

**STATE BOARD OF EQUALIZATION
OPEN MEETING
MINUTES OF MEETING HELD AUGUST 17, 2022**

In attendance: Commissioners Tom Katsilometes, Jeff McCray, Janet Moyle, and Jared Zwygart; Maria Young, Phil Skinner. Bruce Cartwright, Brett Jarvis, Kyle Rayworth, Jerott Rudd, Nathan Nielson, George Brown, Allison Dodge, Alan Dornfest, Kathlynn Ireland, Matt Virgil.

Commissioner Katsilometes, Chairman for the State Board of Equalization, reconvened the State Board of Equalization for 2022 (Board) at 9:00 a.m. August 17, 2022, and welcomed everyone in attendance.

This is the appeal for Rathdrum Power. Bruce Cartwright is representing Rathdrum Power, and Brett Jarvis, Deputy Attorney General assigned to the Tax Commission, is representing the Operating Property Tax Bureau. The Board may ask questions throughout the hearing. At the Prehearing Conference, each party agreed to one hour for each presentation for a total of two hours.

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

Mr. Cartwright introduced himself and said he is with Kroll, formerly known as Duff and Phelps. His client is Rathdrum Power, LLC, and the plant to which they refer today is the Lancaster Generation Station. This Board has heard many cases involving non-utility generators. This is a natural gas-fired generation station that has a nominal capacity of 257 megawatts; about enough power to light and serve 50,000 homes. The plant is in Rathdrum, in Kootenai County. Mr. Cartwright said that Avista Power has a 25-year commitment under a power purchase agreement (PPA) to buy power from this plant; this plant is a tolling facility for Avista Power. He explained how the plant works and its efficiency. The plant is almost 20 years old.

Lancaster was originally contracted to Avista Corporation in 1998 to provide electricity and reached commercial production in October 2001. At the end of the contract term, there is no obligation for Avista to continue to buy power from Lancaster. The issue before the Board today is whether a remaining useful life and an economic life are different. Mr. Cartwright explained that everyone is expecting to be carbon neutral and Avista has reported that their wish is to achieve carbon-neutral status by 2027. The question is whether this plant will have market viability when the PPA expires in October 2026.

Mr. Cartwright no longer contests the cost of capital and he's informed staff of this change in his appeal. He continued by reviewing Avista's annual report to their shareholders. He also explained that Avista has published to their shareholders that they have no intention of renewing the contract with Lancaster. Mr. Cartwright believes the value he reached, using the way he approached it, is correct and approximately \$10 million more than staff's appraisal over the course of the PPA. He loaded the discount rate, a common practice when solving for the property tax liability. He provided to staff what the company believes the capital expenditures are during the remaining term of the PPA and those are lower than what staff used. He believes staff have overstated the federal and state income

taxes and he corrected those in his analysis. The resulting value he has calculated is \$44, 958,000. The state's value for the same period encompassing the remaining four years, ten months, is \$34,330,000. One must then determine the residual value of the company once the PPA expires. Every power company of this type are facing the same thing throughout the United States, and he sees no residual value in Lancaster after the PPA expires. The state predicts the terminal value at \$33,000,000 but Mr. Cartwright said that should be zero.

The Board asked Mr. Cartwright clarifying questions. Mr. Cartwright explained the terms of the PPA with Avista Power and the different types of energy sources for power-producing plants in the move from coal to green energy. After October 2026, Lancaster will become a stranded asset because there will be no demand for the plant's output. There's no way to convert the plant to anything other than natural gas.

The Board recessed briefly.

Commissioner Katsilometes reconvened the Board and recognized Brett Jarvis, Deputy Attorney General, to make his presentation for the state. Mr. Jarvis introduced Kyle Rayworth, Operating Property Bureau Appraiser. Mr. Rayworth's appraisal is a recommendation to the Board about the value of the property. This appraisal is an income approach: Mr. Rayworth used a cost approach; however, put no weight on it and the market approach was irrelevant in this case. This appraisal uses the income approach under the discounted cashflow (DCF) model. Mr. Cartwright has said today that he isn't contesting the discount rate, or cost of capital, so this presentation will focus on the forecasted income for the period after the PPA expires, and what the terminal value is in the DCF analysis for Rathdrum. He noted Rathdrum is asserting the property will be valueless after the PPA expires. The Bureau estimates that in four years, ten months, this property will still have value. This belief is based on the Western State's Association of Tax Administrators (WSATA) handbook and in Idaho State Property Tax Rule 405.01. During discussions as part of this appeal, Mr. Rayworth became aware he had been provided incorrect information. After receiving the new information, he was able to re-figure the DCF and the corrected information allows a more accurate picture of the market value of the property and the one the Operating Property Bureau recommends the Board use in their determination of value for this property.

Mr. Rayworth reviewed valuation principles, the DCF he completed, and the one completed by Mr. Cartwright; he reviewed the comparisons and made his recommendation to the Board. Mr. Rayworth discussed the two types of income capitalization and reviewed the definition of useful life as it relates to appraisals and property valuations, saying Avista Corporation has published that after the PPA expires, they expect the Lancaster plant to have a useful life of 15 – 20 years. Rathdrum has provided nothing indicating they will cease operations in the next five to ten years. Mr. Rayworth reviewed the process he used for the determination of value in his assessment. The income indicator of value is \$67 million which is the recommended value because the regional rates used in the initial appraisal were incorrect. This assessment is based on the corrected rates. The regional rates presented were the Midwest rates, not the Pacific Northwest rates, which are much higher.

The state's initial valuation was \$57.1 million. The terminal value calculation is based on the initial data received and based on the spot power price (SPP) regional projections and not Pacific Northwest valuations that had a drastic impact on the value. Making the correction to the right regional rates, the valuation is \$67.6 million. Using the correct rates makes a significant difference overall.

In summary, the initial values are compromised because the SPP rates used aren't applicable to Rathdrum's region. Based on the corrected information, the Operating Property Bureau recommends a pre-exemption valuation of \$67.6 million. If the exemptions for Rathdrum, which include pollution control, are removed from that value, the recommendation for the 2022 assessment value is \$64.383 million.

The Board asked Mr. Rayworth questions related to the updated valuation. Mr. Rayworth said he discovered that the incorrect regional rates were used late in the conversations with Kroll, after they appealed, and he made the adjustments based on the new information. Had they not appealed, Mr. Rayworth would not likely have updated the calculations.

Mr. Jarvis said last year, Rathdrum indicated they would have value after the PPA, but this year they're saying it will be valueless at the expiration of the PPA. The state's terminal value accounted for the uncertainty of being on the open market. Rathdrum's submitted terminal value of \$330,000 goes against appraisal principles and the administrative rule. Mr. Rayworth has outlined the issues: they used data from the wrong geographic region and double counted the property taxes. Because those two flaws don't accurately reflect Lancaster's situation, they can't help accurately arrive at market value. For these reasons, he and staff are recommending the assessed value of \$64.383 million for the plant.

Mr. Cartwright was recognized to respond. He read from Avista's annual report to shareholders wherein they explain how they will make up the loss of Lancaster. Lancaster is not able to confirm whether they will be re-contracted. That is solely in the hands of Avista. Mr. Cartwright said the state is using an incorrect standard of valuation and the wrong premise.

The Board asked Mr. Cartwright about the incorrect rates used. Mr. Cartwright responded that this isn't a merchant plant. He said he did it as a test to determine if there would be any economic feasibility at the end of the PPA. This is a difficult situation because this plant has a useful life longer than its economic life. Mr. Cartwright maintains that after the PPA expires in 2026, Avista Corporation has no further obligations to the Lancaster plant. The Board noted that in the same publication, they have stated a vested interest in the Lancaster plant.

The Board recessed briefly.

Commissioner Katsilometes reconvened to Board and recognized Alan Dornfest, Property Tax Policy Bureau Chief to discuss the ratio study. Mr. Dornfest introduced Matt Virgil, Property Tax Supervising Consulting Appraiser, Kathlynn Ireland, Property Tax Policy Bureau, and Eric Wilson, Property Tax Policy Bureau.

Mr. Dornfest discussed the Ratio Study report. These are the recommendations for property valuations. The preliminary report was submitted to the Board on August 15. There were 74 categories out of compliance this year. That's unprecedented and represents about 50% of all categories statewide. There were non-compliance issues in 38 of 44 counties. All counties have come into compliance with standards. The Board will receive a final report later today. The counties were out of compliance due to what he considers an extraordinary marketplace. The overall increase in the state for all categories combined was 45%. Most is residential, so most of the non-compliance issues were in residential, mirroring this massive increase in values. They believe the values for 2022 reflect the market, based on the ratio studies.

Mr. Dornfest discussed the abstract report. The preliminary report was submitted to the Board on August 15 with explanations included. Subsequently, Mr. Virgil, Ms. Ireland, the consulting appraisers, and he reviewed the data and have some adjustments to the numbers and information, updating the preliminary report. There were two expansions to the personal property exemption this year. One was the growth of the exemption per taxpayer. That has been added back so they can compute levies and replacement money correctly. The taxpayers will not be billed. The more important of the two was that the transient personal property exemption was provided first in House Bill 389 and expanded this year in House Bill 565. They were concerned about whether it was applied uniformly and correctly so they checked with each county and received verification from each assessor. Five counties indicated they had incorrectly included some of the property that should have been exempt under that statutory redefinition. Three have reconvened their Boards of Equalization and their actions are now complete. Their results will be included in the report submitted to the Board later today. The other two were unable to reconvene their Boards of Equalization; therefore, the State Board of Equalization will receive a recommendation for an order for those counties. Those counties are aware of the need and have no argument. Mr. Dornfest added that there was some noncompliance in the agricultural land categories, so Mr. Virgil and his staff researched those and assured all agricultural land is now in compliance.

The Board asked Mr. Dornfest to explain why the counties were out of compliance with the transient personal property. Mr. Dornfest said he believes it was inadvertent; they didn't realize the definition changed. Mr. Virgil responded that transient personal property was eliminated in the previous year. In April, the definition was broadened and there were some counties that missed that part of the new bill. He doesn't believe there was any intention and in one county there was a late assessor change. Mr. Dornfest explained that the consulting appraisers spoke with every assessor in the state. Ms. Ireland offered further explanation about how legislation is communicated to each county. Counties receive weekly updates during the legislative session, and once the governor signs the legislation, she itemizes each statute change and sends that to the counties. They receive checklists and instructions related to the new legislation. The Board commended the Property Tax Division on the work they have done to help organize this complex legislative change.

George Brown, Property Tax Division Administrator was recognized to speak. He said every year the property tax laws become more complex, and every year, the counties experience turnover. He anticipates this type of issue continuing through the coming years. The Board emphasized that education to the counties must continue and thanked Property Tax Division for all their work.

Commissioner Katsilometes asked that Mr. Dornfest be available at 9:00 a.m. Thursday, August 18, 2022, should the Board have additional questions. The Board will convene on August 18, 2022, to deliberate on the appeals of Lumen Technologies, Inc. and Rathdrum Power and provide direction to legal counsel for the final decision upon which the Board will vote on August 19, 2022.

There being no further business, Commissioner Katsilometes recessed the Board until 9:00 a.m. on Thursday August 18, 2022.

Maria Young
Secretary

Tom Katsilometes
Chairman of the Idaho State Board of Equalization