



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

October 20, 2015

Tribute Resources Inc.

**Application to Determine Whether Certain Pipelines are
Transmission Pipelines**

EB-2015-0206

INTRODUCTION

Tribute Resources Inc. (Tribute) filed an application on June 22, 2015 with the Ontario Energy Board (OEB) under section 25(3) of the *Assessment Act*, R.S.O. 1990 c.A.31 (Assessment Act) requesting an order that certain natural gas pipelines owned by Tribute in Norfolk County, the Municipality of Bayham, and the Municipality of Malahide are not gas transmission pipelines within the meaning and intent of section 25(1) of the Assessment Act (the Application). The Application is triggered by a dispute between Tribute and the Municipal Property Assessment Corporation (MPAC) with respect to whether or not the Tribute pipelines are “pipe lines” as defined in the Assessment Act. Tribute takes the position that the pipelines are not subject to municipal taxes as “pipe line assets” while MPAC maintains that the Tribute pipelines are appropriately assessed as “pipe lines”. OEB staff notes at the outset of this submission that while Tribute and MPAC refer to pipelines as either “ pipe lines” or “pipelines” this is just a difference in spelling as opposed to anything substantive.

Section 25(1) of the Assessment Act, defines a “pipe line” as follows:

“pipe line” means a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line ...”

Section 25(3) of the Assessment Act states:

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.¹

Tribute is a corporation under the laws of the Province of Alberta and is permitted to legally carry on business in the Province of Ontario. Tribute is in the gas production business in Ontario. Tribute is not a regulated gas distribution company.

MPAC is responsible for the assessment and classification of all real property in Ontario, including pipelines as defined by the Assessment Act. MPAC’s assessment is used by municipalities to determine their tax rates and the taxes they collect.

¹ Excerpts from the Assessment Act are attached to this submission at Tab A

PROCESS

A Notice of Application was issued on July 10, 2015. MPAC is the only intervenor. The OEB proceeded by a written hearing. MPAC, OEB staff and Tribute actively participated in the proceeding. MPAC filed intervenor evidence. A written discovery process including responses to interrogatories on both Tribute's and MPAC's evidence was completed on October 6, 2015.

BACKGROUND - TRIBUTE PIPELINES

In 2014, Tribute purchased assets owned by Magnum Gas Corp. (Magnum) and Echo Energy Canada Inc. (Echo) including the assets that are the subject of the Application. When Tribute purchased the former Magnum and Echo assets, now Tribute assets, including the pipelines and wells referred to in Tribute's pre-filed evidence, certain municipal tax arrears were assumed by Tribute totalling \$375,275.36. Of these amounts, the vast majority (greater than \$345,556.00) related to the 2012 and 2013 taxation years.

Tribute reviewed the files and records provided to it by Magnum and Echo and has been unable to locate any documentation whereby Magnum and/or Echo provided any notification under section 25(2) of the Assessment Act to MPAC that the pipelines or any part of them were designated as "transmission pipelines". It is Tribute's position that the pipelines have been improperly assessed by MPAC pursuant to section 25 of the Assessment Act and the Regulations² made thereunder.³

TRIBUTE'S POSITION

As set out in Tribute's evidence the purpose of the Tribute pipelines is to connect private gas production wells to Union Gas Limited's (Union) transmission system. Tribute submits that the pipelines that are the subject of the dispute are gathering lines and not transmission pipelines within the meaning of section 25 of the Assessment Act. Specifically, Tribute submits that the pipelines are part of a polyethylene gathering pipelines system connected to seventy one of Tribute's natural gas production wells. The gathering pipelines are connected to a compressor site and to the main gathering pipeline which moves gas to a metering site and a delivery point near Union's transmission system. The Tribute pipelines have been used since or about 2004 (when they were owned by Magnum and Echo) as gathering pipelines to move produced gas to Union's system and the point of sale⁴. Tribute sells the gas to Union at the delivery point.

² Regulation 282/98 is attached to this submission at Tab B

³ Tribute Response to OEB Staff IR #2

⁴ Tribute's response to OEB staff IR # 4

In Tribute's submission the pipelines in dispute are not "pipe lines" as defined under section 25(1) of the Assessment Act and therefore should not be subject to tax assessment. Tribute characterized the pipelines as gathering pipelines. Tribute provided definitions of gathering pipelines using the definition given in *CSA Standard Z662-11 for Oil and gas pipeline systems* (published in June 2011) (the CSA Standards) ⁵.

The definition in the CSA Standards distinguishes between a transmission line and a gathering pipeline.

Line, gathering – a pipeline that conveys gas from a wellhead assembly to a treatment plant, transmission line, distribution line, or service line." (See Schedule "C" page 24)

Line, transmission – a pipeline in a gas transmission system that conveys gas from a gathering line, treatment plant, storage facility, or field collection point in a gas field to a distribution line, service line, storage facility, or another transmission line" (See Schedule "C" page - 24)

In further support of its position that the Tribute pipelines are gathering lines Tribute submitted the following in response to OEB Staff IR # 3:

Tribute herein provides three cases where gathering lines through which it delivers gas to Union's system have not been designated as transmission pipelines by Tribute or taxed as such. The first is the Tribute line from the well "Tribute et al #19 Stephen 3-5-XIX" to Union's pipeline system and runs along S Road in Huron County. The second line from well "Clearwood et al #12 Tuckersmith 2-30-IIISHR" and runs to Union's pipeline system at Vanastra along Front Line and Vanastra Road. The third line is from well "Tribute 26 et al Hay 2-11-XVI" and runs along Shipka Line to Dashwood Road where it connects to Union's pipeline system. These are but a few examples of many in the industry. Dundee Energy LP operates gas gathering facilities in Ontario and is in a substantially similar situation as Tribute in respect of these examples. Tribute believes that there are other producers who operate other gathering lines that are also not considered transmission lines and are not assessed by MPAC under s. 25 of the *Assessment Act*.

Tribute's position is that the gathering pipelines owned and used by the natural gas producer should be exempt from assessment and taxation under the Assessment Act because they are not transmission pipelines.⁶

⁵ Tribute's response to OEB staff IR # 3

⁶ Tribute response to OEB staff interrogatory # 6 page 10

Regarding the designation of the Tribute pipelines as transmission pipelines and reporting this to MPAC, Tribute maintained its position that they are not designated by Tribute or (to the best of its knowledge) by previous owners. In Tribute's view only pipelines so designated by their owner should be the subject of assessments and taxation.⁷ In fact, in response to OEB staff interrogatories and Tribute interrogatories, MPAC has confirmed that it does not have any evidence that would confirm the owner of the Tribute pipelines designated them as transmission pipelines.

MPAC's POSITION

MPAC included in its Intervenor Evidence a table that contains the assessment of the Tribute pipelines.⁸

MPAC submitted that the Tribute pipelines are appropriately defined under the Regulation 282/98 made under the Assessment Act (the Regulation) as gathering pipelines. MPAC submits that gathering pipelines in general, and the Tribute pipelines that are the subject of the dispute, are appropriately assigned to the Pipe Line Property Class and are appropriately considered as "pipe lines" as defined in Section 25(1) of the Assessment Act. MPAC submits that section 7(1) of the Assessment Act requires the Minister of Finance to prescribe classes of real property for the purposes of the Assessment Act. One of these classes of property is the pipe line property class for which the Regulation sets out various tables to determine the appropriate assessment of taxes.⁹ MPAC stated in its response to OEB staff IR #2 that it relies on pipeline companies to report the pipelines and that the assessment is based on these reports. MPAC also states that the "pipelines at issue were reported to MPAC under s. 25 of the Assessment Act"¹⁰. MPAC claims that the Tribute pipelines were reported to MPAC as transmission pipelines under section 25(2) of the Assessment Act.

However, MPAC's records containing the original report have been destroyed¹¹.

⁷ Tribute response to OEB interrogatory # 6 and Tribute response to MPAC interrogatory # 1

⁸ MPAC's Evidence Tab B, page 252.

⁹

PART X	TABLES RE ASSESSMENT OF PIPE LINES
Table 1	Offshore pipe lines — 2013 to 2016 taxation years
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Table 3	Pipe lines other than those to which table 1 or 2 applies — 2013 to 2016 taxation years
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¹⁰ MPAC Intervenor Evidence page 2 paragraph 9

¹¹ MPAC response to OEB staff interrogatory # 2; MPAC response to Tribute's interrogatory #4(d)

According to MPAC's Evidence Tab A, the report was "likely" received in 2004 or 2005.

In response to Tribute's interrogatory #4(c) MPAC stated "if the OEB finds that the pipelines at issue in this Application are not subject to assessment under s.25 of the Assessment Act, they will be assessable to the owner(s) of the land over which they run pursuant to ss.1 ("land"), 3 and 19 of the Assessment Act"

OEB STAFF POSITION

OEB staff submits that the only issue before the OEB in this application is whether or not the Tribute pipelines are transmission pipelines for the purpose of section 25(1) of the Assessment Act. OEB staff notes that MPAC has argued that if the Tribute pipelines are determined by the OEB not to be "transmission pipelines" or "pipe lines" within the meaning of section 25(1) of the Assessment Act, these Tribute's assets would be assessable to the owners of the land they cross. If the OEB determines that the subject pipelines do not fall within section 25 (1) of the Assessment Act then, OEB staff submits that it is not appropriate for the OEB to comment on whether or not the other sections of the Assessment Act, as set out by MPAC, do or do not apply.

How these pipelines may be assessed for the purpose of taxation if they are not subject to section 25 (1) of the Assessment Act is not what the OEB is being asked to consider. As such this OEB staff submission will be focused on a single issue – Are the Tribute pipelines transportation or transmission pipelines and have they been designated by the owner as such?

OEB staff submits that section 25 (1) of the Assessment Act requires that two conditions must be met, namely:

- i) The purpose of a pipeline is either transportation or transmission of gas; and
- ii) The transmission pipeline was designated by the owner.

Pipeline for the Transportation or Transmission of Gas

OEB staff submits that it agrees with the submission of Tribute that the subject pipelines are gathering lines and not transmission pipelines within the meaning of section 25 of the Assessment Act. The evidence is that the pipelines are used to connect private gas production wells to Union's transmission system. As noted by Tribute in its submission the definition of a gathering line as set out in the CSA Standards is a pipeline that conveys gas from a wellhead assembly to a treatment plant, transmission line, distribution line, or service line. This is distinct from the definition of a pipeline in a gas transmission system that conveys gas from a gathering line, treatment plant, storage facility, or field collection

point in a gas field to a distribution line, service line, storage facility, or another transmission line.

OEB staff submits that in reviewing the jurisprudence, the decision of the Ontario Court in *Trans-Northern Pipe Line Co. v. Nanticoke (City)* (1979) provides some helpful guidance. The case involved an application under 66 of the Assessment Act (as it then was) for an order declaring that the applicant is not liable to be assessed for an oil pipeline as of September 1st, 1978.¹² The question in the case really revolved around whether or not the transmission lines had to be in use in order to be taxed. At paragraph 19 the Court stated that there is no question that if the Legislature had left out the word, transmission, it intended to tax the pipeline whether or not it could be used or not. Further the Court stated at paragraph 23:

The Assessment Act is a taxing statute.

A taxing act is not to be interpreted differently from any other Act, but it must be construed strictly; effect must be given to the intent of the Legislature. The subject is not taxable by inference or analogy; the tax must be imposed in categorical and unambiguous terms; in case of doubt, the construction of the Act must be resolved in favour of the ratepayer. (Per Angers J. In *Hatch v. M.N.R.* (1938) Ex. C.R. 208)

OEB staff submits that the language of the Assessment Act is clear in that in order to fit within the meaning of section 25 (1) both the purpose of the pipeline for the transportation or transmission of gas and the designation of the owner must be met. While it may be argued that a gathering pipeline is a line that transports gas, OEB staff submits that in order to fall under section 25 (1) of the Assessment Act, both conditions set out above (transmission or transportation of gas and designation by owner) must be met.

Designation by the Owner as a Transmission Line

As set out above Tribute's position is that MPAC's assessment of Tribute's pipelines is unlawful because:

"MPAC is assessing pipelines that have never been designated by Tribute or its predecessors for the relevant taxation years as transmission pipelines which is the sole statutory basis upon which MPAC is entitled, under section 25 of the Act, to assess pipelines." (Tribute's response to OEB staff interrogatory # 5)

¹² *Trans-Northern Pipe Line Co. v. Nanticoke (City)* (1979) O.J. No. 330

MPAC was asked in OEB staff IR #5(a) to provide copies of any and all communications received by MPAC from Tribute or its predecessors, Magnum and Echo (or any of their affiliated entities) designating the pipelines at issue in this Application or any part thereof as gas “transmission pipe lines” within the meaning of section 25(1) of the Assessment Act. MPAC’s response was that other than correspondence received in connection with Tribute’s assessment appeals and this application, MPAC has no correspondence in its files concerning the roll numbers in issue.

In OEB staff interrogatory 5 (b) MPAC was asked whether any person designated the pipelines at issue in this Application as gas “transmission pipe lines” within the meaning of section 25(1) of the Assessment Act on or before March 1st of each of 2012, 2013, 2014 and 2015? If so, MPAC was asked to provide copies of all such designations, including, without limitation, any covering letters or other correspondence directly related to such designations. MPAC was unable to provide any documentation in support of its claim that Tribute pipelines were reported to MPAC and designated as transmission pipelines.

MPAC responded that the pipelines at issue in this Application have been designated as ‘pipe lines’ pursuant to section 25 of the Assessment Act. The classification of the pipelines as Table 2 or Table 3 would have been done by MPAC in consultation with the owner of the pipeline at the time of the initial assessment in 2005. As stated above, any documents have been destroyed.

OEB staff submits that MPAC has been unable, in OEB staff’s submission, to establish that the Tribute pipelines are indeed transmission pipelines and have been designated by the owner to be transmission pipelines for the purpose of section 25 (1) of the Assessment Act.

Conclusion

OEB staff submits that the pipelines in question are not gas “pipe lines” within the meaning and intent of section 25(1) of the Assessment Act.

-All of which is respectfully submitted-

TAB A

EB-2015-0206



Français

Assessment Act

R.S.O. 1990, CHAPTER A.31

Consolidation Period: From August 31, 2015 to the e-Laws currency date.

Last amendment: 2015, c. 20, Sched. 2.

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Definitions

1. (1) In this Act,

“assessment corporation” means the Municipal Property Assessment Corporation; (“société d’évaluation foncière”)

“Assessment Review Board” and “Assessment Review Board established under this Act” mean the Assessment Review Board under the *Assessment Review Board Act*; (“Commission de révision de l’évaluation foncière”, “Commission de révision de l’évaluation foncière créée en vertu de la présente loi”)

“burial site”, “cemetery” and “crematorium” each have the same meaning as in subsection 1 (1) of the *Funeral, Burial and Cremation Services Act, 2002*; (“lieu de sépulture”, “cimetière”, “crématoire”)

“class of real property” means a class of real property prescribed by the Minister under section 7; (“catégorie de biens immeubles”)

“classification” means a determination of the class or subclass of real property that land is in, including a class of property prescribed under clause 257.12 (1) (a) of the *Education Act*, and “classified” has a corresponding meaning; (“classification”, “classé”)

“current value” means, in relation to land, the amount of money the fee simple, if unencumbered, would realize if sold at arm’s length by a willing seller to a willing buyer; (“valeur actuelle”)

“French-language rights holder” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario; (“titulaire des droits liés au français”)

“general reassessment” means the updating of assessments as a result of the application of a new valuation day under subsection 19.2 (1); (“réévaluation générale”)

“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”)

“locality” means non-municipal territory that is within the jurisdiction of a board as defined in section 1 of the *Education Act*;

("localité")

"Minister" means the Minister of Finance; ("ministre")

"Ministry" means the Ministry of Finance; ("ministère")

"municipality" means a local municipality; ("municipalité")

"non-municipal territory" means territory without municipal organization; ("territoire non municipalisé")

"person" includes a corporation, partnership, bridge authority, agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law; ("personne")

"subclass of real property" means, for land located in a municipality, a subclass prescribed under subsection 8 (1) and, for land located in non-municipal territory, a subclass prescribed under subsection 8 (2.1); ("sous-catégorie de biens immeubles")

"tax roll" means, for a municipality, a tax roll prepared in accordance with the *Municipal Act, 2001* or the *City of Toronto Act, 2006* and, for non-municipal territory, a tax roll prepared in accordance with the *Provincial Land Tax Act, 2006*; ("rôle d'imposition")

"telephone company" includes a person or association of persons owning, controlling or operating a telephone system or line, but not a municipal corporation; ("compagnie de téléphone")

"tenant" includes an occupant and the person in possession other than the owner; ("locataire")

"theatre" does not include a cinema. ("théâtre") R.S.O. 1990, c. A.31, s. 1; 1997, c. 5, s. 1; 1997, c. 29, s. 1; 1997, c. 31, s. 143 (1); 1997, c. 43, Sched. G, s. 18 (1-3); 2001, c. 8, s. 202; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 2 (1); 2006, c. 33, Sched. A, ss. 1, 2 (3); 2006, c. 34, Sched. D, s. 94 (1); 2008, c. 7, Sched. A, s. 1 (1, 2).

Interpretation, appeal

(2) In this Act and in any other Act, and in the regulations made under this Act and under any other Act, a reference to an appeal under section 40 includes a complaint in respect of a taxation year before 2009 made under section 40 as it read before the day section 11 of Schedule A to the *Budget Measures and Interim Appropriation Act, 2008* came into force. 2008, c. 7, Sched. A, s. 1 (3).

Regulations

2. (1) The Lieutenant Governor in Council may make regulations,

- (a) REPEALED: 1997, c. 5, s. 2 (1).
- (b) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (c) prescribing for the purposes of clause 35 (3) (b) a higher rate of interest than 6 per cent;
- (d) REPEALED: 1997, c. 5, s. 2 (1).
- (e) describing types or classes of improvements or additions for which no exemption under paragraph 22 of subsection 3 (1) will be made;
- (f) describing classes of persons, businesses or undertakings who may not apply to receive an exemption under paragraph 22 of subsection 3 (1) and to whom no exemption will be made. R.S.O. 1990, c. A.31, s. 2 (1); 1997, c. 5, s. 2 (1).

Regulations by the Minister

(2) The Minister may make regulations,

- (a) prescribing information for the purposes of paragraph 21 of subsection 14 (1);
- (b) defining "conservation land" for the purposes of paragraph 25 of subsection 3 (1);
- (c) defining "machinery and equipment" for the purposes of paragraph 18 of subsection 3 (1);
- (c.1) prescribing machinery and equipment for the purposes of paragraph 18.1 of subsection 3 (1);

- (d) governing the assessment of pipelines and providing for the depreciation of the assessed values of pipelines;
- (d.1) providing for a procedure to determine whether land is conservation land for the purposes of paragraph 25 of subsection 3 (1) and, without limiting the generality of the foregoing, the regulations may,
 - (i) provide for the determination of any matter to be made by a person or body identified in the regulations,
 - (ii) provide for a process of appealing such determinations,
 - (iii) adopt documents by reference as those documents are amended from time to time, including amendments made after the regulation was made;
- (d.2) providing for a procedure to determine whether land is in the farm property class or managed forests property class and, without limiting the generality of the foregoing, the regulations may,
 - (i) provide for the determination of any matter to be made by a person or body identified in the regulations,
 - (ii) provide for a process of appealing such determinations;
- (d.3) providing for different procedures than the procedures provided in sections 39.1 and 40 for resolving issues as to whether land is in the farm property class or managed forests property class or whether land is conservation land for the purposes of paragraph 25 of subsection 3 (1) and, without limiting the generality of the foregoing, the regulations may,
 - (i) provide for the functions of the assessment corporation under section 39.1 to be carried out by a person or body identified in the regulations,
 - (ii) provide for the functions of the Assessment Review Board under sections 39.1 and 40 to be carried out by a body or official identified in the regulations;
- (d.4) for the purposes of regulations made under clause (d.3),
 - (i) varying the application of section 39.1 or 40 or any other provisions of this Act,
 - (ii) prescribing provisions to operate in place of section 39.1 or 40 or any other provisions of this Act,
 - (iii) prescribing provisions to operate in addition to section 39.1 or 40 or any other provisions of this Act;
- (d.5) in relation to public hospitals that close,
 - (i) continuing the tax exemption under section 3 with respect to land that was used and occupied by the hospital,
 - (ii) continuing the application of section 323 of the *Municipal Act, 2001* or section 285 of the *City of Toronto Act, 2006* with respect to the hospital and prescribing a limit on the annual amount levied under those sections that is different from the limit under subsection 323 (3) of the *Municipal Act, 2001* or under subsection 285 (3) of the *City of Toronto Act, 2006*, respectively;
- (d.6) prescribing land to which subsection 33 (1) does not apply and the period during and circumstances in which that subsection does not apply;
- (d.7) prescribing land to which subsection 40 (3) does not apply;
- (e) prescribing anything the Minister is permitted or required by this Act or by the *Municipal Elections Act* to prescribe;
- (f) prescribing buildings, structures or portions of buildings or structures for the purposes of subsection 19.0.1 (1) and prescribing their assessed value or the manner of determining their assessed value for the purposes of that subsection;
- (g) prescribing a taxation year for the purposes of section 19.1;
- (h) prescribing a day as of which land is to be valued for a taxation year for the purposes of subsection 19.2 (5);
- (i) prescribing a day for the purposes of subsection 31 (1.1). R.S.O. 1990, c. A.31, s. 2 (2); 1994, c. 36, s. 1; 1997, c. 5,

s. 2 (2, 3); 1997, c. 29, s. 2; 1997, c. 43, Sched. G, s. 18 (4); 2000, c. 25, s. 1 (1); 2001, c. 23, s. 1 (1); 2002, c. 17, Sched. F, Table; 2002, c. 22, s. 1 (1-3); 2004, c. 7, s. 1 (1); 2004, c. 31, Sched. 3, s. 1; 2005, c. 28, Sched. A, s. 1; 2006, c. 32, Sched. C, s. 2 (2); 2006, c. 33, Sched. A, s. 3; 2008, c. 19, Sched. A, s. 1; 2009, c. 18, Sched. 1, s. 1.

General or specific

(2.0.1) A regulation made under clause (2) (d.6) may be general or specific in its application. 2002, c. 22, s. 1 (4).

Same

(2.1) A regulation made under clause (2) (f) may be general or specific in its application and may apply differently to different buildings, structures or properties or to different portions of buildings, structures or properties. 2001, c. 23, s. 1 (2).

Retroactivity

(3) A regulation made under this Act is, if it so provides, effective with reference to a period before it was filed. R.S.O. 1990, c. A.31, s. 2 (3).

Municipal option classes

(3.1) A regulation prescribing classes of real property may require, for land in a municipality to be in a class, that the municipality opt to have the class apply within the municipality and the regulation may govern how the municipality opts to have the class apply or cease to apply. In this subsection, "municipality" means an upper-tier municipality and a single-tier municipality. 1997, c. 5, s. 2 (4); 1998, c. 33, s. 1 (1); 2002, c. 17, Sched. F, Table.

(3.2) REPEALED: 2009, c. 33, Sched. 21, s. 1.

(3.3) REPEALED: 2008, c. 7, Sched. A, s. 2 (2).

(3.3.1) REPEALED: 2009, c. 33, Sched. 21, s. 1.

Municipal option classes, by-law to Minister

(3.4) A municipality that passes a by-law opting to have a class apply or cease to apply shall give the Minister a copy of the by-law within 14 days after the by-law was passed. 1998, c. 33, s. 1 (4).

Administration of oaths

(4) An employee of the assessment corporation who is authorized by the corporation to do so may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of, or incidental to, the administration of this Act. When doing so, the employee has all the powers of a commissioner for taking affidavits. 1997, c. 43, Sched. G, s. 18 (5).

Regulations re: airport authorities

(5) The Minister may make regulations for the purposes of subparagraph 24 ii of subsection 3 (1),

- (a) specifying a methodology for determining payments in lieu of taxes to be paid by a designated airport authority to the municipality in which it is located for 2001 and subsequent years;
- (b) requiring the designated airport authority to provide the information specified in the regulation to the specified persons within the time specified;
- (c) specifying the time or times that the payment in lieu of taxes must be paid to the municipality. 2000, c. 25, s. 1 (3).

General or specific

(6) A regulation made under subsection (5) may be general or specific in its application and may apply to different designated airport authorities differently. 2000, c. 25, s. 1 (3).

Restriction, prescribed taxation year under s. 19.1

(7) If the Minister prescribes a taxation year for the purposes of section 19.1, the regulation in which the taxation year is prescribed is void if it is filed under Part III (Regulations) of the *Legislation Act, 2006* less than 18 months before the first day of that taxation year. 2004, c. 7, s. 1 (2); 2006, c. 21, Sched. F, s. 136 (1).

paragraph 4.

3. The Tax change (class) is the amount determined under paragraph 2 divided by the amount determined under paragraph 1.
4. The property referred to in paragraphs 1 and 2 is the property in the local municipality that, for both the previous year and the current year, is in the residential property class. For 1998, the property referred to in paragraphs 1 and 2 is the property in the local municipality that, for 1998, is in the residential property class.

1998, c. 3, s. 4; 2002, c. 22, s. 5.

Application of subsection (9)

(10) For greater certainty,

- (a) subsection (9) applies with respect to an agreement entered into before or after subsection (9) came into force; and
- (b) subsection (9) applies with respect to 1998 and subsequent years but not with respect to years before 1998. 1998, c. 3, s. 4.

Assessment of lands of water, heat, light, power and transportation companies

24. (1) The property declared to be "land", by clause (e) of the definition of "land" in section 1, that is owned by companies or persons supplying water, heat, light and power to municipalities and to inhabitants of municipalities or non-municipal territory, and companies and persons operating transportation systems and companies or persons distributing by pipe line natural gas, manufactured gas or liquefied petroleum gas or any mixture of any of them shall, whether situate or not situate upon a highway, street, road, lane or other public place, when and so long as in actual use, be assessed at its current value in accordance with section 19. R.S.O. 1990, c. A.31, s. 24 (1); 1997, c. 5, s. 15; 2006, c. 33, Sched. A, s. 15 (1).

Application of section

(2) This section does not apply to a pipe line as defined in section 25. R.S.O. 1990, c. A.31, s. 24 (2).

Apportionment of assessment

(3) If the property extends through two or more municipalities or through a municipality and non-municipal territory, the property shall be assessed as a whole and the assessment apportioned between them based on the relative value of the portion of the property that is located in each of them. 2006, c. 33, Sched. A, s. 15 (2).

Assessment of structures, rails, etc., of transportation system

(4) Despite any other provisions of this Act, the structures, substructures, superstructures, rails, ties, poles and wires of such a transportation system are liable to assessment and taxation in the same manner and to the same extent as those of a railway are under section 30 and not otherwise. R.S.O. 1990, c. A.31, s. 24 (4).

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).

Assessment of pipe line

(4) Despite any other provisions of this Act, a pipe line shall be assessed for taxation purposes in accordance with the regulations. 1997, c. 5, s. 16 (1).

(5)-(7) REPEALED: 1997, c. 5, s. 16 (1).

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).

Liability to taxation of pipe line on exempt property

(10) Where a pipe line is located on, in, under, along or across any highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section. R.S.O. 1990, c. A.31, s. 25 (10).

Tax liability

(11) Despite the other provisions of this Act or any other special or general Act, a pipe line liable for assessment and taxation under this section is not liable for assessment and taxation in any other manner for municipal purposes, including local improvements, but all other land and buildings of the pipe line company liable for assessment and taxation under this or any other special or general Act continue to be so liable. R.S.O. 1990, c. A.31, s. 25 (11); 1997, c. 5, s. 16 (2).

Apportionment of assessment and taxation

(12) If a pipe line extends through two or more municipalities or through a municipality and non-municipal territory, the portion of the pipe line located in each respective municipality or in the non-municipal territory is liable to assessment and taxation in the respective municipality or non-municipal territory. 2006, c. 33, Sched. A, s. 16 (2).

Same

(13) If a pipe line is located,

- (a) on a boundary between two municipalities or between a municipality and non-municipal territory;
- (b) so close to the boundary that it is on one side of the boundary in some places and on the other side of it in other places; or

- (c) on or in a road that lies between the municipalities or between the municipality and the non-municipal territory, and even if the road deviates so that in some places it is wholly or partly within either of them,

the pipe line shall be assessed in each municipality or in the municipality and the non-municipal territory, as the case may be, for one-half of the total amount assessable under this section in respect of the pipe line. 2006, c. 33, Sched. A, s. 16 (2).

Real property assessment

(14) The assessment of a pipe line under this section shall be deemed to be real property assessment and the taxes payable by a pipe line company on the assessment of a pipe line under this section are a lien on all the lands of the company in the applicable municipality or in the non-municipal territory, as the case may be. R.S.O. 1990, c. A.31, s. 25 (14); 2006, c. 33, Sched. A, s. 16 (3).

(15)-(18) REPEALED: 1997, c. 5, s. 16 (3).

Apportionment of assessment for structures, pipes, poles, etc.

26. (1) If a structure, pipe, pole, wire or other property is erected or placed on, in, over or under or affixed to any highway forming the boundary line between two municipalities or between a municipality and non-municipal territory, the property shall be assessed in each municipality or in the municipality and the non-municipal territory, as the case may be, for one-half of the total amount assessable for the property. 2006, c. 33, Sched. A, s. 17.

Same

(2) Subsection (1) applies even if,

- (a) the property is located so close to the boundary that it is on one side of the boundary in some places and on the other side of it in other places; or
- (b) the highway deviates so that it is wholly or partly on one side of the boundary in some places and on the other side of it in other places. 2006, c. 33, Sched. A, s. 17.

Public utility

27. (1) In this section,

"commission" means the council of a municipality or upper-tier municipality, or a commission or trustees or other body, operating a public utility for or on behalf of the municipality or upper-tier municipality and includes a municipal parking authority established under any general or special Act; ("commission")

"public utility" means a public utility as defined in the *Municipal Affairs Act* and includes parking facilities on land owned by a municipality or upper-tier municipality or by a municipal parking authority established under any general or special Act. ("service public") R.S.O. 1990, c. A.31, s. 27 (1); 2002, c. 17, Sched. F, Table.

Property deemed vested in commission

(2) For the purposes of this section, land and buildings owned by and vested in a municipality or upper-tier municipality and used for the purposes of a public utility shall be deemed to be owned by and vested in the commission operating the public utility. R.S.O. 1990, c. A.31, s. 27 (2); 2002, c. 17, Sched. F, Table.

Annual payment to municipalities

(3) Every commission shall pay in each year, to any municipality in which lands or buildings owned by the commission are situated, an amount equal to the taxes for municipal and school purposes that would be payable if the land and buildings were taxable and classified in the commercial property class. 1998, c. 3, s. 5.

Electricity generating and transformer stations

(3.1) Despite subsection (3), every commission shall pay in each year, to any municipality in which lands or buildings owned by the commission and referred to in section 19.0.1 are situated, an amount equal to the taxes for municipal and school purposes that would be payable if the land and buildings were taxable and were classified in accordance with this Act and the regulations. 1998, c. 15, Sched. E, s. 1 (2).

(4), (5) REPEALED: 1997, c. 5, s. 17 (2).

Local improvements

(6) The commission shall pay local improvement assessments. R.S.O. 1990, c. A.31, s. 27 (6); 2002, c. 17, Sched. F, Table.

Credit to municipal general fund

(7) The payments received under subsection (3) shall be credited by the municipality to the general fund of the municipality. R.S.O. 1990, c. A.31, s. 27 (7); 1997, c. 5, s. 17 (3).

Annual payment re non-municipal territory

(7.1) If land or buildings owned by a commission are located in non-municipal territory, the commission shall pay in each year to the Minister an amount equal to the taxes that would be payable under the *Provincial Land Tax Act, 2006* if the land and buildings were taxable and classified in the commercial property class. 2006, c. 33, Sched. A, s. 18 (1).

Mode of assessment, appeals

(8) Subject to subsections (3), (7.1) and (10), the property on which payment is to be made under subsection (3) or (7.1) shall be assessed according to this Act and the provisions of this Act respecting appeals apply. 2006, c. 33, Sched. A, s. 18 (2).

Valuation to be included in apportioning levies

(9) The valuation of properties assessed under this section shall be included when apportioning levies for any purpose. 1997, c. 5, s. 17 (5).

Exemptions

(10) In making the assessment referred to in subsection (8), there shall be no assessment of machinery whether fixed or not nor of the foundation on which it rests, works, structures other than buildings referred to in subsection (3) or (7.1), substructures, superstructures, except where a substructure or superstructure forms an integral part of a building referred to in subsection (3) or (7.1), rails, ties, poles, towers, lines nor of any of the things excepted from exemption from taxation by paragraph 17 of subsection 3 (1) nor of other property, works or improvements not referred to in subsection (3) or (7.1), nor of an easement or the right or use of occupation or other interest in land not owned by the commission. R.S.O. 1990, c. A.31, s. 27 (10); 1997, c. 5, s. 17 (6); 2006, c. 33, Sched. A, s. 18 (3).

Application

(11) Nothing in this section exempts from taxation any part of any works, structures, substructures or superstructures when occupied by a tenant or lessee. R.S.O. 1990, c. A.31, s. 27 (11).

(12) REPEALED: 2002, c. 17, Sched. F, Table.

Application of section

(13) This section applies despite any other provision in this Act or any other general or special Act or any agreement heretofore made, and any agreement heretofore made under which a commission pays taxes, or money instead of taxes or for municipal services, is void. R.S.O. 1990, c. A.31, s. 27 (13).

Collection of payments

(14) The provisions relating to the collection of taxes in the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, and in this Act apply with necessary modifications to the payments required to be made by a commission under this section. 2006, c. 32, Sched. C, s. 2 (7).

Same

(15) The provisions of this Act and the *Provincial Land Tax Act, 2006* with respect to the collection of taxes apply with necessary modifications to the payments required to be made under this section to the Minister. 2006, c. 33, Sched. A, s. 18 (4).

Large commercial theatres, Toronto

27.1 (1) In this section,

TAB B

EB-2015-0206



Assessment Act
Loi sur l'évaluation foncière

ONTARIO REGULATION 282/98

GENERAL

Consolidation Period: From December 11, 2014 to the e-Laws currency date.

Last amendment: O. Reg. 258/14.

This Regulation is made in English only.

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PART I INTERPRETATION

VACANT LAND

1. (1) The following land, if it is not being used, is vacant land for the purposes of this Regulation:

1. Land that has no buildings or structures on it.
2. Land upon which a building or structure is being built.
3. Land upon which a building or structure has been built if no part of the building or structure has yet been used.
4. Land upon which a building or structure has been built if the building or structure is substantially unusable. O. Reg. 282/98, s. 1 (1).

(2) For greater certainty, any occupation of a building or structure is a use for the purposes of paragraph 3 of subsection (1) and once a building or structure has been occupied the land upon which the building or structure is located cannot be vacant land unless the building or structure becomes substantially unusable. O. Reg. 282/98, s. 1 (2).

(3) A portion of a parcel of land is vacant land for the purposes of this Regulation if,

- (a) there is no building or structure on the portion of the parcel or there is a building or structure on the portion but no part of the building or structure has yet been used;
- (b) there is a building or structure on the rest of the parcel; and
- (c) the portion of the parcel is zoned for a kind of development that is different from the development on the rest of the parcel. O. Reg. 282/98, s. 1 (3).

1.1 REVOKED: O. Reg. 575/06, s. 1.

PART II CLASSES OF REAL PROPERTY

CLASSES

2. The following classes of real property are prescribed for the purposes of the Act:

1. The residential property class.
2. The multi-residential property class.
3. The commercial property class.
4. The industrial property class.

5. The pipe line property class.
6. The farm property class.
7. The managed forests property class.
8. The new multi-residential property class.
9. The office building property class.
10. The shopping centre property class.
11. The parking lots and vacant land property class.
- 11.1 The residual commercial property class.
12. The large industrial property class.
13. The professional sports facility property class.
14. The resort condominium property class. O. Reg. 282/98, s. 2; O. Reg. 174/00, s. 1; O. Reg. 363/03, s. 1; O. Reg. 273/13, s. 1.

RESIDENTIAL PROPERTY CLASS

3. (1) The residential property class consists of the following:

1. Land used for residential purposes that is,
 - i. land that does not have seven or more self-contained units,
 - ii. a unit or proposed unit, as defined in the *Condominium Act*,
 - iii. land owned by a co-operative, as defined in the *Co-operative Corporations Act*, the primary object of which is to provide housing to its members or land leased by such a co-operative if the term of the lease is at least 20 years,
 - iv. subject to subsection (2), land with seven or more self-contained units owned by a corporation with or without share capital each shareholder or member of which has a right, by virtue of being a shareholder or member of the corporation, to occupy one of the units,
 - v. subject to subsection (2), land with seven or more self-contained units owned by individuals only, each of whom has an undivided interest in the land and a right, arising from a contract with the other owners, to occupy one of the units, if at least half the units are occupied by the owners with a right to occupy them,
 - vi. land with self-contained units, organized as what is commonly known as a timeshare, that,
 - A. is owned by persons, each of whom has an undivided interest in the land and a right to occupy a unit on a periodic basis for at least one week at a time, or
 - B. is leased by persons, for terms of at least 20 years, each of whom has a right to occupy a unit on a periodic basis for at least one week at a time,
 - vii. a group home as defined in subsection 166 (1) of the *Municipal Act, 2001*,
 - viii. a care home, as defined in the *Residential Tenancies Act, 2006*, that does not have seven or more self-contained units and that is not included in the commercial property class under paragraph 2 of section 5,
 - ix. land used for residential purposes on a seasonal basis, including campgrounds,
 - x. land with self-contained units, organized as what is commonly known as a life lease project, in respect of which individuals (referred to in this subparagraph as "purchasers") have each entered into an agreement to purchase a right (referred to in this subparagraph as the "life lease interest") to occupy a unit for residential purposes within the project, if,
 - A. the term, not including renewals, of the life lease interest is equal to or greater than 20 years or is equal to the lifetime of the purchasers,
 - B. the purchasers have made one or more payments to the owner of the land on account of the purchase, and
 - C. the purchasers have a right to sell, transfer or otherwise dispose of the life lease interest in a manner determined under the terms of the agreement for the purchase,
 - xi. land that is a municipally-licensed rooming house,
 - xii. a recreational facility that is operated on a not-for-profit basis, if the use of the facility is restricted to residents of units in a residential subdivision, land-lease community or condominium or townhouse complex, as well as their guests, and if the facility is not open to the general public.
 - xiii. REVOKED: O. Reg. 1/12, s. 1.
 - xiv. a retirement home as defined in subsection 2 (1) of the *Retirement Homes Act, 2010*.

- i. land that is licensed or required to be licensed under Part II of the *Aggregate Resources Act*, or
- ii. land that would be required to be licensed under Part II of the *Aggregate Resources Act* if the land were in a part of Ontario designated under section 5 of that Act.

2.2 For the 2000 and subsequent taxation years, the portion of,

- i. land that is licensed or required to be licensed under Part II of the *Aggregate Resources Act*, or
- ii. land that would be required to be licensed under Part II of the *Aggregate Resources Act* if the land were in a part of Ontario designated under section 5 of that Act,
that is used for,
- iii. extracting anything from the earth,
- iv. excavating,
- v. processing extracted or excavated material,
- vi. stockpiling extracted or excavated material, or
- vii. stockpiling overburden.

2.3 For the 2000 and subsequent taxation years, roadways and structures on a portion of land that is licensed or required to be licensed under Part II of the *Aggregate Resources Act* if the roadway or structure is used in connection with an activity listed in paragraph 2.2.

3. Shipyards and dry docks.

4. REVOKED: O. Reg. 257/14, s. 1.

5. A sewage or water treatment plant other than a plant owned by a commission as defined in subsection 27 (1) of the Act. O. Reg. 282/98, s. 6 (2); O. Reg. 351/99, s. 2; O. Reg. 257/14, s. 1.

(3) A building used exclusively for office or administrative purposes is not included in the industrial property class unless it is attached to a building or structure included in the industrial property class. O. Reg. 282/98, s. 6 (3).

(3.1) REVOKED: O. Reg. 356/00, s. 3.

(4) Land in the large industrial property class is not included in the industrial property class. O. Reg. 282/98, s. 6 (4).

PIPE LINE PROPERTY CLASS

7. The pipe line property class consists of pipe lines within the meaning of subsection 25 (1) of the Act. O. Reg. 282/98, s. 7.

FARM PROPERTY CLASS

8. (1) The farm property class consists of land determined in accordance with this section and section 8.1 to be farmland. O. Reg. 499/99, s. 1 (1); O. Reg. 363/03, s. 4 (1).

(2) Land used for farming, including outbuildings is farmland for a taxation year if the following requirements are satisfied:

1. A farming business, within the meaning of the *Farm Registration and Farm Organizations Funding Act, 1993*, is carried out on the land.
2. Subsection 19 (5) of the Act applies to the land for the taxation year but the land is not land to which section 44 applies.
3. The land is owned by,
 - i. an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence,
 - ii. a corporation that has issued and allocated shares to which are attached more than 50 per cent of the voting rights ordinarily exercisable at meetings of the shareholders and that are owned by individuals described in subparagraph i,
 - iii. a partnership of which more than 50 per cent of the income or loss of the partnership is allocated to partners who are persons described in subparagraph i or ii,
 - iv. a non-profit corporation without share capital, including a co-operative corporation under the *Co-operative Corporations Act*, more than 50 per cent of whose members are individuals described in subparagraph i,
 - v. a trust more than 50 per cent of whose beneficiaries are individuals described in subparagraph i, or
 - vi. a corporation that does not issue shares and does not have members.

8. The Commissioner may state a case under section 43 of the Act with respect to issues referred to it.

9. Section 43.1 of the Act applies with respect to decisions of the Commissioner. O. Reg. 282/98, s. 39; O. Reg. 16/09, s. 8 (2-7).

SPECIAL CONSIDERATION IF DEADLINE MISSED

40. (1) The Administrator, on a request described in subsection 38 (1), shall agree to a settlement determining that the land is conservation land if,

(a) the requirements for the land to be conservation land have been complied with except that the deadline for submitting an application for designation of the land as conservation land was missed;

(b) the land would have been conservation land if the deadline under section 26 had not been missed; and

(c) in the Administrator's opinion, there are mitigating circumstances explaining why the deadline was missed. O. Reg. 46/99, s. 2; O. Reg. 16/09, s. 9 (1).

(2) The Commissioner, on an appeal described in section 39, shall make a determination that the land is conservation land if,

(a) clauses (1) (a) and (b) are satisfied; and

(b) in the Commissioner's opinion, there are mitigating circumstances explaining why the deadline was missed. O. Reg. 46/99, s. 2; O. Reg. 16/09, s. 9 (2).

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.

(2) If Table 1, 2 or 3 applies, but the outside diameter of the pipe line is not included in the Table, the applicable rate for the purposes of paragraph 1 of subsection (1) is the rate for the closest outside diameter or range of outside diameter that is included in the Table. O. Reg. 338/12, s. 1.

41.1, 41.2 REVOKED: O. Reg. 338/12, s. 2.

ASSESSED VALUE OF PIPE LINE IN A RIGHT-OF-WAY OR EASEMENT

42. (1) For the purposes of determining the assessed value of a pipe line in a right-of-way or easement for a taxation year, the rate in the Table to Part X that would otherwise apply for the year to the pipe line shall be reduced by 25 per cent of that rate, if the pipe line is not the primary pipe line in the right-of-way or easement. O. Reg. 371/05, s. 1.

(2) A pipe line is a primary pipe line in a right-of-way or easement for a taxation year for the purposes of this section if,

(a) it is one of two or more pipe lines occupying the right-of-way or easement in the year; and

(b) it would have the highest assessed value of all the pipe lines in the right-of-way or easement, if the assessed values of the pipe lines were computed for the year without reference to this section. O. Reg. 371/05, s. 1.

(3) If two or more pipe lines occupying a right-of-way or easement would have the same assessed value for a taxation year if this section did not apply and that assessed value is the highest or the only assessed value for all pipe lines occupying that right-of-way or easement in that year, the primary pipe line in the right-of-way or easement shall be the pipe line that was first in use. O. Reg. 371/05, s. 1.

2908	161
2909	480
3001	292
3002	188
3003	159
3004	442
3005	371
3006	228
3101	194
3102	125
3105	657
3201	252
3202	650
3203	159
3204	216
3205	214
3207	219

O. Reg. 339/12, s. 3.

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 $\frac{5}{8}$	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 ⁵ / ₈	32.96
6 to 6 ⁵ / 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. 3,

TABLE 5
PIPE LINES OTHER THAN THOSE TO WHICH TABLE 4 APPLIES — 2013 TO 2016 TAXATION YEARS

Year of Installation of Pipe Line	Percentage Reduction
1944 or earlier	80
1945	79
1946	78
1947	78
1948	78
1949	76
1950	76
1951	75
1952	75
1953	74
1954	73
1955	73
1956	73

1957	71
1958	71
1959	70
1960	69
1961	69
1962	68
1963	68
1964	67
1965	66
1966	65
1967	65
1968	64
1969	64
1970	63
1971	62
1972	61
1973	61
1974	60
1975	60
1976	59
1977	58
1978	57
1979	57
1980	56
1981	56
1982	55
1983	55
1984	54
1985	53
1986	52
1987	52
1988	51
1989	50
1990	49
1991	47
1992	44
1993	42
1994	40
1995	37
1996	35
1997	32
1998	30
1999	27
2000	24
2001	22
2002	20

2003	18
2004	16
2005	14
2006	12
2007	10
2008	8
2009	8
2010	7
2011	4
2012	2
2013	0

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

TAB C

EB-2015-0206

Indexed as:

Trans-Northern Pipe Line Co. v. Nanticoke (City)

IN THE MATTER OF The Assessment Act, R.S.O. 1970, c. 32, as amended;

AND IN THE MATTER OF a pipe line known as the " Nanticoke Extension" in the City of Nanticoke and through the Town of Haldimand.

Between

**Trans-Northern Pipe Line Company, applicant, and
The Corporation of the City of Nanticoke, the Corporation of
the Town of Haldimand, and the Regional Assessment
Commissioner, Region No. 20, respondents**

[1979] O.J. No. 330

Ontario County Court
Judicial District of Haldimand - Haldimand, Ontario

Leach Co. Ct. J.

Heard: November 5, 1979.
Judgment: November 23, 1979.

(7 pp.)

Counsel:

G. Mackenzie, for the applicant.
P. Amey, for the respondents.

1 LEACH CO. CT. J.:-- This is an application under s. 66 of The Assessment Act, R.S.O. 1970, c. 32, for an order declaring that the applicant is not liable to be assessed for an oil pipe line as of September 1st, 1978.

2 The applicant, Trans-Northern Pipe Line Company, (hereinafter called "Trans-Northern") is the owner and operator of an oil pipe line located in the respondent municipalities, namely, the City of Nanticoke, and the Town of Haldimand. The municipali-

ties are within the Region of Haldimand-Norfolk. The other respondent is the Assessment Commissioner for these municipalities.

3 The facts are not in dispute.

4 The construction and operation of oil pipe lines in Canada is under the regulation of The National Energy Board.

5 On September 16, 1977, Trans-Northern was issued a Certificate of Public Convenience and Necessity to construct the pipe line by the Board.

6 The National Energy Board Act also provides that a pipe line cannot be operated, after construction is completed, until a certificate is obtained from the Board.

7 Trans-Northern commenced construction of the pipe line in the fall of 1977 and had substantially completed it by August 28th, 1978. The line is sixteen inches in diameter and runs from the Texaco Refinery near the shores of Lake Erie to the City of Hamilton, a distance of approximately 36 miles. It transmits oil-refined products. The only part of the line incomplete on August 28th was 400 feet at the Hamilton end which is a connection with a pumping station.

8 On August 21, 1976, the assessor wrote to Trans-Northern requesting particulars of their pipe line to the Texaco Refinery. (Exhibit C to the affidavit filed).

9 On August 28th, Trans-Northern replied by letter to the assessor (Exhibit C to the affidavit filed). In summary, it stated that under s. 33(2) of The Assessment Act, it was only obliged to report transmission lines as of September 1st each year, and that the line would not be operating on that date as they had not received a Certificate from the National Energy Board to do so.

10 On September 20, 1978, The National Energy Board issued two orders (Exhibits A and A1 to the affidavit filed). These orders authorized Trans-Northern to commence operating the pipe line and pumping station.

11 The line was hooked up and first put into operation on November 17th, 1978.

12 The assessment of all and natural gas pipe line is provided for in section 33 of The Assessment Act. In this motion, we are only concerned with the provisions re - all pipe lines.

13 I quote, and in some instances, paraphrases the relevant subsections of s. 33. The underlining is mine.

"33(1)(d) In this section, 'oil' means crude oil or liquid hydrocarbons or any product or by-product thereof;

33(1)(a) '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 transmission or transportation of oil...

33(1)(d) 'Pipe line company' means every person ... or corporation owning or operating a pipe line ... which is situate in Ontario.

33(2) On or before the first day of October 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 lines located in the municipality as of the 1st day of September of that year.

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."

14 Although this subsection pertains to a "**gas pipe** line", it is inserted as it will be dealt with hereunder by way of analogy.

"33(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.

33(9) Where a **pipe** line has been constructed and used for the transmission of all and **gas** ceases to be used by reason of an order or regulation of any authority having jurisdiction ... the assessment of such **pipe** line shall be reduced by 20 per cent ...

33(14) The assessment of a **pipe** line under this section shall be deemed to be a real property assessment.

15 The applicant's counsel submits, inter alia, that s. 33(2) only gives the assessor the right to assess a "transmission **pipe** line". He argues that by inserting the word "transmission before "**pipe** line" indicates an intention by the Legislature only to tax all **pipe** lines that are being used and which by law are permitted to be used on the 1st day of September in any year. Neither of these conditions existed on 1st September, 1976. He further submits that subsections 33(8) and 33(9) supra indicates the Legislature only intended to tax all **pipe** lines that are in use.

16 The respondents' counsel submits that a **pipe** line is really assessment, s. 33(14), and not a business assessment, and is not dependent on usage. He points out that under s. 7(1)(h) of the Act, **pipe** lines under s. 33 are excluded from business assessment. He also argues that in the definition of "**pipe** line", 33(c) supra, it provides a "**pipe** line for" the transmission of all and does not say a **pipe** line presently being used. He further submits that the taxing section, 33(2), by using the word, "located" after transmission **pipe** line indicates an intention to tax the **pipe** line as really and not on use.

17 Both arguments contain substantial merit. They were unable to refer me to any previous cases to assist in my interpretation and I have been unable to find any. I suppose this is understandable as Ontario, much to its economic disadvantage these days, has very few oil **pipe** lines. This appears to be a case of first impression.

18 I concur with the respondents' counsel that s. 33(2) is the taxing section. Paraphrased this section provides:

"A pipe line company shall before the 1st day of October notify the Assessment Commissioner ... of all its transmission pipe lines located in the municipality as of the 1st day of September of that year."

19 There is no question to my mind that if the Legislature had left out the word, "transmission", it intended to tax the pipe line whether it could be used or not. My conclusion from reading s. 33 in its entirety is that a pipe line, as defined, and a transmission pipe line are different.

20 This seems to be indicated in s. 33(3) dealing with gas pipe liens, which gives the Ontario Energy Board the authority to decide, in case of dispute, whether or not a gas pipe line is a transmission pipe line.

21 S. 32 of The Assessment Act provides that companies supplying hydro power, natural gas, etc. to municipalities shall only be assessed if in actual use.

22 It would appear to be inequitable to assess all pipe lines on a different basis unless the intent is clear.

23 The Assessment Act is a taxing statute.

"A taxing act is not to be interpreted differently from any other Act, but it must be construed strictly; effect must be given to the intent of the Legislature. The subject is not taxable by inference or analogy; the tax must be imposed in categorical and unambiguous terms; in case of doubt, the construction of the Act must be resolved in favour of the taxpayer."

24 Per Angers J. in *Hatch v. M.N.R.* (1938) Ex. C.R. 208.

25 It is my view that "transmission pipe line" means a pipe line that is being used on September 1st and which by law is permitted to be used. This was not the case here.

26 Even if I am in error in this reasoning, the taxing words are ambiguous and the applicant should have the benefit.

27 For these reasons, the order is granted. In view of the fact that perhaps this is the first time section 33(2) has been interpreted by the courts, there will be no order as to costs.

LEACH CO. CT. J.

qp/s/kfw

---- End of Request ----

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