

EB-2007-0674



500 Consumers Road
North York, Ontario
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Scarborough ON M1K 5E3

Lesley Austin
Assistant Regulatory Coordinator
Regulatory Proceedings
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RECEIVED

JUN 26 2007

VIA COURIER

June 25, 2007

ONTARIO ENERGY BOARD

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

EB-2007-0674

OEB BOARD SECRETARY	
File No	Sub File: 1
Panel	
LICENSING	
Other	Neil M.
00/04	application

Dear Ms. Walli:

Re: Enbridge Gas Distribution Inc. ("Enbridge") Application for Consolidating Certificate of Public Convenience and Necessity ("Certificate") with the Township of Smith-Ennismore-Lakefield ("Township")

Enbridge operates in the Township pursuant to two municipal franchise agreements; the Smith-Ennismore agreement dated March 2, 1999 and the Lakefield agreement dated October 22, 1991. Both agreements were granted by the Board under sections 9 and 10 of the *Municipal Franchises Act*. Enbridge wishes to apply to the Ontario Energy Board ("Board") for a certificate of public convenience and necessity for the former geographical area known as the Township of Ennismore, the only area where Enbridge does not currently hold a Certificate within the Township. As such, Enbridge would like to request a consolidating Certificate for the Township that would, in effect, replace Enbridge's existing Certificates for the franchise area.

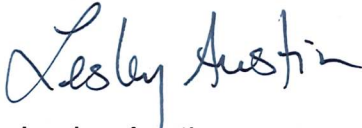
By way of background, on January 1, 1998 the Township of Smith and the Township of Ennismore amalgamated to form the Township of Smith-Ennismore. Enbridge has a certificate for the former Township of Smith (FBC 322). On March 2, 1999 a new franchise agreement between the Corporation of the Township of Smith-Ennismore and the Consumers' Gas Company Ltd. was ratified. Enbridge has been distributing gas in Ennismore based on this current franchise agreement. A certificate of public convenience and necessity was not applied for at that time.

On January 1, 2001 the Township of Smith-Ennismore and the Village of Lakefield were amalgamated to form the Township of Smith-Ennismore-Lakefield. Enbridge has a franchise agreement (October 22, 1991) and a certificate of public convenience and necessity (EBC 195) for the former Village of Lakefield. Enbridge's agreement with Lakefield will expire on October 22, 2011 at which time an application for a new franchise agreement with Smith-Ennismore-Lakefield will be applied for.

2007-06-25
Ms. Kirsten Walli
Page 2

By way of the attached, Enbridge is applying for a consolidating certificate of public convenience and necessity and awaits the favour of your reply.

Sincerely,

A handwritten signature in blue ink that reads "Lesley Austin". The signature is written in a cursive, flowing style.

Lesley Austin
Assistant, Regulatory Coordinator

Attachment

cc: Tania Persad – EGD, Senior Legal Counsel, Regulatory
Clifford Clark – Operations Manager, Central Region

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an application by Enbridge
Gas Distribution Inc. for an order canceling the
existing certificates of public convenience and
necessity for certain geographic areas now
incorporated within the Township of Smith-
Ennismore-Lakefield and replacing these with a single
certificate of public convenience and necessity for the
Township of Smith-Ennismore-Lakefield.

A P P L I C A T I O N

PARTIES

1. Enbridge Gas Distribution Inc. (the "Applicant") is an Ontario corporation with its head office in the City of Toronto.
2. The Corporation of the Township of Smith-Ennismore-Lakefield (the "Corporation") is a municipal Ontario corporation with its head office at P.O. Box 270, Bridgenorth, Ontario, K0L 1H0.

HISTORY

3. On January 1, 1998 the Township of Smith and the Township of Ennismore amalgamated to form the Township of Smith-Ennismore. On January 1, 2001 the Township of Smith-Ennismore and the Village of Lakefield amalgamated to form the Township of Smith-Ennismore-Lakefield. Attached hereto and marked as Schedule "A" is a map showing the location of the Township of Smith-Ennismore-Lakefield (the "Municipality").
4. The Applicant is presently serving the Municipality pursuant to a municipal franchise agreement with the former Township of Smith-Ennismore and a municipal franchise

agreement with the former Township of Lakefield and certificates of public convenience and necessity for (i) the former Township of Smith (FBC 322), and (ii) the former Village of Lakefield (EBC 195). The Model Franchise Agreements (and related by-laws) are attached hereto and marked as Schedule "B". The certificates of public convenience and necessity are attached hereto as Schedule "C".

RELIEF REQUESTED

5. The Applicant hereby applies to the Board for the following:

- (i) an order, pursuant to subsection 8(2) of the *Municipal Franchises Act*, R.S.O. 1990, c. M. 55, as amended (the "Act"), canceling the Applicant's existing certificates of public convenience and necessity for the Township of Smith, and the Village of Lakefield and replacing them with a certificate of public convenience and necessity for the Township of Smith-Ennismore-Lakefield.

DATED at Toronto this 25th day of June, 2007.

ENBRIDGE GAS DISTRIBUTION INC.
500 Consumers Road
Toronto, Ontario
M2J 1P8

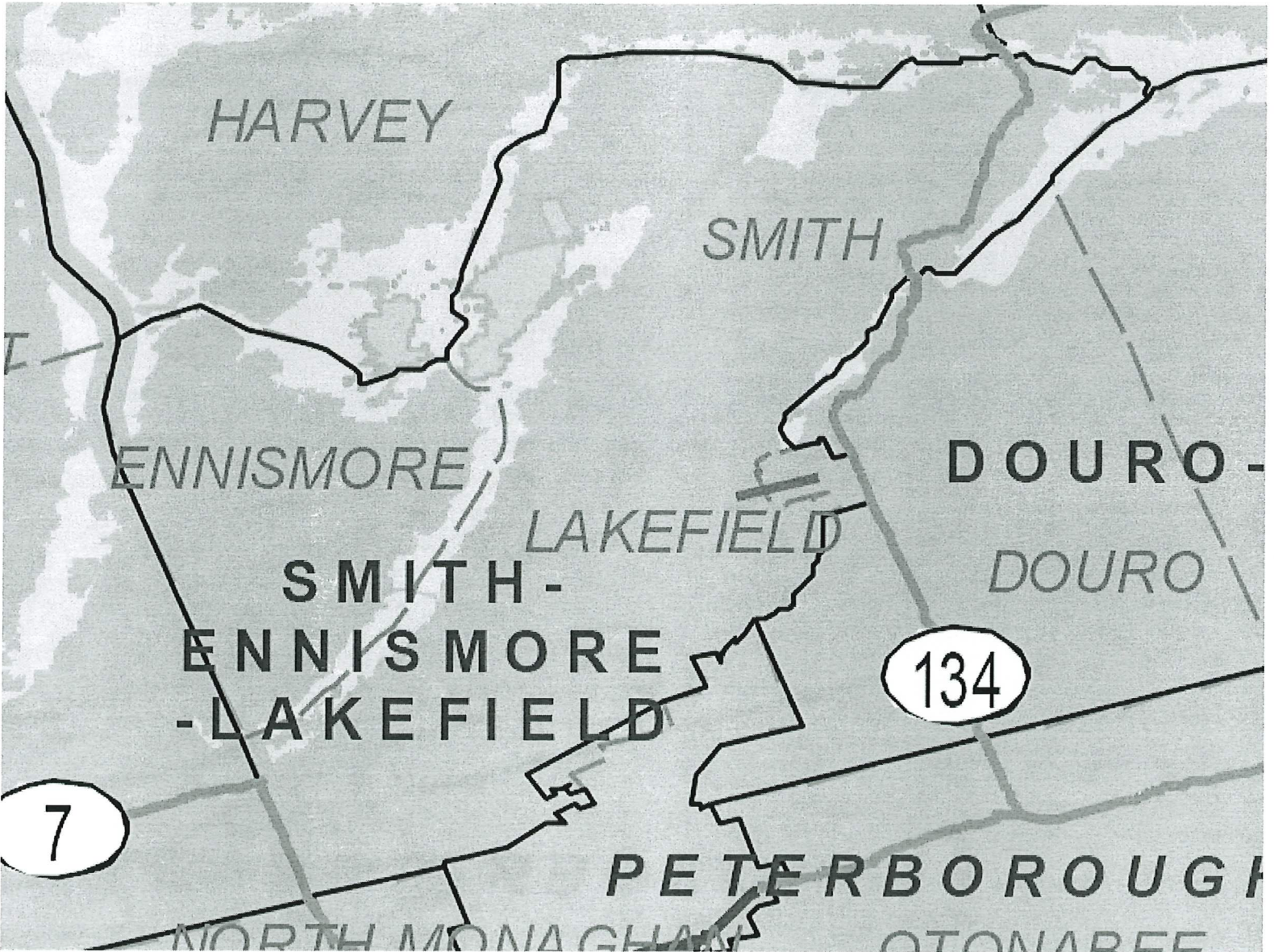
by its Solicitor



Tania Persad
Senior Legal Counsel, Regulatory
Tel: (416) 495-5891
Fax: (416) 495-5994
E-mail: rania.persad@enbridge.com

Mailing Address:

P.O. Box 650
Toronto, Ontario
M1K 5E3



Smith-Ennismore-Lakefield
Amalgamated 01/01/2001

Schedule A

TOWNSHIP OF SMITH-ENNISMORE

BYLAW 1999-11

A **BYLAW** of the Corporation of the Township of Smith-Ennismore to authorize the execution of a Franchise Agreement dated March 2, 1999 between the Corporation of the Township of Smith-Ennismore and the Consumers Gas Company Limited.

NOW THEREFORE, the Council of the Township of Smith-Ennismore enacts as follows:

- 1. **THAT** the Reeve and the Clerk be authorized to execute a Franchise Agreement dated March 2, 1999 between the Corporation of the Township of Smith-Ennismore and the Consumers Gas Company Limited.
- 2. **THAT** a copy of the Agreement be attached hereto.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS THE 2ND DAY OF MARCH, 1999.

Burritt Mann
 Reeve, Burritt Mann

Corporate Seal

Janice Lavalley
 Clerk, Janice Lavalley

Certified to be a true copy of Bylaw No. 1999-11
 passed by the Council of the Township of Smith-Ennismore
 on the 2nd day of March, 1999

Janice Lavalley
 Clerk - Janice Lavalley Township of Smith-Ennismore

THE CONSUMERS' GAS COMPANY LTD.

FRANCHISE AGREEMENT

THIS AGREEMENT made this 2nd day of March, 1999

BETWEEN:

THE CORPORATION OF THE TOWNSHIP
SMITH-ENNISMORE

hereinafter called the "Corporation"

- and -

THE CONSUMERS' GAS COMPANY LTD.

hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

I Definitions

1. In this Agreement:

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

II Rights Granted

1. To provide gas service.

The consent of the Corporation is hereby given and granted to the Gas Company to supply gas in the Municipality to the Corporation and to the inhabitants of the Municipality.

2. To use road allowances.

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

3. Duration of Agreement and Renewal Procedures.

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

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

III Conditions

1. Approval of Construction.

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

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

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

*The rights given and granted for a first agreement shall be for a term of 20 years. The rights given and granted for any subsequent agreement shall be for a term of not more than 15 years, unless both parties agree to extend the term to a term of 20 years maximum.

The Engineer/Road Superintendent's approval, where required throughout this section, shall not be withheld unreasonably.

2. As Built Drawings.

The Gas Company shall not 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. After completion of the construction, where plans were initially filed, an "as built" plan of equal quality to the pre-construction plan or certification that the pre-construction plan is "as built" will be filed with the Engineer/Road Superintendent.

3. Emergencies.

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

4. Restoration.

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

5. Indemnification.

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

6. Alternative Easement.

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

7. Pipeline Relocation.

If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.

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

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

- (a) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
- (b) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
- (c) the amount paid by the Gas Company to contractors for work related to the project,
- (d) the cost to the Gas Company for materials used in connection with the project, and
- (e) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (a), (b), (c) and (d) above.

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

8. Notice to Drainage Superintendent.

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

IV Procedural And Other Matters

1. Municipal By-laws of General Application.

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

2. Giving Notice.

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

3. Disposition of Gas System.

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

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

4. Agreement Binding Parties.

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

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

THE CORPORATION OF THE TOWNSHIP OF SMITH-ENNISMORE

Burrott Mann

Reeve

Jm Savalley

Clerk

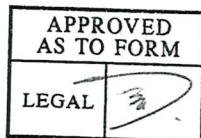
THE CONSUMERS' GAS COMPANY LTD.

JANET HOLDER
VICE PRESIDENT
MARKET DEVELOPMENT

Jt H

G Hills

Glenn J. Hills
Vice President,
Regulatory & Legal



DATED March 2nd

, 20 1999

THE CORPORATION OF THE TOWNSHIP OF SMITH-ENNISMORE

- and -

THE CONSUMERS' GAS COMPANY LTD.

FRANCHISE AGREEMENT

**THE CONSUMERS' GAS COMPANY LTD.
Atria III, Suite 1100
2225 Sheppard Avenue East
North York, Ontario
M2J 5C2**

Attention: Legal Department

CORPORATION OF THE VILLAGE OF LAKEFIELD

BY-LAW NUMBER 91-69

BEING A BY-LAW TO AUTHORIZE A FRANCHISE
AGREEMENT BETWEEN THE CORPORATION OF THE
VILLAGE OF LAKEFIELD AND THE CONSUMERS'
GAS COMPANY LTD.

WHEREAS the Council of the Corporation of the Village of Lakefield deems it expedient to enter into the attached franchise agreement with The Consumers' Gas Company Ltd;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on the 11th day of October 1991 has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted, and has declared that the assent of the municipal electors in respect of this By-law is not necessary;

AND WHEREAS The Consumers' Gas Company Ltd. has provided the Corporation of the Village of Lakefield with a consent to the repeal of the By-law hereinafter referred to:

NOW THEREFORE BE IT ENACTED:

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

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS 22ND DAY OF OCTOBER, A.D., 1991.


REEVE


CLERK

22 OCT 1991 11:21 AM

THE CONSUMERS' GAS COMPANY LTD.

FRANCHISE AGREEMENT

THIS AGREEMENT made this 22nd day of October, 1991
BETWEEN:

THE CORPORATION OF THE
OF THE VILLAGE OF LAKEFIELD

hereinafter called the "Corporation"

- and -

THE CONSUMERS' GAS COMPANY LTD.

hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

I Definitions

1. In this Agreement:

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

II Rights Granted

I. To provide gas service.

The consent of the Corporation is hereby given and granted to the Gas Company to supply gas in the Municipality to the Corporation and to the inhabitants of the Municipality.

2. To use road allowances.

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

3. Duration of Agreement and Renewal Procedures.

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

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

III Conditions

1. Approval of Construction.

Before beginning construction of or any extension or change to the gas system (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific location, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy. Geodetic information will not be required except in complex urban intersections in order to facilitate known projects, being projects which are reasonably anticipated by the Engineer/Road Superintendent. The Engineer/Road Superintendent may require sections of the gas system to be laid at a greater depth than required by C.S.A. Z184-M1986 to facilitate known projects. The location of the work as shown on the said plan must be approved by the Engineer/Road Superintendent before the commencement of the work and the timing, terms and conditions relating to the installation of such works shall be to his satisfaction.

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

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

The Engineer/Road Superintendent's approval, where required throughout this section, shall not be withheld unreasonably.

2. As Built Drawings.

The Gas Company shall not 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. After completion of the construction, where plans were initially filed, an "as built" plan of equal quality to the pre-construction plan or certification that the pre-construction plan is "as built" will be filed with the Engineer/Road Superintendent.

3. Emergencies.

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

* The rights given and granted for a first agreement shall be for a term of 20 years. The rights given and granted for any subsequent agreement shall be for a term of not more than 15 years, unless both parties agree to extend the term to a term of 20 years maximum.

4. Restoration.

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

5. Indemnification.

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

6. Alternative Easement.

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

7. Pipeline Relocation.

If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.

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

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

- (a) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
- (b) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
- (c) the amount paid by the Gas Company to contractors for work related to the project.
- (d) the cost to the Gas Company for materials used in connection with the project, and
- (e) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (a), (b), (c) and (d) above.

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

8. Notice to Drainage Superintendent.

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

IV Procedural And Other Matters

1. Municipal By-laws of General Application.

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

2. Giving Notice.

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

3. Disposition of Gas System.

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

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

4. Agreement Binding Parties.

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

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

THE CORPORATION OF THE




Clerk

THE CONSUMERS' GAS COMPANY LTD.



C. Safranca, Sr. Vice-President



R.J. Reid
Corporate Secretary

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**IN THE MATTER OF The Municipal
Franchises Act, R. S. O. 1950
Chapter 249 and amendments thereto;**

**AND IN THE MATTER OF an application
by The Consumers' Gas Company for a
Certificate of Public Convenience and
Necessity to construct works and to
supply natural gas to the Township of
Smith in the County of Peterborough**

**CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY**

**ZIMMERMAN, HAYWOOD & TURVILLE
111 Richmond Street West,
TORONTO, Ontario.**

F.B.C. 322

IN THE MATTER OF The Municipal Franchises Act, R. S. O. 1950 Chapter 249 and amendments thereto;

AND IN THE MATTER OF an application by The Consumers' Gas Company for a Certificate of Public Convenience and Necessity to construct works and to supply natural gas to the Township of Smith in the County of Peterborough

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B E F O R E:

A. R. Crozier, Chairman } Monday, the 1st day
J. J. Wingfelder, Vice-Chairman } of June, 1959.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

UPON THE APPLICATION of The Consumers' Gas Company (hereinafter referred to as the "Applicant") for a certificate pursuant to the provisions of The Municipal Franchises Act, R. S. O. 1950 Chapter 249 and amendments thereto and upon the hearing of such application by the Board in the City of Toronto on the 1st day of June, 1959, after due notice of such hearing had been given as directed by the Board, in the presence of Counsel for the Applicant, no one else appearing, upon consideration of the evidence and exhibits produced at the hearing and upon hearing what was alleged by Counsel aforesaid,

1. THIS BOARD DOETH ORDER THAT a Certificate of Public Convenience and Necessity be and the same is hereby granted to The Consumers' Gas Company for the supply of natural gas to the inhabitants of the Township of Smith and for the construction of the works necessary therefor.

2. The Board fixes the costs of this Application at \$10.00 payable forthwith by the Applicant.

DATED at Toronto this 16th day of July 1959.

ONTARIO FUEL BOARD

A. R. Crozier
.....
Chairman

J. J. Wingfelder
.....
Vice-Chairman



IN THE MATTER OF the Municipal Franchises Act,
R.S.O. 1980, Chapter 309, Section 8;

AND IN THE MATTER OF an Application by The
Consumers' Gas Company Ltd. for a Certificate of
Public Convenience and Necessity to construct works to
supply gas and to supply gas to the inhabitants of the
Village of Lakefield.

BEFORE: P.W. Chapple
Presiding Member

C.A. Wolf Jr.
Member

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

UPON The Consumers' Gas Company Ltd. ("Consumers Gas") having filed an
Application dated December 19, 1989, ("the Application") with the Ontario Energy
Board ("the Board") under Section 8 of the Municipal Franchises Act for a Certificate
of Public Convenience and Necessity to construct works to supply gas and to supply gas
in the Village of Lakefield;

AND UPON Notice of Application having been published, and Notice of
Application and Notice of Hearing having been served upon the Clerk of the Village
of Lakefield;

AND UPON the Application having been heard in Toronto on July 30 and August 2, 1991 in the presence of counsel for Consumers Gas and Board Staff, no one else appearing;

AND WHEREAS the Board issued its Decision with Reasons on October 9, 1991 and having held that public convenience and necessity requires that approval be given;

1. THE BOARD ORDERS THAT a Certificate of Public Convenience and Necessity is hereby granted to Consumers Gas to construct works to supply and to supply gas in the Village of Lakefield.

2. The Certificate of Public Convenience and Necessity expires on October 7, 1993 if Consumers Gas fails to install facilities to supply gas to the Village of Lakefield by that date.

3. Consumers Gas shall pay the costs of the Board of and incidental to this proceeding forthwith upon receipt of the Board's hearing cost order.

ISSUED at Toronto October 11, 1991.

ONTARIO ENERGY BOARD

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

Peter H. O'Dell
Board Secretary pro tempore