

**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 Lagasco Inc. for an Order determining whether or not the natural gas pipelines owned and operated by Lagasco Inc. in Haldimand County are gas transmission pipelines;**

**LETTER OF INTERVENTION OF THE MUNICIPAL  
PROPERTY ASSESSMENT CORPORATION  
("MPAC")**

**A. DESCRIPTION OF MPAC**

1. MPAC was continued pursuant to the *Municipal Property Assessment Corporation Act, 1997*.<sup>1</sup>
2. Pursuant to the *Assessment Act*<sup>2</sup>, MPAC is responsible for the assessment and classification of all real property in Ontario. 'Real property', as defined in the *Assessment Act*, includes pipe lines.<sup>3</sup>

---

<sup>1</sup> S.O. 1997, c.43, Sch G., s.9(1) ("*MPAC Act*").

<sup>2</sup> R.S.O., 1990, c.A.31, as amended ("*Assessment Act*").

<sup>3</sup> "... 'land', 'real property' and 'real estate' include ... all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land ..." (*Assessment Act*, s.1(1)).

3. Municipalities are required to use MPAC's assessments to determine their tax rates, and the taxes owing by each assessed person in the Province.

4. Lagasco is challenging MPAC's assessment of its pipe lines. Lagasco's application involves the interpretation of a 'pipe line' as defined in s.25 of the *Assessment Act*. The interpretation affects MPAC's statutory duties not just with respect to Lagasco's pipe lines but with respect to all pipe lines in the Province.

5. Lagasco acknowledges that MPAC is a party affected by their Application (Application, paragraph 3).

#### **B. DESCRIPTION OF MPAC**

6. As set out in Part A, MPAC is responsible for assessing every property in Ontario: more than 5.3 million properties with a total value of more than \$2.96 trillion. MPAC's most recent annual report is available at:

<https://www.mpac.ca/en/AboutUs/AnnualReports>

#### **C. NATURE AND SCOPE OF MPAC'S PARTICIPATION**

7. MPAC intends to participate fully in Lagasco's application. Pursuant to OEB Rule 22.04, the following is a preliminary statement of MPAC's position.

8. Under the *Assessment Act*, all pipe lines are 'real property' subject to assessment and taxation.

- a. Pipe lines for the transportation or transmission of gas or oil are assessed at a rate per foot of pipeline.<sup>4</sup> The rates are regulated and are based on the type and diameter of the pipe.<sup>5</sup> (“Linear Method”)
  - b. All other pipe lines are assessed at their current values.<sup>6</sup> (“Current Value Method”)
9. It is Lagasco’s position that its ‘gathering’ pipe lines are not ‘transmission’ pipe lines and, therefore, they should be assessed using the Current Value Method not the Linear Method.
10. A similar application was heard by this Board in 2017. This Board held that gathering pipe lines are pipe lines pursuant to s.25 of the *Assessment Act*.

The language in section 25(1) of the Assessment Act is clear and unambiguous, in that in order for the pipeline to qualify, the pipeline in question must be used for the transportation or transmission of gas.

The OEB finds that the Tribute Pipelines are used for the “transportation” of gas in the ordinary meaning of that word, as the pipelines are used to move or transport gas from one location to another.

The OEB agrees with MPAC that it is also evident from the regulations classifying pipelines of different types that ***the general term “pipeline”*** [in the Assessment Act] ***includes gathering lines*** as well as transportation and transmission lines as those terms might be used or defined elsewhere.<sup>7</sup>

---

<sup>4</sup> *Assessment Act*, s.25.

<sup>5</sup> Part X, Tables 1-5, O.Reg.282/98 made pursuant to the *Assessment Act* (“*Tax Class Regulation*”).

<sup>6</sup> *Assessment Act*, s.1(1) – ‘current value’, and 19(1).

<sup>7</sup> *In Re Tribute Resources Inc.*, [2016] EB-2015-0206.

An appeal of the decision to the Divisional Court was dismissed.<sup>8</sup>

11. The Linear Method applies to:

(1) pipe lines for the *transmission* of gas; and

(2) pipe lines for the *transportation* of gas.

12. As described in Ms. Lowrie's affidavit, the pipe lines in issue transport the natural gas produced by the Wells to a treatment facility. As found by this Board, the movement of the natural gas through the gathering pipe lines is the 'transportation' of natural gas as contemplated in the *Assessment Act* definition.

13. This finding is supported by the regulated rates, which include rates for "field gathering" pipe lines (*Tax Class Regulation*, Table 2): if field gathering pipe lines were not subject to the Linear Method there would be no need to regulate their rates.

#### **D. REQUEST FOR WRITTEN EVIDENCE**

14. MPAC requests the written evidence in this application.

#### **E. COSTS**

15. At this time, MPAC does not intend to seek an award of costs.

---

<sup>8</sup> *Tribute Resources Inc. v. Ontario (Energy Board)*, [2017] O.J. No. 5080.

**F. FRENCH LANGUAGE**

16. At this time, MPAC does not intend to participate in the hearing using the French language.

**G. DOCUMENT SERVICE AND DELIVERY**

17. Service and delivery of documents in this proceeding can be made to MPAC's lawyers, CDG Lawyers, at the address listed below.

Date: July 8, 2020

**CDG LAWYERS**

181 University Avenue, Suite 1901  
Toronto, Ontario  
M5H 3M7



---

Karey Lunau – L.S.O. No. 29967F

Tel: (416) 214-2882

Fax: (416) 214-9915

E-Mail: [lunau@cdglaw.net](mailto:lunau@cdglaw.net)

Lawyers for the Municipal Property Assessment  
Corporation