ Customer in the Town of **Aylmer** with an output capacity of **approximately** 150 million litres of ethanol **annually**;
- (l) "Customer Meter **Facility**" **means** the **Utility's equipment** to measure the gas **consumed** by the Customer, located at the Customer Facility, and **includes** but is not limited to **all meters, pressure regulators, valves, fittings** and communications equipment, and forms part of the Utility Connection Facilities;
- (m) "**EBO 188**" **means** the Final Report of the Board, dated January 30, 1998 regarding ~~the~~ economic **evaluation of the expansion of natural gas systems**;
- (n) "Event of **Default**" **means** ~~either~~ a ~~Customer~~ Event of Default or a Utility ~~Event~~ of Default;
- (o) "Governmental Authority" **means** any federal, **provincial**, municipal ~~or~~ **local government**, parliament or legislature, or ~~my~~ regulatory authority, agency or tribunal, **commission**, board or department of **any such** government, **parliament** or legislature or **any court** or other law, regulation or **rule-making** entity having jurisdiction in the relevant **circumstances**;
- (p) "**GST**" **means** the **goods** and service **tax** **exigible** pursuant to the *Excise Tax Act* (Canada) as **mended** from time to time;
- (q) "Initial Estimated **Aid-To-Construct**" **means** the Aid-To-Construct calculated in accordance ~~with~~ EBO 188 using the **Initial Estimated Capital Cost**;
- (r) "Initial Estimated Capital Cost" **means** the estimated Capital Cost provided by **Aecon**, **including** the Union Gas **Aid-to-Construct**;
- (s) "~~In-Service~~ Date" **means** the later of November 1, 2007 and the date on which the pipeline is able to deliver the full amount of the **gas** contemplated by the Gas Delivery **Contract**;
- (t) "Insolvency Legislation" **means** ~~the~~ *Bankruptcy and Insolvency Act* (Canada), the *Winding Up and Restructuring Act* (Canada) and the Companies' Creditors

- (b) it has all the necessary corporate power, authority and *capacity* to enter into this Agreement and to perform its obligations under it;
- (c) the execution, delivery and performance of the Agreement by it has been duly authorized by all necessary corporate action and does not result in a violation, a breach or a default under: (i) its charter or by-laws; (ii) any contracts or instruments to which it is bound; or (iii) any Applicable Law,
- (d) any individual executing this Agreement, and any document in connection herewith, on its behalf has been duly authorized by it to execute this Agreement and has the full power and authority to bind it;
- (e) this Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with its terms; and,
- (f) no proceedings have been instituted by or against it with respect to bankruptcy, insolvency, liquidation or dissolution.

2.2 The Utility represents and warrants to *the* Customer that:

- (a) it is duly incorporated, formed or registered (as applicable) under the laws of its jurisdiction of incorporation, formation or registration (as applicable);
- (b) it has all the necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations under it;
- (c) the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate action and does not result in a violation, a breach or a default under: (i) its charter or by-laws; (ii) any contracts or instruments to which it is bound; or (iii) any Applicable Law;
- (d) any individual executing this Agreement, and any document in connection herewith, on its behalf has been duly authorized by it to execute this Agreement and has the full power and authority to bind it;
- (e) this Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with its terms;
- (f) no proceedings have been instituted by or against it with respect to bankruptcy, insolvency, liquidation or dissolution; and,
- (g) the calculation of the Initial Estimated Aid-To-Construct has been completed in accordance with EBO 188.

**ARTICLE III – CAPITAL COST AND AID-TO-CONSTRUCT**

- 3.1 The Initial Estimated Capital Cost is estimated **at** \$9,100,000.00, **comprised** of approximately \$8,920,000.00 for the Utility **Connection** Facilities **and** \$180,000.00 for the **Union** Gas Aid-To-Construct, **The Initial Estimated** Capital Cost is included in the Leave-to-Construct application **filed by** the Utility with the **OEB**.
- 3.2 Based upon the **Initial** Estimated Capital Cost **and applying** the **Utility's** current **OEB-** approved Rate 3 to a **minimum annual volume** of 33,416,618 m<sup>3</sup> **and a firm contract** demand of 108,188 m<sup>3</sup>/day over a **seven year** period, the Initial **Estimated** Aid-to-Construct is \$3,790,000.00, to be paid by the **Customer**.
- 3.3 The Customer shall **make** payments toward the Initial Estimated Aid-to-Construct, as follows:
- (a) **\$130,000.00** on or before **October 16, 2006**, **payment** of which has **been** received and **acknowledged**;
  - (b) Prior to the **award** of the **Construction** Agreement, **the** amount of **the** monthly invoices provided by the **Utility** for reasonable internal, **consulting** and **third party expenses** incurred in the prior calendar month **within fifteen (15) Business Days** of receiving such invoice; and
  - (c) **Payment** in advance as required by the Utility, of **an** amount **equal** to **any** required payment, to be **made** by Utility for **procuring** the **station material** and **pipe**;

the total of which payments shall **not** exceed **the** Initial Estimated Aid-to-Construct.

- 3.4 Prior to the **execution** of the **Construction Agreement**, the Utility shall **provide** the **Customer** with a **Revised Estimated Capital Cost** and a **Revised Estimated Aid-to-Construct**, based on **the** most **current** information available at the time, **including** the successful bid for the **Construction Agreement**, calculated **in accordance** with **EBO 188**, and:
- (a) The Customer **shall** pay the Utility an amount **equal** to the amount, if **any**, by which the Revised Aid-To-Construct **exceeds** the **total** of all payments **made** by the **Customer** to the **Utility** under **Section 3.3**. In the **event** that the amount paid by the **Customer** pursuant to **Section 3.3** **exceeds** the Revised **Estimated Aid-To-Construct** **then** the Utility **shall** forthwith **pay** to Customer **an amount** **equal** to the **payments** made less the Revised **Estimated Aid-To-Construct**; and
  - (b) The Utility shall provide the Customer with a detailed **written** breakdown of the Revised **Estimated Capital Cost** **including**, but **not limited** to **Overhead**, **engineering**, **surveying**, **consultant**, **legal**, **major materials** (**pipe**, **meters**, **major equipment**, **heating equipment** costs), **essament**, **internal** and **external** construction and **commissioning costs** **when** it is available to the Utility and a copy of the **cost breakdown** for the **Union Gas Connection Facilities** as provided to the Utility by **Union Gas Limited**.

- 3.5 In the event **that** the Commencement Date under the Gas Delivery Contract is later **than** the In-Service Date, the Utility shall invoice and the Customer shall pay an amount equal to the Utility's reasonable debt financing costs incurred in each month between the In-Service Date and the Commencement Date under the Gas Delivery Contract.
- 3.6 The contingency amount to be included in the Revised Estimated Capital Cost shall be limited to a maximum of ten percent of the Construction Agreement cost.
- 3.7 The Utility, in its sole discretion, may elect not to proceed any further with any of its obligations under this Agreement if the Customer fails to make any payment or provide any letter of credit required under this agreement until such payment or letter of credit is delivered by the Customer to the Utility and the Utility shall not be liable for any liabilities, damages, losses, payments, costs, or expense that may be incurred by the Customer as a result.
- 3.8 From the date required for any payment required by this Agreement, all unpaid amounts will bear interest at the rate of the Prime Rate plus 1.00% per annum payable quarterly on the last day of each calendar quarter.
- 3.9 The Utility shall use best efforts to minimize the actual Capital Cost, and shall advise the Customer of actual costs as incurred, in accordance with Article IV. At a minimum, the Utility shall ensure the award of the Construction Agreement is completed through a competitive tender process unless otherwise agreed to in writing by the Customer. The Utility shall ensure that the procurement of pipe, major equipment and appliances is done using a competitive quotation process wherever possible. The Utility shall inform the Customer where a competitive process is not utilized and provide an explanation as to why a competitive process is not required. Prior to committing to any expenditure in excess of \$100,000.00, the Utility shall obtain the written consent of the Customer, such consent not to be unreasonably withheld.
- 3.10 The Utility shall request Union Gas Limited to provide it with the actual capital cost of the Union Gas Connection Facilities and the actual Union Gas Aid-to-Construct within 30 Business Days or other mutually agreeable timeframe of the pipeline being put into service.
- 3.11 The Customer and the Utility acknowledge that the Initial Estimated Capital Cost and the Revised Estimated Capital Cost may be different from the Actual Capital Cost incurred and the parties agree that the Actual Aid-to-Construct and Delivery Letter of Credit (as defined in Article VII) shall be adjusted based on an economic evaluation carried out in accordance with EBO 188.
- 3.12 The Customer reserves its rights to dispute the reasonableness of costs incurred in completing the Pipeline Work, provided that the Customer does so within 5 Business Days when such costs are provided by the Utility to the Customer.
- 3.13 Within forty-five (45) Business Days or some other mutually agreeable timeframe of the pipeline being put into service, the Utility shall provide the Customer with the Actual Capital Cost and Actual Aid-To-Construct, along with a summary of the information

provided pursuant to Section 4.3 and copies of **any** invoices and supporting documentation not **previously** provided to Customer. If the Customer agrees with the **Actual** Capital Cost and Actual Aid-To-Construct, and

- (a) if the Actual Aid-To-Construct is greater than the Revised Estimated Aid-To-Construct, then the Customer shall pay to the Utility the difference between the Actual **Aid-To-Construct** and the Revised Aid-To-Construct within five (5) Business Days; and
- (b) if the ~~Revised~~ Estimated **Aid-To-Construct** exceeds the **Actual** Aid-To-Construct then the Utility shall pay to the Customer the difference between the Actual **Aid-To-Construct** and the Revised Aid-To-Construct within *five* (5) Business Days.

3.14 If the Customer does not agree with the Actual Capital Cost and **Actual** Aid-To-Construct, the Parties shall negotiate in good faith for a period of 20 Business days to establish an Actual Capital Cost. If the Parties are unable to agree after such negotiations then either party may refer the matter to the OEB for resolution. In determining reasonable costs attributable to the Capital Cost, the following considerations will be taken into account:

- (a) Legal costs will include the reasonable legal costs of the Utility to establish gas distribution service for the Customer, including the reasonable legal cost to prepare and obtain the Leave to Construct from the OEB; acquire any temporary or permanent land rights required to complete the Pipeline Work; review any procurement or tendering documentation, and draft and negotiate this Agreement and any other agreement required to provide gas distribution service to the Customer;
- (b) Consultant costs will include the reasonable cost of consultants incurred by the Utility to provide gas distribution service to the Customer, including the reasonable cost to complete the economic analysis to determine the Initial Estimated Aid-to-Construct, the Revised ~~Estimated~~ Aid-to-Construct and the Actual Aid-to-Construct; to carry out title searches to identify adjacent landowners and others with interests in adjacent lands that may be impacted by the Utility Connection Facilities; and the estimated cost of a Surveyor in the amount of \$52,400;
- (c) The Capital Cost will include the cost of services provided to the Utility by Aecon and any subcontractors to Aecon, to complete the design of the Utility Connection Facilities, obtain all permits and approvals, prepare and complete the request for quotation documents for the Construction Agreement and all other competitive processes for services and materials, and the cost estimated by Aecon to be in the range of \$30,000 to \$50,000 for the third party borehole drilling subcontractor for the completion of boreholes used in the preparation of the Tender Package;
- (d) Utility costs shall include the reasonable cost of interest during construction calculated in accordance with the OEB approved methodology and Overhead

related to the Pipeline Work. Internal utility costs will include reasonable administrative and supervisory costs; and technician and field personnel required for the testing and commissioning of the Utility Connection Facilities.

- (e) The reasonable costs of non-destructive testing of the welds and third party inspection of the Construction.
  - (f) The reasonable cost of the completion of as-built drawings for the Utility Connection Facilities.
  - (g) All consulting and third party costs include reasonable disbursements made by the third party or consultant unless such disbursements are included in a fixed fee quotation.
- 3.15 The Utility shall calculate and provide a partial refund of the Actual Aid-To-Construct, using the same methodology used to calculate the Actual Aid-To-Construct, if available capacity is assigned to another customer within seven years of the date on which the Utility Connection Facilities come into service, provided that the Utility is permitted by the Board to obtain any financial contribution that might be required from the subsequent customer to cover the amount of the refund. The calculation will be carried out once a year, based on the aggregate customer additions for the year. The calculation for the refund will be based on the same inputs used for the original calculation of the Actual Aid-To-Construct, except for the Capital Cost of the facilities which shall be prorated on the basis of the total capacity of the Utility Connection Facilities minus the capacity assigned to any subsequent customers.

#### ARTICLE IV – CONSTRUCTION

- 4.1 Prior to awarding of the Construction Contract, the Customer shall enter into a seven year gas delivery agreement as mutually agreed to by the Parties with a minimum annual volume of 33,416,618.m<sup>3</sup> and a firm contract demand of 108.188 m<sup>3</sup>/day (Gas Delivery Agreement).
- 4.2 The timely completion of the Utility Connection Facilities is in the interest of the Parties. As part of the Construction Agreement, the Utility shall require the contractor to post a performance bond, including a liquidated damages provision, or other performance assurance measures acceptable to the Customer acting in a reasonable manner.
- 4.3 Prior to the termination of this Agreement, the Utility shall provide the Customer with weekly updates in writing as to costs incurred, costs committed to but not yet incurred and projected costs associated with the Pipeline Work. The Utility shall provide all supporting documentation (quotations, estimates, invoices, bills of lading, receipts, timesheets, etc.) for all costs incurred. As part of the updates, the Utility shall provide the Customer with a description of upcoming work, the anticipated procurement method and a recommended course of action. The Customer and the Utility shall discuss significant upcoming expenditures prior to committing to such expenditures and shall work cooperatively to meet all timelines and to minimize the costs in the circumstances. The

Customer shall consent to such significant expenditures ~~prior to the Utility committing to~~ such expenditures, such consent to be given in a timely ~~manner~~ and ~~not~~ to be unreasonably withheld

- 4.4 The ~~Parties~~ acknowledge ~~that any~~ change in the scope of the **Pipeline Work** ~~may result in~~ a change to the Capital **Cost**, the Aid-to-Construct, the Customer **Letter of Credit** and the **Construction** schedule. A change in scope of the Pipeline Work ~~may come~~ about as a result of ~~any~~ of the following:
- (a) a Customer-initiated scope change;
  - (b) a **requirement** or condition imposed by a **Governmental Authority**, including without limitation, the OEB;
  - (c) unplanned delays on the part of the **Customer** or Subcontractor; or
  - (d) an event of Force **Majeure** (as determined in **accordance** with Article VI).
- 4.5 In the event of a change in the scope of the Pipeline **Work**, as contemplated in Section 4.4, in **excess of \$25,000**, the Utility shall **inform the Customer immediately** of the **nature of the change** and the corresponding **impact** on the cost of the Pipeline Works. In the event **such** change will cause an increase in the **Actual Capital Cost**, the Utility shall **obtain** the Customer's consent to **such increase** prior to incurring such **cost**, **such consent** not to be **unreasonably** withheld and to be provided within 3 **Business Days** of receiving the information. In the event the Customer's **consent** has not been given within 3 **Business Days**, the Customer shall be deemed to **have** given consent to complete **such work**.
- 4.6 The Utility shall use all reasonable efforts to have the Pipeline **Work** (as described in Schedule A) completed **by November 1, 2007** provided that:
- (a) the Customer **executes** and **returns** this Agreement to the **Utility** by no later than February 1, 2007 (the "**Execution Date**");
  - (b) the Pipeline **Work** is **completed** in accordance with Schedule A of this Agreement;
  - (c) the ~~Customer~~ is in compliance with its obligations under this **Agreement**;
  - (d) there are no delays **associated** with third parties, including but not **limited** to Union Gas Limited, the Utility's lender and ~~any~~ companies selected to carry out **Construction**;
  - (e) the **Utility is granted** Leave-to-Construct by **March 1, 2007**; and,
  - (f) the Utility does not have to use its employees, agents and contractors **performing** the Pipeline Work elsewhere on its system due to an **emergency**, or an event of Force **Majeure**. For the purposes of this paragraph, an **emergency** means a line-break, leak, **fire** or similar event requiring an **immediate response from the Utility**.



- 4.7 As soon as the Utility becomes aware of **any** delay that may prevent the Utility from achieving the November 1, 2007 **deadline**, the **Utility shall** provide the Customer with notice in **writing** of **such** potential delay, the length of **the** anticipated **delay** and the reasons for such potential **delay**.

#### ARTICLE V - DEFAULT AND REMEDIES

- 5.1 Each of the following will constitute an Event of Default by **the Customer** ("Customer Event of Default"):

- (a) The Customer **fails to make any** payment **when** due, if such **failure** is not remedied **within** ten (10) **Business Days** after written notice of such failure from the Utility.
- (b) The Customer fails to deliver or maintain the Customer Letter of Credit or the **Delivery Letter of Credit** **when** due.
- (c) The Customer fails to **perform** any material covenant or obligation set forth in **this** Agreement if such failure is not remedied within **fifteen (15) Business Days** after written notice of **such** failure from the Utility.
- (d) Any **representation made** by the Customer in this Agreement is not **true** or **correct** in any material respect **when** made and is not made **true** or **correct** in all material respects within thirty (30) **Business Days** after receipt by the **Customer** of written notice of **such fact** from the Utility.
- (e) An effective **resolution** is passed **or** documents are **filed** in an office of public record in respect of, or a **judgment** or order is issued **by** a court of competent jurisdiction ordering, the dissolution, **termination of existence**, liquidation or winding up of the **Customer**, **unless** such **filed documents** are immediately **revoked** or otherwise rendered inapplicable, or **unless there has been a permitted** and valid assignment of this Agreement **by the Customer** under **this Agreement** to a person **which** is not dissolving, terminating its **existence**, **liquidating** or **winding up** and such person has assumed all of the **Customer's obligations** under this Agreement.
- (f) The Customer **makes** an **assignment** for the benefit of its creditors **generally** under any Insolvency Legislation, or **consents** to the appointment of a receiver, manager, **receiver-manager**, monitor, trustee **in bankruptcy**, or **liquidator** for all or part of its property or files a petition or proposal to declare **bankruptcy** or to reorganize pursuant to the provision of **my Insolvency Legislation**, or otherwise **seeks the** protection of Insolvency Legislation regardless of whether a proposal or plan is proposed.
- (g) A receiver, **manager**, **receiver-manager**, liquidator, monitor or **trustee** in **bankruptcy** of the **Customer** or of any of the **Customer's** property is appointed by a Governmental Authority or **pursuant** to the terms of a debenture or a similar instrument, and such **receiver, manager, receiver-manager, liquidator, monitor or**

trustee in bankruptcy is not discharged or **such appointment** is not revoked or withdrawn within thirty (30) days of ~~the~~ appointment,

- (h) By decree, judgment or order of a Governmental Authority, the **Customer** is adjudicated **bankrupt** or insolvent or any **substantial** part of the **Customer's** property is sequestered, and **such decree continues undischarged and unstayed** for a period of thirty (30) days **after the** entry thereof.
- (i) A petition, proceeding or filing is **made against** the Customer **seeking** to have the Customer declared **bankrupt** or insolvent, or **seeking adjustment or composition** of any of their respective debts **pursuant to the provisions of any Insolvency Legislation**, and such petition, proceeding or filing is not **dismissed or** withdrawn within thirty(30) **days**.

5.2 Each of the **following** will constitute an Event of Default by the Utility ("Utility Event of Default");

- (a) The Utility **fails to perform any material covenant** or obligation **set forth** in this Agreement **if such failure is not remedied within fifteen (15) Business Days after written notice of such failure from the Customer**.
- (b) **Any** representation made by the **Utility in this Agreement** is not true or **correct in any material respect** when made and is not **made true or correct in all material respects within thirty (30) Business Days** after receipt by the **Utility of written notice of such fact from the Customer**.
- (c) An effective resolution is passed or documents **are filed in an office** of public record in respect **of**, or a **judgment** or order is **issued** by a court of competent **jurisdiction ordering**, the dissolution, termination of existence, liquidation **or** winding up of the **Utility, unless such filed documents** are immediately revoked or otherwise rendered inapplicable, or **unless there has been a permitted** and valid **assignment of this Agreement** by the Utility under this Agreement to a **person** which is not **dissolving, terminating its existence**, liquidating or winding up and such person has **assumed all of the Utility's obligations under this Agreement**
- (d) The Utility **makes an assignment** for the benefit of its creditors generally under any Insolvency Legislation, or consents to **the** appointment of a receiver, manager, **receiver-manager, monitor, trustee in bankruptcy, or liquidator** for all or part of **its property** or **files a petition or proposal to declare bankruptcy** or to **reorganize** pursuant to the provision of **any Insolvency Legislation**, or otherwise **seeks the protection of Insolvency Legislation regardless** of whether a proposal or plan **is** proposed.
- (e) A receiver, **manager**, receiver-manager, liquidator, monitor or trustee in **bankruptcy** of the Utility or of **any** of the Utility's property is appointed by a **Governmental Authority** or pursuant to **the terms of a debenture or a similar instrument**, and such receiver, **manager**, receiver-manager, liquidator, monitor or

trustee in bankruptcy is not discharged or such appointment is not revoked ~~or~~ withdrawn within thirty (30) days of the ~~appointment~~.

- (f) By decree, judgment or order of a **Governmental** Authority, the **Utility** is adjudicated bankrupt or insolvent or **any** substantial part of ~~the~~ **Utility's** property is sequestered, and **such** decree continues ~~undischarged~~ and ~~unstay~~ed for a period of thirty (30) days after the ~~entry~~ thereof.
- (g) A petition, proceeding or filing is made against the **Utility** seeking to have the Utility declared bankrupt or ~~insolvent~~, or ~~seeking~~ adjustment or composition of **any** of ~~their~~ respective debts pursuant to the **provisions** of **any** Insolvency Legislation, or such petition, proceeding or filing is not ~~dismissed~~ or ~~withdrawn~~ ~~within~~ thirty (30) days.
- (h) A failure to ~~maintain~~ in good standing **any** franchise ~~agreement~~ or **any** other approval, permit or license from **any** Governmental **Authority** required for the **construction** and operation of the Pipeline **Works** and the supply of **natural gas** to the Customer Facility.

#### ARTICLE VI - FORCE MAJEURE

- 6.1 In the event that either the ~~Customer~~ or the Utility is rendered unable, in whole or in part, by Force **Majeure**, to perform or comply with **any** obligation or **condition** of this Agreement, then the obligations (other than the **obligations** to **make** payment of money ~~then due~~ and to **provide** or **maintain** **any** letter of ~~credit~~) of **both** parties **so far as they are** directly related to and affected by **such** Force **Majeure**, **shall be suspended** during the continuance of the Force **Majeure**.
- 6.2 The ~~party~~ claiming Force **Majeure** shall **give** notice in writing, with full particulars, to the other party as soon as possible after the **occurrence of Force Majeure**.
- 6.3 The ~~party~~ claiming Force **Majeure** shall **also** give **notice** to the other party as soon as possible after the **Force Majeure** is remedied in whole or part.
- 6.4 Force **Majeure** means:
  - (a) **Acts** of God, **landslides**, lightning, earthquakes, **fires**, storms, floods, ~~washouts~~, **explosions**, breakage or accident to its machinery ~~or~~ equipment ~~or~~ lines of pipe;
  - (b) freezing or **failure** of wells or lines of pipe; curtailment of **firm** transportation or **firm** storage by other natural **gas** service providers;
  - (c) strikes, lockouts or other industrial **disturbances**, riots, sabotage, **insurrections**, civil disturbance, acts of **terrorism**, **wars**, arrests or restraint of governments and **people**;
  - (d) **any** laws, orders, rules, regulations, acts of any government body or **authority**, civil or military;

- (e) any act or omission by parties not controlled by the party claiming Force Majeure; and
- (f) any other similar causes not ~~within~~ the control of the party claiming Force Majeure

which by the exercise of due diligence such party is unable to prevent or overcome, The party claiming Force Majeure shall ~~make~~ reasonable efforts to avoid, or correct the Force Majeure and to remedy the Force Majeure once it has occurred in order to resume performance.

6.5 Neither party shall be entitled to claim Force Majeure if ~~any~~ of the following circumstances prevail:

- (a) the failure resulting in Force Majeure was caused by the negligence of the party claiming suspension;
- (b) the failure was *caused* by the party claiming suspension where such party failed to remedy the condition by making all reasonable efforts (short of litigation, if such remedy would require litigation);
- (c) the party claiming suspension failed to resume the performance of such conditions or obligations with reasonable dispatch,
- (d) the failure was caused by lack of funds; and
- (e) the party claiming suspension did not give to the other party the required notice as soon as possible after determining or within a period within which it should have determined, acting reasonably, that the occurrence was in the nature of Force Majeure and would affect its ability to observe or perform any of its conditions or obligations under the Agreement.

#### ARTICLE VII - SECURITY AND PERFORMANCE ASSURANCE

7.1 Prior to the Utility ordering the pipe and the stations, the Customer shall provide to the Utility an irrevocable letter or letters of credit ("Customer Letter of Credit") in an amount equal to the quoted cost of the pipe and the stations minus any payments made by the Customer to the Utility in respect of the pipe and the stations. The Customer shall be entitled to reduce the Customer Letter of Credit by the amount of any subsequent payments by the Customer to the Utility in respect of the pipe and the stations, upon making such payments. The Utility shall be entitled to draw upon the Customer Letter of Credit in the following circumstances:

- (a) Subject to (b), if the Customer fails to ~~make~~ a payment of the Aid-to-Construct in accordance with Article III, such draw not to exceed the amount owed by the Customer to the Utility.

- (b) Notwithstanding (a) the Utility shall not be **entitled** to **draw** upon the Customer Letter of Credit **within** any cure periods established in Article V, in **which** the Customer may **make** payment to the Utility.

7.2 The Utility **shall** return the Customer **Letter of Credit** upon receipt of **any** payment **required from** the Customer **in** accordance **with** section 3.4 and delivery of the Delivery Letter of Credit **required under** section 7.3.

7.3 Prior to the award of the Construction **Agreement by the** Utility, the **Customer shall** provide to the **Utility** an irrevocable letter of credit ("Delivery Letter of Credit") in an amount equal to the difference between the Revised **Estimated** Capital Cost and the Revised **Estimated Aid-to-Construct**.

7.4 The **Utility** shall be **entitled** to **draw** upon the **Delivery** Letter of Credit if:

- (a) The Customer terminates this Agreement **prior to** the In-Service Date and fails to **pay** any **amount** owing to the Utility **within** 30 Business Days of **receiving** the invoice **for** monies **owed** for actual reasonable costs **incurred** prior to **Termination**; or
- (b) **The** Customer terminates this Agreement **and** the Gas **Delivery Contract** after the **In-Service** Date **but** prior to the seventh anniversary of the **Commencement** Date under the Gas Delivery **Contract**;
- (c) For **any** year, the Customer **fails** to take **receipt** of the **Minimum Annual Volume** under the **Gas Delivery Contract** **and** the Customer **fails to pay** the invoice for such **failure** to take the **Minimum Annual Volume** **within** 15 days of receiving **such** invoice;
- (d) For **reasons** other **than Force Majeure**, the Customer **ceases** taking service for a period of 30 days **during** the **term** of the Gas Delivery Contract **or** at **any** time after **that** where service has continued past the end of the **term** of the Gas Delivery **Contract**;
- (e) the Delivery **Letter of Credit** will not be maintained and the Customer fails to provide a substitute acceptable to the Utility and its **lender**; or
- (f) **The Customer** commits a Customer **Event of Default** listed in 5.1 (e), (f), (g), (h) and (i).
- (g) The Customer fails to restore the **balance** of the Delivery Letter of Credit as **required by 7.5**.

7.5 The Customer shall maintain the **Delivery Letter of Credit** for as **long as** the **Customer** continues to receive service **from** the **Utility**. In the event that the Utility **draws on** the Delivery Letter of Credit pursuant to 7.4(c), the Customer shall **restore** the Delivery Letter of Credit to the balance **that** existed immediately prior to the draw, within 10 Business Days **from** the **date** of the draw.

- 7.6 Subject to **section 7.7**, the Customer shall be entitled to **reduce** the amount of the Delivery Letter of **Credit** on each anniversary of the **commencement** of deliveries under the Gas Delivery Agreement to **an** amount equal to the net book value of the Utility Connection Facilities allocated to the **Customer** at **the** time, as determined by **the** Utility in accordance with **OEB-approved methodology**.
- 7.7 Any letter of credit shall be in a form acceptable to the Utility **and** its lender. **The** Utility shall **have** its **lender** provide a draft **form** of letter of credit for review and comment by the Customer's lender.
- 7.8 The costs and **expenses** of establishing, **renewing, substituting, cancelling, increasing and reducing** the amount of (as the **case may be**) any letter of credit required under this Agreement shall be borne by the Customer.
- 7.9 The Utility shall **return** any letter of credit held by the Utility to the Customer, if the **Customer** is **substituting** a letter of **credit** with another letter of **credit** or such other financial assurance, where that substitute is acceptable to the Utility and its lender.

#### ARTICLE VIII - TERMINATION

- 8.1 **This** Agreement **terminates** upon the placing **into service** of the Utility Connection Facilities and the Union Gas Connection Facilities and the **commencement** of the delivery of **natural gas** to the **Customer** Facility. All **payment** obligations and **all** obligations in relation to the Customer **Letter** of Credit and **Delivery Letter** of Credit shall survive termination of this Agreement until they are **fulfilled**.
- 8.2 In the event that the Utility **is unable** to secure all **necessary permits**, approvals, licenses certificates **necessary** to **complete** the Pipeline Work and **supply natural gas** to the Customer Facility, or obtains **such permits**, approvals, licenses or **certificates** on **terms and conditions that are unacceptable** to the Customer, acting in a **commercially reasonable manner**, then the Customer has the option to **terminate this Agreement**. The **Customer** shall, however, be responsible for all actual or committed to costs incurred by the Utility and **Union Gas Limited** up to and including the date of **termination**.
- 8.3 The **Utility may terminate** this Agreement if a Customer Event of Default has **occurred** and the **Utility has** given notice to the Customer of **such Customer** Event of Default and such default is not **remedied within the applicable cure period** upon receiving such notice of default, **Termination** pursuant to this **section** shall not be permitted where such **default** has been submitted to a **dispute** resolution process under Article IX.

- 8.4 Subject to **Section 8.5**, in the event the Revised **Estimated** Aid-To-Construct has been paid, in **full** or in part, by the **Customer** to the Utility and the **Agreement** is terminated prior to completion of the Pipeline Work, **then the Utility shall return** to the **Customer** any amount of the **Revised** Estimated **Aid-To-Construct** paid by the **Customer** **that** is in excess of the actual reasonable cost incurred by the Utility up to and including the date of termination. In the event the actual reasonable cost incurred by the Utility **exceed** the amount of the Revised **Estimated** Aid-To-Construct, the Customer shall pay that **amount**, upon receipt of which the Utility shall forthwith return **the Delivery** Letter of Credit.
- 8.5 In the event Utility invokes Force **Majeure** and the **event** of Force **Majeure** or the **aggregate duration** of all such Utility events of Force **Majeure** **exceeds 60 days in any 12** consecutive month period, then the **Customer** shall have the right to **terminate** this Agreement upon fifteen (15) **Business Days** written notice. Upon **termination** of this Agreement pursuant to **this** section, the Utility shall **return** all security and financial **assurance** provided by **Customer**, and an amount; if any, equal to **any** Aid-To-Construct paid by the Customer to the Utility less the Utility's reasonable **costs** incurred prior to the event of Force **Majeure**.

#### ARTICLE IX - DISPUTE RESOLUTION

- 9.1 In the event of **any** dispute **arising between** the **Parties** regarding the subject matter of **this Agreement**, then the Parties shall negotiate in **good faith** to resolve **such** matters.
- 9.2 In the event the Parties **are** unable to resolve a **dispute**, then either **Party** may refer the matter **to** the OEB for **resolution**.

#### ARTICLE X - INDEMNIFICATION

- 10.1 **The Utility** agrees to indemnify, defend, and hold harmless the **Customer** in respect of all actions, **causes** of action, suits, proceedings, claims, **demands, losses, damages**, penalties, fines, costs, **obligations** and liabilities ("**Damages**") arising out of the construction, installation, **testing**, commissioning and operation of the Utility Connection Facilities, other than any **Damages** **caused** by the negligence or **wilful** misconduct of the **Customer**.
- 10.2 **The Customer** agrees to indemnify, defend and hold **harmless** the Utility in respect of all **Damages** arising out of the **construction, installation, testing**, commissioning and **operation** of the Utility Connection Facilities caused by the **negligence** or **wilful misconduct** of the Customer.

#### ARTICLE XI - GENERAL

- 11.1 Any written **notice** required by this Agreement shall be **deemed** properly given **only** if either mailed or **delivered** to:

## (a) To the Utility

Natural Resource Gas Limited  
P.O. Box 307  
39 Beech Street East  
Aylmer, Ontario N5H 2S1

Tel: (519) 773-5321  
Fax: (519) 773-5335

Attention: Steve Millar, General Manager  
c.c. Mark Bristol, President

## (b) To the Customer:

Integrated Grain Processors Co-operative Inc.  
701 Powerline Road  
Brantford, Ontario N3T 5L8

Tel: (519) 752-0447  
Fax: (519) 752-1887

Attention: Chair

A faxed notice will be deemed to be received on the date of the fax if received before 4 p.m. or on the next Business Day if received after 4 p.m. Notices sent by courier or registered mail shall be deemed to have been received on the date indicated on the delivery receipt. The designation of the person to be so notified or the address of such person may be changed at any time by either party by written notice.

## 113 This Agreement:

- (a) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written representations and agreements concerning the subject matter of this Agreement;
- (b) shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Ontario and the laws of Canada applicable therein, and the courts of Ontario shall have exclusive jurisdiction to determine all disputes arising out of this Agreement;



- (c) ~~may be executed in counterparts, including facsimile counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement; and~~
  - (d) ~~shall not be assigned without the prior written consent of the other party, such consent not to be unreasonably withheld. For greater certainty an assignment by way of security to the Customer's lenders shall be considered reasonable.~~
- 11.3 No modification of or amendment to this Agreement will be valid or binding ~~unless~~ set forth in writing and duly executed by ~~both~~ of the parties hereto and ~~no~~ waiver of ~~any~~ breach of ~~any~~ term or provision of this Agreement ~~will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.~~
- 11.4 ~~If any~~ provision of this Agreement is determined to be invalid or ~~unenforceable~~ or in breach of any Applicable Law in whole or in part, such ~~invalidity or unenforceability~~ will attach only to such provision or part thereof which ~~provision~~ or part shall be ~~severed from the Agreement and the remaining part of such provision and all other provisions hereof will continue in full force and effect.~~
- 11.5 Notwithstanding the ~~termination~~ or expiration of this Agreement:
- (a) ~~Section 3.15 shall survive for the period of time provided in which a refund is to be calculated.~~
  - (b) The obligation to make ~~any~~ payment ~~shall survive until all such payments are determined and paid.~~
  - (c) Article 7 shall survive until the Utility no longer ~~requires financial~~ assurance ~~from the Customer.~~
  - (d) ~~Article IX shall survive until the final resolution, including all appeals, of any dispute arising out of this Agreement.~~
- 11.6 Each Party shall from time to time ~~execute~~ and deliver ~~all such further~~ document. ~~and instruments and do all acts and things as the other party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.~~
- 11.7 This Agreement ~~will enure~~ to the benefit of and be ~~binding~~ upon the ~~respective~~ successors and ~~permitted assigns~~ of the Parties hereto.
- 11.8 ~~Time~~ is of the essence in the performance of the Parties' respective obligations under this Agreement.
- 11.9 Any reference to ~~funds~~ is a reference to Canadian currency.

- 11.10 This Agreement is subject to the consent of the Customer's Lenders. The Customer agrees to use reasonable efforts to secure such consent in a timely manner. This paragraph is entirely for the benefit of the Customer. The Customer shall waive this condition in writing.
- 11.11 This Agreement is subject to the consent of the Utility's Lenders. The Utility agrees to use reasonable efforts to secure such consent in a timely manner. This paragraph is entirely for the benefit of the Utility. The Utility shall waive this condition in writing.
- 11.12 In the event of a change of law affecting any of the rights or obligations of one Party to the other Party, the Utility shall continue to deliver gas and the Customer shall continue to pay for the delivery of gas as if the change had not occurred unless prohibited by law. In such event the Parties shall negotiate in good faith to preserve the original intent of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper officers, as of the day and year first written above.

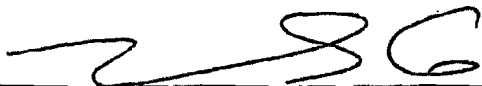
NATURAL RESOURCE GAS LIMITED

---

Per: Mark Bristol  
Title: President

I have *authority* to bind the corporation


INTEGRATED GRAIN PROCESSORS CO-OPERATIVE INC.



---

Per: Tom Cox  
Title:

I have authority to bind the corporation.



---

Per: Brent McBain  
Title:

I have ~~authority~~ to bind the corporation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their proper officers, as of the day and year first written above.

NATURAL RESOURCE GAS LIMITED

Mark Bristoll

Per. Mark Bristoll

Title: President

I have authority to bind the corporation.

INTEGRATED GRAIN PROCESSORS CO-OPERATIVE INC.

Tom Cox

Per. Tom Cox  
Title:

I have authority to bind the corporation.

Brent McBlain

Per: Brent McBlain  
Title;

I have authority to bind the corporation.

## Schedule A - Pipeline Work

In carrying out the Pipeline Work (as depicted in the figure attached as Schedule B to this Agreement), the Utility or a subcontractor to the Utility will need to complete the following:

### Pipeline Work Planning

#### Utility Connection Facilities

1. The Utility shall design, **construct, install,** commission and **operate** the Utility Connection Facilities in accordance with all **Applicable Laws** and good utility practice.
2. The Utility shall be **responsible for making** applications to all Governmental Authorities for **all** permits, approvals, **licenses** and **certificates** necessary to **undertake** and complete the Utility Connection Facilities, **including** without **limiting** the foregoing, the Leave-to-Construct **from the OEB.** The Utility shall be responsible for **maintaining** all such permits, approvals, licenses in good **standing.**
3. The **Utility** shall only contract with suppliers and contractors competent to **perform** their tasks and **shall** undertake to **secure competitive** bids from competent suppliers and **contractors** for the Utility Connection Facilities.
4. The **Utility** and the Customer shall **agree** to a **suitable** location at the **Customer** Facility for the Customer **Meter** Facility.
5. The Utility shall coordinate the design, construction, **testing** and operation of the **Utility Connection** Facilities with **Union Gas Limited** such that **Union Gas Limited** will be able to supply the Utility with sufficient **quantities** of **natural gas** to **meet** the **Customer's** requirements by the **In-Service Date.**
6. The Utility shall **furnish the** Customer with a **complete** set of engineered stamped drawings of the Utility Connection Facilities before tendering for the Construction **Agreement.** The engineer shall be qualified to **practice** engineering in **Ontario.**
7. The Utility shall provide a **flanged connection at the outlet** of the Customer **Meter** Facility to which the **Customer may connect** the house-piping for the **Customer** Facility. **In the event** the Customer **installs** the house-piping with flanged connection prior to the Utility, the Utility **shall** be responsible for completing the connections. **The flanged** connection shall be adequately protected to prevent the **entry** of dirt, water or other **extraneous materials from entering the Customer Meter Facility or** the house-piping.
8. The Utility **shall** ensure the Customer **Meter** Facility is properly **insulated from** the Customer Facility,
9. The Utility shall furnish the **Customer the** required communications specifications for the **Customer Meter** Facility with the stamped **drawings.**

**Access To Customer Facility**

10. The Customer shall provide *the Utility* and its contractor with reasonable access to the Customer Facility to construct, install, test, commission and operate the Customer Meter Facility.
11. The Utility shall ensure that all employees of the Utility or its contractor obey all safety requirements of the Customer while on the Customer Facility,

**Pipeline Work Testing and Commissioning**

12. The Utility shall coordinate hydrotesting or any other testing, including nondestructive testing of welds, of the *Utility Connection Facilities* with the Customer and the Utility shall not interfere with the construction, installation, testing or commissioning of the Customer Facility.
13. The Utility shall ensure that the Utility Connection Facility is completely dewatered. Dewatering shall not occur on the Customer Facility.

**Union Gas Connection Facilities**

14. The Utility shall coordinate the construction of the Utility Connection Facilities with Union Gas Ltd. to facilitate the completion of the Union Gas Connection Facilities by or before November 1, 2007.

**SCHEDULE B - PROJECT MAP**

[To be inserted]

# Proposed NRG Ltd. Gas Pipeline Route





# Appendix F

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

February 15, 2008

**VIA EMAIL**

George R. Alkalay  
Northfield Ventures Ltd.  
95 King View Crescent  
King City, ON L7B 1K5

Dear Mr. Alkalay:

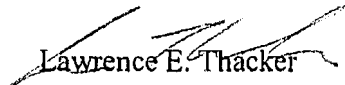
**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

As you know, at your request, we met with you and IGPC's solicitors at the offices of Aird & Berlis on January 25, 2008.. During that meeting, you asked us to provide you with the proposed terms and conditions of the letter of credit that IGPC is required to provide to NRG.

In response to your request, by letter dated January 31, 2008, I provided you with the proposed terms. I understood that they would form the basis for good faith negotiations towards mutually acceptable terms and conditions for a letter of credit. Instead, you refused to respond to me and instead wrote to the Ontario Energy Board directly.

It is NRG's position that IGPC's failure to respond in any way to a proposal that you asked NRG to make to you is a breach of IGPC's obligations to perform in good faith its obligations under the Pipeline Cost Recovery Agreement.

Yours truly,

  
Lawrence E. Thacker

LET/rl

# Appendix G

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

August 15, 2008

**VIA EMAIL**

Scott Stoll  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, Ontario  
M5J 2T9

Dear Mr. Stoll:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

**Introduction**

We have now reviewed your two August 14 letters from you. NRG wishes to ensure that the Ontario Energy Board ("OER") has the full factual background to the issues raised therein.

IGPC has repeatedly failed to meet the deadlines agreed to between IGPC and NRG and to fulfil its contractual obligations owed to NRG. It would appear that IGPC, due to either to its own construction delays, administrative problems or lack of adequate financial resources, has been unable to complete its ethanol manufacturing facility by the agreed in-service date of July 15.

NRG has met all of the deadlines agreed to between the parties, including completing construction of the pipeline by the beginning of July, and being fully prepared to commence delivery of gas on July 15.

NRG has granted a number of indulgences to IGPC to assist IGPC in dealing with its own internal delays, but NRG is not prepared to allow IGPC's delays or lack of adequate financing to place NRG's stakeholders at risk.

## **Gas Suspension**

By letters dated July 10 and July 17, 2008 (copies attached), NRG advised IGPC that it was required to commence receiving natural gas on the agreed in-service date of July 15. IGPC responded by advising that it was not able to accept delivery of gas. NRG reminded IGPC of the 30-day period contemplated by Section 7.14(d) of the Pipeline Cost Recovery Agreement made as of January 31, 2007 (the "PCRA"), and confirmed that the 30-day period commenced on July 15.

By email dated July 24 (copy attached) to Union Gas, IGPC (through its agent Blackstone Energy Services Inc.) requested a suspension of the delivery of gas commencing August 1 and ending September 1.

The suspension remained in place until August 13, when IGPC sent an email (copy attached) to Union Gas requesting the delivery of a small daily quantity of natural gas. IGPC stated that the remaining 869gj/day would continue to be suspended. Later on August 13, IGPC sent a further email (copy attached) to Union Gas advising that the previous suspension of 3,169gj/day was cancelled and requesting that the amount of 869gj/day be delivered from August 14 to August 31.

On August 14, IGPC sent an email (copy attached) to Union Gas reinstating the previous full suspension so that no natural gas would be delivered.

Accordingly, it would appear that IGPC never intended to have gas delivered and that the August 13 lifting of the August 1 suspension was an artifice. The very next day the suspension was reinstated with no natural gas having being delivered.

Accordingly, it appears that IGPC does not require any natural gas at the present time.

## **Security Deposit**

Your August 14 letter does not accurately reflect the security deposit issue.

By letter dated July 8 (copy attached), NKG issued an invoice to IGPC for the security deposit required pursuant to the Gas Delivery Agreement dated January 30, 2007 ("GDA").

By letters dated July 10 and 17, NRG advised IGPC that the security deposit was required to secure amounts payable by IGPC to NRG. The pipeline was completed and fully commissioned by July 10 and NRG had performed all of its obligations relating to the construction of the pipeline.

To accommodate IGPC, NRG had previously agreed with IGPC that the in-service date would be July 15. As a result, IGPC was required to pay NRG all delivery charges commencing July 15. For that reason, IGPC was required to pay the security deposit to NRG by July 15 regardless of whether IGPC was ready to receive gas on that day.

NRG again requested that IGPC pay the security deposit. IGPC again refused to pay the security deposit.

On July 17, NRG again repeated its request that IGPC pay the security deposit required under the GDA. NRG and IGPC had several discussions subsequently about the form and timing of the delivery of the security deposit. IGPC advised NRG that it was financially unable to pay the security deposit due to limitations on its ability to draw down cash due to the terms and conditions of its credit facility.

On July 28, IGPC told NRG that it would provide a letter of credit that could be cashed immediately so that NRG would be in the same position as if IGPC had paid a cash deposit.

Subsequently, IGPC demanded that any security paid by IGPC be segregated in a special account and not be accessed by NRG for any purpose until IGPC defaults. On August 13, before NRG could respond to IGPC, IGPC delivered a letter of credit in the amount of \$232,666.84.

At no time between July 8 and August 13 did IGPC ever provide NRG with a copy of the proposed letter of credit so that NRG could review its terms and conditions. To the contrary, IGPC had advised that it was prepared to pay a cash deposit, but simply could not do so until the next regularly scheduled draw down against its credit facility at the end of July.

IS NRG had known IGPC was refusing to pay the security deposit in cash, it would have demanded an opportunity to review the proposed letter of credit, IGPC never provided a draft letter of credit for review.

The letter of credit delivered by IGPC on August 13 contains numerous deficiencies. For example, the letter of credit expires in December 2008. Clearly, the amounts required to be secured will be owing for many years beyond 2008. Accordingly, the current form of letter of credit is not acceptable to NRG.

### **Safety Testing and Certification**

Since July 2, NRG's engineering firm, MIG Engineering Ltd., has been requesting confirmation that IGPC's facility has been installed, tested and approved according to applicable safety standards. There is nothing new in NRG's position. NRG is required to ensure that all applicable safety standards have been complied with.

Due to its own construction delays, IGPC was apparently unable to provide the required safety confirmation at any time prior to August 13.

- 4 -

NRG has complied with all of its obligations under the PCRA and the GDA. NRG remains ready, willing and able to deliver natural gas to IGPC when IGPC complies with its obligations owed to NRG.

Yours truly,

Lawrence I. Thacker

LET/rl  
Encls.

# Appendix H



LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

July 8, 2008

VIA EMAIL

George R. Alkalay  
Northfield Ventures Ltd.  
95 King View Crescent  
King City, ON L7B 1K5

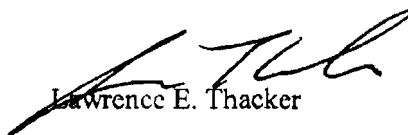
Dear Mr. Alkalay:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

Attached is a calculation of the security deposit that IGPC is required to pay pursuant to the Gas Delivery Contract dated January 30, 2007 between NRG and IGPC.

NRG requires payment of the security deposit in the amount of \$232,666.84 immediately, so that NRG will be in a position to deliver gas on July 15, 2008.

Yours truly,

  
Lawrence E. Thacker

LET/jb  
Encl.

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

**NATURAL RESOURCE GAS LIMITED**  
**IGPC Inc. Gas Delivery Contract Security Deposit**

GST Rate	<u>5.00%</u>
----------	--------------

<b>Rate Volumes</b>	<b>m3</b>
Maximum Daily Volume (i.e. Firm Contract Demand)	108,188
Maximum Hourly Volume	4,508
Minimum Annual Volume	33,416,618

Days in Month	<u>48</u>
---------------	-----------

<b>M9 - Large Wholesale - Bundled-T (\$)</b>	<b>Security Deposit</b>
Monthly Customer Charge	150.00
Monthly Demand Charge	27,685.74
Firm Delivery Rate	<u>193,751.73</u>
<b>Total</b>	<b><u>221,587.47</u></b>
<b>GST</b>	<u>11,079.37</u>
<b>Security Deposit</b>	<b><u>232,666.84</u></b>

<b>M9 - Large Wholesale - Bundled-T (m*3)</b>	
Monthly Demand Charge	108,188
Firm Delivery Rate	5,193,024

<b>M9 - Large Wholesale - Bundled-T (\$/m*3)</b>	
Monthly Demand Charge	\$ 0.2559040
Firm Delivery Rate	\$ 0.0373100

# Appendix I

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

July 10, 2008

VIA EMAIL

Jim Grey, CEO  
IGPC Ethanol Inc.  
PO Box 205  
Aylmer, ON N5H 2R9

Dear Mr. Grey:

**Re:** Natural Resource Gas **Limited** ("NRG") and  
Integrated Grain Processors **Co-operative Inc.** ("IGPC")

Thank you for your email of yesterday.

The security deposit is required to secure amounts payable by IGPC to NRG. The pipeline is now completed and fully commissioned. NRG has performed all of its obligations relating to the construction of the pipeline.

We understand that there have been some construction delays on IGPC's end and, as a result, IGPC is not ready to accept the delivery of gas on the agreed date of July 15. However, the in service date is July 15, regardless of whether or not IGPC is able to utilize natural gas on that date.

As a result, IGPC is required to pay NRG all delivery charges commencing July 15. Accordingly, IGPC is required to pay the security deposit to NRG by July 15 regardless of whether IGPC is ready to receive gas on that date. If IGPC does not pay the security deposit by July 15, it will be in breach of the Pipeline Cost Recovery Agreement and related agreements between NRG and IGPC.

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

- 2 -

While I am happy to discuss this with you, I want to be sure that NRG's position is clear

Yours truly,  
**COPY**

Lawrence E. Thacker

LET/rl

cc     Adrian Pye  
       Brian Hewson

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litipate.com

July 17, 2008

VIA EMAIL

Jim Grey, CEO  
IGPC Ethanol Inc.  
PO Box 205  
Aylmer, ON N5H 2R9

Dear Mr. Grey:

**Re: Natural Resource Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc. ("IGPC")**

We have your letter of July 11

Our position remains as set out in our letter of July 10. Specifically, the security deposit required to be paid under Part 10 of the Gas Delivery Agreement dated January 30, 2007 ("GDA") is intended to secure payment of invoices rendered pursuant to the GDA.

All parties have agreed that the In-Service Date will be July 15. The Commencement Date is July 15. IGPC is required to pay all invoices in accordance with the General Terms and Conditions, which provide that the invoices are due when rendered.

The fact that IGPC, due to its own construction delays, is unable to actually accept the delivery of gas, does not allow IGPC to avoid paying the security deposit prior to the Commencement Date and In-Service Date of July 15. Accordingly, IGPC is now in default of its obligation to provide NRG with the security deposit required under the GDA.

Separate and apart from IGPC's obligations to provide NRG with the required security deposit, IGPC was required to take service on July 15. IGPC is not able to accept the delivery of gas, notwithstanding NRG's ability to deliver the full amount of the gas contemplated by the GDA. Accordingly, the 30-day period contemplated by Section 7.4(d) of the Pipeline Cost Recovery Agreement made as of January 31, 2007 (the "PCRA"), commenced on July 15. If IGPC does not commence taking service prior to August 14, NRG will be entitled to draw upon the Delivery Letter of Credit in accordance with Section 7.4(d) of the PCRA.

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

NRG has incurred all of the construction costs, including those additional costs associated with completing the pipeline by the specific date requested by IGPC. NRG is entitled to be paid the agreed charges, and to be provided with the agreed security deposit. NRG requires IGPC to pay those amounts to protect the interests of NRG's stakeholders, including all of the ratepayers who rely on NRG for natural gas delivery services.

If NRG does not receive the full amount of the security deposit by 4 pm on Monday, July 21, 2008, NRG will proceed to enforce its remedies. Moreover, NRG will not deliver any gas to IGPC until the full amount of the security deposit is paid. NRG must protect the interests of its stakeholders, including the interest of all ratepayers.

NRG hopes that IGPC will pay the security deposit to NRG and that no enforcement proceedings will be necessary.

Yours truly,

Lawrence E. Thacker

LET/rl

bcc Mark Bristoll

# Appendix J



# AIRD & BERLIS LLP

Barristers and Solicitors

Scott Stoll  
Direct: (416) 865-4703  
E-mail: [ssoll@airdberlis.com](mailto:ssoll@airdberlis.com)

August 14, 2008

VIA **EMAIL**

Mr. Lawrence E. Thacker  
Lenczner Slaght Royce Smith Griffin LLP  
Barristers  
2600 - 130 Adelaide Street West  
Toronto, Ontario  
M5H 3P5

Dear Mr. Thacker:

Re: **IGPC** Ethanol Inc. ("**IGPC**") and Natural Resources Gas Ltd. ("**NRG**")  
Letter of Credit and Commissioning Issues

---

We received your latest correspondence of 7:17 pm of August 13, 2008.

The Gas Delivery Contract is very clear that IGPC may provide security by Letter of Credit. IGPC has provided a Letter of Credit for the amount specified by NRG and has **therefore** satisfied all of its contractual obligations for the supply of natural gas to the ethanol facility. Your position that cash is required is untenable. Further, an expiry date is not a defect as the Letter of Credit will be replaced prior to its expiry as is the normal practice in these matters. Given our clients many attempts to discuss the form of the Letter of Credit and other issues with NRG and the complete lack of response from NRG, we are appalled that your client would refuse to accept the Letter of Credit at this late hour.

We have told your client on numerous occasions that natural gas would be required in August only to be met with silence. IGPC is ready to have natural gas introduced into its **facility**. Despite **IGPC's** numerous attempts to make arrangements for commissioning over the last several weeks; yesterday, for the first time, NRG's consultant demanded information prior to permitting gas to flow. This information was provided this morning. Even with the information, NRG is refusing to commission the facility. This behaviour is completely unacceptable, contrary to NRG's contractual obligations and its responsibilities as a public utility.

IGPC is putting NRG on notice that it will be held accountable for all delays and damages resulting from its action or rather inaction. NRG is leaving IGPC no alternative but to request the Ontario Energy Board to order NRG to comply with its obligations.

August 14, 2008  
Page 2

Yours very truly,

AIRD & BERLIS LLP



Scott Stoll

cc: Kirsten Walli, OEB - Board Secretary  
Brian Hewson, OEB, Chief Compliance Officer  
Jim Grey, IGPC  
Martin Kovnats, Aird & Berlis  
George Alkalay

4260085.1

# Appendix K

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

September 17, 2008

**VIA EMAIL**

Martin Kovnats  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

Dear Mr. Kovnats:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

Set out below is the draft letter of credit that NRG would be prepared to consider:

"Date of issue: •

Irrevocable Standby Letter of Credit No.: CT08SOL0048-B

Amount: CAD 232,666.84

Date of Expiry: 1 December 2008

Beneficiary:  
Natural Resource Gas Limited  
PO Box 307  
Aylmer  
Ontario N5H 2S1

Applicant:  
IGPC Ethanol Inc.  
PO Box 205  
89 Progress Drive  
Aylmer  
Ontario N5H 2R9

Dear Sirs

At the request of the Applicant, we, Société Générale (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1 (the "Bank") hereby issue our Irrevocable Standby Letter of Credit No. CT08SOL0048-B (this "Letter of

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

Credit") in your favour for the maximum aggregate amount of CAD232,666.84 (Canadian Dollars Two Hundred Thirty Two Thousand Six **Hundred** Sixty Six and Eighty Four Cents) available by your **Draft(s)** drawn at sight on **Société Générale** (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1.

This Letter of Credit will continue from • and will expire at our counters on • and the **Beneficiary** may call for payment of the full amount outstanding under this Letter of Credit at any time up to the close of business on that date or any future ~~expiry~~ date. This Letter of Credit shall be deemed to be automatically extended for one year from the present or any future expiration date hereof, unless at least 30 days prior to any such date we shall notify the Beneficiary in writing by registered mail or by courier sent to: P.O. Box **307**, Aylmer, Ontario, N5H 2S1 or such other address as the Beneficiary may designate in writing, that we elect not to consider this Letter of Credit renewed for any such additional period. Upon and at any time following the Beneficiary's receipt of such notice, but prior to the expiry of this Letter of Credit, the Beneficiary may draw hereunder.

The Beneficiary may draw on this Letter of Credit at any time and from time to time prior to the expiry of this Letter of Credit upon written demand purportedly signed by an authorized officer of the Beneficiary accompanied by the original of **this** Letter of Credit and all amendments hereto (if any). We shall pay to the Beneficiary in accordance with the demand the full **amount** requested in the demand.

We shall honour your **Draft(s)** within 3 Business Days after receipt thereof without enquiring whether the Beneficiary has the right as **between** the **Beneficiary** and the Applicant to make such demand, and without recognizing any claim of the Applicant. The Bank shall endorse the original of this Letter of Credit with the amount of the demand upon its payment and return **the** original of this **Letter** of Credit to the Beneficiary.

Partial or multiple drawings are permitted.

This **Letter** of Credit is not **transferable**."

Yours truly,

  
Lawrence E. Thacker

LET/rl

# Appendix L

## Myers, Jonathan

---

From: Lawrence Thacker [lthacker@litigate.com]  
Sent: October 18, 2008 4:18 PM  
To: Myers, Jonathan  
Subject: FW: NRG and IGPC  
Attachments: Aird.PDF

---

**From:** Jill Fraser [mailto:jfraser@airdberlis.com]  
**Sent:** Wednesday, September 24, 2008 3:58 PM  
**To:** Lawrence Thacker; Martin Kovnats  
**Cc:** Jim Grey; Scott Stoll  
**Subject:** RE: NRG and IGPC

Please find attached our comments on the letter of credit. The comments are to align the language with the requirements of the Gas Delivery Contract, so that it is clear that NRG is entitled to draw on the security deposit under the GDC before making a draw on the letter of credit.

We will forward the letter of credit to Societe Generale in the meantime in order to obtain their sign-off.

---

**Jill P. Fraser | Aird & Berlis LLP | Barristers and Solicitors**  
1800 - 181 Bay Street | Toronto ON M5J 2T9 | Tel: 416-865-7744  
Fax: 416-863-1515 | Email: jfraser@airdberlis.com

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---

**From:** Rozana Latiff [mailto:rlatiff@litigate.com] **On Behalf Of** Lawrence Thacker  
**Sent:** September 17, 2008 12:35 PM  
**To:** Martin Kovnats  
**Cc:** Lawrence Thacker  
**Subject:** NRG and IGPC

Please see attached.

Rozana Latiff  
Assistant to Lawrence Thacker  
Lenczner Slaght Royce Smith Griffin LLP  
2600-130 Adelaide Street West

18/10/2008

Toronto, Ontario M5H 3P5  
Tel: (416) 865-9500 ext. 259 Fax: (416) 865-9010  
rlatiff@litigate.com www.litigate.com

---

*This e-mail may contain legally privileged or confidential information. This message is intended only for the recipient(s) named in the message. If you are not an intended recipient and this e-mail was received in error, please notify us by reply e-mail and delete the original message immediately. Thank you. Lenczner Slaght Royce Smith Griffin LLP.*

18/10/2008



LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

September 17, 2008

**VIA EMAIL**

Martin Kovnats  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

Dear Mr. Kovnats:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

Set out below is the draft letter of credit that NRG would be prepared to consider:

"Date of issue: •

Irrevocable Standby Letter of Credit No.: CT08SOL0048-B

Amount: CAD 232,666.84

Date of Expiry: 1 December 2008

Beneficiary:  
Natural Resource Gas Limited  
PO Box 307  
Aylmer  
Ontario N5H 2S1

Applicant:  
IGPC Ethanol Inc.  
PO Box 205  
89 Progress Drive  
Aylmer  
Ontario N5H 2R9

Dear Sirs

At the request of the Applicant, we, Société Générale (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1 (the "Bank") hereby issue our Irrevocable Standby Letter of Credit No. CT08SOL0048-B (this "Letter of

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

Credit") in your favour for the maximum aggregate amount of CAD232,666.84 (Canadian Dollars Two Hundred Thirty Two Thousand Six Hundred Sixty Six and Eighty Four Cents) available by your Draft(s) drawn at sight on Société Générale (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1.

*accompanied by the following document:*  
**Rider ①**

This Letter of Credit will continue from • and will expire at our counters on • and the Beneficiary may call for payment of the full amount outstanding under this Letter of Credit at any time up to the close of business on that date or any future expiry date. This Letter of Credit shall be deemed to be automatically extended for one year from the present or any future expiration date hereof, unless at least 30 days prior to any such date we shall notify the Beneficiary in writing by registered mail or by courier sent to: P.O. Box 307, Aylmer, Ontario, N5H 2S1 or such other address as the Beneficiary may designate in writing, that we elect not to consider this Letter of Credit renewed for any such additional period. Upon and at any time following the Beneficiary's receipt of such notice, but prior to the expiry of this Letter of Credit, the Beneficiary may draw hereunder.

~~The Beneficiary may draw on this Letter of Credit at any time and from time to time prior to the expiry of this Letter of Credit upon written demand purportedly signed by an authorized officer of the Beneficiary accompanied by the original of this Letter of Credit and all amendments hereto (if any). We shall pay to the Beneficiary in accordance with the demand the full amount requested in the demand.~~

We shall honour your Draft(s) within 3 Business Days after receipt thereof without enquiring whether the Beneficiary has the right as between the Beneficiary and the Applicant to make such demand, and without recognizing any claim of the Applicant. The Bank shall endorse the original of this Letter of Credit with the amount of the demand upon its payment and return the original of this Letter of Credit to the Beneficiary.

Partial or multiple drawings are permitted.

This Letter of Credit is not transferable."

**Rider ②**

Yours truly,

  
Lawrence E. Thacker

LET/rf

## **Rider to Letter of Credit**

### **Rider 1**

Beneficiary's certificate **purportedly** signed by an authorized representative of Beneficiary certifying that:

1. Applicant is not in compliance with the terms of the Gas Delivery Contract dated as of January 30, 2007 between Applicant (as assignee of Integrated Grain Processors Co-operative Inc.) and Beneficiary (the "Gas Delivery Contract"); and
2. There is no dispute between Applicant and Beneficiary regarding the existence of such non-compliance or, to the extent such a dispute exists, such dispute has been finally resolved in accordance with the Gas Delivery Contract and Applicant has not made payment to Beneficiary with ten (10) Business Days (as defined in the Gas Delivery Contract) of the final resolution of such dispute.

### **Rider 2**

This **Letter** of Credit is subject to the laws of the Province of Ontario and the laws of Canada applicable therein to the extent not covered by the Uniform Customs and Practice for Documentary Credits, 2007 revision, ICC Publication No. 600.

4388905.1

# Appendix M

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

~~Direct~~ Line: (416) 865-3097  
Email: ~~lthacker@litigate.com~~

September 24, 2008

**VIA EMAIL**

Jill Fraser  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

Dear Ms. Fraser:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

I have your letter of today's date.

Attached are our comments on your proposed changes to the draft Letter of Credit.

We do not agree with rider 1. Paragraphs 1 and 2 of rider 1 refer to obligations already covered by Part X of the Gas Delivery Contract dated January 30, 2007. Specifically, the Gas Delivery Contract expressly sets out the terms and conditions on which NRG is permitted to draw upon the security deposit. IGPC is offering the Letter of Credit as the security deposit that IGPC is required to deliver to NRG pursuant to the Gas Delivery Contract.

NRG does not wish to create any ambiguity or uncertainty by adding new conditions in respect of contractual rights and obligations already expressly agreed to in the Gas Delivery Contract.

Yours truly,

  
Lawrence E. Thacker

LET/jb

Encl(s).

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

964455.1

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

September 24, 2008

**VIA EMAIL**

Martin Kovnats  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

Dear Mr. Kovnats:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
("IGPC")**

Set out below is a revised draft letter of credit that NRG would be prepared to consider:

"Date of issue: •

Irrevocable Standby Letter of Credit No.: CT08SOL0048-B

Amount: CAD 232,666.84

Date of Expiry: 1 December 2008

Beneficiary:  
Natural Resource Gas Limited  
PO Box 307  
Aylmer  
Ontario N5H 2S1

Applicant:  
IGPC Ethanol Inc.  
PO Box 205  
89 Progress Drive  
Aylmer  
Ontario N5H 2R9

Dear Sirs

At the request of the Applicant, we, **Société Générale** (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1 (the "Bank") hereby issue our Irrevocable Standby Letter of Credit No. CT08SOL0048-B (this "Letter of

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

Credit") in your favour for the maximum aggregate amount of **CAD232,666.84** (Canadian Dollars Two Hundred **Thirty** Two Thousand Six Hundred Sixty Six and Eighty Four Cents) available by your **Draft(s)** drawn at sight on Societe **Générale** (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario **M5C 2W1**.

This Letter of Credit will continue from • and will expire at our counters on • and the Beneficiary may call for payment of the full amount outstanding under this Letter of Credit at any time up to the close of business on that date or any future expiry date. This Letter of Credit shall be deemed to be automatically extended for one year from the present or any future expiration date hereof, unless at least 30 days prior to any such date we shall notify the Beneficiary in writing by registered mail or by courier sent to: P.O. Box 307, Aylmer, Ontario, N5H 2S1 or such other address as the Beneficiary may designate in writing, that we elect not to consider this Letter of Credit renewed for any such additional period. Upon and at any time following the Beneficiary's receipt of such notice, but prior to the expiry of this Letter of Credit, the Beneficiary may draw hereunder.

We shall honour your **Draft(s)** within 3 Business Days after receipt thereof without enquiring whether the Beneficiary has the right as between the Beneficiary and the Applicant to make such demand, and without recognizing any claim of the Applicant. The Bank shall endorse the original of this Letter of Credit with the amount of the demand upon its payment and return the original of this Letter of Credit to the Beneficiary.

Partial or multiple drawings are permitted.

This Letter of Credit is not transferable."

This Letter of Credit is subject to the laws of the Province of Ontario and the laws of Canada applicable therein to the extent not covered by the Uniform Customs and Practice for Documentary Credits, 2007 revision, ICC Publication No. 600.

Yours truly,

  
Lawrence E. Thacker

LET/1/jb

**LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS**

**Direct Line:** (416) 865-3097  
**Email:** lthacker@litigate.com

September 17, 2008

**VIA EMAIL**

Martin Kovnats  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON M5J 2T9

Dear Mr. Kovnats:

**Re: Natural Resources Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc.  
(LIGPC\*)**

Set out below is the draft letter of credit that NRG would be prepared to consider:

"Date of issue: •

Irrevocable Standby Letter of Credit No.: CT08SOL0048-B

Amount: CAD 232,666.84

Date of Expiry: 1 December 2008

Beneficiary:  
Natural Resource Gas Limited  
PO Box 307  
Aylmer  
Ontario N5H 2S1

Applicant:  
IGPC Ethanol Inc.  
PO Box 205  
89 Progress Drive  
Aylmer  
Ontario N5H 2R9

Dear Sirs

At the request of the Applicant, we, Société Générale (Canada Branch), Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1 (the "Bank") hereby issue our Irrevocable Standby Letter of Credit No. CT08SOL0048-B (this "Letter of

Suite 2600, 130 Adelaide Street West, Toronto, Ontario, Canada M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010



Credit") in your favour for the **maximum** aggregate amount of **CAD232,666.84** (Canadian Dollars Two Hundred ~~Thirty Two Thousand Six Hundred Sixty Six~~ **and Eighty Four Cents**) available by your **Draft(s)** drawn at sight on **Société Générale (Canada Branch)**, Suite 1002, 100 Yonge Street, Toronto, Ontario M5C 2W1. ~~It is accompanied by the following documents:~~

~~Rider 2~~  
This Letter of Credit will continue from • and will expire at our counters on • and the Beneficiary may call for payment of the full amount outstanding under this Lcner of Credit at any time up to the close of business on that date or any future expiry date. This Letter of Credit shall be deemed to be automatically extended for one year from the present or any future expiration date hereof, unless at least 30 days prior to any such date we shall notify the Beneficiary in writing by registered mail or by courier sent to: P.O.Box 307, Aylmer, Ontario, N5H 2S1 or such other address as the Beneficiary may designate in writing, that we elect not to consider this Letter of Credit renewed for any such additional period. Upon and at any time following the Beneficiary's receipt of such notice, but prior to the expiry of this Lcner of Credit, the Beneficiary may draw hereunder.

~~The Beneficiary may draw on this Letter of Credit at any time and from time to time prior to the expiry of this Letter of Credit upon written demand purportedly signed by an authorized officer of the Beneficiary accompanied by the original of this Letter of Credit and all amendments hereto (if any). We shall pay to the Beneficiary in accordance with the demand the full amount requested in the demand.~~

We shall honour your **Draft(s)** within 3 Business Days after receipt thereof without enquiring whether the Beneficiary has the right as between the Beneficiary and the Applicant to make such demand, and without recognizing any claim of the Applicant. The Bank shall endorse the original of this Letter of Credit with the amount of the demand upon its payment and return the original of this Letter of Credit to the Beneficiary.

Partial or multiple drawings are permitted.

This Letter of Credit is not transferable."

Rider ②

Yours truly,

  
Lawrence E. Thacker

LET/rf

## Rider to Letter of Credit

### Rider 1

Beneficiary's certificate purportedly signed by an authorized **representative of Beneficiary** certifying that:

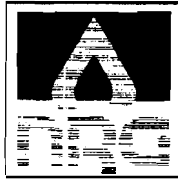
1. Applicant is not in compliance **with the terms of the Gas Delivery Contract** dated as of January 30, 2007 between Applicant (**as assignee of Integrated Grain Processors Co-operative Inc.**) and Beneficiary (the "**Gas Delivery Contract**"); and
2. There is no **dispute between Applicant and Beneficiary** regarding the existence of such non-compliance or, to the extent such a dispute exists, such dispute has been finally resolved in accordance with the Gas Delivery Contract and Applicant has not made payment to Beneficiary with ~~ten (10)~~ Business Days (as defined in the Gas Delivery Contract) of the final resolution of such dispute.

### Rider 2

This Letter of Credit is subject to **the** laws of the Province of Ontario and the laws of Canada applicable therein to the extent not covered by the **Uniform** Customs and Practice for Documentary Credits, 2007 revision, ICC Publication No. 600.

4388905.1

# Appendix N



**Natural Resource Gas Limited**

Wednesday, January 02, 2008

**Registered Mail**

Integrated Grain Processors Co-Operative Inc  
701 Powerline Road  
London, Ontario N3T 5L8

Attention: Mr. Tom Cox, Chair

**Re: Pipeline Cost Recovery - Ethanol Plant**

Dear Sirs:

Attached you will find unbilled 3<sup>rd</sup> party invoices related to the Pipeline Cost Recovery Agreement and Natural Resource Gas Limited's bill for services rendered by staff to date, as follows:

OEB Administrative Penalty (June 30, 2007 - July 6, 2007)	\$140,000.00
Lenczner Slaght Royce Smith Griffin LLP	75,182.63
Ogilvy Renault LLP	61,975.86
Natural Resource Gas Limited (\$130,006.50 + GST)	<u>136,506.83</u>
Total Due and Owing Upon Receipt	<u>\$417,665.32</u>

Sincerely,

**Natural Resource Gas Limited**

Per: Mark Bristoll  
President

Attachments

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Mark J. Bristoll

13 July 2007

Our file #: 37489  
INVOICE NO. 69539

Re: Integrated Health Products

TO PROFESSIONAL SERVICES RENDERED with respect to the above matter during the period from June 1, 2007 to July 12, 2007:

Jun 26/07	To reviewing Energy Board statute and jurisdiction; to researching <b>casc</b> law re scope of authority in response to emergency motion;	3.2
Jun 28/07	Prepare for motion; <b>emails(many)</b> ; telephone conversation with P. Moran, R. King and M. Bristoll; <b>review</b> documents; review Ontario Energy Act;	4.1
Jun 29/07	Prepare for and attend at Ontario Energy Board hearing; telephone call to P. Moran and R. King; <b>telephone calls to M. Bristoll(many)</b> ; <b>email</b> to M. Bristoll;	11.0
	Conference call with clients; telephone conversation with M. Bristoll;	1.3
Jul 2/07	Telephone call to M. Bristoll;	.3
Jul 3/07	<b>Email</b> to and from M. Bristoll (many); telephone call to M. <b>Bristol</b> (many); <b>email</b> to and <b>from</b> R. King; telephone <b>call</b> to R. King; telephone call to P. Aiken; <b>review</b> of scenarios; <b>draft</b> Notice of Appeal; conference wither N. Loewith;	5.0
Jul 4/07	Telephone call to M. <b>Bristoll(many)</b> ; <b>email</b> to and	5.0

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

from M. Bristoll; **draft** Notice of Appeal; review of Franchise Agreements; **email** to and **from** R. King;

**Jul 5/07** Telephone call to M. **Bristoll(many)**; **draft** and revise Notice of Appeal; telephone call to R. King (many); telephone call to P. Moran; **email** to and from M. Bristoll; letter to D. O'Leary; **email** to and from R. King; **6.0**

**Jul 6/07** Telephone call to R. King; telephone call to M. **Bristoll**; **email** to **and** from **M. Bristoll**; **draft** settlement proposal; letter to D. O'Leary; **email** to **and** from M. Bristoll(**many**) letter from D. **O'Leary**; letter to K. **Walli**; **email** to **and** from P. Morin; **5.0**

Lawrence E. Thacker	37.7	@	575.00	=	21,677.50
N. Loewith	3.2	@	275.00	=	880.00
TOTAL FEES					<u>22,557.50</u>

TO OUR FEE \$23,000.00

#### DISBURSEMENTS

Copies 3.25 T

TOTAL DISBURSEMENTS \$3.25

TOTAL FEES AND DISBURSEMENTS \$23,003.25

#### TOTAL TAXES

G.S.T. on fees	1,380.00
G.S.T. on disbursements	.20
G.S.T. (Registration #: R133780817)	<u>1,380.20</u>

TOTAL BILL \$24,383.45

**TRUST STATEMENT**

Jul 10/07	Trust Receipt Natural Resources Gas	(15,000.00)	
	Less amount received from Trust		15,000.00
	TOTAL DUE AND OWING UPON RECEIPT		<u>\$9,383.45</u>

**LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP**

\_\_\_\_\_  
Lawrence E. Thacker  
E.& O.E.

**ACCOUNTS DUE WHEN RENDERED.** In accordance with Section 33 of the Solicitors *Act*, interest will be charged at the rate of 4.5% per annum on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Mark J. Bristoll

13 July 2007

Our file #: 37489  
INVOICE NO. 69539

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**Rc: Integrated Grain Processors**

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TO PROFESSIONAL SERVICES RENDERED with respect to the above matter during the period from June 1, 2007 to July 12, 2007:

- Jun 26/07 To reviewing Energy Board statute and jurisdiction; to researching case law re scope of authority in response to emergency motion;
- Jun 28/07 Prepare for motion; emails (many); telephone conversation with P. Moran, R. King and M. Bristoll; review documents; review Ontario Energy Act;
- Jun 29/07 Prepare for and attend at Ontario Energy Board hearing; telephone call to P. Moran and R. King; telephone calls to M. Bristoll (many); email to M. Bristoll;
- Conference call with clients; telephone conversation with M. Bristoll;
- Jul 2/07 Telephone call to M. Bristoll;
- Jul 3/07 Email to and from M. Bristoll (many); telephone call to M. Bristol (many); email to and from R. King; telephone call to R. King; telephone call to P. Aiken; review of scenarios; draft Notice of Appeal; conference with N. Loewith;
- Jul 4/07 Telephone call to M. Bristoll (many); email to and from M. Bristoll; draft Notice of Appeal; review of Franchise Agreements; email to and from R. King;

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010



Jul 5/07 Telephone call to M Bristoll (many); draft and revise Notice of Appeal; telephone call to R. King (many); telephone call to P. Moran; email to and from M Bristoll; letter to D O'Leary; email to and from R. King;

Jul 6/07 Telephone call to R. King; telephone call to M. Bristoll; email to and from M Bristoll; draft settlement proposal; letter to D. O'Leary; email to and from M Bristoll (many) letter from D. O'Leary; letter to K. Walli; email to and from P. Morin;

TO OUR FEE \$23,000.00

**DISBURSEMENTS**

Copies 3.25 T

TOTAL DISBURSEMENTS \$3.25

TOTAL FEES AND DISBURSEMENTS \$23,003.25

**TOTAL TAXES**

G.S.T. on fees 1,380.00  
 G.S.T. on disbursements 20  
 G.S.T. (Registration #: R133780817) 1,380.20

TOTAL BILL \$24,383.45

**TRUST STATEMENT**

Jul 10/07 Trust Receipt Natural Resources Gas (15,000.00)

Less amount received from Trust 15,000.00

TOTAL DUE AND OWING UPON RECEIPT \$9,383.45

**LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP**

---

Lawrence **E. Thacker**  
E.& O E.

**ACCOUNTS DUE WHEN RENDERED** In accordance **with** Section 33 of the *Solicitors Act*, interest will be **charged** at the **rate of 4.5%** per **annum** on unpaid **fees, charges and disbursements**, calculated **from** a date **that** is one **month** after this statement **is delivered**

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Mark J. Bristoll  
(Sent Via Email)

29 November 2007

Our file #: 37489  
INVOICE NO. 71966

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Re: Integrated Grain Processors

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TO PROFESSIONAL SERVICES RENDERED with respect to the above matter during the period from July 1, 2007 to October 31, 2007:

Jul 3/07 To receiving instructions from L. Thacker;

Jul 4/07 To drafting notice of appeal of Board's decision;

Jul 5/07 To determining filing requirements and certificate of evidence;

Jul 9/07 Telephone call to D. O'Leary; letter to D. O'Leary; letter to M. Bristoll; telephone call to M. Bristoll; email to and from M. Bristol;

Jul 10/07 Telephone call to M. Bristoll; email to and from M. Bristoll; letter to D. O'Leary;

Jul 11/07 Email to and from M. Bristoll; memo to file; review Pipeline Agreement; telephone call to R. King; telephone call to D. O'Leary; telephone call to D. O'Leary; email to and from D. O'Leary; telephone call to M. Bristoll; telephone call to R. King; letter to D. O'Leary;

Jul 12/07 Letters (2) from S. Stall re: transcripts; letter to D. O'Leary; prepare appeal materials;

Jul 13/07 Telephone call to M. Bristoll; letter to D. O'Leary; letter from D. O'Leary; telephone call to M. Bristoll;

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

Jul 17/07 Telephone call to P. Moran (2); **telephone** call to M. Bristoll (2); telephone call to R. King; **email** to and from P. Moran; draft letter to D. O'Leary; **email** to M. Bristoll;

Jul 18/07 **Email** to P. Moran and R. King; telephone call to M. Bristoll; letter to M. Bristoll; draft letter to D. O'Leary; review agreements; **email** to and from P. Moran (2); review response of P. Moran;

Jul 19/07 **Email** to and from P. Moran; telephone call to M. Bristoll; letter from D. O'Leary;

Jul 20/07 Telephone call to P. Moran; **email** to and from P. Moran; telephone call to M. Bristoll; telephone call to D. O'Leary; letter to D. O'Leary;

Jul 23/07 Letter from D. O'Leary (2); telephone call to M. Bristoll; **email** to and from P. Moran; telephone call to P. Moran (3);

Jul 24/07 Letter to D. O'Leary; telephone call to M. Bristoll;

Jul 25/07 To reviewing transcript from OER hearing; to reviewing key documents in case to prepare for appeal;

Telephone call to M. Bristoll; conference with N. Loewith re: Appeal Record; draft Factum; review transcripts;

Jul 26/07 Research for N. Loewith for OEB materials;

To researching law re interference with private contracts; to requesting research assistance from librarian; to analysis of relevant case law;

Jul 27/07 To researching jurisdiction of OEB and similar Boards;

Jul 29/07 To researching law re penalty in administrative proceedings;

Jul 30/07 To drafting factum re appeal; to reviewing energy decisions;

Draft Appeal Factum;

Jul 31/07 To editing and revising factum re appeal of OEB decision;

To researching law re interference with private contracts; to requesting research assistance from librarian; to analysis of relevant case law;

Telephone call to P. Moran; telephone call to M. Bristoll; telephone call to R. King; prepare Appeal materials; draft Factum;

Aug 2/07 Prepare Appeal Record;

Aug 3/07 To preparing documents, including Appeal Book and Compendium and Brief of Authorities for appeal;  
  
Telephone call to D. O'Leary; telephone call to K. Sabalj; memo to file;

Aug 7/07 To preparing documents for file;  
  
Draft and revise **Factum**; prepare Appeal Record; telephone call to K. Sabalj; telephone call to D. O'Leary;

Aug 8/07 To **final** revisions for filing appeal;  
  
Telephone call to D. O'Leary; letter to **D. O'Leary**; telephone call to P. Moran; **email** to P. Moran; **draft** and revise Factum; **email** to and from P. Moran; finalize Factum; letter to D. O'Leary and C.B;

Aug 9/07 To revising Brief of Authorities for filing;

Aug 15/07 Telephone call to M. Bristoll;

Aug 17/07 Telephone call to M. **Bristoll**;

Sep 10/07 Telephone call to M. Bristoll; **email** to and from M. Bristoll;

Sep 11/07 Telephone call to M. Bristoll;

Sep 13/07 Receive instructions from L. Thacker; review appeal ~~compendium and factum~~; ~~legal research~~; legal consequences of failure to provide written reasons; memorandum regarding same;  
  
Telephone call to D. O'Leary and B. McGarva;

Sep 14/07 Prepare for and attend **meeting** with M. Bristoll, T. Grat and W. **Suchard** in London;

Sep 26/07 Telephone call to D. O'Leary; telephone call to M. Bristoll;

Oct 24/07 Telephone call to M. Bristoll;

Oct 25/07 Telephone call to M. Bristoll; telephone call to D. O'Leary;

Oct 26/07 Telephone call to D. O'Leary; telephone call to M. Bristoll;  
**email** to and **from** D. O'Leary;

Oct 29/07 Telephone call to M. Bristoll; draft letter to D. **O'Leary; email** to  
and from M. Bristoll; letter **from** D. O'Leary; review proposed  
chedule;

Oct 30/07 Letter to D. **O'Leary**; telephone call to M. Bristoll; **email** to and  
from M. Bristoll;

Oct 31/07 Letter **from** D. O'Leary; letter to M. Bristoll; telephone call to D.  
O'Leary; telephone call to M. Bristoll;

**TO OUR FEE**

**\$44,000.00**

**DISBURSEMENTS**

Copies	428.00	T
<b>Fax</b>	11.75	T
Scanning	4.00	T
Courier Service	114.26	T
eCarswell On-line Research	80.40	T
On-Line Searches	54.54	T
Transaction Levy Surcharge	50.00	T
Scanning, coding and printing	596.48	T
Mileage	166.42	T
Notice Of Appeal	259.00	
Perfecting Of Appeal	201.00	
Process Serving	185.00	T
<b>Printing/Binding</b>	1,798.94	T

**TOTAL DISBURSEMENTS**

**\$3,949.79**

**TOTAL FEES AND DISBURSEMENTS**

**\$47,949.79**

**TOTAL TAXES**

G.S.T. on fees	2,640.00	
G.S.T. on disbursements	209.39	
G.S.T. (Registration #: R133780817)		<u>2,849.39</u>
 TOTAL BILL		 \$50,799.18
 TOTAL DUE AND OWING UPON RECEIPT		 <u>\$50,799.18</u>

**LENCZNER SLACHT ROYCE  
SMITH GRIFFIN LLP**

\_\_\_\_\_  
Lawrence E. Facker  
E.& O.E.

**ACCOUNTS DUE WHEN RENDERED.** In accordance with Section 33 of the *Solicitors Act*, interest will be charged at the rate of 4.5% per annum on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

# OGILVY RENAULT

LLP / S.E.N.C.R.L., s.r.l.

Client: NATURAL RESOURCE GAS LIMITED  
REF: Ethanol Plant  
Matter No.: 01012724-0003

July 13, 2007  
INVOICE: **728429**

GST:11111340006

NATURAL RESOURCE GAS LIMITED  
101 Spruce Street East  
P.O. Box 307  
Aylmer, Ontario **N5H 2S1**

Attention: Mark Bristol  
Chairman

For professional services rendered and disbursements incurred  
for the period ending June 30, 2007

<b>FEES</b>	\$44,370.00
DISBURSEMENTS (Taxable)	117.09
DISBURSEMENTS (Non Taxable)	4.65
GST	2,669.23
<b>TOTAL FOR THIS INVOICE</b>	<b>\$47,160.97</b>

Please return a copy with payment to our address below

Bank Transfer  
Please remit by Bank Transfer to RBC Financial Group, Pain Branch, Royal Bank Plaza, Toronto, Ontario Canada  
Bank 003, Transit 00002, Acc. No. 106-030-0  
ABA # 021000021  
Swift Code # ROYCCAT2  
including invoice number on transfer order

Suite 3800  
Royal Bank Plaza, South Tower  
200 Bay Street  
P.O. Box 84  
Toronto, Ontario **M5T 2T4**  
Canada

Telephone (416) 216-4000  
Fax (416) 216-3930  
ogilvyrenault.com





NATURAL RESOURCE GAS LIMITED

01012724-0003

RE: **Ethanol Plant**

**BILLING SUMMARY**

	Hours	Rate	Amount
P. Moran	33.00	475.00	\$15,675.00
A. Welsh	5.00	625.00	\$3,125.00
R. King	17.50	500.00	\$8,750.00
K. Friedman	2.00	510.00	\$1,020.00
M. Forte	2.50	700.00	\$1,750.00
I.A. Ness	20.00	650.00	\$13,000.00
G. Walker	1.50	700.00	\$1,050.00
Total	81.50		\$44,370.00

**FEE DETAIL**

Date	Timekeeper	Description	Hours	Rate	Amount
1/6/07	Patrick Moran	Telephone call with R. Aiken regarding <b>bundled</b> T agreement.	0.50	476.00	\$237.50
6/6/07	Patrick Moran	Review consent to assignment with M. Forte and A. Welsh.	1.00	475.00	\$475.00
6/6/07	Mario Forte	Review agreements and note <b>comments</b> and strategy.	1.75	700.00	\$1,225.00
6/6/07	Ian A. Ness	Review <b>agreement</b> .	0.50	650.00	\$325.00
7/6/07	Patrick Moran	<b>Email</b> to M. Nelligan regarding NRG's need to <b>have</b> continuing rights notwithstanding <b>assignment</b> of NRG agreements.	0.25	475.00	\$118.75
7/6/07	Ian A. Ness	Discussion with P. Mornn. Review <b>issues</b> .	0.50	650.00	\$325.00
8/6/07	Richard J. King	Liaise and update with P. Moran.	0.25	500.00	\$125.00
8/6/07	Ian A. Ness	Discussion with P. Moran.	0.25	650.00	\$162.50
8/6/07	Patrick Moran	<b>Email</b> to M. Nelligan regarding letter of <b>credit</b> .	0.25	475.00	\$118.75
9/6/07	Andrew Welsh	Review and comment on SocGen Consent Agreement.	0.75	625.00	\$468.75
11/6/07	Ian A. Ness	Discussion with P. Mnrn.	0.25	650.00	\$162.50
12/6/07	Mario Forte	Discussion regarding consent <b>issues</b> .	0.25	700.00	\$175.00

INVOICE: 728429



NATURAL RESOURCE GAS LIMITED

01012724-0003

RE: Ethanol **Plant**

Date	Timekeeper	Description	Hours	Rate	Amount
13/6/07	Ian A. Ness	Review agreement, comments from A. Welsh and other materials.	1.25	650.00	\$812.50
13/6/07	Richard J. King	Discussion with P. Moran regarding matters prior to financial close; discussion with G. Walker; further discussion with P. Moran.	1.50	500.00	\$750.00
13/6/07	Patrick Moran	Telephone call with R. Aiken regarding Bundled T agreement; telephone call with M. Nelligan regarding status of consent: email to L. Parsons.	0.75	475.00	\$356.25
13/6/07	Mario Forte	Dealing with parameters for change to consent, etc.	0.50	700.00	\$350.00
14/6/07	Ian A. Ness	Consolidate comments	1.25	650.00	\$812.50
15/6/07	Patrick Moran	Finalize Bundled T agreement and forward same to M. Bristoll for execution.	1.00	475.00	\$475.00
17/6/07	Ian A. Ness	Provide comments.	0.50	650.00	\$325.00
18/6/07	Ian A. Ness	Review agreement.	1.25	650.00	\$812.50
19/6/07	Ian A. Ness	Communications; mark-up of agreement.	1.75	650.00	\$1,137.50
20/6/07	Ian A. Ness	Meeting with P. Moran and A. Welsh; revise agreement and provide mark-up.	2.00	650.00	\$1,300.00
20/6/07	Andrew Welsh	Review I. Ness mark-up of comment; meet I. Ness and P. Moran regarding same; review further I. Ness mark-up.	1.75	625.00	\$1,093.75
21/6/07	Ian A. Ness	Consult P. Moran.	0.25	650.00	\$162.50
22/6/07	Richard J. King	Call with M. Bristoll; get wire instructions; liaise with P. Moran.	0.75	500.00	\$375.00
22/6/07	Andrew Welsh	Office conference with P. Moran; emails regarding consent.	0.50	625.00	\$312.50

INVOICE: 728429



NATURAL RESOURCE GAS LIMITED

01012724-0003

HE: Ethanol Plant

Date	Timekeeper	Description	Hours	Rate	Amount
22/6/07	Patrick Moran	Telephone call with M. Nelligan regarding payment of aid-to-construct and signature pages for consent and huddled T agreement; telephone call and email to M. Bristoll regarding same; email exchange with L. Parsons; review revised consent from L. Parsons.	2.00	475.00	\$950.00
22/6/07	Ian A. Ness	Review and revise new draft agreement.	1.50	650.00	\$975.00
24/6/07	Ian A. Ness	Engaged regarding correspondence.	0.25	650.00	\$162.50
31/6/07	Andrew Welsh	Prepare for and participate in conference call with SocGen and MT regarding consent.	1.25	625.00	\$781.25
24/6/07	Patrick Moran	Conference call with A. Welsh, G Baird and L. Parsons regarding draft consent.	1.00	475.00	\$475.00
25/6/07	Richard J. King	Liaise with P. Moran; liaise with client; get wire instructions.	0.50	500.00	\$250.00
25/6/07	Patrick Moran	Review draft consent received from L. Parsons.	0.50	475.00	\$237.50
25/6/07	Ian A. Ness	Communication regarding agreement.	0.75	650.00	\$487.50
26/6/07	Richard J. King	Email exchanges with P. Moran regarding deadline.	0.50	500.00	\$250.00
26/6/07	Geoffrey Walker	Telephone with P. Moran re LC payment tax issue. Update and finalize tax memo providing advice on Canadian tax treatment.	1.50	700.00	\$1,050.00
26/6/07	Andrew Welsh	Review I. Ness mark-up of redraft; meeting with I. Ness and P. Moran.	0.50	625.00	\$312.50
26/6/07	Ian A. Ness	Reviewing agreement; comments; conference call; providing further comments; office consultation; meeting to discuss.	3.75	650.00	\$2,437.50

INVOICE: 728429



NATURAL RESOURCE GAS LIMITED

01012724-0003

**RE: Ethanol Plant**

Date	Timekeeper	Description	Hours	Rate	Amount
26/6/07	Patrick Moran	Email exchanges with M. Ristoll; review consent with I. Ness and A. Welsh and forward same to M. Bristoll; prepare and forward markups of consent to L. Parsons; conference call with L. Parsons, G. Baird and I. Ness.	4.00	475.00	\$1,900.00
27/6/07	Andrew Welsh	Redraft; office conference with I Ness.	0.25	625.00	\$156.25
27/6/07	Richard J. King	Liaise with P. Moran and K. Friedman.	0.50	500.00	\$250.00
27/6/07	Ian A. Ness	Dealing with agreement issues and comments; review; office consultation; conference with McCarthys.	3.50	650.00	\$2,275.00
27/6/07	Kelly Friedman	Telephone calls with Pat Moran re: litigation exposure; telephone call with Pat Moran and client.	1.00	510.00	\$510.00
27/6/07	Patrick Moran	Email exchange with B. Israel regarding legal opinion for consent; email exchanges with I. Ness, M. Nelligan, M. Bristoll, R. King and L. Parsons; telephone calls with M. Bristoll regarding consent; telephone call with D. O'Leary (IGPC) regarding delay in signing consent; conference with K. Friedman and subsequent conference calls with M. Bristoll regarding consequences of not executing consent.	4.00	475.00	\$1,900.00

INVOICE: 728429



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NATURAL RESOURCE GAS LIMITED

01012724-0003

HE: Ethanol Plant

Date	Timekeeper	Description	Hours	Rate	Amount
28/6/07	Patrick Moran	Numerous conference calls with M. Bristoll and R. King; review application materials served by IGPC; telephone calls with L. Thacker regarding emergency application by IGPC to assist him in preparing to appear on behalf of NRG; emails to M. Bristoll regarding need to sign consent regarding same; telephone calls from D. O'Leary (ICPC) and telephone call from D. Woodward (Aylmer) to express concern about failure to execute consent; review letter from D. Woodward and forward same to M. Bristoll; telephone call from Board counsel regarding scheduling of emergency application by ICPC; review emergency procedural order and forward same to M. Bristoll.	6.00	475.00	\$2,850.00
28/6/07	Richard J. King	Liaise with M. Bristoll, K. Friedman and P. Moran regarding risks of failing to execute consent and other documentation; consideration of litigation needs of client; liaise with L. Thacker; review motion materials from Aird & Berlis; numerous conversations with client, P. Moran and others regarding motion.	6.75	500.00	\$3,375.00
28/6/07	Kelly Friedman	Discussions with Richard King.	1.00	510.00	\$510.00
28/6/07	Ian A. Ness	Communication with P. Moran, R. King.	0.50	650.00	\$325.00

INVOICE: 728429



NATURAL RESOURCE GAS LIMITED

01012724-0003

RE: Ethanol Plant

Date	Timekeeper	Description	Hours	Rate	Amount
29/6/07	Richard J. King	Listen to Ontario Energy Board motion; numerous conference calls with L. Thacker, M. Bristoll and P. Moran regarding progress of motion, compliance hearing, offers to settle, options for Board, consequences of non-compliance and other matters; obtain Notice of Appeal and Stay Motion precedents.	6.50	500.00	\$3,260.00
29/6/07	Patrick Moran	Numerous conference calls regarding execution of consent and monitoring emergency application brought by IGPC; draft non-disclosure agreement for L. Thacker; commence draft notice of appeal; advice to M. Bristoll and L. Thacker regarding settlement option.	10.00	475.00	\$4,750.00
30/6/07	Patrick Moran	Conference call with M. Bristoll and L. Thacker; conference call with R. King and R. Aiken regarding settlement option; telephone call with M. Bristoll regarding same.	1.75	475.00	\$831.25
30/6/07	Richard J. King	Continuing email exchanges with P. Moran, M. Bristoll and L. Thacker.	0.26	500.00	\$125.00
TOTAL FEES					\$44,370.00

**DISBURSEMENTS - TAXABLE**

Photocopies	17.00
Long distance calls	42.34
Conference call	57.65
	<u>\$117.09</u>

INVOICE: 728429



NATURAL RESOURCE GAS LIMITED

01012724-0003

HE: **Ethanol Plant**

**DISBURSEMENTS - NUN TAXABLE**

Provincial Sales Tax	4.65
	<u>\$4.65</u>

**DISBURSEMENT DETAIL - TAXABLE**

Date	Timekeeper	Description	Amount
5/5/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	19.60
11/5/07	Patrick Moran	Conference call - ENUNCIATE: CONFERENCING	0.22
22/5/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	14.83
25/5/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	23.00
1/6/07	Patrick Moran	Long distance calls <b>15193518624</b>	13.53
6/6/07	Sandra Vanderbrug	Photocopies	8.50
6/6/07	Sandra Vanderbrug	Photocopies	8.50
13/6/07	Patrick Moran	Long distance calls 15193518624	28.91
TOTAL			<u>\$117.09</u>

**DISBURSEMENT DETAIL - NON TAXABLE**

Date	Timekeeper	Description	Amount
5/5/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	1.60
11/5/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	0.02
22/5/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	1.19
25/5/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	1.84
TOTAL			<u>\$4.65</u>

INVOICE: 728429

# OGILVY RENAULT

LLP / S.E.N.C.R.L., s.r.l.

Client: NATURAL RESOURCE GAS LIMITED  
RE: Ethanol Plant  
Matter No.: 01012724-0003

August 21, 2007  
INVOICE: 737740

GST#R111340006

NATURAL RESOURCE GAS LIMITED  
101 Spruce Street East  
P.O. Box 307  
Aylmer, Ontario N5H 2S1

Attention: Murk Bristoll  
Chairman

For professional **services** rendered and disbursements incurred  
for the period ending **July 31, 2007**

FEES	\$13,850.00
DISBURSEMENTS (Taxable)	117.44
DISBURSEMENTS (Non Taxable)	9.40
GST	838.05
<b>TOTAL FOR THIS INVOICE</b>	<b>\$14,814.89</b>

## COPY

Please retain a copy with payment to the address below

Bank Transfer  
Please remit by Bank Transfer to RBC Financial Group, Main Branch, Royal Bank Plaza Toronto, Ontario, Canada  
Orrt 003, Transit 00007, Acc. No. 106-330 0  
ABA # 021000021  
Swift Code # ROYCCAT2  
including invoice number on transfer order.

Suite 1HW  
Royal Bank Plaza, South Tower  
200 Bay Street  
P.O. Box 84  
Toronto, Ontario M5J 2Z4  
Canada

Telephone (416) 216-4000  
Fax (416) 216-3930  
ogilvyrenault.com





NATURAL RESOURCE GAS LIMITED

01012724-0003

RE: Ethanol Plnnt

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**BILLING SUMMARY**

	Hours	Rate	Amount
11. King	17.25	600.00	\$8,625.00
P. Moran	11.00	475.00	\$5,225.00
Total	28.25		\$13,850.00

**FEE DETAIL**

Date	Timekeeper	Description	Hours	Rate	Amount
2/7/07	Patrick Moran	Review transcript from the Ontario Energy Board regarding penalty; finalize draft notice of appeal for L. Thacker.	1.50	475.00	\$712.50
3/7/07	Patrick Moran	Telephone call with L. Thacker rind telephone call with M. Bristol regarding status of consent issue.	0.50	475.00	\$237.50
3/7/07	Richard J. King	Legal research regarding IGPC bypass; liaise with client and L. Thacker; get Union contact information; review letter; note to client on bypass and options for client.	4.00	500.00	\$2,000.00
4/7/07	Patrick Moran	Conferences with R. King and L. Thacker regarding options for NRG; review franchise agreement and npplicable legislation, email to R. King.	2.00	476.00	\$960.00
4/7/07	Richard J. King	Numerous emails with client on rcgulatory issues - bypass, requirement for written order, rate implications of proposals; liaise with P. Moran and L. Thacker on numerous issues: get franchise agreements and forward same.	3.75	500.00	\$1,875.00

INVOICE: 737740



ILP / SENIOR R.L. S.R.L

NATURAL RESOURCE GAS LIMITED

01012724-0003

**RE: Ethanol Plant**

Date	Timekeeper	Description	Hours	Rate	Amount
5/7/07	Richard J. King	Conference calls with M. Bristoll, P. Moran and L. Thacker regarding <b>settlement</b> , Scenario 2, and letter from IGPC; review <b>materials</b> from other side; review provisions of <b>OEB</b> Act regarding transfer of leave to construct; discussion with R. Aiken.	3.00	500.00	\$1,500.00
5/7/07	Patrick Moran	Telephone <b>calls</b> with L. Thacker; <b>email exchanges</b> with L. Thacker regarding settlement; conference call with L. Thacker and M. Bristoll regarding requirement for lender consent.	2.00	475.00	\$950.00
6/7/07	Patrick Moran	Telephone calls with R. King and L. Thacker: review <b>correspondence</b> from D. O'Leary and provide advice on reply correspondence.	1.00	475.00	\$475.00
6/7/07	Richard J. King	Numerous calls with L. Thacker, M. Uristoll and P. Moran regarding settlement and Scenario 2 offer; review correspondence; <b>voicemails</b> from client.	2.50	500.00	\$1,250.00
11/7/07	Richard J. King	Discussion with M. Bristoll.	0.25	500.00	\$125.00
17/7/07	Richard J. King	<b>Review emails</b> ; call from M. Bristoll; review <b>Aird letter</b> .	0.50	500.00	\$250.00
17/7/07	Patrick Moran	Telephone call with S. Stoll regarding <b>next steps</b> ; telephone call with L. Thacker regarding <b>gas</b> delivery contract; <b>email</b> to M. Bristoll regarding IGPC obligations.	1.50	475.00	\$712.50
18/7/07	Richard J. King	Call from M. Bristoll; review email regarding aid-to-construct; review Pipeline Cost and Recovery Agreement; <b>liaise</b> with P. Mornn; review draft letter.	2.50	500.00	\$1,250.00

INVOICE: 737740



NATURAL RESOURCE GAS LIMITED

01012724-0003

RE: Ethanol Plant

Date	Timekeeper	Description	Hours	Rate	Amount
18/7/07	Patrick Moran	Emails to M. Bristoll regarding "take on pay" question; email to L. Thacker regarding questions about NRG agreement; email to L. Thacker regarding draft letter to IGPC regarding requirement by IGFC to produce aid to construct and letter of credit.	1.00	475.00	\$475.00
19/7/07	Patrick Moran	Telephone call with S. Stoll regarding IGPC letter regarding timing of pipeline and voicemail to L. Thacker.	0.50	475.00	\$237.50
20/7/07	Patrick Moran	Review draft letter to IGPC from L. Thncker and email to L. Thacker regarding same.	0.25	475.00	\$118.75
20/7/07	Richard J. King	Review draft letter from L. Thacker with P. Moran.	0.50	500.00	\$250.00
23/7/07	Patrick Moran	Review letter from IGPC regarding letter of credit; telephone call with L. Thncker regarding same and follow-up emails.	0.75	475.00	\$356.25
23/7/07	Richard J. King	Telephone call with P. Moran.	0.25	500.00	\$125.00
TOTAL FEES					\$13,850.00

**DISBURSEMENTS - TAXABLE**

Conference call

117.44  
\$117.44

INVOICE: 737740



NATURAL RESOURCE GAS LIMITED

01012724-0003

**RE: Ethanol Plant**

**DISBURSEMENTS - NON TAXABLE**

Provincial Sales Tax	9.40
	<b>\$9.40</b>

**DISBURSEMENT DETAIL - TAXABLE**

Date	Timekeeper	Description	Amount
13/6/07	Richard J. King	Conference call - ENUNCIATE CONFERENCING	38.49
29/6/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	34.47
29/6/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	15.72
29/6/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	0.16
29/6/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	15.96
30/6/07	Patrick Moran	Conference call - ENUNCIATE CONFERENCING	10.56
30/6/07	Patrick Mornn	Conference call - ENUNCIATE CONFERENCING	2.08
TOTAL			<b>\$117.44</b>

**DISBURSEMENT DETAIL - NON TAXABLE**

Date	Timekeeper	Description	Amount
13/6/07	Richard J. King	Provincial Sales Tax - ENUNCIATE CONFERENCING	3.08
29/6/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	2.76
29/6/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	1.26
29/6/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	0.01
29/6/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	1.28
30/6/07	Patrick Mornn	Provincial Sales Tax - ENUNCIATE CONFERENCING	0.84
30/6/07	Patrick Moran	Provincial Sales Tax - ENUNCIATE CONFERENCING	0.17
TOTAL			<b>\$9.40</b>

INVOICE: 737740

Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
12-Jun-06	Review email from R. King re: IGPC information request	0.50	\$ 295.00	\$ 147.50
14-Jun-06	Meeting w R. Aiken & P. Moran regarding Ethanol facilities, meeting w Ethanol Plant representatives	5.00	\$ 295.00	\$ 1,475.00
20-Jun-06	Review email & attachments from R. King wrt precedent capital contribution agreements & other gas agreements	5.00	\$ 295.00	\$ 1,475.00
22-Jun-06	Review email from R. King	3.50	\$ 295.00	\$ 1,032.50
15-Jul-06	Review Aiken & Associated invoice # 618-2006 DATED June 30, 2006.	0.10	\$ 295.00	\$ 29.50
19-Jul-06	Discussion w R. King re: items to do as a result of meeting w Ethanol	1.00	\$ 295.00	\$ 295.00
21-Jul-06	Review of public meeting notice for proposed pipeline	0.50	\$ 295.00	\$ 147.50
22-Aug-06	Telephone call with P. Moran & S. Stoll wrt Cost Recovery Agreement	0.75	\$ 295.00	\$ 221.25
23-Aug-06	Telephone call w P. Moran regarding meeting scheduled for August 25 & wrt conversation w E. Laratta of Senes	0.75	\$ 295.00	\$ 221.25
23-Aug-06	Review email from B Isreal wrt letter of credit	0.10	\$ 295.00	\$ 29.50
25-Aug-06	Meeting w P. Moran wrt construction process, meeting with IGPC representatives regarding pipeline	12.00	\$ 295.00	\$ 3,540.00
1-Sep-06	Discussion w P. Moran wrt letter sent to OEB by IGPC	1.00	\$ 295.00	\$ 295.00
5-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
5-Sep-06	Review Ogilvy Renault invoice # 633876 dated July 13, 2006	0.20	\$ 295.00	\$ 59.00
5-Sep-06	Review Ogilvy Renault invoice # 633876 dated August 16, 2006	0.20	\$ 295.00	\$ 59.00
6-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
7-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
7-Sep-06	Telephone call w P. Moran wrt letter from Town of Aylmer to OEB	0.50	\$ 295.00	\$ 147.50

Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
8-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
8-Sep-06	discussions w R. King & P. Moran regarding OEB meeting & correspondence from S. Stoll & Town of Aylmer Mayor	1.00	\$ 295.00	\$ 295.00
8-Sep-06	Meeting w P. Moran, E. Larratta of SENES to review draft environmental report for pipeline group, meeting w P. Moran and IPGC at OEB with Board Vice-Chair to discuss status and timing of Leave to Construct application	12.00	\$ 295.00	\$ 3,540.00
12-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
12-Sep-06	Meeting in Aylmer w P. Moran, Mayor of Town of Aylmer & Town of Aylmer Administrator	5.00	\$ 295.00	\$ 1,475.00
13-Sep-06	Telephone call w Pat Moran wrt capital cost estimate	0.50	\$ 295.00	\$ 147.50
14-Sep-06	Telephone call w P Moran regarding approach to Capital Cost	0.25	\$ 295.00	\$ 73.75
14-Sep-06	Telephone call w title searcher re OEB requrements	0.30	\$ 295.00	\$ 88.50
18-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
18-Sep-06	Telephone call w M. Moran	0.25	\$ 295.00	\$ 73.75
20-Sep-06	Review of Pipeline Cost Recovery Agreement	5.00	\$ 295.00	\$ 1,475.00
20-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
20-Sep-06	Telephone w R. King	0.50	\$ 295.00	\$ 147.50
20-Sep-06	Review SENES environmental report	5.00	\$ 295.00	\$ 1,475.00
24-Sep-06	Review email correspondence from P. Moran & telephone call w P. Moran re captial cost estimate, draft agreements, draft Leave to Construct application.	2.00	\$ 295.00	\$ 590.00
24-Sep-06	Review revised Cost Recovery Agreement	1.50	\$ 295.00	\$ 442.50
25-Sep-06	Project Meeting w A. Geden	3.00	\$ 295.00	\$ 885.00

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
25-Sep-06	Meeting w P. Moran & IGPC, teleconference w Town of Aylmer	4.00	\$ 295.00	\$ 1,180.00
26-Sep-06	Review of capital cost estimate, draft agreements & draft Leave to Construct Application	5.00	\$ 295.00	\$ 1,475.00
27-Sep-06	Meeting with A. Geden of AECON	6.00	\$ 295.00	\$ 1,770.00
29-Sep-06	Aid Modeling/Cost Allocation/Rate Design	1.00	\$ 295.00	\$ 295.00
29-Sep-06	Teleconference w P. Moran & A. Geden of AECON to review RFQ process and time line. Conference call w P. Moran, IGPC, AECON & Town of Aylmer re: weekly update, f/u conversation w A. Geden & P. Moran	3.25	\$ 295.00	\$ 958.75
4-Oct-06	Telephone call w P. Moran regarding IGPC comments on distribution agreement, AECON letter regarding estimate & sole-sourcing question	2.50	\$ 295.00	\$ 737.50
5-Oct-06	O&M, Bundled T Contract, Contract Review	1.00	\$ 295.00	\$ 295.00
5-Oct-06	Review Ogilvy Renault invoice # 648627 dated September 15, 2006	0.05	\$ 295.00	\$ 14.75
5-Oct-06	Review Harrison Pensa LLP invoice # 128596 dated September 27, 2006	0.10	\$ 295.00	\$ 29.50
5-Oct-06	Review Aiken & Associated invoice # 632-2006 DATED June 30, 2006.	0.10	\$ 295.00	\$ 29.50
6-Oct-06	O&M, Bundled T Contract, Contract Review	1.00	\$ 295.00	\$ 295.00
6-Oct-06	Telephone call with P. Moran & A. Geden, conference call w Town of Aylmer, IGPC & NRG	3.00	\$ 295.00	\$ 885.00
10-Oct-06	O&M, Bundled T Contract, Contract Review	1.00	\$ 295.00	\$ 295.00
10-Oct-06	Title Search preparation	2.00	\$ 295.00	\$ 590.00
10-Oct-06	Telephone call w P. Moran & H. Adams	1.00	\$ 295.00	\$ 295.00
12-Oct-06	Review email from P. Moran regarding Cost Recovery Agreement & Draft Leave to Construct Application	1.50	\$ 295.00	\$ 442.50
12-Oct-06	Review Route Map from SENES	1.00	\$ 295.00	\$ 295.00
13-Oct-06	Telephone call w P. Moran & H. Adams regarding letter agreement	0.50	\$ 295.00	\$ 147.50

Natural Resource Gas Limited

**Integrated** Grain Processors Co-Operative Inc.

Billing Summary

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
13-Oct-06	Conference call w P. Moran, IGPC & Town of Aylmer wrt status report, discuss next steps & finalize Leave to Construct application for filing	2.00	\$ 295.00	\$ 590.00
15-Oct-06	Review AUE Utility Engineering invoice # 262 dated 09/27/2006	0.20	\$ 295.00	\$ 59.00
17-Oct-06	Review revisions to Cost Recovery Agreement w P. Moran	1.00	\$ 295.00	\$ 295.00
20-Oct-06	O&M, Bundled T Contract, Contract Review	1.00	\$ 295.00	\$ 295.00
20-Oct-06	Telephone call with P. Moran, A. Geden, S. Stoll, M. Adams regarding Pipe Order		\$ 295.00	\$ -
24-Oct-06	O&M, Bundled T Contract, Contract Review	1.00	\$ 295.00	\$ 295.00
24-Oct-06	Review of revised Pipeline Cost Recovery Agreement	1.50	\$ 295.00	\$ 442.50
27-Oct-06	Review Harrision Pensa LLP invoice # 128871 dated October 17, 2007	0.10	\$ 295.00	\$ 29.50
27-Oct-06	Conference call w P. Moran & IGPC, f/u call with P. Moran wrt Thames Centre transmission line concerns.	2.00	\$ 295.00	\$ 590.00
31-Oct-06	Review of AECON proposal for sole source contract & teleconference w A. Geden & P. Moran	0.75	\$ 295.00	\$ 221.25
1-Nov-06	Review email from P. Moran wrt service requirements for notice of application	0.25	\$ 295.00	\$ 73.75
3-Nov-06	Conference call		\$ 295.00	\$ -
5-Nov-06	Review SENES environmental report	1.00	\$ 295.00	\$ 295.00
5-Nov-06	Review email from P. Moran re: SENES environmental report	0.30	\$ 295.00	\$ 88.50
9-Nov-06	Telephone call w P. Moran wrt Thames Centre transmission line concerns, conference call w P. Moran & H. Adams re: Thames Centre transmission line concerns	0.75	\$ 295.00	\$ 221.25
10-Nov-06	Weekly Conference call w P. Moran, A. Geden, Town of Aylmer & IGPC	1.00	\$ 295.00	\$ 295.00
13-Nov-06	Review AUE Utility Engineering invoice # 383 dated 10/25/2006	0.20	\$ 295.00	\$ 59.00



**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
13-Nov-06	Review Ogilvy Renault invoice # 655974 dated October 17, 2006	0.20	\$ 295.00	\$ 59.00
14-Nov-06	Review email from P. Moran regarding Leave to Construct Application intervenors, & procedures	0.30	\$ 295.00	\$ 88.50
15-Nov-06	Review Aiken & Associated invoice # 635-2006 dated October 31, 2006.	0.10	\$ 295.00	\$ 29.50
15-Nov-06	Review Union Pipeline location agreement	1.00	\$ 295.00	\$ 295.00
16-Nov-06	Review Leave to Construct Application	6.00	\$ 295.00	\$ 1,770.00
16-Nov-06	Telephone call w S. Millar regarding Delivery of Notice & Franchise Agreements, teleconference w P. Moran & A. Geden	1.00	\$ 295.00	\$ 295.00
17-Nov-06	Weekly Conference call w P. Moran, A. Geden, Town of Aylmer & IGPC,			
"	Discussion w S. Millar regarding service	1.50	\$ 295.00	\$ 442.50
20-Nov-06	Telephone call w S. Millar wrt finalization of service arrangements	0.50	\$ 295.00	\$ 147.50
21-Nov-06	Review emails wrt Thames Centre proposed conference call w local municipalities	1.50	\$ 295.00	\$ 442.50
22-Nov-06	Review of email from P. Moran wrt Municipalities conference call	0.30	\$ 295.00	\$ 88.50
22-Nov-06	Telephone call w P. Moran wrt conference call w local municipalities	0.25	\$ 295.00	\$ 73.75
23-Nov-06	Conference call w P. Moran, S. Millar re publication of notice in L'Observateur, f/u conversation w S. Millar	1.00	\$ 295.00	\$ 295.00
23-Nov-06	Review email from A. Geden wrt SENES distribution list	0.10	\$ 295.00	\$ 29.50
24-Nov-06	Review email & attachement from M. Kotriy	3.00	\$ 295.00	\$ 885.00
27-Nov-06	Review Martin Malette invoice # 2378 dated Nov 20, 2006	0.10	\$ 295.00	\$ 29.50
27-Nov-06	Telephone call w P. Moran & S. Millar re affidavit of service, weekly conference call	2.00	\$ 295.00	\$ 590.00
27-Nov-06	Affidavid of Service	2.00	\$ 295.00	\$ 590.00

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
28-Nov-06	Review email from P. Moran re letter to OEB from Middlesex County	1.00	\$ 295.00	\$ 295.00
28-Nov-06	Review email from A. Geden wrt County of Middlesex	0.10	\$ 295.00	\$ 29.50
29-Nov-06	Telephone call w P. Moran & H. Adams	1.00	\$ 295.00	\$ 295.00
30-Nov-06	Telephone call w P. Moran re preparation for Technical Conference & Middlesex County concerns	1.00	\$ 295.00	\$ 295.00
30-Nov-06	Review interrogatories for IGPC & OEB Staff	3.00	\$ 295.00	\$ 885.00
30-Nov-06	Affidavid of Service	2.00	\$ 295.00	\$ 590.00
1-Dec-06	Leave to Construct Application Hearing Preparation	1.00	\$ 295.00	\$ 295.00
1-Dec-06	Weekly Conference Call w P. Moran	1.00	\$ 295.00	\$ 295.00
1-Dec-06	Review email from A. Geden wrt Union Gas	0.10	\$ 295.00	\$ 29.50
1-Dec-06	Review email from A. Geden wrt landowner correspondence	0.20	\$ 295.00	\$ 59.00
1-Dec-06	Review email from A. Geden wrt Union Gas	0.10	\$ 295.00	\$ 29.50
1-Dec-06	Prepare email to S. Stoll re Union Gas meeting	0.10	\$ 295.00	\$ 29.50
3-Dec-06	Review email from A. Geden wrt landowner correspondence	0.30	\$ 295.00	\$ 88.50
4-Dec-06	Prepare for meeting of December 4, 2006	5.00	\$ 295.00	\$ 1,475.00
4-Dec-06	Meeting w Union Gas wrt custody transfer	2.00	\$ 295.00	\$ 590.00
4-Dec-06	Review email from A. Geden wrt Municipality of Thames Centre	0.10	\$ 295.00	\$ 29.50
5-Dec-06	Conference Call w P. Moran, R.. Aiken re: Leave to Construct Application Hearing Meeting w P. Moran, A. Geden & SENES to review interrogatories and prepare for technical conference	0.75	\$ 295.00	\$ 221.25
5-Dec-06	Prepare email to A. Geden wrt Environmental Permits	12.00	\$ 295.00	\$ 3,540.00
5-Dec-06	Prepare email to A. Geden wrt Environmental Permits	0.10	\$ 295.00	\$ 29.50
6-Dec-06	Leave to Construct Application Hearing Preparation	1.00	\$ 295.00	\$ 295.00
6-Dec-06	Review L'Observateur invoice # 1780 dated 11/28/2006	0.10	\$ 295.00	\$ 29.50

Natural Resource Gas **Limited**

Integrated Grain Processors Co-Operative Inc.

Billing Summary

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
6-Dec-06	Telephone conversation w P. Moran re SENES retainer for technical conference & hearing	1.00	\$ 295.00	\$ 295.00
7-Dec-06	Leave to Construct Application Hearing Preparation	1.00	\$ 295.00	\$ 295.00
7-Dec-06	Attendance at Technical Conference	12.00	\$ 295.00	\$ 3,540.00
8-Dec-06	Weekly Ethanol Conference Call	1.00	\$ 295.00	\$ 295.00
12-Dec-06	Review TSSA invoice # P0610-18532 dated Oct 31, 2006	0.10	\$ 295.00	\$ 29.50
12-Dec-06	Attendance at witness preparation meeting	12.00	\$ 295.00	\$ 3,540.00
13-Dec-06	Review of Bid Package	5.00	\$ 295.00	\$ 1,475.00
15-Dec-06	Review London Free Press invoice # 013423061202 dated Dec 02, 2006	0.10	\$ 295.00	\$ 29.50
15-Dec-06	Weekly Ethanol Conference Call & telephone call w P. Moran wrt hearing	2.00	\$ 295.00	\$ 590.00
17-Dec-06	Leave to Construct Application Hearing Preparation	1.00	\$ 295.00	\$ 295.00
18-Dec-06	Hearing Hearing Attendance	16.00	\$ 295.00	\$ 4,720.00
18-Dec-06	Attendance at OEB for Leave to Construct Hearing	12.00	\$ 295.00	\$ 3,540.00
19-Dec-06	Review email from P. Moran wrt Bid Package	2.00	\$ 295.00	\$ 590.00
20-Dec-06	Draft Delivery Contract review	1.00	\$ 295.00	\$ 295.00
20-Dec-06	Review FKS Land Surveyors invoice # 06- 426 dated December 13, 2006	0.10	\$ 295.00	\$ 29.50
22-Dec-06	Weekly Conference Call	0.50	\$ 295.00	\$ 147.50
23-Dec-06	Review email from A. Geden wrt Weekly Conference Call	0.10	\$ 295.00	\$ 29.50
28-Dec-06	Meeting w. P. Moran to review pipeline contract	12.00	\$ 295.00	\$ 3,540.00
29-Dec-06	Meeting w. P. Moran to review pipeline agreements	12.00	\$ 295.00	\$ 3,540.00
3-Jan-07	Review Ogilvy Renault invoice # 673462 dated December 14, 2006	0.20	\$ 295.00	\$ 59.00
3-Jan-07	Review Ogilvy Renault invoice # 665207 dated November 17, 2006	0.20	\$ 295.00	\$ 59.00
3-Jan-07	Review email from A. Geden wrt Construction Tender	0.10	\$ 295.00	\$ 29.50
5-Jan-07	Weekly Ethanol Conference call, f/u with P. Moran & A. Geden of AECON	1.50	\$ 295.00	\$ 442.50

Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
6-Jan-07	Review Gowlings invoice # 1613661 dated December 20, 2006	0.10	\$ 295.00	\$ 29.50
7-Jan-07	Review of Pipeline Depreciation	3.00	\$ 295.00	\$ 885.00
8-Jan-07	Review email from A. Geden wrt Municipality of Thames Centre	0.10	\$295.00	\$ 29.50
10-Jan-07	Conference call with Pat Moran & Randy Aiken	1.00	\$ 295.00	\$ 295.00
10-Jan-07	Telephone conference with P. Moran & R. Aiken wrt pipeline depreciation	1.00	\$ 295.00	\$ 295.00
11-Jan-07	Review email from A. Geden wrt Decommissioning	0.30	\$ 295.00	\$ 88.50
12-Jan-07	Weekly Ethanol Conference call, f/u with P. Moran & A. Geden of AECON, review of procedural order by OEB with P. Moran	2.00	\$ 295.00	\$ 590.00
15-Jan-07	Review Aiken & Associated invoice # 642-2006 dated December 29, 2006.	0.10	\$ 295.00	\$ 29.50
15-Jan-07	Review AUE Utility Engineering invoice # 315 dated 12/31/2006	0.15	\$ 295.00	\$ 44.25
16-Jan-07	Conference call w P. Moran & R. Aiken wrt depreciation of pipeline	1.00	\$ 295.00	\$ 295.00
18-Jan-07	Conference call w P. Moran & R. Aiken wrt depreciation of pipeline	1.00	\$ 295.00	\$ 295.00
19-Jan-07	Weekly Ethanol Conference call, f/u phone call w P. Moran	1.00	\$ 295.00	\$ 295.00
20-Jan-07	Review of draft Bundled T Service Agreement	2.00	\$ 295.00	\$ 590.00
23-Jan-07	Review of draft Cost Recovery Agreement	2.00	\$ 295.00	\$ 590.00
24-Jan-07	Telephone call w P. Moran wrt draft Cost Recovery Agreement & f/u	3.00	\$ 295.00	\$ 885.00
25-Jan-07	Review of Senes Consultants Limited invoice # 21965 dated January 18, 2007	0.25	\$ 295.00	\$ 73.75
25-Jan-07	Review of Vlva Voce Reporting Ltd. invoice dated 12/31/26	0.20	\$ 295.00	\$ 59.00
25-Jan-07	Telephone call w P. Moran & f/u	1.00	\$ 295.00	\$ 295.00
26-Jan-07	Weekly Ethanol Conference Call & telephone calls with P. Moran wrt agreements & decommissioning issues & f/u	4.00	\$ 295.00	\$ 1,180.00
26-Jan-07	Review email from A. Geden	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
29-Jan-07	Telephone call w Randy Aiken re: decomissioning cost recovery	2.25	\$ 295.00	\$ 663.75
29-Jan-07	Telephone call w P. Moran wrt agreement revisions & f/u	1.00	\$ 295.00	\$ 295.00
30-Jan-07	Review of A.S.A.P. Reporting Services Inc. invoice # 181 dated 01/22/2007	0.20	\$ 295.00	\$ 59.00
31-Jan-07	Review of Olgilvy Renault LLP invoice # 680927 dated January 17, 2007	0.30	\$ 295.00	\$ 88.50
31-Jan-07	Telephone call w P. Moran & B. Isreal wrt agreements & f/u	2.00	\$ 295.00	\$ 590.00
31-Jan-07	Telephone call w & email exchanges & review w P. Moran relating to finalization of agreements for execution	3.00	\$ 295.00	\$ 885.00
1-Feb-07	Review email from A. Geden wrt Survey	0.20	\$ 295.00	\$ 59.00
1-Feb-07	Review email from A. Geden wrt Survey	0.10	\$ 295.00	\$ 29.50
12-Feb-07	Review of Olgilvy Renault LLP invoice # 687364 dated February 6, 2007	0.30	\$ 295.00	\$ 88.50
12-Feb-07	Review email from A. Geden wrt Construction Tender	0.20	\$ 295.00	\$ 59.00
13-Feb-07	Review email from A. Geden wrt Municipality of Thames Centre	0.10	\$ 295.00	\$ 29.50
13-Feb-07	Review email from A. Geden wrt Municipality of Tharnes Centre	0.20	\$ 295.00	\$ 59.00
15-Feb-07	Review of Aiken & Associates invoice # 21965 dated January 18, 2007	0.10	\$ 295.00	\$ 29.50
16-Feb-07	Review of Integrated Grain Processors Co- operative Inc. cost recovery summary & invoice dated February 16, 2007	1.00	\$ 295.00	\$ 295.00
19-Feb-07	Review of Integrated Grain Processors Co- operative Inc. cost recovery summary & invoice dated February 19, 2007	1.00	\$ 295.00	\$ 295.00
25-Feb-07	Review of A.S.A.P. Reporting Services Inc. invoice # 304 dated 02/20/2007	0.20	\$ 295.00	\$ 59.00
1-Mar-07	Review of AUE Utility Engineering invoice 347 dated 02/20/2007	0.20	\$ 295.00	\$ 59.00
1-Mar-07	Review of Doyle Welding Consultants invoice # 1249 dated Dec 18, 2006	0.20	\$ 295.00	\$ 59.00

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
8-Mar-07	Review email from A. Geden wrt Pipe Order	0.20	\$ 295.00	\$ 59.00
9-Mar-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
10-Mar-07	Review of A.S.A.P. Reporting Services Inc. invoice # 366 dated 02/20/2007	0.20	\$ 295.00	\$ 59.00
10-Mar-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
10-Mar-07	Prepare email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Review of Bundled T Contract	3.50	\$ 295.00	\$ 1,032.50
12-Mar-07	Review email from A. Geden wrt Pipe Order	0.50	\$ 295.00	\$ 147.50
12-Mar-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Review email from A. Geden wrt Construction Tender	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Review email from A. Geden wrt Construction Tender	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Review email from A. Geden wrt Construction Tender	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Review email from A. Geden wrt Stantec Consulting & Permits	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Review email from A. Geden wrt Stantec Consulting & Permits	0.10	\$ 295.00	\$ 29.50
12-Mar-07	Prepare email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
13-Mar-07	Prepare email to B. Isreal wrt Letter of Credit	0.45	\$ 295.00	\$ 132.75
13-Mar-07	Review email from A. Geden wrt Municipality of Thames Centre	0.30	\$ 295.00	\$ 88.50
13-Mar-07	Review email from B Isreal wrt letter of credit	0.50	\$ 295.00	\$ 147.50
14-Mar-07	Telephone conversation w Bob Isreal	0.50	\$ 295.00	\$ 147.50
14-Mar-07	Review email from A. Geden wrt Municipality of Thames Centre	0.10	\$ 295.00	\$ 29.50
14-Mar-07	Review email from A. Geden wrt Municipality of Thames Centre	0.10	\$ 295.00	\$ 29.50
16-Mar-07	Review email from A. Geden wrt Pipe Order	0.20	\$ 295.00	\$ 59.00
16-Mar-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
19-Mar-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
19-Mar-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
19-Mar-07	Prepare email to A. Geden wrt Union Gas	0.10	\$ 295.00	\$ 29.50
19-Mar-07	Prepare email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
20-Mar-07	Meeting w Union Gas & A. Geden	2.00	\$ 295.00	\$ 590.00
26-Mar-07	Review of Bundled T Contract	2.50	\$ 295.00	\$ 737.50
27-Mar-07	Review of Bundled T Contract	5.00	\$ 295.00	\$ 1,475.00
28-Mar-07	Review of Bundled T Contract	2.00	\$ 295.00	\$ 590.00
28-Mar-07	Review of Integrated Grain Processors Co-operative Inc. cost recovery summary & invoice dated March 28, 2007	0.50	\$ 295.00	\$ 147.50
29-Mar-07	Review of Bundled T Contract	0.25	\$ 295.00	\$ 73.75
30-Mar-07	review of FKS Land Surveyor invoice dated 3/21/2007	0.50	\$ 295.00	\$ 147.50
5-Apr-07	Review email from A. Geden	0.10	\$ 295.00	\$ 29.50
19-Apr-07	Meeting w P. Moran, V. Helbronner, G. Walker regarding construction tender, letter of credit tax issue, bundled T contract and consent to assignment	12.00	\$ 295.00	\$ 3,540.00
19-Apr-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
20-Apr-07	Review email & attachments from G. Walker	2.00	\$ 295.00	\$ 590.00
20-Apr-07	Review email from V. Helbronner wrt Consent & Acknowledgement Agreement	3.00	\$ 295.00	\$ 885.00
20-Apr-07	Review email from V. Helbronner to B. Isreal wrt Consent & Acknowledgement Agreement	0.10	\$ 295.00	\$ 29.50
23-Apr-07	Prepare informatln package for B. Isreal	2.00	\$ 295.00	\$ 590.00
23-Apr-07	Review email from B Isreal to V. Helbronner	0.10	\$ 295.00	\$ 29.50
23-Apr-07	Review email from V. Helbronner to B. Isreal wrt Consent & Acknowledgement Agreement	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
24-Apr-07	Conference call with Pat Moran, B. Isreal & V. Helbronner regarding consent for assignment	1.00	\$ 295.00	\$ 295.00
24-Apr-07	Review email from V. Helbronner to B. Isreal wrt letter of credit	0.10	\$ 295.00	\$ 29.50
25-Apr-07	Review email from B Isreal to V. Helbronner	0.10	\$ 295.00	\$ 29.50
25-Apr-07	Review email from V. Helbronner to B. Isreal wrt letter of credit	0.10	\$ 295.00	\$ 29.50
25-Apr-07	Review email from V. Helbronner to B. Isreal wrt Consent & Acknowledgement Agreement	0.10	\$ 295.00	\$ 29.50
27-Apr-07	Review email from P. Moran	0.50	\$ 295.00	\$ 147.50
30-Apr-07	Review email from A. Geden wrt Stantec Consulting & Permits	0.10	\$ 295.00	\$ 29.50
1-May-07	Review email from A. Geden	0.10	\$ 295.00	\$ 29.50
3-May-07	Review email from A. Geden	0.10	\$ 295.00	\$ 29.50
3-May-07	Review email from A. Geden wrt timelines	0.50	\$ 295.00	\$ 147.50
7-May-07	Telephone call w Pat Moran regarding pipeline construction timing issues, bundled T agreement	1.00	\$ 295.00	\$ 295.00
23-May-07	Review email & attachments from G. Walker	1.00	\$ 295.00	\$ 295.00
24-May-07	Review email & attachments from G. Walker	0.50	\$ 295.00	\$ 147.50
25-May-07	Review email from A. Geden wrt feeder line for Ethanol Plant	0.10	\$ 295.00	\$ 29.50
28-May-07	Review email from A. Geden wrt feeder line for Ethanol Plant	0.20	\$ 295.00	\$ 59.00
25-Jun-07	Review draft letter from G. Walker	1.00	\$ 295.00	\$ 295.00
26-Jun-07	Review of email from P. Moran wrt contracts	2.00	\$ 295.00	\$ 590.00
27-Jun-07	Review email from B Isreal re Aird Berlis email of June 26, 2007	0.10	\$ 295.00	\$ 29.50
27-Jun-07	Review email from B Isreal to P. Moran	0.10	\$ 295.00	\$ 29.50
27-Jun-07	Review email from B Isreal to P. Moran	0.10	\$ 295.00	\$ 29.50
28-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
28-Jun-07	discussions w R King, L. Thacker re: Emergency Hearing	2.00	\$ 295.00	\$ 590.00



Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
28-Jun-07	Receipt of Affidavits of Gordon Baird, Martin Kovnats, Heather Adams and Notice of Motion re; Emergency Notice of Hearing	1.00	\$ 295.00	\$ 295.00
29-Jun-07	Review of letter from Aird & Berlis to OEB Chair Howard Wetston	0.50	\$ 295.00	\$ 147.50
29-Jun-07	Review of letter from Lerner LLP to P. Moran	0.50	\$ 295.00	\$ 147.50
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
29-Jun-07	OEB Emergency Hearing	14.00	\$ 295.00	\$ 4,130.00
30-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
30-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
30-Jun-07	Review email from L. Thacker	-	\$ 295.00	\$ -
30-Jun-07	OEB Emergency Hearing	5.00	\$ 295.00	\$ 1,475.00
30-Jun-07	Review email from R. King wrt scenarios	1.00	\$ 295.00	\$ 295.00
1-Jul-07	OEB Emergency Hearing	3.00	\$ 295.00	\$ 885.00
2-Jul-07	OEB Emergency Hearing	5.00	\$ 295.00	\$ 1,475.00
3-Jul-07	Review email from R. King	0.20	\$ 295.00	
3-Jul-07	Review email from R. Aiken wrt rates	0.10	\$ 295.00	
3-Jul-07	Review email from R. Latiff on behalf of L. Thacker	-	\$ 295.00	\$ -
3-Jul-07	Review of email from R. King	0.10	\$ 295.00	\$ 29.50
4-Jul-07	Review email from R. King wrt scenarios	0.30	\$ 295.00	\$ 88.50
4-Jul-07	Review email from R. Aiken wrt rates	1.00	\$ 295.00	\$ 295.00
4-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
4-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
4-Jul-07	Review email from L. 'thacker	0.10	\$ 295.00	\$ 29.50
4-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
4-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
4-Jul-07	Discussions w Randy Aiken	0.50	\$ 295.00	\$ 147.50
5-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
5-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from P. Moran	0.50	\$ 295.00	\$ 147.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from R. Latiff on behalf of L. Thacker wrt letter to Mr. O'Leary of Aird & Berlis LLP	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from R. Latiff on behalf of L. 'thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
9-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
9-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
9-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
10-Jul-07	Review email from L. Thacker	0.10	\$295.00	\$ 29.50
11-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
11-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
11-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
13-Jul-07	Review email from L. Thacker wrt letter of July 12, 2007 from Aird & Berlis LLP	0.10	\$ 295.00	\$ 29.50
13-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
16-Jul-07	Review email from A. Geden wrt proposed pipeline alignment	0.10	\$ 295.00	\$ 29.50
17-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
18-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
18-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
18-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
18-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
19-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
20-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
20-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
20-Jul-07	Review letter from L. Thacker to Aird & Berlis LLP	0.30	\$ 295.00	\$ 88.50
23-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
23-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
24-Jul-07	Meeting w BNS wrt letter of credit & project financing	3.00	\$ 295.00	\$ 885.00
24-Jul-07	Review of email from BNS	0.10	\$ 295.00	
24-Jul-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
25-Jul-07	Review email from A. Geden wrt Pipeline Decommissioning	0.20	\$ 295.00	\$ 59.00
31-Jul-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
31-Jul-07	Discussions w Bob Isreal re: L/C	1.00	\$ 295.00	\$ 295.00
2-Aug-07	Review of Gas Delivery Contract & Pipeline Cost Recovery Agreement	3.00	\$ 295.00	\$ 885.00
2-Aug-07	Prepare email to A. Geden wrt pipe order quotation or sourcing	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10 \$ 295.00 \$ 130,006.50

Date	Description	Hours	Rate	Cost
7-Aug-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
10-Aug-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
14-Aug-07	Attendance at Public meeting for proposed Ethanol Pipeline	5.00	\$ 295.00	\$ 1,475.00
15-Aug-07	Telephone call from L. Thacker	0.20	\$ 295.00	\$ 59.00
16-Aug-07	Review email from B Isreal re Cost Recovery Agreement	0.50	\$ 295.00	\$ 147.50
17-Aug-07	Telephone call from L. Thacker	0.10	\$ 295.00	\$ 29.50
22-Aug-07	Review email from B Isreal wrt letter of credit	0.10	\$ 295.00	\$ 29.50
24-Aug-07	Prepare email to A. Geden wrt pipe order	0.10	\$ 295.00	\$ 29.50
24-Aug-07	Prepare email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
24-Aug-07	Prepare email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
25-Aug-07	Review letter from B. Isreal re: Pipeline Cost Recovery Agreement & Gas Delivery Contract	2.00	\$ 295.00	\$ 590.00
10-Sep-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
11-Sep-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
13-Sep-07	Prepare for meeting with L. Thacker	5.00	\$ 295.00	\$ 1,475.00
13-Sep-07	Prepare email to A. Geden wrt pipe order technical specifications	0.20	\$ 295.00	\$ 59.00
13-Sep-07	Review email from B Isreal wrt letter of credit	0.10	\$ 295.00	\$ 29.50
14-Sep-07	Prepare for and attend meeting with L. Thacker	2.00	\$ 295.00	\$ 590.00
14-Sep-07	Prepare email to A. Geden wrt pipe order technical specifications	0.10	\$ 295.00	\$ 29.50
24-Sep-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
25-Sep-07	Prepare email to A. Geden wrt pipe line	0.20	\$ 295.00	\$ 59.00
26-Sep-07	Telephone call from L. Thacker	0.50	\$ 295.00	\$ 147.50
26-Sep-07	Review email from A. Geden wrt Pipe Order	0.50	\$ 295.00	\$ 147.50
27-Sep-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
27-Sep-07	Review email from A. Geden wrt Pipe Order	0.30	\$ 295.00	\$ 88.50
27-Sep-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
27-Sep-07				
	Prepare email to A. Geden wrt pipe order	0.10	\$ 295.00	\$ 29.50
28-Sep-07	Review email from A. Geden wrt High Pressure Main to Ethanol Plant	0.20	\$ 295.00	\$ 59.00
2-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
2-Oct-07				
	Prepare email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
3-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
3-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
3-Oct-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order CSA/Lakeside Certifications	0.10	\$ 295.00	\$ 29.50
3-Oct-07				
	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
3-Oct-07				
	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order terms & conditions, including warranty	0.10	\$ 295.00	\$ 29.50
4-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
4-Oct-07	Review email from A. Geden wrt Pipe Order	0.50	\$ 295.00	\$ 147.50
4-Oct-07	Review email from A. Geden wrt Pipe Order	0.50	\$ 295.00	\$ 147.50
4-Oct-07	Review email from A. Geden wrt Pipe Order	0.50	\$ 295.00	\$ 147.50
4-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
4-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
5-Oct-07				
	Forward email to A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
5-Oct-07	Review email from A. Geden wrt Pipe Order	0.30	\$ 295.00	\$ 88.50
9-Oct-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
9-Oct-07	Review email from A. Geden wrt Union Gas station design	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
9-Oct-07				
	Prepare email to A. Geden wrt pipe order	0.10	\$ 295.00	\$ 29.50
9-Oct-07				
	Prepare email to A. Geden wrt Union Gas	0.10	\$ 295.00	\$ 29.50
15-Oct-07				
	Review email from F. Brlceno wrt pipeline	0.10	\$ 295.00	\$ 29.50
16-Oct-07				
	Review email from A. Geden wrt Union Gas meeting	0.10	\$ 295.00	\$ 29.50
16-Oct-07				
	Review email from A. Geden wrt Union Gas meeting	0.10	\$ 295.00	\$ 29.50
16-Oct-07				
	Review email from A. Geden wrt Pipe Order Specifications	0.10	\$ 295.00	\$ 29.50
16-Oct-07				
	Review email from A. Geden wrt Union GasOrder	0.10	\$ 295.00	\$ 29.50
17-Oct-07				
	Review email from A. Geden	0.10	\$ 295.00	\$ 29.50
17-Oct-07				
	Review email from A. Geden wrt Union Gas	0.10	\$ 295.00	\$ 29.50
18-Oct-07				
	Review revised Cost Recovery Agreement Meeting w A. Armenti of Lakeside Steel Corporation	1.50	\$ 295.00	\$ 442.50
18-Oct-07				
		3.00	\$ 295.00	\$ 885.00
19-Oct-07				
	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order delivery dates	0.10	\$ 295.00	\$ 29.50
19-Oct-07				
	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order delivery dates	0.10	\$ 295.00	\$ 29.50
19-Oct-07				
	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
22-Oct-07				
	Review email from F. Briceno wrt Eigin County Approval	0.10	\$ 295.00	\$ 29.50
22-Oct-07				
	Review email from A. Armentl of Lakeside Steel Corporation wrt pipe order references	0.10	\$ 295.00	\$ 29.50
24-Oct-07				
	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
24-Oct-07				
	Telephone call from L. Thacker	0.40	\$ 295.00	\$ 118.00
24-Oct-07				
	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order pricing	0.10	\$ 295.00	\$ 29.50
25-Oct-07				
	Review email from A. Geden wrt meeting w Union Gas	0.20	\$ 295.00	\$ 59.00

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
25-Oct-07	Prepare email to A. Armenti of Lakeside Steel Corporation	0.10	\$ 295.00	\$ 29.50
25-Oct-07	Review email from A. Geden wrt Union GasOrder	0.20	\$ 295.00	\$ 59.00
29-Oct-07	Review email from R. Latiff on behalf of L. Thacker	0.50	\$ 295.00	\$ 147.50
29-Oct-07	Review email from F. Briceno wrt Middlesex County	0.10	\$ 295.00	\$ 29.50
29-Oct-07	Review email from F. Briceno wrt pipeline	0.10	\$ 295.00	\$ 29.50
29-Oct-07	Review email from F. Briceno wrt Middlesex County Approval	0.10	\$ 295.00	\$ 29.50
29-Oct-07	Prepare email to A. Armenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
30-Oct-07	Review email from L. Thacker	-	\$ 295.00	\$ -
30-Oct-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
30-Oct-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
30-Oct-07	Review email from L. Thacker	-	\$ 295.00	\$ -
30-Oct-07	Review email from R. Latiff on behalf of L. Thacker	-	\$ 295.00	\$ -
30-Oct-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
30-Oct-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
30-Oct-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
30-Oct-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order quotation	0.10	\$ 295.00	\$ 29.50
31-Oct-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
1-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
1-Nov-07	Prepare email to L. Thacker wrt pipe order chronology	2.00	\$ 295.00	\$ 590.00
1-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
1-Nov-07	Review email from L. Thacker	-	\$ 295.00	\$ -
1-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
2-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
2-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
2-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
2-Nov-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
2-Nov-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Prepare email to L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
2-Nov-07	Review email from A. Arrnenti of Lakeside Steel Corporation wrt pipe order quotation extension	0.10	\$ 295.00	\$ 29.50
6-Nov-07	Meeting with Bradley	2.00	\$ 295.00	\$ 590.00
6-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
6-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
6-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
7-Nov-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
7-Nov-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
7-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
8-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
8-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
8-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
8-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
8-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
8-Nov-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Geden wrt Pipe Order	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Arrnenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Arrnenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50



**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

Date	Description	Hours	Rate	Cost
8-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order GST & PST	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Prepare email to A. Armenti of Lakeside Steel Corporation wrt quotation extension	0.10	\$ 295.00	\$ 29.50
8-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order rolling dates	0.10	\$ 295.00	\$ 29.50
9-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
9-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
9-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
9-Nov-07	Review email from R. Latiff on behalf of L. Thacker	0.10	\$ 295.00	\$ 29.50
9-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
9-Nov-07	Prepare email to A. Armenti of Lakeside Steel Corporation wrt US dollar	0.10	\$ 295.00	\$ 29.50
12-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
12-Nov-07	Prepare email to L. Thacker	0.20	\$ 295.00	\$ 59.00
12-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order purchase order	0.10	\$ 295.00	\$ 29.50
13-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
13-Nov-07	Review email from A. Geden wrt meeting w Town of Aylmer re final alignment issues	0.10	\$ 295.00	\$ 29.50
13-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
13-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order	0.10	\$ 295.00	\$ 29.50
14-Nov-07	Review email from F. Briceno wrt pipeline	0.10	\$ 295.00	\$ 29.50
15-Nov-07	Review email from F. Briceno wrt rail crossings	0.10	\$ 295.00	\$ 29.50
15-Nov-07	Review email from F. Briceno wrt rail crossings	0.10	\$ 295.00	\$ 29.50

**Natural Resource Gas Limited  
Integrated Grain Processors Co-Operative Inc.  
Billing Summary**

441.10    \$ 295.00    \$ 130,006.50

<b>Date</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Cost</b>
16-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt credit application	0.10	\$ 295.00	\$ 29.50
20-Nov-07	Review email from F. Briceno wrt pipeline	0.10	\$295.00	\$ 29.50
23-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
27-Nov-07	Review email from L. Thacker	0.10	\$ 295.00	\$ 29.50
29-Nov-07	Review email from F. Briceno wrt Township of Malahide	0.10	\$ 295.00	\$ 29.50
29-Nov-07	Review email from A. Armenti of Lakeside Steel Corporation wrt pipe order quotation	0.10	\$ 295.00	\$ 29.50

## Appendix O

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: Ithacker@litigate.com

February 22, 2008

VIA EMAIL

Dennis M. O'Leary  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, Ontario  
M5J 2T9

Dear Mr. O'Leary:

**Re: Natural Resources Gas Limited and Integrated Grain  
Processors Co-operative Inc.**

NRG has now had an opportunity to fully review your letter of January 9, 2008. I will respond to your comments in the order raised in your letter.

1. You assert that the invoices of Lenczner Slaght LLP and Ogilvy Renault "are not executed". Attached are copies of the signed invoices **from** Lenczner Slaght LLP and signed cover letters from Ogilvy Renault. These invoices were rendered to NRG by its solicitors, for work done in connection with the IGPC pipeline project. Whether or not IGPC has paid the amounts invoiced, NRG is liable to pay those amounts. In any event, **NRG has paid in full the invoices of Lenczner Slaght and Ogilvy Renault in full.**
2. You criticized the invoices because they "do not attempt to characterize the nature of the amounts" claimed. The legal work done is plainly stated in the detailed time dockets set out in each of the solicitors' invoices. All of the work done by the solicitors was done solely in connection with the IGPC pipeline project. This is clear on the face of the invoices. There is no need to further characterize anything. The work done was "work required to plan, design, construct, install, test and commission the Utility connection facilities."
3. **Section 3.3(b) of the Pipeline Cost Recovery Agreement dated January 31, 2007 ("PCRA") requires that IGPC will pay NRG "for reasonable internal, consulting and third party expenses incurred in the prior calendar month within fifteen (15) Business Days of receiving such invoice". Paragraph 3.4(b) of the PCRA confirms**

that those costs include, but are not limited to, "overhead, engineering, surveying, consultant, legal, major materials (pipe, metres, major equipment, heating equipment costs), easement, internal and external construction and commission and costs".

IGPC is liable to pay the costs incurred by NRG pursuant to the PCRA.

4. Previous invoices rendered by NRG have been paid. NRG followed exactly the same process as it has for previous invoices, by providing you with copies of the invoices for costs incurred by third party advisors or contractors. They are all reasonable costs payable under the PCRA. IGPC's failure to pay those costs is a breach of its obligations owed to NRG under the PCRA.
5. NRG has not paid the administrative penalty set by the OEB. NRG has appealed the OEB Orders by Notice of Appeal dated July 5, 2007. NRG has perfected its appeal. Neither the OEB nor IGPC has responded to the appeal. However, NRG is prepared to agree that until it pays this amount to IGPC, IGPC is not required to pay it to NRG.
6. The fees and expenses incurred for work done by Lenczner Slaght LLP relate to legal work, legal services and other strategic and project management advice rendered to NRG solely in connection with the construction of the IGPC pipeline. All of the services provided by Lenczner Slaght LLP to NRG were related to "pipeline work". IGPC is required to pay NRG all of its costs associated with the IGPC pipeline construction project.

If IGPC wishes to make submissions with respect to costs in the motion, it may do so in the appropriate form. IGPC's failure to even respond to the appeal casts doubt on its assertion that it has any entitlement to costs. However that is an issue to be determined in the appropriate judicial forum, and has nothing to do with IGPC's obligations to NRG under the PCRA. The costs of the NRG appeal and the underlining motion are properly determined in those proceedings. **and** not in **any** OER dispute resolution process under the PCRA.

7. The fees and expenses incurred for work done by Ogilvy Renault LLP for NRG are required to be paid in full by IGPC under the PCRA. Since the commencement of this project, NRG has billed IGPC for its reasonable costs incurred in connection with the construction of the IGPC Pipeline. Paragraph 3.3(b) of the PCRA specifically provides that IGPC is required to pay NRG "for reasonable internal, consulting and third party expenses". The amounts invoiced by NRG are reasonable, internal expenses which IGPC is required to pay. The hourly rate charged by NRG of \$295 per hour is less than the fees charged by most of the third party contractors to NRG for which NRG has **paid** and is required to be paid under the **PCRA**.
8. NRG has required that communications go through counsel because the conduct of IGPC, **including** constant lobbying efforts and making **false and defamatory**

statements to the public as part of its campaign to manipulate and influence the political process and public opinion, has caused NRG to seek legal advice. NRG has at all times complied with its obligations under the PCRA. There is nothing that requires NRG to expose itself to IGPC's conduct without the advice of counsel. In any event, there has been no delay in any work required under the PCRA as a result of NRG obtaining legal advice to protect the interests of all of its stakeholders, including its individual and commercial customers and the municipalities in which it operates.

9. IGPC's assertion that NRG has made demands for payment or agreement on short notice is quite simply false. IGPC has at all times provided information to NRG on a timely basis. On many occasions, timelines are short. These are timelines imposed on NRG by its third party contractors.
10. IGPC appears to be incapable of complying with its financial obligations. It has repeatedly demonstrated either a lack of financial capacity or a simple unwillingness to comply with its obligations to advance funds to NRG or to third party contractors to NRG for the purchase of raw materials and services required to ensure the pipeline project proceeds on a timely basis.

These delays have been caused by its lenders, who apparently are unwilling to allow IGPC to pay amounts it is specifically obligated to pay under the PCRA, within the time required for payment. These are issues between IGPC and its lenders. They in no way mitigate or limit IGPC's obligation to NRG. In any event, the suggestion that the delays were caused by **NRG's** conduct is simply false.

For example, IGPC has failed to pay amounts owing to Union Gas under the Aid-to-Construct provisions. In order to assist IGPC, NRG has obtained several extensions to the deadlines imposed by Union Gas. Yet IGPC refuses to pay the amounts owing and instead chooses to let deadline after deadline lapse.

Similarly, NRG has obtained extensions for IGPC to pay amounts owing to **Lakeside Controls**. However, for no good reason, IGPC has again refused to pay the amounts owing to **Lakeside Controls** when required. By its refusal to pay, IGPC has caused a delay in the delivery by **Lakeside Controls** of components required to complete the pipeline.

Whether this is caused by IGPC's management, or its lender's refusal to authorize the release of funds, it is in no way caused by any act or omission of NRG. NRG is not responsible for IGPC's financial inability or refusal to pay amounts that IGPC is required to pay under the PCRA.

11. Your suggestion that NRG has refused to allow IGPC any opportunity to comment on the tender documents is false. First, NKG **has** no obligation to allow IGPC an

opportunity to comment on the tender documents. However, despite having no obligation to do so, NRG has provided a copy of the tender package to IGPC. IGPC reviewed it with its solicitors and provided detailed comments. Those comments were incorporated into the tender documents. As a result, IGPC has fully reviewed and has specifically approved of every document contained in the tender package.

IGPC demanded that NRG provide a copy of the tender package to the contractor who is building the ethanol plant. Although NRG was willing to do so, this is clearly an example of IGPC attempting to improperly influence the tender process. IGPC also attempted to persuade NRG to abandon the tender process and instead award the project to its preferred contractor with whom it has a prior relationship. IGPC only abandoned its efforts to persuade NRG to sole source the work when IGPC's preferred contractor advised that it was incapable of completing the work required to construct the pipeline in the time required.

It is ironic that IGPC has suggested it has concerns about **NRG's** willingness to engage in a competitive quotation process, when it was IGPC that attempted not only to subvert the competitive quote process and award the project to a contractor without any competitive process at all, but also attempted to ensure that contractor was the contractor IGPC has already chosen to build the ethanol facility.

IGPC's conduct suggests that it does not have the financial resources to complete the project. Certainly its recent conduct suggest that it is either unwilling or unable to pay amounts due and owing when required to ensure the construction projects proceeds along the timelines required.

IGPC's inability to obtain the finance required to complete the pipeline construction project, or even to ensure that it proceeds along the timelines agreed to in the PCRA, is solely the responsibility of IGPC. NRG has no responsibility for IGPC's inability to obtain the financing required to complete the project, or its refusal to pay amounts payable to NRG under the PCRA on a timely basis.

Yours truly,



Lawrence F. Thacker

LET/kf/kw/rl

cc Naomi Loewith

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Mark J. Bristoll  
(Sent Via **Email**)

29 November 2007

Our file #: 37489  
**INVOICE NO. 71966**

Re: Integrated Grain Processors

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TO PROFESSIONAL SERVICES RENDERED with **respect** to the above ~~matter~~ during the period from July 1, 2007 to October 31, 2007:

Jul 3/07 To receiving instructions **from** L. Thacker;

Jul 4/07 To **drafting** notice of appeal of Board's decision;

Jul 5/07 To determining **filing** requirements and certificate of evidence;

Jul 9/07 Telephone call to D. **O'Leary**; letter to D. O'Leary; letter to M. **Bristoll**; telephone call to M. Bristoll; **email** to and **from** M. Bristoll;

Jul 10/07 Telephone call to M. Bristoll; **email** to and from M. Bristoll; letter to D. O'Leary;

Jul 11/07 **Email** to and from M. Bristoll; memo to file; review Pipeline Agreement; telephone call to R. **King**; telephone call to D. O'Leary; telephone call to D. **O'Leary**; **email** to and **from** D. O'Leary; telephone call to M. Bristoll; telephone call to R. King; letter to D. O'Leary;

Jul 12/07 Letters (2) **from** S. Stall re: transcripts; letter to D. **O'Leary**; prepare appeal materials;

Jul 13/07 Telephone call to M. Bristoll; letter to D. O'Leary; letter from D. O'Leary; telephone call to **M.** Bristoll;

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010



Jul 17/07 Telephone call to P. Moran (2); telephone call to M. **Bristoll** (2); telephone call to R. King; **email** to and **from** P. Moran; draft letter to D. **O'Leary**; **email** to M. Bristoll;

Jul 18/07 **Email** to P. Moran and R. **King**; telephone call to M. **Bristoll**; letter to M. Bristoll; ~~draft~~ letter to D. **O'Leary**; review agreements; **email** to and from P. Moran (2); review response of P. Moran;

Jul 19/07 Email to and from P. Moran; telephone call to M. Bristoll; letter from D. **O'Leary**;

Jul 20/07 Telephone call to P. Moran; **email** to and **from** P. Moran; telephone call to M. Bristoll; telephone call to D. **O'Leary**; letter to D. **O'Leary**;

Jul 23/07 ~~Letter~~ from D. **O'Leary** (2); telephone call to M. **Bristoll**; email to and from P. **Moran**; telephone call to P. Moran (3);

Jul 24/07 Letter to D. **O'Leary**; telephone call to M. Bristoll;

Jul 25/07 To reviewing transcript from OEB hearing; to reviewing key documents in case to prepare for appeal;

Telephone **call** to M. Bristoll; conference with N. **Loewith** re: Appeal Record; draft Factum; review transcripts;

Jul 26/07 Research for N. **Loewith** for OEB materials;

To researching law re interference with private contracts; to requesting research assistance from librarian; to analysis of relevant **case** law;

Jul 27/07 To researching jurisdiction of OEB and similar Boards;

Jul 29/07 To researching law re penalty in administrative proceedings;

Jul 30/07 To drafting **factum** re appeal; to reviewing energy decisions;

Draft Appeal Factum;

Jul 31/07 To editing and revising **factum** re appeal of OEB decision;

Telephone call to P. Morin; telephone call to M. Bristoll; telephone call to **R.** King; prepare Appeal materials; draft **Factum**;

Aug 2/07 Prepare **Appeal Record**;

Aug 3/07 To preparing documents, including Appeal Book and Compendium and Brief of Authorities for appeal;  
  
Telephone call to D. O'Leary; **telephone** call to K. Sabalj; memo to file;

Aug 7/07 To preparing documents for file;  
  
Draft and revise **Factum**; prepare Appeal Record, telephone call to K. Sabalj; telephone call to D. O'Leary;

Aug 8/07 To **final** revisions for filing appeal;  
  
Telephone call to D. **O'Leary**; letter to D. **O'Leary**; telephone call to P. Moran; **email** to P. Moran; draft and revise **Factum**; **email** to and from P. **Moran**; **finalize Factum**; letter to D. **O'Leary** and OEB;

Aug 9/07 To revising Brief of Authorities for filing;

Aug 15/07 Telephone call to M. Bristoll;

Aug 17/07 Telephone *call* to M. Bristoll;

Sep 10/07 Telephone call to M. Bristoll; **email** to and from M. **Bristol**;

Sep 11/07 Telephone call to M. Bristoll;

Sep 13/07 Receive instructions **from L. Thacker**; review appeal compendium and **factum**; legal research: legal consequences of failure to provide written reasons; memorandum **regarding** same;  
  
Telephone call to D. **O'Leary** and B. **McGarva**;

Sep 14/07 Prepare for and attend **meeting** with M. Bristoll, T. **Grat** and W. **Suchard** in London;

Sep 26/07 Telephone **call** to D. O'Leary; telephone call to M. Bristoll;

Oct 24/07 Telephone call to M. Bristoll;

Oct 25/07 Telephone call to M. Bristoll; telephone call to D. **O'Leary**;

Oct 26/07 Telephone call to D. O'Leary; telephone call to M. Bristoll;  
**email** to and **from** D. O'Leary;

Oct 29/07 Telephone **call** to M. Bristoll; draft letter to D. O'Leary; **email** to  
and **from** M. Bristoll; **letter from** D. O'Leary; **review** proposed  
schedule;

**Oct 30/07** Letter to D. O'Leary; telephone **call** to M. Bristoll; **email** to and  
**from** M. Bristoll;

Oct 31/07 Letter from D. O'Leary; letter to M. Bristoll; telephone call to D.  
**O'Leary**; telephone call to M. Bristoll;

TO OUR FEE

**\$44,000.00**

**DISBURSEMENTS**

Copies	428.00	T
<b>Fax</b>	11.75	T
Scanning	4.00	T
Courier Service	114.26	T
<b>eCarswell On-Line Research</b>	80.40	T
On-Line Searches	54.54	T
Transaction <b>Levy</b> Surcharge	50.00	T
Scanning, coding and printing	596.48	T
Mileage	166.42	T
Notice <b>Of</b> Appeal	259.00	
Perfecting Of Appeal	201.00	
Process Serving	185.00	T
<b>Printing/Binding</b>	1,798.94	T

**TOTAL DISBURSEMENTS**

**\$3,949.79**


**TOTAL FEES AND DISBURSEMENTS**

**\$47,949.79**

**TOTAL TAXES**

G.S.T. on fees	2,640.00	
G.S.T. on disbursements	209.39	
G.S.T. (Registration #: R133780817)		<u>2,849.39</u>
<b>TOTAL BILL</b>		<b>\$50,799.18</b>
<b>TOTAL DUE AND OWING UPON RECEIPT</b>		<b><u>\$50,799.18</u></b>

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP

  
Lawrence E. Thacker  
E.& O.E.

ACCOUNTS DUE **WHEN RENDERED**. In accordance with Section 33 of the *Solicitors Act*, interest will be charged at the rate of 4.5% per annum on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Mark J. Bristoll

13 July 2007

Our file #: 37489  
INVOICE NO. 69539

Re: **Integrated Grain Processors**

---

TO PROFESSIONAL SERVICES **RENDERED** with *respect* to the above matter during the period ~~from~~ June 1, 2007 to July 12, 2007:

Jun 26/07	To reviewing <b>Energy</b> Board statute and jurisdiction; to researching case law re scope of authority in response to emergency motion;	3.2
Jun 28/07	Prepare for motion; <b>emails</b> (many); telephone conversation with P. <b>Moran</b> , R. King and M. Bristoll; review documents; review Ontario Energy <b>Act</b> ;	4.1
Jun 29/07	Prepare for <b>and</b> attend at Ontario <b>Energy</b> Board hearing; telephone call to P. <b>Moran</b> and R. King; telephone calls to M. Bristoll (many); <b>email</b> to M. Bristoll;	11.0
	Conference call with clients; telephone conversation <b>with</b> M. Bristoll;	1.3
Jul 2/07	Telephone call <b>to</b> M. <b>Bristoll</b> ;	.3
Jul 3/07	<b>Email</b> to and <del>from</del> M. Bristoll (many); telephone call to M. <b>Bristol</b> (many); <b>email</b> to and from R. King; telephone call to R. King; telephone call to P. Aiken; review of scenarios; draft Notice of Appeal; conference with N. <b>Loewith</b> ;	5.0
Jul 4/07	Telephone call to M. <b>Bristoll</b> (many); <b>email</b> to and	5.0

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TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

from M. Bristoll; draft Notice of Appeal; review of Franchise Agreements; email to and from R King;

Jul 5/07 Telephonecall to M. Bristoll (many); draft and revise Notice of Appeal; telephone call to R King (many); telephone call to P. Moran; email to and from M. Bristoll; letter to D. O'Leary; email to and from R King; 6.0

Jul 6/07 Telephone call to R. King; telephone call to M. Bristoll; email to and from M. Bristoll; draft settlement proposal; letter to D. O'Leary; email to and from M. Bristoll (many) letter from D. O'Leary; letter to K. Walli; email to and from P. Morin; 5.0

Lawrence E. Thacker	37.7	@	575.00	-	21,677.50
N. Loewith	3.2	@	275.00	=	880.00
TOTAL FEES					22,557.50

TO OUR FEE

\$23,000.00

### DISBURSEMENTS

Copies 3.25 T

TOTAL DISBURSEMENTS \$3.25

TOTAL FEES AND DISBURSEMENTS \$23,003.25

### TOTAL TAXES


G.S.T on fees	1,380.00
G.S.T. on disbursements	.20
G.S.T.(Registration # R133780817)	<u>1,380.20</u>

TOTAL BILL \$24,383.45

**TRUST STATEMENT**

Jul 10/07	Trust Receipt Natural Resources Gas	(15,000.00)	
	Less amount received from Trust		15,000.00
	<b>TOTAL DUE AND OWING UPON RECEIPT</b>		<b><u>\$9,383.45</u></b>

**LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP**

  
Lawrence E. Thacker  
E.& O.E.

ACCOUNTS DUE WHEN RENDERED. In accordance with Section 33 of the *Solicitors Act*, interest will be charged at the rate of 4.5% per annum on unpaid fees, charges and disbursements, calculated from a date that is one month after this statement is delivered.

**OGILVY  
RENAULT**

LLP / SENCRL, s.r.l.

Direct Dial: (416) 216-2311  
Direct Fax: (416) 216-3930  
rking@ogilvyrenault.com

RECEIVED DEC 24 2007

SENT BY ORDINARY MAIL

Toronto, December 6, 2007

Mr. Mark Bristoll  
Chairman  
Natural Resource Gas Limited  
101 Spruce Street East  
P.O. Box 307  
Aylmer, ON, N5H 2S1

Dear Mr. Bristoll:

RE: **Natural Resource Gas Limited**  
**Ethanol Plant & General**  
**(01012724-0003 & 01012724-0004)**

Please find enclosed our statements of account for professional services rendered in connection with the above noted matters. Our invoices cover the period ending November 30, 2007.

Yours very truly,

  
Richard J. King

RJK/mej

Enclosure

Barristers & Solicitors,  
Patent Agents & Trade-mark Agents

DOCSTOR: 139125211

Suite 3800  
Royal Bank Plaza, South Tower  
200 Bay Street  
P.O. Box 84  
Toronto, Ontario M5J 2Z4  
Canada  
Toronto • Montréal • Ottawa • Québec • London

Telephone (416) 216-4000  
Fax (416) 216-3930

ogilvyrenault.com





Direct Dial: (416) 216-2311  
Direct Fax: (416) 216-3930  
rking@ogilvyrenault.com

**SENT BY ORDINARY MAIL**

Toronto, November 9, 2007

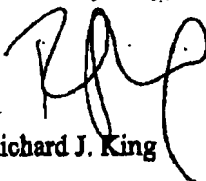
Mr. Mark Bristoll  
Natural Resources Gas Limited  
39 Beech Street East  
P.O. Box 307  
Aylmer, ON, N5H 2S1

Dear Mr. Bristoll:

**RE: Natural Resources Gas Limited  
Ethanol Plant and General  
(01012724-0003 & 01012724-0004)**

Please find enclosed our statements of account for professional services rendered in connection with the above-noted matters. Our invoices cover the period ending October 31<sup>st</sup>, 2007.

Yours very truly,



Richard J. King

RJK/mej

Enclosure

Barristers & Solicitors,  
Patent Agents & Trade-mark Agents

DOCSTOR: 137691111

Suite 3600  
Royal Bank Plaza, South Tower  
200 Bay Street  
P.O. Box 84  
Toronto, Ontario M5J 2Z4  
Canada

Telephone (416) 216-4000  
Fax (416) 216-3930

ogilvyrenault.com

Toronto • Montréal • Ottawa • Québec • London

**OGILVY  
RENAULT**

L.P. / S.E.N.C.R.L. s.r.l.

Direct Dial: (416) 216-2311  
Direct Fax: (416) 216-3930  
rking@ogilvyrenault.com

**SENT BY ORDINARY MAIL**

Toronto, October 9, 2007

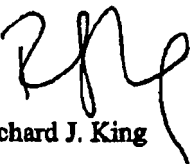
Mr. Mark Briatoll  
Chairman  
Natural Resource Gas Limited  
101 Spruce St. East  
P. O. Box 307  
Aylmer, ON, N5H 2S1

Dear Mr. Bristol:

**RE: Natural Resource Gas Limited  
Ethanol Plant (01012724-0003)**

Please find enclosed our statement of account for professional services rendered in connection with the above noted matter. Our invoice covers the period ending September 30, 2007,

Yours very truly,



Richard J. King

RJK/mej

Enclosure

Barristers & Solicitors,  
Patent Agents & Trade-mark Agents

DOCSTOR: 135962811

Suite 3800  
Royal Bank Plaza, South Tower  
200 Bay Street  
P.O. Box 84  
Toronto, Ontario M5J 2Z4  
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Fax (416) 216-3930

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RENAULT**

LLP / SENCRL, s.r.l.

Direct Dial: (416) 216-2311  
Direct Fax: (416) 216-3930  
rking@ogilvyrenault.com

**SENT BY ORDINARY MAIL**

Toronto, September 10, 2007

Mr. Mark Bristoll  
Chairman  
Natural Resource Gas Limited  
101 Spruce Street East  
P.O. Box 307  
Aylmer, ON, N5H 2S1

Dear Mr. Bristoll:

RE: Natural Resource Gas Limited  
**Ethanol Plant, General & 2008 Rates Case**  
**(01012724-0003/0004/0005)**

Please find enclosed our statements of account for professional services rendered in connection with the above noted matters. Our invoices cover the period ending August 31<sup>st</sup>, 2007.

Yours very truly,

  
Richard J. King

RJK/mej

Enclosure

# Appendix P

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

February 22, 2008

**VIA EMAIL**

Dennis M. O'Leary  
Aird & Berlis LLP  
BCE Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, Ontario  
M5S 2T9

Dear Mr. O'Leary:

**Re: Natural Resources Gas Limited and Integrated Grain  
Processors Co-operative Inc.**

I have the five letters you sent to me last night at 7:20 pm.

The obligations and rights of IGPC and NRG are set out in the Pipeline Cost Recovery Agreement dated as of January 31, 2007 ("PCRA").

Article 7.1 of the PCRA provides that IGPC will, prior to NRG ordering the pipe and stations, provide NRG with "an irrevocable letter or letters of credit...in an amount equal to the quoted cost of the pipe and the stations..."

IGPC has absolutely failed to comply with its obligations under Article 7.1 and, as a result, IGPC is in breach of the PCRA. Moreover, IGPC's failure to comply with Article 7.1 has caused delays with construction, and may cause additional delays in the future. For example, despite repeated warnings, IGPC has not provided the letter of credit to NRG, so that NRG can order components and materials from Lakeside Process Controls Ltd. ("Lakeside") for the stations, and has failed to pay Lakeside directly the amounts required by Lakeside to deliver components and materials in time to allow construction to proceed in a timely manner.


As you know, under Section 3.7 of the PCRA, given IGPC's failure to make payments required and failure to provide the letter of credit required under Section 7.1, NRG has the right to elect not to proceed further with any of its obligations under the PCRA. Moreover, if NRG elects to exercise this right, the PCRA expressly provides that NRG "shall not be liable for any liabilities, damages, losses, payments, costs or expense that may be incurred by [IGPC] as a result".

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010

To date, NRG has been proceeding with its obligations under the PCRA and moving forward with construction, despite IGPC's failure to comply with its obligations under the PCRA. NRG is doing so in order to cooperate with IGPC and move the project forward as fast as possible. However, NRG has obligations to all of its stakeholders and ratepayers and cannot continue with this process indefinitely, given IGPC's continuing and deliberate failures to comply with its obligations under the PCRA.

It remains NRG's goal to complete construction in accordance with the **terms** of the PCRA and we remain willing to work with IGPC in a cooperative fashion to move forward and complete the construction of the pipeline. NRG remains willing to negotiate in good faith with IGPC, and would consider a meeting to try to resolve the current outstanding issues.

Yours truly,



Lawrence E. Thacker

LET/rl

cc Naomi Loewith

## Appendix Q

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

June 13, 2008

**VIA EMAIL AND FAX**

Mayor Bob Habkirk  
Town of Aylmer  
46 Talbot Street West  
Aylmer, Ontario  
N5H 1J7

Dear Mayor Habkirk:

**Re: Natural Resource Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc. ("IGPC")  
Franchise Renewal**

We act for NRG.

As you know, NRG's existing Franchise Agreement with the Town of Aylmer expires in less than a year (February 27, 2009). The process for renewing a franchise is a multi-staged process that involves agreeing to the terms of a new Franchise Agreement, making an application to the Ontario Energy Board ("OEB"), public notice of that application, a public hearing before the OEB, and ultimately (if the OEB approves the Franchise Agreement that has been negotiated) passage of a municipal by-law and signature of the final Franchise Agreement.

Given the lengthy process involved, we are enclosing for your review a draft Franchise Agreement. The draft Franchise Agreement is based entirely upon the OEB's Model Franchise Agreement, which is viewed as the generally accepted template for municipal franchises.

In order to commence the Franchise Renewal Application NRG attempted to arrange a meeting with yourself by way of Heather Adams, Chief Administrative Officer, of the Town of Aylmer. Ms. Adams informed us on Tuesday, June 11, 2008 that she was unable to obtain a meeting date and time and that she would get back to us at an undetermined future date.



- 2 -

NRG would like to meeting with yourself; to commence the Franchise Renewal process, by June 23, 2008 to ensure that the Franchise Renewal process can be completed in a timely and orderly fashion. Please let me know what dates would be convenient for you.

We look forward to meeting with you.

Yours truly,

  
Lawrence E. Thacker

LET/rl

cc: Heather Adams  
bcc Mark Ristoll

## FRANCHISE AGREEMENT

THIS AGREEMENT effective this day of \_\_\_\_ of \_\_\_\_

BETWEEN:

**CORPORATION OF THE TOWN OF AYLMER**  
hereinafter called the "**Corporation**"

-and -

**NATURAL RESOURCE GAS LIMITED**  
hereinafter called the "**Gas Company**"

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

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

**THEREFORE** the Corporation and the Gas Company agree as follows:

### ARTICLE 1 – DEFINITIONS

1.1 In this Agreement:

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

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

## ARTICLE 2 - RIGHTS GRANTED

### 2.1 To provide gas service:

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

### 2.2 To Use Highways.

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

2.3 Duration of Agreement and Renewal Procedures.

- (a) The rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20-year term this Agreement, the Model Franchise Agreement is changed, then on the 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.
- (b) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

**ARTICLE 3 – CONDITIONS**

3.1 Approval of Construction

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

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

### 3.2 As Built Drawings.

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

### 3.3 Emergencies

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

least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

3.4 Restoration

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

3.5 Indemnification

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

3.6 Insurance

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

3.7 Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 3.8 of this Agreement.

3.8 Pipeline Relocation

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

- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an **unassumed** road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

#### **ARTICLE 4 – PROCEDURAL AND OTHER MATTERS**

##### **4.1 Municipal By-laws of General Application**

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

##### **4.2 Giving Notice**

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

##### **4.3 Disposition of Gas System**

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



4.4 Use of Decommissioned Gas System

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

4.5 Franchise Handbook

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

4.6 Agreement Binding Parties

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

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

**THE CORPORATION OF THE TOWN OF  
AYLMER**

By: \_\_\_\_\_

By: \_\_\_\_\_

**NATURAL RESOURCE GAS LIMITED**

By: \_\_\_\_\_  
Mark Bristoll, Chairman



*NRG*

The Corporation of the Town of Aylmer  
46 Talbot Street, West, Aylmer, Ontario N5H 1J7  
Office: 519-773-3164 Fax: 519-765-1446  
www.aylmer.ca

June 17, 2008

Mr. Mark Bristoll  
Natural Resources Gas Ltd.  
Ry Pax to 519 433-6132

Dear Mark:

Re: Town of Aylmer Franchise Agreement with NRG

Thank you very much for your telephone call requesting that you and your solicitor, Mr. Lawrence Thacker would like to meet with Mayor Dob Habkirk and myself to discuss the franchise agreement between NRG and the Town of Aylmer. This request was subsequently reiterated in a letter to Mayor Habkirk from Mr. Thacker. That was followed by a phone call from me to you confirming that I would provide a response to the request once it had been considered by Council. Your solicitor also provided a draft Franchise Agreement.

I would like to advise that the Mayor and I would be pleased to meet with you to discuss the franchise agreement on a mutually convenient date immediately after natural gas is being provided by NRG to site of the Town's newest business, IGPC Ethanol Inc. We expect that this will happen some time in July, 2008. In the interim, we will proceed to review the document you have submitted.

If you have any questions, please feel free to contact me directly at 519 773-4901.

Sincerely

M. Heather Adams  
Administrator

cc: Mayor and Council  
M. Phillip Tunley, Stockwoods

/ha

LENCZNER SLAGHT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

June 20, 2008

VIA FACSIMILE

Heather Adams  
Town of Aylmer  
46 Talbot Street West  
Aylmer, Ontario  
N5H 1J7

Dear Ms. Adams:

**Re: Natural Resource Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc. ("IGPC")  
Franchise Renewal**

As you know, I act for Natural Resource Gas Limited ("NRG").

We are in receipt of your letter dated June 17.

For the reasons explained in my letter of June 13, 2008, NRG wishes to move forward with the renewal process as soon as possible. There are a number of steps that will have to be taken, and NRG wishes to ensure the process can unfold in an orderly manner. For that reason, NRG would like to meet with you and the Mayor as soon as possible.

NRG does not understand whether and, if so, why the Town wishes to link franchise renewal to the opening of the IGPC facility. As I am sure you are aware, construction of the pipeline is well underway and is expected to be completed by July.

- 2 -

If the Town has any issues with the renewal of NRG's franchise agreement, NRG would like to be made aware of these issues as soon as possible.

Yours truly,

  
Lawrence E. Thacker

LET/rl

01/10/2008 10:44 FAX 416 593 9345

# STOCKWOODS

Barristers

**M. Philip Tunley**  
Direct Line: 416-593-3495  
Direct Fax: 416-593-9345  
phil@stockwoods.ca

July 8, 2008

Lawrence Thacker  
Lenczner Slaght Royce Smith  
Griffin LLP  
Suite 2600  
130 Adelaide Street West  
Toronto, ON M5H 3P5

Dear Mr. Thacker:

**Re: Natural Resource Gas Limited ("NRG") and the Town of Aylmer**

As you know, I act for the Town of Aylmer.

Your letter of June 13, 2008 addressed to Mayor Bob Mabkirk enclosing a draft of a new Franchise Agreement between our respective clients was referred to us for consideration on June 17. By letter of that date from Heather Adams, Administrator of the Town of Aylmer, Mr. Mark Bristoll of NRG was advised that the Mayor and Ms. Adams would be pleased to meet with him to discuss the Franchise Agreement on a mutually convenient date immediately after Natural Gas is provided to the ethanol plant which is the subject of recent Ontario Energy Board proceedings involving our respective clients. We understand that is scheduled to occur as soon as the end of next week. In the meantime, your follow-up letters to Ms. Adams dated June 20 and July 3, 2008 have been referred to us for response.

Given Ms. Adams' letter of June 17, your presumptions about the position of the Town of Aylmer regarding renewal are premature. As indicated in that letter, the Town is willing to meet with your client to discuss the renewal issue shortly. If you will be present at that meeting, I expect the Town will wish me to be present as well. In the meantime, the Town does not understand why NRG is so anxious to pre-empt discussion and begin implementing the renewal process.

I would like to suggest that you provide the Town with an outline of the steps that you believe will have to be taken to ensure that any renewal process can unfold in an orderly manner, as I am sure that you will.

STOCKWOODS LLP

SUITE 2512, THE SUN LIFE TOWER, 150 KING STREET WEST, TORONTO, ONTARIO M5H 1H9 • TEL: (416) 593-7200 • FAX: (416) 593-9345

- 2 -

In addition, I **would** be grateful if you would address any further correspondence in this matter **directly to me.**

Yours very truly,

A handwritten signature in black ink, appearing to read 'M. Philip Tunley', followed by a period.

M. Philip Tunley  
MPT/scb

- c. Heather Adams, Town of Aylmer  
Mark Bristoll, Natural Gas Resources Ltd.

LENCZNER SLAGITT ROYCE  
SMITH GRIFFIN LLP  
BARRISTERS

Direct Line: (416) 865-3097  
Email: lthacker@litigate.com

August 11, 2008

VIA EMAIL

Philip Tunley  
Stockwoods LLP  
Barristers  
The Sun Life Tower  
150 King Street West  
Suite 2512  
Toronto, ON M5H 1J9

Dear Mr. Tunley:

**Re: Natural Resource Gas Limited ("NRG") and  
Integrated Grain Processors Co-operative Inc. ("IGPC")**

I have your letter of July 8.

We are pleased that the Town of Aylmer is willing to meet with NRG to discuss renewal. NRG does not wish to pre-empt any discussion. NRG has repeatedly requested an opportunity to meet with the Town, and we are pleased the Town is now willing to meet with NRG. We are available to meet at your earliest convenience.

The construction of the pipeline by NRG is complete and the pipeline was commissioned on July 3. It would appear that construction of the IGPC facility is significantly behind schedule and IGPC is not yet able to receive natural gas. NRG and IGPC have agreed that the deemed "In-Service Date" for the pipeline will be July 15, 2008. NRG remains ready, willing and able to deliver gas when IGPC's construction is complete and IGPC commences operations, and IGPC has fulfilled its financial obligations owed to NRG.

The steps that will have to be taken to renew the franchise depend entirely on the position to be taken by the Town of Aylmer. That is why NRG has been requesting that the Town provide its position on whether or not it will support the renewal of the franchise.

SUITE 2600, 130 ADELAIDE STREET WEST, TORONTO, ONTARIO, CANADA M5H 3P5  
TELEPHONE (416) 865-9500 FACSIMILE (416) 865-9010



- 2 -

NRG is pleased that the Town is now ready to meet with NRG, and await your response as to a date to meet.

Yours truly,

  
Lawrence E. Thacker

LET/rl/jb

bcc Mark Bristoll

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF the *Ontario Energy Board Act*,  
1998, S.O.1998, c.15 (Sched. B);**

**AND IN THE MATTER OF an Application by Union  
Gas Limited for an order granting it leave to  
discontinue gas transmission to Natural Resource Gas  
Limited.**

**EB-2008-0273**

**PRE-FILED EVIDENCE**

**of**

**DAVID PALLETT**

**(Neal, Pallett & Townsend LLP)**

**October 18, 2008**

1. The purpose of this evidence is to address certain issues, as raised by Union Gas Limited (“Union”) in its Pre-filed Evidence dated October 10, 2008.
2. In particular, this evidence addresses the concerns of Union as outlined primarily in paragraphs 11 to 14 of Union’s Pre-filed Evidence – namely, the qualification of NRG’s 2006 audited financial statements.
3. As I read Union’s Pre-filed Evidence, there appear to be two grounds upon which Union relies for its determination that NRG, as of 2006, is a less creditworthy company than before 2006:
  - NRG’s 2006 Financial Statements were accompanied by a qualified auditor’s opinion that details the impact on the Balance Sheet of the reported classification of the Class C shares vs the handbook requirement of reporting the same shares as a liability; and,
  - NRG has pledged all of its present and future assets, property and undertaking to the Bank of Nova Scotia (“BNS”) pursuant to a demand loan in 2006.

My evidence focuses primarily on the first of these two grounds, but I do have some comments on the second ground as well.

#### **NRG’s Qualified Auditor’s Report**

4. Union’s 2007 credit review of NRG was based on NRG’s 2006 audited financial statements, which were accompanied by a qualified auditor’s opinion. Union states that this was “cause for concern” (Union Pre-filed Evidence, para. 12). Union notes that the reason for the auditor’s qualified opinion was that NRG had Class C retractable shares outstanding (with a redemption value of about \$13.5 million) and that Canadian GAAP rules require the retractable shares to be presented on the balance sheet as a liability (Union Pre-filed Evidence, para. 13). According to Union, decreasing NRG’s equity by \$13.5 million and increasing NRG’s liabilities by \$13.5 million would mean a negative

shareholder's equity "which provides no protection for creditors" (Union Pre-filed Evidence, para. 14).

5. Union's credit reviews of NRG prior to 2007 (which were based on NRG's audited financial statements from 2005 and earlier) did not cause Union concern, and Union assigned an unsecured credit limit of \$3 million to NRG (Union Pre-filed Evidence, para. 11).
6. Union's concern appears to be based on a belief or understanding that, because of the qualification listed in the Auditors' report, NRG's 2006 audited financial statements reflect a material change in the financial circumstances of NRG, and that because of this change NRG is less creditworthy.
7. In my view the reporting of this qualification in the Auditors' Report for NRG's 2006 audited financial statements does not reflect a material change in the financial circumstances of NRG for 2006, but rather it highlights a departure from GAAP accounting practices. While the presentation of the Auditors' Report for NRG's audited financial statements changed in form in 2006, there was no change in substance to NRG's outstanding Class C share capital or the financial condition of NRG with respect to the Class C share capital.

***NRG's Class C Share Capital Has Remained Unchanged since 2003***

8. The share transactions that created NRG's Class C shares (redeemable and retractable) occurred in NRG's fiscal 2003, and was referred to in Note 7 of NRG's audited financial statements for 2003. Attached to this evidence as Appendix A are the audited financial statements of NRG for the fiscal year ending September 2003.

9. In NRG's 2004 audited financial statements (attached hereto as Appendix B), the existence of the Class C retractable shares and NRG's election to treat the Class C retractable shares as equity instead of a liability are referenced in the Auditors' Report to the Notes to the Financial Statements, where the reporting of the Class C shares as equity vs a liability are explicitly set out as follows:

*"Share Capital*

*The company has elected to apply the differential reporting measurement option allowed for the accounting for retractable shares and, therefore has presented as equity instead of disclosing as a liability, the issued and outstanding Class A and Class C shares of the company."*

(NRG 2004 Financial Statements, p. 7)

10. In NRG's 2005 financial statements (attached to Union's October 16 supplemental evidence as Attachment 2), the exact same disclosure is set out in the Auditors' Report and referenced to the Notes to the Financial Statements (page 7).
11. Thus, the existence of the retractable nature of NRG's Class C shares has been disclosed in every financial statement of NRG commencing with NRG's 2003 financial statements. There has been no change in the nature of NRG's Class C shares since their creation in 2003.
12. Moreover, NRG's election to present them as equity instead of a liability in accordance with GAAP has been fully disclosed in every financial statement of NRG commencing with NRG's 2004 financial statements.

13. From paragraph 11 of Union's pre-filed evidence, it is clear that Union reviewed NRG's 2004 and 2005 financial statements (which included the disclosure in the Auditor's Report and directly referenced the Notes to the Financial Statements regarding the retractable shares), and did not have any concern about NRG's creditworthiness despite the existence of these shares.
14. According to Union, it was not until the the Auditors' Report listed a qualification of NRG's financial statements that Union had "cause for concern" about NRG's creditworthiness due to the existence of these Class C shares.
15. GAAP disclosures have changed significantly over the last number of years which have included the disclosure of retractable shares as a liability on the face of the balance sheet for financial statement purposes and the use of differential reporting for qualifying companies allowing certain entities to continue to disclose these retractable shares as equity while clearly disclosing this choice in the notes to the financial statements and directly referenced from the Auditors' Report. Both disclosures were meant to clearly highlight the nature of the shares and the Canadian Institute of Chartered Accountants obviously clearly believed that such disclosure provided the user of the financial statements the same information for evaluating the financial statements of a company which had retractable shares included as part of the equity of the company. Our review of differential reporting in fiscal 2006 determined that a rate regulated entity did not qualify to use this approved option of disclosure. As such it was with the 2006 fiscal year financial statements that we applied the qualification to the Auditors' Report of the financial statements which in effect moved the note disclosure previously referenced in the Auditors' Report to be included directly in the Auditors' Report. This change in reporting in no way changed the fact that Class C shares were retractable which had been and continued to be disclosed in the Notes to the Financial Statements as such.

***NRG's Class C Shares Have Been Postponed***

16. Although the Class C shares are retractable, NRG is presently prohibited from retracting them, pursuant to an Assignment, Postponement and Subordination Agreement dated August 22, 2008 (the "Postponement Agreement"), which is attached as Appendix C hereto. The Postponement Agreement states:

*"From the date hereof and until such time as all indebtedness, obligations and liabilities of the Borrower to the Bank under the Credit Agreement or arising under any other credit agreement between the Bank and the Borrower are repaid in full, the Subordinator agrees:*

*(a) to postpone the payment and satisfaction by the Borrower of all shareholder loans, dividends and other rights to withdraw capital now or hereafter due and owing by the Borrower to the [Class C shareholder] and all interest accruing thereon (the "Subordinated Obligations") in favour of the Bank, and to subordinate the Subordinated Obligations to all indebtedness, liabilities and obligations of the Borrower to the Bank."*

(Postponement Agreement, page 1)

17. Thus, the holder of NRG's Class C shares cannot currently retract them, and will not be able to retract them as long as the BNS loan remains in place.

18. Attached as Appendix B to my evidence is the true excerpt from the GSA between NRG and BNS.

***Nature of Class C Shares***

19. NRG's Class C shares are both retractable and redeemable:

“Retractable” shares are shares that are able to be bought back at the option of the shareholder.

“Redeemable” shares are shares that are able to be bought back at the option of the issuing company.

20. The GAAP rules governing how retractable shares are reported do not change the fact that NRG’s Class C shares are still shares and are part of the legal paid up capital of the corporation. They are equity contributed by shareholders to the business.

**Pledging Shares under General Security Agreement**

21. Union’s second reason for considering NRG’s creditworthiness to have become unsatisfactory is that NRG has pledged all of its assets to BNS in 2006 pursuant to the demand loan with BNS (Union Pre-filed Evidence, para.15). Because of this, Union asserts, there would not be sufficient current assets to repay the cost of the gas NRG borrows from Union by March 31 which is the end of the heating season (Union Pre-filed Evidence, para.16). Again, Union paints this as a material change in NRG’s circumstances that occurred in 2006.

22. In my opinion, it is very common on secured financings to have a GSA pledging all the borrower’s assets to the lender. As evidence of that, NRG’s previous loan had a GSA.

23. It is not uncommon for financings (even of very large companies) to be secured by the lender. In some cases, borrower’s opt for secured loans in order to get a better rate.

24. Prior to the re-financing and establishment of the BNS loan, NRG’s main debt financing was through a Loan Agreement with the Imperial Life Assurance Company of Canada (“Imperial Life”). This NRG financing was in place for approximately 12 years – from



1994 to 2006, when it was replaced by the BNS loan. The Imperial Life loan had a GSA whereby NRG pledged all of its assets to Imperial Life. Attached as Appendix D to my evidence is the GSA among Imperial Life and NRG dated June 24, 1994. Section 1 is the granting of the security interest over all NRG's assets, as is standard in GSAs.

25. The fact that NRG has always had a GSA over its assets has been presented in every financial statement of NRG dated back to my firm's involvement with NRG. For example, in the Notes to the Financial Statements for the 2003 financial statements, Note 6 dealing with long-term debt states:

*"The following has been pledged as security for the Imperial Life loan:*

- a) fixed and floating charge over all of the assets of the company;*
- b) general security agreement;*
- c) general assignment of accounts receivable; and,*
- d) assignment of all risk insurance over the assets of the company."*

(Page 13, NRG's 2003 Financial Statements)

26. NRG's 2004 and 2005 financial statements contain virtually identical statements.

27. NRG's 2006 and 2007 set out a very similar statement in respect of the GSA in relation to the BNS loan:

*"The company has pledged the following as security against the term note payable, the operating line of credit, and the revolving line of credit.:*

- a) General assignment of book debts*
- b) General Security Agreement over all of the present and future personal property and undertaking of the company*
- c) Security under Section 427 of the Bank Act with appropriate insurance coverage assigned to the Bank;*
- d) Demand Debenture for \$15,000,000 secured by a first fixed and floating charge over all assets including, but not limited to, the Certificate of Public Convenience and Necessity and all Municipal*

*Franchise Agreements, with replacement cost fire insurance coverage, loss if any, payable to the Bank as mortgagee."*

(Page 14, NRG's 2007 Financial Statements)

28. Thus, the security arrangements between NRG are not extraordinary, and have been transparently represented in the financial statements for a long time.

29. That concludes my written direct evidence. My curriculum vitae indicating my educational and professional qualifications is attached as Appendix E hereto.

# Appendix A

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**NATURAL RESOURCE GAS LIMITED**

**FINANCIAL STATEMENTS**

**SEPTEMBER 30, 2003**

NEAL, PALLETT & TOWNSEND LLP



CHARTERED ACCOUNTANTS  
633 Colborne Street  
Suite 300  
London, Ontario  
N6B 2V3

Telephone: (519) 432-5534  
Fax: (519) 432-6544  
Website: [www.nptca.com](http://www.nptca.com)

Partners:  
Glenn J. Hardman C.A.  
Barrie J. Neal C.A.  
David J. Pallett C.A.  
John D.R. Prueter C.A., M.B.A.  
Jonathan R. Townsend C.A.  
L.J. Sandy Wetstein C.A.

## AUDITORS' REPORT

To the Shareholders of  
Natural Resource Gas Limited

We have audited the balance sheet of Natural Resource Gas Limited as at September 30, 2003 and the statements of income, retained earnings (deficit), and cash flow for the year then ended. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, these financial statements present fairly, in all material respects, the financial position of the company as at September 30, 2003 and the results of its operations and changes in its financial position for the year then ended in accordance with Canadian generally accepted accounting principles.

*Neal, Pallett & Townsend LLP*

London, Canada  
December 5, 2003

CHARTERED ACCOUNTANTS

## NATURAL RESOURCE GAS LIMITED

### Balance Sheet

As at September 30

	2003	2002
<b>Assets</b>		
Current assets:		
Cash	\$ 570,499	\$ 904,284
Accounts receivable	865,914	690,881
Inventory	95,873	75,743
Prepaid expenses	35,595	14,545
Income taxes recoverable	132,841	-
Deferred charges	18,270	10,415
	<b>1,718,992</b>	<b>1,695,868</b>
Capital assets (note 1)	<b>9,296,447</b>	<b>9,459,011</b>
Other assets:		
Franchises and consents (note 2)	<b>92,900</b>	<b>99,443</b>
Deferred financing costs (note 3)	<b>29,626</b>	<b>35,821</b>
	<b>122,526</b>	<b>135,264</b>
	<b>\$ 11,137,965</b>	<b>\$ 11,290,143</b>

See accompanying notes to the financial statements.

# NATURAL RESOURCE GAS LIMITED

## Balance Sheet

As at September 30

	2003	2002
<b>Liabilities and Shareholders' Equity</b>		
Current liabilities:		
Demand debenture payable (note 4)	\$ 118,000	\$ 118,000
Accounts payable and accrued liabilities (note 5)	2,117,115	1,451,868
Income taxes payable	-	361,957
Deferred revenue	114,559	84,575
Customer deposits	90,440	83,162
Current portion of long-term debt (note 6)	307,015	694,182
	<b>2,747,129</b>	<b>2,793,744</b>
Long-term debt (note 6)	<b>3,068,451</b>	<b>3,375,467</b>
Shareholders' equity:		
Share capital (note 7)	15,500,020	450,203
Retained earnings (deficit)	(10,177,635)	4,670,729
	<b>5,322,385</b>	<b>5,120,932</b>
Contingent liabilities (note 6)		
	<b>\$ 11,137,965</b>	<b>\$ 11,290,143</b>

Approved on Behalf of the Board:

\_\_\_\_\_  
Director

See accompanying notes to the financial statements.

## NATURAL RESOURCE GAS LIMITED

### Statement of Retained Earnings (Deficit)

Year ended September 30

	2003	2002
Balance, beginning of year	\$ 4,670,729	\$ 3,984,430
Net income for the year	201,433	686,299
Transfer of retained earnings to stated capital of Class A shares (note 7)	(15,049,797)	-
Balance, end of year	\$ (10,177,635)	\$ 4,670,729

See accompanying notes to the financial statements.



## NATURAL RESOURCE GAS LIMITED

### Statement of Income

Year ended September 30

	2003	2002
Gas sales	\$ 9,212,250	\$ 8,503,871
Gas costs	6,566,250	5,422,560
Gross margin on gas sales	2,646,000	3,081,311
Other sales	558,987	554,857
Other costs	438,622	441,946
Gross margin on other sales	120,365	112,911
Other revenue	557,231	507,062
Expenses	2,983,663	2,664,485
Income before provision for income taxes	339,933	1,036,799
Provision for income taxes	138,500	350,500
Net income for the year	\$ 201,433	\$ 686,299

Included in expenses are the following:

Amortization of finance costs	\$ 6,196	\$ 6,196
Amortization of franchises and consents	\$ 6,542	\$ 6,542
Amortization	\$ 539,879	\$ 509,758
Interest on long-term debt	\$ 395,121	\$ 448,962
Interest on capital lease obligations	\$ -	\$ 1,681
Interest on short-term debt	\$ 7,312	\$ 6,725

See accompanying notes to the financial statements.

# NATURAL RESOURCE GAS LIMITED

## Cash Flow Statement

Year ended September 30

	2003	2002
Cash flows from operating activities:		
Net income for the year	\$ 201,433	\$ 686,299
Items not affecting working capital:		
Amortization	552,617	522,496
Gain on disposal of capital assets	-	(88,710)
Changes in non-cash working capital:		
Accounts receivable	(175,034)	560,451
Inventory	(20,130)	36,307
Prepaid expenses	(21,050)	(5,411)
Income taxes recoverable	(132,841)	-
Accounts payable and accrued liabilities	665,247	(621,167)
Income taxes payable (note 9)	(361,957)	(165,678)
Deferred revenue	29,984	(33,333)
Deferred charges	(7,855)	(61,081)
Customer deposits	7,278	978
	737,692	831,151
Cash flows from investing activities:		
Additions to capital assets	(377,314)	(1,322,984)
Proceeds on disposal of capital assets	-	156,224
	(377,314)	(1,166,760)
Cash flows from financing activities:		
Repayments of long-term debt	(694,183)	(368,078)
Net repayment of obligations under capital lease	-	(22,965)
Issuance of Class C shares	13,461,418	-
Issuance of Class B shares	10	-
Issuance of Class Z shares	10	-
Reduction of stated capital of Class A shares (note 7)	(13,461,418)	-
	(694,163)	(391,043)
Decrease in cash and cash equivalents during the year	(333,785)	(726,652)
Cash and cash equivalents, beginning of year	904,284	1,630,936
Cash and cash equivalents, end of year	\$ 570,499	\$ 904,284

See accompanying notes to the financial statements.

# NATURAL RESOURCE GAS LIMITED

## Notes to the Financial Statements

September 30, 2003

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### **Summary of significant accounting policies:**

These financial statements have been prepared in accordance with Canadian generally accepted accounting principles, the more significant of which are summarized below.

#### *Regulations:*

The company is subject to regulations under The Ontario Energy Board Act and The Energy Act (Ontario). The accounting policies followed by the company are approved by The Ontario Energy Board. Rates are set to allow the utility to recover the cost of service including a fair and reasonable return on the utility investment.

#### *Inventory:*

Inventory is valued at the lower of cost and net realizable value, with cost being determined on a first-in, first-out basis. Market value is defined as replacement cost.

#### *Deferred charges and revenues:*

Pursuant to an order of The Ontario Energy Board, the company defers certain gas and other costs which will be recovered against its rates for gas sales over a period which is not expected to exceed two years. In addition, when gas costs are less than the reference price set by The Ontario Energy Board, the company defers recognition of the savings since these may be recovered by the Board.

#### *Pipeline installations:*

Expenditures which substantially increase the useful life of existing pipeline installations and additions to the pipeline are capitalized. Such expenditures include material, labour and overhead. Maintenance and repairs which do not extend the useful life of pipeline installations are charged to income.

#### *Capital asset disposals:*

Pursuant to the regulations of The Ontario Energy Board on the disposal of capital assets, excluding major disposals, the company transfers the original cost of the retired capital assets, plus any related removal costs, to accumulated amortization. Proceeds from disposition are credited to accumulated amortization. This effectively credits gains, or charges losses on disposition to accumulated amortization.

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

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## *Amortization:*

Pursuant to the regulations of The Ontario Energy Board, amortization is calculated using the straight-line method on the total gross cost of each asset category at the end of the year, rather than on an asset specific basis, at the following annual rates for the capital asset categories listed below:

Automotive equipment	7 %
Buildings	5 %
Computer equipment	25 %
Computer software	20 %
Furniture and fixtures	5 %
Machinery and equipment	6 % to 10 %
Meters and regulators	3 % to 4 %
Pipeline installations	2 % to 17 %

Amortization of deferred finance costs is calculated at the annual rate of 7 % using the straight-line method.

Amortization of franchises and consents is calculated at the annual rate of 4 % using the straight-line method.

## *Income taxes:*

The company's rate and revenues, established for regulatory purposes, allow for the recovery of income taxes on a formula basis which differs from the amount as determined under the tax allocation basis of accounting. Accordingly, the company accounts for income taxes using the taxes payable basis. This basis does not provide for future income taxes which may be payable in future years as a result of the difference between current financial reporting and reporting for income tax purposes. Future income taxes not provided in these financial statements would amount to a recovery of \$46,000 for the year ended September 30, 2003 (2002 - expense of \$8,000) and a future liability of \$546,000 at September 30, 2003 (2002 - \$592,000).

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

## *Use of estimates:*

The preparation of financial statements in accordance with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reported period. These estimates are reviewed periodically and, as adjustments become necessary, they are reported in earnings in the period in which they become known.

## 1. Capital assets:

			2003		2002	
	Cost	Accumulated Amortization	Net Book Value		Net Book Value	
Land	\$ 71,700	\$ -	\$ 71,700	\$	71,700	
Buildings	682,331	30,773	651,558	\$	682,331	
Furniture and fixtures	62,223	28,443	33,780		33,385	
Machinery and equipment	2,055,186	866,916	1,188,270		1,179,707	
Computer equipment	107,098	107,098	-		-	
Computer software	110,063	110,063	-		-	
Automotive equipment	414,815	108,785	306,030		311,420	
Meters and regulators	2,585,690	1,042,656	1,543,034		1,577,249	
Pipeline installations	8,279,424	2,777,349	5,502,075		5,603,219	
	\$ 14,368,530	\$ 5,072,083	\$ 9,296,447	\$	9,459,011	

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

## 2. Franchises and consents:

	2003	2002
Franchises and consents	\$ 151,094	\$ 151,094
Less: accumulated amortization	58,194	51,651
	\$ 92,900	\$ 99,443

## 3. Deferred finance costs:

	2003	2002
Deferred finance costs	\$ 92,945	\$ 92,945
Less: accumulated amortization	63,319	57,124
	\$ 29,626	\$ 35,821

## 4. Demand debenture payable:

	2003	2002
Demand debenture payable, with interest payable monthly at the floating ScotiaBank prime lending rate for Canadian dollar demand commercial loans in Canada plus 1.5%	\$ 118,000	\$ 118,000

The debenture is secured by a general security agreement over the accounts, monies and inventory of the company.

## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

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### 5. Related party transactions:

During the year, rent of \$9,600 (2002 - \$9,600) and management fees of \$83,000 (2002 - \$81,000) were paid to affiliated companies.

During the year, the company purchased gas in the amount of \$1,012,734 (2002 - \$995,921) from an affiliated company.

During the year, the company paid interest of \$91,867 (2002 - \$92,532) on the loans payable to an affiliated company.

During the year, maintenance charges of \$41,280 (2002 - \$33,340) were charged to an affiliated company.

During the year, the company provided installation services and product to an affiliated company in the amount of \$nil (2002 - \$118,469).

Included in accounts payable and accrued liabilities are amounts payable to affiliated companies of \$102,499 as at September 30, 2003 (2002 - \$97,511).

Included in accounts receivable are amounts receivable from affiliated companies of \$24,781 as at September 30, 2003 (2002 - \$41,094).

Affiliated companies are companies controlled, directly or indirectly, by an associated group of trusts.

These transactions are in the normal course of business, and are disclosed at the exchange amount.

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

## 6. Long-term debt:

	2003	2002
The Imperial Life Assurance Company of Canada, 11.8%, repayable in blended monthly instalments of \$44,525 principal and interest, due July 31, 2009	\$ 2,225,492	\$ 2,480,594
Banco Securities Inc. 11.03%, repayable in blended monthly instalments of \$3,384, principal and interest, due September 30, 2010	198,974	217,055
Imperial Tobacco Limited, 6%, repayable in quarterly interest payments only, with annual principal payments of \$125,000 commencing October 22, 2000, due October 22, 2002	-	421,000
Banco Securities Inc., 9.66% (interest rate adjusted annually based upon the allowed rate of return as set by the Ontario Energy Board. Minimum rate of 9.25%), repayable in monthly interest only instalments, due July 31, 2009	951,000	951,000
	3,375,466	4,069,649
Less: current portion	307,015	694,182
	\$ 3,068,451	\$ 3,375,467

The aggregate amount of principal payments required in each of the next 5 years to meet retirement provisions is as follows:

2004	\$ 307,015
2005	345,042
2006	387,780
2007	435,815
2008	489,803
thereafter	1,410,011
	\$ 3,375,466



## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

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### 6. Long-term debt - continued:

The following has been pledged as security for the Imperial Life loan:

- a) fixed and floating charge over all of the assets of the company;
- b) general security agreement;
- c) general assignment of accounts receivable; and,
- d) assignment of all risk insurance over the assets of the company.

In addition, a limited recourse guarantee and postponement of claim has been provided.

The balances payable to the Banco Securities Inc. are secured by general security agreements which are subordinate to the security agreement registered for the Imperial Life loan.

The company was in breach of three covenants during the year with respect to the Imperial Life Loan. These were management fees of \$8,000 in excess of the authorized amount, the debt service coverage ratio was less than the specified 1.4 to 1 ratio, and the interest coverage ratio was less than the specified 2.25 to 1 ratio.

The company has had similar experience in the prior years and also has not been in compliance with a few other covenants since fiscal 1995. The company did obtain a waiver from the lender subsequent to the issuance of the financial statements for the year ended September 30, 1998 with respect to these covenants. The company has continued to make all required payments under this loan in accordance with the terms of the loan and the conditions remain unchanged from those which existed in the prior year.

As in prior years, the company does not expect the loan agreement to be terminated or penalties imposed with respect to this event and as such the company has not accrued any penalty in these financial statements. The calculation of the amount of any penalty is ambiguous under the terms of the lending agreement but could be interpreted as an amount up to \$362,000. Accordingly, the company has continued to treat this loan as a long-term liability.

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

## 7. Share capital:

	2003	2002
Authorized:		
Unlimited Class A shares non-voting, redeemable and retractable with non-cumulative dividends		
Unlimited Class B shares non-voting, with non-cumulative dividends ranking pari passu with common shares on dissolution		
Unlimited Class C shares non-voting, with a preferential 7% non-cumulative dividends redeemable and retractable at \$100 per share		
Unlimited Class Z shares voting, redeemable and retractable at \$1 per share, with no dividend entitlement		
Unlimited number of common shares		
Issued and outstanding:		
50,000 Class A shares	\$ 2,038,582	\$ -
10 Class B shares	10	-
134,614.18 Class C shares	13,461,418	-
10 Class Z shares	10	-
50,000 Common shares	-	450,203
	\$ 15,500,020	\$ 450,203

During the year the company issued 10 Class B shares for \$1 each.

During the year the company issued 134,614.18 Class C shares for \$100 each.

During the year the company issued 10 Class Z shares for \$1 each.

During the year the company converted 50,000 common shares for 50,000 Class A shares.

During the year the company pursuant to the provisions of the Business Corporations Act (Ontario), added to the stated capital of the Class A special shares an amount of \$15,049,797. In a series of subsequent transactions during the year the company pursuant to the Business Corporations Act (Ontario) reduced the stated capital of the Class A shares in the amount of \$13,461,418 by a transfer of funds to the shareholder.

## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2003

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### 8. Financial instruments:

The carrying values of the company's financial current assets and liabilities, including cash, accounts receivable, prepaid expenses, income taxes recoverable, deferred charges, demand debenture payable, accounts payable and accrued liabilities, deferred revenue and customer deposits approximate their values due to their short-term maturity.

The fair value of long-term debt is estimated using a discounted cash flow calculation that uses market interest rates currently charged for similar debt instruments at September 30, 2003 to expected maturity dates.

Based upon the above calculation the carrying value of \$ 3,375,466 of long-term debt has a fair value of \$ 3,819,191.

#### *Credit risk:*

Credit risk arises from the potential that a trade customer will fail to pay its account. The company is exposed to credit risk from its customers. However, the company has a large number of diverse customers, which minimizes concentration of credit risk.

### 9. Additional cash flow statement information:

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	2003	2002
Interest paid	\$ 371,907	\$ 477,305
Income taxes paid	\$ 649,650	\$ 568,116

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NEAL, PALLETT & TOWNSEND LLP

**NP T**

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David J. Pallett C.A.  
John D.R. Prueter C.A., M.B.A.  
Jonathan R. Townsend C.A.  
L.J. Sandy Wetstein C.A.

### ADDITIONAL COMMENTS OF AUDITORS

The accompanying schedule of expenses is presented as supplementary information only. In this respect, it does not form part of the financial statements of Natural Resource Gas Limited for the year ended September 30, 2003 and is hence excluded from the opinion expressed in our report dated December 5, 2003 to the shareholders on such financial statements. The information in this schedule has been subject to audit procedures only to the extent necessary to express an opinion on the financial statements of the company and, in our opinion, is fairly presented in all respects material to those financial statements.

*Neal, Pallett & Townsend LLP*

London, Canada  
December 5, 2003

CHARTERED ACCOUNTANTS

# NATURAL RESOURCE GAS LIMITED

## Unaudited Schedule of Expenses

Year ended September 30

	2003	2002
Advertising	\$ 12,154	\$ 12,448
Automotive and maintenance	268,902	206,991
Bad debts	15,000	16,000
Bank charges and other interest	27,930	27,716
Capital tax	9,369	16,685
Consulting fees	33,996	23,999
Direct purchase costs	8,795	-
Dues and fees	26,598	24,321
Employee benefits	97,643	94,712
Gain on disposal of capital assets	-	(88,710)
Insurance	221,233	165,418
Interest on long-term debt	395,120	450,643
Legal and audit	52,496	36,000
Management fees - affiliated company	83,000	81,000
Miscellaneous	25,005	14,855
Office	72,728	68,023
Ontario Energy Board hearings	70,000	(15,872)
Promotional rebates	2,800	1,000
Property taxes	267,083	247,675
Rent - affiliated company	9,600	9,600
Salaries and wages	690,723	711,774
Telephone	38,356	40,970
Travel and promotion	6,067	20,270
Utilities	11,189	17,236
Amortization - Automotive equipment	30,862	30,431
Buildings	30,773	4,800
Computer equipment	8,322	11,347
Computer software	4,337	11,914
Deferred finance costs	6,196	6,196
Franchises and consents	6,542	6,542
Furniture and Fixtures	3,192	3,020
Machinery and equipment	140,881	134,034
Meters and regulators	96,872	94,665
Pipeline installations	231,997	228,146
	3,005,761	2,713,849
Equipment expenses capitalized to pipeline installations	(18,355)	(25,223)
Interest expense (income)	3,614	(15,542)
Amortization capitalized to pipeline installations	(7,357)	(8,599)
	\$ 2,983,663	\$ 2,664,485

# Appendix B

**NATURAL RESOURCE GAS LIMITED**

**FINANCIAL STATEMENTS**

**SEPTEMBER 30, 2004**

NEAL, PALLETT & TOWNSEND LLP

NP T

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L.J. Sandy Wetstein C.A.

## AUDITORS' REPORT

To the Board of Directors  
Natural Resource Gas Limited

We have audited the balance sheet of Natural Resource Gas Limited as at September 30, 2004 and the statements of income, deficit, and cash flow for the year then ended. These financial statements have been prepared, with the unanimous consent of the company's shareholders, in accordance with Canadian generally accepted accounting principles using differential reporting options available to non-publicly accountable enterprises, as described in the summary of significant accounting policies attached to the financial statements. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, these financial statements present fairly, in all material respects, the financial position of the company as at September 30, 2004 and the results of its operations and changes in its financial position for the year then ended in accordance with the basis of accounting disclosed in the summary of significant accounting policies.

*Neal, Pallett & Townsend*

London, Canada  
December 14, 2004

CHARTERED ACCOUNTANTS



# NATURAL RESOURCE GAS LIMITED

## Balance Sheet

As at September 30

	2004	2003
<b>Assets</b>		
Current assets:		
Cash	\$ -	\$ 570,499
Accounts receivable	1,289,437	865,914
Inventory	130,262	95,873
Prepaid expenses	23,919	35,595
Income taxes recoverable	58,978	132,841
Deferred charges	32,795	18,270
	<b>1,535,391</b>	<b>1,718,992</b>
Property, plant, and equipment (note 1)	<b>9,271,362</b>	<b>9,296,447</b>
Other assets:		
Franchises and consents (note 2)	<b>86,358</b>	<b>92,900</b>
Deferred financing costs (note 3)	<b>23,430</b>	<b>29,626</b>
	<b>109,788</b>	<b>122,526</b>
	<b>\$ 10,916,541</b>	<b>\$ 11,137,965</b>

See accompanying notes to the financial statements.

# NATURAL RESOURCE GAS LIMITED

## Balance Sheet

As at September 30

	2004	2003
<b>Liabilities and Shareholders' Equity</b>		
Current liabilities:		
Bank indebtedness	\$ 49,178	\$ -
Demand debenture payable (note 4)	118,007	118,000
Accounts payable and accrued liabilities (note 5)	1,720,803	2,117,114
Deferred revenue	118,938	114,559
Customer deposits	102,214	90,440
Current portion of long-term debt (note 6)	345,042	307,015
	<b>2,454,182</b>	<b>2,747,128</b>
Long-term debt (note 6)	<b>2,723,409</b>	<b>3,068,451</b>
Shareholders' equity:		
Share capital (note 7)		
Retractable shares (redemption value \$15,500,010)	15,500,010	15,500,010
Participating shares	10	10
Deficit	(9,761,070)	(10,177,634)
	<b>5,738,950</b>	<b>5,322,386</b>
Contingent liabilities (note 6)		
	<b>\$ 10,916,541</b>	<b>\$ 11,137,965</b>

See accompanying notes to the financial statements.

## NATURAL RESOURCE GAS LIMITED

### Statement of Deficit

Year ended September 30

	2004	2003
Balance, beginning of year	\$ (10,177,634)	\$ 4,670,729
Net income for the year	416,564	201,434
Addition to the stated capital of the Class A shares	-	(15,049,797)
Balance, end of year	\$ (9,761,070)	\$ (10,177,634)

See accompanying notes to the financial statements.

## NATURAL RESOURCE GAS LIMITED

### Statement of Income

Year ended September 30

	2004	2003
Gas commodity and distribution revenue	\$ 9,480,595	\$ 9,212,250
Gas commodity cost	6,424,612	6,566,250
Gross margin	3,055,983	2,646,000
Other sales	1,262,628	1,041,311
Other costs	817,489	571,675
Gross margin on other sales	445,139	469,636
Other revenue	65,128	74,907
Expenses	2,907,186	2,850,609
Income before provision for income taxes	659,064	339,934
Provision for income taxes	242,500	138,500
Net income for the year	\$ 416,564	\$ 201,434

Included in expenses are the following:

Amortization of deferred financing costs	\$ 6,196	\$ 6,196
Amortization of franchises and consents	\$ 6,542	\$ 6,542
Amortization	\$ 541,865	\$ 539,879
Interest on long-term debt	\$ 360,588	\$ 395,121
Interest on short-term debt	\$ 8,941	\$ 7,312

See accompanying notes to the financial statements.

# NATURAL RESOURCE GAS LIMITED

## Cash Flow Statement

Year ended September 30

	2004	2003
Cash flows from operating activities:		
Net income for the year	\$ 416,564	\$ 201,434
Items not affecting working capital:		
Amortization	554,603	552,617
Changes in non-cash working capital:		
Accounts receivable	(423,522)	(175,034)
Inventory	(34,389)	(20,130)
Prepaid expenses	11,676	(21,050)
Income taxes recoverable (note 11)	73,863	(132,841)
Accounts payable and accrued liabilities	(396,311)	665,246
Income taxes payable (note 11)	-	(361,957)
Deferred revenue	4,379	29,984
Deferred charges	(14,525)	(7,855)
Customer deposits	11,774	7,278
	204,112	737,692
Cash flows from investing activities:		
Additions to property, plant, and equipment	(516,781)	(377,314)
Cash flows from financing activities:		
Repayments of long-term debt	(307,015)	(694,183)
Issuance of Class C shares	-	13,461,418
Issuance of Class B shares	-	10
Issuance of Class Z shares	-	10
Advances from demand debenture payable	7	-
Reduction of stated capital of Class A shares	-	(13,461,418)
	(307,008)	(694,163)
Decrease in cash and cash equivalents during the year	(619,677)	(333,785)
Cash and cash equivalents, beginning of year	570,499	904,284
Cash and cash equivalents, end of year	\$ (49,178)	\$ 570,499

See accompanying notes to the financial statements.

# NATURAL RESOURCE GAS LIMITED

## Notes to the Financial Statements

September 30, 2004

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### Summary of significant accounting policies:

The company, with the unanimous consent of its shareholders, has elected to prepare its financial statement in accordance with Canadian generally accepted accounting principles, using differential reporting options available to non-publicly accountable enterprises as described below:

*(a) Share capital:*

The company has elected to apply the differential reporting measurement option allowed for the accounting for retractable shares and, therefore has presented as equity instead of disclosing as a liability, the issued and outstanding Class A and Class C shares of the company.

*Regulation:*

The utility operations of the company is a rate regulated, natural gas distribution utility and operates within a limited area of Southwestern Ontario under franchise agreements that are approved by the Ontario Energy Board (OEB).

The utility operations are subject to regulations under The Ontario Energy Board Act and The Energy Act (Ontario). Revenue rate schedules are approved periodically by the OEB and are designed to permit a fair and reasonable return to the Company on the utility investment. Realization of the allowed rate of return is subject to actual operating conditions experienced during the year.

The Company follows Canadian generally accepted accounting principles. Such accounting principles may differ for regulated entities from those otherwise expected in non-regulated entities. These differences occur when the regulatory agencies render their decisions on the Company's rate applications and generally involve the timing of revenue and expense recognition to ensure that the Company has achieved a proper matching of revenues and expenses. In addition to defining certain accounting requirements, the regulatory agencies have jurisdiction over a number of other matters, which include the rates to be charged for the distribution of gas and approval and recovery of costs for major construction and operations.

*Inventory:*

Inventory is valued at the lower of cost and net realizable value, with cost being determined on a first-in, first-out basis. Net realizable value is defined as replacement cost.

## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

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*Deferred charges:*

Certain costs, required or permitted by the OEB, have been deferred for recovery from future revenues. Certain regulatory deferrals are subject to future decision by the OEB, who will determine the financial reporting to be provided for these deferred accounts.

*Property, plant, and equipment.*

Pursuant to the regulations of the OEB on the disposal of property, plant, and equipment, excluding major disposals, the company transfers the original cost of the retired assets, plus any related removal costs and net of any proceeds on disposition, to accumulated amortization. Proceeds from disposition are credited to accumulated amortization. This effectively credits gains, or charges losses on disposition to accumulated amortization.

Expenditures which substantially increase the useful life of existing pipeline installations and additions to the pipeline are capitalized. Such expenditures include material, labour and overhead. Maintenance and repairs which do not extend the useful life of pipeline installations are charged to income.

The company has reviewed its long-lived assets and determined there exists no asset retirement obligation as of September 30, 2004.

# NATURAL RESOURCE GAS LIMITED

## Notes to the Financial Statements - continued

September 30, 2004

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### *Amortization:*

Pursuant to the periodic review and approval by the OEB of amortization rates, amortization is calculated using the straight-line method on the total gross cost of each asset category at the end of the year, rather than on an asset specific basis, at the following annual rates for the property, plant and equipment categories listed below:

Automotive equipment	7 %
Buildings	5 %
Computer equipment	25 %
Computer software	20 %
Furniture and fixtures	5 %
Machinery and equipment	6 % to 10 %
Meters and regulators	3 % to 4 %
Pipeline installations	2 % to 17 %

Amortization of deferred finance costs (related to the issue of long-term debt) is calculated at the annual rate of 7 % using the straight-line method over the life of the related debt issuance.

Amortization of franchises and consents is calculated at the annual rate of 4 % using the straight-line method.

### *Income taxes:*

The company's rate and revenues, established for regulatory purposes, allow for the recovery of income taxes on a formula basis which differs from the amount as determined under the tax allocation basis of accounting. Accordingly, the company accounts for income taxes using the taxes payable basis. This basis does not provide for future income taxes which may be payable in future years as a result of the difference between current financial reporting and reporting for income tax purposes. Future income taxes not provided in these financial statements would amount to a recovery of \$20,000 for the year ended September 30, 2004 (2003 - \$46,000) and an accumulated future liability of \$526,000 at September 30, 2004 (2003 - \$546,000).



# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

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## *Revenue recognition:*

The Company recognizes revenues when gas has been delivered or services have been performed. Gas distribution revenues are recorded on the basis of regular meter readings and estimates of customer usage since the last meter reading to the end of the reporting period.

A significant portion of the Company's operations are subject to regulation and accordingly there are circumstances where the revenues recognized do not match the amounts billed. Revenue is recognized in a manner consistent with the underlying rate setting mechanism as mandated by the OEB. This may give rise to regulatory deferral accounts on the balance sheet pending disposition by a decision of the OEB.

## *Gas commodity costs:*

Gas commodity costs are recorded using prices approved by the OEB in the determination of customers sales rates. Differences between the OEB approved reference prices and those costs actually incurred are deferred in accounts receivable for future disposition subject to the approval of the OEB.

## *Use of estimates:*

The preparation of financial statements in accordance with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reported period. These estimates are reviewed periodically and, as adjustments become necessary, they are reported in earnings in the period in which they become known.

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

## 1. Property, plant, and equipment:

	2004		2003	
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Land	\$ 71,700	\$ -	\$ 71,700	\$ 71,700
Buildings	682,331	61,546	620,785	651,558
Furniture and fixtures	52,823	21,537	31,286	33,780
Machinery and equipment	2,114,688	899,689	1,214,999	1,188,270
Computer equipment	98,149	98,149	-	-
Computer software	110,063	110,063	-	-
Automotive equipment	431,946	72,409	359,537	306,030
Meters and regulators	2,681,664	1,143,184	1,538,480	1,543,034
Pipeline installations	8,443,287	3,008,712	5,434,575	5,502,075
	\$ 14,686,651	\$ 5,415,289	\$ 9,271,362	\$ 9,296,447

## 2. Franchises and consents:

	2004		2003	
Franchises and consents	\$	151,094	\$	151,094
Less: accumulated amortization		64,736		58,194
	\$	86,358	\$	92,900

# NATURAL RESOURCE GAS LIMITED

## Notes to the Financial Statements - continued

September 30, 2004

### 3. Deferred finance costs:

	2004	2003
Deferred finance costs	\$ 92,945	\$ 92,945
Less: accumulated amortization	69,515	63,319
	\$ 23,430	\$ 29,626

### 4. Demand debenture payable:

	2004	2003
Demand debenture payable, with interest payable monthly at the floating ScotiaBank prime lending rate for Canadian dollar demand commercial loans in Canada plus 1.5%	\$ 118,007	\$ 118,000

The debenture is secured by a general security agreement over the accounts, monies and inventory of the company.

## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

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### 5. Related party transactions:

During the year, rent of \$9,600 (2003 - \$9,600) and management fees of \$85,000 (2003 - \$83,000) were paid to an affiliated company.

During the year, the company purchased gas in the amount of \$1,296,886 (2003 - \$1,012,734) from an affiliated company.

During the year, the company paid interest of \$nil (2003 - \$91,867) on the loans payable to an affiliated company.

During the year, maintenance charges of \$41,280 (2003 - \$41,280) were charged to an affiliated company.

During the year, the company provided installation services and product to an affiliated company in the amount of \$208,171 (2003 - \$nil).

Included in accounts payable and accrued liabilities are amounts payable to affiliated companies of \$419,464 as at September 30, 2004 (2003 - \$102,499).

Included in accounts receivable are amounts receivable from affiliated companies of \$49,570 as at September 30, 2004 (2003 - \$24,781).

Affiliated companies are companies controlled, directly or indirectly, by trusts, where the beneficiaries of the trusts are common to both trusts.

These transactions are in the normal course of business, and are measured at the exchange amount.

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

## 6. Long-term debt:

	2004	2003
Debenture payable, 11.8%, repayable in blended monthly instalments of \$44,525 principal and interest, due July 31, 2009	\$ 1,938,607	\$ 2,225,492
Debenture payable, 11.03%, repayable in blended monthly instalments of \$3,384, principal and interest, due September 30, 2010	178,844	198,974
Debenture payable, 9.72% (interest rate adjusted annually based upon the allowed rate of return as set by the Ontario Energy Board. Minimum rate of 9.25%), repayable in monthly interest only instalments, due July 31, 2009	951,000	951,000
	3,068,451	3,375,466
Less: current portion	345,042	307,015
	\$ 2,723,409	\$ 3,068,451

The aggregate amount of principal payments required in each of the next 5 years to meet retirement provisions is as follows:

2005	\$ 345,042
2006	387,780
2007	435,815
2008	489,803
2009	1,371,674
thereafter	38,337
	\$ 3,068,451

## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

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### 6. Long-term debt - continued:

The following has been pledged as security for the mortgage payable:

- a) fixed and floating charge over all of the assets of the company;
- b) general security agreement;
- c) general assignment of accounts receivable; and,
- d) assignment of all risk insurance over the assets of the company.

In addition, a limited recourse guarantee and postponement of claim has been provided.

The debentures payable are secured by general security agreements which are subordinate to the security agreement registered for mortgage payable.

The company was in breach of two covenants during the year with respect to the mortgage payable. These were management fees of \$10,000 in excess of the authorized amount, and the company made \$1,023 of capital expenditures in excess of the \$550,000 annual limit.

The company has had similar experience in the prior years and also has not been in compliance with a few other covenants since fiscal 1995. The company did obtain a waiver from the lender subsequent to the issuance of the financial statements for the year ended September 30, 1998 with respect to these covenants. The company has continued to make all required payments under this loan in accordance with the terms of the loan and the conditions remain unchanged from those which existed in the prior year.

As in prior years, the company does not expect the loan agreement to be terminated or penalties imposed with respect to this event and as such the company has not accrued any penalty in these financial statements. The calculation of the amount of any penalty is ambiguous under the terms of the lending agreement but could be interpreted as an amount up to \$278,000. Accordingly, the company has continued to treat this loan as a long-term liability.

# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

## 7. Share capital:

	2004	2003
Authorized:		
Unlimited Class A shares, non-voting, redeemable and retractable with non-cumulative dividends		
Unlimited Class B shares, participating, non-voting, with non-cumulative dividends ranking pari passu with common shares on dissolution		
Unlimited Class C shares non-voting, with preferential 7% non-cumulative dividends redeemable and retractable at \$100 per share		
Unlimited Class Z shares voting, redeemable and retractable at \$1 per share, with no dividend entitlement		
Unlimited number of common shares		
Issued and outstanding:		
Retractable shares:		
50,000 Class A shares	\$ 2,038,582	\$ 2,038,582
134,614.18 Class C shares	13,461,418	13,461,418
10 Class Z shares <i>W. 100, 7.</i>	10	10
	<b>\$ 15,500,010</b>	<b>\$ 15,500,010</b>
Participating shares:		
10 Class B shares	\$ 10	\$ 10

## NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

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### 8. Gas imbalances:

The Company, in the normal course of its operations experiences imbalances in the quantity of gas purchased and the quantities of gas sold and provides the gas balancing services to customers. The company records the net liability (or net asset) associated with gas imbalance volumes.

Accounts payable and accrued liabilities include \$305,242 (2003 - \$173,503) related to gas imbalances. Natural gas volumes owed from the Company are valued at the natural gas reference price as approved by the OEB as of the balance sheet dates.

### 9. Regulatory matters:

The Company has rates that are approved by the OEB. The fiscal year 2004 was the final year in a two-year Cost of Service Rate filing. The fiscal year 2005 Cost of Service Rate filing application was submitted to the OEB and the Company is awaiting the OEB decision.

Rates for the sale of gas are adjusted quarterly to reflect updated commodity price forecasts. The difference between the approved and the actual cost of gas incurred in the current period is deferred for future recovery subject to approval by the OEB. These differences are directly flowed through to customers and, therefore, no rate of return is earned on the deferred balances. The OEB's approval for recovery of these gas purchase costs primarily considers the prudence of costs incurred.



# NATURAL RESOURCE GAS LIMITED

Notes to the Financial Statements - continued

September 30, 2004

## 10. Financial instruments:

The carrying values of the company's financial current assets and liabilities, including cash, accounts receivable, prepaid expenses, income taxes recoverable, deferred charges, demand debenture payable, accounts payable and accrued liabilities, deferred revenue and customer deposits approximate their values due to their short-term maturity.

The fair value of long-term debt is estimated using a discounted cash flow calculation that uses market interest rates currently charged for similar debt instruments at September 30, 2004 to expected maturity dates.

Based upon the above calculation the carrying value of \$ 3,068,451 of long-term debt has a fair value of \$ 3,451,321.

### *Credit risk:*

Credit risk arises from the potential that a trade customer will fail to pay its account. The company is exposed to credit risk from its customers. However, the company has a large number of diverse customers, which minimizes concentration of credit risk.

## 11. Additional cash flow statement information:

	2004	2003
Interest paid	\$ 400,062	\$ 371,907
Income taxes paid	\$ 190,478	\$ 649,650

## 12. Comparative balances:

Certain of the comparative balances have been reclassified to conform to the presentation adopted for the current year.

NEAL, PALLETT & TOWNSEND LLP

**NP T**

CHARTERED ACCOUNTANTS  
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John D.R. Prueter C.A., M.B.A.  
Jonathan R. Townsend C.A.  
L.J. Sandy Weinstein C.A.

**ADDITIONAL COMMENTS OF AUDITORS**

The accompanying schedule of expenses is presented as supplementary information only. In this respect, it does not form part of the financial statements of Natural Resource Gas Limited for the year ended September 30, 2004 and is hence excluded from the opinion expressed in our report dated December 14, 2004 to the board of directors on such financial statements. The information in this schedule has been subject to audit procedures only to the extent necessary to express an opinion on the financial statements of the company and, in our opinion, is fairly presented in all respects material to those financial statements.

*Neal, Pallett & Townsend*

London, Canada  
December 14, 2004

CHARTERED ACCOUNTANTS

# NATURAL RESOURCE GAS LIMITED

## Unaudited Schedule of Expenses

Year ended September 30

	2004	2003
Advertising	\$ 41,450	\$ 12,154
Automotive and maintenance	217,669	240,318
Bad debts	17,000	15,000
Bank charges and other interest	32,524	27,930
Capital tax	25,615	9,369
Consulting fees	30,000	33,996
Direct purchase costs	-	8,795
Dues and fees	17,351	26,598
Employee benefits	105,374	97,643
Insurance	245,436	221,233
Interest on long-term debt	360,588	395,120
Legal and audit	87,751	52,496
Management fees - affiliated company	85,000	83,000
Miscellaneous	32,429	25,005
Office	66,372	72,727
Ontario Energy Board hearings	114,372	70,000
Promotional rebates	-	2,800
Property taxes	274,237	267,083
Rent - affiliated company	9,600	9,600
Salaries and wages	683,246	690,723
Telephone	41,000	38,356
Travel and promotion	3,212	6,067
Utilities	11,597	11,189
Amortization - Automotive equipment	32,137	30,862
Buildings	30,773	30,773
Computer equipment	3,655	8,322
Computer software	-	4,337
Deferred finance costs	6,196	6,196
Franchises and consents	6,542	6,542
Furniture and Fixtures	2,710	3,192
Machinery and equipment	35,414	36,412
Meters and regulators	100,604	96,872
Pipeline installations	236,868	231,997
	2,956,722	2,872,707
Equipment expenses capitalized to pipeline installations	(25,657)	(18,355)
Interest expense (income)	(14,638)	3,614
Amortization capitalized to pipeline installations	(9,241)	(7,357)
	\$ 2,907,186	\$ 2,850,609

1

**NATURAL RESOURCE GAS LIMITED**

2

**AUDITED FINANCIAL STATEMENTS – 2005**

3

4

Attached

5

6

**NATURAL RESOURCE GAS LIMITED**  
**FINANCIAL STATEMENTS**  
**SEPTEMBER 30, 2005**

# Appendix C

## **ASSIGNMENT, POSTPONEMENT AND SUBORDINATION AGREEMENT**

**TO: THE BANK OF NOVA SCOTIA ("the Bank")**

**WHEREAS** the Bank has agreed to provide certain credit facilities to NATURAL RESOURCE GAS LIMITED (the "Borrower") pursuant to an Amended and Restated Credit Agreement dated October 9, 2008 as the same may be amended, modified or replaced (the "Credit Agreement");

**AND WHEREAS** the execution and delivery of this Agreement is a condition precedent to the Bank extending the credit facilities to the Borrower under the Credit Agreement;

**NOW THEREFORE** in consideration of the Bank granting the credit facilities to the Borrower and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Class C shareholder of the Borrower (hereafter called the "Subordinator"), agrees and undertakes as follows:

### **1. Postponement, Subordination and Assignment**

From the date hereof and until such time as all indebtedness, obligations and liabilities of the Borrower to the Bank under the Credit Agreement or arising under any other credit agreement between the Bank and the Borrower are repaid in full, the Subordinator agrees:

- (a) to postpone the payment and satisfaction by the Borrower of all shareholder loans, dividends and other rights to withdraw capital now or hereafter due and owing by the Borrower to the Subordinator and all interest accruing thereon (the "Subordinated Obligations") in favour of the Bank, and to subordinate the Subordinated Obligations to all indebtedness, liabilities and obligations of the Borrower to the Bank;
- (b) to assign and transfer to the Bank as security for the Subordinated Obligations and all liabilities of the Borrower to the Bank, all debts, demands and liabilities which are now due, owing or accruing due or may hereafter become due, owing or accruing due to the Subordinator by the Borrower and also all securities and rights of any nature which now are or may hereafter be held by the Subordinator as collateral therefore and the same shall be deemed security granted by the Borrower to the Bank;
- (c) that except with the Bank's prior written consent, any monies owing or which may become owing by the Borrower to the Subordinator and which constitute the Subordinated Obligations, shall not be withdrawn, transferred, pledged, encumbered, assigned or otherwise dealt with by the Subordinator but shall remain on the books of the Borrower at all times for so long as any monies remain owing to the Bank by the Borrower under the Credit Agreement or otherwise; and
- (d) not to demand or accept payment of all or any part of the Subordinated Obligations.

### **2. Insolvency**

In the event of the bankruptcy or winding up of the Borrower or of any distribution of the assets of the Borrower or proceeds thereof among its creditors in any manner whatsoever, the Bank shall be entitled to receive the dividends payable in respect of the Secured Obligations, such dividends to be applied on such part or parts of the Borrower's then indebtedness to the Bank as the Bank shall deem fit until the whole of such indebtedness has been paid in full and thereafter the Subordinator shall be entitled to such dividends.

### **3. Subordinator consent to Registrations**

The Subordinator hereby consents to the filing by the Bank of financing statements, financing change statements or to any similar registrations or filings in any and all appropriate jurisdictions in respect of the postponement and subordination of the Subordinated Obligations granted herein, and the Subordinator shall, upon written request from the Bank, undertake such registrations or filings in prescribed form. Further, to facilitate the filing by the Bank of financing statements, financing change statements or similar registrations or filings, the Subordinator authorises the Bank or its solicitors to prepare, execute and file such documents as agent of the Subordinator. The Subordinator waives all rights to receive a copy of the financing statement, verification statement and any financing change statement relating thereto.

### **4. Subordinator as Trustee**

In the event any payments are made by the Borrower to the Subordinator in contravention of this Agreement, the Subordinator shall hold such payments in trust for the Bank and shall forthwith pay such payments to the Bank.

### **5. General**

- (a) The Subordinator shall, from time to time, and at all times hereafter do all things and execute all documents which the Bank may deem necessary or desirable in order to give full effect to this Agreement.
- (b) This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- (c) This agreement shall extend and enure to the benefit of and be binding upon the Bank and the Subordinator and their respective successors and assigns.
- (d) No provision in this agreement may be changed, modified or amended other than by an agreement in writing signed by each of the parties hereto.
- (e) The rights and remedies granted to the Bank hereunder shall be cumulative of and not substituted for any rights or remedies to which the Bank may be entitled under the Credit Agreement or any other security provided to the Bank or at law and may be exercised whether or not the Bank has pursued or is then pursuing any such other rights and remedies.
- (f) This agreement and the rights and remedies it creates are a continuing agreement and security, and shall bind the parties until the termination of this agreement.



IN WITNESS WHEREOF the party hereto has executed this agreement this 22nd day  
of August, 2008.

**THAMES RIVER SECURITIES LIMITED**

Per: 

Name: CLIFFORD CRAFT

Title: President

C/S

I have authority to bind the Corporation

# Appendix D

## **GENERAL SECURITY AGREEMENT**

THIS GENERAL SECURITY AGREEMENT made as of the 24th day of June, 1994.

**B E T W E E N:**

**THE IMPERIAL LIFE ASSURANCE  
COMPANY OF CANADA**, a life insurance  
company existing under the laws of Canada

(the "Creditor")

- and -

**NATURAL RESOURCE GAS LIMITED**, a  
corporation existing pursuant to the laws of the  
Province of Ontario

(the "Debtor")

WHEREAS the Debtor is now or will be indebted to the Creditor;

AND WHEREAS the Debtor has agreed to provide the Creditor with collateral security over its assets to secure the debts and obligations of the Debtor to the Creditor pursuant to the terms of a Loan Agreement between the Creditor and the Debtor dated as of June 24, 1994, as the same may be modified, amended, supplemented, restated or replaced from time to time (the "Loan Agreement");

NOW THEREFORE FOR VALUE RECEIVED (the receipt and sufficiency of which is hereby acknowledged) the parties hereto agree as follows:

1. **Security Interest:**

- (a) The Debtor hereby grants to the Creditor, by way of mortgage, charge, assignment and transfer, a security interest (the "Security Interest") in the assets, property and undertaking of the Debtor and in all Goods (including all parts, accessories, attachments, special tools, additions and accessions thereto), Chattel Paper, Documents of Title (whether negotiable or not), Instruments, Intangibles and Securities now owned or hereafter owned or acquired by or on behalf of the

Debtor (including such as may be returned to or repossessed by the Debtor) and all proceeds and renewals thereof, accretions thereto and substitutions therefor (collectively "the Collateral"), including, without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of the Debtor:

- (i) all inventory of whatever kind and wherever situate ("Inventory");
  - (ii) all equipment (other than Inventory) of whatever kind and wherever situate, including, without limitation, all pipelines, pumping stations, machinery, tools, apparatus, plant, furniture, fixtures and vehicles of whatsoever nature or kind;
  - (iii) all book accounts and book debts and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured, including letters of credit and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing or accruing or growing due to or owned by the Debtor (collectively, the "Debts"),
  - (iv) all deeds, documents, writings, papers, books of account and other books relating to or being records of Debts, Chattel Paper or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable;
  - (v) all contractual rights and insurance claims and all goodwill, patents, trademarks, copyrights, and other industrial property;
  - (vi) to the full extent permitted by law, all franchises, privileges, permits, grants, licenses, by-laws, consents and orders owned or held by or granted to the Debtor covering the purchase, import or export of natural or other gas or the laying, maintenance or operation of the existing gas pipeline or any gas pipelines owned, acquired, or constructed by the Debtor in, on, over, under or along lands, streets, roads, highways, railroads, rivers, canals, ditches, bridges, public grounds and land, public structures or elsewhere, and rights incidental thereto, in each case whether now owned or hereafter acquired;
  - (vii) all monies other than trust monies lawfully belonging to others; and
  - (viii) all other property of the Debtor of any kind.
- (b) The Security Interest granted hereby shall not extend or apply to and collateral shall not include the last day of the term of any lease or agreement therefor but, upon the enforcement of the Security Interest, the Debtor shall stand possessed of such last day in trust to assign the same to any person acquiring such term.

- (c) The terms "Goods", "Chattel Paper", "Documents of Title", "Equipment", "Consumer Goods", "Instruments", "Intangibles", "Securities", "Proceeds", "Inventory" and "Accession" whenever used herein shall be interpreted pursuant to their respective meanings in the Personal Property Security Act, R.S.O. 1990, P.10, as amended from time to time, (the "PPSA"), provided always that the term "Goods" when used herein shall not include "consumer goods" of the Debtor as defined in the PPSA. Any reference herein to "Collateral" shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof". The term "Proceeds" whenever used herein and interpreted as above shall by way of example include trade-ins, equipment, cash, bank accounts, notes, chattel paper, goods, contract rights, accounts and any other personal property or obligation received when such collateral or proceeds are sold, exchanged, collected or otherwise disposed of.

2. **Indebtedness Secured:** The Security Interest granted hereby secures payment and satisfaction of any and all obligations, indebtedness and liability of the Debtor to the Creditor (including interest thereon and costs and expenses related thereto) pursuant to the Loan Agreement (collectively the "Indebtedness"). If the Security Interest in the Collateral is not sufficient, in the event of default, to satisfy all Indebtedness of the Debtor, the Debtor acknowledges and agrees that the Debtor shall continue to be liable for any Indebtedness remaining outstanding and the Creditor shall be entitled to pursue full payment thereof.

3. **Representations and Warranties of the Debtor:** The Debtor represents and warrants and, so long as this General Security Agreement remains in effect, shall be deemed to continuously represent and warrant that:

- (a) the Debtor is duly incorporated and organized and validly exists under the laws of Ontario and has full power and authority (corporate or otherwise) to conduct its business and own its properties in all jurisdictions in which the Debtor carries on business, and to execute, deliver and perform all of its obligations under this General Security Agreement;
- (b) all action (corporate or otherwise) which is necessary for the authorization, execution, delivery and performance of this General Security Agreement and any agreements ancillary hereto or required hereunder has been duly taken on the part of the Debtor, its directors and shareholders;
- (c) this is a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms, subject only as such enforcement may be limited by bankruptcy, insolvency and any other laws of general application affecting creditors' rights and by rules of equity governing enforceability by specific performance and by mandatory requirement of applicable law specific to the Debtor's business of supply and distribution of natural gas;
- (d) there is no provision in the Debtor's articles of incorporation (including any amendments thereto), by-laws or resolution of the directors or shareholders of the

Debtor, and there is no provision of any indenture or agreement, written or oral, to which the Debtor is a party or under which the Debtor is obligated, nor to the knowledge of the Debtor is there any statute, rule or regulation, or any judgment, decree or order of any court or agency binding on the Debtor which would be contravened by the execution and delivery of this General Security Agreement, or by the performance of any provision, condition, covenant or other term hereof;

- (e) to the knowledge of the Debtor, there is no litigation, tax claim, proceeding or dispute pending, the adverse determination of which might materially and adversely affect the Debtor's financial condition, operations or property or impair the Debtor's ability to perform its obligations hereunder or under any other instrument or agreement required hereunder;
- (f) the Collateral is owned by the Debtor free of all security interests, mortgages, liens, claims, charges or other encumbrances (collectively the "Encumbrances") which may have priority over the Security Interest, subject only to the Permitted Encumbrances (as defined under the Loan Agreement);
- (g) each Debt, Chattel Paper and Instrument constituting the Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "Account Debtor"), and the amount represented by the Debtor to the Creditor from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor or Account Debtors, except for normal cash discounts where applicable, and no Account Debtor will have any defense, set off, claim or counterclaim against the Debtor which can be asserted against the Creditor, whether in any proceeding to enforce the Collateral or otherwise;
- (h) business operations and records with respect to Goods (including Inventory) constituting the Collateral are located in the Province of Ontario, (except for Goods in transit and Inventory on lease or consignment) and all fixtures or Goods about to become fixtures will be located in Ontario; and
- (i) the complete and accurate name of the Debtor is set out on the first page of this Agreement.

4. **Covenants of the Debtor:** So long as this General Security Agreement remains in effect, the Debtor covenants and agrees:

- (a) to defend the Collateral against the claims and demands of all other parties claiming the same or an interest therein, to keep the Collateral free from all Encumbrances in priority to the Security Interest (except those hereafter approved in writing by the Creditor prior to their creation or assumption) and not to sell, exchange, transfer, assign, lease, or otherwise dispose of the Collateral or any interest therein without the prior written consent of the Creditor; provided always that, until default, the Debtor may in the ordinary course of the Debtor's business

sell or lease Inventory and, subject to Section 7 hereof, use monies available to the Debtor;

- (b) to notify the Creditor promptly of:
  - (i) any change in the information contained herein or in that relating to the Debtor, the Debtor's business or the Collateral;
  - (ii) the details of any significant acquisition of the Collateral;
  - (iii) the details of any claims or litigation affecting the Debtor or the Collateral;
  - (iv) any loss or damage to the Collateral;
  - (v) any default by any Account Debtor in payment or other performance of his obligations with respect to the Collateral; and
  - (vi) the return to or repossession by the Debtor of the Collateral;
- (c) to keep the Collateral in good order, condition and repair and not to use the Collateral in violation of the provisions of this General Security Agreement or any other agreement relating to the Collateral or any policy insuring the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance;
- (d) to do, execute, acknowledge and deliver such financing statements and further assignments, transfers, documents, acts, matters and things as may be reasonably requested by the Creditor of or with respect to the Collateral in order to give effect to this General Security Agreement and to pay all costs for searches and filings in connection therewith;
- (e) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of the Debtor or the Collateral as and when the same become due and payable;
- (f) to insure the Collateral for such periods, in such amounts, on such terms and against loss or damage by fire and such other risks as the Creditor shall reasonably direct with loss payable to the Creditor and the Debtor, as insureds, as their respective interests may appear, and to pay all premiums therefor;
- (g) to prevent the Collateral, save Inventory sold or leased as permitted hereby, from being or becoming an Accession to other property not covered by this General Security Agreement;
- (h) to carry on and conduct the business of the Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep in accordance

with generally accepted accounting principles consistently applied proper books of account for the Debtor's business as well as accurate and complete records concerning the Collateral, and mark any and all such records and the Collateral at the Creditor's request so as to indicate the Security Interest;

- (i) to deliver to the Creditor from time to time promptly upon request:
  - (i) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to the Collateral;
  - (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements lists and other writings relating to the Collateral for the purpose of inspecting, auditing or copying the same;
  - (iii) all financial statements prepared by or for the Debtor regarding the Debtor's business;
  - (iv) all policies and certificates of insurance relating to the Collateral; and
  - (v) such information concerning the Collateral, the Debtor and the Debtor's business and affairs as the Creditor may reasonably request.

5. **Use and Verification of Collateral:** Subject to compliance with the Debtor's covenants contained herein and Section 11 hereof, the Debtor may until default possess, operate, collect, use and enjoy and deal with the Collateral in the ordinary course of the Debtor's business in any manner not inconsistent with the provisions hereof; provided always that the Creditor shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Creditor may consider appropriate and the Debtor agrees to furnish all assistance and information and to perform all such acts as the Creditor may reasonably request in connection therewith and for such purpose to grant to the Creditor or its agents access to all places where the Collateral may be located and to all premises occupied by the Debtor.

6. **Securities:** If the Collateral at any time includes Securities, the Debtor authorizes the Creditor to transfer the same or any part thereof into its own name or that of its nominee(s) so that the Creditor or its nominee(s) may appear on record as the sole owner thereof; provided that, until default, the Creditor shall deliver promptly to the Debtor all notices or other communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to the Debtor or its order a proxy to vote and take all action with respect to such Securities. After default, the Debtor waives all rights to receive any notices or communications received by the Creditor or its nominee(s) as such registered owner and agrees that no proxy issued by the Creditor to the Debtor or its order as aforesaid shall thereafter be effective.

7. **Collection of Debts:** On default under this General Security Agreement, the Creditor may notify all or any Account Debtors of the Security Interest and may also direct such



Account Debtors to make all payments on the Collateral to the Creditor. The Debtor acknowledges that any payments on or other proceeds of the Collateral received by the Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after default under this General Security Agreement, shall be received and held by the Debtor in trust for the Creditor, shall be kept separate and independent from the property of the Debtor and shall be turned over to the Creditor upon request.

8. **Income from and Interest on Collateral:** Until default, the Debtor reserves the right to receive any monies constituting income from or interest on the Collateral and if the Creditor receives any such monies prior to default, the Creditor shall either credit the same to the account of the Debtor or pay the same promptly to the Debtor. After default, the Debtor shall not request or receive any monies constituting income from or interest on the Collateral and, if the Debtor receives any such monies without any request by it, the Debtor shall pay the same promptly to the Creditor.

9. **Increases, Profits, Payments or Distributions:** Whether or not default has occurred, the Debtor authorizes the Creditor:

- (a) to receive any increase in or profits on the Collateral (other than money) and to hold the same as part of the Collateral, provided that money so received shall be treated as income for the purposes of Section 8 hereof and dealt with accordingly; and
- (b) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of the Collateral to surrender such Collateral in exchange therefor and to hold any such payment or distribution as part of Collateral.

If the Debtor receives any such increase or profits (other than money) or payments or distributions, the Debtor will deliver the same promptly to the Creditor to be held by the Creditor as herein provided.

10. **Disposition of Monies:** Subject to any applicable requirements of the PPSA, all monies collected or received by the Creditor pursuant to or in exercise of any right it possesses with respect to the Collateral shall be applied on account of Indebtedness in such manner as the Creditor deems best or, at the option of the Creditor, may be held unappropriated in a collateral account or released to the Debtor, all without prejudice to the liability of the Debtor or the rights of the Creditor hereunder, and any surplus shall be accounted for as required by law.

11. **Events of Default:** The happening of any of the following events or conditions shall constitute default hereunder which is herein referred to as "Default":

- (a) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest forming part of Indebtedness or the failure of the Debtor to observe or perform any obligation, covenant, term, provision or condition contained in

this General Security Agreement or any other agreement between the Debtor and the Creditor;

- (b) the bankruptcy or insolvency of the Debtor, the filing against the Debtor of a petition in bankruptcy, the making of an authorized assignment for the benefit of creditors by the Debtor, the appointment of a receiver or trustee for the Debtor or for any assets of the Debtor or the institution by or against the Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act (Canada) or otherwise;
- (c) the institution by or against the Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of the affairs of the Debtor;
- (d) if any Encumbrance affecting the Collateral in priority to the Security Interest becomes enforceable against the Collateral;
- (e) if the Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with applicable law or commits or threatens to commit an act of bankruptcy;
- (f) if any execution, sequestration, extent or other process of any court becomes enforceable against the Debtor or if a distress or analogous process is levied upon the assets of the Debtor or any part thereof;
- (g) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of the Debtor pursuant to or in connection with this General Security Agreement or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to the Creditor to extend any credit to or to enter into this or any other agreement with the Debtor, proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against the Debtor; or if upon the date of execution of this General Security Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement, warranty or audit report, which change shall not have been disclosed to the Creditor at or prior to the time of such execution; and
- (h) if there occurs an Event of Default under the Loan Agreement.

12. **Acceleration:** The Creditor, in its sole discretion, may declare all or any part of Indebtedness which is not by its terms payable on demand to be immediately due and payable, without demand or notice of any kind, in the event of a Default hereunder or if the Creditor, in its unfettered discretion, considers itself insecure. The provisions of this section are not

intended in any way to limit any rights of the Creditor with respect to any Indebtedness which may now or hereafter be payable on demand.

13. **Remedies:**

(a) Upon default, the Creditor may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Creditor or not, to be a receiver or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and manager) of the Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor and not the Creditor, and the Creditor shall not be in any way responsible for any misconduct, negligence, or non-feasance on the part of any such Receiver, his servants, agents or employees. Subject to the provisions of the instrument appointing him, any such Receiver shall have power to take possession of the Collateral, to preserve the Collateral or its value, to carry on or concur in carrying on all or any part of the business of the Debtor, and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others (including the Debtor), enter upon, use, and occupy all premises owned or occupied by the Debtor wherein the Collateral may be situate, maintain the Collateral upon such premises, borrow money on a secured or unsecured basis and use the Collateral directly in carrying on the Debtor's business or as security for loans or advances to enable him to carry on the Debtor's business or otherwise, as such Receiver shall in his discretion determine. Except as may be otherwise directed by the Creditor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to the Creditor. Every such Receiver may, in the discretion of the Creditor, be vested with all or any of the rights and powers of the Creditor.

(b) Upon default, the Creditor may, either directly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of the foregoing subsection (a).

(c) Upon default, the Creditor may take possession of, collect, demand, sue on, enforce, recover and receive the Collateral and give valid and binding receipts and discharges therefor and in respect thereof, and may sell, lease or otherwise dispose of the Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as are commercially reasonable.

(d) In addition to those rights granted herein and in any other agreement now or hereafter in effect between the Debtor and the Creditor and in addition to any other rights the Creditor may have at law or in equity, the Creditor shall have, both before and after default, all rights and remedies of a secured party under the PPSA, provided always that the Creditor shall not be liable or accountable for any failure to exercise its remedies or to institute any proceedings for such purposes. Furthermore, the Creditor shall have no obligation to take any steps to preserve rights against prior parties to any of the Collateral or the Proceeds whether or not in the Creditor's possession and shall not be liable or accountable for failure to do so.

(e) The Debtor acknowledges that the Creditor or any Receiver appointed by it may take possession of the Collateral wherever it may be located and by any method permitted by law and the Debtor agrees upon request from the Creditor or any such Receiver to assemble and deliver possession of the Collateral at such place or places as directed.

(f) The Debtor agrees to pay all costs, charges and expenses reasonably incurred by the Creditor or any Receiver appointed by it, whether directly or for services rendered (including reasonable auditors costs and any legal expenses and Receiver remuneration) in operating the Debtor's accounts, in preparing or enforcing this General Security Agreement, or taking custody of, preserving, repairing, processing, preparing for disposition and disposing of the Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses, together with any monies owing as a result of any borrowing by the Creditor or any Receiver appointed by it, as permitted hereby, shall be a part of the Indebtedness.

(g) The Creditor will give the Debtor such notice, if any, of the date, time and place of any public sale or of the date after which any private disposition of collateral is to be made, as may be required by the PPSA.

(h) Notwithstanding the foregoing provisions of Section 13 hereof, the remedies contained therein are subject to the mandatory requirements of applicable law specific to the Debtor's business of supply and distribution of natural gas.

14. **Miscellaneous:**

(a) The Debtor hereby authorizes the Creditor to file such financing statements and other documents and do such acts, matters and things as the Creditor may deem appropriate to perfect and continue the Security Interest, to protect and preserve the Collateral and to realize upon the Security Interest and the Debtor hereby irrevocably constitutes and appoints the Creditor from time to time of the above mentioned branch of the Creditor the true and lawful attorney of the Debtor, with full power of substitution, to do any of the foregoing in the name of the Debtor whenever and wherever it may be deemed necessary or expedient.

(b) Without limiting any other rights of the Creditor, whenever Indebtedness is immediately due and payable or the Creditor has the right to declare Indebtedness to be immediately due and payable (whether or not it has so declared), the Creditor may, in its sole discretion, set off against Indebtedness any and all monies then owed to the Debtor by the Creditor in any capacity, whether or not due, and the Creditor shall be deemed to have exercised such right to set off immediately at the time of making its decision to do so even though any charge therefor is made or entered on the Creditor's records subsequent thereto.

(c) Upon the Debtor's failure to perform any of its duties hereunder, the Creditor may, but shall not be obligated to, perform any or all of such duties, and the Debtor shall pay to the Creditor, forthwith upon written demand therefor, an amount equal to the expense incurred by the Creditor in so doing plus interest thereon at a rate of eleven and four-fifths percent (11.8%) calculated from the date such expense is incurred until it is paid. For greater certainty, any such amount shall be deemed to be a part of the Indebtedness.

(d) The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Collateral and other security as the Creditor may see fit without prejudice to the liability of the Debtor or the Creditor's right to hold and realize on the Security Interest. Furthermore, the Creditor may demand, collect and sue on the Collateral in either the Debtor's or the Creditor's name, at the Creditor's option, and may endorse the Debtor's name on any and all cheques, commercial paper and any other instruments pertaining to or constituting the Collateral.

(e) No delay or omission by the Creditor in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Furthermore, the Creditor may remedy any default by the Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the Debtor. All rights and remedies of the Creditor granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.

(f) The Debtor waives protest of any Instrument constituting the Collateral at any time held by the Creditor on which the Debtor is in any way liable and, subject to Section 13(g) hereof, notice of any other action taken by the Creditor.

(g) This General Security Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns. In any action brought by an assignee of this General Security Agreement and the Security Interest or any part thereof to enforce any rights hereunder, the Debtor shall not assert against the assignee any claim or defence which the Debtor now has or hereafter may have against the Creditor.

(h) No modification, variation or amendment of any provision of this General Security Agreement shall be made except by a written agreement executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

(i) Subject to the requirements of Sections 13(g) and 14(j) hereof, whenever either party hereto is required or entitled to notify or direct the other or to make a demand or request upon the other, such notice, direction, demand or request shall be in writing and shall be sufficiently given only if delivered to the party for whom it is intended at the principal address of such party herein set forth or as changed pursuant hereto or if sent by prepaid registered mail addressed to the party for whom it is intended at the principal address of such party herein set forth or as changed pursuant hereto. Either party may notify the other pursuant hereto of any change in such party's principal address to be used for the purposes hereof.

(j) This General Security Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by the Creditor and is, and is intended to be, a continuing security agreement and shall remain in full force and effect

until the Creditor shall actually receive written notice of its discontinuance; and, notwithstanding such notice, shall remain in full force and effect thereafter until all Indebtedness contracted for or created before the receipt of such notice by the Creditor, and any extensions or renewals thereof (whether made before or after receipt of such notice) together with interest accruing thereon after such notice, shall be paid in full.

(k) The headings used in this General Security Agreement are for convenience only and are not to be considered a part of this General Security Agreement and do not in any way limit or amplify the terms and provisions of this General Security Agreement.

(l) When the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary dependent upon the person referred to being a male, female, firm or corporation.

(m) In the event that any provisions of this General Security Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court of competent jurisdiction, the remaining terms and provisions of this General Security Agreement shall remain in full force and effect.

(n) Nothing herein contained shall in any way obligate the Creditor to grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

(o) The Security Interest created hereby is intended to attach when this General Security Agreement is signed by the Debtor and delivered to the Creditor.

(p) This General Security Agreement and the transactions evidenced hereby shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws applicable therein as the same may from time to time be in effect.

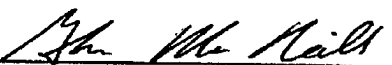
(q) All disputes arising from or in connection with this General Security Agreement shall be exclusively adjudicated by the courts of the Province of Ontario.

(r) This General Security Agreement may be signed in counterparts.


15. Copy of Agreement: The Debtor hereby acknowledges receipt of a copy of this General Security Agreement.

IN WITNESS WHEREOF the Parties have executed this General Security Agreement as of the date first above written.

**THE IMPERIAL LIFE ASSURANCE  
COMPANY OF CANADA**

Per:  c/s  
Name - Glen MacNeill  
Title - Assistant Vice-President

**NATURAL RESOURCE GAS LIMITED**

Per:  c/s  
Name - William Blake  
Title - President and General Manager

# Appendix E





**David J. Pallett C.A.**

**Partner, Neal, Pallett & Townsend LLP**

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### **Education**

- Honours Business Administration - The University of Western Ontario Business School- 1987
- Chartered Accountant – 1990

### **Responsibilities**

David is a partner providing full business services including accounting, auditing, taxation and client consulting for a wide variety of owner-managed clients. David also provides accounting, taxation (including estate planning) and general financial consulting and advisory services to individuals.

### **Experience**

David has been in public accounting for twenty years. He obtained his chartered accountancy designation in 1990 after completing his internship with a large international accounting firm in London, Ontario. He established an individual practice in 1992 and developed a keen understanding of the service and dedication to client needs required to fulfill client expectations. This high level of personal service to clients continues today from David and the entire professional team at Neal, Pallett & Townsend LLP.

David's experiences have included auditing of various manufacturing, service, retail, non-for-profit and charitable organizations. He has extensive experience in many different industries and businesses and specifically enjoys working with his owner-managed business and growth oriented clients.

### **Professional and Community Service**

- Canadian Institute of Chartered Accountants
- Ontario Institute of Chartered Accountants
- Institute of Chartered Accountants of Western Ontario (Membership Chair, Treasurer)
- Alumni Association of the University of Western Ontario
- Former volunteer leader for Scouts Canada (12 years)
- Former volunteer for the Small Business Counselling program
- Former Finance Committee Member – London District Scouts Canada
- Former Treasurer and Executive Committee Member – Conservative Party of Canada
- Former Treasurer, Southend United Competitive Soccer Club
- Former Treasurer, Youth Opportunities Unlimited (4 years)
- Volunteer/Advisor for Low Income Seniors Tax Clinics
- Volunteer coach for youth competitive soccer teams (8 years)
- Board Member, Southend Recreational Soccer Club
- Treasurer, Southend United Competitive Soccer Club

## **SUMMARY OF RESPONSE TO PRE-FILED EVIDENCE OF UNION**

Union's evidence gives two reasons for Union's determination that NRG's creditworthiness has become less satisfactory:

- (1) **UNION ARGUMENT #1:** NRG's 2006 Financial Statements were accompanied by a qualified auditor's opinion that stated that GAAP requires NRG's Class C shares to be shown as a liability, not equity.

### **NRG's RESPONSE:**

- NRG's Class C shares were created in 2003, well before 2006.
  - The retractable nature of NRG's Class C shares has been explicitly disclosed on NRG's financial statements since 2003.
  - The GAAP requirement that NRG's Class C shares be treated for accounting purposes as a liability and not equity has been explicitly disclosed on NRG's financial statements since 2004.
  - NRG's Class C shareholder has postponed its right to retract these shares for five years (under its BNS loan). So the shares cannot be retracted.
  - The Class C shares still represent equity, in that they are the equity contributed by the shareholders to the business.
  - NRG's capital structure has been scrutinized at two OEB proceedings (with Union as an intervenor) since creation of the Class C shares.
- (2) **UNION ARGUMENT #2:** In 2006, NRG pledged all of its present and future assets, property and undertaking to the Bank of Nova Scotia ("BNS") pursuant to NRG's new financing.

### **NRG's RESPONSE:**

- General Security Agreements ("GSAs") are common in secured financings, for both large and small companies (e.g., Canwest, TransAlta, etc.).
- NRG's assets have pledged under a GSA since at least 1994 (i.e., under NRG's previous loan from Imperial Life, NRG had a GSA with Imperial Life).
- The fact that NRG's assets have been pledged under a GSA since 1994 has been explicitly disclosed in every financial statement since 1994.
- The existence or non-existence of a GSA is not indicative of creditworthiness. Since being purchased by the Graat family in 1979, NRG has grown its customer base by 350%, and recently secured financing from a major Canadian bank.
- NRG has never missed a payment to Union.

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