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BY EMAIL

September 8, 2020

Ms. Christine E. Long
Board Secretary and Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
BoardSec@oeb.ca

Dear Ms. Long:

**Re: Lagasco Inc.
Classification of Pipelines in Haldimand County
OEB Staff Submission on Hearing Type
OEB File No. EB-2019-0166**

In accordance with Procedural Order No. 2, these are the submissions of OEB staff on the merits of holding an oral hearing versus a written hearing or an electronic hearing for the above proceeding. This document has been sent to Lagasco Inc. (Lagasco) and copied to all intervenors.

The Application

Lagasco filed an application on June 7, 2019 and pre-filed evidence on May 25, 2020 (collectively the Application) requesting an order determining whether or not certain of its natural gas pipelines in Haldimand County (Pipelines) are pipelines pursuant to Section 25(3) of the *Assessment Act*, R.S.O. 1990 (Assessment Act).

The Application is triggered by a dispute between Lagasco and the Municipal Property Assessment Corporation (MPAC) with respect to whether or not the Pipelines are “pipe lines” as defined in the Assessment Act. Lagasco asserts that the pipelines are natural gas production “gathering lines” and should not be subject to municipal taxes as “pipe lines”. MPAC maintains that the pipelines are appropriately assessed as “pipe lines” for the purposes of municipal taxation. (For clarity, “pipeline” and “pipe line” are alternative spellings for pipeline.)

Process to Date

In the Application, Lagasco requested an oral hearing. In their intervention requests, MPAC and the Ontario Petroleum Institute did not express a preference for any hearing type. In their intervention requests, the County of Elgin, County of Lambton, Haldimand County, Municipality of Bayham, Municipality of Central Elgin, Municipality of Chatham-Kent, Municipality of Dutton Dunwich, Municipality of West Elgin, Township of Malahide and the Township of Southwold (the Municipalities) expressed no preference for any hearing type, but stated that they would attend an oral hearing if one were held.

In Procedural Order No. 1, the OEB made provision for interrogatories on the pre-filed evidence of Lagasco and responses to these interrogatories.

In Procedural Order No. 2 (PO2), the OEB made provision for the filing of intervenor evidence in this proceeding and submissions on the merits of holding an oral hearing versus a written hearing or an electronic hearing. PO2 set a procedural schedule for the filing of intervenor evidence, interrogatories on that evidence, and submissions on hearing type. MPAC filed evidence. Interrogatories on MPAC's evidence were filed on September 3, 2020, and responses are due on September 17, 2020.

Submissions

OEB staff submits that an oral hearing or an electronic hearing can refer to one of three things: oral cross examination in front of the panel (either in person or through video or teleconference), oral final submissions in front of the panel (either in person or through video or teleconference), or both. It is unclear to OEB staff which of these Lagasco is requesting. In any event, OEB staff does not believe that an oral or electronic hearing is required in this case.

OEB staff submits that the only question in this case is whether the Pipelines are "pipe lines" within the meaning of the Assessment Act, which is largely a matter of statutory interpretation. OEB staff has no further questions on the Application. OEB staff is satisfied with Lagasco's answers to its interrogatories. Assuming MPAC's responses to OEB staff interrogatories are complete, then OEB staff does not have further questions that would require oral cross examination.

OEB staff also does not believe that oral final submissions are required, whether in person or via video or teleconference. Given the number of parties involved and the potentially technical nature of some of the submissions, OEB staff submits that written

argument would be preferable.

Yours truly,

Original signed by

Ritchie Murray
Project Advisor

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