

Appendix 8-3
Grant of Right-of-Way – Pipe (Alberta)

Energy East File:

**GRANT OF RIGHT-OF-WAY
PIPELINE
(Alberta)**

This grant of right-of-way agreement is dated as of _____, 20__

BETWEEN:

(“Grantor”)

- and -

**ENERGY EAST PIPELINE LTD.
in its capacity as general partner on behalf of
ENERGY EAST PIPELINE LIMITED PARTNERSHIP**

(“Company”)

RECITALS:

A. The Grantor is the registered and beneficial owner of an estate in fee simple subject, however, to such encumbrances, liens and interests as are at the date hereof set forth in the existing certificate of title, of those lands and premises situated in the province of Alberta legally described as follows:

as contained and described in certificate of title number
 (“Lands”).

B. The Grantor has agreed to grant a right-of-way to the Company on and subject to the terms and conditions set forth in this agreement.

In consideration of the sum of One Dollar (\$1.00) paid by the Company to the Grantor, the receipt and sufficiency of which is hereby acknowledged by the Grantor, and of the mutual covenants and terms and conditions contained in this agreement, the parties therefore agree as follows:

Grant of Rights

1. The Grantor does hereby grant, convey and transfer unto the Company for so long hereafter as the Company may desire to exercise them:

- (a) the exclusive right, licence, liberty, privilege, easement and right-of-way on, over, upon, across, along, in, under and through the Lands (“**Right-of-Way**”), to lay down, construct, operate, maintain, inspect, patrol (including aerial patrol), alter, relocate, remove, replace, reconstruct and repair a line of pipe together with all facilities, appurtenances or works of the Company useful in connection with or incidental to its undertaking, including, but without limiting the generality of the foregoing, all such pipes, drips, valves, fittings, connections, meters, cathodic protection equipment and other equipment and appurtenances, whether or not similar to the foregoing, as may be useful or convenient in connection therewith or incidental thereto for the carriage, transmission, conveyance, transportation and handling of oil, diluent, natural and artificial gas and other gaseous or liquid hydrocarbons and any product or by-product thereof (such line of pipe together with such related facilities or works being referred to, collectively, as “**Pipeline**”);
- (b) the full and free right, licence, liberty, privilege and easement of ingress and egress at any and all times over, along, across and upon the Right-of-Way; and
- (c) in cases when the Company determines that an emergency has arisen or exists, the full and free right, licence, liberty, privilege and easement of ingress to and egress from the Right-of-Way at any and all times over, along, across and upon the Lands

(the rights, licences, liberties, privileges, easements and right-of-way specifically described in subclauses (a), (b) and (c) above, as hereafter supplemented, being referred to, collectively, as “**Easement Rights**”).

Initial	Grantor		
	Agent		

2. The Easement Rights extend to the Company and its directors, officers, agents, employees, contractors, subcontractors and invitees. The Company may exercise the Easement Rights on foot and/or with vehicles, together with materials, machinery and equipment for all purposes useful or convenient in connection with or incidental to the exercise and enjoyment of the Easement Rights as and from the date hereof upon the terms and subject to the conditions hereinafter set forth.

Payment

3. The Company shall pay to the Grantor the following sum or sums for the rights granted herein:

- (a) the lump sum of _____ Dollars (\$_____) plus any applicable goods and services tax (“GST”) or
- (b) annual or periodic payments of equal or different amounts over a period of time as set forth in Schedule A attached.

(Delete (a) or (b) and initial)

4. Pursuant to the *National Energy Board Act (Canada)* (the *National Energy Board Act* R.S.C. 1985, c. N-7, as amended, or any statute enacted in place thereof being referred to herein as “**Act**”), the Grantor has the option of requiring the compensation for the Easement Rights to be made by one lump-sum payment or by annual or periodic payments of equal or different amounts over a set period of time. The Grantor has selected the method of compensation referred to in clause 3 above.

5. Where the Grantor has selected annual or other periodic payments in clause 3 above:

- (a) the amount of such compensation payable by the Company shall be reviewed every five (5) years; and
- (b) the Grantor hereby waives and releases to the Company any lien it may have on the rights granted herein in connection with such payments.

- 6.

- (a) Except as provided in subclauses (b) or (c) of this clause, annual or periodic payments of compensation pursuant to Schedule A, if any, shall be made to the registered owner of the fee simple interest in the Right-of-Way at the time the payment is due.
- (b) In the event of a change in the ownership of all or part of the fee simple interest in the Right-of-Way, then the Company at its sole option is entitled to continue to make such annual or periodic payments to the person or persons that shows on the Company’s records as the registered owner of the fee simple interest in the Right-of-Way until thirty (30) days after proper notice of such change has been given to the Company.
- (c) If the Lands are subdivided, then the provisions of subclauses (a) and (b) of this clause shall apply except that, in addition, the Company may at its sole option determine whether any such payment applies only as to one subdivided parcel and, upon notifying the Grantor of such change in payments, the Company is entitled to make payment in accordance with this clause.
- (d) For the purposes of this clause, “proper notice” shall consist of (i) written notice of such change in ownership executed by both the prior registered owner and the new registered owner, accompanied by (ii) a notarial or certified copy of the registered instrument effecting such change in ownership.

Plan of Survey

7. Within a reasonable time following completion of construction of the Pipeline, the Company will file at the appropriate Land Titles Office a plan of survey of a right-of-way approximately ____ (____) metres in width (“**Plan of Survey**”), in substantially the same location as shown on the plan attached as Schedule B.

8. As soon after filing the Plan of Survey at the Land Titles Office as is reasonably practical, the Company shall register in the Land Titles Office a document which shall, without affecting any of the other rights granted hereunder to the Company, restrict the area of the Right-of-Way to the right-of-way shown on the Plan of Survey, and thereafter the term “Right-of-Way” shall be deemed to refer to the right-of-way shown on the Plan of Survey.

9. Notwithstanding clause 8, the Company shall continue to be entitled to exercise with respect to the entire area of the Lands:

- (a) the right of ingress and egress set out in subclause 1(c); and
- (b) all rights set forth in clause 10,

and none of such rights shall in any way be affected, limited or prejudiced by the registrations referred to in clauses 7 and 8.

Initial	Grantor		
	Agent		

Above Ground Works and Access Right-of-Way

10. The Company shall, at any time, have the right to locate any part or parts of the Pipeline above ground (in each case, "**Aboveground Works**") and to fence and use such portions of the Right-of-Way as are, in its opinion, required for the Aboveground Works. Upon request of the Company in respect of each of the Aboveground Works, the Grantor hereby grants, conveys and transfers unto the Company, for itself, its directors, officers, agents, employees, contractors, subcontractors and invitees, the full and free right, licence, liberty, privilege, easement and right-of-way to clear and to use a portion of the Lands, being a right-of-way of a maximum width of ten (10) metres, as may be reasonably required by the Company and for as long as may be required by the Company for convenient access on foot and/or with vehicles, together with materials, machinery and equipment, within and across the Lands to the Aboveground Works ("**Access Right-of-Way**"). The Company shall:
- (a) consult with the Grantor as to the location of any Aboveground Works and any required Access Right-of-Way to minimize, so far as may be practicable, any inconvenience to the Grantor and to the extent practicable each such Access Right-of-Way shall encompass existing roads, trails and gates located within the Lands;
 - (b) furnish to the Grantor a drawing showing the location of any Aboveground Works and any required Access Right-of-Way; and
 - (c) by separate agreement(s), pay compensation to the Grantor for the loss of use by the Grantor of such portions of the Right-of-Way fenced and used for the Aboveground Works and for any nuisance, noise, inconvenience and interference that might arise or be caused to the Grantor's use of the Lands by the Aboveground Works and Access Right-of-Way.
11. The Grantor shall not, without the prior written consent of the Company, block, impede or restrict the Company's use of the Access Right-of-Way and shall obtain the Company's prior written consent should the Grantor wish to relocate the Access Right-of-Way on the Lands.

Company's Obligations

12. Subject to clause 14 of this agreement, the Company shall, as soon as weather and soil conditions permit and insofar as it is practicable to do so, bury those portions of the Pipeline that are designed to be underground so as not to unreasonably obstruct the natural surface runoff from the Right-of-Way or ordinary cultivation of the Right-of-Way.
13. In connection with the construction of the Pipeline, the Company shall, insofar as may be practicable to do so by employing good industry practices and in accordance with the legislation and regulations in force at the time, separate and save excavated topsoil from the Right-of-Way and thereafter restore it thereon.
14. As soon as reasonably practicable after the construction of the Pipeline, the Company, unless otherwise agreed to by the Grantor, shall remove all construction debris from the Right-of-Way and in all respects restore the Right-of-Way to a condition similar to the surrounding environment and consistent with the current use of the Lands as far as is reasonable and practicable and in accordance with the legislation and regulations in force at the time of such restoration, save and except for: (a) items in respect of which compensation is due under clause 20; and (b) any soil rise above grade to allow for soil settling.
15. The Company's use of the Lands shall be restricted to uses in connection with the Pipeline unless the Grantor provides written consent to any proposed additional use at the time of the proposed additional use.

Use of Right-of-Way by Grantor

16. Excluding any portion of the Right-of-Way that is fenced as contemplated herein, the Grantor shall have the right to use and enjoy the Right-of-Way, including the right to cross the buried portion of the Pipeline with farming vehicles as necessary in connection with ordinary farming practices, all in accordance with the provisions of the applicable legislation and any regulations, orders or guidelines made thereunder. Notwithstanding the foregoing, the Grantor shall not, without the prior written consent of the Company:
- (a) excavate, construct, drill, install, erect or permit to be excavated, constructed, drilled, installed or erected on, over or under any part of the Right-of-Way any pipe, pit, well, foundation, building or other structure, installation or improvement, or do or permit to be done any mining, quarrying, land levelling, landscaping or other work or activity of any like or similar nature on, in or under the Right-of-Way;
 - (b) alter the grade of the Right-of-Way;
 - (c) add any paving or other material to the Right-of-Way;

Initial	Grantor		
	Agent		

- (d) use the Right-of-Way for any other purpose which could compromise the integrity of the Pipeline;
or
- (e) take any action which restricts or limits the exercise by the Company of any of the Easement Rights.

Notwithstanding the foregoing, prior to the registration of the document referenced in clause 8, the restrictions set forth in subclauses (a), (b), (c) and (d) above shall be limited to the area shown on the plan attached as Schedule B.

17. Subject to clause 16, where the Grantor notifies the Company in writing that the Grantor wishes to make a non-recurring agricultural improvement which can be practically made to the Lands, the Company agrees to reimburse the Grantor for the reasonable additional costs of making such improvement that are a direct result of the existence of the Pipeline. If the Company and the Grantor fail to agree within ninety (90) days of such a notification as to the practicality of making the proposed improvement or the amount by which the cost of making such an improvement is increased as a direct result of the existence of the Pipeline, then the Grantor or the Company may proceed to negotiation or arbitration in accordance with the provisions of the Act.

Ownership of Pipeline

18. Notwithstanding any rule of law or equity, the Pipeline shall at all times remain the property of the Company notwithstanding that it may be annexed or affixed to the Lands.

Abandonment

19. The Company may, at any time, abandon the Pipeline by either leaving the Pipeline in place or removing it at the Company's option subject to and in accordance with the legislation and regulations in force at the time of such abandonment.

Damages

20. The Company shall compensate the Grantor for all damages suffered as a result of the operations of the Company including all damage done to any drainage system, crops, pasture, timber, trees, hedges, produce, water wells, artesian springs, livestock, buildings, fences, culverts, bridges, lanes, improvements or equipment on the Lands.

Indemnification

21. The Company shall indemnify the Grantor from all liabilities, damages, claims, suits and actions arising out of the operations of the Company other than any liabilities, damages, claims, suits or actions resulting from the gross negligence or wilful misconduct of the Grantor.

Discharge of Encumbrances

22. If this agreement has been registered, then upon termination of this agreement the Company shall register in the appropriate Land Titles Office such documents as may be necessary to remove such registration from title to the Lands.

Nothing Prejudicing Company's Rights

23. Nothing herein shall affect or prejudice any right, present or future, that the Company may have to acquire, occupy or use the Right-of-Way or any other portions of the remaining Lands under the provisions of the Act or otherwise.

Quiet Enjoyment

24. The Company, in performing and observing the covenants and conditions on its part to be observed and performed herein, shall and may peaceably hold and enjoy all the rights granted to it hereunder without hindrance, molestation or interruption on the part of the Grantor or of any person claiming by, through, under or in trust for, the Grantor.

Binding Effect

25. If it appears that at the date this agreement is entered into, the Grantor is not the sole owner of the Lands, this agreement shall nevertheless bind the Grantor to the full extent of the Grantor's interest herein, and if the Grantor shall later acquire a greater or the entire interest in the Lands this agreement shall likewise extend to such after-acquired interest.

Representations and Warranties

26. The Grantor represents and warrants that it has the right to convey all of the rights granted hereunder free from all encumbrances, that it has done no act to encumber the Right-of-Way and the Easement

Initial	Grantor		
	Agent		

Rights and that it has not granted any other rights to any third party, and the Grantor is not otherwise aware of any other rights, that would conflict with the rights granted hereunder except for:

- (a) any interests or encumbrances registered on the certificate of title to the Lands as of _____; and
- (b) any interests or encumbrances disclosed in writing to the Company by the Grantor prior to the date the Grantor executes this agreement.

27. The Grantor represents that the Grantor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada) and that if the Grantor's status for income tax purposes changes, the Grantor will promptly notify the Company in writing.

Payment of Outstanding Amounts

28. Notwithstanding any other provision in this agreement, if the Company determines that:
- (a) there are outstanding charges, taxes, builders' liens, writs of enforcement, judgments or other encumbrances which are registered against the Lands; or
 - (b) there are any overdue amounts outstanding under any agreement for sale, mortgage or other financial encumbrance that is registered against the Lands,

the Company may, but is not obligated to, pay all or a portion of the compensation or other amounts payable under this agreement to the holder of such charge, lien, writ of enforcement, judgment, mortgage or other financial encumbrance, or to such vendor or mortgagee to satisfy and discharge such encumbrance or to obtain a postponement from the holder of such charge, lien, writ of enforcement, judgement, mortgage or other financial encumbrance. The payment of any amount to such third party shall be deemed to be payment of such amount to the Grantor. For greater certainty, the Company shall not be required to obtain the Grantor's consent prior to making such payment. The Company shall provide to the Grantor written confirmation of any such payments within thirty (30) days of making such payments.

Notices

29. All notices or payments required or permitted to be given under or in connection with this agreement shall be in writing and shall be personally delivered, mailed by registered mail or faxed to the party to whom the notice is to be given and, when mailed, any such notice shall be deemed to be given to, and received by, the addressee seven (7) days (Saturdays, Sundays and statutory holidays in the province of Alberta excluded) after the mailing thereof.

30. Unless changed by notice, the addresses of the parties shall be:

Grantor:	Company:	Energy East Pipeline Ltd. 450 - 1 st Street S.W. P.O. Box 1000, Postal Station M Calgary, AB T2P 4K5 Attention: Energy East Land Department Fax No: (403) 920-2334
Attention:		
Fax No.:		

31. The Grantor acknowledges receipt, prior to entering into this agreement, of a notice pursuant to section 87 of the Act setting out or accompanied by:

- (a) a description of the portion of the Lands required by the Company for a section or part of the Pipeline;
- (b) details of the compensation offered by the Company for such lands required;
- (c) a detailed statement made by the Company of the value of such lands required in respect of which compensation was offered;
- (d) a description of the procedure for approval of the detailed route of the Company's pipeline; and
- (e) a description of the procedure available for negotiation and arbitration under Part V of the Act in the event that the Grantor and the Company are unable to agree on any matter respecting the compensation payable.

Initial	Grantor		
	Agent		

General

32. If any provision of this agreement is invalid under any applicable statute or is declared invalid by a court of competent jurisdiction, then it shall be deemed to be severed from this agreement provided, however, that the remainder of this agreement shall continue in full force and effect.
33. This agreement may be assigned by the Company in whole or in part and as to all or any portion of the rights hereby granted, transferred and conveyed.
34. The Easement Rights and Access Right-of-Way are and shall be of the same force and effect to all intents and purposes as covenants running with the land and this agreement, including all the covenants herein, shall extend to, be binding upon and enure to the benefit of the heirs, executors, administrators, successors-in-title, successors and assigns of the parties respectively.
35. Wherever the singular or masculine is used, it shall be construed as if the plural or the feminine or the neuter, as the case may be, had been used, where the context of the party or parties so require, and this agreement shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.
36. The Grantor consents to the collection, use and disclosure of the Grantor's personal information as described within this agreement as long as the agreement is in force or as required by law. The Company collects, uses and discloses the personal information for land rights acquisition and regulatory disclosure as described in this agreement, in accordance with industry practice and as required by law. The Company collects, uses, discloses and maintains personal information in accordance with the *Personal Information Protection and Electronic Documents Act* and the Company's personal information policy.
37. The Grantor will, from time to time, execute such further assurances of the rights granted herein as may be required by the Company. Without limiting the foregoing, the Grantor hereby agrees from time to time to execute and deliver all such additional documents, instruments and agreements and to take all such additional steps and actions as may be reasonably required to fully implement the terms of this agreement and as may be required to register and perfect the Company's interest in the Lands.
38. This agreement sets forth the entire agreement and understanding between the parties as to the subject matter contained herein, and the Grantor agrees that there are no representations, warranties, agreements, terms or conditions affecting this agreement other than as contained herein.

[clause 39 to follow]

Initial	Grantor		
	Agent		

39. This agreement shall be governed by and construed in accordance with the laws in force in the province of Alberta and the federal laws of Canada applicable therein.

The parties are executing this agreement with effect on the date stated in the introductory clause.

SIGNED AND DELIVERED
by the Grantor in the presence of

GRANTOR: (if individual(s))

Witness
Print Name: _____

Name:

Witness
Print Name: _____

Name:

Witness
Print Name: _____

Name:

OR

GRANTOR: (if a corporation)

Witness
Print Name: _____

Per: _____
Print Name: _____
Position Title: _____

Witness
Print Name: _____

Per: _____
Print Name: _____
Position Title: _____

I/We have authority to bind the corporation

COMPANY:

**ENERGY EAST PIPELINE LTD.,
in its capacity as general partner on behalf of
ENERGY EAST PIPELINE LIMITED
PARTNERSHIP**

Per: _____

Per: _____

I/We have authority to bind the corporation

For internal use only:

Legal 21Mar2013			
SF			
NS	Law	Business	Risk

CONSENT OF SPOUSE

I, _____, being married to _____ (the above named Grantor) do hereby give my consent to the disposition of our homestead, made in this instrument, and I have executed this document for the purpose of giving up my life estate and other dower rights in the property given to me by the *Dower Act*, to the extent necessary to give effect to the disposition.

Signature of Spouse of Grantor

CERTIFICATE OF ACKNOWLEDGEMENT BY SPOUSE

1. This document was acknowledged before me by _____
 apart from her husband (or his wife).

2. _____ acknowledged to me that she (or he)
 - (a) is aware of the nature of the disposition (or agreement),
 - (b) is aware that the *Dower Act* gives her (or him) a life estate in the homestead and the right to prevent disposition of the homestead by withholding consent,
 - (c) consents to the disposition (or agreement) for the purpose of giving up the life estate and other dower rights in the homestead given to her (or him) by the *Dower Act*, to the extent necessary to give effect to the said disposition (or agreement),
 - (d) is executing the document freely and voluntarily without any compulsion on the part of her husband (his wife).

Dated at _____ in the Province of Alberta on _____, 20_____.

**A COMMISSIONER FOR OATHS IN AND FOR
 THE PROVINCE OF ALBERTA**

Initial	Grantor		
	Agent		

DOWER AFFIDAVIT

I, _____, of _____, Alberta, make oath and say:

1. I am the Grantor (or the agent acting under power of attorney in my favour registered in the Land Titles Office on _____ as instrument number _____ granted by the Grantor) named in the within instrument.

2. I am (or my principal is) not married.

-OR-

Neither myself nor my spouse (or my principal nor my principal's spouse) have resided on the within mentioned land at any time since our (or their) marriage.

-OR-

I am (or my principal is) married to _____ being the person who executed the release of dower rights registered in the Land Titles Office on _____ as instrument number _____.

-OR-

A judgment for damages was obtained against me by my spouse (or my principal by my principal's spouse) and registered in the Land Titles Office on _____ as instrument number _____.

SWORN before me at _____)
 in the Province of Alberta)
 on _____, 20____)
)
)
)
)
A COMMISSIONER FOR OATHS IN AND FOR)
THE PROVINCE OF ALBERTA)

Initial	Grantor		
	Agent		

SCHEDULE A

PAYMENT

(a) **Annual Payment**

_____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20____ and a further sum of _____ Dollars (\$_____) plus GST as applicable to be paid on _____ in each and every year thereafter for a period of _____ years.

(Delete (a) or (b) and initial)

(b) **Periodic Payment**

_____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20_____;

(i) and a further sum of _____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20_____;

(ii) and a further sum of _____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20_____;

(iii) and a further sum of _____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20_____.

(iv) and a further sum of _____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20_____.

(v) and a further sum of _____ Dollars (\$_____) plus GST as applicable to be paid on _____, 20_____.

Initial	Grantor		
	Agent		

SCHEDULE B
INDIVIDUAL OWNERSHIP SKETCH OF RIGHT-OF-WAY

Initial	Grantor		
	Agent		

**AFFIDAVIT OF EXECUTION
(GRANTOR)**

CANADA) I, _____, of
)
 PROVINCE OF ALBERTA) _____, in the Province of Alberta,
)
 TO WIT:) make oath and say:

1. That I was personally present and did see _____ who is/are known to me to be the person(s) named in the within instrument, duly sign the instrument.

OR

That I was personally present and did see _____ who, on the basis of the identification provided to me, I believe to be the person(s) named in the within instrument, duly sign the instrument.

2. The instrument was signed at _____, in the Province of Alberta and I am the subscribing witness thereto.
3. That I believe the person(s) whose signature(s) I witnessed is/are at least eighteen (18) years of age.

SWORN before me at _____)
 in the Province of Alberta, on)
 _____, 20____)
)
) _____
)
 _____)
A COMMISSIONER FOR OATHS IN AND FOR THE)
PROVINCE OF ALBERTA)

**AFFIDAVIT OF EXECUTION
(GRANTOR)**

CANADA) I, _____, of
)
 PROVINCE OF ALBERTA) _____, in the Province of Alberta,
)
 TO WIT:) make oath and say:

1. That I was personally present and did see _____ who is/are known to me to be the person(s) named in the within instrument, duly sign the instrument.

OR

That I was personally present and did see _____ who, on the basis of the identification provided to me, I believe to be the person(s) named in the within instrument, duly sign the instrument.

2. The instrument was signed at _____, in the Province of Alberta and I am the subscribing witness thereto.
3. That I believe the person(s) whose signature(s) I witnessed is/are at least eighteen (18) years of age.

SWORN before me at _____)
 in the Province of Alberta, on)
 _____, 20____)
)
) _____
)
 _____)
A COMMISSIONER FOR OATHS IN AND FOR THE)
PROVINCE OF ALBERTA)

Initial	Grantor		
	Agent		

**AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY
(GRANTOR)**

CANADA) I, _____, of
)
 PROVINCE OF ALBERTA) _____, in the Province of Alberta,
)
 TO WIT:) make oath and say:

1. I am an officer or a director of _____ named in the within or annexed instrument.
2. I am authorized by the corporation to execute the instrument without affixing a corporate seal.

SWORN before me at _____)
 in the Province of Alberta, on)
 _____, 20____)
)
)
)
)
)
)
A COMMISSIONER FOR OATHS IN AND FOR)
THE PROVINCE OF ALBERTA)

Initial	Grantor		
	Agent		