

**MEETING MINUTES**  
**NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE**  
**STATE BOARD OF REAL PROPERTY TAX SERVICES**

**MEETING OF JUNE 17, 2020**

A meeting of the State Board of Real Property Tax Services was held via teleconference, as authorized by Executive Order 202.1 and various successor Orders. The following members and staff were present:

Matthew Rand, *Chairman*  
Scott Becker  
Samuel Casella

Tim Maher, *Acting Secretary of the State Board and Director of Real Property Tax Services*  
Joseph Gerberg, *Legal Advisor to the State Board, Office of Counsel*  
Brittany Murphy, *Assistant to the State Board, Office of Real Property Tax Services*

Edward Martorana, *Director, Valuation Services Bureau, Office of Real Property Tax Services*  
Ellen Krejci, *Senior Attorney, NYS Department of Taxation and Finance Office of Counsel*  
Geoffrey Gloak, *Communication Manager, Office of Real Property Tax Services*  
Maryann Enrico, *Associate Accountant, Office of Real Property Tax Services*  
Michael Trajbar, *Senior Attorney, Office of Counsel*  
Rebecca Bellard, *Associate Accountant, Office of Real Property Tax Services*  
Tobias Lake, *Senior Attorney, NYS Department of Taxation and Finance Office of Counsel*

*NOTE: Detailed staff reports/recommendations to the State Board are available upon request. Resolutions of the State Board and the recording of the meeting are available after the meeting date on the State Board's page at the Tax Department's website.*

## **Meeting Minutes – June 17, 2020**

Mr. Rand called the State Board of Real Property Tax Services meeting to order.

### **Agenda Item No. I – State Board Administration – Minutes of the July 24, 2019 State Board meeting.**

On motion of Mr. Casella, seconded by Mr. Rand, Mr. Rand stated that the minutes of the July 24, 2019 Board meeting stand approved and are, hereby, adopted as written.

### **Agenda Item No. II – State Full Values and Assessment – Final special franchise full values and assessments for the 2020 assessment roll where complaints were filed.**

#### **New York American Water Company, Inc. (and subsidiaries)**

Mr. Rand asked Mr. Mupo to provide an overview of the four complaints related to New York American Water. Mr. Mupo explained the complaints.

Mr. Rand asked Mr. Martorana to respond on behalf of the Office of Real Property Tax Services (ORPTS). Mr. Martorana stated that the data received from New York American Water was not enough to demonstrate that an alternative salvage value should be used. He stated that New York American water was unable to demonstrate how their proposed value was determined. Mr. Martorana stated that ORPTS recommended no change to the special franchise values determined by ORPTS for New York American Water.

Mr. Rand asked Mr. Becker and Mr. Casella if they had any questions. Mr. Becker asked Mr. Mupo how he would respond to staff's position that they had to reject the proposals made by New York American Water.

Mr. Mupo stated that the data presented to ORPTS was the same presented to the appraisers. He explained the data that was provided. Mr. Mupo stated that ORPTS staff would not provide their calculations.

Mr. Becker thanked Mr. Mupo for his response and asked him how he would respond to Mr. Martorana's position that staff is prohibited by state law to provide the requested information. Mr. Mupo stated that ORPTS is not prohibited because they provided the information in the past.

Mr. Becker asked Mr. Martorana if he had a response. Mr. Martorana stated that the information in question is Handy Whitman's, ORPTS uses it under license and isn't permitted to share that data. Additionally, Mr. Martorana said that ORPTS had not received the data requested of New York American Water to support their claims.

Mr. Casella stated that he heard Mr. Martorana say that ORPTS treated New York American Water's application the same as they would any other. Mr. Martorana agreed.

Mr. Rand asked if there were any other questions. There were no further questions. Mr. Rand introduced resolution 20-01 which confirmed the findings of ORPTS staff for the four complaints related to New York American Water.

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On motion of Mr. Rand, seconded by Mr. Becker, the Board adopted resolution 20-01.

### **Optical Communications Group, Inc.**

Mr. Martorana explained the four complaints received from Optical Communications Group which he said were similar in nature; seeking reductions in value. He stated that in 2013 ORPTS requested inventory, none was provided that year or after. Mr. Martorana said in 2018 ORPTS found out the system was five times greater than previously known. He said that without the inventory, ORPTS used a composite value.

Mr. Martorana stated that Real Property Tax Law section 604, subsection 4, states that special franchise owners failing to file timely inventory are not entitled to seek judicial review of the special franchise assessment. He said that ORPTS recommends no change to the special franchise values determined.

Mr. Rand asked if there were any questions from the Board and asked if he was correct in his understanding that no one from the company was in attendance. Mr. Maher confirmed that no one from the company attended.

On motion of Mr. Casella, seconded by Mr. Becker, the Board adopted resolution 20-02, which covered all four complaints related to Optical Communications Group, Inc.

### **Millennium Pipeline Co., LLC**

Mr. Martorana explained the two complaints received from Millennium Pipeline Co., LLC., both requested a 75% reduction. He said the complainant contends that ORPTS failed to adjust construction cost. Mr. Martorana explained that pipelines are valued on a unit cost basis. He stated that no construction costs were provided to ORPTS to justify an adjustment. He went on to explain the complaint.

Mr. Martorana stated that ORPTS recommends no change to special franchise values as determined for Millennium Pipeline Co.

Mr. Rand asked Mr. Dylan Harris, the attorney for the Town of Ramapo, for his contribution. Mr. Harris stated that the Town of Ramapo was appearing in support of ORPTS determination. Mr. Rand asked if there were questions from the Board, there were not.

On motion of Mr. Rand, seconded by Mr. Becker, the Board adopted resolution 20-03, which covered all two complaints related to Millennium Pipeline Co., LLC.

### **AT&T Communications, Inc. and Teleport Communications, Inc.**

Mr. Martorana explained the two complaints received from AT&T Communications, Inc. and Teleport Communications, Inc. He stated that the complaints were identical in nature, requesting a 75% reduction in value. He went on to explain the complaint.

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Mr. Martorana stated that ORPTS recommends no changes in special franchise value for AT&T and Teleport.

Mr. Rand asked if there were questions or comments from the Board. Mr. Casella asked if there was anyone in attendance to represent AT&T and Teleport. There was not.

On motion of Mr. Casella, seconded by Mr. Becker, the Board adopted resolution 20-04, which covered all two complaints from AT&T Communications, Inc. and Teleport Communications, Inc.

### **SLIC Network Solutions, Inc.**

Mr. Martorana stated that there is a legal matter that he feels Tobias Lake from the Office of Counsel should speak to relating to the complaint from SLIC Network Solutions, Inc.

Mr. Lake stated that this complaint does not provide an opinion of the proper value of the special franchise property and that ORPTS regulations require this information. He stated that with this minimum requirement not being met, the regulations provide that the Commissioner “will recommend” to the State Board that the tentative special franchise assessment be made final.

Mr. Lake also stated that an application for allowance of obsolescence must be filed at the time of the report. He stated that the company did not submit a request for economic obsolescence and their request for functional obsolescence was submitted untimely. He went on to explain that if these are not submitted with the report, the complaint must explain why they were not. Mr. Lake said the complaint did not offer this explanation.

Mr. Becker asked if anyone was attending on behalf of SLIC Network Solutions. He asked if they would like to respond to the procedural issues presented by Mr. Lake before getting to the complaint details. Mr. Rand and Mr. Casella agreed this would be a good idea.

Mr. Zomerfeld was the counsel for SLIC, he addressed the Board. Mr. Zomerfeld stated that the complaints were timely filed, and additional information was provided at the time of the hearing. Mr. Zomerfeld introduced Mr. Pattelli from SLIC Network Solutions, Inc. Mr. Pattelli introduced himself and went on to explain the complaint.

Mr. Rand asked Mr. Martorana to speak on the valuation points. Mr. Martorana explained the valuation points. He stated that ORPTS recommends no change to the special franchise value.

Mr. Zomerfeld responded to Mr. Martorana’s comments. He yielded to Mr. Pattelli to continue. Mr. Pattelli continued explaining the complaint.

Mr. Rand asked to hear staff’s response to the point that SLIC had submitted adjusted values to support their claim. Mr. Martorana stated that OPRTS had received several inconsistent values from SLIC.

Mr. Zomerfeld objected to Mr. Martorana’s mention to the value that SLIC reported for next year on the basis that it did not relate to the discussion of the current year’s value. Mr. Martorana asked

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if he should continue, Mr. Becker said yes. Mr. Martorana continued his explanation, he stated that the value SLIC reported for next year matched ORPTS determination for the current year.

Mr. Rand asked if the Board members had any questions. Mr. Becker asked for clarification on numbers that were mentioned. Mr. Martorana clarified the numbers. Mr. Becker asked someone from SLIC to speak to what the numbers represented. Mr. Pattelli responded for SLIC.

Mr. Becker followed up by asking if SLIC provided staff with the data to support the change from the original number to what was later reported. Mr. Pattelli stated that auditors retained by SLIC confirmed the numbers. Mr. Becker asked Mr. Martorana for his response to that point. Mr. Martorana responded.

Mr. Becker asked for further clarification on the numbers. Mr. Pattelli responded on behalf of SLIC. Mr. Becker asked Mr. Martorana if he agreed with Mr. Pattelli's response. Mr. Martorana stated that he did not completely agree.

Mr. Lynch, from SLIC, asked to address the Board. Mr. Lynch provided his explanation on the updated inventory list provided by SLIC to ORPTS prior to the hearing.

Mr. Lake asked to address an issue. He stated that, because the complainant owned special franchise property in more than one assessing unit, there needed to be a separate opinion of value for each assessment. He stated that SLIC had not submitted this separate opinion of value or the explanation for each tentative assessment.

Mr. Zomerfeld stated that he disagreed that this information was not provided. He stated that the inventory was broken out by swis code. He stated that ORPTS is required by their own rules to adjust the value based on the inventory reflecting a greater than 10% change. Mr. Becker asked for staff's response to that point.

Mr. Martorana stated that Mr. Zomerfeld was confusing the law. He stated that if ORPTS puts out a tentative value, and that value is determined to be in error greater than 10%, ORPTS would have to put out restatements. He said that this did not apply to SLIC's situation. He clarified that the law states that if the Board determined there were an error greater than 10%, OPRTS would have to send out updated values to the municipalities.

Mr. Rand asked Mr. Becker if he wanted to continue with his thoughts. Mr. Becker did not require anything further. Mr. Casella had no further questions.

On motion of Mr. Rand, seconded by Mr. Becker, the Board adopted resolution 20-05, covering the one complaint related to SLIC Network Solutions, Inc.

### **Consolidated Edison Company of New York, Inc.**

Mr. Martorana provided an overview of the complaint received from Consolidated Edison Company of New York, Inc. He stated that ORPTS recommended no change for the special franchise value for the company. No one from the company attended the meeting.

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Mr. Rand asked if there were any questions from the Board, there were not.

On motion of Mr. Rand, seconded by Mr. Casella, the Board adopted resolution 20-06, covering the one complaint related to Consolidated Edison Company of New York, Inc.

### **Level 3 Communications (and subsidiaries)**

Mr. Martorana provided an overview of the three complaints received from Level 3 Communications (and subsidiaries). He stated that ORPTS recommended no change for the special franchise value for the company.

Mr. Rand asked if the representative for the company would like to speak. Mr. Nicolich represented Level 3 Communications, he provided explanation of the complaint.

Mr. Rand asked if there were any comments or questions from the Board. Mr. Becker asked if the cost report received from the company was considered by staff. Mr. Martorana advised that it was, to the extent that it could be.

Mr. Rand asked for staff's response to Mr. Nicolich's comments on the deadlines in relation to COVID-19. Mr. Martorana stated that they would be aiming to finalize values by July. He did not think there would be enough time to wait. He went on to say that ORPTS has asked for this study for 2 years. Mr. Rand was satisfied with the response.

On motion of Mr. Rand, seconded by Mr. Becker, the Board adopted resolution 20-07, covering the three complaints related to Level 3 Communications (and subsidiaries).

### **Agenda Item No. III – Privilege of the Floor**

Mr. Rand asked if there was anyone else who would like to address the Board. There were no additional requests to address the Board.

The Board members agreed that the July meeting should also be held remotely, via teleconference, due to the concerns of COVID-19.

With no further business to come before the Board, on motion of Mr. Rand, seconded by Mr. Becker, the Board concluded its meeting.

Respectfully submitted,

Tim Maher  
Acting Secretary of the State Board