



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

May 21, 2024

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.  
Application for Certificate of Public Convenience and Necessity  
City of St. Catharines**

Attached is an application by Enbridge Gas Inc. for Orders of the Ontario Energy Board with respect to a Certificate of Public Convenience and Necessity for the City of St. Catharines.

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

Yours truly,

**Patrick  
McMahon** Digitally signed by  
Patrick McMahon  
Date: 2024.05.21  
16:06:16 -04'00'

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

Encl.

## ONTARIO ENERGY BOARD

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

**AND IN THE MATTER OF** an Application by Enbridge Gas Inc. for an Order cancelling and superseding Certificates of Public Convenience and Necessity F.B.C. 168, F.B.C. 169 and F.B.C. 261 as well as those parts of the E.B.C. 58 Certificate of Public Convenience and Necessity held by Enbridge Gas Inc. related to the former City of St. Catharines and the former Township of Louth and replacing them with a Certificate of Public Convenience and Necessity to construct works to supply natural gas in the current City of St. Catharines.

### APPLICATION

1. Enbridge Gas Inc. (Enbridge Gas), a regulated public utility, is a corporation incorporated under the laws of the Province of Ontario, with its offices in the City of Toronto and the Municipality of Chatham-Kent.
2. The City of St. Catharines is a municipal corporation incorporated under the laws of the Province of Ontario and is a lower-tier municipality within the Regional Municipality of Niagara. St. Catharines was incorporated as a city in 1876 and expanded in 1961 when it annexed part of the former Township of Grantham (with the remaining portion amalgamated into the Town of Niagara-on-the-Lake in 1970), the former Town of Merritton and the former Town of Port Dalhousie. There was some westward expansion on January 1, 1970 with approximately half of the former Township of Louth being annexed to the City of St. Catharines.
3. Attached hereto and marked as Schedule "A" is a map showing the geographical location of the City of St. Catharines, a customer density representation of Enbridge Gas' service area, the locations of the former municipalities that now form part of the City of St. Catharines, and a representation of the stages of the development of the municipal boundaries of the City of St. Catharines. Enbridge Gas currently serves approximately 48,500 customers in the City of St. Catharines and has been providing gas distribution services within the City of St. Catharines since approximately 1902.
4. Enbridge Gas has a 20-year franchise agreement (EB-2022-0197) with the City of St. Catharines effective September 26, 2022 (attached as Schedule "B"). Enbridge Gas has a Certificate of Public Convenience and Necessity (CPCN) dated July 25, 1967 (E.B.C. 58 attached as Schedule "C") in place which covers operations within eighteen municipalities including the former City of St. Catharines and the former Township of Louth. Enbridge Gas also has CPCNs for the former Township of Grantham (F.B.C. 168 attached as Schedule "D") and the former Town of Merritton (F.B.C. 169 attached as Schedule "E").

5. Based on research of archived records, it appears as though Enbridge Gas had a CPCN for the former Town of Port Dalhousie (F.B.C. 261) although an actual CPCN could not be found in archived records currently accessible. There is evidence (see attached Schedule “F(1)”) that a CPCN was issued in June 1958 by the Ontario Fuel Board that was to be executed once a certified copy of the franchise agreement bylaw was filed with the Ontario Fuel Board. Such a bylaw (#1084) was passed on July 22, 1958 by the former Town of Port Dalhousie (see attached Schedule “F(2)”).
6. Given that it appears as though Enbridge Gas already holds the CPCN rights for all the lands that now make up the City of St. Catharines (through our existing CPCNs cited above), there is no change to overall existing CPCN rights held by Enbridge Gas in this area. Enbridge Gas is not aware of any other person holding a CPCN for any part of the current City of St. Catharines.
7. If the requested CPCN is approved for the City of St. Catharines (and for the City of Niagara Falls as requested under EB-2024-0175 and for the Town of Pelham as requested under EB-2024-0174), the E.B.C. 58 CPCN would still remain in effect for the City of Welland, the Town of Niagara-on-the-Lake, and the Township of Wainfleet pending future CPCN update applications.
8. Enbridge Gas currently has franchise agreements with and CPCNs for all areas of the other municipalities within the Regional Municipality of Niagara - the Town of Fort Erie, the Town of Grimsby, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the Town of Lincoln, the City of Port Colborne, the City of Thorold, the Township of Wainfleet, the City of Welland and the Township of West Lincoln. Enbridge Gas is not aware of any other natural gas distributor in the area.
9. The contact information of the City of St. Catharines is as follows:

City of St. Catharines  
50 Church Street  
St. Catharines, ON L2R 7C2  
Attention: Kristen Sullivan, City Clerk  
Telephone: (905) 688-5600  
Email: [clerks@stcatharines.ca](mailto:clerks@stcatharines.ca)

The contact information for Enbridge Gas’ regional operations office is:

Enbridge Gas Inc.  
603 Kumpf Drive  
Waterloo, ON N2J 4A4  
Attention: Murray Costello, Director, Regional Operations  
Email: [murray.costello@enbridge.com](mailto:murray.costello@enbridge.com)

10. Enbridge Gas now applies to the Ontario Energy Board for an Order pursuant to s.8 of the *Municipal Franchises Act* cancelling and superseding Certificates of Public Convenience and Necessity F.B.C. 168, F.B.C. 169 and F.B.C. 261 as well as those parts of the E.B.C. 58 Certificate of Public Convenience and Necessity held by Enbridge Gas Inc. related to the former City of St. Catharines and the former Township of Louth and replacing them with a Certificate of Public Convenience and Necessity to construct works to supply natural gas in the current City of St. Catharines.

**DATED** at the Municipality of Chatham-Kent, in the Province of Ontario this 21<sup>st</sup> day of May, 2024.

**ENBRIDGE GAS INC.**

**Patrick  
McMahon** Digitally signed by  
Patrick McMahon  
Date: 2024.05.21  
16:05:25 -04'00'

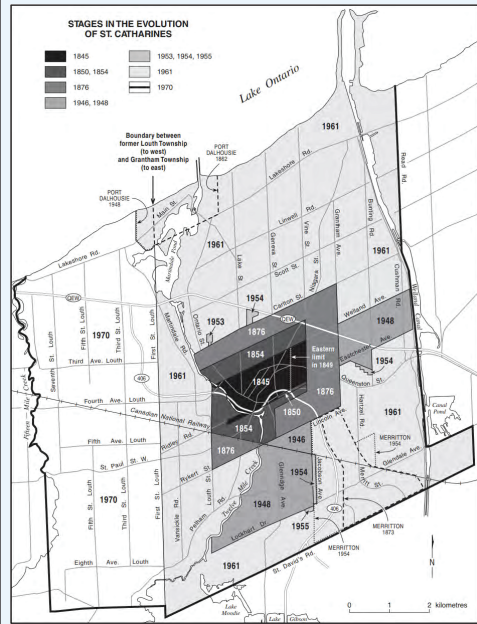
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Patrick McMahon  
Technical Manager  
Regulatory Research and Records

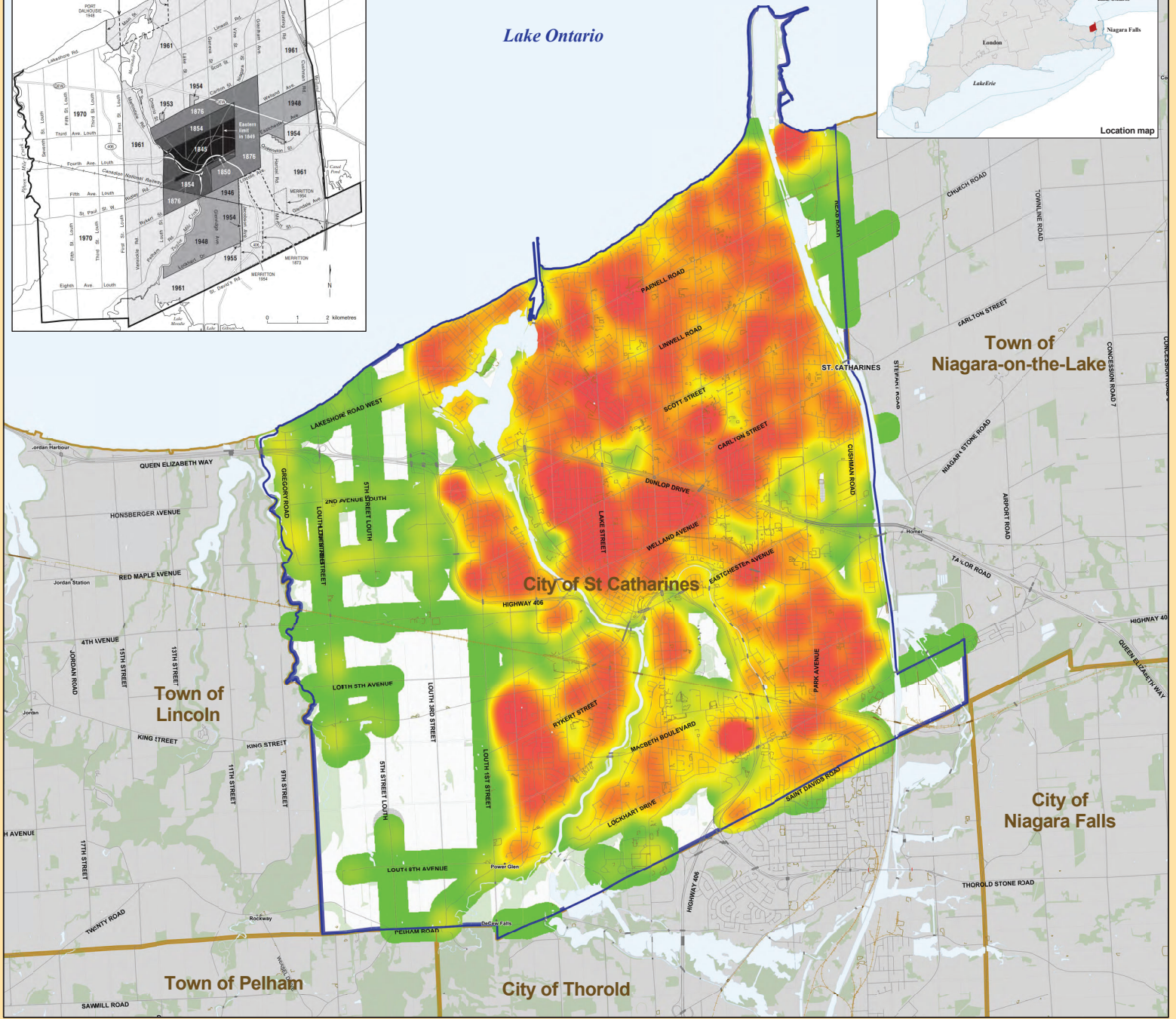
Comments respecting this Application should be directed to:

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





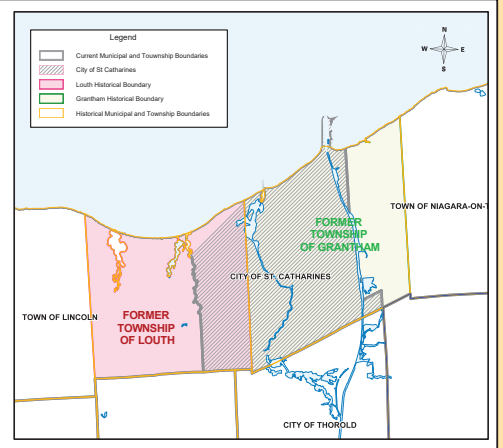
Lake Ontario



**City of St Catharines**



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



**CERTIFIED COPY**  
CITY OF ST. CATHARINES

CERTIFIED under the Hand of the Clerk and the Seal of THE CORPORATION OF THE CITY OF ST. CATHARINES to be a TRUE COPY of By-law of The Corporation of the City of St. Catharines  
DATED the 30 day of Sept 2022  
[Original Signed By Kristen Sullivan]  
Clerk of The Corporation of the City of St. Catharines

BY-LAW NO. 2022-169

A By-Law to authorize a Franchise Agreement between The Corporation of the City of St. Catharines and Enbridge Gas Inc.

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

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to the *Municipal Franchises Act* on the 13<sup>th</sup> day of September, 2022 has approved the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-Law is not necessary.

NOW THEREFORE the Council of The Corporation of the City of St. Catharines enacts as follows:

1. That the Franchise Agreement between The Corporation of the City of St. Catharines and Enbridge Gas Inc. attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Mayor and City Clerk be and they are hereby authorized and instructed on behalf of The Corporation of the City of St. Catharines to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. That By-law No. 2002-103 for the Corporation of the City of St. Catharines, passed

in Council on the 22<sup>nd</sup> day of April, 2002, be and the same is hereby repealed.

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

Read and passed this 26 day of September 2022

*[Original Signed By Kristen Sullivan]*

CLERK

*[Original Signed By Walter Sendzik]*

 MAYOR



## **2000 Model Franchise Agreement**

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THIS AGREEMENT effective this 26 day of September, 2022

BETWEEN:

**THE CORPORATION OF THE CITY OF ST. CATHARINES**

hereinafter called the "Corporation"

- and -

**ENBRIDGE GAS INC.**

hereinafter called the "Gas Company"

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

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

THEREFORE, the Corporation and the Gas Company agree as follows:

### **Part I - Definitions**

#### **1. In this Agreement**

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

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

## **Part II - Rights Granted**

### **2. To provide gas service**

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

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

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

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

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

or

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

### Part III – Conditions

#### 5. Approval of Construction

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



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

**6. As Built Drawings**

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

**7. Emergencies**

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



## 8. Restoration

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

## 9. Indemnification

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

## 10. Insurance

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

## 11. Alternative Easement

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

## 12. Pipeline Relocation

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

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

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

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

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

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

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

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

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

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

#### **16. Use of Decommissioned Gas System**

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

#### **17. Franchise Handbook**

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

18. **Other Conditions**

None.

19. **Agreement Binding Parties**

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

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

**THE CORPORATION OF THE  
CITY OF ST. CATHARINES**

Per:           *[Original Signed By]*            
Walter Sendzik, Mayor

Per:           *[Original Signed By]*            
Kristen Sullivan, City Clerk

**ENBRIDGE GAS INC.**

Per:           *[Original Signed By]*            
Mark Kitchen, Director  
Regulatory Affairs

Per:           *[Original Signed By]*            
Murray Costello, Director  
Southeast Region Operations



THE ONTARIO ENERGY BOARD

E.B.C. 58

IN THE MATTER of The Municipal Franchises Act,  
R.S.O. 1960, Chapter 255 and amendments thereto;

AND IN THE MATTER of an Application by The Consumers'  
Gas Company for certificates of public convenience  
and necessity to construct works to supply and to  
supply natural gas to the inhabitants of the under-  
mentioned municipalities

City of St. Catharines  
City of Niagara Falls  
City of Welland  
Town of Port Colborne  
Town of Fort Erie  
Town of Niagara-on-the-Lake  
Town of Thorold  
Village of Chippawa  
Village of Crystal Beach  
Village of Fonthill  
Township of Crowland  
Township of Willoughby  
Township of Bertie  
Township of Humberstone  
Township of Wainfleet  
Township of Thorold  
Township of Pelham  
Township of Niagara  
Township of Louth

## B E F O R E:

A.R. Crozier, Chairman )  
A.B. Jackson, Vice Chairman ) Tuesday, the 4th day  
I.C. MacNabb, Vice Chairman ) of July, 1967.

UPON the Application of The Consumers' Gas Company (hereinafter called the Applicant) for a certificate pursuant to the provisions of The Municipal Franchises Act, R.S.O. 1960, Chapter 255, and amendments thereto, and upon the hearing of such Application by the Board at the City of Toronto, on the 4th day of July, 1967, after due notice had been given as directed by the Board, in the presence of Counsel for the Applicant, no one else appearing, upon consideration of the evidence and exhibits produced at the hearing and upon hearing what was alleged by Counsel for the Applicant

1. THIS BOARD DOTH ORDER that a Certificate of Public Convenience and Necessity be and the same is hereby granted to

The Consumers' Gas Company for the supply of natural gas  
to the inhabitants of the

City of St. Catharines  
City of Niagara Falls  
City of Welland  
Town of Port Colborne  
Town of Niagara-on-the-Lake  
Town of Thorold  
Village of Chippawa  
Village of Crystal Beach  
Village of Fonthill  
Township of Crowland  
Township of Willoughby  
Township of Bertie  
Township of Humberstone  
Township of Wainfleet  
Township of Thorold  
Township of Pelham  
Township of Niagara  
Township of Louth

and for the construction of the works necessary therefor.

2. THIS BOARD fixes the costs of this Application at \$25.00  
payable forthwith by the Applicant.

DATED AT TORONTO this 25<sup>th</sup> day of July, A.D. 1967.

THE ONTARIO ENERGY BOARD

  
Board Secretary.

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THE ONTARIO ENERGY BOARD

IN THE MATTER of The Municipal Franchises Act, R.S.O. 1960, Chapter 255 and amendments thereto;

AND IN THE MATTER of an Application by The Consumers' Gas Company for certificates of public convenience and necessity to construct works to supply and to supply natural gas to the inhabitants of the undermentioned municipalities.

- City of St. Catharines
- City of Niagara Falls
- City of Welland
- Town of Port Colborne
- Town of Fort Erie
- Town of Niagara-on-the-Lake
- Town of Thorold
- Village of Chippawa
- Village of Crystal Beach
- Village of Fonthill
- Township of Crowland
- Township of Willoughby
- Township of Bertie
- Township of Humberstone
- Township of Wainfleet
- Township of Thorold
- Township of Pelham
- Township of Niagara
- Township of Louth

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CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY

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McDONALD & ZIMMERMAN  
199 Bay Street,  
Toronto 1, Ontario.



## ONTARIO FUEL BOARD

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

AND IN THE MATTER OF the application of Provincial Gas Company Limited for a Certificate of Public Convenience and Necessity to construct works and supply natural gas to the inhabitants of the Township of Grantham

## B E F O R E :

A. R. Crozier, Chairman

W. R. Howard, Commissioner

D. M. Treadgold, Q.C. Commissioner

L. R. MacTavish, Q.C. Commissioner

)  
 )  
 ) Friday, the 6th day  
 ) of December, 1957.

CERTIFICATE OF PUBLIC CONVENIENCE  
 AND NECESSITY

UPON the application of Provincial Gas Company Limited (hereinafter referred to as the "Applicant") for Certificate pursuant to the provisions of the Municipal Franchises Act, R.S.O. 1950, Chapter 249 and amendments thereto, and upon the hearing of such application by the Ontario Fuel Board in the City of Toronto on the 6th day of December, 1957, after due notice of such hearing had been given as directed by the Board, in the presence of T. H. Baker, Counsel for the Applicant, M. A. Seymour, Q.C. Counsel for the Municipality and T. A. King, Counsel for Dominion Natural Gas Company Limited, and upon consideration of the evidence and exhibits produced at the hearing and upon hearing what was alleged by Counsel aforesaid,

1. THIS BOARD DOTH ORDER that a Certificate of Public Convenience and Necessity be and the same is hereby granted subject to the further provisions of this Order, to Provincial Gas Company Limited of Fort Erie, for the supply of natural gas to the inhabitants of the Township of Grantham and for the construction of the works necessary therefor.

2. THIS BOARD DOTH FURTHER ORDER that Dominion Natural Gas Company Limited retain its rights and privileges under its existing transmission franchise agreement with the said Township of Grantham.

3. AND THIS BOARD DOETH FURTHER ORDER that Dominion Natural Gas Company Limited do continue to serve all present Consumers in the Township, other than those served directly from the Company's transmission lines and be permitted to serve any new consumers along and abutting its existing distribution lines within the Township as set out in Schedule "A" attached to and forming part of this Certificate.

4. THE BOARD fixes the costs of this application at payable forthwith by the Applicant.

DATED at Toronto this <sup>12</sup> day of <sup>June</sup> December, 1957.

ONTARIO FUEL BOARD

*A. Rogers*  
*J. W. King*

SCHEDULE "A"

DOMINION NATURAL GAS COMPANY, LIMITED

Distribution Main in Grantham Township  
as of November 30, 1957

AMH - 12/17/57

<u>Street</u>	<u>Between</u>	<u>Feet of Pipe</u>	<u>Street Length</u>
Queenston St.	Grantham Ave. and 700' E. of Ashland Ave.	7320	3800'
Chelsea St.	Queenston and Arlington	1220	550'
Marmora St.	" " "	1500	650'
Lorne St.	" " "	1800	800'
Arlington St.	Grantham ave. and Chelsea	200	200'
York St. North	Carlton St. and 500' N. of Perry St.	2650	1400'
Mildred Ave.	" " " " " "	1400	1400'
Margery Ave.	" " " " " "	1500	1400'
Perry St.	Margery Ave. and Mildred Ave.	250	200'
Alice St.	" " " " "	120	200'
Provincial Highway No. 8	Louth St. and 400' W. of Louth St.	400	400'
Whitworth St.	Pelham Rd. and End of Street	400	400'
Kinsey St.	" " " " " "	300	300'
Pelham Rd.	St. Catharines City Line and Lot 22, Con. 9	Customers on Main Line	8800'
Ontario St.	Carlton St. and 900' N. of Carlton St.	900	900'
Manchester Ave.	Ontario St. and Garden St.	500	500'

## ONTARIO FUEL BOARD

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

AND IN THE MATTER of the application of Provincial Gas Company Limited for a Certificate of Public Convenience and Necessity to construct works and supply natural gas to the inhabitants of the Town of Merritton

## B E F O R E :

A. R. Crozier, Chairman	}	Monday, the 30th day of December, 1957.
D. M. Treadgold, Q.C., Commissioner		
L. R. MacTavish, Q.C., Commissioner		

CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY

UPON the application of Provincial Gas Company Limited (hereinafter referred to as the "Applicant") for a certificate pursuant to the provisions of The Municipal Franchises Act, R.S.O. 1950, Chapter 249 and amendments thereto, and upon the hearing of such application by the Board in the City of Toronto on the 30th day of December, 1957, after due notice of such hearing had been given as directed by the Board, in the presence of J. D. Cromarty, Esq., Q.C., Counsel for the Applicant, W. E. P. DeRoche, Esq. Q.C., Counsel for Dominion Natural Gas Company Limited, M. A. Seymour, Esq., Q.C. Counsel for the Town of Merritton and Oaksh L. Jones, Esq., in person for Consumers Gas Company Limited, and no one else appearing

IT appearing that Dominion Natural Gas Company Limited having agreed in principle to the sale of its assets to Union Gas Company of Canada Limited and Union Gas Company of Canada Limited having agreed in principle to the sale of certain of such assets, including the gas distribution system in the Town of Merritton to Provincial Gas Company Limited and it being presently contemplated that such sales will be completed by April 15th, 1958, and Dominion Natural Gas Company Limited having undertaken to supply gas to the inhabitants of the Town of Merritton until such sales are completed.



UPON consideration of the evidence and exhibits produced at the Hearing and upon the consent of all parties:

1. THIS BOARD DOETH ORDER that a Certificate of Public Convenience and Necessity be and the same is hereby granted to Provincial Gas Company Limited for the supply of natural gas to the inhabitants of the Town of Merritton and for the construction of the works necessary therefor to be effective upon the completion of the hereinbefore referred to sale to Provincial Gas Company Limited on April 15th, 1958, or on whatever date it occurs.
2. AND THIS BOARD DOETH FURTHER ORDER that if such sale has not been completed by the 15th day of May, 1958, a new application may be made to this Board for a Certificate of Public Convenience and Necessity, based upon the situation as it exists on the 30th day of December, 1957.
3. The Board fixes the costs of the application at \$150.00 payable forthwith by the Applicant.

DATED at Toronto this 30th day of December, 1957.

ONTARIO FUEL BOARD

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

**BROOKS, CROMARTY, BAKER & SWAYZE**  
BARRISTERS & SOLICITORS

TELEPHONE  
REGENT 5-5684

W. M. GERMAN, Q. C. (1883-1933)  
ALLAN BROOKS, Q. C.  
CITY SOLICITOR  
J. DAVID CROMARTY, Q. C.  
THOMAS H. BAKER  
JAMES F. SWAYZE  
GEOFFREY F. BROOKS

57 EAST MAIN STREET  
**WELLAND, ONTARIO**

December 2nd, 1958.

Earle S. Howard, Esquire  
Vice-President & General Manager  
Provincial Gas Company Limited  
Fort Erie, Ontario


Dear Earle:                      Re: Port Dalhousie Franchise

In reviewing our Port Dalhousie file, we find a letter from the Port Dalhousie Solicitors of July 31st, advising that By-law Number 1084 had been given a third reading July 22nd, 1958, but the franchise agreement was not signed pending further information from your Company as to its plan for installation of the distribution system through the Town.

We also find that the Certificate of Public Convenience and Necessity, while it was approved by the Board at its hearing of June 23rd, will not be signed or issued by the Board until a certified copy of the By-law with Agreement attached has been filed with the Board.

Accordingly, you will require from the Town of Port Dalhousie, Certified copy of By-Law 1084 as finally passed, completed agreement attached so that we may file same with the Board and at the same time will apply for issuance of the Certificate of Public Convenience and Necessity.

We enclose three typed copies of the By-law and the Agreement which you might have completed and the copies returned to us.

Yours very truly,  
BROOKS, CROMARTY, BAKER & SWAYZE  
per 

RECEIVED

DEC - 3 1958

BY 

THB:TC  
Encl.

BY-LAW NUMBER 1084

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN THE CORPORATION AND PROVINCIAL GAS COMPANY, LIMITED

THE COUNCIL OF THE CORPORATION OF THE TOWN OF PORT DALHOUSIE ENACTS AS FOLLOWS:

1. That the proposed Franchise Agreement with Provincial Gas Company, Limited be and the same is hereby approved and authorized and the Franchise provided for therein granted.

2. That the Mayor and Clerk be and each of them is hereby authorized and instructed on behalf of the Corporation to execute the said Franchise Agreement and the Clerk is hereby authorized to affix the Corporate Seal and deliver the Agreement set forth in Schedule "A" hereto between the Corporation and the Provincial Gas Company, Limited which Agreement is hereby incorporated in and shall form part of this By-Law.

3. This By-Law shall not come into force and take effect unless and until:

(a) The assent of the electors of the Town of Port Dalhousie has been obtained thereto pursuant to Sub-section 1 of Section 3 of the Municipal Franchises Act, or until such assent has been dispensed with by order of the Ontario Fuel Board pursuant to the Municipal Franchises Act, Sub-section 4 of Section 9;

(b) The terms and conditions upon which and the period for which such Franchise is to be granted have first been approved by the Ontario Fuel Board as provided in Section 9 of The Municipal Franchises Act.

READ the first and second time this 17th day of December, 19 57 .

"R. M. Johnston"

"W. L. Graham"

Mayor

Clerk

READ the third time and passed the 22nd day of July, 1958.

[Handwritten signature of R. M. Johnston]
Mayor

[Handwritten signature of W. L. Graham]
Clerk

THIS is Schedule "A" to Order of Ontario Fuel Board dated 23rd day of June, 1958.



THIS AGREEMENT made the 22nd day of July 1958

B E T W E E N:

PROVINCIAL GAS COMPANY, LIMITED

hereinafter called the "Company"

OF THE FIRST PART

\* - and -

THE CORPORATION OF THE TOWN OF PORT DALHOUSIE

hereinafter called the "Corporation"

OF THE SECOND PART

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

AND WHEREAS by By-Law duly passed by the Council of the Corporation with the requisite assent thereto of the Ontario Fuel Board, the Mayor and Clerk of the Corporation have been authorized and directed to execute, seal and deliver this Agreement on behalf of the Corporation.

NOW THEREFORE THIS AGREEMENT WITNESSETH that for valuable consideration the parties hereto mutually covenant and agree as follows:

1. The consent, permission and authority of the said Corporation of Port Dalhousie are hereby given and granted to the Company, to enter upon all highways now or at any time hereafter within the jurisdiction of the Corporation and to lay, maintain, operate and repair such mains and pipes as the Company may require for the transmission and supply of gas in and through the Town for fuel purposes together with the right to construct, maintain and repair all necessary regulators, valves, curb boxes, safety appliances and other appurtenances



that may be necessary in connection with the transportation and supply of gas in the Town.

2. The Company shall well and sufficiently restore forthwith to as good condition as they were in before the commencement of the Company's operations to the satisfaction of the Corporation Engineer (which term means from time to time such employee of the Corporation as the Corporation shall have designated as such for the purpose of this Agreement or, failing such designation, the senior employee of the Corporation for the time being charged with the administration of public works and highways in the Municipality) all highways which it may excavate or interfere with in the course of laying, constructing or repairing of its mains, pipes, regulators, valves, curb boxes, safety appliances and other appurtenances and shall make good any settling or subsidence thereafter 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 Corporation 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 Corporation Engineer.

3. The Company shall at all times wholly indemnify the Corporation from and against all loss, damage and injury and expense to which the Corporation may be put by reason of any damage or injury to persons or property caused by the construction, repair, maintenance or operation by the Company of any of its works in the said Town as well as against any damage or injury resulting from the negligence of the Company, its employees or agents,

4. Except in the event of emergency no excavation, opening, or work which shall disturb or interfere with the surface of any highway shall be made or done unless a permit therefor has first been obtained from the said Engineer and all such works shall be done under his supervision and to his satisfaction.

5. (a) The location of all pipes and works on said highways shall be subject to the direction and approval of the Corporation Engineer and all such pipes and works, whenever it may be reasonable and practicable, shall be laid in and along the sides of said highways.

5. (b) The Company at its own expense will tap its main and connect the same at the adjacent street line with the customer's service line.

6. The Company before beginning any new work in the said Town under this Agreement, save and except lateral service pipes, shall file with the Corporation Engineer a Plan drawn to scale showing the highways in which it proposes to lay mains and pipes and the particular parts thereof it proposes to occupy for any of such purposes together with definite written specifications of the mains, pipes and works proposed to be laid or constructed by it, specifying the materials and dimensions thereof and the depth at which the same are to be laid, and similar plans and specifications shall be filed with the said Corporation of all extensions of, or additions to such mains, pipes or works before any such extension or addition shall be begun.

7. If in the course of constructing, reconstructing, changing, altering or improving any highway, it becomes necessary to take up, remove or change the location of appliances or works placed on or under the highway by the Company, the Company shall remove and relocate such appliances or works, and the cost thereof shall be apportioned in the manner prescribed by the Public Service Works on Highways Act, R.S.O. 1950, Chapter 318 Section 2 and amendments thereto.

8. The Company shall use at all times proper and practicable 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.

9. The rates to be charged and collected by the Company for gas supplied by it under this franchise shall be the rates fixed by the Ontario Fuel Board having jurisdiction to fix rates under The Ontario Fuel Board Act, or in case there shall be no such Board then such rates as may from time to time be fixed by any other person or body having jurisdiction to fix such rates; any such application hereunder may be made by either party hereto on notice to the other.

10. The Corporation will not permit any person to build any structure or structures encasing any mains or pipes of the Company.

11. (a) This agreement and the respective rights and obligations hereunder of the parties hereto are hereby declared to be subject to the provisions of the regulating statute and to all orders 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 parties of any of the provisions hereof or as to the respective rights and obligations of the parties hereto hereunder, either of such parties may refer such dispute or disagreement to arbitration under the provisions of paragraph 11 b hereof.

(b) Whenever The Municipal Arbitrations Act, R.S.O. 1950, Chapter 244, shall extend and apply to the municipality any references to arbitration pursuant to the provisions of paragraph 11 (a) hereof shall be to the Official Arbitrator appointed under that 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 11 (a) shall 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 such 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. 1950, Chapter



20 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.

12. 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 a dispute as to the existence of such disability such dispute shall be determined as hereinbefore provided. Provided, however, that the provisions of this clause 12 shall not relieve the Company from any of its obligations as set out in paragraph 3 hereof.

13. The franchise hereby granted shall be for the term of twenty (20) 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 (20) years or prior to the expiration of any renewal thereof, the Company shall notify the Corporation in writing that it desires a renewal thereof for a further period, which notice shall be given not less than one year prior to the expiration of this franchise or any renewal thereof as the case may be, the Council may but shall not be obliged to renew by by-law this Agreement from time to time, for further periods not exceeding twenty (20) years at any one time.

14. The Company shall pay the costs, charges and expenses of the Corporation and of its Solicitor of, and incidental to, the preparation and passing of said by-law and this Agreement.

15. This Agreement and the said by-law is subject to all statutes, orders and rules made or to be made by lawfully constituted authority having jurisdiction in the premises.

16. 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 street or bridge forming part of a highway or on or over and across which a highway passes and any public square or place.

17. 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 highways and public places and for such purpose, shall have one (1) year to effect such removal, but the Company shall give one year's notice in writing of its intention to remove its mains, pipes, plants and works, such notice to be given not less than one year prior to the expiration of this franchise or any renewal thereof as the case may be. Provided that should the Company fail to remove its mains, pipes, plants and works laid in the said highway and public places in the Town within one (1) year from the date of the expiration of this franchise, such mains, pipes, plants and works shall become the exclusive property of the Corporation. Provided further that forthwith upon the expiration of this franchise or any renewal thereof the Company shall disconnect the mains and pipes of the distribution system in the Town from the gas supply.

18. Any notice to be given under any of the provisions hereof may be effectually given to the Corporation by delivering the same to the Clerk or by sending the same to him by registered mail, postage prepaid, addressed to "The Clerk of The Corporation of the Town of Port Dalhousie, Brock Street, Port Dalhousie, Ontario 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 Port Dalhousie or by sending the same by registered mail, postage prepaid, addressed to "Provincial Gas Company, Limited, 26 Jarvis, Fort Erie, Ontario". If any notice is sent by mail the same shall be deemed to have been given on the day succeeding the posting thereof.

19. 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 these presents signed by its proper officers in that behalf and the said Corporation has hereunto



caused its Corporate Seal to be affixed and these presents signed by the  
Mayor and Clerk.

PROVINCIAL GAS COMPANY, LIMITED,

Carl S. Howard  
VICE-PRESIDENT & GENERAL MANAGER

J. F. Gibson  
SECRETARY

THE CORPORATION OF THE TOWN OF FORT DALHOUSIE,

M. J. Hunter Mayor

H. L. Grohmann Clerk