

BOARD ORDER: MGB 127/97

IN THE MATTER OF THE "Municipal Government Act" being Chapter M-26.1 of the Statutes of Alberta 1994.

AND IN THE MATTER OF AN APPEAL from a decision of the 1996 Assessment Review Board of the County of Minburn No. 27.

BETWEEN:

J.T. Consulting on behalf of Signalta Resources Limited and Poco Petroleums Ltd. - Appellant

- a n d -

The County of Minburn No. 27 - Respondent

BEFORE:

N. Dennis, Presiding Officer

D. Shelley, Member

V. Chatten, Member

Upon notice being given to the affected parties, a hearing was held in the City of Edmonton, in the Province of Alberta commencing April 2, 1997.

This is an appeal to the Municipal Government Board from a decision of the Assessment Review Board of the County of Minburn No. 27 with respect to property assessments entered in the assessment roll of the Respondent municipality as follows:

Roll No.	Machinery/Equipment	Building & Structures
8622.00	\$286,820	\$20,770
8627.00	\$3,680	0
8628.00	\$3,680	0
8709.00	\$8,090	\$7,260
8783.00	\$4,170	0
8797.00	\$3,630	0
8849.00	\$124,310	\$25,920
8882.00	\$2,930	0
8888.00	\$4,290	0
8890.00	\$4,990	0
8896.00	\$19,320	\$4,270
8897.00	\$2,370	0
9012.00	\$2,930	0

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9063.00	\$8,410	\$2,440
9068.00	\$3,630	0
9069.00	\$2,800	0
9071.00	\$3,060	0
9085.00	\$99,830	\$19,790
9089.00	\$3,440	0
9093.00	\$139,900	\$23,770
8651.00	\$4,550	\$2,660
8659.00	\$26,920	\$3,830
8748.00	\$19,660	\$3,790
8784.00	\$16,980	\$3,590
8786.00	\$3,790	0
8787.00	\$3,240	0
8902.00	\$188,230	\$38,370
8903.00	\$3,620	0
8904.00	\$3,390	0
8905.00	\$3,240	0
8906.00	\$3,440	0
8909.00	\$11,210	0
8910.00	\$2,060	0
8911.00	\$2,260	0
8912.00	\$2,720	0
8913.00	\$149,530	\$25,800
8915.00	\$21,170	\$3,140
8916.00	\$5,210	0
8919.00	\$4,190	0
8920.00	\$3,260	0
8921.00	\$3,260	0
8922.00	\$2,260	0
8926.00	\$2,410	0
8929.01	\$3,760	\$3,510
8930.00	\$3,180	0
8935.00	\$15,980	\$3,550
8939.00	\$3,990	0
9047.00	\$21,740	\$3,790
9049.00	\$2,660	0
9050.00	\$1,960	0
9074.00	\$6,340	0
9075.00	\$2,790	0
9088.00	\$3,440	0

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ISSUES

The Appellant raised a number of issues in relation to equipment and structures in place at a number of well sites. The basic issue is whether or not separators, underground tanks, and booster compressors are captured in the regulated rates for linear property. A secondary issue is the equipment now assessed as machinery and equipment is being assessed twice. Associated with the main issues are sub-issues relating to the amount of obsolescence applied to the booster compressors if they are properly assessed as machinery and equipment.

The matters under appeal were previously before the Board in 1995. The Board issued its decision in Board Order No. 79, dated December 1995, finding the subject equipment incidental to production and therefore included in the regulated rates for linear property. The Respondent municipality placed the equipment back on the roll for 1996 which resulted in the current appeals. The Appellant is of the opinion that the actions of the Respondent municipality are contrary to the 1995 decision and having to appeal the same assessments again, with the associated fees, requested costs.

BACKGROUND

For assessment purposes, certain equipment and structures located at well sites are captured by the regulated values referred to as linear assessment while the balance is assessed as machinery and equipment and improvements. Relative to well sites, establishing regulated values is a procedure where well assessments are calculated by a formula using well status and well depth to produce replacement costs. Included in the regulated assessments is well bore and certain well site equipment and protective structures relating to the well.

Machinery and equipment and improvements in place at a well site can be best described as anything not captured in the regulated assessments. In order to draw a parallel between the differences, regulated assessments relate to production at the well site while the balance is considered to relate to processing and is assessed as machinery and equipment and/or improvements.

INTRODUCTION

Separators:

Equipment designed to separate liquids from gases. Separators may be two-phase or three-phase devices. A two-phase vessel separates the well fluids into liquids and gas. A three-phase vessel separates the well fluids into oil, gas and water.

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Underground Tanks

Tanks designed to capture the liquids/water given off by the separators. The liquid/water is retained in the tank until such time as it is drawn off and either disposed of or processed.

Compressors

While compressors are available in a variety of types, sizes, and physical configurations, they are designed for the same purpose. In the natural gas industry the compressor is used to restore pipeline energy losses incurred in the transportation of gas or to convey gas from a low-pressure source to a higher pressure receiver.

Drip Pot

A device installed in a flow recorder's manifold to collect liquid that may condense out of the gas in the manifold and to minimize the chance of inaccurate differential and static readings caused by liquid in the meter assembly.

Governing Legislation

Section 284(k) of the Municipal Government Act defines "linear property", as

“(iii) pipelines, including

(A) any continuous string of pipe, including loops, by-passes, cleanouts, distribution meters, distribution regulators, remote telemetry units, valves, fittings and improvements used for the protection of pipelines intended for or used in gathering, distributing or transporting gas, oil, coal, salt, brine, wood or any combination, product or by-product of any of them, whether the string of pipe is used or not,

(B) any pipe of the conveyance or disposal of water, steam, salt water, glycol, gas or any other substance intended for or used in the production of gas or oil, or both,

(C) any pipe in a well intended for or used in

(I) obtaining oil or gas, or both, or any other mineral,

(II) injecting or disposing of water, steam, salt water, glycol, gas or any other substance to an underground formation,

(III) supplying water for injection to an underground formation, or

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(IV) monitoring or observing performance of a pool, aquifer or an oil sands deposit,

(D) well head installations or other improvements located at a well site intended for or used for any of the purposes described in paragraph (C) or for the protection of the well head installations,

(E) the legal interest in the land that forms the site of wells used for any of the purposes described in paragraph (C) if it is by way of a lease, license or permit from the Crown, and

(E.1) the legal interest in any land other than that referred to in paragraph (E) that forms the site of wells used for any of the purposes described in paragraph (C), if the municipality in which the land is located has prepared assessments in accordance with this Part that are to be used for the purpose of taxation in 1996 or a subsequent year,

but not including

(F) the inlet valve or outlet valve or any installations, materials, devices, fittings, apparatus, appliances, machinery or equipment between those valves in

(I) any processing, refining, manufacturing, marketing, transmission line pumping, heating, treating, separating or storage facilities, or

(II) a regulating or metering station,

or

(G) land or buildings;”

Section 284(1)(l) of the Municipal Government Act defines “machinery and equipment” as the meaning given to it in the regulations.

Alberta Regulation 365/94 passed pursuant to the Municipal Government Act, effective January 1, 1995, established Standards of Assessment. Section 1(g) of this regulation provides the following definition:

“1 In this Regulation

(g) machinery and equipment means materials, devices, fittings installations, appliances, apparatus and tanks other than tanks used exclusively for storage, including supporting foundations and footings and any other thing prescribed by the Minister that forms an integral part of an operational unit intended or our used in

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(i) manufacturing,

(ii) processing,

(iii) the production or transmission by pipeline of natural resources or products or by-products of that production, but not including pipeline that fits within the definition of linear property in section 284(k)(iii) of the Act, ...

whether or not the materials, devices, fittings, installations, appliances, apparatus, tanks, foundations, footings or other things are affixed to land in such a manner that they would be transferred without special mention by a transfer or sale of the land;”

Alberta Regulation 467/83 passed pursuant to Section 22 of the Electric Power and Pipe Line Assessment Act, prescribed standards and methods of assessment to be used in making assessments for taxation purposes under the Act. The Electric Power and Pipe Line Assessment Act was repealed effective January 1, 1995, but the Regulation remains in force where it is not inconsistent with the Municipal Government Act proclaimed January 1, 1995. This Regulation remains in effect and continues to establish the regulated rates for linear assessments. In conjunction with Regulation 467/83, the Department issued Assessment Commissioner’s Bulletins No. 4/83 and 2/86. The Bulletins, as stated in the preamble, “...is the most appropriate procedures for assessors in Alberta. They are not prescribed by statute or regulation.” The purpose of the Bulletin is to provide clarification as to what is assessed under the regulated rates. The Bulletins include “meter runs” attached to wellheads, in the regulated rates, as well as metering equipment, such as recorders, meters, counters used in conjunction with attached meter runs and manifolds.

Due to the complexities of the appeal, the Board requested representatives of Standards and Linear Assessment, Assessment Services Branch, Department of Municipal Affairs to appear and provide an overview of linear assessment. Both parties to the appeal agreed to their appearance, subject to the right of cross-examination. The representatives advised the linear rates are established by regulation and the current rates have not been updated since 1983. In recognition of changing values since 1983, the rates are adjusted each year by the application of a base year modifier.

The representatives advised the rationale for standardization is to eliminate the work required to value small items at well sites. Each site under appeal is assessed for linear at a rate of \$23,090, factored to the current year by the application of a base year modifier. It was also stated any well site equipment not present in 1983 would be accounted for in the base year modifier. Information pertaining to well sites is supplied by the owners and well counts are obtained from Alberta Energy and Utilities Board records. If any of the information supplied by the owners is related to machinery and equipment it is passed on to the appropriate municipality.

SUMMARY OF APPELLANT'S POSITION

Separators

The Appellant contends separators located at well sites are incidental to metering. Metering is a requirement of the Alberta Energy and Utilities Board and separators are used to knock out water to enable accurate metering. At one time drip pots, which are clearly linear, were used to enable accurate metering, but separators now perform this function. Further, knocking out water protects the pipe line which is clearly linear.

Underground Storage Tanks

Prior to the use of underground tanks, water separated at the well site was captured in holding pits. Because Alberta Environmental Protection now requires liquids to be contained, the tanks are used to capture liquids knocked out by the separators. As the tanks are tied to the separators, they are incidental to the function of the separators.

Compressors

The function of booster compressors is two fold, but in marginal or declining fields, the increased pressure allows either increased efficiencies or production of gas which could not be otherwise recovered. There is a difference between compressors located at well sites as compared to being on line. On line compressors increase line capacity while field compressors increase production.

Obsolescence

It is the contention of the Appellant that booster compressors are linear, but if not, the Appellant contends they should be subject to obsolescence due to declining field production and subsequent inefficiency. All the booster compressors under appeal show varying degrees of declining throughput since installation. The throughput is determined by production estimates in a sales stabilized analysis. Based on this analysis, throughput varies from a high of 45 percent to a low of 11 percent for the compressors under appeal.

In conclusion, the Appellant submitted the various equipment is included in the linear assessment and should be removed from the assessment roll. With regard to the booster compressors, if not included in the regulated rates, the declining throughput must be recognized by the application of a corresponding amount of additional obsolescence.

Costs

The request for costs is limited to the filing fee of \$50 per roll number required by the Assessment Review Board of the County of Minburn No. 27. The equipment subject to the current appeals

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were exempted by Board Order No. 79 and removed from the assessment roll for 1995. In 1996 a number of these items were again added to the assessment roll necessitating the filing of appeals. With no provision in the legislation for return of the fees, if successful before the Municipal Government Board, it is the Appellant's position that they should be reimbursed for costs incurred associated with the filing fees, exclusive of those relating to booster compressors.

SUMMARY OF RESPONDENT'S POSITION

Separators

The Commissioner's Bulletin 4/83 regards certain equipment as processing and thus excludes them from the regulated rates. Included in the exclusions are separators, dehydrators and underground tanks. In addition, any building that houses processing equipment is assessable as improvements.

The Respondent referenced the Municipal Government Act which excludes separating facilities from linear assessments. In addition, the definition of "separator" given by the Oil and Gas Conservation Act was referenced. This defines separator as a apparatus specifically designed and used for separating fluids produced from a well into two or more streams, but does not include a dehydrator.

Underground Tanks

Underground tanks are a part of the process in the separation of water from the gas and thus the water must be stored until such time as the producer removes the water from the site. The underground tanks are a required part of the process and are assessed as machinery and equipment. Further, underground tanks are not included in the definition of linear property, but according to the Commissioner's Bulletin 4/83, they are regarded as processing.

Compressors

Whether they are a single unit and termed a booster compressor or a multitude of compressor units, they perform the same function. The liquid is removed and the gas is compressed from a lower pressure to a higher pressure. Once this process has been completed the gas may be ready for market.

Obsolescence

Regarding obsolescence, the regulated depreciation is an immediate 25 percent and after six years, between 3.5 and 4.5 percent per year until 40 percent is remaining after 18 years. The throughput capacity of all booster compressors appears to be 30 percent in the County of Minburn No. 27.

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Obsolescence was considered, but based on the average throughput in the County, it was not considered warranted.

FINDINGS OF FACT

Upon hearing and considering the representations and the evidence of the parties shown on Appendix A and upon having read and considered the documents shown on Appendix B attached hereto, the Board finds the facts in the matter to be as follows:

1. Separators and drip pots differ in function and design;
2. Separators have not been accounted for in the standard used in linear assessments;
3. Within the context of gas wells, separators change the product by the removal of liquids and is considered a separation process;
4. Underground tanks are part of the process of separating liquids from gas;
5. Separators, integral piping, and related equipment plus underground tanks are a separating facility;
5. The primary function of compressors is in the transmission of gas.

In consideration of the above and having regard to the provisions of the Municipal Government Act, the Board makes the following decision, for the reasons set out below.

DECISION

The appeals are denied and accordingly, the machinery and equipment and improvement assessments enumerated for all the roll numbers shown herein, are confirmed.

It is so ordered.

REASONS

Separators and Underground Tanks

The primary function of separators, in this particular case, is to separate liquid from the gas. As the product emerging from the well is composed of gas and liquids, it is necessary to separate the two prior to transporting the gas by pipeline. This constitutes a process because the product transported down the pipeline differs from that emerging from the well. The argument offered by

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the Appellant that separators perform the same functions as drip pots can only succeed in isolation of the true function of drip pots and the physical state of the product transported in the pipeline.

Drip pots are used to ensure metering accuracy when a small stream of product is drawn off the total product emerging from the well head. While separators are used in lieu of drip pots, the primary function is not just to assist in metering, but to separate liquids from the product. Because equipment can perform two functions by one process, it is unreasonable to attribute its purpose to the lesser function and to consider the major function a side benefit of the whole process. Separation of liquid from the total product emerging from the well is the principal function of the separators and if done so prior to metering allows the elimination of drip pots. They cannot be then categorized solely as a replacement for drip pots. Given the primary function, the Board is of the opinion the separators operating at the well sites are part of a separating facility.

The argument that underground tanks are incidental to the function of separators and are only a requirement of Alberta Environmental Protection does not change their fundamental function. Whether using open pits or tanks, both are incidental to the separating function and must be considered part of a separating facility. Because open pits were not assessed does not necessarily mean that an alternative should not be assessed. In this case, the tanks are assessable because provision is made for them in the assessment process. Open pits have no material value.

Compressors

The primary function of compressors is to compress the gas in order to increase the volume transported by a pipeline. A secondary function is that by compressing the gas, field production may increase. Again the Board is of the opinion that the lesser function cannot be solely attributed to compressors, but that its major function must be used in determining its purpose. In this case, compression is used for transmission line pumping which Section 284(k)(iii)(F) of the Municipal Government Act clearly excludes from linear assessment.

Obsolescence

Regarding the secondary argument for additional depreciation based on diminishing throughput, the Board is of the opinion the evidence is inconclusive. In order to determine whether or not additional depreciation is warranted, comparisons must be made with similar property or equipment. While the rate of throughput appears low, the Appellant did not relate this to other higher average throughput at other wells in the municipality or other gas fields. With no comparisons to show throughput as being abnormally low, additional depreciation is impossible to determine. Further, the information showing declining production through the compressors is impossible to analyze without substantial design information. This is further complicated by the evidence of the Respondent indicating the throughput was within the average for similar facilities in the municipality.

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Past Decisions of the Municipal Government Board

From the evidence and expert testimony from representatives of the industry and linear assessment, the Board was able to obtain a comprehensive understanding of the purpose and function of the equipment on which the appeals are centered. Firstly, the Board is of the view that the matter is one of interpretation of what constitutes “production” and “process” within the context of the legislation and secondly, it is apparent that linear assessments have not kept pace with changes in technology. Given that interpretation when coupled with changing technology can cause confusion, it is understandable differing evidence will influence the decision rendered at different appeals. It is for this reason the Board is refusing to award costs in this matter.

The Board would also like to draw attention to one decision entered respecting the subject appeals and that is Board Order 153/96. The Board is of the opinion that the evidence, on the face of the Order, did not fully address the primary function of a separation facility in accordance with the definition provided in the Act. The evidence appears to be solely directed to the re-combination of the gas and liquid streams without substantive identification of the primary function of separators. Based on the depth of the evidence presented by both the Appellant and Respondent in this appeal, the Board is of the opinion that once the initial separation process has occurred, clearly there is an option to route the liquids elsewhere. The separation function has been satisfied and in accordance with the Act, the equipment is assessable.

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 28th day of July, 1997.

MUNICIPAL GOVERNMENT BOARD

N. Dennis, Presiding Officer

APPENDIX "A"

APPEARANCES

NAME	CAPACITY
G. Ludwig	For the Appellant
J. Thibault	For the Appellant
D. Wood	For the Appellant
J. Sandercock	For the Appellant
R. Beaupre	For the Appellant
S. McNaughtan	For the Respondent
D. Still	For the Respondent
K. Milne	For the Respondent
R. Westergreen	Assessment Services Branch, Alberta Municipal Affairs
R. Matiko	Assessment Services Branch, Alberta Municipal Affairs
D. Driscoll	Assessment Services Branch, Alberta Municipal Affairs

APPENDIX "B"

DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1.	Appellant's 1997 Appeal Brief
2.	Alberta Regulation 365/94
3.	Appellant's 1995 Appeal Brief
4.	Resume of John Sandercock
5.	Entire Assessment Record for Separators and meter facilities
6.	Submission prepared by D. Still
7.	Mr. Milne's Qualifications
8.	Transcript
9.	Definition of a Scrubber
10.	Terms and Definitions
11.	Letter from Mr. Thibault, dated August 4, 1995