



EB-2012-0475

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 Natural Resources Gas Limited for an order approving the terms and conditions upon which, and the period for which, the Corporation of the Township of Southwest Oxford is, by by-law, to grant to Natural Resources Gas Limited the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in the Township of Southwest Oxford.

By delegation, before: Pascale Duguay

DECISION AND ORDER

March 27, 2014

Background

Natural Resources Gas Limited (“NRG”) and the Corporation of the Township of Southwest Oxford (the “Corporation”) are party to a municipal franchise agreement whereby NRG has the right to construct and operate works for the distribution of gas, and the right to extend or add to the works, in and through the Township of Southwest Oxford.

NRG also holds a Certificate of Public Convenience and Necessity granting it the right to construct works to supply gas within the former Township of Derehma which now forms part of the Township of Southwest Oxford (E.B.C. 111 and 119, issued May 5, 1982).

The franchise agreement between NRG and the Corporation was set to expire on February 1, 2013. Prior to the franchise agreement expiring, on December 21, 2012,

NRG filed an application with the Board under section 10 of the *Municipal Franchises Act* (the “Act”).

Through that application, NRG sought a Board order renewing the franchise agreement for a further 20-year period and, in the interim, a Board order continuing NRG’s rights under the franchise agreement past its expiry date until the Board makes a final determination on the franchise renewal application.

The Board assigned file number EB-2012-0475 to the application.

The Application for Interim Relief

On January 11, 2013, the Board issued an order continuing NRG’s franchise rights past the expiry date of its franchise agreement with the Corporation. The Board stated that the order would remain in effect until such time that the Board makes a final determination on the franchise renewal application.

The Application for Franchise Renewal

On December 17, 2013, NRG filed an updated application with the Board requesting an order under section 9(3) of the Act approving the terms and conditions, and the period for which, the Township is by by-law, to grant NRG the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works.

Together with the application, NRG provided a by-law passed by the Corporation on November 5, 2013, authorizing the renewal of the franchise agreement and which granted the franchise rights described therein to NRG. NRG noted that whereas a municipality would typically seek Board approval pursuant to section 9(1) of the Act prior to passing such a by-law, the Corporation did not do so in this case. NRG submitted that, nevertheless, the Board should still proceed with approving the by-law. In support of its submission, NRG stated that: the proposed franchise agreement is based exclusively on the Board’s 2000 Model Franchise Agreement, including the Board’s recommended 20-year term; that the terms and conditions of the by-law are uncontroversial in that it grants franchise rights under the terms and conditions found in the 2000 Model Franchise Agreement; and that, in any case, the Board can dispense with the requirement for municipal electors’ assent (i.e. section 9(1) of the Act states

that a by-law cannot be submitted to the municipal electors for their assent prior to Board approval, however, section 9(4) allows the Board to dispense with municipal electors' assent). As such, NRG submitted that any impediment caused by section 9(1) of the Act is eliminated if the Board declares and directs that the assent of the electors is not necessary.

NRG also submitted that the intent of the Corporation – to enter into and execute the proposed franchise agreement with NRG – should not be defeated due to a minor departure from the Board's normal process. NRG submitted that it would be inefficient to require the Corporation to repeal the by-law as-is, submit a draft by-law for Board approval, and then pass the exact same by-law a second time. NRG noted that if the Board grants the relief required, NRG and the Township will execute and date a new franchise agreement in the same form.

On January 20, 2014, the Board issued its Notice of Application and Written Hearing. In response to the Notice, Union Gas Limited ("Union") filed a letter of comment on January 28, 2014. Union informed the Board that it also has a franchise agreement in place with the Corporation (as approved in EB-2013-0020, and which expires on April 11, 2033). Union also has a Certificate of Public Convenience and Necessity (EB-2013-0021), issued April 11, 2013, granting Union the right to construct works to supply natural gas within the Township of Southwest Oxford except in those areas covered by the Certificate held by NRG (E.B.C. 111 and 119, issued May, 1982).

Board Findings

The Board finds that it is in the public interest to grant the application. NRG filed a complete application and provided notice to the public in the manner instructed by the Board. No party intervened to object to the application. The proposed franchise agreement is also in the form of the 2000 Model Franchise Agreement.

The Board is satisfied with the by-law passed by the Corporation (notwithstanding that it was passed prior to receiving Board approval). In this regard, the Board finds that it is appropriate to declare and direct that the assent of the electors is not necessary.

The Board notes that the Township of Southwest Oxford is an area where both NRG and Union hold rights to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works. The Board

further notes that the utilities' respective service areas within the Township of Southwest Oxford are clearly delineated in their respective Certificates of Public Convenience and Necessity (E.B.C. 111 and 119 for NRG; and EB-2013-0021 for Union).

IT IS ORDERED THAT:

1. The terms and conditions upon which, and the period for which, the Corporation of the Township of Southwest Oxford is, by by-law, to grant Natural Resource Gas Limited the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in the Township of Southwest Oxford, as set out in the franchise agreement attached as Appendix A, are approved.
2. The assent of the municipal electors of the Township of Southwest Oxford to the by-law is not necessary.

DATED at Toronto, March 27, 2014

ONTARIO ENERGY BOARD

Original Signed By

Pascale Duguay
Manager, Natural Gas Applications

APPENDIX A

TO THE BOARD'S DECISION AND ORDER IN

EB-2012-0475

DATED: March 27, 2014

Franchise Agreement

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8
416.362.2111 MAIN
416.862.6666 FACSIMILE

OSLER

December 17, 2013

Patrick G. Welsh
Direct Dial: 416.862.5951
pwelsh@osler.com
Our Matter Number: 1144688

Sent By Electronic Mail, Regular Mail and RESS Electronic Filing

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

Dear Ms. Walli:

EB-2012-0475 - Franchise Renewal Application - Natural Resource Gas Limited and the Township of South-West Oxford

Please find enclosed an Application by Natural Resource Gas Limited (NRG) for an Order of the Board with respect to a proposed Franchise Agreement between NRG and the Township of South-West Oxford.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Yours very truly,



Patrick G. Welsh
PW:fd

Enclosures (4)

c: Richard King, *Osler*
Laurie O'Meara, *NRG*
Diane Gould-Brown, *Township of South-West Oxford*

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 Natural Resource
Gas Limited for an Order approving the Township of South-West
Oxford's By-Law No. 58-2013;

AND IN THE MATTER OF an Application by Natural Resource
Gas Limited for an Order approving the terms and conditions upon
which, and the period for which, the Township of South-West Oxford
is, by by-law, to grant to Natural Resource Gas Limited the right to
construct and operate works for the distribution, transmission and
storage of natural gas and the right to extend and add to the works in
the Township of South-West Oxford;

AND IN THE MATTER OF an Application by Natural Resource
Gas Limited for an Order directing and declaring that the assent of
the municipal electors of the Township of South-West Oxford to the
by-law is not necessary.

**APPLICATION OF
NATURAL RESOURCE GAS LIMITED**

December 17, 2013

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Richard J. King
Tel: 416.862.6626

Patrick G. Welsh
Tel: 416.862.5951
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Counsel for Natural Resource Gas Limited

1. Natural Resource Gas Limited (“NRG”), is an Ontario corporation and carries on the business of, among other things, owning and operating natural gas distribution facilities in the Township of South-West Oxford (the “Township”).

2. The Township is a municipal corporation incorporated under the laws of Ontario. A map showing the location of the Township is attached as Schedule “A”. The Township’s address and contact information is:

*Township of South-West Oxford
R.R. #1
Mount Elgin, ON N0J 1N0
312915 Dereham Line*

Attention: Dianne Gould-Brown, Deputy Clerk

3. NRG has a Certificate of Public Convenience and Necessity granting it the right to construct works to supply gas and to supply gas in the Township (E.B.C. 111 and 119, issued May 5, 1982).

4. NRG and the Township have an existing franchise agreement dated February 1, 1983, which granted NRG the right to construct and operate works for the distribution of gas within the Township’s municipal boundaries and to supply gas to the Township’s residents (the “Existing Franchise Agreement”). NRG’s franchise rights were set to expire on February 1, 2013.

5. On December 21, 2012, counsel for NRG requested an interim extension of the Existing Franchise Agreement with the Township. On January 11, 2013, the Ontario Energy Board (the “Board”) granted NRG an interim order continuing NRG’s right to operate in the Township of South-West Oxford pursuant to section 10(4) of the *Municipal Franchises Act*,

R.S.O. 1990, c. M.55 (the “Act”) until such time as the Board makes a final determination on NRG’s franchise renewal application regarding the Township.

6. NRG approached the Township to negotiate the renewal of the Existing Franchise Agreement using a 20-year franchise agreement based exclusively on the Board’s 2000 Model Franchise Agreement, a copy of which is attached as Schedule “B” (the “Proposed Franchise Agreement”).

7. On November 5, 2013, the Council of the Township passed By-Law No. 58-2013 (the “By-Law”):

- (a) Authorizing the Proposed Franchise Agreement and granting the franchise rights described in the Proposed Franchise Agreement to NRG;
- (b) authorizing the Mayor and the CAO to enter into and execute the Proposed Franchise Agreement; and,
- (c) repealing South-West Oxford By-Law No. 5-83 (the February 1, 1983 by-law approving the Existing Franchise Agreement).

8. A copy of the By-Law is attached as Schedule “C”.

9. Shortly after passing the By-Law, the Township executed the Proposed Franchise Agreement.

10. The Township did not seek the Board’s approval pursuant to section 9(1) of the Act prior to passing the By-Law. However, NRG submits that the Board should nonetheless approve the By-Law for the following reasons:

- (a) **The terms, conditions and duration of the Proposed Franchise Agreement are neither novel nor controversial:** the Proposed Franchise Agreement is based exclusively on the Board's 2000 Model Franchise Agreement, including the Board's recommended 20-year term. As such, the requirement in section 9(1) of the Act that the "terms and conditions upon which and the period for which such [franchise] right is to be granted, renewed or extended [first be] approved by the Ontario Energy Board" has effectively been satisfied.
- (b) **The terms and conditions of the By-Law are uncontroversial:** the By-Law (a) authorizes and grants franchise rights under the terms and conditions found in the 2000 Model Franchise Agreement; (b) authorizes the Mayor and CAO to enter into the Proposed Franchise Agreement; and (c) repeals the former by-law approving the Existing Franchise Agreement. There is nothing controversial or untoward in the By-Law.
- (c) **The Board can dispense with the requirement for municipal electors' assent:** the prohibition contained in section 9(1) of the Act is that a by-law cannot be submitted to the municipal electors for their assent prior to Board approval. However, section 9(4) allows the Board to dispense with municipal electors' assent. As such, any impediment caused by section 9(1) of the Act (i.e. the prohibition against submitting a by-law to the municipal electors for their assent prior to Board approval) is eliminated if the Board declares and directs that the assent of the electors is not necessary.

- (d) **Clear intent should trump minor flaw in process:** the Board should be reluctant to defeat the clear intent of the Township of South-West Oxford, which is to enter into and execute the Proposed Franchise Agreement with NRG. It would be a waste of the Township's, the Board's, and NRG's time to require the Township to repeal the By-Law as-is, submit a draft by-law for Board approval, and then pass the exact same by-law a second time.
- (e) **The Board has broad statutory discretion and should attempt to find the most just, expeditious, and efficient result:** the Board has broad discretion under section 9(2) of the Act, and may "exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval." Approving the By-Law is consistent with the broad discretion conferred by section 9(2) of the Act, and is consistent with the principle of liberal construction (enshrined in Rule 2.01 of the Board's *Rules of Practice and Procedure*) aimed at securing "the most just, expeditious, and efficient determination on the merits of every proceeding before the Board."

11. If the Board grants the relief requested in section 12 below, NRG and the Township will execute (and date) a new franchise agreement in the same form as that attached as Schedule B (i.e., the Proposed Franchise Agreement).

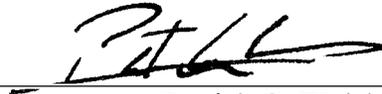
12. NRG now applies to the Board for:

- (a) An Order under section 9(2) of the Act approving the By-Law and permitting the Township and NRG to enter into and execute the Proposed Franchise Agreement;

- (b) An Order under section 9(3) of the Act approving the terms and conditions, and the period for which, the Township is, by by-law, to grant NRG the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works; and,
- (c) An Order pursuant to section 9(4) directing and declaring that the assent of the municipal electors of the Township is not necessary for the By-Law under the circumstances.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

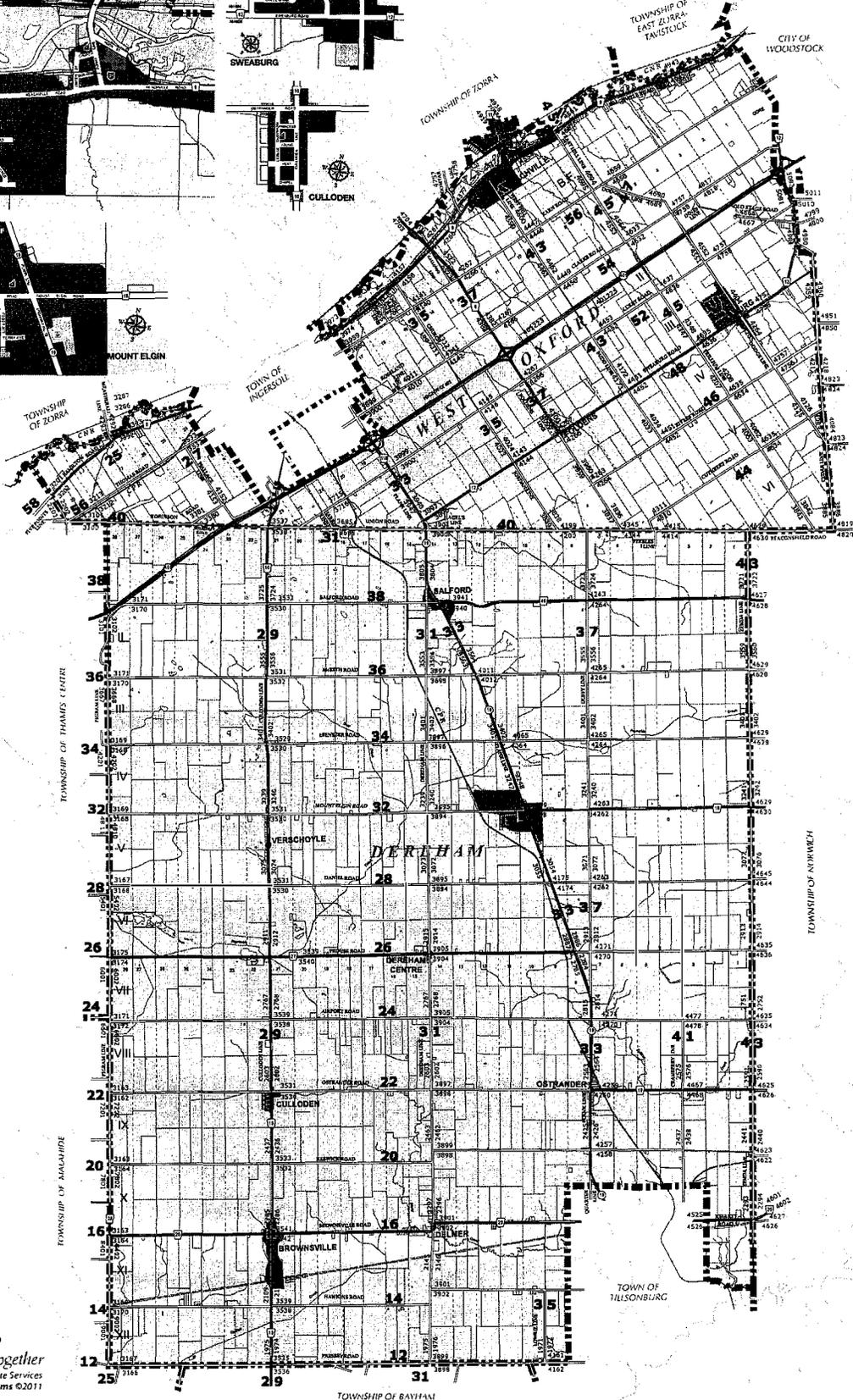
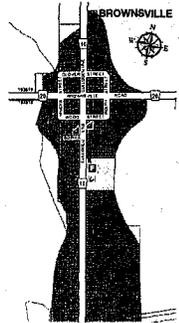
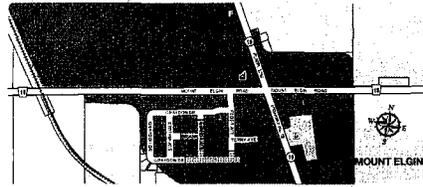
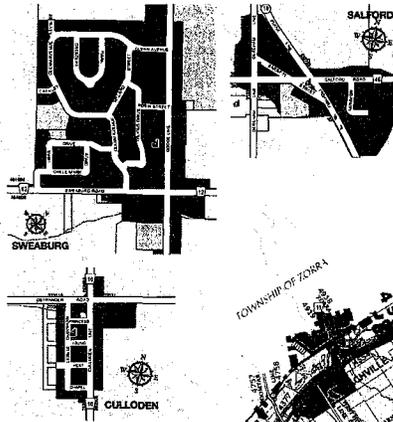
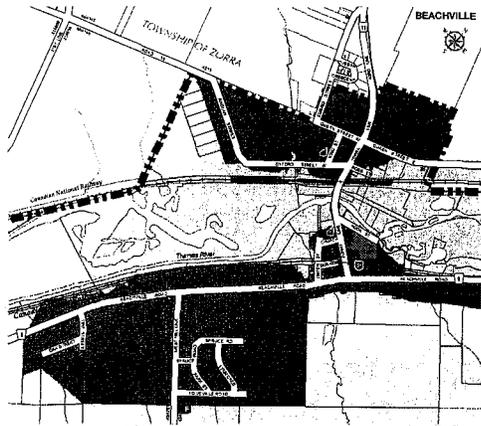
December 17, 2013



Patrick G. Welsh

Schedule "A"

TOWNSHIP OF SOUTH-WEST OXFORD



LEGEND

- 58** ROAD IDENTIFICATION NUMBER
- 3201** MUNICIPAL ADDRESS RANGES
- 1** COUNTY ROAD
- 4** PROVINCIAL ROAD
- TOWNSHIP ROAD
- HIGHWAY
- COUNTY ROAD
- PARCEL FABRIC
- TOWNSHIP LOT LINES
- RAILROAD
- MUNICIPAL LIMITS
- HISTORIC TOWNSHIP LIMITS
- DRAINAGE
- PUBLIC WORKS FACILITY
- CHURCH
- SCHOOL
- LIBRARY
- FIRE HALL
- POLICE STATION
- VILLAGE
- SETTLEMENTS AND RURAL CLUSTERS



Schedule "B"

FRANCHISE AGREEMENT

THIS AGREEMENT effective this 15th day of August, 2013.

BETWEEN:

CORPORATION OF THE TOWNSHIP OF SOUTH-WEST OXFORD
hereinafter called the "Corporation"

-and -

NATURAL RESOURCE GAS LIMITED
hereinafter called the "Gas Company"

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

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

THEREFORE the Corporation and the Gas Company agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 In this Agreement:

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

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

ARTICLE 2 – RIGHTS GRANTED

2.1 To provide gas service:

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

2.2 To Use Highways.

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

2.3 Duration of Agreement and Renewal Procedures.

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

ARTICLE 3 – CONDITIONS

3.1 Approval of Construction

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

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

3.2 As Built Drawings.

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

3.3 Emergencies

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

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

3.4 Restoration

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

3.5 Indemnification

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

3.6 Insurance

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

3.7 Alternative Easement

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

3.8 Pipeline Relocation

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

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

ARTICLE 4 – PROCEDURAL AND OTHER MATTERS

4.1 Municipal By-laws of General Application

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

4.2 Giving Notice

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

4.3 Disposition of Gas System

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

4.4 Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:

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

4.5 Franchise Handbook

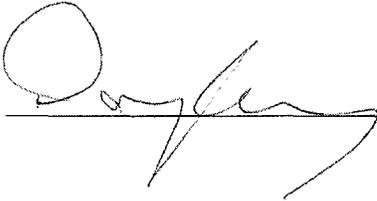
The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas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

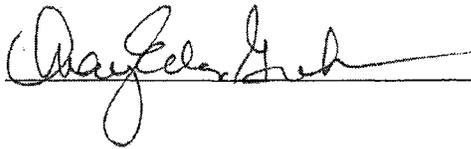
4.6 Agreement Binding Parties

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

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

**THE CORPORATION OF THE TOWNSHIP
OF SOUTH-WEST OXFORD**

By:  _____

By:  _____

NATURAL RESOURCE GAS LIMITED

By: _____
J. Robert Cowan, Co-Chair

Schedule "C"

THE CORPORATION OF THE
TOWNSHIP OF SOUTH-WEST OXFORD

BY-LAW NO. 58-2013

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT
BETWEEN
THE CORPORATION OF THE TOWNSHIP OF SOUTH-WEST OXFORD
AND
NATURAL RESOURCE GAS LIMITED

WHEREAS the Council of the Corporation of the Township of South-West Oxford deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Natural Resource Gas Limited;

NOW THEREFORE the Council of the Corporation of the Township of South-West Oxford enacts as follows:

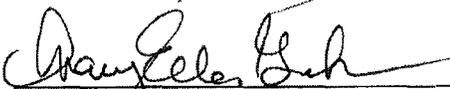
1. **THAT** the Franchise Agreement between the Corporation of the Township of South-West Oxford and Natural Resource Gas Limited attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. **THAT** the Mayor and CAO be and they are hereby authorized and instructed on behalf of the Corporation of the Township of South-West Oxford 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** Township of South-West Oxford By-Law No. 5-83 is hereby repealed in its' entirety.
4. **THAT** this by-law shall come into force and take effect as of the final passing thereof.

Read a first and second time this 5th day of November, 2013.

Read a third time and finally passed this 5th day of November, 2013.

THE CORPORATION OF THE
TOWNSHIP OF SOUTH-WEST OXFORD


MAYOR: David Mayberry


CLERK: Mary Ellen Greb