

**STATE BOARD OF EQUALIZATION
OPEN MEETING
MINUTES OF MEETING HELD AUGUST 19, 2020**

In attendance: Commissioners Tom Katsilometes, Tom Harris, Elliot S. Werk, and Janet Moyle; Maria Young, Mark Southard, Kolby Reddish, Rick Smith, Katrina, Basye, Brett Efaw, Kara Lansberry, Meredith Hodgson, Kyle Rayworth, Lori Millonzi, Kathlynn Ireland, Alan Dornfest, Nate Nielson, George Brown, and Jerott Rudd.

Commissioner Katsilometes, the Chairman for the State Board of Equalization, reconvened the State Board of Equalization for 2020 (Board). The hearing for the presentation of the appeal of Idaho Power and Avista (the Power Companies) was called to order. Ms. Katrina Basye and Brett Efaw, Idaho Power, Mark Southard of the Idaho State Tax Commission and Alan Dornfest Property Tax Policy Bureau Chief were sworn in by Secretary Maria Young.

Mr. Rick Smith presented the Power Companies appeal of the Idaho State Tax Commission 2020 assessment and he believes this should be a simple case. The single issue is whether Idaho Power and Avista should be entitled to the same type of equalization adjustment the railroads have received. This is a fundamental question: centrally assessed taxpayers should be able to request equalization from this Board. Equalization is an appropriate and necessary part of this Board's function, irrespective of the 4-Rs Act. The question is how to resolve an equalization claim. Will it be resolved by relying on the study of staff for county-wide equalizations, or will it be resolved based on a taxpayer-specific equalization process, as occurs with railroads, that looks at whether that taxpayer is entitled to equalization relief.

Mr. Smith submitted that the Idaho Constitution requires that taxes be proportionate to value and to be uniform within a class and he believes that the uniformity claim is particularly relevant because the railroads and the electric companies are in the same class. Mr. Smith disagrees with the Tax Commission staffs assertion that granting relief to these taxpayers could throw the whole county-wide equalization process upside down.

Mr. Kolby Reddish presented the case for the Idaho State Tax Commission. Mr. Reddish and Mr. Mark Southard, Senior Tax Appraiser, reviewed the presentation submitted to the Board prior to the hearing. Mr. Reddish replied to Mr. Smith's opening presentation. The Division agrees with Mr. Smith that this is not a valuation case. A central tenet of the Power Companies argument is that because they are in the same class, and assessed in the same way as railroads, that they are due the same adjustment. However, they are not appraised in the same way. There is a difference between what the commission's staff does for the rate-regulated electric industry and what they do for the railroad industry.

Mr. Reddish agreed with Mr. Smith that this is a very unique hearing. Normally, the Board hears appeals where the appraised value is at issue; the argument of the taxpayers is the demand that uniformity entitles them to a reduction that the US Congress intended explicitly for railroads. The Power Companies could be entitled to the 4-R Act adjustment if they owned or operated rail transportation properties: properties that were specifically selected by Congress to receive the special treatment, as a matter of federal pre-emption over Idaho's normal uniformity requirements. This is a novel and difficult question and has never been touched upon by Idaho appellate courts or an Idaho federal district court. Petitioners bear the burden of proof to show that the actions taken by the division

have been unreasonable or incorrect. The 4-Rs Act is a unique species of federal pre-emption that removes the railroad industry from consideration under Idaho's uniformity clause.

Mr. Mark Southard provided testimony and said that the appraisals of railroads and electric utilities are fundamentally different. He discussed the parameters of Idaho Code 63-205B and concluded by saying that this same code puts operating properties and railroads in different classes by the appraisal constraints it imposes on the appraiser.

Chairman Katsilometes asked for questions, and after questions from the Board, opened the hearing to closings and rebuttals from both parties. Mr. Smith then had the opportunity for rebuttal and to answer questions from the Board. Mr. Smith presented his rebuttal and closing statements.

Chairman Katsilometes explained that the Board will deliberate on the Power Companies appeals. Chairman Katsilometes outlined the process and explained that the Board will need to provide staff enough direction to know what the actual value is for The Power Companies to draft the decisions for the Board's vote by Monday, August 24, 2020, when the Board of Equalization adjourns. Chairman Katsilometes opened the meeting for deliberation and asked for the recommendations of the Board for Idaho Power and Avista. Commissioner Moyle, Commissioner Harris and Commissioner Werk gave their opinions and discussion followed. The Board gave direction to staff to prepare a draft decision upholding the Bureau's appraisal, to be considered when the State Board of Equalization reconvenes on Monday, August 24, 2020 at 9:00 a.m.

There being no further business, Commissioner Katsilometes recessed the Board until 9:00 a.m. on Monday August 24, 2020.

Maria Young
Secretary

Tom Katsilometes
Chairman of the Idaho State Board of Equalization