

THE PROVINCE OF ALBERTA
MUNICIPAL GOVERNMENT ACT
ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of a Natural Gas
Utility Service Agreement between
Gift Lake Metis Settlement and
AltaGas Utilities Inc.

ORDER U2003-378

Application No. 1274944 & 1310011
File No. 6675-G15

AltaGas Utilities Inc. (AltaGas) filed an application with the Alberta Energy and Utilities Board (EUB) for approval to enter into a natural gas utility services agreement with Gift Lake Metis Settlement (the Settlement).

This agreement gives AltaGas the exclusive right to deliver natural gas to the residents of the Settlement for a period of 10 years. The EUB notes that the Agreement abides by the principles enunciated in Metis Settlement General Council Policy GC-9804.

The Agreement also contains a provision for early termination, upon proper notice, to allow the Settlement to purchase the Gas Distribution System. However, the sale of the Gas Distribution System by AltaGas would require EUB approval, pursuant to section 26(2) of the *Gas Utilities Act*. Any future application of this nature would be subject to full EUB review. Consequently, approval of the Agreement should not be construed in any manner so as to fetter the EUB's discretion with respect to any future application for approval of the sale of the Gas Distribution System. In particular, the Board will not be bound by the terms and conditions of purchase outlined in Schedule "B" to the Agreement.

The agreement requires AltaGas to pay the Settlement a service fee, which is based on 7 per cent of AltaGas' gross revenues from the sale of natural gas within the Settlement. The service fee would be collected as a separate charge on customers' bills. AltaGas and the Settlement will review the amount of the service fee every three years and if there is an agreement on a different fee AltaGas will apply to the Board for approval of the change.

AltaGas has also applied for an Order approving an amendment to Rate Rider "A" (surcharge for a franchise fee). This amendment will allow for collection of a service fee in the Settlement of 7% of the gross revenue of AltaGas derived from the supply of natural gas to its customers within the Settlement. The Board notes that AltaGas' application allows for collection of the service fee included in the Agreement.

Notice respecting the application was published in the High Prairie South Peace News on September 3, 2003 and no objections were received.

The EUB considers that the privilege or franchise contained in the Agreement is necessary and proper for the public convenience and properly conserves the public interests. The EUB notes that AltaGas and the Settlement have given the EUB consent to proceed with the application without a hearing.

The Alberta Energy and Utilities Board, pursuant to the *Public Utilities Board Act*, R.S.A. 2000, c. P-45 and the *Gas Utilities Act*, R.S.A. 2000, c. G-5, hereby orders as follows:

1. Application No. 1274944 by AltaGas Utilities Inc. dated July 24, 2002 is approved,
2. Application No. 1310011 by AltaGas Utilities Inc. dated July 24, 2002 with respect to Gift Lake Metis Settlement is approved and the rate for Gift Lake Metis Settlement as indicated on Rate Rider "A" attached as Schedule "B" to this Order, becomes effective upon the effective date of the Natural Gas Utility Services Agreement.
3. Nothing in this Order shall bind, affect or prejudice the Board in any way in its consideration of any other matter or question relating to AltaGas Utilities Inc. or Gift Lake Metis Settlement.

DATED at the City of Edmonton, in the Province of Alberta, on October 2, 2003.



ALBERTA ENERGY AND UTILITIES BOARD

NATURAL GAS UTILITY SERVICES AGREEMENT

AMONG:

ALTAGAS UTILITIES INC.

and

GIFT LAKE METIS SETTLEMENT

and

METIS SETTLEMENTS GENERAL COUNCIL

TABLE OF CONTENTS

ARTICLE 1: CONTENT	1
1.1 Background	1
1.2 Purpose	1
1.3 Definitions	2
1.4 Interpretation	3
ARTICLE 2: PROVISION OF SERVICE	4
2.1 Right to Provide Service	4
2.2 Terms and Conditions of Service	4
2.3 Term and Termination	4
ARTICLE 3: LAND INTERESTS AND USE	5
3.1 Existing Land Rights	5
3.2 Utility Right of Way	5
3.3 Acquiring Additional Interests	5
3.4 Fencing	6
3.5 Clearing and Maintaining the Land	6
3.6 Repairs to Public Places	6
ARTICLE 4: SERVICES AND FACILITIES	7
4.1 Idle Facilities	7
4.2 Removal of Idle Facilities	7
4.3 Relocation of Facilities	8
4.4 Shared Use	8
4.5 Work Affecting the System	8
ARTICLE 5: COMMUNITY RELATIONS	9
5.1 Regular Consultation	9
5.2 Activity Consultation	9
5.3 Approving System Changes	9
5.4 Employment Opportunities	10
5.5 Training Opportunities	10
5.6 Emergencies	11
5.7 Settlement / Utility Contacts	11
5.8 Mediation	12
ARTICLE 6: UTILITY, SETTLEMENT AND GENERAL COUNCIL PAYMENTS	12
6.1 Service Fee	12

6.2	Initial Payments	13
6.3	Compensation for Damages	13

ARTICLE 7: GENERAL MATTERS	13	
7.1	Utility's Legislated Powers	13
7.2	Compliance with Laws	14
7.3	The Crown	14
7.4	Nature of Agreement	14
7.5	Notice	14
7.6	Assumption of Reasonableness	14
7.7	Indemnity	14
7.8	Waiver	15
7.9	Amendment	15
7.10	Assignment	15
7.11	Entire Agreement	15
7.12	Force Majeure	15

NATURAL GAS UTILITY SERVICES AGREEMENT

AMONG:

ALTAGAS UTILITIES INC.
a body corporate having an office in Alberta
(the "Utility")

- and -

GIFT LAKE METIS SETTLEMENT
as incorporated under the *Metis Settlements Act*,
(the "Settlement")

- and -

METIS SETTLEMENTS GENERAL COUNCIL
as incorporated under the *Metis Settlements Act*,
(the "General Council")

ARTICLE 1: CONTENT

1.1 Background

The Settlement Area is a part of a Metis land base held in fee simple by the General Council and protected in the Constitution of Alberta. Provincial legislation recognizes the unique land ownership and government roles of the General Council and the Settlement, including the power to make laws for the Settlement Area governing the interests that can be created in land, their assessment and taxation, and the regulation of activities such as the provision of Natural Gas Service. The Utility is a natural gas utility whose service area includes the Settlement Area pursuant to a franchise area approval issued under the *Gas Distribution Act*.

1.2 Purpose

The General Council, Settlement and Utility have made this agreement to:

- (a) Ensure safe, reliable and economical Natural Gas Service can be provided to potential Consumers within the Settlement Area;

Handwritten initials and signatures in the bottom right corner of the page. There are two distinct sets of marks, one appearing to be 'R' and another appearing to be 'MA' with a flourish below it.

- (a.1) Despite their agreement that the Utility Right of Way comprises a grant of interest and right to use land within the meaning of section 2.9(3) of the *Land Policy*, the Settlement undertakes to use its reasonable efforts to approve this Agreement by by-law in accordance with section 2.9(2) of the *Land Policy* within a reasonable time.
- (b) Enable the Utility to acquire the rights it needs to Construct, Maintain and Operate the Gas Distribution System;
- (c) Ensure the Utility pays a fair amount for the rights it acquires;
- (d) Minimize environmental damage and other adverse effects on the land and community as a result of the Utility's activities; and
- (e) Provide a way of resolving issues related to these matters.

1.3 Definitions

In this Agreement:

- (a) "Board" means the Alberta Energy and Utilities Board or its successors;
- (b) "Consumer" means a Resident supplied with Natural Gas Service by the Utility according to the Terms and Conditions of Service;
- (c) "Construct" means to establish, build, reconstruct or extend any part of the proposed Gas Distribution System;
- (d) "Cost of Gas" shall mean the revenues from the gas cost recovery rider or the deemed cost of gas;
- (e) "Effective Date" means the date that this Agreement is approved by Order of the Board or a Bylaw is passed by the Settlement approving it, whichever is later;
- (f) "Gas Distribution System" means all pipes, conduits, valves and all other installations used and owned by the Utility for distributing Natural Gas Service within the Settlement Area;
- (g) "Maintain" means to maintain, repair or overhaul any part of the Gas Distribution System;
- (h) "Natural Gas Service" means the delivery of natural gas through the Gas Distribution System;
- (i) "Operate" means to operate, interrupt or restore any part of the Gas Distribution System;
- (j) "Resident" means any individual, group of individuals, firm or body corporate with premises within the Settlement Area, and includes the Settlement;

- (k) "Settlement Area" means the land described as Gift Lake Metis Settlement Area in Letters Patent issued to the General Council as of the date of this Agreement;
- (l) "Service Fee" means the fee described in article 6.1 of this Agreement;
- (m) "Supply" means to distribute and deliver;
- (n) "Terms and Conditions of Service" means the standards, regulations, practices, and terms and conditions that apply to service provided by the Utility as approved from time to time by the Board that are contained in legislation regulating the Utility and in the Utility's general conditions of service; rates, tolls and charges; natural gas service rules; transportation service regulations; core market transportation service regulations; and core market buy/sell regulations;
- (o) "Utility's Revenues" shall mean the billed revenues the Utility derives in the form of fixed charge, base energy charge, demand charge and Cost of Gas, from supplying Natural Gas Service to the Settlement Area;
- (p) "Utility Right of Way" means a utility interest in the lands as identified from time to time in Schedule "A" of this Agreement.

and words and expressions defined in the *Metis Settlements Act*, or in regulations made under it, have the same meaning when used in this Agreement, unless the context makes such an interpretation unreasonable.

1.4 Interpretation

- (a) In this Agreement, unless it would not make sense in the context:
 - (i) References to "this Agreement" include the schedules and renewed or amended versions of the Agreement,
 - (ii) References to persons include corporations and other legal entities, such as the Settlement,
 - (iii) References to things done by a party to the Agreement include things done by that party's agents or employees, and
 - (iv) Terms normally implying singular or plural should be interpreted to include both.
- (b) Headings are used to improve readability and should not affect interpretation.
- (c) Where this Agreement specifies a period of 10 days it means 10 calendar days starting the day after the event triggering the time period and ending at 4:30 p.m. on the 10th day, unless that day is Saturday, Sunday or a statutory holiday in which case the period ends at 4:30 p.m. on the next regular business day. The same rule applies to other numbers.



- (d) Reference to any statute, regulation or policy passed in respect thereto, shall include any amendment or replacement thereof.

ARTICLE 2: PROVISION OF SERVICE

2.1 Right to Provide Service

- (a) Subject to the terms of this Agreement, the Settlement grants the Utility an exclusive licence to Construct, Maintain and Operate the Gas Distribution System.
- (b) The licence grants the Utility the right, subject to the terms of this Agreement, to, when required to properly Construct, Operate, expand or Maintain the Gas Distribution System:
- (i) Construct, Operate and Maintain the Gas Distribution System in, under, above, on, through or across any highway, road, lease road, public place or public water within the Settlement Area;
- (ii) Enter in, upon and under the public places within the Settlement Area when the Utility considers it necessary or convenient. The Utility will be responsible for special damages on any roads used by it where the Utility has caused the damage. Subject to review in five years, the Utility will not be responsible for general maintenance of roads.
- (c) Subject to the terms of this Agreement, while this Agreement is in effect the Settlement Council will not allow anyone other than the Utility to Supply natural gas in the Settlement Area.
- (d) The Settlement acknowledges the Gas Distribution System is the property of the Utility.

2.2 Terms and Conditions of Service

The Supply of Natural Gas Service to Consumers will be governed by the Terms and Conditions of Service and the Terms and Conditions of Service will have priority when inconsistent with this Agreement.

2.3 Term and Termination

- (a) This Agreement is in effect for a period of ten (10) years from the Effective Date, unless terminated earlier as provided for in this article.
- (b) Either the Settlement or the Utility can terminate this Agreement by notifying the other parties, at least 2 years in advance, that they wish to terminate the agreement on a specified date. No such notice can be given before June 1, 2005.

- (c) When the Settlement provides notice of termination, it must also provide notice that it wishes to purchase the Gas Distribution System based on a pricing formula set out in Schedule "B".
- (d) If, at the end of the term or upon termination, the Settlement and Utility cannot agree on the terms of the purchase of the Gas Distribution System after completing the mediation process provided for in this Agreement, either may refer the matter to the Board for determination.
- (e) The parties acknowledge any purchase of the Gas Distribution System will be subject to approval by the Board.

ARTICLE 3: LAND INTERESTS AND USE

3.1 Existing Land Rights

- (a) This Agreement does not affect any rights or interests in land registered or filed by the Utility in accordance with s.8 of the *Metis Settlements Land Protection Act*, including those described in Schedule "A".
- (b) The Settlement and General Council confirm that, for the purpose of Supplying Natural Gas Service to the Settlement Area, the Utility has, whether previously existing or by this Agreement, the Utility Right of Way in respect of the lands shown in Schedule "A".

3.2 Utility Right of Way

As provided for under the Metis Settlements General Council Public Utilities Policy, a utility right of way is:

- (a) An interest in land registerable in the Metis Settlements Land Registry;
- (b) A utility interest for the purposes of the Metis Settlements Land Registry Regulation;
- (c) A utility right of way for the purposes of the Metis Settlements General Council Land Policy; and
- (d) Contributing property for the purpose of the Metis Settlements General Council Business Property Contributions Policy.

3.3 Acquiring Additional Interests

- (a) The Utility may acquire additional utility right of ways, as required to extend or improve the Gas Distribution System with the consent of the occupants of the affected parcels.

- (b) As holder of the fee simple interest in all Settlement Area land, the General Council consents in advance to any grant of a utility right of way required to extend or improve the Gas Distribution System, provided the grant is approved by the Settlement Council in accordance with General Council Policies and Settlement By-laws.
- (c) The utility right of ways corresponding to the additional utility right of ways may be included in this Agreement by the Settlement and Utility signing an amendment to Schedule "A" that identifies the area added.

3.4 Fencing

- (a) The Utility will not fence any part of a Utility Right of Way unless the fencing is required by law or for safety or security reasons.
- (b) The Utility will not interfere with any fence it does not own in the Settlement Area without the Settlement and Resident approval.

3.5 Clearing and Maintaining the Land

- (a) The Utility will maintain all Utility Right of Ways in a manner satisfactory to the Settlement and will not remove trees or plants without consulting the Settlement, except where required in an emergency or for safety reasons.
- (b) The Utility will not dispose of waste materials anywhere in the Settlement Area without the Settlement's consent.
- (c) The Utility will carry out its tree and vegetation control operations in accordance with the Industrial Vegetation Management Association of Alberta maintenance and vegetation control standards as amended or replaced from time to time.
- (d) The Utility will not use herbicides or sterilants on or near a Utility Right of Way without the written consent of the Settlement.
- (e) The Settlement will assist the Utility in obtaining any timber permits needed to allow the cutting or removal of trees for proper clearing and maintenance of all Utility Right of Ways in the Settlement Area and the Utility will pay the related permit fees, including the value of any salvageable timber removed from the Settlement Area by the Utility.

3.6 Repairs to Public Places

- (a) When the Utility does any work on, in, or under a public place in the Settlement Area in order to Construct, Maintain or Operate its Gas Distribution System it must complete the work within a reasonable time.

- (b) On completing the work, the Utility must restore the public place to a state of repair as near as practicable to the condition that existed immediately before the work started, unless the Settlement agrees that some other condition is acceptable.
- (c) If the Utility fails to restore the place to the required condition, the Settlement may, on giving reasonable notice to the Utility, do the restoration work and the Utility will be liable for the reasonable associated costs.

ARTICLE 4: SERVICES AND FACILITIES

Each residential site on the Settlement Area will receive a natural gas service line and riser. If a Resident decides not to take advantage of the Natural Gas Service, they will not be charged the monthly fixed charge. Any new Natural Gas Service applied for during construction of the Gas Distribution System is included in the project costs and no additional costs will apply. The Utility will not be responsible for conversion of Consumer appliances from using propane to natural gas.

4.1 Idle Facilities

- (a) The Utility will obtain the Settlement's approval before making any changes to the Gas Distribution System that will result in permanent loss of Natural Gas Service to a site in the Settlement Area. This does not apply to lock off for non payment.
- (b) There will be no monthly fixed charge for idle risers which occur as a result of lack of initial sign up of Consumers. Once a Natural Gas Service is activated the monthly fixed charge will apply even if Natural Gas Service to the site is discontinued. The costs in this case will be borne by the Resident of the site.
- (c) The Utility will acquire the approval of the Settlement before salvaging or abandoning the idle facilities.
- (d) If the Settlement does not agree to salvaging or abandoning the idle facilities and does not pay the Utility's monthly fixed charge, the Utility can salvage or abandon the idle facilities without the Settlement's approval.
- (e) The Utility's responsibilities and liabilities for idle facilities remaining in place will be the same as for active facilities.

4.2 Removal of Idle Facilities

- (a) If the Settlement agrees that idle facilities should be removed, the Utility will, without unreasonable delay, remove the idle facilities and restore the Utility Right of Way in respect of the idle facilities as near as practicable to the condition it was in before the Utility acquired its interest, provided that the Utility shall not be obligated to remove any underground pipeline.

- (b) If the Utility has not restored the land within a reasonable time of the Settlement telling it to, the Settlement can do the work itself and the Utility will pay the corresponding reasonable costs.

4.3 Relocation of Facilities

- (a) The Utility will, at the request of the Settlement, remove, alter or relocate any part of its Gas Distribution System if doing so does not constitute breach of contract with any Consumer or contravene any statute, regulation or regulatory order.
- (b) The Utility and the Settlement will share the cost of the relocation in proportion to the benefit each gains from the relocation.
- (c) If the Utility and the Settlement cannot agree on the cost sharing for a relocation, the matter will be determined as provided for in article 5.8.

4.4 Shared Use

- (a) The Settlement may, for any reasonable community purpose, share in the use of the trenches excavated by the Utility provided the use does not interfere with the Utility's use and complies with the *Safety Codes Act*, the *Gas Distribution Act*, CSA Z66.2 and related regulations as amended and replaced from time to time.
- (b) The Settlement will pay the reasonable cost of any additions to the Utility's facilities required to enable this shared use.
- (c) The Settlement indemnifies the Utility from all damage, injury, claims and costs resulting from the Settlement's shared use of trenches.

4.5 Work Affecting the System

- (a) Before the Settlement has any work done within the Settlement Area that can reasonably be expected to affect the Gas Distribution System, it will:
 - (i) In normal circumstances, give to the Utility 10 days notice in writing; and
 - (ii) In case of an emergency, inform the Utility by phone call or fax.
- (b) In performing such work, the Settlement will conform to the *Safety Codes Act*, the *Gas Distribution Act* and all other applicable laws and regulations.
- (c) The Utility may name a representative to oversee this work on its behalf.

ARTICLE 5: COMMUNITY RELATIONS**5.1 Regular Consultation**

The Utility and Settlement Council will meet as required, and at least once a year, to:

- (a) Share information on matters related to the Gas Distribution System such as Settlement Area development plans and Settlement member concerns;
- (b) Share information on planned Utility activities inside the Settlement Area that may affect the Settlement or its Residents, including those that may create employment or business opportunities; and
- (c) Identify opportunities for Residents to obtain training for employment by the Utility or its contractors.

5.2 Activity Consultation

- (a) Outside of emergencies or any special work carried out by the Utility requiring specialized skills, or any work contracted to the Settlement under article 5.5, the Utility will not have any Construction, Operation or Maintenance work done in the Settlement Area without first advising the Settlement.
- (b) The Utility will advise the Settlement what kind of work will be done, who will do it, and when and where they will do it.

5.3 Approving System Changes

- (a) The Utility will consult the Settlement before extending the Gas Distribution System adding facilities to it, or undertaking major repair or maintenance work.
- (b) At the request of the Utility, the Settlement will help plan extensions or modifications of the Gas Distribution System by advising the Utility of:
 - (i) Settlement development plans and bylaws;
 - (ii) Environmentally sensitive areas; and
 - (iii) Special areas which may, for example, be historically, traditionally, or culturally significant.
- (c) The Utility will submit plans to the Settlement and obtain its approval before proceeding with any addition or alteration to the Gas Distribution System that requires access to additional lands or changes the use of an existing Utility Right of Way.



5.4 Employment Opportunities

- (a) The Utility will not advertise or award any contract for work related to the Construction, Operation or Maintenance of the Gas Distribution System within the Settlement Area, without first providing an opportunity for the Settlement to submit a work proposal on the work. The Utility will provide such opportunity by sending an invitation to the Settlement's Council.
- (b) For the purposes of this article, "work proposal" means a proposal submitted by the Settlement on its own behalf or on behalf of one or more Residents or a business controlled by Metis Settlements or their residents.
- (c) The Utility will accept the work proposal, if in the opinion of the Utility, it is complete, competitive, timely and from someone with the skills and equipment needed to do the work.
- (d) If the Utility does not accept the work proposal, it will explain to the Settlement why the proposal is unacceptable and allow at least 10 days for another proposal to be prepared and submitted to the Utility.
- (e) If the Settlement's second work proposal is not complete, competitive, timely and from someone with the skills and equipment needed to do the work, the Utility will explain to the Settlement why the proposal is unacceptable and the Settlement will be given another 10 days to prepare and submit a third proposal to the Utility.
- (f) If the Settlement's third work proposal is not complete, competitive, timely and from someone with the skills and equipment needed to do the work, the Utility may open bidding to contractors located off the Settlement who are prepared to operate under the same conditions as imposed on the Utility by this Agreement, and, all other things being equal, the Utility will give priority to a Settlement work proposal.

5.5 Training Opportunities

The Utility will contract with the Settlement for the part-time services of one individual who will be trained at the Utility's expense and who, once trained and capable, will perform under the direction of the Utility such functions as standby; emergency shutoff; line locates; trouble calls; activating and shutting off of meters; and meter reading. It is the expectation that there will be some reasonable continuity in the availability of a trained person to perform these functions once the Utility has provided such training. In addition, the Utility is prepared to contract with the Settlement for other services such as credit and collection; accepting of bill payments, and taking new customer applications for service.



5.6 Emergencies

- (a) The Utility will immediately notify the Settlement in the event of an emergency that may affect the Gas Distribution System or its Consumers and will provide enough detail for the Settlement to alert Residents.
- (b) Article 5.4 does not apply to emergencies, but if the Utility uses an outside contractor for emergency work it will, as soon as practicable, advise the Settlement who the contractor was and what equipment was used.

5.7 Settlement / Utility Contacts

- (a) The Settlement Council and Utility will each appoint a representative to act as a contact for the purposes of this Agreement.
- (b) Any communication under this Agreement must, unless this Agreement or an emergency requires alternative action, begin by contacts between the two representatives.
- (c) The initial representatives and their locations are:

- (i) Representative for the Settlement:

Administrator
Gift Lake Metis Settlement
General Delivery
Gift Lake, Alberta
T0G 1B0
Phone: (780) 767-3894
Fax: (780) 767-3888

- (ii) Representative for the Utility:

Supervisor, Customer Service
AltaGas Utilities Inc.
Box 459
Wabasca, AB T9S 1B3
Phone: (780) 891-1097
Fax: (780) 891-2012

- (d) The Council and Utility will keep each other, and the General Council, informed of any changes in their representative or contact address.

5.8 Mediation

- (a) If a difference develops between the Settlement and Utility in carrying out this Agreement, both will do their best to resolve the difference within 30 days by discussion and mediation, and only after that will either party begin arbitration or litigation.
- (b) Either the Settlement or Utility may, after making a reasonable and honest effort to resolve a difference by discussion, request mediation assistance from the Metis Settlements Appeal Tribunal as provided for under the *Metis Settlements Act*.
- (c) If the Metis Settlements Appeal Tribunal appoints a mediator, both the Settlement and Utility will do their best to work with the mediator to resolve the difference.
- (d) This article 5.8 does not apply to the Utility's Terms and Conditions of Service.
- (e) Nothing in this article limits the right of the Settlement or the Utility to proceed immediately to arbitration or litigation:
 - (i) For those claims to which the indemnity and liability provisions of this Agreement apply;
 - (ii) Where necessary to preserve limitation periods; or
 - (iii) To comply with other deadlines.

ARTICLE 6: UTILITY, SETTLEMENT AND GENERAL COUNCIL PAYMENTS

6.1 Service Fee

- (a) Beginning as soon as practicable after this Agreement takes effect and subject to Board approval, and for the rest of the term of this Agreement, the Utility will collect a Service Fee from the Consumers in the Settlement Area equal to 7.0% of the Utility's Revenues.
- (b) The percentage set for the Service Fee will be reviewed by the Utility and Settlement every three years to determine whether the existing percentage is appropriate and if there is agreement on a different percentage, the Utility will apply to the Board for approval of the change.
- (c) The Utility will remit to the Settlement by the end of the complete calendar month following the Settlement's monthly billing cycle, the Service Fee calculated on the Utility's Revenues for the immediately preceding calendar month or part thereof.
- (d) The Service Fee to be collected by the Utility is exclusive of GST, and the Utility shall also collect and remit any applicable GST under the *Excise Tax Act*.

- (e) It is understood that this Agreement, including the level of the Service Fee, must be approved by the Board, and the Utility will apply to the Board for an order granting that approval.
- (f) The Utility will supply the Settlement annually, on request, documentation satisfactory to the Settlement disclosing the financial information used by the Utility to calculate the payment of the Service Fee .
- (g) As long as this Agreement is in effect the Settlement accepts payment of the Service Fee in lieu of a business property contribution and all other fees, levies, assessments, taxes, contributions, license, or other charges for rights or interests acquired by the Utility under this Agreement.
- (h) The payment of the Service Fee does not affect the Utility's liability for indemnities and special damages as provided for in this Agreement.

6.2 Initial Payments

Initial payments will be those set out in Schedule "C".

6.3 Compensation for Damages

- (a) Unless required by 6.3(b) or an order of the Land Access Panel, the Utility will not pay any Resident damages arising from reasonable and necessary work done to provide Natural Gas Service, although compensation will be paid to the Settlement for damages relating to the construction of the main line.
- (b) The Utility will compensate a Resident for special damages where those damages are not reasonably and necessarily incurred to provide Natural Gas Service.
- (c) If the Utility and Resident cannot agree on the compensation payable for special damages, the matter will be referred to the Land Access Panel for compensation determination according to section 118 of the *Metis Settlements Act*.
- (d) If the Settlement approves a grant of utility right of way and an occupant applies to the Land Access Panel for a determination of compensation in relation to the grant, this Agreement may be provided to the Panel as evidence of the common understanding that the grant is in support of developing the community and that the grant is not something requiring or warranting compensation.

ARTICLE 7: GENERAL MATTERS

7.1 Utility's Legislated Powers

The Settlement and General Council consent to the Utility exercising its powers under the *Water, Gas and Electric Companies Act* , the *Gas Utilities Act*, the *Gas Distribution Act* and the *Public Utilities Board Act*, within the Settlement Area.

7.2 Compliance with Laws

The Utility will, at its own expense, promptly comply with all laws that apply to a utility right of way and the construction or operation of the Utility's facilities on it.

7.3 The Crown

Notwithstanding anything else in this Agreement, it is understood that the rights, powers and privileges conferred by this Agreement are not exclusive as against Her Majesty in right of the Province of Alberta.

7.4 Nature of Agreement

This Agreement constitutes:

- (a) A grant by the Settlement of an exclusive licence, subject to the terms of this Agreement, to supply natural gas in the Settlement Area, and
- (b) An annual contributions agreement for the purposes of the General Council Business Property Contributions Policy.

7.5 Notice

- (a) Notices under this Agreement must be in writing delivered personally, or by fax, courier, or registered letter, to the appropriate representative as appointed under article 5.7.
- (b) When given personally, by fax, or by courier, the notice will be considered received the day it was delivered.
- (c) When delivered by registered letter, the notice will be considered received 7 days after mailing.

7.6 Assumption of Reasonableness

All parties to this Agreement are committed to acting reasonably to carry out its provisions, as for example in ensuring good communication, forming opinions, providing approvals, granting consents, and confirming the satisfactory conduct of work.

7.7 Indemnity

- (a) The Utility indemnifies the Settlement from any damage, injury, claims or costs incurred by the Settlement due to damages caused by negligent acts or omissions of the Utility, its employees, or its agents, in relation to the Construction or Operation of the Gas Distribution System.

- (b) The Settlement indemnifies the Utility from any damage, injury, claims, or costs incurred by the Utility in relation to the Gas Distribution System due to damages caused by negligent acts or omissions of the Settlement, its employees, or its agents.

7.8 Waiver

No one can be excused from a responsibility under this Agreement except in writing, and if any party fails to meet a responsibility, silence by another will not be considered as acceptance of the failure.

7.9 Amendment

This Agreement can only be amended by another written agreement signed by the Settlement, General Council, and the Utility, subject to the provisions of article 3.3(c).

7.10 Assignment

- (a) This Agreement, and everything contained in it, binds and benefits the parties and their respective successors and assigns.
- (b) The Utility can assign this Agreement, subject to any necessary regulatory approvals, with the consent of the Settlement.
- (c) No party is to be considered the agent of another party.
- (d) If any provision of this Agreement is held to be invalid or unenforceable, then the remaining provisions of this Agreement will not be affected thereby and will continue to be held valid and enforceable.

7.11 Entire Agreement

Subject to article 3.3(c), this Agreement constitutes the whole of the contract between the parties and supercedes the provisions of any prior agreement between the parties relating to this subject matter.

7.12 Force Majeure

No party shall be responsible for any failure to comply with or for any delay in performance of the terms of this Agreement where such failure or delay is directly or indirectly caused by or results from events beyond the reasonable control of the party.

These events include, but are not limited to, fire, flood, earthquake, accident, civil disturbance, war, rationing, acts of God, or acts of government.

This Agreement signed, sealed and delivered this 8th day of February, 2002 by

GIFT LAKE METIS SETTLEMENT

PER: [Signature]
Councillor

PER: [Signature]
Councillor

PER: [Signature]
Councillor

[Signature]
Witness to signatures of all Councillors

PER: [Signature]
Councillor

PER: _____
Councillor

[Signature]
Witness to Administrator

[Signature]
Administrator, GIFT LAKE Metis Settlement

ALTAGAS UTILITIES INC.

PER: [Signature] J. P. HEIKONEN, CA
PRESIDENT

[Signature]
Witness to signatures of Utility

PER: _____

METIS SETTLEMENTS GENERAL COUNCIL

PER: [Signature]

[Signature]
Witness to signatures of
General Council

PER: _____

[Handwritten initials]

SCHEDULE "B"

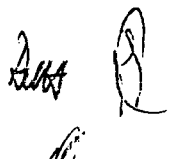
PURCHASE OF GAS DISTRIBUTION SYSTEM

The price would be the actual investment by the Utility in the Gas Distribution System:

- less contributions and grants by others;
- plus capitalized overheads at rates applied to all construction projects during the applicable period;
- plus any additional investment made by the Utility to service additional Consumers from time to time;
- plus \$50,000.00;
- plus the fair market value of inventory of supplies and equipment and accounts receivable related to the Gas Distribution System.

Equipment and installations needed by the Utility to supply others within its franchise area approval, or elsewhere, will not be included in the sale.

The sale would be on an "as-is, where is basis" provided that the Utility will be required to provide reasonable warranties that are customary in such sale transactions dealing with the Utility's right to convey the Gas Distribution System, that the Utility has operated the Gas Distribution System in a good and workmanlike manner in accordance with generally accepted industry practices and in all material respects, in compliance with all applicable legislation.



SCHEDULE "C"

INITIAL PAYMENTS

Gasification Costs:

Original contribution	\$1,162,200.00	
Additional contribution	\$ 50,000.00	
GST	<u>\$ 84,854.00</u>	
TOTAL		<u>\$1,297,054.00</u>

Gift Lake Metis Settlement will pay the Gasification Costs and GST to AltaGas Utilities Inc. as follows:

Payment 1 - March 15, 2002	\$ 500,000.00	
GST	<u>\$ 35,000.00</u>	
		\$ 535,000.00
Payment 2 - April 15, 2002	\$ 106,100.00	
GST	<u>\$ 7,427.00</u>	
		\$ 113,527.00
Payment 3 - June 30, 2002	\$ 606,100.00	
GST	<u>\$ 42,427.00</u>	
		<u>\$ 648,527.00</u>
TOTAL		<u>\$1,297,054.00</u>

