



April 14, 2014

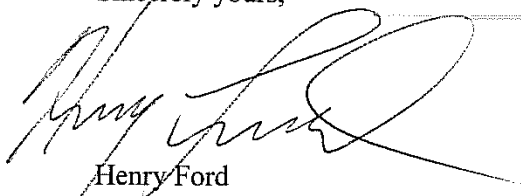
Mr. Dennis Feickert
38485 129th Street
Aberdeen, SD 57401

Re: In the Matter of the In the Matter of the Transmission Permit for the Big Stone
South to Ellendale Project (SD PUC Docket No. EL13-028)
Our File No.: 13054.000

Dear Mr. Dennis Feickert:

At the hearing in Aberdeen, you asked the Project to explain how the centrally assessed property tax system “works” (Transcript p. 109). Montana Dakota Utilities and Otter Tail, as you know, are public utilities whose property is taxed as central assessment property by the Department of Revenue and Regulation (“the Department”). The process is complex and different from how other property is taxed in South Dakota. The Department fixes the assessed value per mile of power line in each county. The Department determines the fair market value of the property of the utility taking into account the cost, market and income approach used in appraisals. The statutes require the Department to consider specific information when considering these approaches. After the determination by the Department then the Department certifies to the each county auditor where the property is located and the value to be placed on the county tax roll. The county then determines the amount of the tax based on the local levies. The county then sends out notices to the utilities for the tax due. You can find this process outlined beginning at SDCL 10-35-9 and continuing to SDCL 10-35-15. For your reference, we also have included two documents addressing central assessment property: (1) South Dakota Legislative Research Council Issue Memorandum 94-15; and (2) a printout from the Department’s website regarding power and light companies.

Sincerely yours,



Henry Ford
Project Director
Enclosures



South Dakota Legislative Research Council

Issue Memorandum 94-15

CENTRALLY ASSESSED PROPERTY

The total assessed value of all property in the state in 1993 was \$21.5 billion. Of that amount, \$835.1 million (4%) was utility property, which is centrally assessed.

Centrally assessed property is property that is taxed for local government purposes, but the assessment of the property is done by the South Dakota Department of Revenue, not a local assessor. The reason for this is that much utility property is homogeneous and crosses county and state lines. Consequently, it is more efficient for the assessment of utility property to be conducted by the state and the value of the utility property to be apportioned to the various taxing jurisdictions. There are several types of property that are centrally assessed according to the South Dakota Codified Laws. The following is a description of the various types of centrally assessed or utility property according to the South Dakota Codified Laws.

The first type of centrally assessed property is railroad operating property. SDCL 10-28 provides for the central assessment of railroad property. The state assesses the value of land and buildings owned by railroad companies and then applies the sales ratio for each entity to the assessed value. That adjusted value is then placed on the tax rolls for each taxing jurisdiction. Note: SDCL 10-28-2 provides for the taxation of railroad personal property, but the federal 4-R Act prohibits the taxation of railroads differently than other taxpayers; that is, since personal property is generally not taxed in

the state, railroad personal property may not be taxed.

Once the adjusted value is placed on the tax rolls, the normal assessment and payment schedules apply. The normal assessment and payment schedules are: property is assessed on November 1, and the taxes based on that assessment are payable 13 months later on January 1, but may be paid in two installments, one installment due on the following April 30, and the second installment due on October 30. Also, as with most other property taxes in South Dakota, the taxes from railroad companies are distributed to school districts, counties, municipalities, townships, etc. Railroad companies are entitled to a property tax credit for the repair and replacement of railroad track. The repair or replacement of track necessitated by washout, fire, or derailment does not qualify for the tax credit.

SDCL 10-29 provides for the taxation of airline flight property (aircraft). First, the value of all flight property owned by an airline is determined. The value of that property which is allocated to South Dakota is based on three ratios: 1) the ratio of South Dakota passengers and freight to the airline company total; 2) the ratio flight time of aircraft in South Dakota to the flight time of all aircraft owned by the airline; and 3) the ratio that the revenue ton miles of passengers, freight, and mail in South Dakota bears to the whole system. Once the value allocated to South Dakota is determined, the tax is determined by

multiplying the statewide average tax rate times the value which has been determined. The taxes thus determined are distributed as follows: 1) 25 percent of the tax is divided among all airports in the state; and 2) the remaining 75 percent is allocated to the various airports based on the air traffic at each airport. Thus, only airports are recipients of the airline company tax. The normal assessment and tax payment schedule as discussed earlier applies to airline flight property.

SDCL 10-33 provides for the assessment and taxation of telephone companies. First, municipally-owned telephones are exempt from taxation. If a telephone company does less than \$25 million of sales, it is subject to a gross receipts tax of 2, 3, 4, or 5 percent as determined by the schedule in SDCL 10-33-21. The taxes are allocated to school districts (and only school districts) based upon the amount of business the phone company does in each school district. The tax is based on calendar year gross receipts and is payable in September of the following year.

If the telephone company does more than \$25 million of sales, the company is subject to an ad valorem tax. Using original and net (after depreciation) value, the value of all property (including personal, except autos) owned system-wide is determined. The share of the property allocated to South Dakota is based on the average of original and net value of the property. The value of the property allocated to each jurisdiction is based on the original cost in each jurisdiction. The value of the property is adjusted for the local sales ratio. Once the value is determined one of two tax rates applies: for property within corporate limits the property is subject to existing municipal, county, and school district levies, and each

jurisdiction receives the taxes; for property outside corporate limits the average rate of all tax levies applies, and the county receives all taxes. Again, normal assessment and tax payment schedules apply.

SDCL 10-35 provides for the assessment of investor owned utilities. As with other centrally assessed property the first step is to determine the value of all property owned by the utility. The portion of the value assigned to South Dakota is determined by comparing system-wide original and net cost to South Dakota original and net cost. Once the South Dakota value is determined, each taxing jurisdiction's value is determined by taking the ratio of the jurisdiction's original cost to the South Dakota original cost. Once a value has been assigned for each taxing jurisdiction, the local sales ratio is applied and the appropriate tax levies are applied to the value. Again, normal assessment and tax payment schedules apply.

SDCL 10-36 provides for the taxation of rural electric companies (REAs). REAs are subject to a 2 percent gross receipts tax, with the school districts receiving all the tax revenue. The gross receipts tax is allocated to each school district based on the number of customers in each school district.

SDCL 10-37 provides for the taxation of pipeline companies. Similar to other types of centrally assessed property, first a system-wide value is established using original and net cost, and allocating those factors to South Dakota. Once a South Dakota value is established, the same method is used to allocate the value to the local taxing jurisdictions. Once that value is determined, the local sales ratio is applied to the value and normal assessment and tax payment schedules apply.

Summary

Utility companies pay property taxes based upon central assessment by the state. The method of assessment is to first determine the system-wide value of the utility property, and to then apportion that value to the local taxing jurisdictions to be

part of the local tax base. In lieu of property taxes, telephone companies doing less than \$25,000,000 of business and REAs are subject to a gross receipts tax.

This issue memorandum was written by Dale Bertsch, Chief Analyst for Fiscal Research and Budget Analysis for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.



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Power and Light Companies provide energy to residents and businesses across South Dakota. For property tax purposes, the department has separated the industry into four different categories: Rural Electric, Investor or Privately Owned, Commercial Wind Generation Facilities and Municipal Electric.

Rural Electric Companies (SDCL 10-36)

Rural Electric Companies furnish electricity for consumption principally in rural areas of South Dakota. Rural Electric Cooperatives and Public Power Companies are included in this category.

Transmission and Distribution Property

Transmission and Distribution Property is divided into real property and personal property for the purpose of taxation.

The real property, land and buildings, is assessed by the County Director of Equalization. The counties determine and collect the tax at the same rates and at the same time as other locally assessed property.

The personal property, which includes all wires, lines transformers, meters, machinery, fixtures, and all attachments and appurtenances, is subject to a 2% gross receipts tax instead of a property tax. The Companies are required to file annual report with the department in April. The department certifies the taxes to the counties in July. Taxes are collected by the counties in September and distributed to the school districts.

Generating Property (SDCL 10-35)

The Department of Revenue is responsible for assessing the property that is owned by rural electric companies and used for the generation of electricity.

The property is assessed by the Department in July and the taxable value is then certified and sent to the counties in August. The counties determine and collect the tax at the same rates and at the same time as locally assessed property.

Investor or Privately Owned Power and Light (SDCL 10-35)

The Department of Revenue is responsible for assessing the property owned by companies which furnish electricity for public use.

The property is assessed by the Department in July and the taxable value is then certified and sent to the counties in August. The counties determine and collect the tax at the same rates and at the same time as locally assessed property.

Municipal Utilities: Municipal Utilities are EXEMPT from property taxes.

Check out the Public Utilities Commission for more information.

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