

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*,
S.O. 1998, C.15, Schedule B, and in particular
Section 21 (2) thereof;

AND IN THE MATTER OF the *Assessment Act*,
R.S.O. 1990, c.A.31, and in particular Section 25(3)
thereof;

AND IN THE MATTER OF an Application by Tribute
Resources Inc. for an Order determining whether or
not the natural gas pipelines owned and operated by
Tribute Resources Inc. in Norfolk County, the
Municipality of Bayham and the Township of
Malahide are gas transmission pipelines

B E T W E E N:

TRIBUTE RESOURCES INC.

Applicant

- and -

**MUNICIPAL PROPERTY ASSESSMENT
CORPORATION, THE COUNTY OF NORFOLK, THE
MUNICIPALITY OF BAYHAM, and
THE TOWNSHIP OF MALAHIDE**

Respondents

**SUBMISSIONS OF THE
MUNICIPAL PROPERTY ASSESSMENT CORPORATION ("MPAC")**

PART I - OVERVIEW

1. In this Application, this Board is being asked to determine whether gathering pipe lines transport or transmit gas. If they do, they are correctly assessed for municipal tax purposes based on regulated rates as set out in the *Assessment Act* (the "*Act*") and the regulations made pursuant to that *Act*.

Assessment Act, R.S.O. 1990, c.23, as amended, s.25(1):

“pipe line” means a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, ... but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal.

O.Reg. 282/98, Part VIII (the “Regulation”)

2. Tribute Resources Inc.’s gathering pipe lines “move”, “transfer” and “deliver” gas. Therefore, they “transport gas” and, as clearly evidenced by the regulation of rates for “field gathering pipe lines” in the *Act*, they are properly assessed based on regulated rates.

PART II - FACTS

3. In issue in this application are 423,192 feet of pipe line located in the municipalities of Norfolk, Bayham and Malahide in southwestern Ontario (“Pipe Lines”). The Pipe Lines were formally owned by Echo Energy Canada Inc. and Magnum Gas Corp. They were purchased by Tribute Resources Inc. in 2014. The Pipe Lines consist of 367,386 feet of pipe assessed as field gathering pipe lines, and 55,806 feet of pipe assessed as ‘other’ pipe lines.

Tribute Application Record, Pre-Filed Evidence, para. 6.

MPAC Evidence, Tab A, (MPAC GRAD).

O.Reg. 282/98, Part X, Tables 2 and 3.

4. Tribute describes the Pipe Lines as “a natural gas gathering system used in the private production of natural gas ...”.

Tribute Application Record, Pre-Filed Evidence, para. 8.

5. The Pipe Lines were first assessed for taxation in 2004, the year that they were installed. They were assessed based on a designation filed by a predecessor in title to Tribute.

MPAC Response to Interrogatory 4(b) from the Ontario Energy Board (the "OEB").

O.Reg. 282/98, Part X, Table 4.

MPAC Response to Interrogatory 2 (a) from the OEB.

6. Transportation or transmission pipe lines are assessed for municipal tax purposes based on 'regulated rates'. There are three sets of rates based on the type of pipe line:

- (1) Offshore pipe lines
- (2) Plastic field gathering pipe lines and plastic gas distribution pipe lines
- (3) 'Other' pipe lines.
- (4)

O.Reg. 282/98, Part X, Tables 1, 2, and 3.

7. The assessment of a pipe line is calculated by first determining its type (offshore, gathering, or other) and, therefore, the table used to calculate the value. Once the appropriate table is selected, the pipe line's outside diameter determines the rate. For example the assessment of a pipe line that is not an offshore pipe line or a gathering pipe lines that is 30,732 feet long and 4 to 4.5 inches in diameter will be assessed under Table 3,

Outside Diameter (in inches)	Rate (in dollars per foot)
***	***
4 to 4.5	28.89
***	***

Its length (30,732 feet) will be multiplied by the regulated rate (\$28.89 per foot) to arrive at a value of \$887,847.48. This value is then reduced by the regulated depreciation in Table 5,

Year of Installation of Pipe Line	Percentage Reduction
...	...
2004	16
...	...

Therefore, the assessed value is \$887,847.48 less 16% for depreciation: \$745,791.88.

MPAC Response to Interrogatory 1 (a) from the OEB.

8. Tribute's Pipe Lines are being treated similarly to other pipe line companies.

MPAC Response to Interrogatory 1(b) from the OEB

MPAC Evidence, Tabs C and D

PART III - ISSUES

9. There are two issues:

(1) are the Pipe Lines used *for the*

a. *transportation or*

b. *transmission of gas?*

(2) have the Pipe Lines been *designated by the owner?*

PART IV - THE LAW

Statutory Interpretation

10. The ordinary rules of statutory interpretation apply to the *Assessment Act*: the provisions of the *Act* must be read in their statutory context having regard to the

ordinary and grammatical meaning of the words used, the scheme and object of the *Act* and the intention of the legislature.

Corporation Notre-Dame de Bonsecours v. Communauté urbaine de Québec et al., [1994] 3 S.C.R. 3 at 20.

Scheme of the Legislation

(a) Purpose

11. The purpose of the *Assessment Act* and the *Municipal Act, 2001* is to distribute the annual cost of municipal services to taxpayers based on the assessed values of property in the municipality.

(b) Operation

12. MPAC assesses all land each year. The assessments of all land in a municipality are listed on the assessment roll that MPAC provides or 'returns' annually to each municipality. Municipalities use their assessment roll to set their tax rates and, therefore, the amount of taxes due from each ratepayer.

Assessment Act, R.S.O. 1990, c. A.31, as amended, ss.1 ('current value', 'land'), 3(1), 14(1), 19(1), 36(1), 37(1), 39(1).

Municipal Act, 2001, S.O. 2001, c.25, as amended, ss. 289, 307, 312 (2), and (6).

13. For most land, MPAC must determine its 'current' or transaction value. However, the *Act* directs specific valuation rules for certain land, including railway land, farm land, utility and transportation companies, public utilities and pipe lines. The *Act* also gives the Minister the authority to regulate the manner in which current values must be

determined.

Assessment Act, supra., ss.1 (“current value”), 3, 7(1) and (2), 14(1), 19(1), 19(2.1) and (5), 24, 27, and 30.

14. MPAC has an onus to ensure that land is assessed correctly. However, once Notices of Assessment are delivered, it is the responsibility of the assessed person to raise issues in respect to the assessments. If no issues have been raised, the returned assessment is deemed to be valid and binding notwithstanding any error.

Assessment Act, supra., ss.40 (1), (8), and 41.

Scott et al. v. Municipal Property Assessment Corporation, et al. (12 February 2015), (Ont.A.R.B.) [unreported]; [2015] O.A.R.B.D. No. 64 at paras. 37 and 38.

Pipe Lines are Land

15. The *Act* has a very expansive definition of land. It includes anything “intended to remain permanently in its location”. Assessable land includes “items not considered fixtures ... as long as they are placed upon or affixed to land with some degree of permanency”. ‘Land’ includes such things as machinery, equipment, boats permanently moored to land, seasonal or recreational trailers, and billboards.

Assessment Act, supra., s. 1 (‘land’):

“land”, “real property” and “real estate” include, ...

(d) all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,

(e) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway...

1518756 Ontario Inc., et al. v. Municipal Property Assessment Corporation, et al. (2008) 88 O.R. (3d) 211 (Ont.S.C.J.) at 220-221; *aff’d* (2009), 248 O.A.C. 114

(Ont.Div.Ct.); [2009] O.J. No. 1119; leave ref'd (3 July 2009), (Ont.C.A.) [unreported].

Carsons' Camp Ltd. v. Municipal Property Assessment Corporation et al. (2008), 88 O.R. (3d) 741 (C.A.) at paras. 13 and 26.

Re Marley & Sandwich, [1932] O.W.N. 178 (C.A.) at 178.

16. Pipe lines are 'land' as defined in *Act* and, therefore, they are subject to assessment and taxation for municipal purposes. The special assessment and valuation rules for pipe lines in section 25 recognize their unique nature.

(a) Firstly, pipe lines are assessed to their owner (the 'pipe line company'), rather than to the owner of the land under or over which the pipe line runs.

(b) Secondly, pipe lines are assessed based on a regulated value calculated by multiplying the length of the pipe line in feet by the applicable rate, and then depreciating that value based on the year of installation. This type of assessment is referred to in the assessment industry as a 'linear' assessment.

Assessment Act, supra., s. 25.

O.Reg. 282/98, as amended, Part VIII, s. 41(1).

17. Pipe lines not subject to these special assessment and valuation rules, such as pipe lines located within an oil refinery, are assessed and valued pursuant to the 'normal' valuation rules: they are assessed at their current value to the owner of the property on which they are located.

Assessment Act, supra., ss.17(1). 19(1).

18. If Tribute is successful in this application, the normal assessment and valuation rules will apply to its Pipe Lines. The assessment will be to the owners of the parcels

under or over which the pipe lines run, not to Tribute. This means that the current value of the Pipe Lines will be divided and added to the assessments for the underlying land under or over which the pipe lines run.

Carsons' Camp Ltd. v. Municipal Property Assessment Corporation et al. (2008), 88 O.R. (3d) 741 (C.A.) at paras. 13 and 26.

Assessment Act, supra., ss. 1 ('current value'), 17, 25.

Land assessed against owner

17. (1) Subject to section 18, land shall be assessed against the owner.

19. Tribute owns approximately 80 miles of Pipe Line running across three municipalities. Even if the Pipe Lines run across only one property per mile, this means that 80 property owners will see their assessments increased by the value of the Pipe Line crossing their property.

Tribute Application Record, Map of Pipe Lines, Schedule "A",
Tab 1, p.3.

20. The special 'linear' assessment rules provided for in section 25 avoid this cumbersome process and ensures that pipe line companies receive their assessments directly. It also explains why the definition of a pipe line under the *Assessment Act* has a much broader meaning than the technical meanings provided in the definitions under the *Ontario Energy Board Act*. The provisions under the *Assessment Act* fulfil a different purpose, and are designed to simplify the process described above.

Ontario Energy Board Act, 1998, S.O. 1998, c. 15, s. 3(1).

**Issue 1: The Pipe Lines are Used for the
(a) Transportation or (b) Transmission of Gas**

21. A “pipe line” means “a pipe line for the transportation or transmission of gas ...”.
Tribute, however, seems to have read the word “transportation” out of the definition and brings this application on the basis that its Pipe Lines are not transmission pipe lines.

Assessment Act, supra, s. 25(1):

“pipe line” means a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil ... but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal.

22. In determining whether the Pipe Lines are correctly assessed, this Board should have regard to the ordinary meaning of the terms “transmission” and “transportation”:

- (a) “transportation” means “the action or process of transporting something; conveyance of people, goods, etc., from one place to another”; and
- (b) “transmission” means “conveyance or transfer from one person or place to another”

Brown, Lesley (ed), *The New Shorter Oxford English Dictionary*. Vol. 2. Oxford: Clarendon Press, 1993, N-Z.

MPAC Response to Interrogatory 3 from the OEB, Tab F.

23. Tribute’s Pipe Lines transport or transmit gas.

- (a) The gathering lines “gather” gas from each well and “transport” it to the central processing facility (Interrogatory 3).

- (b) The Pipe Lines “move” the natural gas produced by the wells to a metering site (paragraph 8).
- (c) The main gathering Pipe Line includes a compressor to enable the natural gas to be “transferred” to Union Gas (paragraph 9).
- (d) The Pipe Lines collect natural gas produced by wells and “deliver” it to Union Gas (paragraph 11).
- (e) In 2014, approximately 4,119,080 cubic meters of natural gas was “delivered through the Pipe Lines” to Union Gas (paragraph 22).

Tribute Application Record, Pre-Filed Evidence, paras. 8, 9, 11, and 22.

Tribute Response to Interrogatory 3 from the OEB.

24. According to Tribute, the Pipe Lines “move”, “transfer” and “deliver” gas. Tribute is clearly ‘transporting’ something, or ‘conveying goods from one person or place to another’. The Pipe Lines are used for the “transportation or transmission” of gas as contemplated by section 25 of the *Act*.

25. As discussed above, pipe lines are assessed at a regulated rate per foot. The rate is chosen from one of three tables in the Regulation depending on the nature of the pipe line.

Table 1 Offshore Pipe Lines

Table 2 Plastic Field Gathering Pipe Lines and Plastic Gas Distribution Pipe Lines

Table 3 Pipe Lines Other than those to which Table 1 or 2 Applies

Assessment Act, supra, s. 41(1).

O. Reg. 282/98, Part X, Tables 1, 2, and 3.

26. Tribute's Pipe Lines are assessed under Table 2 (367,386 feet) and Table 3 (55,806 feet).

27. Tribute says its Pipe Lines are gathering pipe lines not transmission pipe lines. This position ignores the express provision of rates in the Regulation for "field gathering pipe lines". If gathering pipe lines were not to be assessed using the Linear Method, there would be no reason to regulate the rates.

Tribute Application Record, Pre-Filed Evidence, para.14.

Sullivan, Ruth, Sullivan on the Construction of Statutes. 6th ed. Markham: LexisNexis, 2014, p. 211-212 ("Sullivan").

28. Tribute asserts that the Regulation of 'field gathering pipelines' is 'contradictory' to the *Act*. However, this assertion fails to recognize that the *Act* defines pipe lines as including both transmission and transportation pipe lines. It also requires this Board to determine that the Minister misunderstood his own legislation when he issued the Regulation.

Tribute Response to Interrogatory 6 from the OEB.

29. Tribute's position is contrary to the normal rules of statutory interpretation and disregards the legislative history. Prior to 1970, all transmission and transportation pipe lines were assessed using the linear method based one set of rates set out in the *Act*. In 1970, the *Act* was amended to include three sets of rates for different types of pipe lines including "Field and Gathering Pipe Lines". The Legislature's inclusion of "field and gathering pipe line" rates in the *Act* is to be interpreted broadly, in keeping with the purpose of the special assessment rates for pipe lines and not restricted to any technical definitions used elsewhere in the industry. The rates were removed from the *Act* and moved to the Regulation in 1998 as part of a broad assessment reform.

Assessment Act, R.S.O. 1960. c.23, ss. 41(4), and (5).

Assessment Act, R.S.O. 1970. c.148, s. 33.

Sullivan, *supra.*, p. 205 and 211-212.

Issue 2: The Pipe Lines were Designated By the Owner

30. The Pipe Lines have been assessed pursuant to section 25 of the *Assessment Act* since 2004 taxation.

MPAC Response to Interrogatory 2 from the OEB.

31. Pursuant to section 31 of the *Act*, MPAC is required to deliver notices of assessment to assessed persons, including Tribute and its predecessors, whenever information on the assessment roll changes. With respect to the Pipe Lines, notices were delivered for the Pipe Lines in each municipality at a minimum:

- (a) on the initial assessment of the pipelines in 2005;
- (b) on the re-assessment for 2006;
- (c) on re-assessment for 2009; and
- (d) on re-assessment for 2013.

The Notices of Assessment clearly indicate that the land is being assessed as “pipe line”.

Tribute Application Record, Pre-Filed Evidence, Notices of Assessment, Schedule B.

Assessment Act, *supra.*, ss. 19.2, 31.

32. There is no evidence that Tribute or its predecessors objected to the assessment of the Pipe Lines: the assessments of the Pipe Lines for taxation in 2004 through to

2013 are deemed to be correct.

Assessment Act, supra., s. 41.

33. The *Act* requires pipe line companies to notify MPAC every year concerning the age, length and diameter of their pipe lines.

Assessment Act, supra., s. 25(2).

34. The *Act* also requires pipe line companies to 'designate' their pipe lines. However, unlike the requirement to report details annually, once a pipe line is designated, the designation continues until the pipe line is abandoned. Even pipe lines that cease to be used continue to be assessed as designated pipe lines.

Assessment Act, supra., ss. 25 (1), (3), (8), and (9).

35. If the Legislature intended that pipe lines be designated periodically, it would have included this requirement with the other information required to be provided annually to MPAC. It also would not have been necessary to provide for the assessment of pipe lines no longer being used or abandoned.

Sullivan, *supra.*, p. 208, and 223-224.

36. Although MPAC is unable to produce the original designation of the Pipe Lines, this Board can accept that the Pipe Lines were so designated and were correctly assessed pursuant to section 25 of the *Act* because:

- (a) there was no challenge to the assessment of the pipe lines until Tribute filed appeals to the Assessment Review Board in 2013; and
- (b) the assessment rolls for 2004 to 2012 are deemed to be correct and binding.

Once the first assessment post-designation was made and not appealed, there was no need for MPAC to retain the designation in its files.

Assessment Act, supra., s. 41.

Additional Issue: Is Tribute challenging the Validity of the Regulation?

37. In its response to the OEB's Interrogatories, Tribute states that sections 7 and 41 of the Regulation are contradictory because section 7 refers to pipe lines "within the meaning of s.25(1)", but section 41 introduces the terms "plastic field gathering pipe lines" and "plastic distribution pipe lines".

Tribute Response to Interrogatory 6 from the OEB.

38. If Tribute is asserting that Table 2 of the Regulation is *ultra vires*, this issue should have been raised in the Application or, more appropriately, should have been made the subject matter of an application for judicial review. If this Board intends to consider the validity of the Regulation, MPAC reserves its rights to reply to any submissions on this issue made by Tribute.

Judicial Review Procedures Act, R.S.O. 1990, c. J1, s.2(1).

PART V - RELIEF REQUESTED

40. MPAC requests the right to reply to any further submissions made by Tribute in this Application.

41. MPAC requests that Tribute's application be dismissed.

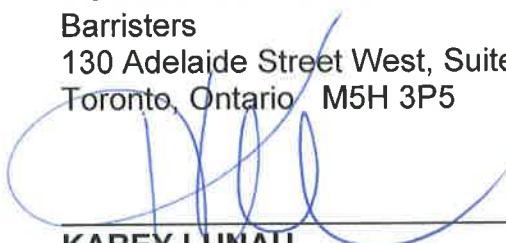
All of which is respectfully submitted this 20th day of October, 2015.

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SCHEDULE “A”

1. *Corporation Notre-Dame de Bonsecours v. Communauté urbaine de Québec et al.*, [1994] 3 S.C.R. 3.
2. *Scott et al. v. Municipal Property Assessment Corporation, et al.* (12 February 2015), (Ont.A.R.B.) [unreported]; [2015] O.A.R.B.D. No. 64.
3. *1518756 Ontario Inc., et al. v. Municipal Property Assessment Corporation, et al.* (2008) 88 O.R. (3d) 211 (Ont.S.C.J.); aff'd (2009), 248 O.A.C. 114 (Ont.Div.Ct.); [2009] O.J. No. 1119; leave ref'd (3 July 2009), (Ont.C.A.) [unreported].
4. *Carsons' Camp Ltd. v. Municipal Property Assessment Corporation et al.* (2008), 88 O.R. (3d) 741 (C.A.).
5. *Re Marley & Sandwich*, [1932] O.W.N. 178 (C.A.)
6. Brown, Lesley (ed), *The New Shorter Oxford English Dictionary*. Vol. 2. Oxford: Clarendon Press, 1993.
7. Sullivan, Ruth, *Sullivan on the Construction of Statutes*. 6th ed. Markham: LexisNexis, 2014, p. 211-212 (“Sullivan”).

SCHEDULE "B"

Assessment Act, R.S.O. 1990, c. A.31, ss. 1.(1), 3.(1); 14.(1); 17.(1); 19.(1); 19.2; 25, 25.(1),(2), (3), (8) & (9); 31; 36.(1); 37.(1); 39.(1); 40.(1) & (8); 41; 41.(1)

1. (1) In this Act,

"land", "real property" and "real estate" include,

- (a) land covered with water,
- (b) all trees and underwood growing upon land,
- (c) all mines, minerals, gas, oil, salt quarries and fossils in and under land,
- (d) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,
- (e) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway, lane or other public communication or water, but not the rolling stock of a transportation system; ("biens-fonds", "biens immeubles", "biens immobiliers")

Property assessable and taxable, exemptions

3. (1) All real property in Ontario is liable to assessment and taxation, subject to the following exemptions from taxation:

Assessment roll

Contents

14. (1) The assessment corporation shall prepare an assessment roll for each municipality, for each locality and for non-municipal territory and the assessment roll shall contain the following information as well as the information required under subsections (1.1) and (1.2):

- 1. The name and surnames, in full, if they can be ascertained, of all persons who are liable to assessment in the municipality or in the non-municipal territory, as the case may be.
- 2. The amount assessable against each person who is liable to assessment, opposite the person's name.
- 3. A description of each property sufficient to identify it.
- 4. The number of acres, or other measures showing the extent of the land.

5. The current value of the land.
6. The value of the land liable to taxation.
7. The value of land exempt from taxation.
8. The classification of the land.
9. Such other information as may be prescribed by the Minister. 2006, c. 33, Sched. A, s. 13 (1).

Land assessed against owner

17. (1) Subject to section 18, land shall be assessed against the owner. 1997, c. 29, s. 7 (1).

Assessment based on current value

19. (1) The assessment of land shall be based on its current value. 1997, c. 5, s. 12; 2007, c. 7, Sched. 1, s. 3.

Valuation days

19.2 (1) Subject to subsection (5), the day as of which land is valued for a taxation year is determined as follows:

1. For the 2006, 2007 and 2008 taxation years, land is valued as of January 1, 2005.
2. For the period consisting of the four taxation years from 2009 to 2012, land is valued as of January 1, 2008.
3. For each subsequent period consisting of four consecutive taxation years, land is valued as of January 1 of the year preceding the first of those four taxation years. 2007, c. 7, Sched. 1, s. 5.

(2)-(4) REPEALED: 2007, c. 7, Sched. 1, s. 5.

Pipe line

25. (1) In this section,

“gas” means natural gas, manufactured gas or propane or any mixture of any of them;
 (“gaz”)

“oil” means crude oil or liquid hydrocarbons or any product or by-product thereof;
 (“pétrole”)

“pipe line” means a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

- (a) all valves, couplings, cathodic protection apparatus, protective coatings and casings,
- (b) all haulage, labour, engineering and overheads in respect of such pipe line,
- (c) any section, part or branch of any pipe line,
- (d) any easement or right of way used by a pipe line company, and
- (e) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal; (“pipeline”)

“pipe line company” means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario. (“compagnie de pipeline”) R.S.O. 1990, c. A.31, s. 25 (1).

Notice

(2) On or before March 1 of every year or such other date as the Minister may prescribe, the pipe line company shall notify the assessment corporation of the age, length and diameter of all of its transmission pipe lines located on January 1 of that year in each municipality and in non-municipal territory. 2004, c. 31, Sched. 3, s. 8; 2006, c. 33, Sched. A, s. 16 (1).

Disputes

(3) All disputes as to whether or not a gas pipe line is a transmission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final. R.S.O. 1990, c. A.31, s. 25 (3).

Pipe lines abandoned

(8) A pipe line that has been abandoned in any year ceases to be liable for assessment effective with the assessment next following the date of abandonment. R.S.O. 1990, c. A.31, s. 25 (8).

Reduction of assessment on pipe line

(9) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon the pipe line has been refused, the assessment of the pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas. R.S.O. 1990, c. A.31, s. 25 (9).

Notice of assessment

31. (1) If there is a change in any information described in subsection 14 (1), (1.1) or (1.2) in respect of a parcel of land and the change is not reflected in the last assessment roll as returned, the assessment corporation shall deliver to every person described in subsection 14 (1) who is affected by the change a notice, in a form approved by the Minister, showing,

- (a) the person's assessment and the current value of the parcel of land;
- (a.1) the classification of the parcel of land;
- (b) the person's school support, if applicable; and
- (c) such other particulars as are directed by the Minister to be shown in the notice,

and the assessment corporation shall enter in the roll opposite the name of the person the date of delivery of the notice or shall make one or more certificates to be attached to the roll or to any part of the roll certifying the date or dates upon which the notices were delivered, and the entry, certificate or certificates are proof, in the absence of evidence to the contrary, of the delivery. R.S.O. 1990, c. A.31, s. 31 (1); 1997, c. 5, s. 20; 1997, c. 43, Sched. G, s. 18 (23); 2004, c. 7, s. 4 (1); 2006, c. 33, Sched. A, 21 (1-3).

Time for annual assessment and return of roll

Assessment

36. (1) Except as provided in section 32, 33 or 34, assessments of land under this Act shall be made annually at any time between January 1 and the second Tuesday following December 1. 2006, c. 33, Sched. A, s. 25.

Last revised assessment roll

37. (1) The yearly assessment roll of a municipality last returned to the clerk, when corrected and revised by the Assessment Review Board and certified by the registrar, is for all purposes the last revised assessment roll of the municipality. R.S.O. 1990, c. A.31, s. 37 (1); 1997, c. 23, s. 1 (1).

Delivery of assessment roll

39. (1) The assessment corporation shall deliver the assessment roll for a municipality and any area attached to the municipality under clause 56 (b) or subsection 58.1 (2) of the *Education Act* to the clerk of the municipality, the assessment roll for a locality or a local roads area under the *Local Roads Boards Act* to the secretary of the applicable board and the assessment roll for non-municipal territory to the Minister, and shall do so on or before the date fixed for the return of the roll. 2006, c. 33, Sched. A, s. 28; 2008, c. 19, Sched. A, s. 6.

Appeal to Assessment Review Board

40. (1) Any person, including a municipality, a school board or, in the case of land in non-municipal territory, the Minister, may appeal in writing to the Assessment Review Board,

- (a) on the basis that,
 - (i) the current value of the person's land or another person's land is incorrect,
 - (ii) the person or another person was wrongly placed on or omitted from the assessment roll,
 - (iii) the person or another person was wrongly placed on or omitted from the roll in respect of school support,
 - (iv) the classification of the person's land or another person's land is incorrect, or
 - (v) for land, portions of which are in different classes of real property, the determination of the share of the value of the land that is attributable to each class is incorrect; or
- (b) on such other basis as the Minister may prescribe. 2008, c. 7, Sched. A, s. 11.

Omitted or supplementary assessment

(8) If a notice of assessment has been mailed under subsection 35 (1) for a property, the last day for appealing for a taxation year for a person who has not made a request for reconsideration in respect of the property under section 39.1 and is not required to do so as a precondition of appeal under subsection (3) is 90 days after the notice is mailed or March 31 of the taxation year, whichever is later. 2008, c. 7, Sched. A, s. 11; 2008, c. 19, Sched. A, s. 8 (1).

Roll to be binding notwithstanding errors in it or in notice sent to persons assessed

41. The last revised assessment roll shall, subject to subsections 37 (5) and (6), be valid and bind all parties concerned, despite any defect or error committed in or with regard to the roll, or any defect, error or misstatement in the notice required by section 31 or the omission to deliver or transmit the notice, provided that the provisions of this section in so far as they relate to the omission to deliver or transmit the notice do not apply to any person who has given the assessment corporation the notice provided for in subsection 31 (4). R.S.O. 1990, c. A.31, s. 41; 1997, c. 23, s. 1 (1); 2006, c. 33, Sched. A, s. 32.

Assessment Act, R.S.O. 1960. c.23, ss. 41(4), and (5).

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Chap. 23

ASSESSMENT

Sec. 41 (2)

Transmission
lines to be
designated
by Board

(2) The Ontario Energy Board shall designate as transmission pipe lines all gas pipe lines in Ontario that in its opinion are transmission pipe lines. 1957, c. 2, s. 7, *part*.

Notice to
municipalities

(3) On or before the 1st day of March in each year the Board shall notify the clerk or the assessment commissioner of each local municipality of the length and diameter of all transmission pipe lines located in the municipality. 1957, c. 2, s. 7, *part, amended*.

Disputes

(4) All disputes as to whether or not a gas pipe line is a transmission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final.

Assessment
of pipe line

(5) Notwithstanding any other provisions of this Act, but subject to subsection 6, a pipe line shall be assessed for taxation purposes at the following rates:

Size of Pipe	Assessment per Foot of Length
$\frac{3}{4}$ "	Nominal inside diameter . . . \$.07
1"	" " " " " " .09
$1\frac{1}{4}$ "	" " " " " " .11
$1\frac{1}{2}$ "	" " " " " " .13
2" and $2\frac{1}{2}$ " ..	" " " " " " .17
3"	" " " " " " .46
4" and $4\frac{1}{2}$ " ..	" " " " " " .55
5" and $5\frac{5}{8}$ " ..	" " " " " " .83
6" and $6\frac{5}{8}$ " ..	" " " " " " .98
8"	" " " " " " 1.24
10"	" " " " " " 1.55
12"	" " " " " " 2.31
14"	Outside diameter 2.34
16"	" " " " " " 2.35
18"	" " " " " " 2.67
20"	" " " " " " 2.96
22"	" " " " " " 3.25
24"	" " " " " " 3.56
26"	" " " " " " 3.69
28"	" " " " " " 3.85
30"	" " " " " " 4.03
32"	" " " " " " 4.24
34"	" " " " " " 4.46
36"	" " " " " " 4.72

Pipe lines
installed
before 1940

(6) A pipe line installed prior to 1940 shall be assessed for taxation at the rates set forth in subsection 5 but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipe line, with a maximum depreciation of 50 per cent.

Pipe lines
installed
after 1939

(7) A pipe line installed in 1940 or in any subsequent year shall be assessed for taxation at the rates set forth in subsection 5 with no allowance for depreciation

Assessment Act, R.S.O. 1970. c.148, s. 33.

Interpre-
tation
R.S.O. 1970,
c. 148

33.—(1) In this section,

- (a) "gas" means gas as defined in *The Energy Act*;
- (b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;
- (c) "pipe line" means, subject to subsection 4, a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,
 - (i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,
 - (ii) all haulage, labour, engineering and overheads in respect of such pipe line,
 - (iii) any section, part or branch of any pipe line,
 - (iv) any easement or right of way used by a pipe line company, and
 - (v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

- (d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

Notice to
municipalities

(2) On or before the 1st day of July in each year, the pipe line company shall notify the assessment commissioner of each municipality of the age, length and diameter of all its transmission pipe lines located in the municipality as of the 1st day of June of that year.

Assessment Act, R.S.O. 1970. c.148, s. 33.

(3) All disputes as to whether or not a gas pipe line is a transmission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final. Disputes

(4) Notwithstanding any other provisions of this Act, but subject to subsection 6, a pipe line shall be assessed for taxation purposes at the following rates: Assessment of pipe line

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . .	Nominal Inside Diameter	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . .	" " "	1.45
2" and $2\frac{1}{2}$ " . . .	" " "	1.70
3"	" " "	2.20
4" and $4\frac{1}{2}$ " . . .	" " "	2.70
5" and $5\frac{5}{8}$ " . . .	" " "	3.20
6" and $6\frac{5}{8}$ " . . .	" " "	3.70
8"	" " "	5.90
10"	" " "	6.80
12"	" " "	8.55
14"	Outside Diameter	9.20
16"	" "	10.35
18"	" "	11.45
20"	" "	12.45
22"	" "	13.75
24"	" "	14.80
26"	" "	15.70
28"	" "	16.75
30"	" "	17.70
32"	" "	18.65
34"	" "	19.50
36"	" "	20.35
38"	" "	21.35

FIELD AND GATHERING PIPE LINE

$\frac{3}{4}$ " to 1" . . .	Nominal Inside Diameter	\$.90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . .	" " "	1.09
2" and $2\frac{1}{2}$ " . . .	" " "	1.31
3"	" " "	1.69
4" and $4\frac{1}{2}$ " . . .	" " "	2.10
5" and $5\frac{5}{8}$ " . . .	" " "	2.47
6" and $6\frac{5}{8}$ " . . .	" " "	2.89
8"	" " "	4.65
10"	" " "	5.44
12"	" " "	6.90

Municipal Act, 2001, S.O. 2001, c.25, as amended, ss. 289, 307, 312 (2), and (6).

Yearly budgets, upper-tier

289. (1) For each year, an upper-tier municipality shall, in the year or the immediately preceding year, prepare and adopt a budget including estimates of all sums required during the year for the purposes of the upper-tier municipality, including,

- (a) amounts sufficient to pay all debts of the upper-tier municipality falling due within the year;
- (b) amounts required to be raised for sinking funds or retirement funds;
- (c) amounts in respect of debenture debt of lower-tier municipalities for the payment of which the upper-tier municipality is liable; and
- (d) amounts required by law to be provided by the upper-tier municipality for any of its local boards, excluding school boards. 2001, c. 25, s. 289 (1); 2006, c. 32, Sched. A, s. 119 (1).

Taxes to be levied equally

307. (1) All taxes shall, unless expressly provided otherwise, be levied upon the whole of the assessment for real property or other assessments made under the *Assessment Act* according to the amounts assessed and not upon one or more kinds of property or assessment or in different proportions. 2001, c. 25, s. 307 (1).

General local municipality levies

312 (2) For purposes of raising the general local municipality levy, a local municipality shall, each year, pass a by-law levying a separate tax rate, as specified in the by-law, on the assessment in each property class in the local municipality rateable for local municipality purposes. 2001, c. 25, s. 312 (2).

Restrictions on rates

312 (6) The tax rates to be levied under subsection (2) or (4) are subject to the following restrictions:

1. The rates must be set so that, when they are levied on the applicable assessment rateable for local municipality purposes, an amount equal to the general local municipality levy or special local municipality levy, as the case may be, is raised.
2. The rates on the different classes of property must be in the same proportion to each other as the tax ratios established under section 308 for the property classes are to each other. 2001, c. 25, s. 312 (6).

O.Reg.282/98, as amended, Part VIII, s.41(1).

PART VIII ASSESSMENT OF PIPE LINES

ASSESSED VALUE FOR SPECIFIED YEARS

41. (1) For the 2013, 2014, 2015 and 2016 taxation years, the assessed value of a pipe line shall be determined as follows:

1. The length of the pipe line in feet shall be multiplied by the applicable rate in Table 1, 2 or 3 of Part X. Table 1 applies to offshore pipe lines. Table 2 applies to plastic field gathering pipe lines and plastic distribution pipe lines. Table 3 applies to other pipe lines.
2. The amount determined under paragraph 1 shall be depreciated by reducing the amount by the applicable percentage in Table 4 for offshore pipe lines and in Table 5 for plastic field gathering pipe lines, plastic gas distribution pipe lines and other pipe lines.
3. After the reduction under paragraph 2, \$250 shall be added for each connection to an end user. O. Reg. 338/12, s. 1.

O.Reg. 282/98, Part X, Tables 1, 2, 3, and 4

PART X TABLES RE ASSESSMENT OF PIPE LINES

TABLE 1
OFFSHORE PIPE LINES — 2013 TO 2016 TAXATION YEARS

Outside Diameter (in inches)	Rate (in dollars per foot)
1	4.77
1.25 to 1.5	8.08
2 to 2.5	13.16
3	19.11
4 to 4.5	21.43
5 to 5 $\frac{3}{8}$	23.54
6 to less than 8	28.05
8	39.94

O. Reg. 338/12, s. 3.

TABLE 2
PLASTIC FIELD GATHERING PIPE LINES AND PLASTIC GAS DISTRIBUTION PIPE LINES — 2013 TO
2016 TAXATION YEARS

Outside Diameter (in inches)	Rate (in dollars per foot)
0.5	4.18
1	5.02
1.25 to 1.5	5.87
2 to 2.5	7.56
3	12.15
4 to 4.5	14.63
6 to less than 8	31.10
8	38.83

O. Reg. 338/12, s. 3

TABLE 3
PIPE LINES OTHER THAN THOSE TO WHICH TABLE 1 OR 2 APPLIES — 2013 TO 2016 TAXATION YEARS

Outside Diameter (in inches)	Rate (in dollars per foot)
0.75 to 1.0	12.40
1.25 to 1.5	14.70
2 to 2.5	17.33
3	24.82
4 to 4.5	28.89
5 to 5 $\frac{1}{8}$	32.96
6 to 6 $\frac{1}{8}$	37.21
8	48.00
10	56.77
12	72.83
14	89.06
16	116.83
18	139.61
20	154.82
22	183.46
24	216.85
26	243.36
28	285.60
30	303.09
32	352.90
34	388.68
36	420.37
38	456.82
40	490.57

42	535.93
44	589.13
46	642.74
48	672.59

O. Reg. 338/12, s. 3.

TABLE 4
DEPRECIATION RATES FOR OFFSHORE PIPE LINES — 2013 TO 2016 TAXATION YEARS

Year of Installation of Pipe Line	Percentage Reduction
1981 or earlier	80
1982	79
1983	78
1984	76
1985	75
1986	73
1987	72
1988	71
1989	70
1990	68
1991	67
1992	66
1993	65
1994	63
1995	62
1996	61
1997	59
1998	57
1999	57
2000	56
2001	54
2002	52
2003	51
2004	49
2005	44
2006	39
2007	33
2008	27
2009	21
2010	15
2011	10
2012	5
2013	0

O. Reg. 338/12, s.

Judicial Review Procedures Act, R.S.O. 1990, c. J1. s.2 (1).

Applications for judicial review

2. (1) On an application by way of originating notice, which may be styled "Notice of Application for Judicial Review", the court may, despite any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:

1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.
2. Proceedings by way of an action for a declaration or for an injunction, or both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power. R.S.O. 1990, c. J.1, s. 2 (1).

Ontario Energy Board Act, 1998, S.O. 1998, c. 15, s. 3(1).

Definitions

3. In this Act,

"affiliate", with respect to a corporation, has the same meaning as in the *Business Corporations Act*; ("membre du même groupe")

"associate", where used to indicate a relationship with any person, means,

- (a) any body corporate of which the person owns, directly or indirectly, voting securities carrying more than 50 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
- (b) any partner of that person,
- (c) any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity,
- (d) any relative of the person, including the person's spouse as defined in the *Business Corporations Act*, where the relative has the same home as the person, or
- (e) any relative of the spouse, as defined in the *Business Corporations Act*, of the person, where the relative has the same home as the person; ("personne qui a un lien")

"Board" means the Ontario Energy Board; ("Commission")

"construct" means construct, reconstruct, relocate, enlarge or extend; ("construire")

"distribute", with respect to electricity, means to convey electricity at voltages of 50 kilovolts or less; ("distribuer")

“distribution system” means a system for distributing electricity, and includes any structures, equipment or other things used for that purpose; (“réseau de distribution”)

“distributor” means a person who owns or operates a distribution system; (“distributeur”)

“enforceable provision” means,

- (a) a provision of this Act or the regulations,
- (b) a provision of Part II of the *Energy Consumer Protection Act, 2010* or of the regulations made under it,
- (c) a provision of Part III of the *Energy Consumer Protection Act, 2010* or of the regulations made under it,
- (c.1) a provision of the *Ontario Clean Energy Benefit Act, 2010* or the regulations made under it,
- (d) subsection 5 (3), (4), (5) or (6) or section 25.33, 25.36, 25.37, 26, 27, 28, 28.1, 29, 30.1, 31, 53.11, 53.13, 53.15, 53.16 or 53.18 of the *Electricity Act, 1998*, or any other provision of that Act that is prescribed by the regulations,
- (e) regulations made under clause 114 (1.3) (f) or (h) of the *Electricity Act, 1998*,
- (f) a condition of a licence issued under Part IV, V or V.1,
- (g) a provision of the rules made by the Board under section 44 or a code issued under section 70.1, 70.2 or 70.3,
- (h) a provision of an order of the Board,
- (i) a provision of an assurance of voluntary compliance that is given to the Board under section 112.7 or that was entered into under section 88.8 before that section was repealed, or
- (j) a provision of any other Act or the regulations made under an Act, as may be prescribed by regulation; (“disposition exécutoire”)

“fuel oil” means any liquid hydrocarbon within the meaning from time to time of the Canadian General Standards Board specification CAN/CGSB-3.2-M89 entitled FUEL OIL HEATING, CAN/CGSB-3.3-M89 entitled KEROSENE, CAN/CGSB-3.6-M90 entitled AUTOMOTIVE DIESEL FUEL or, when used for heating, cooking or lighting, within the meaning from time to time of CAN/CGSB-3.27-M89 entitled NAPHTHA FUEL; (“mazout”)

“gas” means natural gas, substitute natural gas, synthetic gas, manufactured gas, propane-air gas or any mixture of any of them; (“gaz”)

“gas distributor” means a person who delivers gas to a consumer and “distribute” and “distribution” have corresponding meanings; (“distributeur de gaz”, “distribuer”, “distribution”)

“gas transmitter” means a person who carries gas by hydrocarbon transmission line, and “transmit” and “transmission” have corresponding meanings; (“transporteur de gaz”, “transporter”, “transport”)

“IESO” means the Independent Electricity System Operator established under the *Electricity Act, 1998*; (“SIERE”)

“land” includes any interest in land; (“bien-fonds”)

“manufactured gas” means any artificially produced fuel gas, except acetylene and any other gas used principally in welding or cutting metals; (“gaz manufacturé”)

“Minister” means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“oil” means crude oil, and includes any hydrocarbon that can be recovered in liquid form from a pool through a well; (“pétrole”)

“pipe line” means a pipe that carries a hydrocarbon and includes every part of the pipe and adjunct thereto; (“pipeline”)

“pool” means an underground accumulation of oil or natural gas or both, separated or appearing to be separated from any other such underground accumulation; (“gisement”)

“producer” means a person who has the right to remove gas or oil from a well, and “produce” and “production” have corresponding meanings except when referring to documents or records; (“producteur”, “produire”, “production”)

“propane” means a hydrocarbon consisting of 95 per cent or more of propane, propylene, butane or butylene, or any blend thereof; (“propane”)

“rate” means a rate, charge or other consideration and includes a penalty for late payment; (“tarif”)

“regulations” means the regulations made under this Act; (“règlements”)

“renewable energy generation facility” has the same meaning as in the *Electricity Act, 1998*; (“installation de production d’énergie renouvelable”)

“renewable energy source” has the same meaning as in the *Electricity Act, 1998*; (“source d’énergie renouvelable”)

“smart grid” has the same meaning as in the *Electricity Act, 1998*; (“réseau intelligent”)

“Smart Metering Entity” means the corporation incorporated, the limited partnership or the partnership formed or the entity designated pursuant to section 53.7 of the *Electricity Act*, 1998; (“Entité responsable des compteurs intelligents”)

“smart metering initiative” means those policies of the Government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters; (“initiative des compteurs intelligents”)

“station” means a compressor station, a metering station, an odorizing station or a regulating station; (“station”)

“storage company” means a person engaged in the business of storing gas; (“compagnie de stockage”)

“suite meter” has the same meaning as in Part III of the *Energy Consumer Protection Act*, 2010; (“compteur individuel”)

“transmission system” means a system for transmitting electricity, and includes any structures, equipment or other things used for that purpose; (“réseau de transport”)

“transmit”, with respect to electricity, means to convey electricity at voltages of more than 50 kilovolts; (“transporter”)

“transmitter” means a person who owns or operates a transmission system; (“transporteur”)

“unit smart metering” has the same meaning as in Part III of the *Energy Consumer Protection Act*, 2010; (“activités liées aux compteurs intelligents d’unité”)

“unit smart meter provider” has the same meaning as in Part III of the *Energy Consumer Protection Act*, 2010; (“fournisseur de compteurs intelligents d’unité”)

“unit sub-metering” has the same meaning as in Part III of the *Energy Consumer Protection Act*, 2010; (“activités liées aux compteurs divisionnaires d’unité”)

“unit sub-meter provider” has the same meaning as in Part III of the *Energy Consumer Protection Act*, 2010; (“fournisseur de compteurs divisionnaires d’unité”)

“utility line” means a pipe line, a telephone, telegraph, electric power or water line, or any other line that supplies a service or commodity to the public; (“ligne de service public”)

“voting security” has the same meaning as in the *Business Corporations Act*; (“valeur mobilière avec droit de vote”)

“well” means a hole drilled into a geological formation of Cambrian or more recent age, except a hole where no gas or oil is encountered that is drilled for the production of fresh water or salt. (“puits”) 1998, c. 15, Sched. B, s. 3; 1999, c. 6, s. 48; 2002, c. 1, Sched. B, s. 1; 2002, c. 23, s. 4 (3); 2003, c. 3, s. 4; 2005, c. 5, s. 51; 2006, c. 3, Sched. C, s. 1; 2009, c. 12, Sched. D, s. 3; 2010, c. 8, s. 38 (1); 2010, c. 26, Sched. 13, s. 17 (1); 2011, c. 9, Sched. 27, s. 34 (1); 2014, c. 7, Sched. 23, s. 1.