



Lagasco Inc.

Application for the Classification of Certain Natural Gas Pipelines

PROCEDURAL ORDER NO. 3

September 23, 2020

On May 25, 2020, Lagasco Inc. (Lagasco) applied to the Ontario Energy Board (OEB) for an order declaring that the natural gas pipelines owned by Lagasco Inc. in Haldimand County are not "pipe lines" within the meaning of section 25(3) of the *Assessment Act, R.S.O. 1990* (Assessment Act), and were not "pipe lines" within the meaning of the Assessment Act at any time on or after January 1, 2015. In its application, Lagasco requested an oral hearing.

A Notice of Hearing was issued on June 22, 2020. The Municipal Property Assessment Corporation (MPAC), the Ontario Petroleum Institute (OPI) and a number of jointly represented municipalities being 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) applied for intervenor status.

Procedural Order No. 1 was issued on July 17, 2020. MPAC, OPI and the Municipalities were granted intervenor status. Procedural Order No. 1 set out timelines for a written hearing such that the interrogatory stage would be complete by August 10, 2020, and the submission stage would be complete by September 7, 2020.

Procedural Order No. 2 was issued on August 10, 2020. The OEB found that it would be assisted in its decision by providing for intervenor evidence in this proceeding and submissions on the merits of an oral hearing. Except for interrogatory responses from the applicant, the procedural schedule set forth in Procedural Order No. 1 was cancelled and replaced by a revised schedule that provided for the filing of intervenor evidence, interrogatories and responses on that evidence, and submissions on the merits of holding an oral hearing versus a written hearing or an electronic hearing.

On September 8, 2020, Lagasco, MPAC and OEB staff filed submissions on the merits of holding an oral hearing versus a written hearing or an electronic hearing.

Lagasco submitted that an oral hearing was necessary “given the public importance of the matters” and that that it “is in the interests of justice that an oral hearing be held in this case, so that the panel will be in the best position to render a fully informed decision, including by asking any necessary questions of counsel.”

MPAC submitted that, although it does not believe an oral hearing is required for Lagasco to have a full and fair opportunity to be heard in this case, it takes no position on Lagasco’s request for an oral hearing.

OEB staff submitted that it does not believe that an oral or electronic hearing is required in this case. OEB staff submitted 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 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.

Findings

The OEB agrees with OEB staff that the issue before the OEB is primarily one of statutory interpretation. There has been an extensive interrogatory process on the application and the evidence filed by intervenors. No party has identified any material gaps in the evidentiary record or provided a strong reason why additional oral discovery or oral argument would assist the OEB. To the extent that the written final argument gives rise to any questions that the OEB feels require additional evidence or submissions, it has the ability to make provision for this.

Given the nature of the subject matter, the OEB finds that there would be no benefit to an oral hearing. As part of this Partial Decision and Procedural Order, the OEB is setting the schedule for final argument Parties are expected to focus their arguments on the question that is before the OEB; i.e. whether the Pipelines are a “pipe line” pursuant to the Assessment Act.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. Lagasco shall file with the OEB its Argument-in-Chief on this application and serve it on all parties by **October 8, 2020**.
2. Any written submissions from OEB staff and intervenors on this application shall be filed with the OEB and served on all parties by **October 20, 2020**.

3. Any written reply submissions from Lagasco on this application shall be filed with the OEB and served all parties by **November 2, 2020**.

All materials filed with the OEB must quote the file number, **EB-2019-0166**, and be submitted in a searchable / unrestricted PDF format with a digital signature through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guidelines found at <http://www.oeb.ca/OEB/Industry>. If the web portal is not available, parties may email their documents to boardsec@oeb.ca.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Ritchie Murray at ritchie.murray@oeb.ca and OEB Counsel, Michael Millar at michael.millar@oeb.ca.

ADDRESS

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DATED at Toronto, **September 23, 2020**

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar and Board Secretary