

**IDAHO STATE BOARD OF EQUALIZATION  
OPEN MEETING  
MINUTES OF MEETING HELD AUGUST 9, 2021**

In attendance: Commissioners Tom Katsilometes, Jeff McCray, Elliot S. Werk, and Janet Moyle; Maria Young, George Brown, Phil Skinner, Kolby Reddish, Alan Dornfest, John Bernasconi, Allison Dodge, Lori Millonzi, Jerott Rudd, and Brett Jarvis. Becky Ihli joined via teleconference.

Commissioner Katsilometes, the Chairman for the State Board of Equalization, convened the State Board of Equalization for 2021 (Board). Commissioner Katsilometes said the Idaho State Tax Commission is required by Idaho Code Section 63-108 and 63-405 to convene as the State Board of Equalization. The Board is now in session.

**Procedure for the 2021 Board of Equalization**

Commissioner Katsilometes recognized Phil Skinner, Lead Deputy Attorney General assigned to the Tax Commission and acting as legal advisor to the Board for the duration of the 2021 Board of Equalization. Mr. Skinner reviewed the procedures for this year's Board to ensure the hearings flow smoothly and more effectively. This year, Prehearing Conferences were held to determine the time frames and requirements for each of the hearings. One hearing includes 34 cases and it is predicted each side will require approximately six hours each. The parties are optimistic they will finish in one day, not using the whole 12 hours. Mr. Skinner noted the Board will convene every day this year to allow discussions on issues as needed. Additionally, the attorneys for the parties will draft decisions for review. Mr. Skinner will then verify the decisions upon which the Board will vote. The vote this year will be on August 20, 2021.

**Status on Appeals**

Commissioner Katsilometes recognized Kolby Reddish, Deputy Attorney General to report on the status of the Idaho Power and Avista appeals. Mr. Reddish noted he represented the state for the appeals of these operating properties in 2020 and again this year. Property Tax Administrative Rule 407, which governs the proceedings before the Board of Equalization, allows the taxpayer to request a stipulated finding that would result in an appealable decision in lieu of a hearing. It is the taxpayer's right to waive hearing before the Board and appeal the Board's decision directly to District Court. Because the issues in the Idaho Power and Avista cases are not factual issues but are instead legal issues, and because this discussion began before the District Court issued its decision last week, Mr. Smith, the attorney for Idaho Power and Avista and Mr. Reddish entered into a stipulation that the parties are jointly recommending that the Bureau's values be upheld by the Board, thereby preserving the appellant's right to appeal to District Court if they choose.

Commissioner Moyle noted she has a concern: when these cases are combined, the problem is that then the values, if they are overturned, presents a problem for the counties. They then go back to the legislature for special levies; it is a real problem. She said it is a difficult situation for everyone, but again, she raises the same concern about rolling these together because it creates even more of a burden.

Commissioner Werk said he understands the concern. By rule, the appellant can request either a hearing or may stipulate to a decision. If a hearing is conducted and it turns out the same as it did before (on the one that is currently in court) is there anything within that framework to ensure we don't get into that situation with the counties? He is unsure what role we play with whether the counties are in that position.

Mr. Reddish commented that we don't have any control over the courts. He said, on this case, they have attempted to resolve as quickly as possible through multiple dispositive motions and have resolved part of the case. He understands Commissioner Moyle's concern. One of the reasons he felt it appropriate to stipulate in this case as opposed to another is because this case is purely legal. They haven't appealed their values, they haven't asked the Board to deviate from the values, except on the legal issue of uniformity. He believes this differs from what the Board did previously with the non-utility generator (NUG) cases that were all lumped together.

Commissioner Katsilometes recognized Phil Skinner to report on behalf of Nathan Nielson, Deputy Attorney General representing the state for the non-utility generator's (NUG) appeals. Mr. Skinner said there are 34 NUGs and he communicated to both parties that these cases will be considered individually. For efficiency's sake, there will be one hearing, but there will be 34 separate decisions. It will fall to the parties to distinguish the differences between the properties and that is the reason the hearings are predicted to take so long. He communicated to each party that the Commissioners want to understand the differences and similarities. The hearing will be next Monday, August 16.

Commissioner Katsilometes recognized Brett Jarvis, Deputy Attorney General representing the state in the case of Lumen Technologies, Inc. There are two issues presented: one is the incorrect determination of the real market value which involves four separate issues, and an issue about the constitutionality of uniformity, the same issue that was stipulated in the Idaho Power case; Lumen is also represented by Rick Smith. Mr. Jarvis and Mr. Smith entered a stipulation on the point of uniformity and the hearing on that will be waived by mutual consent. The hearing will be held on August 17.

Commissioner Katsilometes clarified that the uniformity issue will be stipulated, as it is for Idaho Power and Avista Corporation and the hearing for the remaining four issues will be on the value. Mr. Jarvis agreed.

#### **Status Report of Abstracts and Assessments**

Commissioner Katsilometes recognized Alan Dornfest, Property Tax Policy Bureau Chief, to report on the receipt of abstracts of assessments in the counties. Mr. Dornfest said all county abstracts have been received, showing values in all categories. They have compiled the information and that was disseminated last week. The numbers are very preliminary and have not been thoroughly reviewed. Some values are highlighted in the report the Board received that stood out as needing an explanation. The lists have been returned to the consulting appraisers for review. To date, two have responded. Mr. Dornfest stressed to the Board that this report is not final; however, all abstracts have been received. The final report should be available early next week.

Mr. Dornfest asked that, as the Board reviews this preliminary report, please email him any questions so he can follow up with the counties.

At this point, he has no reason to believe any of the properties throughout the state will be out of compliance.

There being no further business, Commissioner Katsilometes recessed the Board until 9:00 a.m. on Tuesday, August 10, 2021.

Maria Young  
Secretary

Tom Katsilometes  
Chairman of the Idaho State Board of Equalization