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SENT BY E-FILING AND COURIER

December 23, 2008

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

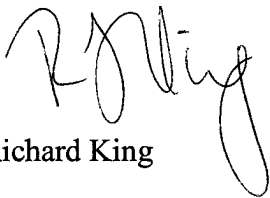
Dear Ms. Walli:

Re: Natural Resource Gas Limited - Application for Franchise Renewal
Board File No. EB-2008-0413 (Pre-Filed Evidence)

Please find enclosed five binders containing the application and pre-filed evidence of Natural Resource Gas Limited ("NRG") in the above-noted proceeding. An electronic version is being filed on the Board's RESS system. By copy of this letter, a binder is also being couriered (and emailed) to each of the Town of Aylmer (to the attention of Ms. Heather Adams, Town Administrator) and the Town's legal counsel (Mr. Phil Tunley, Stockwoods LLP).

Please contact me if you have any questions.

Yours very truly,



Richard King

RK/mnm

Encl.

cc. H. Adams (*Town of Aylmer*)
P. Tunley (*Stockwoods LLP*)
M. Bristoll (*NRG*)

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ONTARIO ENERGY BOARD

IN THE MATTER OF the *Municipal Franchises Act*,
R.S.O. 1980, Chapter 309, as amended;

AND IN THE MATTER OF the renewal of a franchise
agreement between Natural Resource Gas Limited and
the Corporation of the Town of Aylmer.

EB-2008-0413

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ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF the renewal of a franchise
agreement between Natural Resource Gas Limited and the
Corporation of the Town of Aylmer.

APPLICATION

1. The Applicant, Natural Resource Gas Limited ("NRG"), is an Ontario corporation, and carries on the business of, among other things, owning and operating natural gas distribution facilities in the Town of Aylmer (the "Town").
2. NRG and the Town have an existing franchise agreement dated February 27, 1984 (the "Existing Franchise Agreement"), which grants NRG the right to construct and operate works for the distribution of gas in the Town's municipal boundaries and to supply gas to the Town's residents. Pursuant to section 11 of the Existing Franchise Agreement, NRG's franchise rights in Aylmer expire on February 27, 2009.
3. NRG and the Town were unable to agree on the terms and conditions of the franchise renewal. NRG is seeking to renew the rights set out in section 1 of the Existing Franchise Agreement by way of a new 20-year franchise agreement (the "NRG Preferred Agreement") based on the Model Franchise Agreement established by the Ontario Energy Board (the "Board").
4. The Town is proposing a new franchise agreement (the "Aylmer Preferred Agreement") that is also based on the Board's Model Franchise Agreement but: (a) has a term of only three years; and (b) is subject to seven conditions set out in a proposed "Schedule A" to the Aylmer Preferred Agreement.

5. NRG is prepared to accept two of the seven additional conditions being proposed by the Town, and has incorporated these two conditions into the NRG Preferred Agreement included in NRG's Pre-Filed Evidence. These two conditions would require NRG to: (a) provide its audited financial statements to the Town no later than four months **after** the end of NRG's fiscal year end; and (b) by December 15 of each year, provide the Town with an up-to-date map of its system assets (including estimated age of those assets and any improvements or additions made during the year).
6. With respect to the other five conditions being sought by the Town, NRG believes that some are already in place (e.g., Board's existing GDAR provisions related to service requirements, NRG's existing Gas Service Rules and Regulations, etc.) and others will be met upon the completion of current Board proceedings (e.g., Board's proposed GDAR amendments to security deposit policies (EB-2008-0313)), with which NRG will comply.
7. NRG hereby applies to the Board for an Order or Orders made pursuant to Section 10 of the *Municipal Franchises Act* (Ontario) ("MFA"):
 - (a) renewing the term of the right to operate works for the distribution of gas for a period of 20 years, upon such terms and conditions as set out in the NRG Preferred Agreement, which is based upon the Model Franchise Agreement developed by the Board and modified to include two of the seven conditions being sought by the Town (section 10(2) MFA);
 - (b) if necessary, interim relief continuing the right to operate works for the distribution of gas in accordance with the Existing Franchise Agreement until an Order is made under section 10(2) of the *Municipal Franchises Act* in respect of this application (section 10(4) MFA); and
 - (c) such further and other relief as the Board may deem necessary or appropriate.

8. This Application affects the inhabitants of the Town of Aylmer, and natural gas distribution customers of NRG outside the Town of Aylmer, who are too numerous to list.

All of which is respectfully submitted this 19th day of December, 2008.

NATURAL RESOURCE GAS LIMITED

By its Counsel,

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LEGISLATIVE FRAMEWORK

This application and the Ontario Energy Board's powers in respect of this application are governed primarily by the *Municipal Franchises Act* (Ontario) ("MFA"), and to a lesser extent the provisions of the *Ontario Energy Board Act, 1998* (the "OEB Act").

Franchise Renewal under the MFA

The legislative framework specific to this application is provided by the MFA, which requires a gas distribution company that wants to construct or operate natural gas works or distribution works in a municipality to obtain and maintain franchise rights from that municipality.

With respect to the renewal of franchise rights, the MFA sets out two distinct regimes, the application of which depends upon whether the gas distributor and the municipality have reached agreement on the terms of the renewal or extension. Specifically, section 9 of the MFA applies where the parties have reached complete agreement on renewal terms and conditions, whereas section 10 applies to circumstances where the gas distributor and the municipality have not been able to reach agreement (*Report of the Board on the Review of Franchise Agreements and Certificates of Public Convenience and Necessity*, E.B.O. 125 (May 21, 1986), ss. 3.5 and 3.6).

This application is being brought under section 10 of the MFA because NRG and the Town disagree on: (a) the appropriate term for the new franchise agreement; and (b) the inclusion of five conditions in the new franchise agreement.

Where a distributor and municipality cannot agree on the terms and conditions upon which, and/or the period for which, the franchise rights are to be renewed or extended, an application can be brought by either the municipality or the gas distributor under subsection 10(1) of the MFA for an order by the Board renewing or extending of the term of the franchise rights. An application under subsection 10(1) of the MFA can only be brought where the term of the franchise rights have expired or will expire within one year. The Existing Franchise Agreement between NRG and the Town expires on February 27, 2009.

1
2 Upon receipt of an application under subsection 10(1) of the MFA, the Board must then give
3 appropriate notice and hold a public hearing on the application (MFA, s.10(3)). At the
4 conclusion of the proceeding, if "public convenience and necessity" appear to require it, the
5 Board may make an Order renewing or extending the term of the franchise for such period of
6 time and upon such terms and conditions as the Board may prescribe (MFA, s.10(2)). Where the
7 Board makes an Order renewing or extending the term of the franchise rights, that Order is
8 deemed to be a valid by-law of the affected municipality.

9
10 The MFA does not prescribe specific criteria for the Board to apply in assessing the "public
11 convenience and necessity" of renewing or extending a franchise.

12 13 Interim Order-Making Power under the MFA

14 Where an application has been brought under subsection 10(1) of the MFA and the term of the
15 franchise right has or is likely to expire before the application has been disposed of, the applicant
16 may request and the Board may (without holding a public hearing) make an interim Order
17 continuing the right until a final Order is made under subsection 10(2) (MFA, s.10(4)). As with
18 a final Order, an interim Order is deemed to be a valid by-law of the affected municipality
19 (MFA, s.10(5)).

20
21 In this case, given the short period of time to the date that the Existing Franchise Agreement
22 expires, NRG is requesting that the Board exercise its interim Order-making powers in the event
23 that the proceeding associated with this application is not concluded (i.e., no final Order is
24 received) by February 27, 2009.

25 26 Objectives Regarding Gas Distribution in the OEB Act

27 In addition to the general powers of the Board that are enumerated in the OEB Act, section 2 of
28 the OEB Act sets out the objectives that are to guide the Board in carrying out its responsibilities
29 in relation to natural gas:
30

- 1 “1. To facilitate competition in the sale of gas to users.
- 2 2. **To protect the interests of consumers with respect to prices**
- 3 **and the reliability and quality of gas service.**
- 4 3. **To facilitate rational expansion of transmission and**
- 5 **distribution systems.**
- 6 4. To facilitate rational development and safe operation of gas
- 7 storage.
- 8 5. To promote energy conservation and energy efficiency in a
- 9 manner consistent with the policies of the Government of Ontario.
- 10 5.1 **To facilitate the maintenance of a financially viable gas**
- 11 **industry for the transmission, distribution and storage of gas.**
- 12 6. To promote communication within the gas industry and the
- 13 education of consumers.”
- 14

15 We have emphasized those objectives that may be relevant to this proceeding.

Français

Municipal Franchises Act

R.S.O. 1990, CHAPTER M.55

Consolidation Period: From August 1, 2003 to the e-Laws currency date.

Last amendment: 2003, c.3, s.1.

Definitions

1. In this Act,

"franchise" includes any right or privilege to which this Act applies; ("concession")

"gas" means natural gas, manufactured gas or any liquefied petroleum gas, and includes any mixture of natural gas, manufactured gas or liquefied petroleum gas, but does not include a liquefied petroleum gas that is distributed by a means other than a pipe line; ("gaz")

"highway" includes a street and a lane; ("voie publique")

"public utility" means natural and other gas works. ("service public") R.S.O. 1990, c. M.55, s. 1; 1998, c. 15, Sched. E, s. 21 (1); 2001, c. 25, s. 480 (1).

1.1 REPEALED: 2001, c. 25, s. 480 (2).

2. REPEALED: 1999, c. 14, Sched. F, s. 7.

Restriction

3. (1) A municipal corporation shall not grant to any person nor shall any person acquire the right to use or occupy any of the **highways** of the municipality for a public utility or to construct or operate any part of a public utility in the municipality unless a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted or acquired has been assented to by the municipal electors. 2001, c. 25, s. 480 (3).

(2) REPEALED: 1998, c. 15, Sched. E, s. 21 (3).

(3) REPEALED: 2001, c. 25, s. 480 (4).

(4) REPEALED: 2001, c. 25, s. 480 (4).

Consent of council of city, when required

4. (1) The council of a local municipality shall not grant a franchise upon any highway of the municipality within a radius of eight kilometres of the boundary of any city without notice in writing to the council of the city, and if the council of the city, within four weeks after the receipt of the notice, gives a notice in writing to the council of the local municipality that it objects to the granting of the franchise the approval of the Ontario Energy Board shall be obtained, and if the council of the city does not give such notice within such time, it shall be deemed to have no objection and the council of the local municipality may grant the franchise with the assent of the municipal electors of the local municipality as provided by section 3. R.S.O. 1990, c. M.55, s. 4 (1); 2001, c. 25, s. 480 (5).

Definition

(1.1) In subsection (1),

"city" means a local municipality that was a city on December 31, 2002. 2002, c. 17, Sched. F, Table.

(2) REPEALED: 2001, c. 25, s. 480 (6).

Extension of certain existing works not to be made without by-law

5. (1) Where a by-law granting a franchise or right in respect of a public utility under subsection 3 (1), that has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 3 (1), and such consent is necessary, although such last-mentioned

by-law is expressly limited in its operation to a period not exceeding one year. R.S.O. 1990, c. M.55, s. 5 (1); 2001, c. 25, s. 480 (7).

Exceptions as to franchises granted before 16th March, 1909

(2) Subsection (1) does not apply to a franchise or right granted by or under the authority of any general or special Act of the Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1990, c. M.55, s. 5 (2).

Exceptions:

6. (1) Except where otherwise expressly provided, this Act does not apply to a by-law,

works originating in another municipality

(a) granting the right of passing through the municipality for the purpose of continuing a line, work or system that is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying gas in a municipality to persons whose land abuts on a highway along or across which the same is carried or conveyed, or to persons whose land lies within such limits as the council by by-law passed from time to time determines should be supplied with any of such services;

gas transmission Lines

(b) granting the right of passing through the municipality with a line to transmit gas not intended to be distributed from such line in the municipality or only intended to be distributed from such line in the municipality to a person engaged in the transmission or distribution of gas;

works required for transmission of gas

(c) conferring the right to construct, use and operate works required for the transmission of gas not intended for sale or use in the municipality; or

limited to three years

(d) that is expressly limited in its operation to a period not exceeding three years and is approved by the Ontario Energy Board. R.S.O. 1990, c. M.55, s. 6 (1); 2001, c. 25, s. 480 (8-11).

(2) **REPEALED: 2001, c. 25, s. 480 (12).**

Extension of franchise

7. (1) Where a by-law to which clause 6 (1) (d) applies is passed, that clause does not apply to any subsequent by-law in respect of the same works or any part of them or to an extension of or addition to them, although the subsequent by-law is expressly limited in its operation to a period not exceeding three years, and no such subsequent by-law has any force or effect unless it is assented to by the municipal electors as provided by subsection 3 (1). R.S.O. 1990, c. M.55, s. 7 (1).

Idem

(2) Despite subsection (1), clause 6 (1) (d) applies to a subsequent by-law or by-laws in respect of the same works or any part of them or to an extension of or addition to them if the period of operation of such subsequent by-law or by-laws is expressly limited so that the total period of operation of the original by-law and the subsequent by-law or by-laws does not exceed three years. R.S.O. 1990, c. M.55, s. 7 (2).

Approval for construction of gas works or supply of gas in municipality

8. (1) Despite any other provision in this Act or any other general or special Act, no person shall construct any works to supply,

(a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or

(b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied,

without the approval of the Ontario Energy Board, and such approval shall not be given unless public convenience and necessity appear to require that such approval be given. R.S.O. 1990, c. M.55, s. 8 (1); 1998, c. 15, Sched. E, s. 21 (4).

Form of approval

(2) The approval of the Ontario Energy Board shall be in the form of a certificate. R.S.O. 1990, c. M.55, s. 8 (2).

Jurisdiction of Energy Board

(3) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public hearing to deal with the matter upon application made to it therefor, and of which **hearing** such notice shall be given to such persons and municipalities as the Board may consider to be interested or affected and otherwise as the Board may direct. R.S.O. 1990, c. M.55, s. 8 (3).

Gas franchise by-law to be approved by Energy Board

9. (1) No by-law granting,
- (a) the right to construct or operate works for the distribution of gas;
 - (b) **REPEALED:** 1998, c. 15, Sched. E, s. 21 (5).
 - (c) the right to extend or add to the works mentioned in clause (a); or
 - (d) a renewal of or an extension of the term of any right mentioned in clause (a),

shall be submitted to the municipal electors for their assent unless the terms and conditions upon which and the period for which such right is to be granted, renewed or extended have first been approved by the Ontario Energy Board. R.S.O. 1990, c. M.55, s. 9 (1); 1998, c. 15, Sched. E, s. 21 (5-7).

Jurisdiction of Energy Board

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval. R.S.O. 1990, c. M.55, s. 9 (2).

Hearing to be held

(3) The Ontario Energy Board shall not make an order granting its approval under this section until after the Board has held a public hearing to deal with the matter upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct. R.S.O. 1990, c. M.55, s. 9 (3).

Electors' assent may be dispensed with

(4) The Board, after holding a public hearing upon such notice as the Board may direct and if satisfied that the assent of the municipal electors can properly under all the circumstances be dispensed with, may in any order made under this section declare and direct that the assent of the electors is not necessary. R.S.O. 1990, c. M.55, s. 9 (4).

Application to Energy Board for renewal, etc., of gas franchise

10. (1) Where the term of a right referred to in clause 6 (1) (a), (b) or (c) that is related to gas or of a right to operate works for the distribution of gas has expired or will expire within one year, either the municipality or the party having the right may apply to the Ontario Energy Board for an order for a renewal of or an extension of the term of the right. R.S.O. 1990, c. M.55, s. 10 (1); 1998, c. 15, Sched. E, s. 21 (8).

Powers of Energy Board

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and, if public convenience and necessity appear to require it, may make an order renewing or extending the term of the right for such period of time and upon such terms and conditions as may be prescribed by the Board, or if public convenience and necessity do not appear to require a renewal or extension of the term of the right, may make an order refusing a renewal or extension of the right. R.S.O. 1990, c. M.55, s. 10 (2).

Hearing

(3) The Board shall not make an order under subsection (2) until after the Board has held a public hearing upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct. R.S.O. 1990, c. M.55, s. 10 (3).

Interim order

(4) Despite subsection (3), where an application has been made under subsection (1) and the term of the right has expired or is **likely** to expire before the Board disposes of the application, the Board, on the written request of the applicant, and without holding a public hearing, may make such order as may be necessary to continue the right until an order is made under subsection (2). R.S.O. 1990, c. M.55, s. 10 (4).

Order deemed by-law assented to by electors

(5) An order of the Board heretofore or hereafter made under subsection (2) renewing or extending the term of the right or an order of the Board under subsection (4) shall be deemed to be a valid by-law of the municipality concerned assented to by

the municipal electors for the purposes of this Act and of section 58 of the *Public Utilities* Act. R.S.O. 1990, c. **M.55**, s. 10 (5).

Right expired before commencement of section

(6) An application may not be made under this section in respect of a right that has expired before the 2nd day of December, 1969. R.S.O. 1990, c. **M.55**, s. 10 (6).

11. **REPEALED:** 2003, c. 3, s. 1.

Français

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HISTORY OF NRG AND GAS SERVICE IN THE AREA

The history of gas service in NRG's franchise areas can be traced back to the early 1900s, when the system was largely a gathering system for some local natural gas production wells that had been drilled at the time. The system evolved through the mid-1970s under the ownership of a single family. That family sold the system (as it existed) to two individuals who attempted to modernize the distribution system. However, these individuals experienced financial difficulties and the company went into receivership in 1979.

In 1979, NRG was purchased out of receivership by its current owners. The gas wells and distribution assets of NRG were at that time in very poor condition. The distribution facilities were primarily comprised of old steel lines with a high leakage rate, along with non-temperature-compensated iron gas meters, and an old office building. Over the past thirty years, virtually all of the original assets have been replaced and modernized. In addition, the service area of the utility has been greatly expanded. NRG has also introduced and implemented improved operating and training procedures, constructed significant new and expanded pipelines, as well as a new office building and service facility located more conveniently within the Town of Aylmer. Throughout this period of significant investment, modernization and expansion, NRG has nurtured business and operational practices and a culture that have helped NRG to become the safe and reliable gas utility that it is today. NRG has achieved this by means of various risk management measures, including programs for replacing and upgrading facilities, as well as through efforts to ensure compliance with current regulatory and safety requirements.

Pipeline Replacement and Expansion

Today, NRG has approximately 638 km of pipeline in service, of which approximately 61 km is situated within the Town of Aylmer. Almost all of NRG's pipelines are new, and fabricated out of plastic. NRG's distribution system serves close to 7,000 customers (compared to approximately 2,000 customers when NRG took ownership of the system in 1979).

When NRG was purchased by its current owners in 1979, the company had only a bare 'skeleton' of pipeline. There were a number of communities within the service area that did not have any gas service. Now gas service extends to all communities within NRG's service area, and on all streets in all communities within the service area. As a result, NRG's years of large expansions have come to an end. Nevertheless, NRG continues to seek expansion by adding new customers (i.e., gas conversions and new builds).

Office Building and Personnel

Prior to 2003, NRG had its office and service building located in World War II barracks at a former air force base north of Aylmer. The previous and current owners had operated the company from those premises since the 1950s, which was located on a 15-acre site, largely comprised of flood-plain designated land. The buildings were in very poor condition. In 2003, the old buildings were sold and a new office/service building was constructed on a 2-acre site in the Town of Aylmer. It is a pre-engineered steel building, the footprint of which is roughly 8,500 sq. ft. The building provides much better working conditions for NRG's employees, while providing the company with an enhanced image and visibility in the community in comparison with the old facility. NRG has, on average, 16 to 18 employees in the Town of Aylmer.

Customer Service

With respect to customer service, NRG has a fully integrated service department whose employees work not only on the utility side of the meter, but also on the customer side of the meter. The ancillary service business, which includes the provision of services for the installation, replacement and repair of gas appliances and hot water heaters, is important to NRG for a number of reasons. First, it allows NRG the scope it needs to have employees answer emergency calls. In other words, when NRG gets a high volume of service calls at the beginning of the winter or during an emergency, NRG typically has enough capacity to handle all of those service situations. Second, the ancillary services business continues to produce positive returns that help offset gas distribution rates for the benefit of NRG's customers.

EXISTING FRANCHISE AGREEMENT

A copy of the Existing Franchise Agreement between NRG and the Town dated February 27, 1984 is attached to this Exhibit C, Tab 2. Also attached is a copy of Town of Aylmer By-Law 9-84, authorizing the entering into of the Existing Franchise Agreement.

The Existing Franchise Agreement was for a term of 25 years (section 11, Existing Franchise Agreement). It is in a form which predates the Board's current Model Franchise Agreement.

THIS AGREEMENT made **the 27th day of February**, 1984

B E T W E E N :

NATURAL RESOURCE GAS LIMITED

Hereinafter called the "Company"

OF THE FIRST PART

-and-

THE CORPORATION OF THE TOWN OF AYLMER

Hereinafter called the "Municipality"

OF THE SECOND PART

WHEREAS the Company **desires** to distribute and sell gas (which term shall mean and include natural gas, manufactured gas, synthetic **gas**, or liquefied petroleum gas, and includes any mixture of natural gas, manufactured, **gas**, synthetic gas, or **liquefied** petroleum gas, but **does** not include a liquefied petroleum gas that is distributed by means other **than** a pipe line) in the Municipality upon the terms and conditions hereinafter set forth.

AND WHEREAS by By-law passed by the Council of the Municipality, the Mayor and Clerk of the Municipality have.. been authorized and directed to execute, seal and deliver this Agreement on behalf of the Municipality.

NOW THEREFORE **THIS AGREEMENT WITNESSETH** that for valuable consideration (the receipt and sufficiency of which is hereby acknowledged):

1. The consent, **permission** and authority of the Municipality are hereby given and granted to **the** Company, to lay down, maintain and use pipes and other necessary works for the transmission and distribution of gas, on, in, under, along or across any highway under the jurisdiction of the Council of the Municipality, including therein the right from time to time and at any time, to survey, construct, **lay, maintain**, inspect, alter, repair, renew, remove, abandon, replace, reconstruct, extend, **use and** operate in, **through**,

upon, under, along and **across** the same or any of them or any part or part of them, each **transmission and** distribution mains, pipes, lines, services and works (with any and all necessary or incidental apparatus, attachments, appliances, arrangements for cathodic protection, regulatorr, **valves**, curb boxer, safety appliances and other suchlike appurtsnancer) which the Company may desire from time to time and at any time for the **transmission** of gas in and through the nunicipality and for a gas distribution system and any extension or extensions from time to time thereto and together with the **furthe:** right from time to **time and** at any time to **entár** upon, open up, dig, trench, use and occupy such highways **or** any part or parte of them for any of the purposes aforesaid and further together with the right from time to time and at all **times** to use and operate a gas transmission and distribution **system** in the nunicipality and to **transmit** gas in and through the nunicipality and to provide gas service to any resident or residents of the Municipality, and to bring in, transmit, produce, distribute, supply and sell gas in and through the Municipality for fuel, **heat** and power.

2. The company shall well and eufficiently restore forthwith to as good condition as they were in before the commencement of the Company's operation to **the** satisfaction of the Municipal Engineer (which term **means** from time to time such employee of the **Municipality** as the **Municipality shall** have designated as **such** for the purposes of this Agreement, or failing such designation, **the** senior employee of **the** Municipality for the **time being charged** with **the** administratic of public **works** and highways in the **Municipality**) all highways, squares and public places which it may excavate or interfere with in the course of laying, constructing, or repairing or removing of its mains, pipes, regulators, valves, curb boxes, eafqty appliances and other appurtenances and shall make good any settling or subsidence ther'eafter caused by such excavation, and further, in the **event** of the Company failing at any time to do any work required by **this** Section the Municipality may forthwith have such work done and charged to and collect from the Company the cost thereof and the

Company shall on demand pay any reasonable account therefor certified by the Municipal Engineer.

3. The Company shall at all times wholly indemnify the **Municipality** from and against all **loss**, damage and injury and expense to which the municipality may be put by reason of any **damage or** injury to persona or property resulting from the imprudence, neglect or want of **skill** of the employees or agents of the Company in connection with the construction, repair, maintenance or operation by the Company of any of its works in the Municipality.

4. **All** new (or renewal) mains, pipes, lines and works **inst** by the Company under thir By-law shall be constructed and laid in accordance with good engineering and constructing practices. Expect in case of emergency,

(a) no excavation, opening or work (exclusive of service connections from the street main to the property line) which will disturb or interfere with the travelled **surfa** of any highway **shall** be undertaken or commenced by the Company without written notice to such officer of the Municipality as may from time to time be appointed by **th** Council of the municipality for the purpose of general supervision over its **highways** (hereinafter referred to as "the said officer of the Municipality", which term shall include the parson acting in his stead in the event of his absence from duty), such notice to be given at least 24 hourr in advance of **commencing** such work unless otherwise agreed to by the said officer of **the Municipality** and

(b) before laying or installing any new (or renewal) **mai** pipes, lines and **works** (exclusive of service connections from the rtreet main to the property line), the Company shall **firtt file** with **the said** officer of the Hunicipali a preliminary map or plan **showing** what it proposes to la or **install** and the proposed location thereof and shall a check with and obtain the written approval of the said officer of the municipality as to such **proposed** location

Not later than three months after the close of the Compa second fiscal year, the **Company** shall file with the clerk of the Municipality, **a** map or plan showing the location and size of mains, pipes, lines and works laid or installed or existing in the Town, exclusive, however, of service connections from **the street** main to the property line. Not later than three months after the close of each of its fiscal **years** thereafter, the Company shall **file with**

clerk of the Municipality **maps or** plans showing the location and **size** of all mains, pipes, lines and works laid or installed by the Company ~~in~~ the highways during the **previous** fiscal year, exclusive **however,** of service connections from the street main to the property line. The Company shall further **up-date** and **compile** **this** plan once every fifth **fiscal** year 'thereafter during the term of this agreement, the said up-dating being completed not later' than three **months** after the close of each of the aforesaid fifth **fiscal** year periods.

5. Insofar as **it** is reasonably practicable, all lines and ~~w~~ constructed or **installed** by the Company shall be placed underground, and, except where **it** shall be necessary to cross a highway, along the sides of the highway. All lines and works constructed by the Company shall be **so** constructed as when completed not to obstruct or **interfere** with or render more difficult or dangerous the use of the highway or any **municipal** sewers, water pipes, drains, bridges, culverts or ditches thereon or therein, or other municipal works or improvements thereon **or** therein or the improvement or repair thereof, or **with** the roads or bridges to property fronting thereon, and wherever any such line shall be carried across an **open** drainage **ditch**, **it** shall be carried either wholly under the bottom thereof or above the top **thereof**, **so** as not in any way to interfere with the carrying capacity of such ditch.

6. The Company shall use at all times proper and practical means to prevent the **escape** or leakage of gas from its mains and **pipes** and the causing of any damage or injury therefrom to any person or property.

7. **The** rates to be charged and collected and the terms of **services** 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 or by any other person or body having jurisdiction to approve or fix such rates

or terms of service. Any application to approve or fix rates to be charged and collected or terms **of services** to be provided by the Company for, **gas** supplied by it shall be made in accordance with the Ontario Energy Board Act, R. S. O. 1980, Chapter 332, as amended from time to time or any other statute regulating such application.

8. The Municipality will not build **or** permit any Commission or other public utility or **person** to build any structure or structures encasing **any** mains or pipes of the Company.

9. **(a)** This Agreement and the respective rights and obligations hereunto **of** the parties hereto are hereby delcated to b subject to the provisions of all regulating statutes and to all ord and regulations made thereunder and from time to time remaining in **effect**; and in the event of any **dispute** or disagreement between the parties hereto as to the meaning or interpretation of anything herein contained or as to the performance or non-performance by either of such **paxties** of any of the provisions hereof. or as to the respective rights and obligations of the parties hereto hereunder, either or each parties may refer such dispute or disagreement to arbitration under the provisions of Paragraph **9(b)** hereof.

(b) Whenever the Municipal Arbitrations Act, R. S. O. 198 Chapter 304, ehall extend and apply **to** the Municipality any references **to arbitration** pursuant to the **provisions** of Paragraph **9(a)** hereof shall be to the Official Arbitrator appointed under **the** Act and shall be governed by the provisions of that Act. At any other time the procedure upon an arbitration pursuant to the provisions of the said Paragraph **9(a)** ehall be as follows:

Within twenty **days** after the written **request** of either of the **parties** hereto for arbitration each of them **shall** appoint one arbitrator and the two so appointed shall, within twenty **days** after the expiring of each twenty-day period select a third. In case either of the **parties** hereto shall fail to **name** an arbitrator within twenty days after the **said** written request **for arbitration**, the arbitrator appointed shall be the

only arbitrator. In case the two arbitrators so appointed are unable to agree on a third arbitrator **within** twenty days after the expiry of the **first** twenty-day period above mentioned, application shall be made as soon as reasonably possible to any Judge of the **Supreme** Court of Ontario for the appointment of **such** third arbitrator. The arbitrator or arbitrators so **appointed shall** have all the **powers** accorded arbitrators by the Arbitration Act, R. S. O. 1980, Chapter 25, as from **time to time amended**, or any Act in substitution therefor. The **decision** of the said arbitrator **or** arbitrators (or of a majority of such arbitrators) shall be final and binding on the parties hereto.

10. In the event of the Company being prevented from carrying **out** its obligations, under this Agreement, by reason of any cause beyond its control, the Company **shall** be relieved from **such** obligations while such disability continues and **in** the event of dispute as to the existence of such **disability**, such dispute shall be determined as hereinbefore provided. Provided, however, that the provisions of this Paragraph 10 shall not relieve the Company **from** any of **its** obligations as set out in Paragraph 3 hereof.

11. The franchise **hereby** granted shall be for a term of twenty-five (25) years from and after the final passing of the By-law **provided** that if at any time prior to the expiration of **the** said term of twenty-five (25) years or prior to the expiration of any renewal thereof, the Company shall notify **the Municipality** in writing that **it** desires a renewal thereof for a further period, the Municipality may but shall not be obligated to **renew** by By-law this Agreement from **time to time** for further **periods** not **exceeding** twenty-five (25) years at any time.

12. For the purpose of this Agreement and of any matters arising out of the same, the Municipality shall act by the Council thereof.

13. Wherever the word "highway" is used in this **Agreement** or **in** the said By-law, **it** shall mean common and public highways and shall include any bridge **forming** part of a highway on or over and across which a highway **passes** and any public square, or road allowance 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.

14. **Upon** the expiration of **this** franchise or any renewal thereof, the Company shall have the **right**, but nothing herein contained shall require it, to remove **its** mains, **pipes**, plant and **works laid** in the **said highway**. Provided that forthwith upon the expiration of this franchise or any renewal **thereof**, the Company shall deactivate such pipeline in the **Municipality**. Provided further that if the Company should leave its mains, pipes, plants and works in the highway as aforesaid and the **Municipality** at any time after a lapse of one year from termination, require the removal of all or any of the **Company's** said **facilities** for the purpose of altering or improving the highway or in order to facilitate the construction of utility or other works **in the highway** the **Municipality** may remove and dispose of so much of the Company's said facilities **as** the Municipality may require for such purposes and neither party shall have recourse against the other for any loss, cost or expense occasioned thereby.

15. Any notice to be given under any of the provisions hereof may be effectually given to the **Municipality** by delivering the same to the Municipal Clerk or by sending the **same** to him by registered mail, postage prepaid, addressed to "**46** Talbot Street West, Aylmer, Ontario, **N5H 1J7**", and to the Company by delivering the **same** to its Manager or other **Chief** Officer in charge of its **place** of business in the Town of Aylmer, or by sending the same by registered mail, postage prepaid, addressed to "Natural Resource Gas Limited, P. O. Box 3117, Terminal A, London, Ontario, **N6A 4J4**." If any notice is sent by mail the **same** shall be deemed to have been given on the day succeeding the posting thereof.

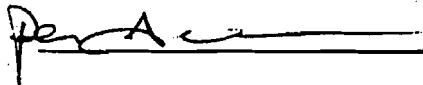
16. It is recognized that gas is a public utility, the use of which may be essential to the proper development of any new area of subdivision and industrial developments. **The** Municipality,

therefore may notify the Company of each new plan of subdivision before the same has been approved by the, Council and to take any reasonable steps to ensure that in each new plan of **subdivision**, 'adequate provision is made for the **reservation** of **lands** for gas regulator site.. Insofar **as** is reasonably practicable the Company shall endeavour to **construct its main** in new areas of subdivision **and industrial developments** at the same time as the **Municipality is** constructing its public **services** therein.


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

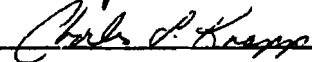
IN WITNESS **WHEREOF** the said Company has hereunto caused its Corporate Seal to be **affixed** and theee **presents** signed by **its** proper officers in that behalf and the said Corporation has hereunto caused its Corporate Seal to be affixed and theme presents signed by the Municipality and the Clerk.

NATURAL **RESOURCE** GAS LIMITED



THE **CORPORATION OF THE TOWN OF AYLMER**





DATED: Feburary 27 , 1984

BETWEEN:

NATURAL RESOURCE GAS LIMITED

-and-

THE CORPORATION OF THE TOWN OF
AYLMER

FRANCHISE AGREEMENT

BELANGER, CASSINO & BENSON
Barristers and Solicitors
153-759 Hyde Park Road
London, Ontario
N6H 3S2

BY-LAW NO. 9-84

OF THE CORPORATION OF THE TOWN OF AYLMER

Being a By-Law to authorize a Franchise Agreement between the Corporation and Natural Resource Gas Limited.

WHEREAS the Council of the Corporation of the Town of Aylmer deems it expedient to enter into the attached franchise agreement with Natural Resource Gas Limited;

AND WHEREAS the Ontario Energy Board, by its Order issued pursuant to The Municipal Franchises Act on the 5th day of May, 1982, has approved the terms and conditions upon which and the period for which, the franchise provided for in the attached agreement, is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-Law is not necessary;

NOW THEREFORE, BE IT ENACTED:

1. That the attached franchise agreement between the Corporation and Natural Resource Gas Limited, is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Mayor 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.

READ A First and Second time this 27th day of February, 1984.

M. J. Brink
ACTING MAYOR

Charles D. Keays
CLERK

READ A Third time and finally passed this 27th day of February, 1984.

CERTIFIED TRUE COPY

Charles D. Keays

DATE May 2, 1984 CLERK/TREAS.

M. J. Brink
ACTING MAYOR

Charles D. Keays
CLERK

HISTORY OF FRANCHISE RENEWAL NEGOTIATIONS

NRG has made numerous attempts to initiate discussions with the Town in order to discuss the franchise renewal, and any issues that the Town has with franchise renewal. These attempts began in early June 2008, but the Town refused to disclose its position or have a truly substantive discussion about the franchise renewal until December 16, 2008. The exchange of correspondence referred to below is attached in the pages that follow.

NRG's first request for a meeting was made via voicemail from Mr. Mark Bristoll (NRG) to Ms. Heather Adams (Administrator, Town of Aylmer) on June 6, 2008. After two follow-up emails from Mr. Bristoll and a meeting request letter from NRG's counsel dated June 13, 2008, Ms. Adams responded to NRG on June 17, 2008 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."

In its June 13, 2008 letter from NRG's counsel to the Town, NRG had proposed to enter into a new franchise agreement (the "NRG Preferred Agreement") for a term of 20 years. The NRG Preferred Agreement was attached to the June 13 letter, and is basically the Board's Model Franchise Agreement with a term of 20 years.

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

NRG made subsequent requests (through counsel) for a meeting to discuss the franchise renewal, by way of letters dated June 27 and July 3, 2008. On July 8, the Town responded through their counsel, again refusing to set a date for the meeting.

1 On July 17, 2008, Mr. Bristoll called Ms. Adams to request a meeting with the Town on July 23,
2 2008. On that same date, NRG's counsel responded to the July 8th letter of the Town. On July
3 20, Ms. Adams (via email), advised Mr. Bristoll that the Town would be unavailable to meet to
4 discuss the franchise renewal until mid-August 2008.

5
6 On August 11, NRG through counsel again repeated its previous requests for an opportunity to
7 meet with the Town to discuss the franchise renewal process.

8
9 On September 9, 2008, Mr. Bristoll made another request for a meeting with the Town via a
10 telephone conversation with Ms. Adams.

11
12 Finally, on September 11, 2008, a meeting was held between NRG and the Town. At that
13 meeting, NRG simply provided the Town with the Model Franchise Agreement and asked for
14 any comments. The Town advised that it would provide comments to NRG shortly.

15
16 In follow-up correspondence (letters of September 11 and 16, and telephone conversation of
17 October 14) with the Town, Mr. Bristoll thanked the Town for the meeting and confirmed that
18 NRG was looking forward to obtaining the Town's comments on the Model Franchise
19 Agreement.

20
21 Having heard nothing, NRG wrote to the Mayor and Ms. Adams on November 19, 2008, again
22 requesting a meeting to discuss the Town's comments on NRG's proposal for a franchise
23 renewal. On November 26, 2008, the Town responded in writing agreeing to a meeting on
24 December 16, 2008.

25
26 On December 16, 2008, more than six months after NRG sought to obtain a meeting with the
27 Town to discuss the Town's issues with franchise renewal, a meeting was finally held where the
28 Town outlined their position. Unfortunately, the Town's position was by this point "set in stone"
29 as a result of the Aylmer Town Council meeting of December 15, 2008. Rather than discussing

1 the issues with NRG before that meeting in an effort to resolve or better understand issues of
2 concern, the Town's position was presented to NRG as a decision of Town Council.

3
4 At the meeting between NRG and the Town on December 16, 2008, the Town provided a letter
5 to NRG attaching a copy of materials considered at the Aylmer Town Council Meeting of
6 December 15, 2008. The materials included: (a) a cover letter from Ms. Heather Adams, Town
7 Administrator to Mr. Mark Bristoll; (b) a Memo from Ms. Adams to the Aylmer Town Council
8 dated December 11, 2008; and (c) the Town's preferred form of franchise agreement (the
9 "Aylmer Preferred Agreement").

10
11 The December 11th Memo contained a recommendation that Aylmer "[m]eet with NRG and
12 offer to renew the franchise agreement for 3 years to February 27, 2012 with the addition of a list
13 of conditions Council wants to have NRG commit to undertake during that 3 years."

14
15 The Aylmer Preferred Agreement is also based on the Board's Model Franchise Agreement, but
16 contains the following key differences from the NRG Preferred Agreement:

- 17
- 18 ▪ Term: The NRG Preferred Agreement proposes a 20 year renewal term. The Aylmer
19 Preferred Agreement proposes a 3 year renewal term.
 - 20 ▪ Additional Conditions: The Aylmer Preferred Agreement contains a Schedule A which
21 sets out seven conditions that are not in the Board's Model Franchise Agreement. These
22 conditions would require NRG to: (1) immediately apply to the Board for a
23 comprehensive rate hearing; (2) implement the currently-proposed amendments to the
24 Gas Distribution Access Rule by December 15, 2009 "whether or not the OEB has
25 made them mandatory by such time"; (3) adhere to a new written security deposit policy,
26 customer complaint policy, and work estimate policy by May 15, 2009; (4) keep all
27 monies from customer security deposits in a segregated trust fund; (5) make its annual
28 audited financial statements available every year for the next three years no later than
29 four months after the end of NRG's fiscal year; (6) give notice to the Town of any
30 proceeding that NRG is a party to before the Board (regardless of whether NRG is an

1 applicant or intervenor); and (7) provide updated annual system asset maps by December
2 15 of each year showing estimated age of assets and any improvements or additions made
3 during the year.
4

5 NRG's view is that the three year term is unacceptable. With respect to the seven conditions,
6 NRG has no issue with two conditions (specifically 5 and 7), but believes the remainder are
unnecessary for a variety of reasons discussed later in the pre-filed evidence. However, NRG
8 was never able to convey this to the Town because it was never given the opportunity to meet
9 with and discuss any of these conditions with the Town.
10

11 There are two consequences that flow from the Town's refusal to discuss their issues of concern
12 for over six months, and then simply presenting a preferred contract with the seven conditions as
13 *a fait accompli* (i.e., approved by the Town's Council):
14

- 15 ■ First, NRG has not been provided with an opportunity to address the Town's concerns in
16 some instances, and is unaware of the reasons for conditions to be imposed in others.
17 NRG has not been provided with an opportunity to work with the Town to rectify or
18 clarify the situation.
- 19 ■ Second, by ignoring NRG's repeated requests to discuss the issues, a Board hearing
20 becomes the only forum for discussing and resolving the concerns. This is not the best
21 use of the Town's, NRG's or this Board's time or resources.
22
23

Darlene Whitfield

From: Darlene Whitfield
Sent: Monday, June 09, 2008 10:01 AM
To: 'hadams@town.aylmer.on.ca'
Cc: Mark J. Bristoll
Subject: Mark Bristoll Meeting with Mayor - June 16, 17 or 18

Hi Heather,

This is a follow-up to a couple of voicemails I left for you on Friday, June 6th. I don't mean to be a pest but I'm **looking** to book with you an appointment for **Mark Bristoll**, President, Natural Resource Gas Limited to meet with **the Mayor** on either June 16, 17, or 18 preferably around **10:00 a.m.**

Could you please advise if either of **these** dates are available in the Mayor's calendar? If not, we will appreciate your offering alternative dates and times. Many thanks for your time.

Darlene **Whitfield**
Assistant to Mark Bristoll
Ayerswood Development Corporation
1299 Oxford Street East
P.O. Box 3117, Terminal "A"
London, ON N6A 4J4
Phone (519) 433-8126
Fax (519) 433-6132
Darlene.Whitfield@cpirentals.com

6/11/2008

Darlene Whitfield

From: Darlene Whitfield
Sent: Wednesday, June 11, 2008 1:48 PM
To: 'hadams@town.aylmer.on.ca'
Cc: Mark J. Bristoll
Subject: Mark Bristoll Meeting with Mayor - June 16, 17 or 18

Hello again, Heather. This is a follow up my voicemails from last week and **email** from Monday looking to book an appointment for Mark Bristoll, Natural Resource Gas Limited with the Mayor. Suggested dates are June 16, 17 or 18 around 10:00 a.m. but if these dates and times are not available, please suggest alternatives.

I can be reached by return **email** or by telephone at 519-433-8126 Ext 200. Please call me at your earliest opportunity. Thanks for your time.

Darlene Whitfield
Assistant to Mark Bristoll
Ayerswood Development Corporation
1299 Oxford Street East
P.O. Box 3117, Terminal "A"
London, ON N6A 4J4
Phone (519) 433-8126
Fax (519) 433-6132
Darlene.Whitfield@cpirentals.com

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Sent: Monday, June 09, 2008 10:01 AM
To: 'hadams@town.aylmer.on.ca'
Cc: Mark J. Bristoll
Subject: Mark Bristoll **Meeting** with Mayor - June 16, 17 or 18

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This is a follow-up to a couple of **voicemails** I left for you on Friday, **June 6th**. I don't mean to be a **pest** but I'm looking to book with you an appointment for Mark Bristoll, President, Natural Resource Gas Limited to meet with the Mayor on either June 16, 17, or 18 preferably around 10:00 a.m.

Could you please advise if either of these dates are available in the **Mayor's** calendar? If not, we will appreciate your offering alternative dates and times. Many thanks for your time.

Darlene Whitfield
Assistant to Mark Bristoll
Ayerswood Development Corporation
1299 Oxford Street East
P.O. Box 3117, Terminal "A"
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Phone (519) 433-8126
Fax (519) 433-6132
Darlene.Whitfield@cpirentals.com

6/11/2008

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 WKG 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.

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

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 Bristol**

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;

TIHEREFORE 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) "**Engincer/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 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be **amended** to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20-year **term**.
- (b) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party **from** applying to the Ontario Energy Board for a renewal of the **Agreement** pursuant to section 10 of the ***Municipal Franchises Act***.

ARTICLE 3 - CONDITIONS

3.1 Approval of Construction

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

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

3.2 As Built Drawings.

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

3.3 Emergencies

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

least **one** 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

3.4 Restoration

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

3.5 Indemnification

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

3.6 Insurance

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

3.7 Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the **Gas** Company **with** easements over that part of **the** highway proposed to be sold or **closed** sufficient to allow the **Gas** Company to **preserve** any part of the gas system in its then existing location. In the event that such **easements** cannot be provided, the Corporation and **the** Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, **as** provided for in Paragraph 3.8 of this Agreement.

3.8 Pipeline Relocation

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

- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the **gas** system required to be moved is located in an **unassumed** road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

ARTICLE 4 - PROCEDURAL AND OTHER MATTERS

4.1 Municipal By-laws of General Application

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

4.2 Giving Notice

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

4.3 Disposition of Gas System

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

4.4 Use of Decommissioned Gas System

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

4.5 Franchise Handbook

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

4.6 Agreement Binding Parties

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

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

**THE CORPORATION OF THE TOWN OF
AYLMER**

By: _____

By: _____

NATURAL RESOURCE GAS LIMITED

By: _____

Mark Bristoll, Chairman



MAC

The Corporation of the Town of Aylmer
46 Talbot Street, West, Aylmer, Ontario N5H W7
Office: 519-773-3164 Fax: 519-765-1446
www.aylmer.ca

June 17, 2008

Mr. Mark Bristol
Natural Resources Gas Ltd.
By Fax 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 Bob 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 quest 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: ltbacker@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

LENCZNER SLAGHT ROYCE
SMITH GRIFFIN LLP
BARRISTERS

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

June 27, 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**

We have not received any response **from** you to our letter of June 27.

We presume that the Town of Aylmer does not foresee any difficulties in the renewal process and, for that reason, does not feel it necessary to meet with NRG.

NRG will proceed on the basis that the Town of Aylmer does not oppose the renewal of the Franchise Agreement with NRG.

Yours truly,

Lawrence E. Thacker

LET/rl

bcc Mark Bristoll

LENCZNER SLAGHT ROYCE
SMITH GRIFFIN LLP
BARRISTERS

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

July 3, 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**

We have not received any response from you to our letter of June 27.

We presume that the Town of Aylmer does not foresee any difficulties in the renewal process and, for that reason, does not feel it necessary to meet immediately with NRG.

NRG will proceed on the basis that the Town of Aylmer does not oppose the renewal of the Franchise Agreement with NRG. NRG would like to meet with you to begin implementing the renewal as soon as possible.

Yours truly,



Lawrence E. Thacker

LET/rl

- 2 -

bcc Mark Bristoll

01/10/2008 10:44 FAX 416 593 9345 STOCKWOODS 002/003

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 Hahkirk 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.

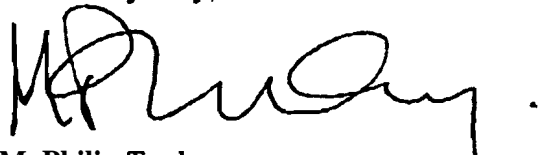
STOCKWOODS LLP

Suite 2512, The Sun Life Tower, 150 King Street West, Toronto, Ontario M5H 1H9 • PH: (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,



M. Philip Tunley
MPT/scb

- c. Heather Adams, Town of Aylmer
Mark Bristol, Natural Gas Resources Ltd.

LENCZNER SLAGHT ROYCE
SMITH GRIFFIN LLP
BARRISTERS

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

July 17, 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 requested repeatedly 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 Bristol

Darlene Whitfield

From: Heather Adams [hadams@town.aylmer.on.ca]
Sent: Sunday, July 20, 2008 4:37 PM
To: Mark J. **Bristoll**
Cc: Mayor; bhabkirk@amtelecom.net
Subject: RE Meeting

Hi Mark:

This e-mail is a follow up to the phone message I left for you on Friday evening. As I explained, the Mayor and I are unable to meet with you and Mr. **Graat** this coming week. I am on vacation but could be available on Tues or Wed but the Mayor is out of Town on Tues and Wed.

So as I explained I am on vacation until **mid-August** and we can plan to meet then

Heather Adams

7/21/2008

LENCZNER SLAGITT ROYCE
SMITH GRIFFIN LLP
BARRISTERS

Direct Line: (416) 865-3097
Email: ithacker@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 Bristol



NATURAL RESOURCE GAS LIMITED

Supporting your natural gas *Lifestyle*

RECEIVED

SEP 15 2008

Handwritten signature

Friday, September.12, 2008

Via Courier

The Corporation of the Town of Aylmer
46 Talbot Street West
Aylmer, ON N5H 1J7

Attention: Mr, Bob **Habkirk**, Mayor
Ms. Heather Adams, Administrator

Dear **Sirs**:

On behalf of Mr, Tony Graat, Mr. Jack **Howley** and myself, thank you for the **opportunity** to meet wth you yesterday to discuss varlous matters as they relate to Natural Resource Gas **Limited** and the Town of **Aylmer**.

We look forward to working together with you going forward, and to **building** a long and prosperous **relationship** between The Corporation of the Town of Aylrner and Natural Resource Gas **Limited**.

Yours truly,
Natural Resource Gas Limited

Handwritten signature

Per: Mark **Bristoli**
President

cc: Mr. Tony Graat
Mr. Jack **Howley**

RECEIVED

SEP 17 2008

CL Adams



Friday, September 16, 2008

Via Courier

The Corporation of the Town of Aylmer
46 Talbot Street West
Aylmer, ON N5H 1J7

Attention: **Mr. Bob Habkirk, Mayor**
Ms. **Heather** Adams, Administrator

Dear **Sirs/Madame:**

Please accept **this** letter as Natural Resource Gas Limited's confirmation and commitment to work with The Corporation **of** the Town of Aylmer on its many **initiatives** including, but not be **limited** to:

- To collaborate with the Town of Aylmer on Natural Resource Gas **Limited business** and/or customer issues that are of mutual concern
- Attendance at **pre-construction** meetings
- Review of Comsatec **transportation** costs
- Involvement **with** and attendance at Emergency **Planning Committee** meetings
- Actively participate in Business Development Opportunities and work closely with the Town to assure **corporations** interested in relocating to Aylmer that Natural Resource **Gas** Limited is a community partner willing and able to satisfy their natural gas needs.

As discussed, our General Manager, **Mr. Jack Howley**, is available at (519) 773-5321 to **assist** the Town of Aylmer.

Yours truly,
Ayerswood Development Corporation

Per: Mark Bristol
President



Natural Resource Gas Limited

November 19, 2008

VIA COURIER AND **EMAIL**

The Corporation of the Town of Aylmer
46 Talbot Street West
Aylmer, ON N5H 1J7

Attention: Mayor Bob Habkirk
Ms. Heather Adams, Administrator

Dear Sirs and Madam:

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

On June **13, 2008**, our Counsel, Mr. Lawrence **E.** Thacker wrote to you on our behalf regarding the Franchise Renewal with the Town of Aylmer. As Mr. Thacker stated, **NRG's** existing Franchise Agreement expires 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.

In June, 2008, we provided for your review a draft Franchise Agreement and noted that 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.

During our latest conversation of **October 14th**, Ms. Adams advised comments were **forthcoming** shortly. The renewal expiry **deadline** is fast approaching and there is much work to be done prior to February 28, 2009.

NRG would welcome the opportunity to **sit** down and discuss the Town of **Aylmer's** comments in person by November 30, 2008. For your convenience we have enclosed a copy of the Franchise Agreement.

As stated previously, NRG is committed to the Town of Aylmer and the franchise area and will make every effort **possible** to work with the Town of Aylmer to resolve any outstanding **matters**.

You may reach me by calling **519-433-8126**.

Yours truly,
Natural Resource Gas **Limited**

Per: Mark **Bristoll**
President

c.c. Mr. Jack Howley, General Manager, Natural Resource Gas **Limited**

Enclosure - Franchise Agreement

November 26, 2008

Mr. Mark Bristoll
President
Natural Resource Gas Limited
Box 310
Aylmer ON
N5H 2S1

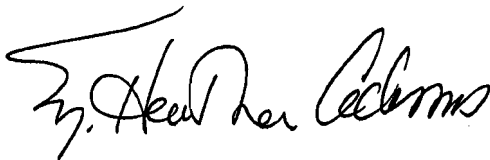
Dear Mark:

Re: Town of Aylmer Franchise Renewal

Thank you very much for your letter to the Mayor and myself dated November 19, 2008. You indicated your wish to meet with representatives of the Town of Aylmer to discuss the Town's comments on your proposal for renewal of the existing franchise between the two corporations.

The Mayor and I would be pleased to meet with you. We would suggest we meet at 1:30 p.m. on Tuesday, December 16, 2008 at our offices. Please advise me directly if this time is suitable for **you**.

Sincerely



M. Heather Adams
Administrator

cc: Mayor B. Habkirk
J. Howley, NRG
P. Tunley, Stockwoods

/ha

December 16, 2008

Mr. ~~Mark~~ **Bristoll**
President
Natural Resource Gas Limited
Box 310
Aylmer ON
N5H 2S1

Dear Mark:

Re: Town of Aylmer Franchise Renewal

Thank you very much for meeting with us today to discuss the Town's position on your proposal for renewal of the existing **franchise** between the two corporations. At its meeting last night, December 15, 2008, Council passed the following resolution:

"That the Council of the Town of Aylmer adopts the staff recommendations set out in the report of the Administrator dated December 11, 2008 regarding the franchise agreement between the Town and NRG.

That Council approve the draft franchise agreement as presented in that report and that the agreement be presented to NRG as the Town's position regarding the renewal of the franchise for a period of 3 years.

And Further that following the meeting with NRG, the Town applies to the OEB for approval of the franchise agreement **as** drafted by the Town."

A copy of the report that was adopted by Council is attached for your reference as well as a copy of the **franchise** agreement which Council approved for presentation to NRG. This version of the franchise agreement is essentially the same **as** the one NRG proposed, that is, the Model Franchise Agreement, but the differences are that the Town proposes a three year renewal and have added some important conditions as a new Appendix A to the agreement.

You will note that the Town adopted the following goals in considering its options:

- Ensure the continued supply of cost-effective natural gas to Aylmer
- Ensure that the customer **service** and security deposit concerns expressed by the residents of Aylmer are dealt with effectively and efficiently

Respect the role of the Ontario Energy Board **as** the regulator of monopoly natural **gas** distributors in Ontario

- Ensure that the economic development opportunities for the community are enhanced by having a supportive natural **gas** distributor who supplies a cost-effective alternative source of energy
- Repair the negative image of Aylmer in the context of our natural **gas** distributor
- Restore confidence in and respect for the natural gas distributor by their consumers, other residents and the Town **as** they put in place a permanent acceptable customer relations policy

We trust that the Town's proposal will provide a process for us all to work together over the next three years to achieve a positive relationship between all parties involved.

Sincerely

A handwritten signature in black ink, appearing to read "M. Heather Adams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

M. Heather **Adams**
Administrator

cc: Mayor B. **Habkirk** & Council, Town of Aylmer
N. Irving, Clerk, Town of Aylmer
P. Tunley, **Stockwoods**

Attachments (2)

/ha

8(g)



Memo

To: Council
From: M. Heather Adams
Administrator
Date: December 11, 2008
Re: Natural Resource Gas Ltd. (NRG) Franchise

Discussion:

The franchise agreement between the Town of Aylmer and NRG expires on February 27, 2009. At its meeting of October 14, 2008, Council considered a report on issues related to NRG and passed the following resolution:

Resolution No. 370-08

Moved by Councillor M. French and seconded by Deputy Mayor R. G. Baldwin:

"That the Council of the **Town** of Aylmer **hereby** endorses the Report dated October **8, 2008** prepared **by** the Administrator, regarding Natural Resource Gas Ltd. (NRG);

AND FURTHER THAT Council **hereby** approves the actions outlined **below:**

1. Ensure **that** the Ontario **Energy** Board is fully aware of the **concerns** regarding NRG by:
 - providing a copy of **this** report **and the** petitions received from the local residents regarding the issues with NRG and request **that** the OEB use its **regulatory** and oversight tools to **fully** inquire into the issues identified;
 - endorsing the **OEB** proposed amendment to the Gas Distribution Access Rule provide direction to natural gas distributors regarding customer security deposits; and

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- 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.
- 2. Request that the **OEB** consider the following regulatory **and/or policy changes** in order to improve customer service requirements of natural gas distributors
 - Require that customer service measures are made **available** to **the** public
 - Require that the **annual** audited financial statements **of** the distribution companies are made available to **the** public
 - Provide a clear complaint and enforcement process for natural gas consumers to have complaints heard and resolved
 - Require that consumer security deposits be kept in a trust fund **and** not used as working capital for distribution **companies**
- 3. Request that the **OEB** establish a process for a review of the legislation and regulations which require that municipalities and natural **gas** distributors enter into franchise agreements. The realities of the current process for these agreements do not operate such that they improve the distribution of natural gas to its customers. The municipality has no real ability to negotiate even the minimum of **service** delivery requirements, no realistic ability to enforce the provisions of the franchise agreement when a distribution company does not meet **them** and no real **ability** to change who provides the service. The legislation guiding franchises is outdated and its provisions such as the requirement for a public vote typically are replaced with **the OEB** approval process.
- 4. Circulate this Report to the other municipalities with franchise agreements with NRG for **their** consideration and endorsement.
- 5. Forward **the** Report and recommendation to the Minister of Energy and Infrastructure and our **local M.P.P.**, the Honourable **Steve** Peters."

Since that time the following has taken place:

- **OEB** hearing into the application by Union Gas re NRG was held in Aylmer on October 20, 2008. Town was successful in having its evidence stay on the record. The **OEB** has made its decision on the application and the Union and NRG are to sign new 5 year agreements for the supply of natural gas, NRG is to provide Union with regular Financial Statements and NRG is to provide Union with

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a postponement agreement related to the retractable shares. Further, those retractable shares are to be treated as debt not equity. The NRG shareholder was directed to pay the costs of the Town and IGPC as interveners in the hearing.

- To date, there has been no response from the OEB or from the Provincial Minister of Energy to the comprehensive report and resolution forwarded to them.
- Staff has had several conversations and a meeting with Jack Howley who is the General Manager of NRG as well as Mark Bristol. NRG has attended the most recent meeting regarding the South Street infrastructure project and have promised to attend future meetings. They have requested and received information on our 5 year infrastructure plans. NRG has provided the Town with a detailed map of its infrastructure in Aylmer. They have met with us and assured us they are now dealing with all requests and complaints regarding their customer security deposits. They have reviewed the issues we have had with the statements for our gas purchasing contract and they have committed to providing the required information to Comsatec on a more regular basis.
- The Town has received another letter from NRG requesting that we meet with them prior to November 30, to outline our position regarding renewal of the franchise agreement and a meeting has been scheduled for next week.

Goals:

- Ensure the continued supply of cost-effective natural gas to Aylmer
- Ensure that the customer service and security deposit concerns expressed by the residents of Aylmer are dealt with effectively and efficiently
- Respect the role of the Ontario Energy Board as the regulator of monopoly natural gas distributors in Ontario
- Ensure that the economic development opportunities for the community are enhanced by having a supportive natural gas distributor who supplies a cost-effective alternative source of energy
- Repair the negative image of Aylmer in the context of our natural gas distributor
- Restore confidence in and respect for the natural gas distributor by their consumers, other residents and the Town as they put in place a permanent acceptable customer relations policy

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Staff on

After consideration of all of the options, the impact of various options and previous direction and decisions of Council, Staff recommends the following approach:

- Meet with NRG and offer to renew the franchise agreement for 3 years to February 27, 2012 with the addition of a list of conditions Council wants to have NRG commit to undertake during that 3 years.
- Whether or not NRG agrees to the terms, the Town applies to the OEB for approval of its proposed agreement and conditions and requests that the OEB hold a hearing in Aylmer where the consumers can provide comments to the Board.
- Suggested Conditions for Franchise Renewal:
 1. The NRG immediately apply to the OEB for a comprehensive rate hearing
 2. NRG agrees to implement the proposed amendments to the Gas Distribution Access Rule (EB-2008-0313), regarding customer service measures by the end of 2009 whether or not the OEB has made them mandatory by the time.
 3. NRG makes the distribution company's annual audited financial statements available to the public no later than 4 months following the close of its fiscal year.
 4. NRG adopts, and adheres to a written and publicly available consumer security deposit policy which includes clear information about the circumstances in which a security deposit is required, how the amount of the deposit is calculated, the circumstances in which the deposit will be returned to the customer, that all deposits will be returned by cheque unless otherwise requested in writing by the customer; and that a maximum dollar value for any security deposit be calculated using the proposed calculation in the OEB proposed amendments to the GDAR (EB-2008-0313)
 5. NRG adopts, and adheres to a written and publicly available complaint process for its customers
 6. NRG keeps all monies from consumer security deposits in a trust fund and not used as working capital for distribution company.
 7. NRG ensures that written notice is given to all the municipalities with whom they have franchises of any application by NRG to the OEB.
 8. NRG provides to the Town of Aylmer annually prior to December 15, a detailed and up to date system map of its

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assets within the Town of Ayimer including the estimated age of those assets and any improvements or additions during the year are highlighted.

9. NRG agrees to prepare and adhere to a written policy regarding meeting with new and relocating retail, commercial and industrial customers to provide information and natural gas service cost estimates on a timely basis and at a competitive rate,

A proposed franchise agreement has been drafted using the terms of the Model Franchise Agreement and adding the conditions outlined above. A copy of the agreement is attached.

Council Action:

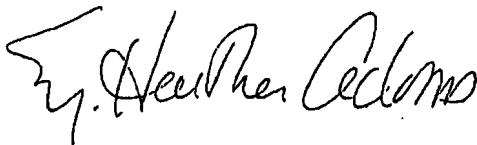
It is recommended that Council pass the following resolution:

"That the Council of the Town of Aylmer adopts the staff recommendations set out in the report of the Administrator dated December 11, 2008 regarding the franchise agreement between the Town and NRG.

That Council approve the draft franchise agreement as presented in that report and that the agreement be presented to NRG as the Town's position regarding the renewal of the franchise for a period of 3 years.

And Further that following the meeting with NRG, the Town applies to the OEB for approval of the franchise agreement as drafted by the Town."

Respectfully submitted



M. Heather Adams
Administrator

Attachments (1)

/ha

Franchise Agreement

THIS AGREEMENT effective this ____ day of _____, 2009.

BETWEEN:

THE 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:

Part I – Definitions

1. In this Agreement:

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

include a liquefied petroleum gas that is distributed by **means** other ~~than~~ a pipeline;

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

Part II - Rights Granted

2. To provide gas service.

The consent of the **Corporation** is hereby given and granted (~~subject to the conditions set out herein and in Schedule A~~) 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**. ~~The Corporation signs this Agreement on the condition that the Gas Company agrees to and adheres to those conditions set out in Schedule A.~~

3. To Use Highways.

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the **Gas** Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain,

replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the **Municipality**.

4. Duration of Agreement and Renewal Procedures.

- (a) ~~The rights hereby given and granted, and the terms hereof, shall be for a term of 3 (three) years from the date of final passing of the By-law. If during the 3-year term of this Agreement, the Model Franchise Agreement is changed, then 1 (one) year following the date such change(s) is effected, this Agreement shall be deemed to be amended to incorporate such change(s) in the Model Franchise Agreement, unless the parties hereto agree otherwise in writing. Such deemed amendments shall not apply to alter the 3 (three) year term of this Agreement.~~
- (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*.

Part III – Conditions

5. Approval of Construction.

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

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

6. As Built Drawings.

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

7. Emergencies.

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the **Engineer/Road** Superintendent is normally required for the work, the **Gas**

Company shall use its best efforts to immediately notify the **Engineer/Road Superintendent** of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the **Engineer/Road Superintendent** with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are **current**.

8. Restoration.

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

9. Indemnification.

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

10. Insurance.

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

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

11. Alternative Easement.

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

12. Pipeline Relocation.

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

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

Part IV - Procedural And Other Matters

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

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

14. **Giving Notice.**

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

15. **Disposition of Gas System.**

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

Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System.

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

17. Franchise Handbook,

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

18. **Agreement Binding Parties.**

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

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

THE CORPORATION OF THE TOWN OF AYLMER

By: _____
Duly Authorized Officer

NATURAL RESOURCE GAS LIMITED

By: _____
Duly Authorized Officer

SCHEDULE 'A'

'Schedule A' to the Franchise Renewal Agreement between Natural Resource Gas Ltd. and the Corporation of the Town of Aylmer

The Corporation signs this Agreement on the condition that the Gas Company agrees to and adheres to the following.

- 1) Immediately upon the execution of this Agreement, the Gas Company will apply to the Ontario Energy Board ("**OEB**") for a comprehensive rate hearing.
- 2) The Gas Company will, by December 15, 2009,
 - a) implement the proposed amendments to the Gas Distribution Access Rule (**EB-2008-0313**) regarding customer service measures, whether or not the OEB has made them mandatory by such time.
- 3) The Gas Company will, by May 15, 2009,
 - a) adopt and adhere to a written and publicly available consumer security deposit policy which includes clear information about the **circumstances** in which a security deposit is required, how the amount of the deposit is calculated, the circumstances in which the deposit will be returned to the customer, that all deposits will be returned by cheque **unless** otherwise requested in writing by the customer; and that a maximum dollar value for any security deposit be calculated using the proposed calculation in the OEB proposed amendments to the GDAR (EB-2008-0313);
 - b) adopt and adhere to a written and publicly available complaint process for its customers; and
 - c) adopt and adhere to a written policy regarding meeting with and providing written estimates for providing natural gas services to new and relocating retail, commercial and industrial customers on a timely basis and at a competitive rate.
- 4) The Gas Company will keep all monies **from** consumer security deposits in a trust fund and it will not use such monies as working capital.
- 5) The Gas Company will make its annual audited financial statements available every year for the next three years to the public no later than 4 months following the close of the Gas Company's fiscal year.
- 6) The Gas Company will give notice to the Corporation of any proceeding before the OEB that the Gas Company is a party to, particularly, but not limited to, any application to the OEB made by the Gas Company.
- 7) By no later than December 15 of each year, the Gas Company will provide the Corporation with **annual** detailed and up-to-date maps of its system assets, including but not limited to system assets within the Town of Aylmer, including the estimated age of those assets and any improvements or additions during the year are highlighted.

THE NRG PREFERRED AGREEMENT

A copy of the NRG Preferred Agreement (i.e., the franchise agreement that NRG is prepared to sign), is attached to this Exhibit D, Tab 2. It is based on the Board's Model Franchise Agreement, and contains:

- a 20-year term (i.e., to February 27, 2029); and,
- a new section 3.9 that incorporates two of the seven conditions sought by the Town.

The two conditions in section 3.9 to the NRG Preferred Agreement are: (a) a commitment by NRG to provide the Town with NRG's audited financial statements every year no later than four months following the close of NRG's fiscal year; and (b) a commitment by NRG to provide the Town with annual detailed and up-to date maps of its system assets, including but not limited to system assets within the Town of Aylmer, highlighting the estimated age of those assets and any improvements or additions made during the year.

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

ARTICLE 2 – RIGHTS GRANTED

2.1 To provide gas service:

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

2.2 To Use Highways.

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

2.3 Duration of Agreement and Renewal Procedures.

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

ARTICLE 3 – CONDITIONS

3.1 Approval of Construction

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

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

3.2 As Built Drawings.

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

3.3 Emergencies

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

least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

3.4 Restoration

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

3.5 i ti

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

3.6 Insurance

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

3.7 Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 3.8 of this Agreement.

3.8 Pipeline Relocation

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

- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

3.9 Additional Conditions

In addition to the conditions in sections 3.1 and 3.8 above, the Gas Company agrees to:

- (a) provide its annual audited financial statements to the Corporation every year, no later than four months following the close of the Gas Company's fiscal year end; and,
- (b) by no later than December 15 of each year, the Gas Company will provide the Corporation with annual detailed and up-to-date maps of its system assets, including but not limited to system assets within the Town of Aylmer, including the estimated age of those assets and any improvements or additions during the year are highlighted.

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

TERMS AND CONDITIONS IN DISPUTE

The difference between the NRG Preferred Agreement and the Aylmer Preferred Agreement are set out below:

Term

The NRG Preferred Agreement proposes a 20 year renewal term. The Aylmer Preferred Agreement proposes a 3 year renewal term.

Additional Conditions

NRG disagrees with the inclusion of five of the Town's seven conditions in a new franchise agreement. The five conditions in dispute are as follows:

- (1) **Rate Hearing**: That NRG "immediately upon the execution of this Agreement ... apply to the [Board] for a comprehensive rate hearing."
- (2) **GDAR Implementation (Customer Service Measures)**: That NRG, by December 15, 2009, "implement the proposed amendments to the Gas Distribution Access Rule (EB-2008-0313) regarding customer service measures, whether or not the OEB has made them mandatory by such time."
- (3) **Three Written Policies**: That NRG, by May 15, 2009:
 - a. "adopt and adhere to a written and publicly available consumer security deposit policy which includes clear information about the circumstances in which a security deposit is required, how the amount of the deposit is calculated, the circumstances in which the deposit will be returned to the customer, that all deposits will be returned by cheque unless otherwise requested in writing by the customer; and that a maximum dollar value for any security deposit be calculated using the proposed calculation in the OEB proposed amendments to the GDAR (EB-2008-0313);"
 - b. "adopt and adhere to a written and publicly available complaint process for its customers;" and,

1 c. "adopt and adhere to a written policy regarding meeting with and providing
2 written estimates for providing natural gas services to new and relocating
3 retail, commercial and industrial customers on a timely basis and at
4 competitive rates".

5 (4) Security Deposit Trust Fund: That NRG "keep all monies **from** consumer security
6 deposits in a trust fund and ... not use such monies as working capital."

7 (5) Notice of OEB Proceedings: give notice to the Town of any proceeding that NRG is
8 a party to before the Board (regardless of whether NRG is an applicant or
9 intervenor).

10
11 NRG's position on the term and five conditions is discussed in the following Exhibit D, Tabs 4
12 through 10 inclusive).

APPROPRIATE TERM OF NEW FRANCHISE AGREEMENT

The NRG Preferred Agreement proposes a 20-year renewal term. The Aylmer Preferred Agreement proposes a three-year renewal term.

The Board's current Model Franchise Agreement proposes a franchise term of 20 years. That, together with the fact that NRG's ability to obtain financing would likely be adversely affected by any shorter franchise period, is the basis for NRG's preference for a 20-year term.

The Board has in the past (E.B.A. 194) recognized that the length of a franchise term is of critical importance to a utility's ability to finance:

"The Board recognizes that there is some merit in franchises, in most cases, being for a period related to a degree to the normal debt financing term used by gas distributors. With the present uncertainty as to future gas supplies, it seems unlikely, however, that gas distributors will be financing on the basis provided for a longer repayment term than 20 years.

The foregoing would appear to dictate that a reasonable minimum period for a franchise by-law in ordinary circumstances would be 20 years."

NRG's current financing arrangements are as follows:

- \$6,500,000 Credit Facility, 5 year term, due March 2011; and,
- \$5,200,000 Ethanol Credit Facility, 5 year term, due October 2013.

Thus, NRG will have to re-finance the bulk of its debt on or before early 2011. Given that the Town of Aylmer is the main urban centre in NRG's franchise area, an abnormally short renewal period would not be viewed favourably by any potential lenders to NRG. In addition, any major new facility requiring stand-alone financing (e.g., the ethanol plant) also would be compromised by having a short-term franchise agreement.

NRG is of the view that the Town's position on this point is contradictory to its stated goal (in its December 11 Memo to Town Council) to "[e]nsure that the economic development opportunities for the community are enhanced by having a supportive natural gas distributor who supplies a

cost-effective alternative source of energy." NRG disagrees with the Town that it has done anything other than be supportive of the Town's ability to attract new industry. However, it seems contradictory to NRG to on the one hand take the position that the incumbent natural gas utility is not supportive of local economic development and on the other hand, hamper that utility's ability to obtain financing by establishing an abnormally short franchise term.

Moreover, the Town has not stated its reasons for offering a franchise renewal period of only three years – which is an exceptionally short period by the Board's standards. NRG can only assume that it relates to the seven conditions that the Town is seeking to impose in the Aylmer Preferred Agreement. As noted in the Application and this pre-filed evidence, NRG accepts two of the seven conditions, and with respect to the other five conditions, provides evidence as to why they ought not be conditions in a franchise renewal agreement. To summarize:

- Condition 1 – Immediate Comprehensive Rate Hearing: Rate hearings take a substantial amount of time to prepare and file, and are not without costs that ultimately get passed on to NRG's customers. NRG does not file annual cost-of-service rate applications, and leaves existing rates in place if NRG believes that no application is needed. If the Town's concerns are with NRG's rates being higher than those of other utilities, the Board has always approved NRG's rates as just and reasonable. Moreover, the Board has in the past examined the competitiveness of NRG's rates vis-a-vis the other utilities. NRG's rates are comparable and in many cases more favourable than those charged by Union or Enbridge (see Exhibit D, Tab 5).
- Condition 2(a) – Implement GDAR Customer Service Measures: These measures are already binding on NRG (see Exhibit D, Tab 6).
- Condition 3(a) – Adopt GDAR Security Deposit Policy: NRG will implement the Board's ultimate amendments to the GDAR that relate to the establishment of security deposit policies by all natural gas utilities, but does not believe that it should be required to adopt such a policy based on the current proposed amendments in advance of other utilities. NRG is of the view that it should wait until the final Board decision is issued (anticipated shortly), and bring its existing security deposit policies into compliance with

1 the final amendments within six months (which is the compliance period being proposed
2 by the Board in EB-2008-0313) (see Exhibit D, Tab 7).

- 3 ■ Condition 3(b) – Adopt a Customer Complaint Policy: NRG is of the view a company-
4 specific customer complaint policy is probably unnecessary because it would be
5 duplicative of the OEB's complaint process (see Exhibit D, Tab 8).
- 6 ■ Condition 3(c) – Adopt a New Gas Service Policy: NRG already has an existing Board-
7 approved document (Natural Resource Gas Limited Gas Service Rules and Regulations)
8 that sets out how the utility provides new gas service (e.g., estimates, etc.) (see Exhibit D,
9 Tab 9).
- 10 ■ Condition 4 – Segregate Customer Deposits into a Trust Fund: NRG believes that there
11 is no rationale to support this request by the Town, unless that requirement is placed on
12 other utilities in the current GDAR amendment process related to security deposits (EB-
13 2008-0313). At present, there is no contemplation that any utilities will be required to
14 keep its security deposit funds segregated. Moreover, the implication of this condition is
15 that NRG is less financially stable than other utilities – which is simply untrue, as
16 evidenced by the recent Union Gas Application to discontinue service to NRG (see
17 Exhibit D, Tab 7).
- 18 ■ Condition 6 – Provide Notice to Town of any Proceeding to Which NRG is a Party: The
19 Board has a long-established practice of ensuring (through its notice requirements) that
20 parties potentially impacted by a proceeding are given notice (either by direct service of
21 the application, or via publication). Further, the Town has never sought to intervene in
22 an NRG rate proceeding. Had it done so, it is NRG's experience that the Town would as
23 a matter of Board practice, be added to the list of traditional intervenors in NRG's
24 applications (see Exhibit D, Tab 10).

IMMEDIATE RATE HEARING

The Aylmer Preferred Agreement contains a proposed condition that “[i]mmmediately upon execution of this Agreement, the Gas Company will apply to the Ontario Energy Board (“OEB”) for a comprehensive rate hearing.”

NRG is of the view that this condition is unnecessary, inaccurate and inappropriate for inclusion in a franchise agreement. Rate hearing applications take a substantial amount of time to prepare and file, and are not without costs that ultimately get passed on to NRG's ratepayers. NRG does not file annual cost-of-service rate applications, and leaves existing rates in place if NRG believes that no application is needed. The regulation of NRG's rates are a matter for Board rate proceedings, and are distinct from franchise considerations.

If the Town's concerns are with NRG's rates being higher than those of other utilities, the Board has always approved NRG's rates as just and reasonable. Moreover, the Board has in the past examined the competitiveness of NRG's rates *vis-à-vis* the other utilities (and in particular Union Gas' rates). In the last NRG rates proceeding, the Board held a Public Forum in Aylmer at which this issue was raised. The Board summarized the reasons for the rate differential in its Decision (EB-2005-0544) dated September 20, 2006:

"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.

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

14
15 The full explanation can be found in the transcripts of that proceeding (EB-2005-0544, volume
16 2, pages 103 to 108), which are attached hereto.

17
18 Faced with this explanation, the Board concluded, at page 5 of its Decision:

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

28
29 All of this evidence was also submitted in reply to the evidence of the Town at the recent
30 application by Union Gas Limited to discontinue service to NRG. It was not canvassed or
31 discussed because the Board in the proceeding determined that the Town's evidence would not
32 be referred to or considered.

33
34 In addition to the above, the following should be noted on this point:

- 35 ▪ With respect to gas commodity, it is difficult to compare Union, NRG and Enbridge,
- 36 since these rates change quarterly and are dependent upon each utility's respective
- 37 portfolio at any given time. Currently (i.e., based on the October QRAMs), NRG's gas

1 commodity cost is 38.9444 cents per cubic meter, which is modestly better than Union's
2 (at 39.3075 cents) but worse than Enbridge's (at about 35.5 cents).

- 3 ■ If you compare the distribution charges for NRG and **Enbridge** for a residential customer,
4 they are virtually identical for a customer using 2,000 m³ of natural gas. Enbridge's
5 distribution rates are in the 14 to 15 cent range, with NRG in the 15 cent range as well.
6 However, NRG has a fixed monthly charge of \$11.50 compared to Enbridge's \$14.
- 7 ■ If you look at the average annual consumption figures of residential customers for each
8 utility, NRG has the lowest overall gas costs on an annual basis (see attached table). This
9 is in part due to the fact that proportionately more of NRG's customers have recently
10 switched **from** oil to natural gas. As a result, the residential heating equipment installed
11 by **NRG's** newer customers is on average much newer and much more efficient than
12 residential heating equipment used by Union Gas and **Enbridge** customers.

1 undertaking again?

2 MR. KAISER: I'm not sure.

3 MR. FAYE: I think we're going delay the undertaking

4 and see if this sheet here answers the question.

5 MR. KAISER: Why don't you look at the document first

6 and then he'll come back to the question. Maybe the

7 document answers it.

8 MR. BRISTOLL: Thank you.

9 MR. FAYE: That exhibit number will be K2.10.

10 **EXHIBIT NO. K2.10: SOURCE DOCUMENT UPON WHICH NRG**

11 **BASES ITS PRICING OF TEE GAS COMMODITY CONTRACT**

12 MR. BRISTOLL: We'll get copies of that.

13 MR. FAYE: Yes, you'll get your original back.

14 MR. BRISTOLL: Thank you.

15 MR. FAYE: Now I'd like to move to something we heard

16 at the public hearing that I think the Panel asked that I

17 bring up at some point during these proceedings.

18 That was that there were a number of Rate 1/Rate 2

19 customers at that meeting that explained that NRG's rates

20 were about 25, maybe 29 percent, higher than comparable

21 Union Gas rates. Have you developed an explanation for

22 this difference?

23 MR. AIKEN: Yes, we have. I did an analysis for a

24 residential customer based on the average residential

25 consumption profile in NRG's territory, which is about

26 2,067 cubic metres per year, and compared the total cost to

27 the customer, the total bill for that year, to a customer

28 served by Union in their southern area, as well as to a

1 customer served in their eastern operations area.

2 The cost of NRG providing gas to a residential

3 customer is approximately 20 percent higher than a customer

4 in Union's southern operations area, and it's approximately

5 7.8 percent higher than a customer in Union's eastern

6 operations area.

7 I also did a comparison of a typical seasonal or

8 tobacco-curing customer, and in this case only with Union's

9 Southern Ontario operations area, because there are no

10 tobacco customers in eastern Ontario. And the typical

11 seasonal customer would pay 16.7 percent more to NRG than

12 to Union Gas. I should note that Union Gas serves their

13 tobacco customers under their all-purpose M2 rate schedule

14 that covers residential customers as well.

15 Now, the difference -- and this, I apologize in

16 advance, may take a while, there are a number of reasons

17 for the higher rates. To put what I'm about to give you in

18 context, NRG's total revenue requirement is approximately

19 \$4 million. And I have a total of eight items here that

20 result in higher rates for NRG customers.

21 The first one and the largest one is the lower

22 residential use that NRG has compared to customers in

23 Union's southwest area. All these comparisons are to

24 Union's southwest.

25 To give you an idea, the forecast here for the 2007

26 test year, the average residential customer of NRG uses

27 2,067 cubic metres.

28 In the recently completed Union Gas hearing for the

1 same year. 2007, they are forecasting average use of 2,479
2 cubic metres.

3 That's a difference of 412 cubic metres per
4 residential customer.

5 When you multiply that by the number of residential
6 customers NRG has times the delivery rate for those
7 customers. that translates into a reduction in revenues
8 because of a lower average use of \$430,000.

9 So that by itself is more than 10 percent of Union's
10 -- or, sorry. of NRG's total revenue requirement, driven by
11 the fact of lower average use.

12 That's the first item. The second item is the same
13 analysis for a commercial customer. And what I've done is
14 I've converted all of NRG's customers to see where they
15 would fit under Union's rate schedules. I should preface
16 this by saying that there is only one customer that NRG
17 currently serves that would qualify to be a contract
18 customer on the Union system, and that's Imperial Tobacco.
19 When they're gone, none of NRG's customers would qualify to
20 be a contract. So they would all be served under their M2
21 rate schedule.

22 Union's average commercial use is a little over 16,000
23 cubic metres. Even pulling in these large customers on the
24 NRG system. the average use for a commercial customer is a
25 little over 11,000. The difference is actually 5,153 cubic
26 metres.

27 Multiplying that by the number of customers,
28 approximately 440, times an average of the first and second

1 block rate that these customers pay, results in a revenue
2 shortfall, I guess you would call it, of \$280,000.

3 Thirdly, the same thing with the industrial use.
4 Union's industrial use is a little over 73,000 cubic metres
5 on average. NRG's is just over 58,000, for a difference of
6 almost 15,000 cubic metres per year.

7 You multiply that by the number of customers, which is
8 approximately 70, times the lower rate, distribution rate,
9 that those customers get charged, results in a reduction of
10 revenues of approximately \$85,000.

11 So those two items -- sorry, those three together are
12 about in the neighbourhood of \$800,000, which is 20 percent
13 of the revenue requirement.

14 Item number 4 on my list is -- I've touched on is that
15 the lack of large-volume contract accounts. Right now the
16 only one is Imperial Tobacco. Union, of course, has very
17 large customers, and quite a few of them.

18 Item number 5 is the return on equity. Essentially,
19 the difference between Union and Enbridge is this 150 basis
20 points that we're talking about, or, I guess, actually 135,
21 given that Union is 15 above Enbridge.

22 That translates into about \$80,000 in additional
23 costs. Item number 6 is the difference between the long-
24 term debt rate that Union has embedded in its rates, which
25 is 7.68 percent. NRG, with its new financing, involving
26 the redeployment costs and everything else rolled in, is
27 8.45 percent. That difference translates into an
28 additional cost to NRG customers of approximately \$50,000.

1 Those are the items where I could quantify. And then
2 I had two other items that I could not quantify but I
3 believe are part of the difference.

4 The first one of those two is the age of the rate
5 base. And what I mean by that is, how much accumulated
6 appreciation has taken place on this rate base.

7 NRG has a relatively new rate base compared to Union,
8 and that's because of the number of customers they've added
9 since 1991. I think we alluded to these numbers on Friday.

10 At the end of 1991 NRG had 2,348 customers. At the
11 end of 2007 we're forecasting that there will be 6,872.
12 That's a growth of 193 percent over 16 years or somewhere
13 in the neighbourhood of 7 percent per year.

14 Along with that growth you have expenditures on
15 meters, regulators and services. These meters, regulators,
16 and services have lives somewhere in the neighbourhood of
17 40 years. But they've only been depreciated at most by 17
18 years. So the net book value is quite high.

19 More specifically, the main additions, 68 percent of
20 the gross value of main additions that the utility is
21 carrying in its rate base have been added since 1991. And
22 in the depreciation that the Board approved a number of
23 years ago, mains are expected to have a 55-year life. So
24 again, those mains, 68 percent of which have been added in
25 the last 17 years, have not depreciated to the same extent
26 that Union's would, because Union is adding a smaller
27 proportion every year.

28 And then the final item comes down to the customer

1 density. And this is especially relevant to the
2 residential customers.

3 NRG is basically a rural utility that serves a couple
4 of small towns, such as Aylmer and Belmont. But they do
5 not have any large urban centres. As a result NRG
6 basically has to put more pipe in the ground to get the
7 same number of customers. You have to go further to find
8 them.

9 The analysis I did do is that a 1 percent increase in
10 residential customers -- in other words, **infill** customers -
11 - would generate about **\$30,000** in distribution margin.

12 I don't have any specific data on the customer
13 density of NRG versus Union, but I think I'm quite safe in
14 saying that because NRG does not have a London or a St.
15 Thomas or a Waterloo, that the density is lower in **NRG's**
16 territory.

17 And this is part of the reason -- this all ties back
18 into the marketing program that Mr. Bristoll has talked
19 about, is to get that number of customers up so there's
20 more revenue being generated. But that concludes my essay
21 on the difference in rates.

22 MR. KAISER: Do you think it's possible to convert the
23 essay into a table?

24 MR. AIKEN: I could convert the first six where there
25 are numerical estimates.

26 MR. KAISER: Right.

27 MR. AIKEN: Yes.

28 MR. KAISER: That would be helpful, Mr. Aiken.

NATURAL RESOURCE GAS LIMITED
Rates Comparision
For Rates in Effect as at October 1, 2008

	Limited		Union Gas		Union Gas		Enbridge	
	\$	Per m3	\$	Per m3	\$	Per m3	\$	Per m3
Consumption (m3)								
Average Annual Consumption		<u>2,000</u>		<u>2,000</u>		<u>2,600</u>		<u>3,064</u>
Average Monthly Consumption		<u>167</u>		<u>167</u>		<u>217</u>		<u>255</u>
Average Monthly Charge								
Gas Commodity	\$ 64.91	\$ 0.39	\$ 65.51	\$ 0.39	\$ 85.17	\$ 0.39	\$ 86.19	\$ 0.34
Monthly Rate	\$ 11.50	\$ 0.07	\$ 17.00	\$ 0.10	\$ 17.00	\$ 0.08	\$ 17.00	\$ 0.07
Storage	-	-	1.62	0.01	2.11	0.01	-	-
Delivery	25.50	0.15	11.99	0.07	15.59	0.07	41.14	0.16
Total Delivery	<u>\$ 37.00</u>	<u>\$ 0.22</u>	<u>\$ 30.62</u>	<u>\$ 0.18</u>	<u>\$ 34.70</u>	<u>\$ 0.16</u>	<u>\$ 58.14</u>	<u>\$ 0.23</u>
Total Average Monthly Billing	<u>\$ 101.91</u>	<u>\$ 0.61</u>	<u>\$ 96.13</u>	<u>\$ 0.58</u>	<u>\$ 119.87</u>	<u>\$ 0.55</u>	<u>\$ 144.33</u>	<u>\$ 0.57</u>

PROPOSED GDAR CUSTOMER SERVICE MEASURES

3 The Aylmer Preferred Agreement included as a proposed condition that by December 15, 2009
4 NRG "implement the proposed amendments to the Gas Distribution Access Rule (EB-2008-
5 0313) regarding customer service measures, whether or not the OEB has made them mandatory
6 by such time."

7
8 NRG seeks further clarification from the Town with respect to this proposed condition. The
9 current EB-2008-0313 Board proceeding deals exclusively with the Board's proposed
10 establishment of a standardized security deposit policy for all natural gas utilities in Ontario.
11 This standardized policy is being proposed by way of amendments to the Gas Distribution
12 Access Rule ("GDAR). The proposed amendments being considered in the EB-2008-0313
13 proceeding do not deal with "customer service measures", as suggested by the Town's proposed
14 condition.

15
16 If the Town instead is seeking to have NRG comply with the service quality requirements set out
17 under Rule 7 of the GDAR, these are already in effect, and applicable to NRG.

PROPOSED GDAR SECURITY DEPOSIT POLICIES

The Aylmer Preferred Agreement included the following two proposed conditions in respect of security deposits:

3. a) That NRG will by May 15, 2009 "adopt and adhere to a written and publicly available consumer security deposit policy which includes clear information about the circumstances in which a security deposit is required, how the amount of the deposit is calculated, the circumstances in which the deposit will be returned to the customer, that all deposits will be returned by cheque unless otherwise requested in writing by the customer, and that a maximum dollar value for any security deposit be calculated using the proposed calculation in the OEB proposed amendments to the GDAR (EB-2008-0313)."

4. That NRG will keep all monies from consumer security deposits in a trust fund and not use such monies as working capital.

As a regulated gas utility, NRG is monitoring the Gas Distribution Access Rule ("GDAR") proceeding (EB-2008-0313) and has reviewed the Board's October 8, 2008 notice of proposed amendments to the GDAR, which would have the effect of establishing a standardized regulatory framework for collecting and administering security deposits by all distributors in Ontario.

NRG has no objections to the proposed provisions related to natural gas utilities. In fact, NRG was pleased to find that its current security deposit policy is in many respects consistent with or comparable to the proposed standardized framework.

Upon the conclusion of the GDAR proceeding and the finalization of the standardized framework, NRG will bring its security deposit policy in line with the final framework in accordance with whatever **timeline** the Board mandates. Based on the draft framework issued by the Board, NRG anticipates that the final framework and, in turn, NRG's security deposit policy

1 once amended in accordance with the framework, will address all of the items enumerated in the
2 Town's proposed condition above.

4 Notably, the Board's proposed framework does not contemplate any requirements for
distributors to keep monies received from consumer security deposits segregated in trust funds,
6 not to be used for working capital. The Town's proposal in this regard implies that NRG is
7 experiencing or at a high risk of experiencing economic hardship. As was discussed in EB-2008-
8 0273, which was recently heard by the Board, this is simply not the case. NRG therefore does
9 not see a need for its security deposits to be segregated.

10
11 In terms of timing, the Board has proposed that the amendments to the GDAR come into force
12 on the first day of the month that is 6 full months from the date on which the amendments are
13 published on the OEB website after having been made by the Board. As such, NRG does not
14 intend to make any amendments to its security deposit policy until such time as the GDAR
15 proceeding has been concluded and the policy can be amended to bring it into line with the
16 standardized approach. In NRG's view, it would be imprudent to adopt a security deposit policy
17 based on the Board's current proposed policy, because that policy might change before being
18 finalized.

CUSTOMER COMPLAINT PROCESS

The Aylmer Preferred Agreement included as a proposed condition that NRG "adopt and adhere to a written and publicly available complaint process for its customers."

NRG believes such a process is unnecessary, because it is duplicative of the Board's existing utility complaints process. The Board's process for receiving and responding to complaints about utilities is set out publicly on the Board's website as follows:

"If you have a question or concern about an electricity or natural gas utility, an electricity retailer or a natural gas marketer, please let us know. We regulate Ontario's energy sector and part of our role is ensuring that companies follow all applicable laws, regulations and regulatory requirements that we have authority to enforce.

As part of our role, we:

- provide information to consumers on the energy sector and consumer issues
- work with utilities, retailers and marketers to ensure they understand and comply with their legal and regulatory obligations
- facilitate interaction between utilities, retailers and marketers and consumers who have complaints, by bringing the complaint to the attention of the company and helping to resolve complex or difficult matters
- track trends in the marketplace to identify consumer issues and determine how to best address them
- investigate allegations that a utility, retailer or marketer is not meeting its legal or regulatory obligations."

This public process is easily accessible by consumers, and offers an impartial arbiter for any disputes. NRG supports the Board's complaint process, and thinks a company-specific process would not provide any value to customers.

NEW GAS SERVICE POLICY

The Aylmer Preferred Agreement included as a proposed condition that, by May 15, 2009, NRG will "adopt and adhere to a written policy regarding meeting with and providing written estimates for providing natural gas services to new and relocating retail, commercial and industrial customers on a timely basis and at a competitive rate."

NRG already has such a policy – see the *Natural Resource Gas Limited Gas Service Rules and Regulations* ("NRG Rules"), first made August 1, 1995, and periodically updated and approved at NRG's cost of service rate proceedings. The most recent version of the NRG Rules is dated December 20, 2005 and is attached hereto. The NRG Rules cover a number of service issues, including natural gas service initiation (including an Application for Gas Service), responsibility for piping on the customer-side of the meter, inspection of new and existing installations, service maintenance, charges for customer service work, rental equipment service, etc. NRG always provides estimates to potential new customers.

The most recent version of the NRG Rules was approved at NRG's last rates proceeding (EB-2005-0544). It is submitted for approval as a matter of course in all rate proceedings.

To the best knowledge of NRG's current management, the Town has never elected to participate in an NRG rates proceeding, as such the Town may not have a copy of the NRG Rules. Neither its December 11th Memo nor its proposed Schedule A to the Aylmer Preferred Agreement set out specific changes that the Town would like to see made to the NRG Rules. However, NRG is of the view that if specific changes are sought, the place to do so would be in NRG's next rate proceeding, where these issues are typically dealt with. By tying them to the franchise agreement, it would tie those changes to the ultimate term of the franchise agreement. It seems more prudent for all involved – especially the Town – to be able to revisit these more frequently (i.e., at each rate case) – as is the current practice.

NATURAL RESOURCE GAS LIMITED

GAS SERVICE

RULES & REGULATIONS

Effective **August** 1, 1995

Revised December 20, 2005

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1. INITIATION OF SERVICE

1.1 APPLICATIONS

The Company may, at its discretion, accept applications for gas service on existing service laterals or new service laterals. Each applicant must complete an Application for Gas Service in the form attached as Schedule 1A. Any business or company making application must also complete a Credit Application in the **form** attached as Schedule 1B. The applicant must complete both sides of the blue copy and will receive the yellow copy for their records after approval.

The only exception to the above shall be in the case of contract rate customers. Contract rate customers are required to execute a contract for a specified term of not less than one year.

The Company will charge a \$30.00 **transfer/connection** charge, plus GST, on all approved applications, which will be charged on the first gas billing.

1.2 SECURITY DEPOSITS

All Residential & Commercial Customers

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.

Minimum - \$ 0

Maximum - an amount equal to 2.5 months of the highest consumption

An increased deposit for disconnected accounts will **be** determined by the General Manager.

1. Commercial & Industrial Accounts (over 15,000 M³/Yr)

Minimum - \$ 0

Maximum - An amount determined by the Company in relation to the charges for previous or estimated consumption of gas

Unconditional "Letters of Credit" ~~from~~ a customer's banker in an appropriate amount or a personal guarantee ~~from~~ the owners may be accepted in lieu of cash security on commercial **and** industrial accounts.

All Accounts

Simple interest will be paid on cash security deposits at a rate established annually equal to the interest rate paid on savings accounts by the bank with which the Company carries on the majority of its banking,

Prior to reconnecting an account disconnected for non-payment, the Company will require an additional deposit as determined by the General Manager.

Should the customer fail to pay the requested amount of deposit, the service will be disconnected. A reconnection charge must be paid together with the security deposit before the gas will be reconnected.

Deposits may be refunded at the option of the Company to customers who have established a good credit history and whose deposits have been held for a **minimum** of 12 months. When a customer discontinues service and all accounts are **settled** in full, any deposits not previously returned will **be** refunded to the customer. **If** the customer's account is not settled in **full** prior to requesting the **refund**, the deposit will be applied to pay **any** unpaid amounts **with** the remaining balance being refunded to the customer.

1.3 MAIN EXTENSIONS

The Company will make extensions of its mains to some applicants when, in the sole discretion of the Company, the main extension is economically feasible.

When the extension is not economically feasible, the applicant will be required to pay an "Aid to Construction" in an amount determined by the Company to make the project economically feasible.

1.4 SERVICE LATERAL INSTALLATIONS

Service laterals will only be **installed** provided that:

- (i) an application (contract) has been properly completed and approved,
- (ii) any deposit required has been collected,
- (iii) any main extension can be justified in accordance with the Company's line extension practice, and
- (iv) any charges for service lateral installation in accordance with the following have been paid

All Customers • A gas service lateral extending **from** the property line to the meter location selected by the Company will be installed for a fee of **\$80.00** for the first 20 meters plus an additional charge of **\$7.00** per meter thereafter.

Meter Set Locations are determined as follows:

- a) For residential customers, meters may be located on the **front** or on either side of the dwelling in which it serves. If the meter is located along one of the sides of the dwelling, the distance **from** the **front** corner to the meter location cannot exceed **10** feet.
- b) All meter set locations must comply with the Technical Standards and Safety Act and Codes and Standards Adopted by Regulation.
- c) When the distance **from** the property line to a dwelling or building requiring the gas service exceeds 100 meters, it may be required that the meter be located near the property line. In these cases, a cost estimate must be done to determine the outlet cost of underground piping **from** the meter set to the building.

1.5 CUSTOMER PIPING

Applicants for service shall, at their own expense, equip their premises with all piping **and** attachments **from** the meter to the **appliances** or equipment served. It is the customer's responsibility to maintain the piping and equipment beyond the outlet side of the meter. Such piping and attachments shall be installed and maintained in accordance with the rules of the Company and the Technical Standards and Safety Act and Codes and Standards Adopted by Regulation.

Meters will not be connected with customer's piping when that piping **and/or** appliances or heating equipment attached thereto are known by the Company to be defective or not in accordance with applicable rules and regulations, ordinances or codes. The Company reserves the right to discontinue service at any time it **finds** the piping, venting, appliances or other **gas-fired** equipment on customer's premises defective or in an unsafe condition.

The customer is expected to immediately notify the Company of any leakage or escape of gas on his premises.

1.6 INSPECTION OF NEW AND EXISTING INSTALLATIONS

All inspections shall conform to the "Ontario Energy Act" and the "Technical Standards and Safety Act and Codes and Standards Adopted by Regulation" and amendments in force at the time of inspection.

All new installations of supply piping **and gas** appliances on premises served with gas for the **first time**, require inspection to ensure that they are in accordance with legislative requirements.

A general inspection will be made of **gas** appliances and installations:

- (a) whenever a meter is initially installed,
- (b) whenever a meter is changed,
- (c) whenever a meter is physically reset on an inactive **service** or account, or
- (d) in accordance with the requirements of the Ontario Energy Act

A modified inspection will be made of vented gas appliances:

- (a) whenever a previously inactive account is reactivated,
- (b) when a meter is **turned** on after credit lock offs, seasonal turn offs or routine repairs to **mains** or services, or
- (c) when vented equipment is lit up after component replacement

2. MAINTENANCE OF SERVICE

2.1 MAINTENANCE

The Company and its authorized representatives shall have the right to enter the premises of the customer at all reasonable times, upon reasonable notice, to read, inspect, test, repair, replace or remove meter and regulator equipment.

2.2 TESTING METERS

Meters will be tested at the Company's option or at the request of the customer or when required by legislative requirements. When a meter is tested at the customer's request, the Company will collect **from** the customer any cost involved in the removal, testing, Government inspection and meter replacement where it is determined that the meter was **within** acceptable tolerances.

2.3 SERVICE DEPARTMENT CHARGES

The Company provides regular service during the normal working hours, and emergency service 24 hours per day.

(i) **Charge for Service to Customer Owned Appliances**

Repairs will be performed on a time **and** material basis in accordance with the Company's prevailing parts and labour prices, except when covered by Company or manufacturer's warranties.

(ii) **Charge for Service to Company Owned Appliances**

The Company agrees to supply such maintenance as in the judgement of the Company is required for the proper use of the appliance at no charge to the customer.

(iii) The Company does not charge for leak complaints, insufficient gas supply, inspection of appliances in accordance with **Government** Regulations. Repairs required to remedy gas leaks and **insufficient** supply of gas from causes downstream of the meter, will be charged on a time and material basis.

24 CUSTOMER SERVICE WORK

The following are the rates currently in effect by the company. These rates are subject to amendment from time to time.

Regular Hours

Minimum charge (initial 30 minutes)	\$46.20
31 to 60 minutes	\$63.80
each additional 30 minutes	\$28.60

After Hours

Minimum charge (initial 30 minutes)	\$81.95
31 to 60 minutes	\$105.60
each additional 30 minutes	\$52.80

Disconnection- Non Payment or Discontinuance of Service (i.e. seasonal)

Flat Fee	\$78.00
----------	---------

Customer Transfer/Connection Charge

Flat Fee	\$30.00
----------	---------

7% CST ~~will~~ also be added to the above charges.

3. RENTAL EQUIPMENT

3.1 MONTHLY RENTALS

The Company rents water heaters and water softeners. Water softeners are also rented on a rent to own basis. The rates for water heaters are as indicated below:

Conventional Models

30 US Gallon	\$6.85 – 8.40 monthly
40 US Gallon	\$7.25 – 9.70 monthly
50 US Gallon	\$8.40 – 12.00 monthly
60 US Gallon	\$9.50 – 12.25 monthly

Power Vented or Direct

40 US Gallon	\$12.80 – 15.50 monthly
50 US Gallon	\$13.90 – 17.00 monthly
60 US Gallon	\$15.30 – 22.00 monthly
50/65 US Gallon	\$15.60 – 18.95 monthly

The rental for water heaters other than those listed above will be calculated by the General Manager.

Water softeners are rented at the rate of **\$24.95** per month. Customers choosing the rent-to-own program can rent the water **softener** for \$40.50 per month for 36 months **after** which the water softener becomes the **property** of the customer.

3.2 INSTALLATION COSTS

The customer bears the initial installation cost of all equipment. Such installation done by NRG is generally done on a quoted basis. NRG may, **from** time to time, offer installation assistance through its marketing and promotion efforts. The cost of installing replacement units still under **warranty** is borne by the Company.

3.3 ~~NT~~ FREEMEN

Prior to installation of a rental water heater, or removal from inventory for rental, a Rental Agreement form must be completed by the customer in the form attached as Schedule 2. The blue copy remains in the **office**, the yellow copy is returned to the customer after insertion of the installation and contract dates, and serial and Company numbers.

A Rental Agreement must also be completed by an applicant who is moving into a **property** where a rental water heater exists. The **form** can be **fully** completed at the time of application, and the yellow copy may be given to the customer at that time for his records.

4. BILLINGS & COLLECTIONS

4.1 BILLINGS & COLLECTIONS

Bills will be issued and payable monthly and must be paid at or mailed to the office of the Company, an established collection agency of the Company, or at any chartered bank authorized by the Company.

Bills for gas service **furnished** by the Company are due when rendered. For customers paying their bill **after** sixteen days **from** the billing date, a late payment charge will apply (see section 4.2).

Bills will be mailed to the customer at the last known address **as** shown on the Company records, unless the customer has directed the Company to send the bill to another address.

Gas consumed will be based on meter readings, or estimates with an estimated bill issued for interim months, and will be computed on the applicable rate schedule approved by the Ontario Energy Board. Any necessary adjustments due to estimated bills will be made on the next regular billing.

A claim for an error in billing should be made by the customer **as** soon as discovered. If in the opinion of the Company the claim is valid, the Company will make a proper adjustment to the bill.

Where billing errors have resulted in overbilling, the customer will be credited with the amount erroneously paid for a period not exceeding six years.

Where billing errors have resulted in **underbilling**, the customer shall be charged with the amount erroneously not billed for a period not exceeding:

- (a) two years, in the case of an individual residential customer who **was** not responsible for the error, and
- (b) six years, in other cases.

The timing for billings and notices etc., will be as follows. The days represent the days **after** the end of a billing cycle (**e.g.** if a normal billing cycle ended on the 14th of the month, day one would commence on the 15th).

- Day 1 to 3 Reading, billing and mailing of invoices
- Day 17 to 19 Bills due
- Day 24 to 28 Reminder Notices mailed out on past due accounts. For customers who are **two** months in **arrears**, a hand delivered notice is given to the customer that shows the date on which the account is to be disconnected. See also comments in section 5.1
- Day 30 to 32 For those customers who have received the hand delivered notice and have not paid by the date noted in the letters, disconnections take place.

4.2 DELAYED PAYMENT

Bills or due upon rendering. Payments made after sixteen days **after** the billing date will be considered late and those accounts will have their balances increased by 1.5% of the amount unpaid after sixteen days. Payments made at any chartered bank will be considered paid **on** the **date** payment is made to the bank. Any amounts unpaid for subsequent months will be increased by a further 1.5% for each billing cycle that the balance **remains** unpaid. **The** minimum increase will be \$1.00.

4.3 PAYMENT BY MAIL

When payments are made by mail, bills will be considered to have been paid on the date received by the company.

4.4 **BUDGET BILLING PLAN**

The budget plan for payment of gas bills is designed to equalize the monthly payments for **gas** service of residential customers using **gas** for heating purposes and is available to any heating customer who can establish satisfactory credit with the Company.

New residential heating customers and **existing heating** customers with satisfactory credit and no balance outstanding, may be enrolled in the plan at their request. Customers may withdraw **from** the plan at any time upon notification to the Company.

The Company will estimate the aggregate amount of the customer's bill for **gas** service for a normal year's operation **from** June to April. Such estimated amount will then be divided by eleven, rounded up to the next \$5.00 or \$10.00 amount, and shall be the monthly budget instalment the customer will pay in lieu of the regular monthly billing

Bills for the month of May will be computed for settlement of the account either by the customer paying the excess of actual charges incurred over the sum of budget payments made, or **by** the Company crediting to the customer any credit balance then existing. This budget to actual difference will be added or subtracted, **as** the case may be, to the actual gas charges incurred on bills for the month of May.

Any estimate **furnished** by the Company in connection with such payment plan shall not be construed as a guarantee or assurance that the total actual charges will not exceed the estimates. The Company may at any time submit a revised estimate to the customer and require that the customer pay the revised monthly budget **instalment** as a condition to the continuation of the budget payment plan for that customer.

Such estimates shall apply only to the premises then occupied by the customer. If the customer vacates such premises, the budget payment plan with respect to those premises, and for that customer, shall immediately terminate and any amount payable by the customer shall be paid or any **amount** due to the customer by the Company shall immediately be **refunded**.

4.5 **GROUP BILLINGS**

Combinations of reading **from** several meters may be done at the Company's sole discretion.

Group billing will be **permitted** only in special situations at the discretion of the Company.

5. DISCONNECTION & RECONNECTION OF SERVICE

5.1 DISCONNECTION & RECONNECTION - NON PAYMENT

All bills for service are due when invoices are rendered. If any bill for gas service remains unpaid after the date of payment shown on the reminder notice, the Company shall have the right to discontinue such service upon two days notice in writing of its intentions. Such discontinuance of service may be in effect until the bill, together with any other arrears, disconnect and reconnect charges, and additional deposits, have been paid. Special provisions may apply to customers who are consistently in **arrears** as described in the **following** paragraph.

If a customer is continually in arrears and the company is forced to take steps to collect the balances due, then the company may identify that customer for special collection procedures. Any customers who are so identified may be required to have deposited with the company a deposit equal to 2.5 times their highest bill in the preceding twelve months. In addition, those customers will only receive one notice prior to the notice of disconnection.

If contract rate customers fail to pay all of the amount of any bill when such amount is due, and if **failure** to pay continues for **thirty** (30) days **after** payment is due, the Company in addition to any other remedy it may have under the gas sales contract, may suspend further delivery of gas until such amount is paid. **If the** customer in good faith disputes the amount of any such bill or part thereof and pays to the Company such **amounts** as it considers to be correct and at any time thereafter within twenty **(20) days** of a demand made by the Company shall **furnish** surety bond satisfactory to the Company, guaranteeing payment to the Company of the amount ultimately found due upon such bill **after** a **final** determination which may be reached either by agreement, arbitration decision or judgement of the courts, the Company will not suspend further delivery of gas because of such non-payment unless and until default be made in the conditions of the bond.

The charges for disconnection and reconnection is a flat fee charge of **\$78.00** plus **GST**

5.2 N' FOR CAUSE OTHER THAN PAYMENT

Service may be discontinued by the Company at any time to prevent **fraudulent** use or to protect its property.

The Company further reserves the right upon discovery of any condition of the customer's appliance or piping which is, in the opinion of the Company, immediately hazardous to life and property, to discontinue gas service until such time as the hazardous conditions shall be remedied.

5.3 DISCONTINUANCE ON CUSTOMER'S ORDER

The agreement between the customer and the Company created by the acceptance of the customer's request for gas service, where no contract for a ~~main~~ extension or term of **service** is involved, shall continue in full force and effect until terminated by the customer (except as provided under Sections 5.1 and 5.2) giving sufficient notice to a Company business office relative to the intent to discontinue service. The customer shall be liable for all gas supplied to the premises and safe custody of the **Company's** property until service is discontinued in accordance with the customer's instructions. When a customer requests disconnection of service within 90 days of connection, a disconnection charge of \$78.00 plus GST will be applied to the final billing.

5.4 TEMPORARY DISCONTINUANCE OF SERVICE

Customers who temporarily discontinue service during any twelve consecutive months without payment of a monthly fixed charge for the months in which the gas is temporarily disconnected, shall pay for disconnection and reconnection.

5.5 DISCONNECTION & RECONNECTION CHARGES

For services connected for less than 12 months the disconnection and reconnection fee is \$78.00 plus GST.



Natural Resource Gas Limited
PO Box 307.39 Beech St. E.
Aylmer, Ont. N5H 2S1

Natural Resource Gas Limited Application for Gas Service

Aylmer: 519-773-5321
Service Department

_____ 20 _____
I/WE _____ (the 'Customer')

apply to Natural Resource Gas Limited ("the Company") for gas service at _____
_____ (the 'premises')

according to the **following** terms and conditions:

- 1, The Customer agrees to pay accounts when due.
2. Customer agrees that a meter connection will be established immediately after the installation of the service line and will be subject to the monthly fixed charge from that date.
3. Customers intending to vacate premises supplied with gas or to **discontinue** the use of gas shall give **notice** to the Company at 39 Beech Street E., Aylmer, Ontario or other such address as customer may be advised, fifteen (15) days before the Customer intends to discontinue service and in default of providing such **notice**, the Customer will remain **liable** for all gas which passes through the meter until such notice is given. In the event accounts for natural gas, rentals or other services are not **paid** in accordance with this agreement and collection procedures are made by the Company and/or its agent, Customers will be **liable** for collection costs incurred by the Company and/or its agent.
4. If the Customer discontinues service within ninety (90) days of application for gas service, there will be a charge for removal plus GST, or such charge as is currently in effect by the Company which will be added to the final billing and/or deducted from the original deposit.
5. The Company may discontinue service and disconnect and remove the meter for repair, lack of supply **and/or** non-payment of bills (including late penalty charges) when due. The original deposit will be refunded upon full payment of any outstanding amount.
- 6: Gas will be supplied to a meter installed by the Company. If that meter should fail to register the quantity of gas consumed or it access to read the meter cannot be made, the account of the Customer will **be** estimated by the Company.
7. Customer agrees to give immediate notice at the **office** of the Company of any escape of gas. In case of a leak, the **stop**-cock at the meter must be **immediately** closed and no light taken near the escape until after free and full ventilation.
8. Except in the case of an emergency, the Company **and/or** its authorized agent shall at all reasonable hours, have access to the premises for the purposes of examining, regulating **or** repairing the gas apparatus **installed**, ascertaining the quantity of gas consumed or supplied **and/or** to **discontinue** or remove the meter. In the case of an emergency, the Company **and/or** its authorized agents shall have access to the premises at any hour.
9. The Company shall not be liable for any damages or losses resulting from any failure to supply. The Customer agrees **with** the Company that the Company will be not held liable by the Customer for any loss, damage, injury or delay to any person or to any property **resulting** from the transportation, storing or any use of the gas supplied to the premises **including** any damage or loss from explosion or **fire**. Further the Customer agrees to indemnify and save harmless the Company from and against all claims and demands **arising** out of the transportation, **storing** or use of the gas supplied to the Customer's premises including any loss or damage from explosion or fire made by any **person** and from and against all damages, losses, costs, charges and expenses which the Company may sustain or **incur** and be liable for as a consequence of any such claim or demand.
10. The Customer acknowledges that there will **be** a late charge on the past due amount (minimum \$1.00) if the bill is not paid within sixteen (16) days of rendering and there will be a monthly fixed charge of _____ Both of the charges are subject to revision and approval by the Ontario Energy Board.
11. The Customer acknowledges that there will be a **transfer/connection** charge of \$30.00 plus GST, or as may be ordered by the Ontario Energy Board, which will be charged on the **first** billing.

SIGNATURE OF APPLICANT _____

'POSIT RECEIVED: \$ _____ DEPOSIT RECEIVED BY: _____

PREMISES OWNED BY: _____

SEE REVERSE FOR CREDIT APPLICATION

NATURAL RESOURCE GAS LIMITED - RENTAL AGREEMENT

NRG, please supply the following goods to:					Owner <input type="checkbox"/>	Tenant <input type="checkbox"/>	Builder <input type="checkbox"/>	Telephone Number
address			City	Postal Code	Contract Date			
Installation Address (if other than above)			City	Postal Code	Bill as Rental Only			
ADDITIONS	Gas to Gas <input type="checkbox"/>	Builder <input type="checkbox"/>	Other Fuel to Gas <input type="checkbox"/>	Other (specify) <input type="checkbox"/>				
REPLACEMENTS GAS TO GAS	Upgrade <input type="checkbox"/>	Leaker <input type="checkbox"/>	Limited Up <input type="checkbox"/>	Other (specify) <input type="checkbox"/>				
DELETIONS	Demolitions <input type="checkbox"/>	Rental to Sale <input type="checkbox"/>	Gas to Gas <input type="checkbox"/>	Gas to Other Fuel <input type="checkbox"/>	Other <input type="checkbox"/>			
Natural Resource Gas (hereinafter called NRG) leases to the Customer and the Customer rents from NRG the following:								
Equipment	Res. <input type="checkbox"/> Comm. <input type="checkbox"/> Ind. <input type="checkbox"/>	Water Heater Size	Description of Equipment	Monthly Rental \$	TAX	Yes	No	
					GST	<input type="checkbox"/>	<input type="checkbox"/>	
					PST	<input type="checkbox"/>	<input type="checkbox"/>	
Other Equipment	Description of Equipment			Monthly Rental \$	GST <input type="checkbox"/>	PST <input type="checkbox"/>		
Model Number (Commercial & Industrial Equipment Only)			Original Date of Installation	Year 20	Month	Day	Min. # Bills	
IS - E	Qty	Stock Number	Make	Mfg Code	Serial Number			Account Number
" (hereinafter called the Appliance) from the date hereof, for a monthly rental of \$_____ (plus applicable sales taxes), which monthly rental amount shall be subject to increase by NRG on at least thirty (30) days prior written notice and subject to the Conditions on the reverse side hereof."								
Natural Resource Gas (hereinafter called NRG) leases to the Customer and the Customer rents from NRG the following:								
Equipment	Res. <input type="checkbox"/> Comm. <input type="checkbox"/> Ind. <input type="checkbox"/>	Water Heater Size	Description of Equipment other than Water Heater	Monthly Rental \$	TAX	Yes	No	
					GST	<input type="checkbox"/>	<input type="checkbox"/>	
					PST	<input type="checkbox"/>	<input type="checkbox"/>	
Removal Date	Year 20	Month	Day	Original Installation Date	Year 20	Month	Day	Storeroom
							Original Contact #	
RETURN	Qty	Stock Number	Make	Mfg Code	Serial Number			Account Number
<input type="checkbox"/> Scrapped <input type="checkbox"/> In Inventory								
ALL CONDITIONS OF RENTAL AGREEMENT ON REVERSE SIDE								

Executed in duplicate this _____ day of _____ 20____

Customer Signature

Sales Department Signature

NRG not responsible for any damages resulting from tank leakage.

I hereby consent to the supply of service and installation of the equipment in the above premises, owned by me and agree to the conditions so forth herein. Any equipment of the Owner's removed by NRG in accordance with this authorization shall be left by NRG in the said premises and NRG shall have no further responsibility with respect to same.

Owner's Signature

Owner's Address

CONDITIONS OF RENTAL AGREEMENT

1. The **CUSTOMER** agrees to permit **and** keep the Appliance at the above **address** or at such **other** address as NRG may **agree** to in writing. **The CUSTOMER agrees** to protect the Appliance from any lien or **encumbrance** of any nature **whatsoever** and the CUSTOMER agrees not to sublet or **assign his interest hereunder** or part with **possession** of the Appliance without the written consent of **NRG**. The CUSTOMER **shall** supply adequately sized and **properly** charged **water conditioning** equipment, **as** specified by NRG. In the **event** the CUSTOMER **fails** to supply and maintain adequately **sized** equipment, the **CUSTOMER** shall reimburse NRG for **all** costs **incurred** **as** a result of such **failure**. **The CUSTOMER** further **agrees** to keep the Appliance **insured** for the full **insurable** value thereof. **EXCEPT AS SPECIFICALLY PROVIDED HEREIN THE APPLIANCE SHALL BE OPERATED AT THE RISK OF THE CUSTOMER AND CUSTOMER AGREES TO INDEMNIFY AND SAVE HARMLESS NRG FROM ANY AND ALL CLAIMS AND DAMAGES HOWSOEVER CAUSED ARISING OUT OF THE USE OR THE INSTALLATION OF THE APPLIANCE.**
2. Ownership of the Appliance **shall** at **all times** remain in NRG.
3. NRG **shall maintain** and **repair** the Appliance **at** its own **expense** provided that **the** CUSTOMER will **indemnify NRG** from any such costs or **expenses arising** as a **result** of damage to or destruction of the Appliance from any cause, **reasonable** wear and tear excepted.
4. If the **CUSTOMER** discontinues using **gas** supplied by **NRG** or fails to perform or observe any of the **conditions herein**, NRG may forthwith **terminate** this agreement **and** without any previous notice **or demand** or **process of law** enter the **premises wherein the Appliance is** situated to repossess the same. If the Appliance **is** removed by NRG as **aforesaid**, NRG **shall** not be liable for **any damages resulting** from such **removal**. If the CUSTOMER defaults within twelve months from the installation date, then in **addition** to any other rights NRG may have, the rental for the **remaining** months **shall**, at **NRG's option**, be due and payable immediately.
5. It **is** agreed by **the** CUSTOMER **and** NRG that the Appliance shall **remain** **personalty**.
6. T i e is of the **essence**.
7. The terms of this Agreement constitute the entire Agreement between the **parties and**, except the monthly **rental** amount which is subject to **increase** by NRG, no modification to this **Agreement** shall be made **accept** in **writing signed** by both parties.
8. Some of the information contained in this application **constitutes** 'personal **information**' and is thereby **covered** under **Federal** privacy legislation. NRG obtains this information in order to bill for the **rental** of the **products** identified in this agreement, **repairs** and service to the equipment and for collections of arrears of amounts owing under this agreement. NRG does not **share** this information with third parties with the exception of consultants, professional advisors **and** regulatory **bodies**. **All** of these patties **are bound by** their own privacy obligations which restricts **further** dissemination of such information.



Natural Resource Gas Limited

P.O. Box 307, 39 Beech Street East
Aylmer, ON N5H 2S1

Phone: 519-773-5321

SERVICE POLICY**Regular Hours Calls**

See section 2.4 for rates to be charged.

All service calls to be done on a time and material basis except for the following:

1. New equipment sold by **NRG**, no charge for the first year except for parts that are not guaranteed for one year.
2. No charge for service of any kind on any call due to failure of Company equipment.
3. After hours calls (see section 2.4 for rates).
4. All charges to be collected at time of call, unless otherwise authorized.

MISCELLANEOUS**1. Returned Cheques**

Account Closed
Cannot Trace
Funds Not Cleared
More **Than** One Signature Required
No Chequing Privileges \$20.00 for each plus GST
Not Sufficient **Funds**
Present Again
Refer to Drawer
Signature Required
Signature Irregular
Body & Figures Differ

2. Lawyer's Letters

Reply to request for account information \$20.00 plus GST

NATURAL RESOURCE GAS LIMITED

SCHEDULE OF SERVICE CHARGES

	Fiscal <u>2004</u>	Fiscal <u>2005</u>	Fiscal <u>2006</u>	Fiscal <u>2007</u>
Rental Water Heaters (monthly rental rates)				
30 gallon	\$ 6.50-6.70	\$ 6.85-7.00	\$ 6.85-7.00	\$ 7.05-8.55
40 gallon	\$ 6.70-7.60	\$ 7.25-9.70	\$ 7.25-9.70	\$ 7.50-10.00
40 gallon PV	\$12.10-13.60	\$12.80-15.50	\$12.80-15.50	\$13.20-15.95
50 gallon	\$ 7.80-8.55	\$8.40-12.00	\$8.40-12.00	\$8.65-12.35
50 gallon PV	\$13.10-14.60	\$13.90-17.00	\$13.90-17.00	\$14.30-17.50
60 gallon	\$ 8.95-\$9.70	\$ 9.50-12.25	\$ 9.50-12.25	\$ 9.80-12.60
60 gallon PV	\$14.40-15.60	\$15.30-22.00	\$15.30-22.00	\$15.75-22.00
Connect/Transfer Charge	\$30.00	\$30.00	\$30.00	\$30.00
Reply to Lawyer's Letter	\$20.00	\$20.00	\$20.00	\$20.00
Disconnection Charge	\$56.25	\$56.25	\$78.00	\$78.00
NSF Charge	\$20.00	\$20.00	\$20.00	\$20.00
Contract Work	ON A QUOTED BASIS			
Merchandise	PARTS MARKED UP 30 – 50%			
Customer Service Work – Regular Hours				
Minimum Charge	\$30.00			
11 to 20 minutes	\$35.25			
21 to 30 minutes	\$40.50			
up to 30 minutes	\$42.00	\$42.00	\$46.20	\$48.50
31 to 40 minutes	\$45.75			
41 to 50 minutes	\$51.00			
51 to 60 minutes	\$56.25			
up to 60 minutes	\$58.00	\$58.00	\$63.80	\$67.00
Each additional 10 minutes	\$ 5.25			
Each half hour or part thereof	\$26.00	\$26.00	\$28.60	\$30.00
Customer Service Work – After Hours				
Minimum Charge	\$40.00			
11 to 20 minutes	\$47.25			
21 to 30 minutes	\$54.50			
up to 30 minutes	\$74.50	\$74.50	\$81.95	\$86.05
31 to 40 minutes	\$61.75			
41 to 50 minutes	\$69.00			
51 to 60 minutes	\$76.25			
up to 60 minutes	\$96.00	\$96.00	\$105.60	\$110.90
Each additional 10 minutes	\$ 7.25			
Each half hour or part thereof	\$48.00	\$48.00	\$52.80	\$58.10

March, 2006

NOTICE TO AYLMER

The Aylmer Preferred Agreement includes a proposed condition that NRG give notice to the Town of any proceeding before the Board that NRG is a party to, particularly, but not limited to, any application to the Board made by NRG. From NRG's perspective, it is unnecessary or appropriate to include such a requirement as a condition of a franchise agreement.

Board's Existing Notice Procedures

The Board's long-established practices and procedures for managing regulatory proceedings ensure that adequate notice of all proceedings is provided to the public and particularly to stakeholders who would reasonably be expected to have a particular interest in a given proceeding. As the Board is aware, upon receipt of an application or upon commencing a proceeding on its own initiative, prior to holding a public hearing, the Board publishes a Notice of Application or a Notice of Public Hearing that describes the subject matter of the proceeding and the steps that interested persons can take in order to participate. Such notices are typically published in those newspapers within Ontario that have the highest levels of readership or circulation for the community or communities most likely to have an interest in the particular proceeding. The basis for this process is enshrined in the Board's Rules of Practice and Procedure (Rule 21), which gives the Board the authority to direct a party to give notice to any person or class of person and to then file an affidavit or statement of service indicating how, when and to whom notice was provided. Through this process, it can be expected that the Town has and will continue to receive adequate notice of all proceedings before the Board that the Town might reasonably have an interest in.

Moreover, if the Town is not satisfied with the Board's long-established processes for ensuring notice of proceedings and hearings, the Town can take a more active role in monitoring the goings on at the Board through the Board's website. In this regard, the "Subscribe to What's New" feature of the website allows for a quick, easy and no-cost means for the Town to be notified of formal notices issued by the Board.

Town's Non-Participation in NRG Proceedings

The Town has never sought to participate in an NRG rate proceeding, and has only recently participated in NRG's other proceedings (e.g., related to the Ethanol plant, and Union's application to discontinue service). Now that the Town has formally begun to participate in NRG proceedings, it will likely receive automatic notice of any applications to the Board by NRG (since the Board's normal practice appears to notify past intervenors of any new applications for a particular utility).