

BY-LAW NO. 434

BEING A BY-LAW of the Rural Municipality of Morris to provide for the granting of a franchise for the supplying of natural gas and permitting Plains-Western Gas (Manitoba) Ltd. to use the highways of the said Municipality so that the Company may distribute and sell natural gas to the inhabitants of the said Municipality.

WHEREAS PLAINS-WESTERN GAS (MANITOBA) LTD. hereinafter called the 'Company' has applied to the Rural Municipality of Morris hereinafter called the 'Municipality' for a franchise for the supplying of natural gas and for the right to lay pipe lines in, along and under the highways and lanes of the Municipality so that the Company may distribute and sell natural gas to the inhabitants of the Municipality.

AND WHEREAS it is deemed advisable and expedient for the Municipality to grant the Company such franchise and right and to enter into a contract or agreement with the Company accordingly:

NOW THEREFORE the Council of the Rural Municipality of Morris in meeting duly assembled doth hereby enact as follows:

1. That the Municipality do enter into an agreement with the Company to grant to the Company a franchise for the supplying within the Rural Municipality of Morris natural gas and to permit the Company to use the highways and lanes of the Municipality so that the Company may distribute and sell natural gas to the inhabitants of the Municipality the terms and conditions of the said agreement to be in the form hereto annexed and hereby made part of this By-Law.

2. That this By-law shall, after being read a first time by the Council be submitted to or receive the authorization or approval of the Public Utilities Board of Manitoba.

3. That this By-law shall take effect on the final passing thereof.

4. This By-law and the Agreement hereby approved of shall take effect only insofar as the Rural Municipality of Morris has a Statutory Right to pass the said By-law and enter into the said Agreement.

DONE AND PASSED by the Reeve and Council of the Rural Municipality of Morris in meeting duly assembled at the Rural Municipality of Morris and held this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 1966.

RURAL MUNICIPALITY OF MORRIS

*Bruce MacKenzie*  
\_\_\_\_\_  
Reeve

*J. Harder*  
\_\_\_\_\_  
Secretary-Treasurer

Second and third reading given on 9 day of Sept. A.D. 1966.

Certified a true copy of By-Law No. 934 given first reading on Feb. 11/66

*J. Harder*  
\_\_\_\_\_  
Secretary-Treasurer

**APPROVED**  
By Order No. 100/66  
\_\_\_\_\_  
THE PUBLIC UTILITIES BOARD  
Secretary

MEMORANDUM OF AGREEMENT made this 9<sup>th</sup> day of September A.D. 19

BETWEEN;

THE RURAL MUNICIPALITY OF MORRIS in the  
Province of Manitoba (hereinafter called the "Municipality")

OF THE ONE PART

and

PLAINS-WESTERN GAS (MANITOBA) LTD., with Head Office  
at the City of Brandon in the Province of Manitoba,  
(hereinafter called the "Company")

OF THE SECOND PART

WHEREAS the Municipality is desirous of obtaining a  
supply of natural gas for the Municipality and the inhabitants thereof.

AND WHEREAS it is agreed between the Municipality and the  
Company for the Company to supply natural gas to the Municipality  
and inhabitants thereof and to corporations carrying on corporate  
purposes therein, upon the terms and conditions following:

1. The Municipality hereby grants to the Company, its  
successors and assigns, subject to the terms, conditions and provisions  
herein contained, the sole and exclusive franchise to supply natural gas  
to the Municipality and its inhabitants and corporations in the following  
designated area in Manitoba for the term of twenty (20) years from the  
date upon which the Company commences to supply natural gas to the  
Municipality and its inhabitants and corporations pursuant to this  
agreement.

<u>Sections</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
3,4,9,10,15,16, 21,22,27,28,33	4	1	KPM
	4	1	KPM
4,9,10,14,15,16	5	1	KPM

Parish of Ste. Agathe -  
Old River Lots only 301 to 303 (Inclusive)

The Municipality hereby grants to the Company the full power, right and liberty to put down, take up, relay, connect, disconnect, repair, maintain and operate its gas pipe lines along, through or under the street, squares, highways, lanes, alleys, grounds, bridges, parks, thoroughfares and other public places within the limits of the aforesaid portion of the Municipality as the said pipe lines may be from time to time extended as may be necessary or convenient for the purpose of supplying and conducting natural gas to the consumers thereof, and the Company is to that end authorized to enter upon any and all the said places and at its own expense to break the surface and to make the necessary excavation thereon and to do all other things reasonably necessary or convenient for the supplying of natural gas to the inhabitants and corporations of the aforesaid portion of the Municipality, and for laying down, taking up, repairing, maintaining and operating its gas pipe lines as aforesaid.

2. The Company shall do as little damage as possible in the execution of the powers hereby granted and shall cause as little obstruction as possible during the progress of its work and shall restore the streets, squares, highways, lanes, grounds, thoroughfares, parks and other public places within the limits of the Municipality in all cases to a state of repair as nearly as possible equal to their state of repair before the work was undertaken.

3. The Company agrees with the Municipality that it will protect and indemnify the Municipality against any damage or expenses in connection with the execution by the Company of the powers hereby granted and from and against all claims, demands and actions by third persons against the Municipality in respect of damages sustained by reason of any operations of the Company in relation to its undertaking. The Company agrees to provide and maintain during the term of this agreement and any extensions thereof liability insurance satisfactory to the Public Utilities Board of Manitoba.

4. Before the Municipality installs any new public services or makes any repairs or alterations to any of its public services, the installation or repairs or alterations of which may in any way effect any of the Company's pipe lines, plant or equipment, the Municipality shall give the Company's representative at Morris not less than two days' notice in writing, except in cases where the repairs or alterations by the Municipality are required to be immediately done, when any notice shall suffice. Where practicable, the Municipality shall have regard to the reasonable directions of the Company's representative concerning such repairs and alterations, but, in any event, the Municipality shall be free from liability to the Company in connection with any damages done by reason of such repairs or alterations.

5. Following the initial construction program, the Company shall give notice in writing to the Municipality of its intention to open or break up any highways, streets, or lanes, not less than three (3) clear days before the beginning of the work, except in cases of emergency when immediate notice shall suffice.

6. The Company shall supply as much natural gas as may be required to meet the reasonable demands of consumers within the Municipality when the places or buildings to be supplied are situate on land adjoining the pipe line of the Company or which can reasonably and economically be served from any pipe line of the Company, and the property line shall be the place of delivery of all natural gas supplied in the Municipality and all expense and risk in utilizing and using such gas after delivery at the property line shall be borne by the customer, including, subject to paragraph 7, the cost of providing and installing service lines from the property line to place of consumption, provided any damage resulting from gas after it has been so delivered is not the result of any negligence of the Company, its officers, servants or agents.

7. The Company shall supply and install free of charge to all consumers on the Company's low pressure distribution systems, all pressure reducing valves and gas meters necessary to accurately measure the gas consumed, such valves and meters to remain the property of the Company. All costs, in furnishing and installing a service line or connection from the Company's low pressure distribution systems up to a maximum of 75 feet in length from the customer's property line to the meter setting, shall be borne by the Company.

8. Subject to revision by the Public Utilities Board of Manitoba or any other governmental board or regulatory authority having jurisdiction the initial price to be charged for natural gas supplied by the Company to consumers in the Municipality shall be as follows:

General Rate

Available to all consumers	
First 2 mcf per month	\$3.50
Commodity Charge	.88 per Mcf
Minimum monthly charge	3.50

Commercial Rate

Available to all consumers using in excess of 724 Mcf per year.

Fixed monthly charge	\$10.00
Commodity Charge	.72 per Mcf
Minimum monthly charge	10.00

Industrial Rate

Available to all industrial, institutional, and large commercial consumers with alternate fuel facilities satisfactory to the Company.

Rate to be set by special contract based on volumes, characteristics of use, and location.

The aforesaid rates are net and shall be adjusted to provide for a five (5%) per cent discount if paid within fourteen (14) days of the date of rendering account. There shall be no discrimination among consumers of the same class using similar quantities at similar load factors but the Company may sell natural gas at rates lower than hereinbefore set forth in cases where quantity of consumption, load factor or off-peak demand warrants it so doing. Domestic consumers shall in all cases have preference in demand over other consumers.

Provided however that the foregoing rate structures, which are the initial rate structures, have been developed on the basis of

the Company's best estimates of cost of facilities, market attachment, cost of gas and other costs of service including depreciation at a composite rate of 2½% on the Company's plant (other than buildings, furniture and fixtures, tools, mobile and other equipment), and that these initial rate structures will be subject to revision in case of variation between the Company's estimates on which the initial rates are premised and historical results.

9. The Municipality covenants and agrees with the Company that the franchise and all the rights, powers, privileges and liberties hereby granted shall be exclusive for the supplying of natural gas for all purposes to that portion of the Municipality and the inhabitants and corporations thereof as described in clause 1, of this agreement, for the period of twenty (20) years from the date the company commences to supply gas in the Municipality and its inhabitants, and that during the said term the Municipality will not itself use or permit any other person, firm or corporation to use the streets, squares, highways, lanes, grounds, parks, bridges and other public places hereinbefore mentioned or any of them for the purpose of laying gas pipes along, through or under the same. It is further agreed that at the expiration of the term hereof, and at the expiration of each renewal hereof, the Municipality may, after giving one (1) year's written notice prior to the date of the termination of this agreement or of any renewal hereof, at its option (to be expressed by by-law of the Municipality ) elect to purchase the property of the Company with respect to its distribution operations within the area designated in this agreement for such price

and on such terms as may be agreed upon between the parties or failing such agreement then at such price and on such terms as may be fixed and settled by the Public Utilities Board of Manitoba or such other regulatory authority as may possess jurisdiction over the operations of the Company, or if such Board shall refuse to fix and settle the price then the said price and terms shall be such as may be fixed and determined by arbitration under the provisions of The Arbitration Act of the Province of Manitoba, each of the parties to appoint an arbitrator and the arbitrators so appointed to appoint a third arbitrator who shall be versed in this special branch of engineering economics and in case of disagreement such third arbitrator shall be appointed by the Court of Queen's Bench of the Province of Manitoba, the decision of a majority of such Board of arbitrators shall be binding upon the parties arriving at the price. The Board or the arbitrators shall make allowance for severance of the distribution property and operation from other properties and operations of the Company in Manitoba. In the event of such purchase the Company and the Municipality will, subject to the approval of the Public Utilities Board of Manitoba, enter into an agreement for the sale of natural gas to the Municipality for resale by the Municipality to the inhabitants of the Municipality and failing such agreement the said rates shall be those as fixed by the Public Utilities Board of Manitoba. If the Municipality does not notify the Company in writing of its intention of such purchases at least one year before the date of expiration of this agreement or of any renewal hereof, the agreement will be deemed to be automatically renewed for an additional term of ten (10) years, and at the end of the said ten year renewal term the

said agreement will be further automatically extended in the absence of notice as aforesaid, for additional terms of ten (10) years from time to time. Provided further that at the time of any such renewal changes in the terms of this agreement may be made at the request of either party with the approval of the other party hereto and in the absence of such approval such changes may be made by reference to and under the authority of and with the approval of the Public Utilities Board of Manitoba or such other regulatory authority as may possess jurisdiction over the operations of the Company. Notwithstanding anything contained elsewhere in this agreement, it is understood and agreed that if the Municipality exercises its option to purchase the property of the Company with respect to its distribution operations within the area designated in this agreement, such exercise shall not affect the right of the Company to continue to operate its transmission facilities in such area for so long as the same may be required by the Company.

10. Without restricting the generality of the foregoing the Company shall not be responsible for any damages arising from strikes, lockouts, war, scarcity of materials, acts of God, or any other cause beyond its control.

11. The Company shall be liable to the Municipality for all normal municipal school and business taxes.

12. This agreement is intended to operate as a consent by the Municipality to the exercise by the Company of the powers, rights and liberties, under the franchise hereby contained in accordance with the Statute under which the said Municipality is incorporated. This agreement shall take effect only insofar as the Municipality has the statutory right to enter into this Agreement.

13. The Municipality shall promptly take all such steps as may be necessary under the Municipal Act or any other applicable Statute or government regulation to confirm and validate this agreement or the by-law ratifying the same. The rights and privileges granted herein to the Company by the Municipality shall be effective only when the by-law of the Municipality authorizing the Municipality to enter into this agreement has been approved by the Public Utilities Board of Manitoba with such changes as may be directed by the Board and agreed to by the Municipality and by the Company and the by-law has been given final reading by the Municipality.

14. If at any time during the term of this agreement any dispute, difference or question shall arise between the parties hereto, touching the construction, meaning, or effect of this agreement, or concerning any clause, or thing herein contained or the rights or liabilities of the parties respectively under this agreement, then every such dispute, difference or question not within the jurisdiction of the Public Utilities Board of Manitoba to decide shall be determined by arbitration under the provisions of the Arbitration Act of the Province of Manitoba.

15. This agreement shall enure to the benefit of all and shall be binding upon the successors and assigns of each of the parties hereto.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals under the hands of the proper officers in that behalf as of the day and year first above written.

PLAINS-WESTERN GAS (MANITOBA) LTD.

[Signature]  
Vice-President  
[Signature]  
Secretary-Treasurer

THE RURAL MUNICIPALITY OF MORRIS

[Signature]  
Reeve  
[Signature]  
Secretary-Treasurer

**APPROVED**  
By Order No. 100/66  
**THE PUBLIC UTILITIES BOARD**  
Secretary