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BY EMAIL

November 25, 2020

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

Dear Ms. Long:

**Re: Lagasco Inc. (Lagasco)
Pipeline Classification Application
Summary of OEB Staff Oral Arguments
Ontario Energy Board File Number: EB-2019-0166**

In accordance with Procedural Order No. 5 please find attached a summary of OEB staff oral arguments for the above proceeding. This document has been sent to Lagasco and to all other registered parties to this proceeding.

Yours truly,

Ritchie Murray
Project Advisor, Natural Gas Applications

c. Applicant and intervenors

Encl.



Summary of OEB Staff Oral Argument

Pipeline Classification Application

Lagasco Inc.

EB-2019-0166

November 25, 2020

INTRODUCTION AND SUBMISSIONS

Procedural Order No. 4 set a date for oral argument in the above noted proceeding and allowed parties to pre-file a short summary of their positions. These are the submissions of OEB staff.

The initial schedule for argument was established by the OEB in Procedural Order No. 3. Lagasco Inc.'s (Lagasco) argument in chief was filed on November 8, 2020. OEB staff, the Municipal Property Assessment Corporation (MPAC), and the jointly represented municipalities (Municipalities) filed their submissions on October 20, 2020. Lagasco's reply submission was filed on November 2, 2020. OEB staff has reviewed all of these submissions and its opinion has not changed. OEB staff continues to rely on its submissions as filed on October 20, 2020.

There is one new matter raised in Lagasco's reply submission that OEB staff would like to address. At paragraph 6 of that submission, Lagasco observes that in the 1960 consolidated version of the *Assessment Act, R.S.O. 1990* (Assessment Act) the definition of "pipe line" stipulated that it was the OEB (and not the pipe line owner) that designated pipe lines as transmission pipe lines:

41. (1) In this section (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, [...]

(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.
[Emphasis added]

The comparable provision in the current consolidated version of the Assessment Act, which has been referred to throughout this proceeding, states:

25(1) In this section "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 [...]
[Emphasis added]

Lagasco did not refer to the 1960 consolidated version of the Assessment Act in its pre-filed evidence or in its argument in chief. The issue was first raised in its reply argument.

OEB staff has investigated this matter further. It appears that the OEB was responsible for designating pipe lines as "pipe lines" for the purposes of the Assessment Act from approximately 1957 to 1969. The OEB does not keep records on site at the OEB's

offices prior to 1980; any records that still exist from prior to that date are housed at the Archives of Ontario (Archives). The OEB's records at the Archives are not digitized and cannot be reviewed remotely. There are some high-level indices that can be accessed online, however a review by OEB staff does not reveal any promising headings that would point to the location of any extant designation records. The only way to find these records, to the extent they still exist, would be to attend at the Archives and physically go through the voluminous OEB records housed there. Unfortunately, the Archives are not currently accessible to the public on account of the current Covid pandemic.

It is not clear what import Lagasco places on the fact that for a period of time it was the OEB, rather than the pipe line owner, that was responsible for designating a pipe line as a "pipe line" for the purposes of the Assessment Act. MPAC only enters pipe lines onto the relevant municipal assessment rolls after it receives a designation from the owner (or, presumably, the OEB during the period where the OEB was responsible for designation). The owner of the pipe line is taxed starting the year after the pipe line is installed and designated. Indeed, MPAC states that the only way it would have information regarding the location, age, length or diameter of the pipe lines is if they were properly designated¹. Put plainly, whether the pipe line was designated by the pipe line owner or the OEB does not appear to matter for the purposes of this proceeding.

All of which is respectfully submitted.

¹ MPAC final argument, paragraphs 52-61