

**STATE BOARD OF EQUALIZATION
OPEN MEETING
MINUTES OF MEETING HELD AUGUST 17, 2020**

In attendance: Commissioners Tom Katsilometes, Tom Harris, Elliot S. Werk, and Janet Moyle; Maria Young, George Brown, Kathlyn Ireland, Phil Skinner, Kolby Reddish, Jerott Rudd, Erica Taggart, Nathan Nielson, Kyle Rayworth, Matt Southard, and Norman Ross.

Commissioner Katsilometes, the Chairman for the State Board of Equalization, reconvened the State Board of Equalization for 2020 (Board) and introduced the Commissioners present for this meeting and acknowledged those attending by phone: Gerry White, Union Pacific; Tom Arkoosh, IdaHydro; Erick Shaner, Deputy Attorney General, Idaho State Tax Commission; and Norman Ross, PacifiCorp, joined via Webex.

Mr. Alan Dornfest, Property Tax Policy Bureau Chief, presented the update on the county abstracts. The Board has copies before them of the complete listing of all the categories compared to last year's values. Each category consists of one page and the comments from consulting appraisers on the following page details why changes occurred. The information concerning the larger changes has not yet been compiled, but the rest is available for your review. The highlighted fields indicate that additional information was requested from the consulting appraisers. If there are categories about which you would like further information, please let him know and he will forward the request to the consulting appraiser. Mr. Dornfest responded to Commissioner Harris' question about the threshold for requesting explanations: If there is a positive or negative change of 20%, or a change of at least \$2 million, he requests an explanation from the consulting appraiser.

Mr. Norman Ross, representing PacifiCorp, representing the IdaHydro properties, Mr. Kolby Reddish of the Idaho Deputy Attorney General's Office, and Erica Taggart of the Idaho State Tax Commission were sworn in by Secretary Maria Young.

Mr. Tom Arkoosh advised the Board that IdaHydro does not have a presentation, having entered a stipulation as they did last year. Mr. Arkoosh asked if he could be heard and dismissed prior to the PacifiCorp presentation. He added that the District Court hearing is set for October and he expects resolution of this case. Mr. Skinner advised the Board that with the agreement of Mr. Ross, we can allow the IdaHydro appeal be presented before the PacifiCorp hearing. Commissioner Katsilometes advised Mr. Ross of the request to hear the IdaHydro appeal prior to PacifiCorp's hearing; Mr. Ross agreed, and the PacifiCorp presentation was suspended in lieu of the IdaHydro presentation.

Commissioner Katsilometes acknowledged that Mr. Arkoosh, representative for IdaHydro, and Erick Shaner, Representative of Operating Property Staff have entered a stipulation to waive oral arguments. Mr. Skinner explained that two years ago, the IdaHydro companies appealed their values to the BOE in a full hearing. They appealed that decision to District Court, and it is still pending. Last year, IdaHydro appealed to the BOE and, similar to this year, entered into an agreement with Mr. Shaner and Property Tax Staff. The IdaHydro companies are asking the Board to waive the formal hearing of the 2020 property tax appeals and they request the matter be decided upon the record that includes the operators' statements, the Bureau's 2020 appraisals, and IdaHydro's appeals and Requests for Hearing before the 2020 BOE and the 2018 BOE Record. The parties agreed that once

this occurs, they will ask the court to hold the matter in abeyance pending resolution of the case pending before the District Court.

Commissioner Moyle disagreed with this process saying that appraisals can be different from year to year and that the Board should listen to the appraisal hearing every year, regardless of whether it goes to District Court. Mr. Arkoosh responded by saying that unlike most agencies, the record in the District Court is a de novo record. There are two issues, and those fundamental issues, for all the years of the appeal, will be controlling in the District Court cases, notwithstanding what the Board does. The appraisals completed in 2018, 2019, and this year are almost identical. There is nothing more he could present now that was not already presented in 2018 and it doesn't serve anyone to make the same presentation now, and for the Board to go through the same process; so he therefore believes it is safe for the Board to adopt the old record and make their decision.

Commissioner Werk asked for Mr. Erick Shaner to comment on Mr. Arkoosh's statements. Mr. Shaner said there is no new evidence to be presented to the Board today by IdaHydro that would change the results that were previously issued. The Board of Equalization has made two decisions and has set a strong precedent for this year. It is also important to note that the Commission has been giving a significant amount of time and resources into these issues that are in litigation before the District Court. As Mr. Arkoosh has said, the Court should be able to resolve this.

The 2020 IdaHydro Parties are: AJMS LLC, Arkoosh Little Wood River Ranch, BC Hydro LP, Bell Mountain Hydro, Birch Creek Hydro, Briggs Creek Hydro, Bypass Limited, Crystal Springs Hydroelectric LP, Dry Creek Hydro, Geobon II Hydroelectric, Hazelton A Hydroelectric, Koyle Ranch Hydro Project, Lemhi Hydropower Company, Marco Power, Inc., Marsh Valley Hydro, Midway Power LLC, Mink Creek Hydro LLC, North Gooding Main Hydro LLC, North Side Canal Co Lt, Rock Creek Joint Venture Hydro, Shoshone Hydro Project, Saint Anthony Hydro

Chairman Katsilometes asked for recommendations of the Board to give direction to staff to prepare a draft decision upholding the 2018 decision that will be considered when the State Board of Equalization reconvenes on Monday, August 24, 2020 at 9:00 a.m.

Commissioner Harris motioned that the Board instruct staff to draft a decision to waive a formal hearing upon the 2020 Property Tax Appeals filed before the BOE by the IdaHydro Parties and requests the matter be decided upon the record that includes the operators' statements, the Bureau's 2020 appraisals, and IdaHydro's Appeals and Requests for Hearing before the 2020 BOE, and the 2018 BOE of record. Commissioner Werk seconded; Chairman Katsilometes called the roll: Commissioners Harris and Werk voted aye, Commissioner Moyle dissented, and staff was directed to draft a decision in accordance with the language of the stipulation that was signed by both parties.

The hearing for the presentation of the appeal of PacifiCorp was called to order. Commissioner Katsilometes allowed that Commissioners may ask questions throughout the course of the presentations and time will be adjusted accordingly.

Mr. Norman Ross, Tax Director for PacifiCorp, presented his appeal of the Idaho State Tax Commission 2020 assessment. Mr. Ross thanked the Board for being allowed to present remotely and for the Board's attention to these important issues. Mr. Ross said PacifiCorp appeals values because it legitimately believes that market value lags below the assessed value, as it does this year. He will ultimately recommend a change in the value.

Mr. Ross reviewed the presentation submitted to the Board prior to the hearing and submitted to questions from the Board during the course of his presentation. He noted PacifiCorp has operating properties in 10 Western states and serve approximately 1.9 million customers throughout their service territory. The industry is undergoing a vast transformation and that is a significant issue for the industry, and for valuation of the company's operating property. It is his view that the Tax Commission is not taking that transformation process into account.

The Board reconvened after a 10-minute break. Chairman Katsilometes recognized Mr. Kolby Reddish to question Mr. Ross through Chairman Katsilometes. Mr. Reddish introduced Ms. Erica Taggart and they reviewed the presentation submitted to the Board prior to the hearing. Ms. Taggart provided testimony and defined her disagreement with the PacifiCorp assessment. Mr. Reddish and Ms. Taggart submitted to questions from the Board during the course of the presentation. Chairman Katsilometes asked if the Board had any further questions for Mr. Reddish and Ms. Taggart.

Chairman Katsilometes asked for questions, and after questions from the Board, opened the hearing to closings and rebuttals from both parties. Mr. Ross then had the opportunity for rebuttal and to answer questions from the Board. Mr. Ross presented his rebuttal and closing statements. Mr. Ross cited a 2011 Utah District Court decision and Mr. Reddish objected to the citation, saying Utah Law is not relevant to proceedings under Idaho Law.

Chairman Katsilometes recessed the Board until 1:00 p.m.

Chairman Katsilometes reconvened the Board at 1:00 p.m. and explained that the Board will deliberate on the PacifiCorp appeal. 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 PacifiCorp. An actual value is needed so the draft decision and other calculations may be made 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 the PacifiCorp Energy valuation. 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 1:00 p.m. on Wednesday August 19, 2020.

Maria Young
Secretary

Tom Katsilometes
Chairman of the Idaho State Board of Equalization