

UNOFFICIAL COPY



Doc# 1934633026 Fee \$93.00

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 12/12/2019 11:43 AM PG: 1 OF 25

Prepared by and after recording
return to:

Goldberg Kohn Ltd.
55 East Monroe Street, Suite 3300
Chicago, Illinois 60603
Attention: Jami L. Brodey, Esq.

COOK COUNTY
PIN 08-21-401-052-0000

ENCROACHMENT CONSENT AND AGREEMENT

This Encroachment Consent and Agreement (the "**Agreement**") is executed this 21st day of October, 2019, by and between COMMONWEALTH EDISON COMPANY, an Illinois corporation ("**ComEd**"), and NORTHERN ILLINOIS GAS COMPANY, an Illinois corporation ("**Nicor**").

WHEREAS, ComEd owns certain property described in the attached Exhibit A (the "**Property**").

WHEREAS, Nicor holds easement rights over a portion of the Property pursuant to easements received by the judgment orders attached hereto as Exhibit B (collectively, the "**Easements**");

WHEREAS, the Easements grant Nicor the right to construct, operate and maintain a gas main and appurtenances (the "**Nicor Facilities**") in and under certain portions of the Property as described in the Easements (the "**Easement Premises**");

WHEREAS, ComEd desires to construct certain drainage and retention facilities (the "**ComEd Facilities**") on the Property, which ComEd Facilities shall cross over portions of the Easement Premises (the "**Facilities Crossings**"), which Facilities Crossings conflict with Nicor's exclusive use under the Easements; and

WHEREAS, ComEd has requested Nicor's consent to construct the ComEd Facilities, which Nicor is willing to provide, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, the parties hereby agree as follows:

1. Consent. Nicor hereby consents to the construction, installation, maintenance, use, operation, repair and replacement of the ComEd Facilities upon the Easement Premises (the "**Encroachment**"), subject to the following terms and conditions contained herein. A copy

5-4
P-25
5-M
M y
SC 9
E-N
INT 11/10

11-20-19

UNOFFICIAL COPY

of the approved plans and specifications of the ComEd Facilities to be located in the Easement Premises are attached hereto as Exhibit C, and any deviations or revisions to the plans and specifications must be approved by Nicor, in writing.

2. Use and Construction of the Easement and Facilities. Nicor and ComEd hereby agree as follows:

(a) Nicor shall not stockpile or store materials or equipment within ten feet of ComEd's substation or fencing without the prior consent of ComEd, provided that (i) ComEd's consent cannot be unreasonably withheld; (ii) consent must be provided within thirty (30) days of receipt of a written request by Nicor; and, (iii) any security/safety measures that ComEd requires for its substation during periods of times when equipment/material is within ten (10) feet will be at ComEd's sole expense.

(b) The Encroachment shall only be permitted within the southern 40-feet of the Easement Premises. The Encroachment shall be designed and constructed such that Nicor shall be able to excavate, unimpeded, to a depth required to construct, operate and maintain a gas main and appurtenances north of such 40-foot area.

(c) ComEd shall design and install below grade storm water storage facilities to support a maximum of 8 feet of temporary soil. The total maximum allowable depth of soil on top of such below grade storm water storage facilities shall not exceed 10-feet, inclusive of normal ground cover and temporary soil spoils.

(d) The maximum allowable weight of any vehicle or piece of equipment operated or stored over any storm water storage structure shall be 108,400 pounds.

(e) The maximum allowable pressure that equipment may exert while operating or staged above storm water structures shall be 20 pounds per square inch. No equipment shall be operated or staged on temporary soil spoils.

(f) No trucks or other vehicles shall be staged within 15 feet of excavators, pipe-layers or cranes when such pipe-layers or cranes are located above the Encroachment.

(g) ComEd shall maintain an unrestricted travel path as shown on Exhibit C for the benefit of Nicor for vehicles and equipment to accommodate any of Nicor's construction, maintenance, repair, replacement, renewal, removal, etc. of its facilities in the Easement Premises.

3. Interference.

(a) ComEd agrees it shall not interfere with Nicor's facilities installed within the Easement Premises. ComEd shall install the ComEd Facilities within the Encroachment with the minimum cover and or clearance specifications required by Nicor.

(b) Notwithstanding the foregoing, ComEd acknowledges that the Encroachment may interfere with the operations, maintenance and repair of Nicor's existing facilities. Additionally, the Encroachment may interfere with future use of the Easements by

UNOFFICIAL COPY

Nicor. ComEd further acknowledges and agrees that any adjustments to Nicor's existing facilities or Nicor's future use of the Easements resulting from the Encroachment may also require adjustments to current or planned Nicor facilities located on other properties. Accordingly, if in the opinion of Nicor, it becomes necessary, as a result of the exercise of the permission herein granted, to relocate, rearrange, change, or in any way adjust any of Nicor's existing facilities (whether located on the Property or not) or to change or adjust Nicor's planned facilities (whether located on the Property or not), ComEd shall: (i) within thirty (30) days of a receipt of an invoice reimburse Nicor for all reasonable cost and expense involved in such relocation, rearrangement, change, or adjustment of Nicor's planned or future facilities; and (ii) provide at no cost to Nicor any additional rights or permissions on other property owned by ComEd (provided that such rights do not interfere with ComEd's use of its properties and subject to ComEd's reasonable requirements) required for such relocation, rearrangement, change, or adjustment. Notwithstanding the foregoing, Nicor shall provide at least sixty (60) days prior notice to ComEd of cost estimates or required rights and permissions. ComEd may elect, by providing written notice to Nicor, to remove the Encroachment in place of the obligations provided in this subparagraph (b). In that event, ComEd shall complete removal of the Encroachment as provided herein.

4. Easement Priority. ComEd agrees that the use of the Easement Premises by ComEd (and its successors and assigns) as herein provided shall in no way affect the validity of the Easements and shall in no way modify or restrict the use or rights of Nicor, its successors or assigns, of the Easement Premises under the Easements, except as expressly set forth herein. ComEd acknowledges Nicor's right and title to the Easements and the priority of Nicor's right of use and hereby agrees not to resist or assail said priority.

5. Release. The use of the Easement Premises by ComEd shall be at the sole risk and expense of ComEd, and Nicor is specifically relieved of any responsibility for damage to the ComEd Facilities within the Easement Premises caused by Nicor, its employees, agents, contractors, licensees or invitees (the "**Nicor Parties**").

6. Reimbursement. ComEd agrees to reimburse Nicor for all cost and expense for any damage to the Nicor Facilities caused by the installation, repair or replacement of the ComEd Facilities or the exercise of ComEd's rights under this Agreement by ComEd, its employees, agents contractors, licensees or invitees (the "**ComEd Parties**").

7. Removal and Restoration. ComEd agrees that, within thirty (30) days after the termination of this Agreement or the occurrence of any condition requiring removal as provided herein, ComEd shall, at its cost, commence the removal of the ComEd Facilities within the Easement Premises and restoration and repair of the Easement Premises to the condition existing prior to the installation of such ComEd Facilities. In the event ComEd fails to so remove the ComEd Facilities from the Easement Premises and restore and repair the Easement Premises within ninety (90) days of the termination of this Agreement, Nicor may elect to do so at ComEd's cost and expense, and, in such event, ComEd shall pay all costs and expenses incurred by Nicor in removing the ComEd Facilities from the Easement Premises, including any costs incurred by Nicor in restoring and repairing the Easement Premises.

UNOFFICIAL COPY

8. Construction Notice. ComEd agrees to notify, or have its contractor notify, Nicor at least five (5) business days prior to actual construction of ComEd Facilities on the Easement Premises.

9. Indemnification. ComEd hereby agrees to defend, indemnify, and hold harmless the Nicor from the payment of any sum of money, including without limitation, all liens, garnishments, attachments, claims, suits, judgements, costs, reasonable attorney's fees, cost of investigation and of defense, to any person whomsoever on account of (i) claims or suits growing out of injuries to persons (including death) or damage to property (including damage to property of Nicor) attributable to or arising out of the use of the Easement Premises by the ComEd Parties; or (ii) claims or suits brought against Nicor alleging violations of environmental laws or regulations attributable to or arising out of the use of the Easement Premises by ComEd, Provided, however, that ComEd shall not be responsible to defend, indemnify or hold harmless Nicor (or any of the Nicor Parties) for losses or damages caused by or resulting from the negligence or willful misconduct by any of the Nicor Parties. Nicor shall have the right, but not the obligation, to defend any suit against Nicor for which ComEd is obligated to indemnify Nicor. ComEd hereby agrees to cooperate with such defense. Upon Nicor's request, ComEd shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of any such suit.

10. Insurance. ComEd shall carry and maintain insurance coverage as provided in Exhibit D attached hereto and incorporated herein. To the extent ComEd's contractors conduct work within the Easement Premises ComEd shall require its contractors to comply with this provision.

11. Sale, Transfer or Assignment.

(a) This Agreement and the rights and obligations of the parties hereto shall be binding upon and inure to the benefit of the parties and their respective successors, legal representatives and assigns; provided, however, except for a Permitted Transfer (as defined below), ComEd shall have no right to assign or in any way transfer all or any portion of its right, title, interest or obligation in this Agreement without the prior written consent of Nicor, which consent may be granted or withheld by Nicor in its sole discretion. As a condition of obtaining Nicor's consent to any proposed assignment or transfer of this Agreement, Nicor may require an estoppel certificate executed by ComEd and the proposed transferee, in which ComEd and the proposed transferee shall certify to Nicor that (i) the proposed transferee has received a copy of this Agreement (which shall be attached to the estoppel certificate as an exhibit) and is familiar with its contents; and (ii) such proposed transferee agrees to assume and be bound by all of the terms and conditions to be performed or observed by ComEd under this Agreement arising from and after the date of such assignment or transfer. Nicor shall have no obligation to approve any proposed assignment so long as any default, without cure, exists on the part of ComEd under this Agreement. Any attempt by ComEd to assign all or any portion of its interest in this Agreement without Nicor prior written approval, in each and every case other than a Permitted Transfer, shall be void and of no force and effect. The terms "Nicor" and "ComEd" as used herein are intended to include the parties and their respective legal representatives, successors and assigns (as to ComEd such assigns being limited to its permitted assigns). Notwithstanding the foregoing, ComEd shall be permitted to assign or transfer its right, title, interest and obligations

UNOFFICIAL COPY

under this Agreement in connection with (each a "**Permitted Transfer**") (i) to an entity controlled by, controlling or under common control with Commonwealth Edison Company (each, a "**ComEd Affiliate**") or (ii) as a result of a merger by ComEd or any ComEd Affiliate with or into another entity.

(b) ComEd shall not sell, transfer or convey the Property without assigning this Agreement as required in subparagraph (a) above. Notwithstanding the foregoing, ComEd may sell, transfer or convey the Property without first assigning this Agreement if ComEd, prior to such sale, transfer or conveyance removes the Encroachment as provided herein.

12. Defaults. The occurrence of any of the following shall constitute an event of default ("**Event of Default**") by ComEd under this Agreement:

(a) ComEd shall fail to pay when due any amount payable to Nicor hereunder and such failure continues for a period of thirty (30) days after notice thereof from Nicor;

(b) ComEd shall at any time be in default in any other covenants and conditions of this Agreement to be kept, observed and performed by ComEd and such default continue for more than thirty (30) days (or such shorter time period as may specifically set forth in this Easement) after notice from Nicor; provided, however, that if such default cannot be cured within thirty (30) days and ComEd has undertaken diligent efforts within such thirty (30) day period to effect a cure, then the cure period shall be extended for such additional time, not to exceed an additional sixty (60) days, as may be required by ComEd through the exercise of continuous, diligent efforts to complete all required corrective action; or

(c) a receiver, assignee or trustee shall be appointed for ComEd or ComEd's property or if ComEd shall file bankruptcy, or if involuntary bankruptcy proceedings shall be filed against ComEd, which involuntary proceeding is not terminated within sixty (60) days of such filing.

13. Remedies. Upon the occurrence of an Event of Default by ComEd hereunder, Nicor may exercise any one or more of the following remedies (which remedies shall survive the expiration or termination of this Agreement and ComEd's rights and privileges under this Agreement):

(a) terminate the Agreement and all rights and privileges of ComEd under this Agreement by written notice to ComEd; or

(b) take any and all corrective actions Nicor reasonably deems necessary or appropriate to cure such default and charge the cost thereof to ComEd, together with (i) interest thereon at the rate of four percent (4%) over the Corporate Base Rate of Interest (as announced by Citibank, N.A. (or its successors) from time to time) and (ii) an administrative charge in an amount equal to ten percent (10%) of the cost of the corrective action to defray part of the administrative expense incurred by Nicor in administering such cure, such payment to be made by ComEd upon Nicor's presentment of demand therefor; or

(c) any other remedy available at law or in equity to Nicor, including without limitation specific performance of ComEd's obligations hereunder.

UNOFFICIAL COPY

No delay or omission of Nicor to exercise any right or power arising from any default shall impair any such right or power or be construed to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Agreement shall be construed, taken or held to be a waiver of any other breach, or as a waiver, acquiescence in or consent to any further or succeeding breach of the same covenant. The acceptance of payment by Nicor of any of the fees or charges set forth in this Agreement shall not constitute a waiver of any breach or violation of the terms or conditions of this Agreement. Nicor's remedies hereunder are non-exclusive and cumulative in nature.

14. Attorneys' Fees. In the event that Nicor institutes a proceeding to enforce its rights or remedies hereunder and is the prevailing party in such proceeding, ComEd shall be liable for and shall reimburse Nicor, upon demand, for all reasonable attorney's fees and costs incurred by Nicor in enforcing the Agreement.

15. Grantor Use of Easement. Nicor shall have the right to install additional facilities within the Easement Premises ("Nicor Additional Facilities"). If the authority to install such Nicor Additional Facilities is not provided by the Easements, then Nicor shall only be permitted to install such Additional Facilities within the north forty (40) feet of the Easement Premises.

16. Compliance with laws.

(a) ComEd shall procure and maintain at its own expense, at the times and in the manner prescribed by applicable law, in connection with the construction, placement, repair, use or operation or any other activity involving the Easement, all licenses, consents, permits, authorizations and other approvals required from any federal, state or local governmental authority, and Grantee shall strictly observe all laws, rules, statutes and regulations of any governmental authorities having jurisdiction.

(b) Grantee shall provide Grantor with prompt written notice upon Grantee's obtaining knowledge of any potential or known release or threat of release of any Hazardous Substances affecting the Easement.

This Section shall survive the expiration or other termination of the Agreement.

17. All notices to either party hereto shall be in writing and delivered by a nationally recognized delivery service or sent by certified U. S. Mail, postage prepaid, return receipt requested, to the applicable party's address set forth below:

UNOFFICIAL COPY

ComEd:

Commonwealth Edison Company
P.O. Box 767
Chicago, Illinois 60690-0767
Attn: Director of Real Estate Services

with a copy to:

Exelon Business Services Company
Law Department
P.O. Box 805379
Chicago, Illinois 60680-5379
Attn: Assistant General Counsel – Real Estate

Nicor:

1844 Ferry Road
Naperville, Illinois, 60563
Attn: Land Management

with a copy to:

Southern Company Gas
1844 Ferry Road
Naperville, Illinois, 60563
Attn: Legal

18. No amendment to this Agreement will be effective unless made in writing and signed by both parties hereto.

19. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

20. This Agreement shall be governed by the laws of the State of Illinois.

21. Each of the signatories below hereby represents that he or she has the authority to execute this Agreement on behalf of the Nicor or ComEd, as applicable.

[Signatures on Following Page]

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed this ___ day of _____, 2019.

COMED:

COMMONWEALTH EDISON, an Illinois corporation

By: Mark Primm
Name: Mark Primm
Title: Real Estate + Facilities Director

STATE OF ILLINOIS)
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Mark Primm personally known to me to be the same persons whose names/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act, for the uses and purposes set forth herein.

GIVEN under my hand and Notarial Seal this 21st day of October 2019.

Stacey Dahlberg
Notary Public




[Signatures Continue on Following Page.]

UNOFFICIAL COPY

NICOR:

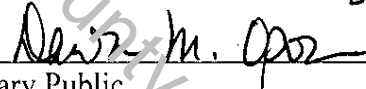
NORTHERN ILLINOIS GAS COMPANY, an Illinois corporation

By: 
Name: PATRICK E. WHITESIDE
Title: VP, BUSINESS SUPPORT

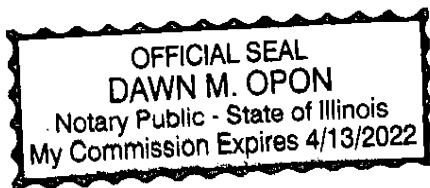
STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that PATRICK E. WHITESIDE, personally known to me to be the same persons whose names ^{is} subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act, for the uses and purposes set forth herein.

GIVEN under my hand and Notarial Seal this 28th day of August 2019.


Notary Public

My commission expires: April 13, 2022



Property of County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

PROPERTY DESCRIPTION

PARCEL 1:

THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF CENTER LINE OF OLD HIGGINS ROAD, (AS ORIGINALLY LOCATED), WITH THE WEST LINE OF SAID EAST HALF; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 213.8 FEET TO THE EAST LINE OF THE LAND CONVEYED TO THE COMMONWEALTH EDISON COMPANY FOR THE POINT OF BEGINNING; THENCE NORTHERLY ALONG SAID EAST LINE 834.29 FEET TO A LINE 16.5 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF THE NORTH 20 ACRES OF THE EAST HALF OF SAID SOUTHEAST QUARTER; THENCE EASTERLY ALONG SAID PARALLEL LINE 40.27 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE, OF THE STATE OF ILLINOIS NORTH WEST TOLL HIGHWAY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE 338.28 FEET TO A LINE 277.77 FEET EASTERLY OF (MEASURED AT RIGHT ANGLES THERETO) AND PARALLEL WITH THE EAST LINE OF LANDS CONVEYED TO THE COMMONWEALTH EDISON COMPANY; THENCE SOUTHERLY ALONG SAID PARALLEL LINE 646.90 FEET TO CENTER LINE OF OLD HIGGINS ROAD AS ORIGINALLY LOCATED; THENCE NORTHWESTERLY ALONG SAID CENTER LINE 282.79 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY THAT CERTAIN DECLARATION OF EASEMENT RECORDED OCTOBER 8, 1980 AS DOCUMENT 25616425 FOR THE PURPOSE OF THE FLOW OF STORM WATER AND A STORM SEWER OVER, UPON, THROUGH AND ACROSS THAT PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 LYING NORTH OF THE CENTER OF HIGGINS ROAD AS ORIGINALLY LAID OUT OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THEREFROM THE NORTH 20 ACRES THEREOF CONVEYED TO RUDOLPH BUSSE BY DEED RECORDED ON FEBRUARY 20, 1921, AS DOCUMENT 8289398; AND EXCEPTING ALSO THEREFROM THE NORTH 16.50 FEET OF THE SOUTH 20 ACRES OF THE NORTH 40 ACRES OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 22, CONVEYED TO RUDOLPH BUSSE BY DEED RECORDED MAY 20, 1930, AS DOCUMENT 10663654; ALSO EXCEPT THE PART CONVEYED TO THE ILLINOIS STATE TOLL HIGHWAY COMMISSION; ALSO EXCEPT THE PART CONVEYED TO COMMONWEALTH EDISON COMPANY; AND ALSO EXCEPT THAT PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 22 DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF CENTER LINE OF OLD HIGGINS ROAD (AS ORIGINALLY LOCATED) WITH THE WEST LINE OF SAID

UNOFFICIAL COPY

EAST 1/2; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 213.8 FEET TO THE EAST LINE OF THE LAND CONVEYED TO THE COMMONWEALTH EDISON COMPANY FOR THE POINT OF BEGINNING; THENCE NORTHERLY ALONG SAID EAST LINE 834.29 FEET TO A LINE 16.5 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF THE NORTH 20 ACRES OF THE EAST 1/2 OF SAID SOUTHEAST 1/4; THENCE EASTERLY ALONG SAID PARALLEL LINE 40.27 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE STATE OF ILLINOIS NORTHWEST TOLL HIGHWAY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE 338.28 FEET TO A LINE 277.77 FEET EASTERLY OF (MEASURED AT RIGHT ANGLES THERETO) AND PARALLEL WITH THE EAST LINE OF LANDS CONVEYED TO THE COMMONWEALTH EDISON COMPANY; THENCE SOUTHERLY ALONG SAID PARALLEL LINE 646.90 FEET TO CENTER LINE OF OLD HIGGINS ROAD AS ORIGINALLY LOCATED; THENCE NORTHWESTERLY ALONG SAID CENTER LINE 282.79 FEET TO THE POINT OF BEGINNING) IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office
COOK COUNTY
RECORDER OF DEEDS

UNOFFICIAL COPY

EXHIBIT B

NICOR'S EASEMENT

(see attached.)

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS }
COUNTY OF COOK } SS

ENTERED
JUL 30 1959
VINCENT A. SWANSON, CLERK

6

IN THE SUPERIOR COURT OF COOK COUNTY
CONDEMNATION

NORTHERN ILLINOIS GAS COMPANY,
a corporation of Illinois,

Petitioner,

vs.

NO. 59_8_9901

RUDOLPH BUSSE, et al.,

Defendants.

JUDGMENT ORDER

This cause coming on to be heard upon the petition to condemn of NORTHERN ILLINOIS GAS COMPANY, a corporation of Illinois, for the ascertainment of the just compensation to be made for the taking by said petitioner for the uses and purposes stated and set forth in said petition to condemn of the real property described in said petition to condemn;

And the petitioner appearing by RIGHEIMER AND RIGHEIMER, its attorneys;

And it appearing to the court that all parties defendant herein have been served with process in the manner and form as provided for by statute or have duly entered their appearances;

And the court having jurisdiction of all the parties to this suit and the subject matter thereof, and all parties interested being before the court and the court

UNOFFICIAL COPY

having heard evidence, both oral and documentary, pertaining to the subject matter and having considered the following stipulations entered into between petitioner and the owners of Parcels 7-31 and 7-190, and 7-32, namely:

"IT IS STIPULATED by and between the petitioner and the owners of Parcels 7-31 and 7-190, and 7-32 that the said owners waive the payment of interest on the amounts awarded by the court for the respective parcels from the date of this order to the date of deposit of said amounts."

"IT IS ALSO STIPULATED by and between the petitioner and the owners of Parcels 7-31 and 7-190, and 7-32 that all parties waive trial by jury and submit the issues to the court."

And now being fully advised in the premises finds that the amounts to be paid by the petitioner as just compensation to the owner or owners of and party or parties interested in the property hereinafter described, which said petitioner seeks to acquire as stated in its petition to condemn filed in this cause, are as follows:

To the owner or owners of and party or parties interested in Parcels 7-31 and 7-190 for a permanent, perpetual and exclusive right and easement for the construction, operation and maintenance of a gas main and appurtenances in Parcels 7-31 and 7-190 legally described as follows:

All that part of the East half of the Southeast quarter of Section 22, Township 41 North, Range 11 East of the Third Principal Meridian in the County of Cook, State of Illinois, and described as follows, to-wit:

UNOFFICIAL COPY

Commencing at the Northwest corner of the East half of the Southeast quarter of said Section 22; thence Southerly along the West line of the East half of the Southeast quarter, a distance of 416.4 feet to a point in the Southerly right of way line of the Northern Illinois Toll Highway, said point being the point of beginning of the parcel of land herein described; thence continuing Southerly along said West line of the East half of the Southeast quarter of Section 22 a distance of 115.82 feet more or less to a point, said point being distant 82.5 feet Southwesterly, measured at right angles from the Southerly right of way of line of the Northern Illinois Toll Highway; thence Southeasterly along a line parallel to the Southerly right of way line of the Northern Illinois Toll Highway and forming an angle of $44^{\circ} 34' 40''$ to the left of the last described course extended, a distance of 206.93 feet more or less to a point 16.5 feet South of the South line of the North 20 acres of the East half of the Southeast quarter of said Section 22; thence Easterly along a line 16.5 feet South of the South line of the North 20 acres of the East half of the Southeast quarter of said Section 22 a distance of 114.60 feet to a point in the Southerly right of way line of the Northern Illinois Toll Highway; thence Northwesterly along said Southerly right of way line, forming an angle of $133^{\circ} 57' 20''$ to the left with the last described course extended a distance of 370.20 feet to the point of beginning,

as full compensation to the owner or owners of and party or parties interested in the aforesaid real property, for said permanent easement, the sum of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00).

The court further finds that as a result of the taking of said real property hereinabove described as Parcels 7-31 and 7-190 for the uses and purposes set forth in the petition to condemn filed in the above entitled cause, the remainder of the real property of which said Parcels 7-31 and 7-190 is a part has not been damaged.

To the owner or owners of and party or parties interested in Parcel 7-32 for a permanent, perpetual and exclusive right and easement for the construction, operation

UNOFFICIAL COPY

and maintenance of a gas main and appurtenances in Parcel 7-32, legally described as follows:

All that part of the East half of the Southeast quarter of Section 22, Township 41 North, Range 11 East of the Third Principal Meridian, in Cook County, Illinois, bounded and described as follows, to-wit:

Commencing at the Southeast corner of said Section 22; thence Northerly along the East line of said Section 22, a distance of 815 feet to the Southeast corner of the property acquired by The Illinois State Toll Highway Commission by deed recorded October 31, 1956 as Document 16752078, said point being the point of beginning of the parcel of land herein described; thence Northwesterly along the Southwesterly line of the aforesaid Illinois State Toll Highway Commission property forming an angle of $44^{\circ} 33' 50''$ to the left with the last described course extended a distance of 830.9 feet to a point hereinafter referred to as point "A"; thence Northeasterly at right angles a distance of 50 feet along the line hereinafter referred to as line "A" to the Southwesterly line of the Northwesternmost parcel of land acquired by The Illinois State Toll Highway Commission by said document 16752078; thence Northwesterly along said Southwesterly line of The Illinois State Toll Highway Commission property (hereinafter referred to as line "B") a distance of 741.6 feet to a point 16.5 feet Southerly measured at right angles from the South line of the North 20 acres of the East half of the Southeast quarter of said Section 22, said point being 259.8 feet East of the West line of the Southeast quarter of said Section 22; thence Westerly parallel with the South line of the North 20 acres of the East half of the Southeast quarter of said Section 22, forming an angle of $46^{\circ} 2' 40''$ to the left with the last described course extended a distance of 114.8 feet more or less to a point distant 82.5 feet Southwesterly measured at right angles from said line "B" extended; thence Southeasterly parallel with said line "B" a distance of 1683.11 feet to a point in the East line of said Section 22; thence Northerly along the East line of said Section 22 a distance of 46.3 feet to the point of beginning.

as full compensation to the owner or owners of and party or parties interested in the aforesaid real property for said permanent easement, the sum of SIXTEEN THOUSAND AND NO/100 DOLLARS (\$16,000.00).

315

UNOFFICIAL COPY

The court further finds that as a result of the taking of said real property hereinabove described as Parcel 7-32 for the uses and purposes set forth in the petition to condemn filed in the above entitled cause, the remainder of the real property of which said Parcel 7-32 is a part has not been damaged.

The payment of said amounts to be paid to the owner or owners of and party or parties interested in said real property will fully compensate said owner or owners of and party or parties interested, for the taking by the petitioner of aforesaid real property for the uses and purposes set forth in the petition to condemn filed in this cause.

And the court being fully advised in the premises, DOETH CONSIDER, ORDER AND ADJUDGE that the sum of money herein awarded by the court to the owner or owners of and party or parties interested in said real property described herein and in the petition to condemn filed herein, is just compensation to the owner or owners thereof and party or parties interested therein for the taking of said real property, and judgment is herein entered accordingly.

IT IS THEREFORE ORDERED AND ADJUDGED by the court that NORTHERN ILLINOIS GAS COMPANY, a corporation of Illinois, petitioner herein, within one hundred eighty (180) days from the entry of this order, pay in accordance with the provisions of the statute in such case made and provided the sum of money heretofore set forth as the full compensation for the taking of said real property and costs in the amount of \$7.50.

376

UNOFFICIAL COPY

IT IS FURTHER ORDERED pursuant to stipulation of the parties that judgment herein shall not bear interest.

IT IS FURTHER ORDERED AND ADJUDGED that upon proof being made to the court of the deposit of the amounts awarded herein with the County Treasurer of Cook County, Illinois, for the use and benefit of the owners and persons interested in the parcels of land aforesaid, the petitioner herein, NORTHERN ILLINOIS GAS COMPANY, a corporation of Illinois, shall be thereby vested with a permanent, perpetual and exclusive right and easement for the construction, operation and maintenance of a gas main and appurtenances in said parcels of land paid for by petitioner, as aforesaid, and thereupon said petitioner, NORTHERN ILLINOIS GAS COMPANY, a corporation of Illinois, shall be authorized and empowered to enter upon and take immediate possession of said parcels of land so paid for.

E N T E R :


JUDGE

DATED: 7-30-59

UNOFFICIAL COPY

STATE OF ILLINOIS }
COUNTY OF COOK } SS

IN THE SUPERIOR COURT OF COOK COUNTY
CONDEMNATION

NORTHERN ILLINOIS GAS COMPANY,
a corporation of Illinois,

Petitioner,

vs.

RUDOLPH BUSSE, et al.,

Defendants.

NO. 59-S-9901

ENTERED
CLERK OF THE SUPERIOR COURT
THEODORE A. SWINARSKI
NOV - 4 1959
DONALD S. MCKINLAY
JUDGE
DEPUTY CLERK <i>Kelme</i>

O R D E R

This matter being before the court on the stipulation of the petitioner, NORTHERN ILLINOIS GAS COMPANY, and the owner of Parcel 7-32, RUDOLPH BUSSE, that the petition to condemn filed herein and the judgment order entered herein on July 30, 1959 be amended nunc pro tunc as of July 30, 1959, as hereinafter ordered;

IT IS ORDERED that the petition to condemn filed herein be and it hereby is amended nunc pro tunc as of July 30, 1959:

A. By inserting in the legal description of Parcel 7-32 as the same appears on page 5 of said petition to condemn in the third line thereof after the word "Meridian" and before the word "in" the following words and figures "except the west 210 feet of said tract".

B. By inserting in said legal description of Parcel 7-32, at the end of the 31st line thereof (the said 31st line reading "point being 259.8 feet East of the West line of") the following words "the East half of";

UNOFFICIAL COPY

IT IS FURTHER ORDERED that the judgment order of July 30, 1959 heretofore entered herein be and it hereby is amended nunc pro tunc as of July 30, 1959:

A. By inserting in the third line of the legal description of Parcel 7-32 as the same appears on page 4 of said judgment order after the word "Meridian" and before the word "in" the following words and figures "except the west 210 feet of said tract".

B. By inserting in said legal description of Parcel 7-32 as the same appears on page 4 of said judgment order, at the end of the 31st line thereof (the said 31st line reading "point being 259.8 feet East of the West line of) the following words "the East half of".

ENTER :


 JUDGE

DATED: *Nov. 4, 1959*

UNOFFICIAL COPY

EXHIBIT C

ENCROACHMENT PLANS SPECIFICATIONS

(see attached.)

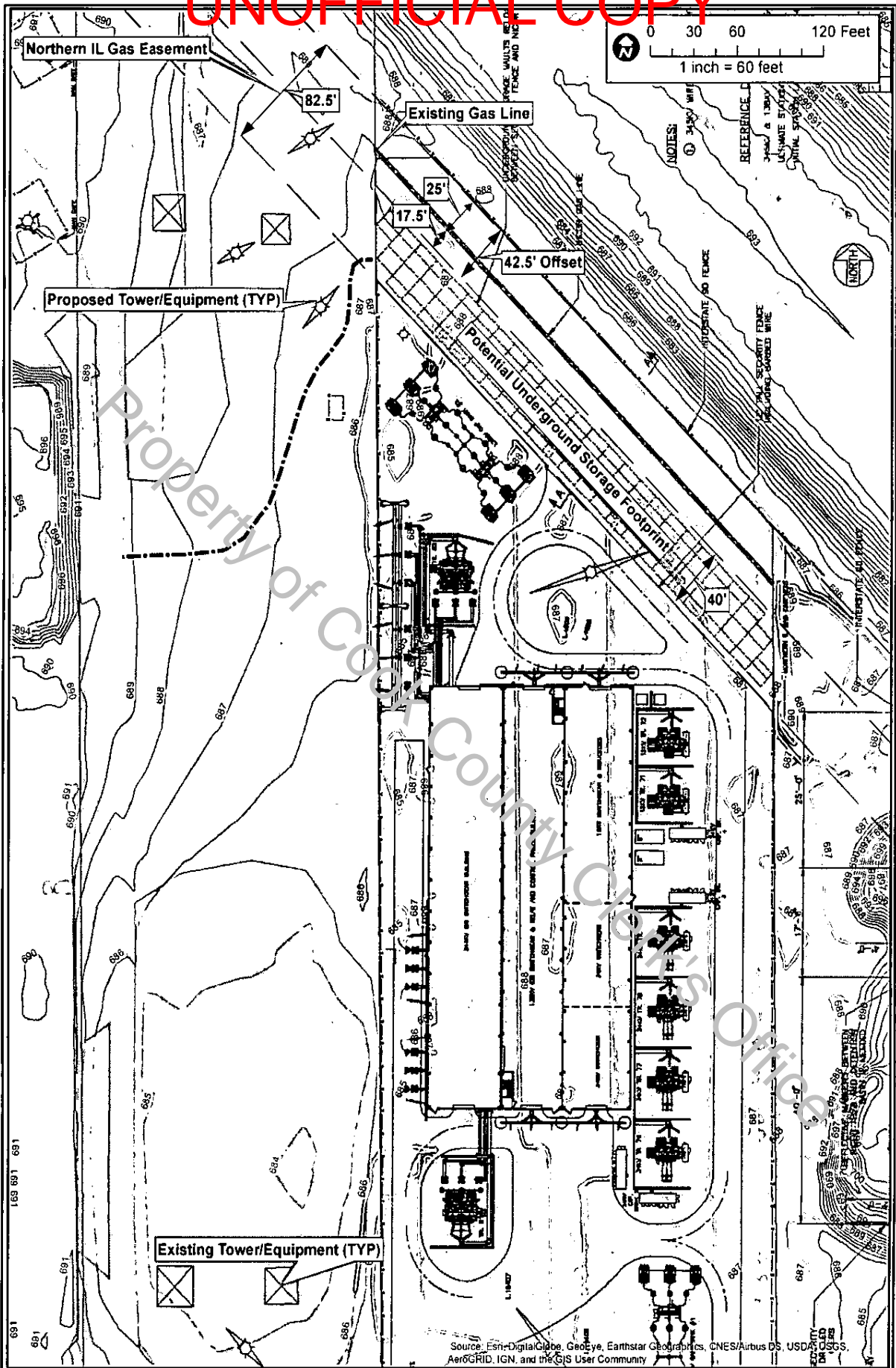
Property of Cook County Clerk's Office

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

UNOFFICIAL COPY



NOTE: CONTOURS DEPICT EXISTING CONDITIONS. GRADING IN NICOR EASEMENT TO BE APPROXIMATELY GRADED AT 687 FT.

J:\040532.900\040532.00988\GIS\Exhibits\040532.0\Nicor Easement Travel Path Revised 08/29/19.mxd

CBCE
 Christopher B. Burke Engineering, Ltd.
 9575 West Higgins Road, Suite 600
 Rosemont, IL 60018
 (847) 823-0500 / FAX (847) 823-0520

CLIENT	ComEd <small>An Exelon Company</small>	PROJECT NO.	040532.00988
TITLE	NICOR EASEMENT TRAVEL PATH		DATE
			08/29/19
			EXHIBIT

DSGN.	BMK	CHKD.
-------	-----	-------

UNOFFICIAL COPY

EXHIBIT D

INSURANCE

ComEd agrees to require its contractors, before commencing any work on the Easement Premises to purchase and maintain, or at the option of ComEd to itself purchase and maintain, at the cost of ComEd or its contractors, a policy or policies of insurance issued by insurance companies authorized to do business in the State of Illinois, having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificates of Insurance) and in a form satisfactory to Nicor as follows:

COVERAGE #1

Workers' Compensation Insurance with statutory limits, as required by the state in which the work is to be performed, and Employers' Liability Insurance with limits not less than One Million dollars (\$1,000,000.00) each accident/occurrence

COVERAGE #2

Commercial General Liability (CGL) Policy or Policies (with coverage consistent with ISO CG 0001 (12 04)) covering all contractors, subcontractors and all their subcontractors with limits not less than Four Million dollars (\$4,000,000.00) per occurrence covering liability for bodily injury and property damage arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability and products/completed operations for not less than three (3) years from the date the work is accepted. (CGL insurance includes, but is not limited to coverage for claims against Nicor for injuries to employees of ComEd and its contractors or any subcontractors) Nicor shall be added as an Additional Insured providing coverage consistent with ISO Form CG 20 26 11 85 or the combination of ISO Form CG 20 10 10 01 and CG 20 37 10 01.

COVERAGE #3

Automobile Liability in an amount of not less than one million dollars (\$1,000,000) per accident for bodily injury and property damage, covering all owned, leased, rented or non-owned vehicles, which shall include automobile contractual liability coverage.

Policies covering contractors may substitute lower limits for any of the policies listed above, provided that contractors maintains an umbrella or excess liability policy or policies which provide a total minimum limit of four million dollars (\$4,000,000) per occurrence for general liability and one million dollars (\$1,000,000) for automobile liability, and that all other requirements of this insurance clause are satisfied by such umbrella or excess policy or policies.

ComEd will, in any event, purchase and maintain during the term hereof:

COVERAGE #4

Commercial General Liability (CGL) Insurance (with coverage consistent with ISO CG 00 01 12 04) with a limit of not less than four million dollars (\$4,000,000) per occurrence covering liability for bodily injury and property damage, arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability and products/completed operations (CGL insurance includes, but is not limited to coverage for claims against Nicor for injuries to employees of ComEd and its contractors or any subcontractors). Nicor shall be added as an Additional Insured providing coverage consistent with ISO Form CG 2026 (11/85) or combination of ISO Form CG 20 10 10 01 and GC20 37 19

UNOFFICIAL COPY

91. (ii) Automobile Liability in an amount of not less than \$1,000,000 per accident for bodily injury and property damage, covering all owned, leased, rented or non-owned vehicles, which shall include automobile contractual liability coverage.

COVERAGE #5

Workers' Compensation Insurance with statutory limits, as required by the state in which the work is to be performed, and Employers' Liability Insurance with limits not less than One Million dollars (\$1,000,000.00) each accident/occurrence.

ComEd may substitute lower limits for any of the policies listed above, provided that ComEd maintains an umbrella or excess liability policy or policies which provide a total minimum limit of \$4,000,000.00 per occurrence for general liability, and that all other requirements of this insurance clause are satisfied by such umbrella or excess policy or policies.

(b) If any work on the Easement Premises involves or includes any contractor handling, transporting, disposing, or performing work or operations with hazardous substances, contaminants, waste, toxic materials, or any potential pollutants, ComEd and/or contractors shall purchase and maintain pollution legal liability applicable to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims; all in connection with any loss arising from the Easement Premises. Coverage shall be maintained in an amount of at least five million dollars (\$5,000,000) per loss and aggregate. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants. Nicor shall be included as an additional insured and the policy shall be primary with respect to Nicor as the additional insured.

(c) There shall be furnished to Nicor, prior to commencing the work above described a certificate of insurance showing the issuance of insurance policies pursuant to the requirements contained in Coverages #1, #2, and #3 of these paragraphs. Insurance coverage as required herein shall be kept in force until all work has been completed. All policies shall contain a provision that coverages afforded under the policies will not be canceled or material change until at least thirty (30) days prior written notice (ten (10) days in the case of nonpayment of premium) has been given to Nicor.

(d) ComEd shall provide evidence of the required insurance coverage under Coverage #4 and #5, which shall be delivered to Nicor upon execution of this document. The insurance under Coverage #4 and #5 shall be kept in force through the term hereof through the above referred policy or such subsequent or substitute policy or policies as ComEd may, at its discretion, obtain. ComEd shall also provide Nicor with evidence of all of the insurance required hereunder prior to the effective date of the Lease whenever any insurance policy procured by ComEd hereunder is renewed and whenever ComEd obtains a new insurance policy hereunder.

(e) Insurance coverage provided by ComEd and its contractors shall not include any of the following; any claims made insurance policies; any self-insured retention or deductible amount greater than two hundred fifty thousand dollars (\$250,000) unless approved in writing by Nicor; any endorsement limiting coverage available to Nicor which is otherwise required by this Article; and any policy or endorsement language that (i) negates coverage to Nicor for Nicor's own negligence, (ii) limits the duty to defend Nicor under the policy, (iii) provides coverage to Nicor only if ComEd or its contractors are negligent, (iv) permits recovery of defense costs from any additional insured, or (v) limits the scope of coverage for liability assumed under a contract.

(f) To the extent permitted by applicable Laws, all above-mentioned insurance policies shall provide the following:

UNOFFICIAL COPY

- (1) Be primary and non-contributory to any other insurance carried by Nicor;
- (2) Contain cross-liability coverage as provided under standard ISO Forms' separation of insureds clause;
- (3) Provide for a waiver of all rights of subrogation which ComEd's, or its Contractors' insurance carrier might exercise against Nicor; and
- (4) Any Excess or Umbrella liability coverage will not require contribution before it will apply.

(g) Nicor hereby reserves the right to amend, correct and change from time-to-time the limits, coverages and forms of policies as may be required from ComEd and/or its contractors.

(h) Notwithstanding anything contained herein to the contrary, ComEd undertakes to act and will continue to act as a self-insurer of its liabilities, if any, and will pay all sums which it shall become legally obligated to pay in connection with the Agreement. ComEd further certifies that it maintains insurance coverage above its self-insured retention. In addition, ComEd will require any contractor that it engages to perform work at the project site to maintain workers' compensation insurance as required by statute, and commercial general liability insurance and automobile liability insurance in a form and with limits that ComEd considers appropriate. ComEd shall provide evidence of the required insurance coverage and file with Nicor a Certificate of Insurance annually. Nicor will be named additional insured on ComEd's excess liability insurance program according to the terms of this Easement with a limit not less than \$10,000,000.

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

PROPERTY OF Cook County Clerk's Office