

**STATE BOARD OF EQUALIZATION
OPEN MEETING
MINUTES OF MEETING HELD AUGUST 11, 2021**

In attendance: Commissioners Tom Katsilometes, Jeff McCray, Elliot S. Werk, and Janet Moyle; Maria Young, Phil Skinner.

Commissioner Katsilometes, Chairman for the State Board of Equalization, reconvened the State Board of Equalization for 2021 (Board) at 9:00 a.m. August 11, 2021.

Commissioner Katsilometes noted that HK Hydro, LLC has withdrawn their appeal and they will be removed from the agenda and from the list of appealing non-utility generator (NUG) properties.

Commissioner Werk commented that he asked Mr. Dornfest about a county that showed a significant variance. Mr. Dornfest told him the county had submitted the previous year's data. Secondly, Commissioner Werk reviewed portions of the NUG appeals and they seem to repeat themselves. He asked Ms. Young if there is any concluding document in the NUG submittal that provides the actual change they desire? Over the two or three they have appealed they were asked what resolution they desired, and they couldn't provide an answer, and he wonders if there is anything now other than that they don't like how they've been valued. It is difficult decide a case based on that. Is there any additional document that says what they would like? Ms. Young responded that the attorney for the represented parties, Mr. Tom Arkoosh, has submitted information for the presentation that the Board has access to but to her knowledge, there is no summary document saying what the problem is and how it can be fixed and can only presume that it is part of the presentation. Commissioner Werk asked Mr. Skinner about the prehearing conference and whether Mr. Arkoosh provided a specific remedy at that time? Mr. Skinner said he only remembers some dialogue with Mr. Arkoosh saying he couldn't propose an alternative value; it is certainly a question to ask during his presentation.

Commissioner Werk asked about the settlement of these cases. Commissioner Moyle said they settled one year (2018) and then chose not to settle on the subsequent years. Commissioner Werk said his understanding was that the settlement of the one year had to do with what the appraisal process might look like; what values might be used and how it might be done. The question is whether the Bureau used that agreement as a basis for the values that have been set this year? Commissioner Moyle said she believes that is a question that should be reserved for the appraiser. Commissioner Katsilometes said the 2018 value is where they set the standard for the value and that is the process that was used and is what the appellant doesn't like. Commissioner Werk clarified that when we settled on 2018, his understanding was that we would tweak the process some. Was that "tweaked process" used for the values that were developed for this year? Commissioner Katsilometes said yes. Commissioner Moyle then asked what the changes were? Commissioner Katsilometes said they had a "gentlemen's agreement" that they would accept the 2018 values for 2019 and 2020, but they changed their minds. We need to ask the appraiser that question.

Commissioner Werk said it is nice to have these meetings every day so the Board can have these discussions. He will wait to see if some remedy is proposed. Mr. Skinner said that during the prehearing conferences, he told both parties that, like a court case, a Board member may request a

draft decision finding in their favor. The NUG representative would then need to prepare a decision with a value. The Board could request the appealing party prepare a decision as well as the state to be able to see both values at the same time.

Commissioner Moyle said her preliminary review of the documents shows that one of their complaints is that the Yield Rate Study was done incorrectly, but the Yield Rates are going in their favor and she would agree with the state's assessment. The only argument she can see is that when they do the reconciliation, they use the same weighting process on each. They aren't so that's the only argument she can see at this point. It will be interesting to see what they say. Commissioner Moyle also observed that, based on their income statements, some of these NUGs, even though we've been told they aren't building, they are making improvements, so the value will increase. She noticed several things that seemed to conflict with prior testimony.

Commissioner Katsilometes asked how much the Board members can discuss in these meetings. Mr. Skinner said the reason we're having meetings every day this year because the Open Meeting Law does not allow the Board to have conversations outside an open meeting. They are free to discuss what they need to discuss in this setting. Commissioner Katsilometes asked if they can ask the parties to be present. Commissioner Moyle asked if we invite one, do we have to invite the other? Mr. Skinner said best practices would be to have both parties present. Mr. Skinner said yes, we can recess now and reconvene later.

Commissioner Werk said he doesn't need to change what each party is going to do and doesn't think we need to have them come in prior to the scheduled hearing time. Each party should present their case. It's just frustrating to have gone through this three times now, and to use so many staff resources then review the information for the 2021 appeal and see nothing different and no proposed resolution. Commissioner Katsilometes said that is a legitimate question to ask, and he noted they have the right to appeal. Commissioner Werk agreed and has no issue with the appeal. Commissioner Moyle congratulated Mr. Nielson for saying these cases need to be separated because when we do a mass appraisal, they are put in as a group and that is where their arguments are, but when you're defending them, you're defending them individually. She agrees with Commissioner Werk. They are trying to have us defend values as a group and you can't do that. If you're going to defend the value it must be on each individual appraisal. Commissioner Werk wants the hearing to proceed and ask the Bureau what they've done and then ask the appellant about their proposed remedy. He just thought it would be nice to talk amongst the board members about this issue.

There being no further business, Commissioner Katsilometes recessed the Board until 9:00 a.m. on Wednesday August 12, 2021.

Maria Young
Secretary

Tom Katsilometes
Chairman of the Idaho State Board of Equalization