



**Lagasco Inc.**

**Application for the Classification of Certain Natural Gas Pipelines**

**PROCEDURAL ORDER NO. 7**

**January 27, 2021**

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 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.

Procedural Order No. 2 was issued on August 10, 2020. 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.

Procedural Order No. 3 was issued on September 23, 2020. The OEB found that there would be no benefit to holding an oral hearing. The OEB set a schedule for written final argument.

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.

Procedural Order No. 4 was issued on November 9, 2020. The OEB determined that it would be assisted by supplemental oral argument and set the date for a transcribed videoconference at November 24, 2020.

Procedural Order No. 5 was issued on November 13, 2020. The OEB changed the date of the supplemental oral argument to December 2, 2020, in order to better accommodate participant schedules.

Supplemental oral arguments were held on December 2, 2020.

On December 30, 2020, OPI sought permission to file new information pursuant to rule 11.02 of the OEB's *Rules of Practice and Procedure* (OPI Evidence), that it submitted demonstrates that "MPAC will assess the pipeline for taxation despite the fact that the owner has never provided any information about the pipelines to MPAC, or submitted a designation that they are "pipelines" under section 25 of the Ontario *Assessment Act*."

Procedural Order No. 6 was issued on January 18, 2021. The OEB allowed the OPI Evidence onto the record in this proceeding. Procedural Order No. 6 set a procedural schedule for written interrogatories on the OPI Evidence, interrogatory responses from OPI, revised submissions, and revised reply submission.

On January 27, 2021, MPAC sought permission to file new information in response to the OPI Evidence (MPAC Evidence). MPAC submitted that fairness dictates that MPAC should be granted the opportunity to respond to the OPI Evidence.

## **Findings**

The OEB has decided that it will allow the MPAC Evidence onto the record in this proceeding. The MPAC Evidence may be consequential in the determination of an important issue in this proceeding. The OEB's admission of the MPAC Evidence follows its balancing of the need for fairness to the parties as well as the objective of ensuring finality in proceedings with the potential importance of the evidence to the decision in issue. This allowance should not be viewed as altering the restrictions in the OEB Rules regarding the filing of late evidence.

The OEB believes that it could be assisted by MPAC's evidence with respect to the fulfillment of the requirement for owner designation in the classification of a transmission pipeline pursuant section 25(1) (ii) of the Assessment Act. The OEB finds that it is appropriate to have all potentially relevant information on the record to allow for a comprehensive review and decision on this application.

The remaining procedural schedule that was set in Procedural Order No. 6 is canceled and superseded by the procedural schedule set out below.

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. Pursuant to rule 11.01 and rule 1.03 of the OEB's *Rules of Practice and Procedure*, the OEB will permit MPAC's Evidence to be added to the record of this proceeding.
2. OEB staff and intervenors shall request any relevant information and documentation from MPAC that is in addition to the MPAC Evidence already filed, by written interrogatories filed with the OEB and served on all parties, by **February 4, 2021**.
3. OPI and MPAC shall file with the OEB complete written responses to all of their respective interrogatories, and serve them on intervenors, by **February 11, 2021**.
4. OEB staff and intervenors may revise and refile their written submissions with the OEB only as they relate to the new evidence filed by OPI and MPAC, and serve them on all parties, by **February 18, 2021**.
5. Lagasco may revise and refile its written reply submissions with the OEB only as they relate to the new evidence filed by OPI and MPAC, and serve them on intervenors, by **February 25, 2021**.

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://p-pes.ontarioenergyboard.ca/PivotalUX/>. 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](http://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](mailto: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](mailto:ritchie.murray@oeb.ca) and OEB Counsel, Michael Millar at [michael.millar@oeb.ca](mailto:michael.millar@oeb.ca).

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

**DATED** at Toronto, **January 27, 2021**

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar