



Lagasco Inc.

Application for the Classification of Certain Natural Gas Pipelines

PROCEDURAL ORDER NO. 4

November 9, 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 did not believe an oral hearing is required for Lagasco to have a full and fair opportunity to be heard in this case, it took no position on Lagasco’s request for an oral hearing.

OEB staff submitted that it did 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 did 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 submitted that written argument would be preferable.

Procedural Order No. 3 was issued on September 23, 2020. The OEB found that the issue before it is primarily one of statutory interpretation. There had been an extensive interrogatory process on the application and the evidence filed by intervenors. No party had identified any material gaps in the evidentiary record or provided a strong reason why additional oral discovery or oral argument would assist the OEB. Given the nature of the subject matter, the OEB found that there would be no benefit to an oral hearing. The OEB set a schedule for written final argument. The OEB noted that to the extent that the written final argument gave rise to any questions that the OEB feels require additional evidence or submissions, it has the ability to make provision for this.

Lagasco filed with the OEB its Argument-in-Chief on October 8, 2020. OEB staff and intervenors filed submissions on October 20, 2020. Lagasco filed its written reply submissions on November 2, 2020.

Findings

Upon reading the argument in chief, argument of intervenors and OEB staff, and Lagasco’s reply argument, the OEB has determined that it would be assisted by supplemental oral submissions. Parties may pre-file a summary of their positions that is not longer than three pages prior to the commencement of the supplemental oral submissions. A transcribed videoconference will give the OEB the opportunity to ask questions of Lagasco, MPAC and other intervenors.

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, OEB staff and intervenors may file a written summary of not more than three pages of their submissions for oral argument and that are consistent with materials already filed with the OEB and serve them on all parties by **November 17, 2020**.
2. Oral arguments will be held by videoconference on **November 24, 2020**, commencing at 9:30 a.m. (Instructions on how to participate in the videoconference will be communicated later.)

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 [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at www.oeb.ca/industry. We encourage the use of RESS; however, parties who have not yet [set up an account](#), may email their documents to registrar@oeb.ca.

All communications should be directed to the attention of the Registrar 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.

Email: registrar@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **November 9, 2020**

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar