

**CENTRA GAS MANITOBA INC.
FRANCHISE AGREEMENT APPLICATION**

AMENDMENTS TO THE GENERIC FRANCHISE AGREEMENT

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1 **4.0 Introduction**

2 The purpose of this tab is to provide material in support of the proposed changes to the
3 generic form of franchise agreement (the "Generic Agreement"), which forms the basis
4 for agreements entered into by Centra when extending service to new areas. In this Tab
5 Centra also advises that, subject to Public Utilities Board ("PUB") approval, it will permit
6 any municipality to replace its existing agreement with the proposed Generic Agreement,
7 should it choose to do so.

8

9 Centra is seeking approval to vary the existing Generic Agreement, as approved by
10 Order 109/94, in order to clarify certain sections and to improve the consistency between
11 the terms of the Generic Agreement and the Negotiated Schedule of *The Greater*
12 *Winnipeg Gas Distribution Act* (the "Act"). Centra has included a copy of the existing
13 Generic Agreement as Attachment 1 to Tab 4 for reference purposes. The black-lined
14 Generic Agreement included as Attachment 2 reflects the amendments that are being
15 proposed. To assist the PUB, Centra has also included as Attachment 3, a copy of the
16 Generic Agreement which incorporates the proposed amendments (the "Proposed
17 Generic Agreement").

18

1 **4.1 Proposed Amendments to the Generic Franchise Agreement**

2 The changes to the Generic Agreement are best illustrated in black-lined version
3 provided as Attachment 2. Centra notes that only new language and permanent
4 deletions have been tracked in Attachment 2. Wording from the original document that
5 now appears in a different section is not black-lined to assist the PUB in determining
6 what is new to the Generic Agreement. The proposed changes are discussed in more
7 detail in the following paragraphs.

8

9 Centra is seeking the following minor amendments to various sections of the Generic
10 Agreement:

- 11 • Centra has added the word “deliver”, “distribute” or the like throughout the
12 Proposed Generic Agreement to reflect that customers now have the option to
13 have their natural gas supplied by a broker and delivered through Centra’s
14 distribution system.
- 15 • Centra has replaced “consumers” with “customers” in various sections of the
16 Proposed Generic Agreement to improve consistency between the Generic
17 Agreement and the Schedule of the Act.
- 18 • The last sentence of Section 1 of the existing Generic Agreement authorizes
19 Centra to enter upon Highways in the Municipality and to break the surface to
20 make necessary excavations. Centra proposes to add “break the surface and
21 make the necessary excavations to” earlier in the Section and remove the last
22 sentence to improve the concision of the passage.
- 23 • “Drainage system” has been added to Section 1 for the purposes of clarity.
- 24 • “Under” has been added to Section 10 of the existing Generic Agreement for the
25 purposes of clarity. This provision is now contained in Section 12 of the Proposed

1 Generic Agreement.

2

3 **4.1.1 Requests by the Municipality to Extend Gas Service**

4 Centra proposes to modify the terms of the Generic Agreement pertaining to requests
5 from the Municipality to serve areas of a franchise that the Company does not supply
6 natural gas to. This change is being proposed to more accurately reflect Centra's
7 practice in responding to requests for natural gas service.

8

9 In Section 1 of the existing Generic Agreement, Centra agrees to relinquish any portion
10 of the franchise that it does not supply natural gas to, in the event that the Company
11 refuses to supply gas upon the same terms and conditions as provided in the
12 Agreement. Centra proposes to modify this provision with the terms set out in
13 Subsection 2(2) of the Proposed Generic Agreement. This new provision is intended to
14 address exceptional situations where a service extension request from the Municipality
15 is highly uneconomic, as determined by Centra's feasibility test. Where the Company
16 receives a request from the Municipality to supply gas upon the same terms and
17 conditions as provided in the Agreement, the Company will work together with the
18 Municipality with a view of developing a viable business model in relation to that portion
19 of the Municipality. This change reflects Centra's practice of attempting to respond to all
20 requests for natural gas service.

21

22 **4.1.2 Distribution System Expansions**

23 Section 2(b) of the existing Generic Agreement, which pertains in part to the expansion
24 of Centra's distribution system and the approvals required for such expansions, has
25 been updated with language from the existing Schedule of the Act. These terms are now

1 contained in Section 2(3) of the Proposed Generic Agreement.

2

3 Centra agrees that whenever the Company receives a request for gas service by any
4 inhabitant or industry of the Municipality in a location not served by the existing system,
5 that it will comply with the request provided it meets the criteria filed with and approved
6 by the PUB for the expansion of the distribution system and does not unduly affect
7 customers on the existing system.

8

9 **4.1.3 Allocation of Gas**

10 Section 2(c) of the existing Generic Agreement (Section 2(5) of the Proposed Generic
11 Agreement) pertains to the allocation of natural gas in the event that the amount of gas
12 available at or near the limits of the Territory is insufficient to meet the requirements of
13 connected customers. Centra has the right to prescribe rules and regulations for
14 allocating the available supply of natural gas to domestic, commercial and industrial
15 customers in that order of priority and subject to the provisions of *The Gas Allocation Act*
16 and regulations thereto. Centra proposes to add that the allocation of gas under this
17 Section shall also be subject to any orders made pursuant to *The Emergency Measures*
18 *Act* (the "EMA"), since the EMA provides for the provision of essential goods, services
19 and resources in a state of emergency. Please refer to Subsection 3.3.3 of Tab 3 for
20 further discussion of this amendment.

21

22 **4.1.4 Municipal Approval of Construction Plans**

23 Section 4 of the existing Generic Agreement, which relates to the location of the gas
24 distribution system and the Company's obligation to submit construction plans to the
25 Municipality for approval, has been updated for clarity and to more accurately reflect

1 Centra's current practices. These provisions are now contained in Subsection 3(1) of the
2 Proposed Generic Agreement.

3

4 Centra agrees to file with the Municipal Engineer plans for the construction of the Gas
5 Distribution System within the Municipality. As noted in Section 3.3.4 of Tab 3, Centra
6 defines "Municipal Engineer" as a "professional engineer employed directly or indirectly
7 by the Municipality or other such person as may be designated by the council of the
8 Municipality to carry out the functions and duties of the Municipal Engineer as described
9 in the Agreement."

10

11 The existing Generic Agreement stipulates that the Municipality shall have the right to
12 designate to the Company the location of the Gas Distribution System within the
13 Municipality. The Proposed Generic Agreement alternatively requires that the Gas
14 Distribution System be placed in such locations as agreed by the Municipal Engineer
15 and the Company and provides for the Municipal Engineer to approve, in a timely
16 manner, the construction plans for the location of the Gas Distribution System and any
17 changes arising in the course of construction. Centra has also updated the Generic
18 Agreement to specify that the Gas Distribution System shall be placed in boulevards and
19 under other unpaved surfaces, instead of in alleys and lanes, and added "installation and
20 maintenance" for purposes of clarity.

21

22

4.1.5 Requests for As-Built Plans of the Distribution System

23 The last sentence of Section 4 of the existing Generic Agreement requires Centra to
24 supply complete plans of its Gas Distribution System to the Municipality on an "as-built"
25 basis. Centra proposes to modify this provision to establish conditions pertaining to the

1 supply of “as-built” plans by the Company to the Municipality.

2

3 In Subsection 3(2) of the Proposed Generic Agreement, Centra agrees to supply, upon
4 request of the Municipality, plans showing the location of the Gas Distribution System
5 within the Municipality on an as-built basis; however, in no event shall the plans be
6 provided more than twice in any 12 month period. Please refer to Section 3.3.5 of Tab 3
7 of the Application for further discussion of this amendment.

8

9 **4.1.6 Specification of Pipe, Materials and Equipment**

10 Centra requests to incorporate terms from the Negotiated Schedule (and the existing
11 Schedule) into the Proposed Generic Agreement, related to the specification of pipe,
12 materials and other equipment to be used in the distribution system. Subsection 3(3) of
13 the Proposed Generic Agreement specifies that the pipe, materials and other equipment
14 to be used in the distribution system shall be of the kinds and qualities satisfactory to the
15 PUB, and shall be in compliance with *The Gas Pipe Line Act (Manitoba)* and the
16 regulations there under.

17

18 **4.1.7 Notice Required Prior to Construction Work**

19 Section 4 of the existing Generic Agreement deals with, in part, the Company's
20 obligation to provide the Municipality with at least seven days notice of its intention to
21 break up any streets or lanes before beginning such work, except in cases of
22 emergency. Centra proposes to update this Section to improve clarity and consistency
23 with the terms of the Schedule of the Act.

24

25

1 Centra is seeking to make the following amendments:

- 2 • A qualification has been added to this part to reflect that the terms of this Section
3 are applicable, unless another process is established through municipal bylaw.
- 4 • Removal of the words “in writing” to permit Centra to provide notice by electronic
5 means or in person.
- 6 • “CAO and designate of the” has been added to clarify to whom Centra will
7 provide notice.
- 8 • The words “streets or lanes” have been replaced with “the Highways of the
9 Municipality” to ensure that this Section is applicable to all areas that fall under
10 the broad definition of “highways” provided in the Generic Agreement, which
11 includes public highways, streets, roads, bridges, walkways, sidewalks, road
12 allowances, squares, lanes, alleys, ditches, drainage systems and other public
13 places.
- 14 • Centra clarifies the source of an emergency as “arising from defects or breaking
15 of the pipe or other works.”
- 16 • The addition of the following provision from the Negotiated Schedule of the Act
17 (and the existing Schedule) to this Section: “subject to the same exception and
18 as otherwise provided in this Agreement the Company shall not begin any such
19 work unless it has obtained approval therefore in writing from the Municipal
20 Engineer.”

21

22 **4.1.8 Process for Restoration Work after Construction**

23 Centra proposes to modify the Generic Agreement to clearly set out a process to be
24 undertaken when it completes restoration work following the completion of any
25 construction by the Company. These modifications ensure that restoration work has

1 been completed in a timely manner and to the Municipality's satisfaction.

2

3 In Subsection 3(c) of the existing Generic Agreement, Centra accedes that it will, within
4 a reasonable time after any construction work, restore the Highways to a state of repair
5 as nearly as possible to their former state, to the satisfaction of the Municipality. With the
6 same intent as the existing Generic Agreement, Centra proposes modifications that will
7 clearly define a process to be undertaken with respect to restoration work completed by
8 the Company. Please refer to Section 3.3.6 of Tab 3 of the Application for further
9 discussion of this amendment.

10

11 **4.1.9 Depth of Cover Requirements**

12 Centra proposes to add the terms contained in Subsection 5(e) of the Proposed Generic
13 Agreement, which obligate the Company to remedy, at its expense, any pipeline found
14 without the depth of cover requirements established by the PUB pursuant to *The Gas*
15 *Pipe Line Act (Manitoba)*, as a result of improper installation. Please refer to Section
16 3.3.7 of Tab 3 of the Application for further discussion of this amendment.

17

18 **4.1.10 Cost Responsibility for Municipally Requested Gas** 19 **Infrastructure Removals or Relocations**

20 Centra proposes to modify the terms of the Generic Agreement that establish the
21 responsibility for the costs of removing or relocating any part of the Gas Distribution
22 System, where the construction is initiated by the Municipality. These changes will align
23 the terms of the Generic Agreement with the Negotiated Schedule of the Act and with
24 Manitoba Hydro's practices for its electricity distribution business.

25

1 Subsection 7(b) of the existing Generic Agreement requires the Municipality to pay for all
2 costs incurred in the removal or relocation of any part of the Gas Distribution System, if
3 the work is initiated by the Municipality. In Subsection 5(g) of the Proposed Generic
4 Agreement, Centra submits that the costs incurred in the removal and replacement or
5 relocation of any part of the Gas Distribution System that is required by the Municipality
6 be apportioned between the Company and the Municipality in such a manner as they
7 may agree upon, or in the absence of an agreement, be apportioned equally. This
8 change is consistent with the terms in the Negotiated Schedule and Manitoba Hydro's
9 practice for the electricity distribution system, where the costs to remove or relocate
10 infrastructure when requested by the Municipality are apportioned between the
11 Company and the Municipality, in accordance with Subsection 23(2) of *The Manitoba*
12 *Hydro Act*. This policy is also consistent with the treatment of the provincial government
13 and its agencies when requesting infrastructure removals or relocations, as outlined in
14 Treasury Board Directive PA-25-05.

15

16 As noted in Section 3.3.7 of Tab 3 of the Application, the increase in costs to Centra as a
17 result of this change are expected to be negligible.

18

19 **4.1.11 Levy of Taxes by the Municipality**

20 In order to better align the terms of the Generic Agreement with the Negotiated Schedule
21 (and the existing Schedule), Centra requests to add terms to the Generic Agreement
22 with respect to the payment of taxes by the Company, as may levied by the Municipality.

23 The existing Generic Agreement is silent on this matter. Section 10 of the Proposed
24 Generic Agreement states that Centra shall pay to the Municipality any tax or taxes that
25 may be legally and properly levied by the Municipality against the Company, subject to

1 any applicable legislation now or hereafter enacted in that regard.

2

3 **4.2 Replacement of Existing Franchise Agreements**

4 In order to improve the consistency in the treatment of all franchise granting
5 municipalities, Centra will permit existing franchisors that are interested in replacing their
6 franchise agreement with the Proposed Generic Agreement to do so, subject to PUB
7 approval. Municipalities that elect not to adopt the Proposed Generic Agreement will
8 follow the renewal provisions contained in their existing franchise agreements.