



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

Number 61-2000

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*To transfer the employees, assets, liabilities, rights and obligations of the Brampton Hydro-Electric Commission and of the Corporation of the City of Brampton in respect of the distribution and retailing of electricity to a corporation and its subsidiary corporations incorporated under the Business Corporations Act (Ontario) pursuant to Section 142 of the Electricity Act, 1998 (Ontario).*

## RECITALS

1. The Corporation of the City of Brampton (the "City") distributes and retails electricity through the Brampton Hydro-Electric Commission (the "Commission");
2. The Council has authorized the incorporation of Brampton Hydro Corporation and its subsidiaries, Brampton Hydro Networks Inc. and Brampton Hydro Services Inc. (collectively the "Corporations"), under the *Business Corporations Act* (Ontario) pursuant to Subsection 142(1) of the *Electricity Act, 1998* (Ontario) and Sections 71 and 73 of the *Ontario Energy Board Act, 1998*, (Ontario) and the Corporations were incorporated on April 25, 2000;
3. Pursuant to Subsection 145(1) of the *Electricity Act* the Council may make by-laws transferring employees, assets, liabilities, rights, and obligations of a commission or other body through which the City generates, transmits, distributes or retails electricity, and, as applicable, of the City related thereto, to a corporation incorporated under the *Business Corporations Act* (Ontario) pursuant to Section 142 of the *Electricity Act*;
4. The Council wishes to transfer the employees, assets, liabilities, rights and obligations of the Commission and of the City relating to the distribution and retailing of electricity and associated activities, to the Corporations on and subject to the terms and conditions set forth herein;

NOW THEREFORE the Council of the Corporation of the City of Brampton enacts as follows:

## ARTICLE I - INTERPRETATION

**1.01 Definitions.** Whenever used in this By-law, unless the context otherwise requires, the capitalized words and terms set out in Schedule "A" hereto have the respective meanings ascribed to them in Schedule "A".

**1.02 Binding Effect.** As provided in Section 145 of the Electricity Act, this By-law is binding on the City, the Commission, the Corporations and all other Persons, despite any general or special act or any rule of law, including any act or rule of law which requires notice or registration of transfers and does not require the consent of the City, the Commission, the Corporations or any other Person. Section 161 of the Electricity Act provides that Part XI of the Electricity Act, which includes Section 145, applies despite the *Public Utilities Act* (Ontario) and despite any other general or special act. The Corporations may register such documents, instruments and agreements, including, without limitation, certified copies of this By-law, as may be necessary or desirable in order to evidence or confirm such transfers.

**1.03 Applicable Law.** This By-law and all documents, instruments, agreements and transfers contemplated hereby shall be construed and enforced in accordance with the laws of the Province of Ontario.

**1.04 Extended Meanings.** In this By-law, words importing the singular number only include the plural and vice versa, and words importing gender shall include all genders.

**1.05 Successors and Assigns.** This By-law shall enure to the benefit of and shall be binding on and enforceable by the City, the Commission, the Corporations and their respective successors and assigns.

**1.06 Severability.** If any section of this By-law or part thereof is invalid or *ultra vires* the City, such section or part shall not affect the remaining sections or part of this By-law.

**1.07 Schedules.** The following Schedules attached to this By-law are an integral part of this By-law to the same extent as if they had been set forth herein:

Schedule "A"	-	Definitions
Schedule "B"	-	Distribution Assets
Schedule "B-1"	-	Distribution Assets - Lands
Schedule "C"	-	Distribution Liabilities
Schedule "D"	-	Holding Company Assets
Schedule "E"	-	Services Assets
Schedule "F"	-	Excluded Assets
Schedule "G"	-	Excluded Liabilities

## ARTICLE II - INCORPORATION

**2.01 Authorization.** The incorporation of Brampton Hydro Corporation and of the Subsidiaries under the OBCA, pursuant to Section 142(1) of the Electricity Act and Sections 71 and 73 of the OEB Act, for the purpose of continuing the distribution and retailing of electricity and associated business activities of the Commission is hereby ratified. The incorporation of additional Subsidiaries to carry on any of the foregoing activities as may be deemed to be necessary by the board of directors of Brampton Hydro Corporation from time to time is also hereby authorized.

### ARTICLE III - TRANSFERS

**3.01 Transfer of All Assets and Assumed Liabilities.** As of the Effective Date, the City hereby sells, assigns and transfers, except for the Excluded Assets, all the assets, obligations, rights and liabilities of the Commission and of the City relating to the distribution or retailing of electricity and ancillary products and services and associated activities (all of such assets, obligations, rights and liabilities of the Commission and the City constituting the Assets and Assumed Liabilities) to the Corporations in accordance with this By-law.

**3.02 Effective Time of Transfer.** The transfer of the Assets and Assumed Liabilities pursuant to this By-law shall be deemed to take effect as of the opening of business on the Effective Date, the actual date of the issuance of any consideration therefor or the date of enactment of this By-law.

**3.03 Transfer of Holding Company Assets and Holding Company Liabilities.** As of the Effective Date, all of the Holding Company Assets and Holding Company Liabilities are hereby transferred to and assumed by HoldCo.

**3.04 Transfer of Distribution Assets and Distribution Liabilities.** As of the Effective Date, all of the Distribution Assets and Distribution Liabilities are hereby transferred to and assumed by WiresCo, subject to the reservation by the City of the right, without charge, to have access to and to use WiresCo's poles, vaults, conduits, ducts, works and other apparatus wherever situate for City purposes including, without limitation, the construction and installation of structures, equipment, signage and other facilities by the City. The transfer of the Distribution Assets includes a transfer of the Easements by the City to WiresCo, subject to the reservation by the City, of the right, without charge, to continue to use and enjoy the Easements in accordance with the terms thereof, the terms of this By-law and any applicable legislation.

**3.05 Transfer of Services Assets and Services Liabilities.** As of the Effective Date, all of the Services Assets and Services Liabilities are hereby transferred to and assumed by ServicesCo.

**3.06 Excluded Assets.** The transfer of the Assets and the Assumed Liabilities pursuant to this By-law shall not include the Excluded Assets and Excluded Liabilities, which shall remain the assets and liabilities of the City in its capacity as legal and/or beneficial owner of the Excluded Assets as the case may be.

**3.07 Transfer of Employees, Employee Agreements and Employee Plans.** On the Effective Date:

- (1) all of the Employees are transferred to WiresCo;
- (2) all of the Employee Agreements, Employee Plans and Assumed Liabilities related to the Employees, former Employees and their beneficiaries are transferred to WiresCo.

**3.08 Employees.** As and from the Effective Date, WiresCo shall employ, in accordance with Sections 145 and 147 of the Electricity Act, the Employees on terms and conditions which are substantially the same as those upon which such Employees are employed by the Commission immediately prior to the Effective Date, and without limiting the generality of the foregoing, shall be bound by, assume, pay, satisfy, discharge, observe, perform and fulfill the Employee Agreements and Employee Plans in the place and stead of the Commission to the same extent and with the same effect as if it were an original party thereto. The Employees transferred in accordance with Section 3.08 shall cease to be employees of the Commission from and including the

Effective Date and shall thereupon be employees of WiresCo, in accordance with the provisions of this Section 3.08.

**3.09 Transfer and Delivery of Assets.** If deemed necessary by the City, each of the City and the Commission shall execute and deliver to the Corporations, as applicable, in form suitable for registration, recording and filing with such public authorities as may be reasonably required, all such bills of sale, assignments, instruments of transfer, assurances, consents and other documents as shall be necessary to effectively record the transfer to the Corporations, as applicable, of all the City's and the Commission's right, title and interest in, to and under, or in respect of, the Assets and the Assumed Liabilities and each of the Corporations shall execute and deliver to the City an assumption agreement in respect of the Assets and Assumed Liabilities in a form satisfactory to the City.

**3.10 Non-Assignable Assets.** Notwithstanding any other provision hereof, if, notwithstanding Subsections 145(3) and (5) of the Electricity Act, any of the Assets shall not be assignable, or shall only be assignable with the consent or approval of any other third party, the City and/or the Commission shall:

- (1) use all reasonable efforts in co-operation with but at the cost of the Transferee to secure the consent required in connection with the assignment thereof; and
- (2) pending the effective transfer thereof, hold all rights or entitlements that the City or Commission has thereto, in trust, for the exclusive benefit of the Transferee, provided that the Transferee shall pay, perform and discharge all obligations arising or accruing with respect thereto during such period and shall indemnify the City and the Commission for such obligations.

In the event that a transfer of certain Assets cannot be effected within one (1) year of the Effective Date, the Purchase Price payable for the Assets shall be adjusted by the fair market value of the non-assignable assets, as determined by the City and the consideration received by the City shall be adjusted in accordance with Section 4.05 hereof.

**3.11 Subsequent Transfers.** Any of the Assets, Employees and Assumed Liabilities transferred under this By-law may, from time to time, subsequent to the Effective Date, be transferred to HoldCo or any Subsidiary, as may be permitted by the Electricity Act, at such time, on such terms and for such consideration as the directors of the transferring corporation may determine, and any such subsequent transfer shall be deemed to be made pursuant to the authority granted by this By-law and shall take effect in the sequence and at such times as so determined by the directors of the transferring corporation.

**3.12 Costs.** All costs and expenses incurred or to be incurred by the City and all taxes incurred or payable in connection with the transfer of the Assets shall be borne by the City.

#### **ARTICLE IV - PURCHASE PRICE**

**4.01 Purchase Price.** The Purchase Price payable by the Corporations for the Assets shall be equal to the fair market value of the Assets as of the Effective Date. The fair market value of the Assets shall be deemed to be their book value on the Effective Date subject to adjustment under Section 4.05 of this By-law.

**4.02 Satisfaction of Purchase Price for Holding Company Assets.** In full payment and satisfaction of the Purchase Price for the Holding Company Assets, HoldCo shall:

- (1) be bound by, assume, pay, satisfy, discharge, observe, perform and fulfil the Holding Company Liabilities; and
- (2) as to the balance of the Purchase Price for the HoldCo Assets, allot and issue to the City as fully paid and non-assessable 1,000 common shares.

**4.03 Satisfaction of Purchase Price for Distribution Assets.** In full payment and satisfaction of the Purchase Price for the Distribution Assets, WiresCo shall:

- (1) be bound by, assume, pay, satisfy, discharge, observe, perform and fulfil the Distribution Liabilities;
- (2) as to the balance:
  - (a) as to \$116.4 million, issue to the City one or more unsecured promissory notes in the aggregate principal amount of \$116.4 million including a promissory note in the same principal amount and bearing the same interest rate of any outstanding Debenture Liability, the obligations of which are assumed by WiresCo., such promissory notes shall be in a form and on terms satisfactory to the Treasurer of the City, who has the authority to establish and to revise the terms of the promissory notes after consultation with WiresCo. Such promissory notes may be exchanged or revised after their issue for one or more promissory notes or debt instruments having a form and content satisfactory to the Treasurer, after consultation with WiresCo; and
  - (b) as to the remaining balance of the Purchase Price for the Distribution Assets, allot and issue to the City as fully paid and non-assessable 1,000 common shares.

**4.04 Satisfaction of Purchase Price for Services Assets.** In full payment and satisfaction of the Purchase Price for the Services Assets, ServicesCo shall:

- (1) be bound by, assume, pay, satisfy, discharge, observe, perform and fulfil the Services Liabilities; and
- (2) as to the balance of the Purchase Price for the Services Assets, allot and issue to the City as fully paid and non-assessable 1,000 common shares.

**4.05 Adjustment of Purchase Price.** The City intends that the Assets shall be transferred at their fair market value as at the Effective Date and the Purchase Price and the consideration paid by the Corporations pursuant to Sections 4.02, 4.03, 4.04 and 4.08 of this By-law may be adjusted as a result of any determination, audit or valuation made or conducted after the Effective Date with respect to the Assets and Assumed Liabilities as at the Effective Date.

**4.06 Manner of Effecting Adjustments.** The adjustments to the Purchase Price and consideration paid by the Corporations contemplated by Section 4.05 may be effected as determined by the Treasurer of the City, in consultation with the Corporations and shall have effect as if made as of the Effective Date.

**4.07 Allocation of Purchase Price.** The Purchase Price shall be allocated among the Distribution Assets, the Holding Company Assets and the Services Assets as determined by the Treasurer of the City in consultation with the Corporations.

**4.08 Transfer of Shares.** All of the common shares of WiresCo and ServicesCo issued to the City pursuant to Sections 4.03 and 4.04 of this By-law (collectively, the

"Transferred Shares") shall be transferred to HoldCo by the City as of the Effective Date in consideration for which HoldCo shall allot and issue to the City as fully paid and non-assessable, 1,000 common shares of HoldCo.

**4.09 Assumption of Liabilities.** Each of the Corporations shall be bound by, assume, pay, satisfy, discharge, observe, perform and fulfil, and indemnify and save harmless the City and the Commission from and against the Assumed Liabilities assumed by it. The transfer of the Assumed Liabilities under Part XI of the Electricity Act and this By-law releases the City and the Commission from any liability or obligation in connection with the Assumed Liabilities pursuant to Section 153 of the Electricity Act.

#### **ARTICLE V - GENERAL MATTERS**

**5.01 Regulatory Approvals.** The transfer of any of the Assets or of the Transferred Shares which are issued and outstanding shares of WiresCo pursuant to this By-law as of the Effective Date shall be subject to obtaining such regulatory approvals as may be required by law, if any, which approvals may be sought by the City, the Commission, HoldCo or the appropriate Subsidiary and following the receipt of any such approval the transfer shall be completed with effect as of the Effective Date pursuant to this By-law.

**5.02 Land Transfer Tax and Services Sales Tax.** Pursuant to Section 159 of the Electricity Act, the transactions contemplated by this By-law are exempt from Ontario land transfer tax pursuant to the *Land Transfer Tax Act* (Ontario) and retail sales tax pursuant to the *Retail Sales Tax* (Ontario)


**5.03 Bulk Sales Compliance.** The transactions contemplated by this By-law are exempt from the provisions of the *Bulk Sales Act* (Ontario) pursuant to Section 159 of the Electricity Act.


**5.04 Goods and Services Tax.** The transfers of Assets pursuant to this By-law will constitute the transfers of all or substantially all of the Assets necessary for the Transferee to carry on the business transferred to it. The City and each Transferee, being registered pursuant to the *Excise Tax Act* (Canada) with respect to goods and services tax, shall sign the election provided for in Section 167 of the *Excise Tax Act* (Canada) and the Transferee shall file the election in accordance with that Section 167 of the *Excise Tax Act* (Canada) so that the transfers are exempt from goods and services tax.

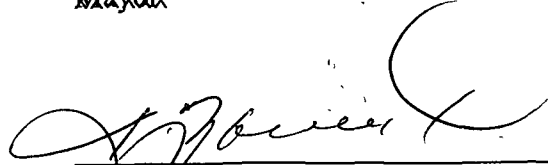
**5.05 Further Assurances.** Each of the City and the Commission shall promptly and duly execute and deliver such further documents and promptly take such further action not inconsistent with the terms hereof as may from time to time be reasonably required to more effectively carry out the intent and purpose of this By-law or to perfect and protect the interest of HoldCo and its Subsidiaries in the Assets. The Mayor and the Clerk are hereby authorized and directed, for and on behalf of the City, to do all acts and things and execute and deliver such other documents, instruments, agreements and transfers as may be reasonably necessary or desirable to give effect to the provisions of this By-law.

**5.06 Amendment of By-law.** In the event of any omission or error made in connection with the passage of this By-law, including, without limitation, the unintended transfer or failure to transfer any assets or liabilities of the Commission and/or the City, the City may amend this By-law in accordance with the procedures applicable to amend a by-law of the City.

Read a first, second and third time and passed in open Council this 26th day of April, 2000.

  
~~Peter Robertson~~ Rhoda Begley  
Mayor Acting Mayor

APPROVED AS TO FORM LAW DEPT BRAMPTON	
DATE	

  
~~L. J. M. M. M. M. M.~~ Kathryn Zammit  
~~City Clerk~~ Deputy City Clerk

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**SCHEDULE "A"**

**TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON**

**DEFINITIONS**

Whenever used in this By-law, unless the context otherwise requires, the following words and terms shall have the respective meanings ascribed to them below:

- (a) "Assets" means all of the Distribution Assets, Services Assets and Holding Company Assets;
- (b) "Assumed Liabilities" means all of the Distribution Liabilities, Services Liabilities and Holding Company Liabilities;
- (c) "By-law" means this By-law No. 61-2000, all schedules and all documents, instruments, agreements and transfers supplemental hereto or in amendment or confirmation hereof;
- (d) "City" means the Corporation of the City of Brampton;
- (e) "Commission" means Brampton Hydro-Electric Commission;
- (f) "Corporations" means, collectively, Brampton Hydro Corporation and the Subsidiaries, Brampton Hydro Networks Inc. and Brampton Hydro Services Inc.;
- (g) "Debenture Liability" means the obligation of the Commission to provide payments to the City in the amounts required to pay principal and interest on debentures issued by the Region of Peel for the purposes of the Commission, which debentures are outstanding as of the Effective Date;
- (h) "Distribution Assets" means, except for the Excluded Assets, Services Assets and the Holding Company Assets, all assets, interests, property, rights and undertaking, registered or unregistered, secured or unsecured of the Commission and of the City held or used by either of them as at the Effective Date which relate to or have been used in connection with the transmission and distribution of electricity and the distribution system of the Commission, including, without limitation, the Easements and the assets listed in Schedule "B" hereto;



- (i) "Distribution Liabilities" means, except for the Services Liabilities, Holding Company Liabilities and Excluded Liabilities, all of the debts, liabilities and obligations of the Commission incurred or assumed as at the Effective Date and all of the debts, liabilities and obligations of the City related to, incurred or assumed by the City as at the Effective Date in connection with the transmission and distribution of electricity, the distribution system of the Commission and the Distribution Assets including, without limitation, all environmental, reclamation and decommissioning liabilities of the Commission and the liabilities listed in Schedule "C" hereto;
- (j) "Easements" means all easements and rights-of-way, registered and unregistered; the right to use all municipal road allowances, public streets or highways; and all permits, licences and permissions received, used or enjoyed by the Commission or by the Transferee in connection with the transmission, distribution and retailing of electricity and associated business activities of the Commission;
- (k) "Effective Date" means May 1, 2000;
- (l) "Electricity Act" means the *Electricity Act, 1998* (Ontario) and all regulations thereunder;
- (m) "Employees" means all full-time and part-time, union and non-union, employees and officers of the Commission (including all trainees and probationary employees) as at the Effective Date;
- (n) "Employee Agreements" means all contracts, agreements, and commitments written or oral, in respect of Employees as at the Effective Date to which the Commission is a party or by which it is bound, including, without limitation,
  - (i) all collective agreements; and
  - (ii) all contracts of employment;
- (o) "Employee Plans" means all pension plans, participation in the Ontario Municipal Employees Retirement System (OMERS), all retirement arrangements and plans relating to Employees and former Employees of the Commission and their beneficiaries, and employee benefit plans, bonus or incentive plans, employee medical insurance and disability plans and savings

plans relating to Employees and former Employees of the Commission and their beneficiaries;

- (p) "Excluded Assets" means those assets of the Commission or of the City described in Schedule "F" hereto;
- (q) "Excluded Liabilities" means those liabilities of the Commission or of the City described in Schedule "G" hereto;
- (r) "HoldCo" means Brampton Hydro Corporation;
- (s) "Holding Company Assets" means those assets listed in Schedule "D" hereto;
- (t) "Holding Company Liabilities" means those liabilities, debts and obligations of the Commission and the City relating to the Holding Company Assets;
- (u) "OBCA" means the *Business Corporations Act* (Ontario) and all regulations thereunder;
- (v) "OEB" means the Ontario Energy Board;
- (w) "OEB Act" means the *Ontario Energy Board Act, 1998* (Ontario) and all regulations thereunder;
- (x) "Person" means any individual, corporation, partnership, trust, unincorporated association or joint venture;
- (y) "Purchase Price" means the amounts payable for the Assets as set out in Article IV;
- (z) "Services Assets" means, except for the Excluded Assets, Distribution Assets and Holding Company Assets, those assets, interests, property, rights and undertaking, registered or unregistered, secured or unsecured, of the Commission and of the City held or used by either of them as at the Effective Date which relate to, have been or would be used by either of them in connection with the retail and energy services activities of the Commission including, without limitation, the assets listed in Schedule "E" hereto;

- (aa) "Services Liabilities" means, except for the Distribution Liabilities, Holding Company Liabilities and Excluded Liabilities, those liabilities, debts and obligations of the Commission and the City relating to the retail and energy services activities of the Commission and the Services Assets;
- (bb) "ServicesCo" means Brampton Hydro Services Inc.;
- (cc) "Subsidiary" means a subsidiary as defined in the OBCA, and includes Brampton Hydro Networks Inc. and Brampton Hydro Services Inc.;
- (dd) "Transferred Shares" means the common shares of WiresCo, ServicesCo referred to in Section 4.08;
- (ee) "Transferee" means, with respect to any particular Asset, Employee or Assumed Liability, the Corporation which has received the transfer of such Asset, Employee or Assumed Liability pursuant to this By-law; and
- (ff) "WiresCo" means Brampton Hydro Networks Inc.

## SCHEDULE "B"

### TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON

#### DISTRIBUTION ASSETS

- (i) Real Property Interests: except as specified in Schedule "F", all the real property interests (A) that the City has or uses as of the Effective Date in connection with the distribution or retailing of electricity and associated business activities of the Commission; and (B) that the Commission has or uses as of the Effective Date in the following: all lands, premises, freehold and leasehold property, interests, Easements, licences, and rights to use or occupy real property whether registered or unregistered, liens, mortgages, charges, agreements, notice of agreements, debentures and security interests which create an interest in land and all other rights or interests therein, and fixtures thereon, including, without limitation, the lands described on the attached Schedule "B-1";
- (ii) Plant, Building, Fixtures: except as specified in Schedule "F", all plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment), substations, transformers, vaults, distribution lines, conduits, ducts, pipes, wires, rods, cables, fibre optic strands used for the Commission's SCADA system, and other apparatus, devices, appliances and equipment, materials, works, poles, pipelines and fittings, all meters, wherever situate including, without limitation, situate on any of the lands, premises, leaseholds, easements, rights of way or interests whether registered or unregistered described in (i) above or forming part thereof or otherwise, or located on property owned by the Commission, or the City, private property or public property;
- (iii) Machinery and Equipment: except as specified in Schedules "E" and "F", all machinery and equipment, all goods and chattels and other personal property, tools, handling equipment, furniture, furnishings and accessories relating to the distribution of electricity and the distribution system of the Commission and associated business activities of the Commission;
- (iv) Inventories: except as specified in Schedule "E", all inventory and supplies relating to the distribution and retailing of electricity and the distribution system of the Commission;

- (v) Vehicles: all cars, trucks, trailers and other related equipment of the Commission;
- (vi) Accounts Receivable: all accounts receivable of the Commission relating to the distribution and retailing of electricity and the distribution system of the Commission including, without limitation, all customer and trade accounts, notes receivable, book debts and other debts due or accruing to the Commission and the benefit of all security and security deposits for such accounts and debts;
- (vii) Cash and Investments: except as specified in Schedule "D", all cash on hand and in bank accounts, or other depositories, letters of credit, security, or guarantees held in the name of the Commission as at the Effective Date and all investments or securities held by the Commission as at the Effective Date;
- (viii) Reserves: the portion of any reserve fund established under the *Development Charges Act* and Section 33 of the *Development Charges Act, 1997* and referred to in Section 63 of the *Development Charges Act, 1997* that relates to development charges collected in respect of electrical power services;
- (ix) Contracts, Rights: except as specified in Schedules "D", "E" and "F", the full benefit of all franchise, licence or management agreements and all other contracts, commitments, rights, choses in action, benefits, arrangements, understandings, and agreements, written or oral, relating to the distribution and retailing of electricity and the distribution system of the Commission and the Distribution Assets to which the City or the Commission is a party or otherwise including, without limitation the following:
  - (a) all written or oral contracts, agreements, commitments, undertakings, rights and arrangements;
  - (b) all forward commitments to the Commission for supplies or materials entered into in the usual and ordinary course of business whether or not there are any written contracts with respect thereto;
- (x) Goodwill: except as provided in Schedules "E" and "F", all of the goodwill of the Commission including, without limitation, the following:

- (a) the exclusive right to represent itself as carrying on any business in continuation of and in succession to the Commission and the right to use any words indicating that its business is so carried on; and
- (b) all records of sales, customer lists, customer data and supplier lists of or used by the Commission;
- (xi) Intellectual Property: except as provided in Schedules "E" and "F", all of the rights, title, benefit and interest of the Commission in and to all registered trade marks, trade names, brand names, patents and copyrights, all unregistered trade marks, trade names and copyrights and all patent applications, both domestic and foreign, owned or made by the Commission;
- (xii) Licences and Permits: except as specified in Schedule "F", the full benefit of all licences, registrations, permits, consents, quotas, approvals, certificates, and other authorizations, including, without limitation, the Transitional Distribution Licence, dated April 1, 1999, issued to the Commission pursuant to the OEB Act;
- (xiii) Know How: except as specified in Schedules "E" and "F", all patterns, plans, designs, research data, copyrights, trade secrets and other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow-sheets, equipment and parts lists and descriptions and related instructions, manuals, data, records and procedures relating to the transmission and distribution and retailing of electricity and the distribution system of the Commission and any and all data owned or used by the Commission, and all licences, agreements and other contracts and commitments relating to any of the foregoing;
- (xiv) Prepaid Expenses: except as specified in Schedules "E" and "F", all pre-paid expenses and deposits relating to the distribution and retailing of electricity and the distribution system of the Commission the benefit of which will accrue to WiresCo;
- (xv) Warranties: except as specified in Schedules "E" and "F", the full benefit of all warranties and warranty rights (implied, express or otherwise) against manufacturers, suppliers or sellers which apply to any of the Distribution Assets and the net realizable value of any warranty claims relating to the Distribution Assets outstanding as of the Effective Date;

- (xvi) Insurance Policies: the full benefit of all policies of insurance of the Commission relating to the Distribution Assets;
- (xvii) Records: all personnel records, inspection records and all other records, books, documents and data bases relating to the Employees, the Distribution Liabilities, or the Distribution Assets as are in the possession or under the control of the Commission; and
- (xviii) Computer Hardware and Software: except as specified in Schedules "E" and "F", all computer hardware and software, including, without limitation, all computer monitoring equipment and all rights under licences and other agreements or instruments relating to the distribution of electricity and the distribution system of the Commission and the Distribution Assets.

**SCHEDULE "B-1"**

**TO BY-LAW 61-2000 OF THE CITY OF BRAMPTON**

**DISTRIBUTION ASSETS - LANDS**

**FEE SIMPLE:**

<b><u>Registration No.</u></b>	<b><u>Location</u></b>	<b><u>Legal Description</u></b>	<b><u>Legal Interest</u></b>
20680	East side of Elizabeth St. N., 100' North of Queen St. W.	Lot 6, Concession 1 WHS & Part of Lot 17 on E. side of Elizabeth St. on Reg. Plan BR-4	Fee Simple
22147	Church St. W., 146m West of Thomas St.; 35m east of Market St.	Part of Lot D, on Reg. Plan BR-4	Fee Simple
32284	Eastern Avenue; adjacent to Bldg. #69	Part 1 on Plan 43R-3149	Fee Simple
31881	297m east of #170 Kennedy Rd. S.	Part of West ½ of Lot 2, Concession 2, EHS	Fee Simple
179264	West Side of Heart Lake Rd. adjacent of 291 Archdekin Drive	Block D on Plan 911	Fee Simple
	North side of Steeles Ave. W., 1868' west of Hwy. #10	Part of East ½ of Lot 1, Concession 1, WHS	Fee Simple
121284 VS	East side of Rutherford Rd. S., 10m North of Stafford Dr.	Part of Lot 3, Concession 2, EHS, Part 3 on RD-116	Fee Simple
151678	West of Hansen Rd. N., 430.15' south of Vodden St.	Part of Block H on R.P. 889	Fee Simple
20680	East side of Elizabeth St. N., 100' north of Queen St. West (same location as MS#1)	Lot 6, Conc. 1 WHS & Part of Lot 17 on East side of Elizabeth St. on Registered Plan BR-4	Fee Simple
363797	East side of McLaughlin Rd S., 550' north of Steeles Ave. W.	Part of West ½ of Lot 1, Concession 1 WHS. Part 1 on Reg Plan 43R-3209	Fee Simple
12697 VS	West side of West Dr., 450m south of Clark Blvd.	Part of Block "C" on registered Plan 640	Fee Simple
R0102 8236	North side of Orenda Rd., 195' west of Bramalea Road	Part of Block "E" on Registered Plan 636	Fee Simple



<u>Registration No.</u>	<u>Location</u>	<u>Legal Description</u>	<u>Legal Interest</u>
R0102 8230	Lot #5 Easton Place; east side of Bramalea Road, South of Clark Blvd.	Lot 5, Plan 765; and Part of Block X on registered Plan 765	Fee Simple
R0102 8236	West side of Dixie Rd., 150' south of Hazelwood Dr.	Part of Lot 6, Conc. 3 EHS; parts 1, 2, 3 and 4 on Registered Plan 43R-1776	Fee Simple
R0102 8231	Lots 136 and 137 Grassmere Cres., east side of Bramalea Rd., north of Central Park Dr.	The whole of Lots 136 and 137, Plan 861	Fee Simple
R0102 8235	466' south of Coventry Rd. & 560' west of Airport Rd.	Part of Block "E", Plan 977; and Part 1 on Plan 43R-2293	Fee Simple

**LEASEHOLDS:**

<u>Registration No.</u>	<u>Location</u>	<u>Legal Description</u>	<u>Legal Interest</u>
	Southwest corner of Team Canada Drive and Knightsbridge Rd.	Part of Lot 5, Conc. 4 EHS and Part 4 on 43R-17811 -owned by Gentra Canada Ltd. - 49 year lease currently under negotiations	Leasehold Interest
	North side of Embleton Rd., 20m east of Cliffside Dr.	Property leases J.H. Hassall for 15 years lease expires in 2007. Part of Lot 5, Conc. 5, WHS and Part 1 on Plan 43R-19345.	Leasehold Interest

**SCHEDULE "C"**

**TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON**

**DISTRIBUTION LIABILITIES**

- (i) Accounts Payable and Accrued Charges: all charges due to third parties due relating to the electrical distribution system of the Commission and these amounts include, without limiting the generality of the foregoing:
- General invoices for goods and services received in the normal course of business  
Contractor holdbacks  
Cost of electrical energy  
Amounts collected on behalf of others  
All related payroll costs and charges  
Amounts due various levels and departments of government  
Amounts prepaid by consumers against future billings
- (ii) Deposits: all liabilities for cash and related interest held, letters of credit, bonds, debentures, and financial instruments being held as collateral against the future payment of accounts relating to the transmission, distribution and retailing of electricity and the distribution system of the Commission;
- (iii) Fibre Optics Liabilities: All liabilities related to the fibre optics activities of the Commission, as shown in the financial statements, books or records of the Commission, as at the Effective Date.

**SCHEDULE "D"**

**TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON**

**HOLDING COMPANY ASSETS**

- (i) Cash and Investments: \$1,100,000.

## SCHEDULE "E"

### TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON

#### SERVICES ASSETS

- (i) Machinery and Equipment: all machinery and equipment, all goods and chattels and other personal property, tools, handling equipment, relating to the retail and energy services activities of the Commission including, without limitation, water heater and sentinel light rental, energy management and energy product sales;
- (ii) Inventories: all inventories relating to the retail and energy services activities of the Commission including, without limitation, all street and park walkway lighting and sentinel lighting inventory and supplies, energy management and energy product sales;
- (iii) Amounts Receivable: all amounts due for work completed with respect to the retail and energy services activities of the Commission including, without limitation, street and park walkway lighting, water heater rentals and sentinel light rentals, energy management and energy product sales;
- (iv) Contracts, Rights: the full benefits of all franchise, licence or management agreements and all other contracts, commitments, rights, choses in action, benefits, arrangements, understandings, and agreements, written or oral, relating to the retail and energy services activities of the Commission and the Services Assets, to which the City or the Commission is a party or otherwise including, without limitation, the following:
  - (a) all written or oral contracts, agreements, commitments, undertakings, rights and arrangements;
  - (b) all forward commitments to the Commission for supplies or materials entered into in the usual and ordinary course of business whether or not there are any written contracts with respect thereto;
- (v) Intellectual Property: all of the rights, title, benefit and interest of the Commission in and to all registered trade marks, trade names, brand names, patents and copyrights, all unregistered trade marks, trade names and copyrights and all patent applications, both domestic and foreign, owned or made by the Commission, relating to the Services Assets;
- (vi) Goodwill: all of the goodwill of the Commission relating to the retail and energy services activities of the Commission including, without limitation, the following:
  - (a) the exclusive right to represent itself as carrying on any business in continuation of and in succession to the Commission and the right to use any words indicating that its business is so carried on; and
  - (b) all records of sales, customer lists, customer data and supplier lists of or used by the Commission;
- (vii) Licences and Permits: the full benefit of all licences, registrations, permits, consents, quotas, approvals, certificates, and other authorizations relating to the retail and energy services activities of the Commission;
- (viii) Know How: all patterns, plans, designs, research data, copyrights, trade secrets and other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow-sheets, equipment and parts lists and descriptions and related instructions, manuals, data, records and procedures relating to the retail and energy

services activities of the Commission and the Services Assets and any and all data owned or used by the Commission, and all licences, agreements and other contracts and commitments relating to any of the foregoing;

- (ix) Computer Hardware and Software: all computer hardware and software, including, without limitation, all computer monitoring equipment and all rights under licences and other agreements or instruments relating to the retail and energy services activities of the Commission and the Services Assets.
- (x) Prepaid Expenses: all pre-paid expenses and deposits relating to the retail and energy services activities of the Commission the benefit of which will accrue to ServicesCo;
- (xi) Warranties: the full benefit of all warranties and warranty rights (implied, express or otherwise) against manufacturers, suppliers or sellers which apply to any of the Services Assets and the net realizable value of any warranty claims relating to the Services Assets outstanding as of the Effective Date;
- (xii) Insurance: the full benefit of all policies of insurance of the Commission relating to the Services Assets; and
- (xiii) Records: all records, books, documents and data bases relating to the Services Assets and Services Liabilities as are in the possession or under the control of the Commission.

**SCHEDULE "F"**

**TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON**

**EXCLUDED ASSETS**

- (i) **Real Property Interests**: 129 Glidden Road, Brampton, Part of Lot 2 Concession 2EHS, designated as Part 1 & 2 on Plan 43R-10293. The City retains the right to lease, on commercial terms, any unutilized space in the Commission's building and its surrounding lands at 175 Sandalwood Parkway West.
- (ii) **Plant, Buildings, Fixtures**: all plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment), situate on the lands or premises described in (i) above;
- (iii) **Fibre Optic Assets**: all machinery and equipment, all goods and chattels and other personal property, tools, handling equipment, contracts and rights including, but not limited to, the following equipment, contracts and rights relating to all the fibre optics activities of the City and the Commission:
  - (a) all fibre optic cable, save and except the four strands necessary for the operation of the SCADA system of WiresCo;
  - (b) messenger wire;
  - (c) all switching equipment;
  - (d) all prepaid expenses and deposits relating to the fibre optics activities of the Commission;
  - (e) all machinery, equipment, goods, chattels, personal property, tools, handling equipment, computer hardware and software, including, without limitation, all computer monitoring equipment and all rights under licences and other agreements or instruments relating to the fibre optics activities of the Commission;
  - (f) all of the goodwill of the Commission relating to the fibre optics activities of the Commission including, without limitation, the following:
    - (i) the exclusive right to represent itself as carrying on any business in continuation of and in succession to the Commission and the right to use any words indicating that its business is so carried on; and
    - (ii) all records of sales, customer lists, customer data and supplier lists of or used by the Commission;
  - (g) the dark fibre lease agreement, dated August 13, 1999, between the Commission and the Northwest GTA Hospital Association;
  - (h) the full benefit of all policies of insurance of the Commission relating to the fibre optics activities of the Commission;
  - (i) all records, books, documents and data bases relating to the assets and liabilities described in this Schedule "F" and fibre optics liabilities as are in the possession or under the control of the Commission;

- (j) all inventories relating to the fibre optics activities of the Commission;
- (k) all amounts due for work completed with respect to fibre optics activities of the Commission;
- (l) the full benefit of all licences, registrations, permits, consents, quotas, approvals, certificates, and other authorizations of the Commission relating to the fibre optics activities of the Commission;
- (m) all patterns, plans, designs, research data, copyrights, trade secrets and other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow-sheets, equipment and parts lists and descriptions and related instructions, manuals, data, records and procedures relating to the fibre optics activities of the Commission and any and all data owned or used by the Commission, and all licences, agreements and other contracts and commitments relating to any of the foregoing; and
- (n) the full benefit of all warranties and warranty rights (implied, express or otherwise) against manufacturers, suppliers or sellers which apply to any of the fibre optics activities of the Commission and the net realizable value of any warranty claims relating to the fibre optics activities of the Commission outstanding as of the Effective Date.

**SCHEDULE "G"**

**TO BY-LAW NO. 61-2000 OF THE CITY OF BRAMPTON**

**EXCLUDED LIABILITIES**

Nil.

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**CITY OF BRAMPTON  
SHAREHOLDER DECLARATION**

CITY OF BRAMPTON

SHAREHOLDER DECLARATION

1. Definitions

In the Shareholder Declaration, in addition to the terms defined in the recitals, the following terms will have the meanings set out below:

"Board" means the board of directors of the Corporation;

"body corporate" means a firm, partnership, unincorporated association, joint venture, body corporate, corporation, bank, trust, pension fund, union, governmental agency, board, tribunal, ministry or commission or other legal entity of any kind whatsoever, but excludes an individual or natural person;

"City Council" or "Council" means the Council of the City of Brampton;

"IMO" means the Independent Market Operator;

"OBCA" means the *Business Corporations Act* (Ontario), as such statute may be amended or re-enacted from time to time;

"OEB" means the Ontario Energy Board;

"OEB Act" means the *Ontario Energy Board Act, 1998* as such Statute may be amended or re-enacted from time to time;

"person" means an individual, a natural person or a body corporate;

"Subsidiary" means, with respect to the Corporation, any body corporate of which more than 50% of the outstanding securities of any class carrying exercisable voting rights are beneficially owned, directly or indirectly, by the Corporation, and includes any body corporate in like relation to a Subsidiary.

## 2. Purpose

This Shareholder Declaration outlines the expectations of the Corporation of the City of Brampton (the "Shareholder") relating to the principles of governance and other fundamental principles and policies of Brampton Hydro Corporation and its Subsidiaries (collectively the "Corporation"). **Except as provided in Section 9** this Shareholder Declaration is not intended to constitute a unanimous Shareholder Declaration under the OBCA or to formally restrict the exercise of the powers of the Board of the Corporation.

## 3. Shareholder Objectives

The Shareholder's objectives in continuing its ownership of the Corporation are as follows:

- (a) the value of the Corporation be maintained or increased;
- (b) the Corporation shall conduct its affairs:
  - (i) on a commercially prudent basis; and
  - (ii) in accordance with the financial performance objectives of the shareholder as set out herein.

## 4. Permitted Business Activities

- 4.1 Subject to the restrictions in Section 9 of this Shareholder Declaration, the Corporation and its Subsidiaries may only engage in the business activities which are permitted by any law applicable to the Corporation from time to time, including the *Electricity Act, 1998* (Ontario) and the OEB Act and as the Shareholder may authorize from time to time. In so doing, the Corporation and its Subsidiaries shall conform to all requirements of the OEB, the IMO and all other applicable regulatory or governmental authorities.
- 4.2 As at the date of this Shareholder Declaration, the Corporation and its Subsidiaries may engage only in any one or more of the following business activities:
  - (a) transmitting or distributing electricity;
  - (b) owning and/or operating an electricity generation facility;
  - (c) retailing electricity;

- (d) distributing or retailing gas or any other energy product which is carried through pipes or wires to the user;
- (e) business activities that enhance or develop the ability of the Corporation to carry on any of the activities described in paragraphs (a), (c) or (d) above;
- (f) business activities the principal purpose of which is to use more effectively the assets of the Corporation including providing meter installation and reading services, providing billing services and business activities in the telecommunications area;
- (g) renting, selling or maintaining equipment and appliances, including without limitation, hot water heaters;
- (h) managing or operating, on behalf of a Shareholder, the provision of a public utility as defined in Section 1 of the *Public Utilities Act* or sewage services; and
- (i) providing services related to improving energy efficiency.

## 5. Standards of Governance

As required by the OBCA and subject to this Shareholder Declaration, the Board shall supervise the management of the business and affairs of the Corporation and, in so doing, shall act honestly and in good faith with a view to the best interests of the Corporation and shall exercise the same degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

## 6. Board of Directors

The business and affairs of the Corporation shall be managed by the Board which shall consist of 9 directors to be selected by the Shareholder. The directors of the Corporation will also be the directors of the Subsidiaries. The Mayor and Councillor Jeffrey, as directors of the Corporation, are hereby authorized and directed, on behalf of the Corporation and the Subsidiaries to do all acts and things and execute and deliver such documents as may be necessary to effect By-law 61-2000 of the City Council.

7. **Shareholder Representative**

The Shareholder hereby designates the Mayor or the individual designated by the Mayor from time to time as the legal representative of the Shareholder (the "Shareholder Representative") for purposes of communicating to the Board pursuant to Section 8, any consent or approval required by this Shareholder Declaration or by the OBCA.

8. **Decisions of the Shareholder**

Approvals or decisions of the Shareholder required pursuant to this Shareholder Declaration or the OBCA shall require a resolution or by-law of the City Council of the Shareholder passed at a meeting of Council and shall be communicated in writing signed by the Shareholder Representative.

9. **Matters Requiring Shareholder Approval**

Without Shareholder approval given in accordance with Section 8 of this Shareholder Declaration, the Corporation, or any Subsidiary, shall not:

**Statutory Approval Rights**

- (a) change the name of the Corporation(s); add, change or remove any restriction on the business of the Corporation; create new classes of shares; or in any other manner amend its articles of incorporation or make, amend or repeal any by-law;
- (b) amalgamate with any other corporation(s) other than amalgamations which may, under the OBCA, be approved by a resolution of directors;
- (c) take or institute proceedings for any winding up, arrangement, or dissolution of the Corporation;
- (d) apply to continue as a corporation under the laws of another jurisdiction;

**Additional Approval Rights**

- (e) sell or lease or otherwise dispose of assets of the Corporation or of a Subsidiary or purchase assets other than in the ordinary course of business;

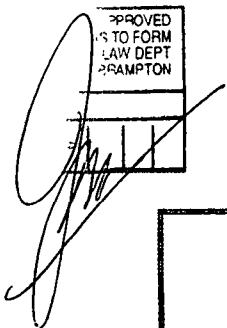
- (f) issue, or enter into any agreement to issue, any shares of any class, or any securities convertible into any shares of any class, of the Corporation or any of its Subsidiaries;
- (g) take on or assume any financial obligation which would increase the debt/equity ratio of the Corporation and its Subsidiaries on a consolidated basis above the ratio of 55:45;
- (h) redeem or purchase any of its outstanding shares;
- (i) make any decision that would materially adversely affect the tax or regulatory status of the Corporation or any of its Subsidiaries;
- (j) materially alter the nature of or geographic extent of the business of the Corporation or any of its Subsidiaries;
- (k) enter into any joint venture, partnership, merger, strategic alliance or other venture, including ventures in respect of the generation or co-generation of electricity; and
- (l) declare and pay any dividend.

10. Revisions to this Declaration

The Shareholder acknowledges that this Shareholder Declaration may be revised from time to time as circumstances may require and that the Shareholder will consult with the Board prior to completing any revisions and will promptly provide the Board with copies of such revisions.


DATED at Brampton, Ontario this 1<sup>st</sup> day of May, 2000.

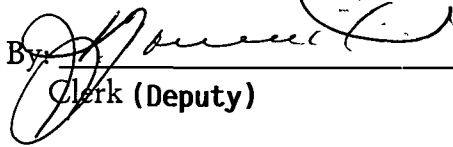
APPROVED  
AS TO FORM  
LAW DEPT  
BRAMPTON



DOCUMENT EXECUTION  
AUTHORIZED BY  
CITY OF BRAMPTON  
BY-LAW 61-2000

THE CORPORATION OF THE  
CITY OF BRAMPTON

By:   
\_\_\_\_\_  
Mayor

By:   
\_\_\_\_\_  
Clerk (Deputy)