

FINANCIAL SERVICES TRIBUNAL

IN THE MATTER OF the *Pension Benefits Act*, R.S.O.1990, c.P.8, as amended by the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Partial Plan Wind-Up Report submitted by The Consumers’ Gas Company Ltd. (now Enbridge Gas Distribution Inc.) in respect of the Pension Plan for Employees of The Consumers’ Gas Company Ltd. and Designated Affiliated, Associated and Subsidiary Companies (now the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates), Registration Number 242016;

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the Act

B E T W E E N :

ENBRIDGE GAS DISTRIBUTION INC.
(formerly The Consumers’ Gas Company Ltd.)

Applicant

- and -

**SUPERINTENDENT OF FINANCIAL SERVICES and
A GROUP OF FORMER EMPLOYEES OF TELESIS**

Respondents

ORDER

WHEREAS the parties have agreed upon terms of settlement as evidenced by the attached Minutes of Settlement;

AND WHEREAS the parties have consented to the terms of this Order;

The Tribunal orders:

1. The Minutes of Settlement are hereby approved;
2. Following approval of the Revised Report as referenced in paragraph 2 of the Minutes of Settlement, the Applicant is granted leave to withdraw its Request for Hearing, without costs or any other conditions other than as set out below;
3. Thereafter, the Superintendent of Financial Services shall withdraw the Notice of Proposal in this matter and will refrain from carrying out said Notice of Proposal;
4. The Tribunal shall remain seized to deal with any matter arising from implementation of the Minutes of Settlement.

Dated at Toronto this 19th, day of October, 2004

“Colin H.H. McNairn”

Colin McNairn – Chair

“Heather Gavin”

Heather Gavin - Member

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**SUPERINTENDENT OF FINANCIAL SERVICES and
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Respondents

MINUTES OF SETTLEMENT

WHEREAS the Applicant is the sponsoring employer and administrator of the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates (formerly the Pension Plan for Employees of The Consumers’ Gas Company Ltd. and Designated Affiliated, Associated and Subsidiary Companies), Registration Number 242016 (the “Plan”);

AND WHEREAS effective May 31, 1994, the Telesis Oil and Gas Division of British Gas Enterprises (Canada) Limited, a participating employer in the Plan, was sold;

AND WHEREAS the Applicant terminated the Plan in part as it related to those members employed in the Telesis Oil and Gas Division of British Gas Enterprises (Canada) Limited, members employed by Telesis Oil and Gas Ltd. and members employed by Underwater Gas Developers Limited (“Affected Members”);

AND WHEREAS in November 1994, the Applicant filed a report on the partial wind-up of the Plan as at May 31, 1994 (the “Partial Wind-Up Report”) pursuant to Section 70 of the Act;

AND WHEREAS the Superintendent of Financial Services (the “Superintendent”), by Notice of Proposal dated August 19, 1999 (the “Notice Of Proposal”), proposed to refuse to approve the Partial Wind-Up Report;

AND WHEREAS the Partial Wind-Up Report was revised by the Applicant in 2000 to reflect the inclusion of certain bonuses in pensionable earnings;

AND WHEREAS the Applicant commenced these proceedings before the Financial Services Tribunal in respect of the Notice Of Proposal;

AND WHEREAS the parties to these Minutes of Settlement wish to resolve all remaining matters at issue in these proceedings;

NOW THEREFORE the parties hereto agree to the following terms in full and final settlement of all claims made by the parties, arising from the subject matter of these proceedings:

1. The Partial Wind-Up Report shall be further revised (the “Revised Report”) to reflect the following:
 - (a) Affected Members whose age plus service equalled 55 or more at May 31, 1994 shall be entitled to “grow-in” to the automatic pension increases provided under former section 8.12(2) and Schedule D of the Plan pursuant to Section 74 of the Act. Depending on each Affected Member’s election and circumstances, this additional benefit would take the form of: (a) transfers of commuted value entitlements (accumulated at 7.5% per annum); (b) refunds of excess contribution entitlements (accumulated at 5.36% per annum); (c) increases in pension entitlements to pensioners; or (d) cash payments to members who previously elected a transfer of their benefit from the Plan in an amount equal to the difference in their May 31, 1994 entitlement accumulated at 7.5% per annum; and
 - (b) Affected Members shall be entitled to a distribution in cash of all of the wind-up surplus attributable to that portion of the Plan being wound-up, calculated in the Revised Report after giving effect to subparagraph 1(a) hereof based on the same methods and assumptions used in the Partial Wind-Up Report. This principal amount of \$1,334,869.00 as of May 31, 1994 (net of expenses) shall be credited with interest equal to the rate of return earned on such surplus from June 4

1, 1994 to the last day of the month preceding the month in which the date of distribution falls, net of the administrative, custodial, and investment expenses charged to the Plan fund (which expenses have averaged 0.44 percent per annum from June 1, 1994 through July 31, 2004). It is agreed that such net rate of return to July 31, 2004 was 9.26 percent per annum, resulting in an amount of surplus of \$3,284,435.00 at that date. Subject to paragraph 4 hereof, the amount of surplus to which each Affected Member is entitled shall be in proportion to the *pro rata* share of each Affected Member's wind-up liabilities under the Plan as at May 31, 1994 and the total wind-up liabilities in respect of Affected Members as at May 31, 1994.

2. Within 60 days following the execution of these Minutes of Settlement, the Applicant shall file the Revised Report. Except for the revisions that are required to give effect to these Minutes of Settlement, the Revised Report will be unchanged from the Partial Wind-Up Report as first revised in 2000. The Superintendent shall approve the Revised Report, provided it is consistent with these Minutes of Settlement. The Superintendent shall not support the position of any person or party that seeks to challenge these Minutes of Settlement, or otherwise take any position on any litigation concerning members, former members, or others entitled to benefits under the Plan that is inconsistent with these Minutes of Settlement. The Superintendent further agrees not to support the position of any person or party that seeks to challenge the approval of the Revised Report, provided that the Revised Report otherwise complies with these Minutes of Settlement.

3. On receiving the Superintendent's approval for the Revised Report as set out in paragraph 2 hereof, the Applicant shall withdraw its request for a hearing. All parties will request that the Tribunal accept the Applicant's request to withdraw on a without costs basis and with no conditions imposed, subject to paragraph 7 hereof. Subject to paragraph 7 hereof, the parties agree that these proceedings shall be terminated, save and except for any matter arising from the implementation of these Minutes of Settlement. The Superintendent shall then withdraw the Notice of Proposal.

4. Legal costs of the Affected Members represented by Koskie Minsky LLP, as listed in Appendix 1 hereto, shall be deemed a reasonable administrative expense of implementing the partial wind-up pursuant to the Revised Report and shall be deducted *pro rata* from each such Affected Member's entitlement to surplus calculated in accordance with subparagraph 1(b) hereof, and remitted out of the Plan directly to Koskie Minsky LLP, in trust, upon execution of these Minutes of Settlement and issuance of the Order described in paragraph 7 hereof. The sum and total of all legal costs of the Affected Members represented by Koskie Minsky LLP is \$39,100.

5. These Minutes of Settlement are made without prejudice and without precedent to any other matter, and without admission of liability by any party. The parties hereto agree that the implementation of these Minutes of Settlement will be in full and final satisfaction of all claims by the parties and by all members, former members, and others entitled to benefits under the Plan arising from the termination of the Affected Members represented by Koskie Minsky LLP.

6. The parties agree to execute any document or documents that may reasonably be required to give effect to these Minutes of Settlement.

7. The parties agree that these Minutes of Settlement shall be made an Order of the Financial Services Tribunal, and that the Financial Services Tribunal shall remain seized to deal with any matter arising from the implementation of these Minutes of Settlement.

October 13, 2004

“original signed by Counsel for Enbridge”
Enbridge Gas Distribution Inc.
by its Counsel

“original signed by Counsel for the Superintendent”
Superintendent of Financial Services
by its Counsel

“original signed by Counsel for a Group of Former Employees of Telesis”
A Group of Former Employees of Telesis
by its Counsel

Telesis Partial Plan Wind-Up**Contributing Members****To Legal Fund**

Number	Contributing Member
1	Anderson, Robert
2	Audit, Noel
3	Augustine, David
4	Bowley, Glen
5	Carter, Bruce
6	Chupa, Terry
7	Costella, Debra
8	Coulter, Steve
9	Cowx, Doug
10	Crewe, Bob
11	Cuthill, Rob
12	Darowski, Ken
13	Dawson, Don
14	Dawson, Ester
15	Druet, Paul

16	Ecker, Irene
17	Elvidge, Kevin
18	Epp, Marg
19	Fairchild, Jeff
20	Falls, Bill
21	Fedor, Barb
22	Fosum, Donna
23	Garner, Mike
24	Gray, Zane
25	Hoey, Neil
26	Hughes, Sheree
27	Johnson, Rick
28	Kasha, Lonnie
29	Lahay, Lori
30	Laplante, Ed
31	Laplante, Ernie
32	Lince, Chris
33	MacKinnon, Greg
34	Manning, Sue
35	Marsden, Max

36	McEwan, Bob
37	McPhee, Bruce
38	McPhee, Ross
39	Mikkelsaar, Peter
40	Morse, John
41	Murphy, Bryen
42	Omar, George
43	Osadac, Mark
44	O'Sullivan, Larry
45	Pegg, David
46	Pretulac, Lauri
47	Riddell, Sharon
48	Ross, Greg
49	Ross, Brenda
50	Ross, Sherry
51	Rousselle, John
52	Stasso, Sharon
53	Stinson, Ron
54	Thompson, Carol
55	Tompkins, Scott

56	Tricker, Dan
57	Vanderveen, Jacob
58	VanLoy, Kim
59	Vidler, Jim
60	Wilson, Alex
61	Wilson, Barrie
62	Wolf, Rolfe
63	Woodworth, Brian
64	Yee, Verna