Gas Distribution System Municipal Taxation Act

CHAPTER 27 OF THE ACTS OF 2004

as amended by

2023, c. 12, s. 2

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CHAPTER 27 OF THE ACTS OF 2004
amended 2023, c. 12, s. 2

An Act Respecting the Municipal Taxation of a Natural Gas Distribution System

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(The table of contents is not part of the statute)

WHEREAS the Nova Scotia Energy Strategy released in December, 2001, called for the implementation of a Province-wide taxation agreement in respect of the taxation of natural gas distribution assets;

AND WHEREAS the Union of Nova Scotia Municipalities has endorsed the concept of a uniform taxation model and engaged municipal units in an effort to identify a taxation model that will respond to the greenfield nature of the natural gas distribution system and allocate taxes fairly between urban and rural municipalities:

Short title

1 This Act may be cited as the *Gas Distribution System Municipal Taxation Act*. 2004, c. 27, s. 1.

Interpretation

2 In this Act,

(a) "franchisee" means the grantee of a full regulation class franchise pursuant to the *Gas Distribution Act*;

(b) "gas distribution property" means the gas distribution system including a high pressure distribution pipeline or a pressure reduction station and all other assets, excluding buildings and land associated with buildings, used to distribute natural gas, whether located on public or private property;

(c) "gas distribution system" includes any pipeline used or useful in the transportation, transmission or distribution of natural gas and any related systems used solely for supporting the operation of the system;

(d) "gross distribution revenues" means those revenues that were earned by a franchisee for the transportation and delivery of gas within a municipality, net of goods and services tax charged to a customer and net of the commodity cost of gas delivered and excluding any allowance for uncollectables, but does not include any earnings assigned as a result of accrual accounting;

(e) "high-pressure distribution pipeline" means steel pipelines designed, or that would ordinarily be designed, with the capacity to operate at a maximum operating pressure of greater than two hundred and seventy-five pounds per square inch gauge;

(f) "interprovincial pipeline" means the Maritimes & North East pipeline that received a Certificate of Public Convenience and Necessity GC-95 approved by the Governor in Council by Order in Council P.C. 1997-98, dated December 16, 1997;

(g) "municipality" means a municipality as defined in the *Municipal Government Act*;

(h) "pipeline" includes any pipe, main, service, trap, vent, vault, manhole, gauge, regulator, valve, appliance, attachment, appurtenance and any property located in, upon, along, across, under or over a highway, road, street or public or private right of way and any easement or real property owned or leased by the franchisee in which the pipeline is located;

(i) "pressure reduction station" includes a district regulating station, town border station, regulator station or custody transfer station or any easement or real property owned or leased by the franchisee on which the pressure reduction station is located;

(j) "single end-user" means a user that takes gas directly from an interprovincial pipeline, does not share the use of the interconnecting distribution pipeline with any other users and is the only user in its rate class;

(k) "village" means a village as defined in the *Municipal Government Act*. 2004, c. 27, s. 2.

Tax rates on gas distribution property

3 Notwithstanding clause 25(a) and Section 32 of the *Assessment Act*, all gas distribution property of a franchisee, either owned or occupied by the franchisee, except a high pressure distribution pipeline or a pressure reduction station, is exempt from taxation based on assessment and shall be taxed at a rate of two per cent on the gross distribution revenues attributable to the property for years 2004 to 2013, four per cent for years 2014 to 2018 and five per cent thereafter. 2004, c. 27, s. 3.

Assessment of high pressure distribution pipeline or pressure reduction station

4 (1) Notwithstanding that a high pressure distribution pipeline or pressure reduction station is located on, in, under, along or across lands exempt from taxation or lands that are non-assessable, the pipeline or pressure reduction station, as the case may be, is liable for assessment.

(2) Notwithstanding Section 42 of the *Assessment Act*, but subject to Section 5, a high pressure distribution pipeline shall be assessed according to the following pipe sizes at the following cost-per-metre rate multiplied by the length of pipe:

(a) 102mm (4 inch), $296.00;

(b) 152mm (6 inch), $390.00;

(c) 203mm (8 inch), $431.00;

(d) 254mm (10 inch), $533.00;

(e) 304mm (12 inch), $634.00.

(3) Where the size of a pipe does not match a size of pipe set out in subsection (2), the cost per metre for the purpose of subsection (2) shall be obtained by interpolation or extrapolation, if possible, and, if interpolation or extrapolation is not possible, the cost is the actual cost of constructing and installing the pipeline, exclusive of goods and services tax.

(4) The size of a pipe is the nominal outside diameter of the pipe.

(5) Assessed values determined pursuant to subsection (2) or (3) shall be revised using the average installed cost per metre by March 31, 2009, if the average installed cost of the respective pipe sizes differs by more than ten per cent from the assessed values, as determined from materials filed with the Nova Scotia Utility and Review Board as of December 1, 2008, and the revision is retroactive to the date the first assessed values were assigned and replaces those assessed values.

(6) The assessed value of a high pressure distribution pipeline installed after January 1, 2009, shall be the cost per metre pursuant to subsection (2), (3) or (5) multiplied by the length of pipe, increased or decreased by the percentage change in the Nelson-Farrar Index of pipeline construction costs between January 1, 2009, and the date the construction and installation of the pipeline was completed.

(7) Notwithstanding clause 25(a) and Section 32 of the *Assessment Act*, a high pressure distribution pipeline or pressure reduction station shall be assessed to the franchisee in the municipality in which the pipeline or station is located and notice of the assessment shall be served in accordance with Section 53 of the *Assessment Act*.

(8) Notwithstanding Section 42 of the *Assessment Act*, a pressure reduction station shall be assessed based on the assessed value determined from the total actual cost of the design, construction and land acquisition costs, including overhead but excluding goods and services tax, which actual costs shall be determined, where possible, from the franchisee's filings with the Board, and the assessment made pursuant to this subsection is effective on the date construction of the pressure reduction station was completed.

(9) All high pressure distribution pipeline and pressure reduction stations shall be subject to business occupancy assessment and taxation and all applicable area rates levied by the municipality in which they are located. 2004, c. 27, s. 4.

Exemption where single end-user

5 **(1)** Notwithstanding Section 4, a high pressure gas distribution pipeline and pressure reduction station serving a single end-user is exempt from taxation based on assessment and shall be taxed at a rate of eight per cent of the gross distribution revenues attributable to the pipeline and pressure reduction station, until November 1, 2014.

(2) Where the high pressure gas distribution pipeline connecting the single end-user to the interprovincial pipeline is located within more than one municipality, the tax owing pursuant to subsection (1) shall be payable to each municipality within which the pipeline is located in the same proportion as the assessed value of the pipeline or pressure reduction station referred to in subsection (1) within each municipality is to the total assessed value of the pipeline or pressure reduction station referred to in subsection (1). 2004, c. 27, s. 5.

Depreciation

6 **(1)** Subject to subsection (4), a high pressure distribution pipeline shall be depreciated commencing the year following the year in which construction is completed using a straight line method at a rate of two and fifty-six one hundredths per cent per year.

(2) Subject to subsection (4), a pressure reduction station shall be depreciated using a straight line method at a rate of three and seventy-four one hundreths per cent per year commencing the year following the year construction was completed.

(3) The depreciation of a pipeline or pressure reduction station shall be calculated annually as of December 1st of each year.

(4) Only a pipeline or pressure reduction station that has been in service for at least one year as of the depreciation calculation date referred to in subsection (3) shall be allowed a deduction for depreciation.

(5) Depreciation may only be taken pursuant to this Section until the amount of depreciation equals fifty per cent of the assessed value as determined pursuant to Section 4. 2004, c. 27, s. 6.

Depreciation for economic obsolescence

7 Notwithstanding Section 6,

(a) each high pressure distribution pipeline or pressure reduction station shall be depreciated for economic obsolescence by sixty-five per cent commencing in the year of construction completion, by fifty per cent in the year following construction completion and twenty per cent in the subsequent year and, thereafter, no economic depreciation shall be applied; and

(b) the depreciation taken pursuant to clause (a) includes the amount of annual depreciation referred to in Section 6. 2004, c. 27, s. 7.

Annual statement by franchisee

8 **(1)** A franchisee shall, on or before February 28th of each year beginning in 2005, furnish to the clerk of each municipality in which the franchisee has gas distribution property a written statement in the prescribed form, which statement shall show the gross distribution revenues in that municipality in which any gas distribution property may exist for the previous year.

(2) The Minister of Municipal Affairs and Housing may make regulations prescribing the form of the statement for the purpose of subsection (1). 2004, c. 27, s. 8; O.I.C. 2014-71; O.I.C. 2019-150; O.I.C. 2021-58; O.I.C. 2021-209.

Taxes payable quarterly

9 Taxes payable pursuant to this Act shall be paid by quarterly instalments thirty days after the conclusion of the previous quarter, such quarters being March 31st, June 30th, September 30th and December 31st, respectively. 2004, c. 27, s. 9.

Assessment of buildings and land

10 For greater certainty, any buildings and land associated with buildings used to distribute natural gas and land and buildings not forming part of the gas distribution property of the franchisee is subject to the *Assessment Act* in respect of the assessment of real property. 2004, c. 27, s. 10.

Agreement with village

11 A municipality of a county or district may agree to share taxes paid pursuant to Section 3 or 5 with a village located in the municipality if assets taxed pursuant to Section 3 or 5 are located in the village. 2004, c. 27, s. 11.

Assessment Act amended

12 *amendment*

Municipal Grants Act amended

13 *amendment*

Act effective for twenty-five years

14 This Act has effect for a period of twenty-five years commencing January 1, 2004. 2004, c. 27, s. 14; 2023, c. 12, s. 2.

Proclamation

15 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2004, c. 27, s. 15.

Proclaimed - December 21, 2004
In force - December 21, 2004