

THE STATE OF NEW HAMPSHIRE

COOS, SS.

SUPERIOR COURT

Portland Pipeline Company

v.

Town of Gorham

No. 93-E-76

ORDER

This is a tax abatement appeal pursuant to RSA 76:17 in which Portland Pipeline Company ("Portland") seeks an abatement of taxes assessed as of April 1, 1992 by the Town of Gorham ("Gorham"). The Court held a hearing on Portland's appeal on June 21-23, 1994. The parties have filed a written stipulation in which they agree that the equalization ratio for 1992 was 104%, and that Portland met all time and filing requirements.

Portland owns and operates a 166 mile pipeline for transportation of crude oil. The line commences at Portland, Maine and traverses the states of Maine, New Hampshire and Vermont, extending to the United States - Canadian border, where it connects with the Montreal Pipe Line. Approximately five (5) miles of this pipeline distribution system is situated in the Town of Gorham. Portland's property consists of three (3) pipelines: a 12" (now retired), an 18" and a 24". The 12" pipeline was constructed in 1941 and continued in use until 1982, when it was taken out of service. It was abandoned in 1984. Since its abandonment, the 12" pipeline has been used as a sacrificial anode or "cathodic" protection to decrease the corrosion in the remaining 24" and 18"

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pc: Hengen
Upton

pipelines.¹ The 18" pipeline was constructed in 1950 and the 24" pipeline in 1965 in response to increased demands for oil. In 1985, due to a decline in the demand for product, Portland made a decision to idle the 18" line, purge it and fill it with nitrogen gas. This pipeline was leased in 1987 to Granite State Gas Transmission for the transportation of gasoline product. Portland has opted to take back the line early pursuant to a provision in the lease, and claims that it intends to return the line to its previous usage of crude oil transmission.

From 1983 to 1991, there was no change in Portland's property assessment in Gorham except when the 12" line value was deleted by Gorham at Portland's request.

In 1991, Gorham hired MMC Appraisal Company to conduct an appraisal of Portland's property to conclude a basis for ad valorem tax purposes. MMC's appraisal resulted in a value of \$1,490,700 for Portland's property within Gorham. The previous year, the New Hampshire Department of Revenue Administration ("DRA") had conducted an appraisal which resulted in a value for Portland's property within Gorham at \$933,000 (employing the capitalization of income approach.)

Gorham was dissatisfied with MMC's appraisal, and midway through the 1992 tax year, hired George E. Sansoucy, P.E. to conduct an appraisal of fair market value of Portland's property. Mr. Sansoucy utilized the replacement cost new less depreciation

¹Portland is regulated by the Federal Energy Regulatory Commission ("FERC"), who authorized the abandonment of the 12" pipeline.

pipeline
the final replacement cost of each component of each pipeline to obtain a final replacement cost for the entire pipeline system.

Each of Mr. Sansoucy's adjustments for remaining useful life was based on an expected pipeline life of 90 years. He based the usage of a 90 year life on the facts that pipelines are designed to experience little physical deterioration over time and that many pipelines, both in the state and elsewhere, have been used for 60 to over 100 years. Portland argues that a 60 year life is more appropriate.

In November, 1986, the Federal Energy Regulatory Commission ("FERC") prepared a Depreciation Analysis of Portland Pipe Line Corporation. In this analysis, FERC used a mean life of 56 years for Portland's line pipe. Valuation of Utility Property, Appendix G, Schedule No. 5. While it is certainly true that a pipeline might physically last for 90 years or more, this does not account for technological obsolescence, competition or reduced product demand. Considering all these other factors, the Court finds that the 60 year lifetime advocated by Portland is most appropriate in evaluating Portland's pipeline system.

Applying a 60 year life to Mr. Sansoucy's calculations results in a total replacement cost new less depreciation of \$3,218,429.⁴ This number does not account for the value of easements that Portland holds.

Mr. Sansoucy also calculated the cost of an alternate to the current three pipeline system. As an alternate, he chose a single,

⁴See Table 1.