

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;

**SUBMISSIONS OF THE
MUNICIPAL PROPERTY ASSESSMENT CORPORATION (“MPAC”)**

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PART I – OVERVIEW

1. This Board has jurisdiction to determine whether Lagasco Inc.’s (“Lagasco”) gathering pipe lines are subject to assessment under s. 25 of the *Assessment Act* (“*Act*”) as pipe lines that transport or transmit gas. It has been asked to make this same determination previously, and held that gathering pipe lines are used for the “transportation” of gas in the ordinary meaning of that word, as they are used to move or transport gas from one location to another, and are therefore correctly assessed for municipal tax purposes under s. 25 of the *Act* (“Tribute Decision”).¹ The OEB’s decision was subsequently upheld on appeal to the Divisional Court.²

2. This Board has no jurisdiction to determine the ‘valuation for tax purposes’ of any pipe lines or whether the prescribed valuation is ‘unjust’.

3. The *Assessment Act* at s. 25 defines a “pipe line” as follows³:

“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.

4. O. Reg. 282/98 (“Regulation”) sets out three sets of regulated rates based on the type and diameter of the pipe line: “offshore pipe lines”, “plastic field gathering pipe lines

¹ Tribute Resources Inc. OEB Decision dated May 5, 2016, at p. 6

² *Tribute Resources Inc. v. Ontario Energy Board*, 2018 ONSC 265 (Div. Ct.)

³ *Assessment Act*, R.S.O. 1990, c. A.31, as amended, s. 25(1).

and plastic gas distribution pipe lines” and “pipe lines other than those to which Table 1 or 2 applies” (“Regulated Rates”).⁴

5. Lagasco Inc.’s gathering pipe lines “move”, “transfer”, “take”, and “deliver” gas, and are used for “transporting” gas.⁵ Therefore they “transport gas” as described in the *Act* and, as clearly evidenced by the regulation of rates for “field gathering pipe lines” in the *Act*, they are properly assessed based on the Regulated Rates.

PART II – FACTS

Background

6. Lagasco’s pipe lines are located in Haldimand County in southwestern Ontario (“Pipe Lines”). The Pipe Lines were purchased by Lagasco from Dundee Oil and Gas Limited (“Dundee”) on November 16, 2018.

7. Lagasco describes its Pipe Lines as part of a natural gas gathering system whereby smaller gathering pipe lines connect natural gas production wells located across Haldimand County into a main gathering pipeline, which then “moves” the natural gas produced by the wells to a treatment facility.⁶ The purpose of the Pipe Lines is to efficiently

⁴ *Assessment Act*, R.S.O. c.A.31 s.2(2)(d); O. Reg. 282/98, Part X, Tables 1, 2, and 3.

⁵ Lagasco Inc. Application Record – Affidavit of Jane Lowrie at paras. 5, 6, 7, 12, 15 and 17.

⁶ Lagasco Inc. Application Record – Affidavit of Jane Lowrie at para. 5.

“collect” the natural gas, “take it” to the treatment facility and then “deliver it” to the local distribution company.⁷

8. Lagasco indicates that its Pipe Lines are low pressure steel lines of various diameters, and the main pipe line systems are comprised of either four (4), six (6) and eight (8) inch nominal pipe size steel pipelines.⁸

Lagasco’s Pipe Lines

9. Lagasco’s Pipe Lines consist of:

- a. 7,379,540.5 feet assessed under Table 1 (Offshore pipe lines);
- b. 320,193.19 feet assessed under Table 2 (Plastic field gathering pipe lines);
and
- c. 290,596.24 feet assessed under Table 3 (Other pipe lines).⁹

10. Lagasco has not disputed the length, diameter, age or type of pipe line as recorded by MPAC.

11. The Pipe Lines were first assessed for taxation when they were installed, with some installations dating back to 1957. MPAC’s standard procedure when advised by

⁷ Lagasco Inc. Application Record – Affidavit of Jane Lowrie at para. 7.

⁸ Lagasco Inc. Application Record – Affidavit of Jane Lowrie at para. 6.

⁹ MPAC Evidence – Affidavit of Ryan Ford, at para. 10.

owners that new pipe line has been installed is to confirm the location, type, pipe diameter and length, and year installed. Once this information has been confirmed, MPAC adds the new pipe line to the assessment roll for the municipality. For example, for pipe line that was installed in 1981, MPAC would have received this information from the pipe line company likely in 1981. On receiving the information, the Pipe Line would have been assessed on the next assessment roll (for taxation in 1982).¹⁰

12. MPAC relies on pipeline companies to report or designate their pipe lines, and it assesses (or ceases to assess) the pipe lines based on the information, reports and designations it receives.¹¹

13. Lagasco's Pipe Lines are being treated similarly to other pipe line companies.¹²

PART III – ISSUES

14. There are two main 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?***

¹⁰ MPAC Evidence – Affidavit of Ryan Ford, at para. 9, and Exhibit A.

¹¹ MPAC Evidence – Affidavit of Ryan Ford, at para. 8.

¹² MPAC Evidence – Affidavit of Ryan Ford, at para. 4.

PART IV – THE LAW

Jurisdiction of the Ontario Energy Board (OEB)

15. The OEB's jurisdiction in this application is limited to making a determination as to whether the Pipe Lines are "pipe lines" to be assessed pursuant to s. 25(1) of the *Act*.¹³

16. The Assessment Review Board has the jurisdiction to make any determinations under s. 40 of the *Act* as to whether the assessment is either too high or too low, or whether the incorrect Regulated Rates have been applied to the Pipe Lines.

17. Much of Lagasco's evidence, responses to interrogatories, and submissions in this application refer to what it perceives as "unjust", "unfair", "irrational", or disproportionate consequences of the tax regime when the Regulated Rates are applied to its Pipe Lines.¹⁴ This has no bearing on a determination under s. 25(3) of the *Act*, and is outside the OEB's jurisdiction on this application.

18. Lagasco also argues that an interpretation finding that gathering pipe lines are included in the Regulation under "field gathering pipe lines" would be "nonsensical and unfair", and "illogical and oppressive".¹⁵

¹³ *Assessment Act*, R.S.O. 1990, c.A.31 at s. 25(3).

¹⁴ Lagasco Response to OEB Interrogatory 2b; Lagasco Inc. Application Record – Affidavit of Jane Lowrie at para. 15; Lagasco written submissions at paras. 1, 10, 29 and 39.

¹⁵ Lagasco written submissions, at para. 39.

19. The OEB is bound to apply the statute as it is written, regardless of any perceived notions of 'unfairness' on the part of the taxpayer. The result of the statute is not the decision of the adjudicative body.¹⁶

20. In any event, there is no unfairness in this case. While Lagasco may disagree with the rates set by the Minister, the Regulated Rates are applied to all pipe lines assessed under s. 25 in Ontario. For 2020 taxation, there are approximately 315.3 million feet of pipe line assessed pursuant to s. 25. Lagasco's Pipe Lines are not being treated any differently than other s. 25 pipe lines in Ontario.¹⁷

Statutory Interpretation

21. The ordinary rules of statutory interpretation apply to the *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.¹⁸

¹⁶ *Yonge Street Hotels Ltd. v. Municipal Property Assessment Corp.*, Region No. 9, 2005 CanLII 14438 (ON CA) at para. 24.

¹⁷ MPAC Evidence – Affidavit of Ryan Ford, at para. 8.

¹⁸ *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

22. 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 relative assessed values of property in the municipality.

(b) Operation

23. 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.¹⁹

24. For most land, MPAC must determine its ‘current’ or transaction value (“Current 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 authority to regulate the manner in which current values must be determined.²⁰

¹⁹ *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).

²⁰ *Assessment Act*, R.S.O. 1990, c.A.31, ss.1 (“current value”), 2(2)(d), 3, 7(1) and (2), 14(1), 19(1), 19(2.1) and (5), 24, 27, and 30.

25. 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.²¹

Assessment of Pipe Lines

26. 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.²²

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...²³

²¹ *Assessment Act*, R.S.O. 1990, c.A.31, 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.

²² *Assessment Act*, R.S.O. 1990, c.A.31, s. 1 ('land'); *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.

²³ *Assessment Act*, R.S.O. 1990, c.A.31, as amended, s. 1.

27. Pipe lines are 'land' as defined in the *Act* and, therefore, they are subject to assessment and taxation for municipal purposes.

28. Pipe lines for the transportation or transmission of gas or oil as defined in s. 25 of the *Act* are assessed at a rate per foot of pipeline based on the Regulated Rates. This type of assessment is referred to in the assessment industry as a 'linear' assessment ("Linear Method").²⁴

29. Under the Linear Method, there are three sets of rates based on the type of pipe line:

- a. Offshore pipe lines
- b. Plastic field gathering pipe lines and plastic gas distribution pipe lines
- c. 'Other' pipe lines.

30. The assessment of a pipe line is calculated by:

- a. First determining its type (offshore, gathering, or other) and therefore, the table under the Regulation used to calculate the value.²⁵
- b. 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 an

²⁴ O. Reg. 282/98, Part X, Tables 1, 2, and 3.

²⁵ O. Reg. 282/98, Part X, Tables 1, 2, and 3.

offshore pipe line 12,321 feet long and 2 inches in diameter will be assessed under Table 1,

Outside Diameter (in inches)	Rate (in dollars per foot)
...	...
2 to 2.5	16.24
...	...

- c. The Pipe Line's length (12,321 feet) will be multiplied by the regulated rate (\$16.24 per foot) to arrive at a value of \$200,093.04.
- d. This value is then reduced by the regulated depreciation in Table 4,

Year of Installation of Pipe Line	Percentage Reduction
...	...
1978	80
...	...

Therefore, the assessed value is \$200,093.04 less 80% for depreciation: \$40,018.60. Assessment values are rounded down the nearest \$1,000 or \$40,000.²⁶

31. The special assessment and valuation rules for pipe lines in section 25 of the *Act* 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.²⁷

²⁶ MPAC Evidence – Affidavit of Ryan Ford, at para. 6.

²⁷ *Assessment Act*, R.S.O. 1990, c.A.31, as amended, s. 25(14).

- b. Secondly, pipe lines are assessed based on the Linear Method, 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.²⁸

32. All other 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 – the "Current Value Method".²⁹

33. Pipe lines are taxable whether they are assessed under s. 25 by the Linear Method, or by the Current Value Method. The legislative provision under which land is valued has no bearing on its liability for assessment and taxation.³⁰

34. If Lagasco is successful in this application, the normal assessment and valuation rules will apply to its Pipe Lines. Municipal taxation rates would continue to apply to the Pipe Lines regardless of the method by which they are valued, but the assessment will be to the owners of the parcels under or over which the pipe lines run, not to Lagasco.³¹ This means that the current value of the Pipe Lines will be divided and added to the assessments of the underlying land under or over which the Pipe Lines run. Additionally, depending on the nature of the agreement with the property owners, the Current Value

²⁸ O. Reg 282/98, as amended, Part VII, s. 41(1).

²⁹ *Assessment Act*, R.S.O. 1990, c.A.31, as amended, ss. 17(1) and 19(1).

³⁰ MPAC Response to OEB Interrogatory 1b.

³¹ MPAC Response to OEB Interrogatory 1c.

Method may require Lagasco to negotiate property taxes annually with thousands of property owners.³²

Land assessed against owner

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

35. Lagasco owns approximately 1,513 miles (8 million feet) of Pipe Line running across multiple municipalities. Even if the Pipe Lines run across only one property per mile, this means that 1,513 property owners will see their assessments increased by the value of the Pipe Line crossing their property if the Pipe Lines are valued under the Current Value Method.³³

36. The assessment of pipe lines using the Current Value Method is extremely complex, time consuming, and costly. The special 'linear' assessment rules provided for in section 25 of the *Act* have been legislated to avoid this cumbersome process and ensures that pipe line companies receive their assessments directly.³⁴ 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 CSA Standard, and the *Oil, Gas and Salt Resources Act*.³⁵

³² *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; MPAC Response to OEB Interrogatory 3b.

³³ MPAC Evidence – Affidavit of Ryan Ford, at para. 10, and Exhibit A.

³⁴ MPAC Response to OEB Interrogatory 1d.

³⁵ *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, s. 3(1).

37. For the purpose of determining the assessment of the Pipe Lines, it is only the definition under the *Assessment Act* that is relevant and authoritative in this context.³⁶

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

38. A “pipe line” means “a pipe line for the transportation or transmission of gas ...”. Lagasco, 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 (as that term is understood in the industry).

39. Section 25 of the *Act* indicates:

“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.³⁷

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

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

³⁶ Tribute OEB Decision dated May 5, 2016, at p. 5.

³⁷ *Assessment Act*, R.S.O. 1990, c.A.31, s. 25.

- b. “transmission” means “conveyance or transfer from one person or place to another”³⁸

41. Lagasco’s Pipe Lines transport or transmit gas:

- a. The gathering lines are “part of a natural gas gathering system” and “connect” the wells to a main gathering pipeline (paragraph 5 of Ms. Lowrie’s Affidavit);
- b. The main gathering Pipe Line “moves” the collected natural gas to a treatment facility (paragraph 5 of Ms. Lowrie’s Affidavit);
- c. The main gathering Pipe Line includes a compressor to enable the natural gas to be “transferred” and sold to the local utility company (paragraph 6 of Ms. Lowrie’s Affidavit);
- d. The purpose of the Pipe Lines is to collect the natural gas produced by the wells, and “take it to” the treatment facility (paragraph 7 of Ms. Lowrie’s Affidavit);
- e. The gathering Pipe Lines “gather” the gas from the wells and “move” the gas (paragraph 12 of Ms. Lowrie’s Affidavit);
- f. The gathering Pipe Lines serve the sole purpose of “gathering” oil and gas as it is removed from the wells and “transporting” it to the treatment facilities

³⁸ Brown, Lesley (ed), The New Shorter Oxford English Dictionary. Vol. 2. Oxford: Clarendon Press, 1993, N-Z.

and ultimately to the Delivery Point (paragraphs 15 and 17 of Ms. Lowrie's Affidavit).³⁹

42. According to Lagasco, the Pipe Lines "connect", "gather", "move", "take", "transfer" and "transport" gas. Lagasco is clearly 'transporting' something, or 'conveying goods from one person or place to another'. The Pipe Lines are therefore used for the "transportation or transmission" of gas as contemplated by section 25 of the *Act*.

Issue 1a) "Gathering" pipelines are specifically included in the Regulation

43. Lagasco says its Pipe Lines are gathering pipe lines, not transmission pipe lines.⁴⁰ In addition to ignoring the word "transportation" in the definition under s. 25 of the *Act*, 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.⁴¹

³⁹ Lagasco Inc. Application Record – Affidavit of Jane Lowrie at paras. 5, 6, 7, 12, 15 and 17.

⁴⁰ Lagasco Inc. Application Record – Affidavit of Jane Lowrie at para. 12.

⁴¹ Sullivan, Ruth, Sullivan on the Construction of Statutes. 6th ed. Markham: LexisNexis, 2014, pp. 211-212.

44. Furthermore, Mr. Koller's expert report, which is relied on by Lagasco in its entirety in this application, indicates as follows:

"Natural gas gathering pipelines are typically small diameter (up to eight inches) pipelines"⁴² [...]

"Natural gas transmission pipelines are generally large diameter (six to 48 inches)" pipelines⁴³.

45. Tables 1 (offshore) and 2 (plastic field gathering and plastic gas distribution) of the Regulation provide regulated rates for pipe lines ranging in diameter from 0.5 inches to 8 inches. Table 3 (other) provides regulated rates for pipe lines ranging in diameter from 0.75 inches to 48 inches.

46. If section 25 of the *Assessment Act* was only meant to capture larger diameter "transmission lines" (as that term is understood in the industry, and as Lagasco argues in this application), there would be no need for the Regulation to provide rates for smaller diameter pipe lines. It is clear that the rates are meant to include more than just what the industry refers to as "transmission" pipelines.

47. Lagasco'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 on 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

⁴² Lagasco Inc. Application Record – Expert Report of Mr. Koller at para. 21.

⁴³ Lagasco Inc. Application Record – Expert Report of Mr. Koller at para. 33.

lines including “Field and Gathering Pipe Lines”.⁴⁴ 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.⁴⁵

48. Lagasco argues that “gathering pipelines” in the Regulation cannot mean “gathering pipelines” in the sense used in the industry because, it argues, gathering pipelines are used to “collect” oil and gas from wells and “deliver” it, “not simply” to transport oil and gas from point A to point B. This argument is predicated on a finding by the OEB that the Pipe Lines are not used for the “transportation” (or transmission) of gas.

49. If “gathering” doesn’t mean “gathering”, either in the ordinary sense of the word (i.e. to “collect” gas, which Lagasco describes as the function of its Pipe Lines) or as a technical term as used in the industry, its inclusion in the Regulation would be useless. This would be contrary to the rules of statutory interpretation which indicate that every word of a legislative provision is to be given meaning.⁴⁶

⁴⁴ Note: The rates were removed from the *Act* and moved to the Regulation in 1998 as part of a broad assessment reform.

⁴⁵ *Assessment Act*, R.S.O. 1960, c.23, ss. 41(4), and (5); *Assessment Act*, R.S.O. 1970. c.148, s. 33; Sullivan, Ruth, *Sullivan on the Construction of Statutes*. 6th ed. Markham: LexisNexis, 2014, at pp. 205 and 211-212.

⁴⁶ Sullivan, Ruth, *Sullivan on the Construction of Statutes*. 6th ed. Markham: LexisNexis, 2014, pp. 211-212.

50. Similarly, if the Legislature only intended that transmission pipelines (as the industry uses that term) were to be caught under s. 25 of the *Act*, there would be no reason to include the word “transportation” in s. 25.

51. Lagasco’s Pipe Lines are therefore used for the transportation or transmission of gas.

Issue 2: The Pipe Lines were Designated by the Owner

52. MPAC’s standard procedure, when advised by owners that they have installed new pipelines, is to confirm the location, type, pipe diameter and length, and year installed. The designation and reporting of new pipe lines under s. 25 occurs simultaneously.⁴⁷ Once this information has been confirmed, MPAC adds the new pipeline to the assessment roll for the municipality. On receiving that information, the pipeline would be assessed on the next assessment roll. As discussed above, the first Pipe Line on Exhibit A of Ms. Lowrie’s Affidavit, filed on behalf of Lagasco, was installed in 1981. MPAC would have received this information from the pipe line company likely in 1981. On receiving the information, the Pipe Line would have been assessed on the next assessment roll (for taxation in 1982).⁴⁸

⁴⁷ MPAC Response to OEB Interrogatory 3a.

⁴⁸ MPAC Evidence – Affidavit of Ryan Ford, at para. 9.

Note: The assessment roll for each municipality is returned in December of each year for taxation in the following year. For example, the assessment rolls used by municipalities

53. MPAC states that the Pipelines have been assessed since they were designated by their then owners. As can be seen in Exhibit A to Mr. Ford's Affidavit, filed on behalf of MPAC, the majority of the Pipe Lines were installed between 1957 and 2000. Therefore, the initial reporting to MPAC of some of these Pipe Lines date back the late 1950s, and the Pipe Lines have been assessed pursuant to section 25 of the *Act* (or its predecessors) since they were installed.

54. Pursuant to section 31 of the *Act*, MPAC is required to deliver notices of assessment to assessed persons, including Lagasco and its predecessors whenever information on the assessment roll changes. Approximately 97% of the Pipe Lines included in Exhibit A to Mr. Ford's Affidavit were installed between 1957 and 2006. The remaining pipelines were installed between 2008 and 2013.⁴⁹ With respect to the Pipe Lines that predate 2006, the four most recent notices delivered for the Pipelines were:

- a. On the re-assessment for 2006, or on the initial assessment of the pipelines in 2006 or 2007 depending on the date of installation;
- b. On the re-assessment for 2009;
- c. On the re-assessment for 2013; and
- d. On the re-assessment for 2017.

to calculate the taxes in 2020 was returned (delivered) to each municipality in December of 2019.

⁴⁹ MPAC Evidence – Affidavit of Ryan Ford, Exhibit A.

55. With respect to the Pipe Lines installed from 2008 to 2013, notices were delivered in each municipality at a minimum of on the initial assessment of the Pipe Line and on the re-assessment for 2017. Some of those Pipe Lines would also have received notices on the re-assessments for 2009 and 2013 depending on their date of installation.

56. The Notices of Assessment would clearly indicate that the land is being assessed as a “pipe line”.⁵⁰

57. There is no evidence that Dundee objected to the assessment of the Pipe Lines prior to the 2015 taxation year. The assessments of the Pipe Lines for taxation from the date of the creation of the roll numbers through to 2015 are deemed to be correct.⁵¹

58. The *Act* requires pipe line companies to notify MPAC every year concerning the age, length, and diameter of their pipe lines.⁵²

59. 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.⁵³

60. 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

⁵⁰ *Assessment Act*, R.S.O. 1990, c.A.31, at ss. 19.2, 31.

⁵¹ *Assessment Act*, R.S.O. 1990, c.A.31, at s. 41.

⁵² *Assessment Act*, R.S.O. 1990, c.A.31, at s. 25(2).

⁵³ *Assessment Act*, R.S.O. 1990, c.A.31, at ss. 25(1), (3), (8) and (9).

MPAC. It also would not have been necessary to provide for the assessment of pipe lines no longer being used or abandoned.⁵⁴

61. 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 Dundee filed appeals to the Assessment Review Board in 2015.
- b. The assessment rolls (as applicable, depending on the year of installation) up to 2012 are deemed to be correct and binding.
- c. Once the first assessment post-designation was made and not appealed, there was no need for MPAC to retain the designation in its files. Once Notices of Assessment are delivered, it is the responsibility of the assessed person to raise issues with respect to the assessments. If no issues are raised, the returned assessment is deemed to be correct, valid and binding even if there are errors. So, once any assessment is finally determined – i.e. once the assessment is returned and any appeals are resolved – the assessment is binding and cannot be challenged. Once an assessment is

⁵⁴ Sullivan, Ruth, Sullivan on the Construction of Statutes. 6th ed. Markham: LexisNexis, 2014, at p. 208 and pp. 223-224

final and not subject to challenge, the need to retain supporting documents is reduced.⁵⁵

- d. MPAC would have no way of knowing the location, age, length or diameter of the Pipe Lines unless that information was provided by the pipe line company under s.25 of the *Act*: the assessment confirms the designation.⁵⁶

Tribute Resources Decision

62. As discussed above, the OEB has previously determined that gathering pipe lines are used for the “transportation” of gas in the ordinary meaning of that word, as gathering pipe lines are used to move or transport gas from one location to another, and they are therefore subject to assessment under s. 25 of the *Act*.⁵⁷ The OEB’s decision on this issue was subsequently upheld on appeal to the Divisional Court.⁵⁸

63. The OEB also held in the Tribute Decision that 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.⁵⁹

⁵⁵ MPAC Response to OEB Interrogatory 3e; *Assessment Act*, R.S.O. 1990, c.A.31, at s. 41.

⁵⁶ MPAC Response to OEB Interrogatory 3f.

⁵⁷ Tribute Resources Inc. OEB Decision dated May 5, 2016, at p.6

⁵⁸ *Tribute Resources Inc. v. Ontario Energy Board*, 2018 ONSC 265 (Div. Ct.)

⁵⁹ Tribute Resources Inc. OEB Decision dated May 5, 2016, at p.6

64. The OEB also held that it was also evident from the regulations classifying pipelines of different types that the general term “pipe line” includes gathering lines as well as transportation and transmission lines as those terms might be used or defined elsewhere.⁶⁰

65. Finally, the OEB found that MPAC had provided sufficient evidence to determine that the pipe lines were designated by the owner as transmission pipelines as required under section 25(2) of the *Assessment Act*.⁶¹

66. The application made by Tribute Resources Inc. and the application made by Lagasco for a determination as to whether their gathering lines should be assessed pursuant to s.25 of the *Act* are almost identical. Their description of the characteristics and functions of their respective pipe lines are indistinguishable, and they both refer to the same technical definitions in support of their argument. Although Lagasco claims that there is new evidence in the form of an expert report and evidence of “market turmoil”⁶² since the Tribute Decision, neither assists the OEB in a determination based on a question of statutory interpretation. Mr. Koller’s report is simply a description of the economic and functional differences between gathering pipe lines and transmission pipelines (as those terms are understood in the industry), but does not offer new evidence to the OEB which would alter the Board’s determination of whether the Pipe Lines “transport” or “transmit” gas in accordance with s. 25 of the *Act*. The “fresh evidence”

⁶⁰ Tribute Resources Inc. OEB Decision dated May 5, 2016, at p. 6

⁶¹ Tribute Resources Inc. OEB Decision dated May 5, 2016, at p. 7.

⁶² Lagasco Response to OEB Interrogatory 2c.

Lagasco refers to is not relevant or helpful to the determination to be made. In essence, Lagasco is asking the OEB to give a different answer to the same question, on essentially identical facts, that it did in the Tribute OEB Decision.

Additional Issue: Date of Declaratory Relief

67. The application seeks a declaration that the Pipe Lines were not “pipe lines” within the meaning of section 25 of the *Act* at any time “on or after January 1, 2015”.⁶³ It is not clear what interest Lagasco has, if any, in the Pipe Lines prior to its purchase on November 16, 2018.

68. Any relief, if granted, should be limited to 2019 forward, when Lagasco had an interest in the Pipe Lines.⁶⁴

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

69. In its submissions, Lagasco states that the inclusion of “gathering pipe lines” in section 41 and Table 2 of the Regulation creates an apparent conflict with the terminology

⁶³ Lagasco Inc. Application Record – Application at para.1.

⁶⁴ Note: The assessment roll is returned annually, so the next roll after the purchase would be 2019.

used in s. 25 of the *Act*, and that the Regulation does not have the capacity to expand the definition of “pipe line” under the *Act*.⁶⁵

70. If Lagasco 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.

71. Furthermore, the legality of the Regulation is not in issue as no notice to the Crown has been given.

72. 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 Lagasco.⁶⁶

Summary

73. For the reasons set out above, MPAC submits that the Pipe Lines are correctly classified as “pipe lines” pursuant to s. 25 of the *Act*, as they transport or transmit gas.

PART IV – RELIEF REQUESTED

74. MPAC requests the right to reply to any further submissions made by Lagasco in this Application.

⁶⁵ Lagasco written submissions at paras. 32-39

⁶⁶ *Judicial Review Procedures Act*, R.S.O. 1990, c. J1, s. 2(1).

75. MPAC requests that Lagasco's application be dismissed.

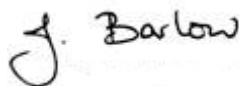
All of which is respectfully submitted this 20th day of October, 2020.

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Lawyers for the Municipal Property Assessment
Corporation

SCHEDULE “A” – LIST OF AUTHORITIES

1. *Yonge Street Hotels Ltd. v. Municipal Property Assessment Corp.*, Region No. 9, 2005 CanLII 14438 (ON CA)
2. *Corporation Notre-Dame de Bonsecours v. Communauté urbaine de Québec et al.*, [1994] 3 S.C.R. 3.
3. *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.
4. *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].
5. *Carsons' Camp Ltd. v. Municipal Property Assessment Corporation et al.* (2008), 88 O.R. (3d) 741 (C.A.).
6. *Re Marley & Sandwich*, [1932] O.W.N. 178 (C.A.)
7. Brown, Lesley (ed), *The New Shorter Oxford English Dictionary*. Vol. 2. Oxford: Clarendon Press, 1993.
8. Sullivan, Ruth, *Sullivan on the Construction of Statutes*. 6th ed. Markham: LexisNexis, 2014, pp. 205, 211-212.

SCHEDULE “B” – LEGISLATIVE PROVISIONS

1. *Assessment Act*, R.S.O. 1990, c. A.31
 - a. O. Reg. 282/98: General
2. *Assessment Act*, R.S.O. 1960, c.23
3. *Assessment Act*, R.S.O. 1970, c.148
4. *Municipal Act, 2001*, S.O. 2001, c.25, as amended
5. *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1

Assessment Act, R.S.O. 1990, c. A.31

ss. 1.(1) “current value”, “land”; 2.(2)(d); 3.(1); 14.(1); 17.(1); 19.(1); 19.2; 25.(1),(2), (3), (8) & (9); 31; 36.(1); 37.(1); 39.(1); 40.(1) & (8); 41; 41.(1)

Definitions

1 (1) In this Act,

“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”)

“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”)

Regulations by the Minister

2 [...]

(2) The Minister may make regulations,

[...]

(d) governing the assessment of pipelines and providing for the depreciation of the assessed values of pipelines;

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: [...]

Property classes

7 (1) The Minister shall prescribe classes of real property for the purposes of this Act. 1997, c. 5, s. 5.

Same

(2) The classes prescribed by the Minister shall include, but are not restricted to, the following:

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. 1997, c. 5, s. 5; 1997, c. 29, s. 4; 2002, c. 22, s. 3.

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.

[...]

Same

(2.1) The Minister may make regulations providing that the current value of land must be determined in the manner specified in the regulations. 1999, c. 9, s. 11.

Farm lands and buildings

(5) For the purposes of determining the current value of farm lands used only for farm purposes by the owner or used only for farm purposes by a tenant of the owner and buildings thereon used solely for farm purposes, including the residence of the owner or tenant and of the owner's or tenant's employees and their families on the farm lands,

- (a) consideration shall be given to the current value of the lands and buildings for farm purposes only;
- (b) consideration shall not be given to sales of lands and buildings to persons whose principal occupation is other than farming; and
- (c) the Minister may, by regulation, define "farm lands" and "farm purposes". 2000, c. 25, s. 5 (1).

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 the period consisting of the four taxation years from 2013 to 2016, land is valued as of January 1, 2012.
- 4. For the period consisting of the four taxation years from 2017 to 2020, land is valued as of January 1, 2016.
- 5. After 2020, for each subsequent period consisting of four consecutive taxation years, land is valued as of January 1 of the year that precedes the period by two years. 2007, c. 7, Sched. 1, s. 5; 2018, c. 8, Sched. 1, s. 6.

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).

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).

[...]

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).

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).

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 after 2016 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 120 days after the issuance date printed on the notice. 2015, c. 38, Sched. 1, s. 4 (4).

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.

O. Reg 282/98: GENERAL, under Assessment Act, R.S.O. 1990, c. A.31

ss. 7, 41, Part X, Tables 1-5

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.

Assessed Value for Specified Years

41. (1) For the 2017, 2018, 2019 and 2020 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. 397/16, s. 3.

(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.

PART X
TABLES RE ASSESSMENT OF PIPE LINES

TABLE 1
OFFSHORE PIPE LINES — 2017 TO 2020 TAXATION YEARS

Outside Diameter (in inches)	Rate (in dollars per foot)
1	5.88
1.25 to 1.5	9.97
2 to 2.5	16.24
3	23.59
4 to 4.5	26.45
5 to 5 ⁵ / ₈	29.06
6 to less than 8	34.63
8	49.30

O. Reg. 397/16, s. 5.

TABLE 2
PLASTIC FIELD GATHERING PIPE LINES AND PLASTIC GAS DISTRIBUTION PIPE LINES — 2017 TO 2020 TAXATION YEARS

Outside Diameter (in inches)	Rate (in dollars per foot)
0.5	5.16
1	6.19
1.25 to 1.5	7.25
2 to 2.5	9.33
3	14.99
4 to 4.5	18.06
6 to less than 8	38.39
8	47.93

O. Reg. 397/16, s. 5.

TABLE 3
PIPE LINES OTHER THAN THOSE TO WHICH TABLE 1 OR 2 APPLIES — 2017 TO 2020 TAXATION YEARS

Outside Diameter (in inches)	Rate (in dollars per foot)
0.75 to 1.0	15.31
1.25 to 1.5	18.15
2 to 2.5	21.40

3	30.64
4 to 4.5	35.66
5 to 5 ⁵ / ₈	40.69
6 to 6 ⁵ / ₈	45.93
8	59.25
10	70.07
12	89.89
14	109.93
16	144.21
18	172.33
20	191.11
22	226.46
24	267.66
26	300.39
28	352.53
30	374.12
32	435.60
34	479.77
36	518.88
38	563.88
40	605.53
42	661.52
44	727.19
46	793.36
48	830.21

O. Reg. 397/16, s. 5.

TABLE 4
DEPRECIATION RATES FOR OFFSHORE PIPE LINES — 2017 TO 2020 TAXATION YEARS

Year of Installation of Pipe Line	Percentage Reduction
1985 or earlier	80
1986	79
1987	78
1988	76
1989	75
1990	73
1991	72
1992	71

1993	70
1994	68
1995	67
1996	66
1997	65
1998	63
1999	62
2000	61
2001	59
2002	57
2003	57
2004	56
2005	54
2006	52
2007	51
2008	49
2009	44
2010	39
2011	33
2012	27
2013	21
2014	15
2015	10
2016	5
2017	0

O. Reg. 397/16, s. 5.

TABLE 5
PIPE LINES OTHER THAN THOSE TO WHICH TABLE 4 APPLIES — 2017 TO 2020
TAXATION YEARS

Year of Installation of Pipe Line	Percentage Reduction
1948 or earlier	80
1949	79
1950	78
1951	78
1952	78
1953	76
1954	76
1955	75

1956	75
1957	74
1958	73
1959	73
1960	73
1961	71
1962	71
1963	70
1964	69
1965	69
1966	68
1967	68
1968	67
1969	66
1970	65
1971	65
1972	64
1973	64
1974	63
1975	62
1976	61
1977	61
1978	60
1979	60
1980	59
1981	58
1982	57
1983	57
1984	56
1985	56
1986	55
1987	55
1988	54
1989	53
1990	52
1991	52
1992	51
1993	50
1994	49

1995	47
1996	44
1997	42
1998	40
1999	37
2000	35
2001	32
2002	30
2003	27
2004	24
2005	22
2006	20
2007	18
2008	16
2009	14
2010	12
2011	10
2012	8
2013	8
2014	7
2015	4
2016	2
2017	0

O. Reg. 397/16, s. 5.

(4) In assessing such property, whether situate or not ^{Principle of assessment} situate upon a highway, street, road, lane or other public place, it shall when and so long as in actual use be assessed at its actual value in accordance with section 35. R.S.O. 1950, c. 24, s. 37 (3); 1957, c. 2, s. 6 (2).

(5) Notwithstanding any other provision of this Act, the ^{Assessment of structures, rails, etc., of transportation system} 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 steam railway are under section 46 and not otherwise. R.S.O. 1950, c. 24, s. 37 (4).

41.—(1) In this section,

Inter-
tation

(a) "gas" means gas as defined in *The Energy Act*;

R.S.O. 1960,
c. 122

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means a pipe line for the transportation or transmission of gas that is designated by the Ontario Energy Board as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, regulators, couplings, cathodic protection apparatus, protective coatings, casing, curb-boxes, meters, and all incidental fastenings, attachments, appliances, apparatus and appurtenances,

(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.

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
municipal-
ities

(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

(8) A pipe line removed from one location and reinstalled in another location shall, where depreciation is applicable, continue to be depreciated at the foregoing rates as though remaining in its original location. Pipe lines removed and installed in another location

(9) 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. Pipe lines abandoned

(10) Where a pipe line is located on, in, under, along or across any highway or any lands 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. Liability to taxation of pipe line on exempt property

(11) Notwithstanding 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, property and business taxes; 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. Tax liability

(12) Where a pipe line extends through two or more municipalities, only the portion or portions thereof in each municipality are liable for assessment and taxation in that municipality. Assessment of pipe line extending into two or more municipalities

(13) Where a pipe line is placed on a boundary between two municipalities or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between two municipalities, although it may deviate so as in some places to be wholly or partly within either of them, such pipe line shall be assessed in each municipality for one-half of the amount assessable against it under this section. Pipe lines on municipal boundaries

(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 such company in the municipality. Real property assessment

(15) The rates set out in subsection 5 shall be reviewed by the Minister in the year 1960 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection 5. 1957, c. 2, s. 7, *part*. Review of rates

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

194

Chap. 32

ASSESSMENT

Sec. 32 (3)

Assessment
of works
extending
into two
or more
municipalities

(3) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property.

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

(4) Notwithstanding 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 steam railway are under section 38 and not otherwise. 1968-69, c. 6, s. 32 (2-4).

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.

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

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

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1"	Nominal Inside Diameter	\$ 1.20
1 1/4" to 1 1/2" . .	" " " "	1.45
2" and 2 1/2" . . .	" " " "	1.70
3"	" " " "	2.20
4" and 4 1/2" . . .	" " " "	2.70
5" and 5 1/2" . . .	" " " "	3.20
6" and 6 1/2" . . .	" " " "	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

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

GAS 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 $2\frac{1}{2}$ " . . .	" " " "	1.75
3"	" " " "	2.25
4" and $4\frac{1}{2}$ " . . .	" " " "	2.80
5" and $5\frac{1}{8}$ " . . .	" " " "	3.30
6" and $6\frac{3}{8}$ " . . .	" " " "	3.85
8"	" " " "	6.20
10"	" " " "	7.25
12"	" " " "	9.20
14"	Outside Diameter	10.00
16"	" " " "	11.40
18"	" " " "	12.75
20"	" " " "	14.00
22"	" " " "	15.65
24"	" " " "	17.00
26"	" " " "	18.25
28"	" " " "	19.70
30"	" " " "	21.10
32"	" " " "	22.50
34"	" " " "	23.80
36"	" " " "	25.15
38"	" " " "	26.70

Adjustment
of assess-
ment

(5) The assessment of pipe lines in each municipality determined under subsection 4 shall be adjusted by the application of the latest equalization factor provided by the Department.

Deprecia-
tion of pipe
lines

(6) A pipe line shall be depreciated at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent.

Pipe lines
removed
and installed
in another
location

(7) A pipe line removed from one location and reinstalled in another location shall, where depreciation is applicable, continue to be depreciated at the foregoing rates as though remaining in its original location.

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.

Reduction
of assess-
ment 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 such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

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 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.

(11) Notwithstanding 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, property and business taxes, 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.

Tax
liability

(12) Where a pipe line extends through two or more municipalities, only the portion or portions thereof in each municipality are liable for assessment and taxation in that municipality.

Assessment
of pipe line
extending
into two or
more munici-
palities

(13) Where a pipe line is placed on a boundary between two municipalities or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between two municipalities, although it may deviate so as in some places to be wholly or partly within either of them, such pipe line shall be assessed in each municipality for one-half of the amount assessable against it under this section.

Pipe lines
on municipal
boundaries

(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 such company in the municipality.

Real
property
assessment

(15) The rates set out in subsection 4 shall be reviewed by the Minister in the year 1971 and every third year thereafter, and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection 4. 1968-69, c. 6, s. 33.

Review
of rates

34. Except as provided by subsection 14 of section 8, where any structure, pipe, pole, wire or other property is erected or placed upon, in, over, under or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, it shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together. 1968-69, c. 6, s. 34.

Pipes, poles,
wires, etc.,
on boundary
lines

35.—(1) In this section,

Interpre-
tation

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

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 (1) [...]

(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).

Judicial Review Procedure Act, R.S.O. 1990, c. J.1

s. 2

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).