

**STATE BOARD OF EQUALIZATION
OPEN MEETING
MINUTES OF MEETING HELD AUGUST 16, 2022**

In attendance: Commissioners Tom Katsilometes, Jeff McCray, Janet Moyle, and Jared Zwygart; Maria Young, Phil Skinner, Rick Smith, Bwembya Chikolwa, Amy Breilly, Nate Nielson, Jim Powell, Jerott Rudd, George Brown,

Commissioner Katsilometes, Chairman for the State Board of Equalization, reconvened the State Board of Equalization for 2022 (Board) at 9:00 a.m. August 16, 2022.

This is the appeal for Lumen Technologies, Incorporated. Representing Lumen is Richard (Rick) Smith who will recognize any witnesses he will call to testify. Nathan (Nate) Nielson, Deputy Attorney General assigned to the Tax Commission is representing the Operating Property Bureau. The Board will take periodic breaks throughout the hearing. The Board may ask questions throughout this process. At the Prehearing Conference, each party agreed to present for two- and one-half hours, for a total of five hours.

Maria Young, Secretary to the Board, and Phil Skinner, Legal Advisor to the Board will track time for each presentation. Mr. Smith will present first, since he has the burden of proof to show that the Operating Property Bureau's values are incorrect. The Operating Property Bureau will then present their case. Mr. Smith will have an opportunity to respond and provide closing statements. All parties present, and expected to testify, were sworn in by Ms. Young.

Mr. Smith introduced Dr. Bwembya Chikolwa, of Lumen Technologies, Inc., and Amy Briley, also with Lumen Technologies Tax Department. Dr. Chikolwa will testify, and they intend to speak with Dr. Hal Heaton, former Economics Professor at BYU, who will call into the teleconference line during the beginning of the state's presentation.

The presentation materials submitted to the Board define the issues for consideration quite well. These are classic issues about methods used to value the operating property of a company: cost approach, and income approach, including what type of income approach is used. Last year the capitalized earnings, or capitalized income approach, was used and given 60% weight: the weight consideration for the capitalized earnings method was at issue before the Board last year. The Board agreed that it should be given more weight. Lumen advocates using the capitalized earnings method again this year, with the 60% weight allowed last year, given that the income approach tends to be a more reliable approach for valuing income-producing property. Lumen objects to the use of the discounted cashflow (DCF) model used by the Operating Property Bureau. They don't believe it is reliable in this case. Mr. Smith provided background to support the argument that the DCF is inadequate, saying the state allowed 65% weighting to this method. Lumen appeals to the Board that the capitalized earnings method that was used last year should be the method used this year.

Dr. Chikolwa thanked the Board for hearing their presentation today, provided his credentials and elaborated on Mr. Smith's opening remarks. Mr. Smith noted the value for Lumen Technologies, Inc. last year was \$223 million after the Board of Equalization hearing for the Idaho Allocated Value; staff's value this year is \$245.6 million.

In reviewing the reconciliation, they feel that despite their reservations with the capitalized income model, it's a stable model with few surprises and should be given 60% weight because they're driven by income. They would ask that the cost approach be run completely, and given 40% weight, with 0% to DCF and 0% to stock and debt. Mr. Smith concluded by saying their proposed value is \$172.4 million.

The Board recessed briefly.

Commissioner Katsilometes reconvened the Board and recognized Mr. Nielson to make his presentation for the state. Mr. Smith has one hour and ten minutes remaining of his two- and one-half hours. The state has two- and one-half hours allotted for their presentation.

Mr. Nielson thanked the Board and said the Operating Property Bureau's appraisals are an estimated value of the property and it is the job of the Tax Commission to turn those estimates of value into an assessment. The Bureau recommends the Commission use that appraised value, which is aligned with increasing indicators of Lumen's value, as reported by Lumen to their investors.

The Bureau considered a cost approach, specifically a historic cost less depreciation (HCLD) approach and three income approaches: a constant growth model, a no-growth model, and a DCF model. The Commission also considered a market approach, which is the stock and debt model. The Bureau prepared these appraisals by the book, following all of Idaho's rules and procedures in determining these values. It also followed the Western State's Association of Tax Administrators (WSATA) handbook. Mr. Nielson discussed the approaches considered and used and the reasons for each. The Bureau allowed 0% weight on the constant growth model because they also prepared the DCF model. Should the Board choose to use the constant growth model in lieu of the DCF model, the Bureau would ask that they shift the 65% weighting from the DCF model to the constant growth model. The Bureau believes the value offered in its appraisal reflects a conservative estimate of market value and they recommend the Board accept this value and not make the adjustments Lumen suggests.

Mr. Nielson introduced Jim Powell, Tax Commission Operating Property Bureau Senior Appraiser and asked him to review his background and qualifications. Mr. Powell elaborated on Mr. Nielson's opening remarks. The state allocated 65% to the DCF model, 20% to the no-growth capitalized income indicator, 10% to stock and debt approach, and 5% to the cost approach.

The Board recessed for lunch.

Mr. Nielson introduced Jerott Rudd, Property Tax Operating Property Bureau Chief with oversight of Centrally Assessed Property Valuation and reviewed his background and qualifications. Mr. Nielson asked Mr. Rudd about the different indicators of value and the weighting used in this year's appraisal. Mr. Rudd elaborated and said that based on Lumen's appeal last year, wherein they requested a 60% to 40% weighting on income and cost, the Bureau evaluated their approach and more accurately attributed weights to the considered approaches. Consequently, they reviewed all available approaches to provide the most conservative and realistic indications of value for Lumen, finding no justification for additional obsolescence.

Ms. Young swore in Dr. Hal Heaton to provide testimony on behalf of Lumen Technologies, Inc. Dr. Heaton provided his credentials and the relevance his testimony has to the valuation of assets on appeal before the Board of Equalization. Dr. Heaton explained the overall issues with using the

DCF in Lumen's case. He reviewed the various economic indicators associated with performing an assessment of Lumen's value. Dr. Heaton discussed the DCF model, saying Lumen's revenues have fallen every year for over eight years.

Mr. Smith provided closing remarks saying they don't believe that staff, nor Lumen, are ready for the DCF model and he asks the Board to reject this novel attempt to bring in the DCF model; the experiment is a failure. He discussed the use of the no-growth capitalized income method and said it is likely a conservative valuation method for Lumen. Using the constant growth model in lieu of the DCF would also be wrong. If the Board chooses not to allow for the obsolescence adjustment, Lumen asks they assign a lower percentage weight to the cost approach. Mr. Smith reminded the Board that they are not bound by either presentation.

Commissioner Katsilometes asked if there is any further discussion about the presentations or documentation received. Hearing none, Commissioner Katsilometes noted that the Board will convene on Thursday, August 18, 2022, at 9:00 a.m. to deliberate and provide direction for the decision upon which they will vote on August 19, 2022. Mr. Neilson was recognized and asked if the parties should expect to receive questions from the Board during their deliberations. Commissioner Katsilometes said deliberation is between the Board members and they should not have questions for the presenting parties. Commissioner McCray clarified that now is the time for questions. Mr. Skinner provided that if they are in an open meeting, the Board may discuss anything upon which they will vote. Mr. Smith asked that if the Board chooses to discuss this appeal that they be notified. Commissioner Katsilometes agreed.

There being no further business, Commissioner Katsilometes recessed the Board until 9:00 a.m. on Wednesday August 17, 2022.

Maria Young
Secretary

Tom Katsilometes
Chairman of the Idaho State Board of Equalization