



## **Board of Real Property Tax Services**

### **PROCEEDINGS OF 2019**

### **AGENDA, MINUTES AND RESOLUTIONS**

The State Board of Real Property Tax Services met on June 18 and July 24. Both 2019 meetings were held in Albany. The February 5 and November 6 meetings were canceled, for lack of business requiring attention.

The Members of the State Board during 2019 included:

- Matthew W. Rand, Chairman, Clarkstown (term expires 12/31/17)
- Scott C. Becker, Buffalo (term expires 12/31/23)
- Samuel J. Casella, Canandaigua (term expires 12/31/22)

Tim Maher, Acting Secretary of the State Board

Joseph Gerberg, Legal Advisor to the State Board

Rachel Bryce, Danielle Sokolov and Brittany Murphy, Assistants to the State Board  
(Signed sets of minutes and/or resolutions may be obtained by writing or contacting Ms. Murphy.)

This compilation was prepared in June 2020.

June 18, 2019  
Meeting Materials

## ***NOTICE***

### **State Board of Real Property Tax Services**

will meet on

**June 18, 2019 – 11:00 A.M.**

Executive Conference Room A - 2<sup>nd</sup> Floor  
New York State Department of Taxation and Finance  
W.A. Harriman Campus - Building 9  
Albany, NY

### ***Agenda***

- I. State Board Administration - Minutes of July 31, 2018 Board meeting
- II. State Full Values – Final special franchise full values for the 2019 assessment roll where complaints were filed by New York American Water Company Inc., Consolidated Edison Company of New York, Inc., and Jamestown Board of Public Utilities
- III. Railroad Ceilings – Final 2019 Railroad Ceilings where complaints were filed by Ithaca Central Railroad
- IV. Privilege of the Floor

### **Conduct of Meeting**

All State Board meetings are open to the public and a link for online access to the Board meeting will be published on the State Board of Real Property Tax Services webpage the same day.

The Board's functions include the determination of final special franchise assessments and values, railroad ceilings and State equalization rates where complaints were filed. Additionally, the Board hears and determines reviews relating to determinations of County equalization agencies and appeals from property owners who are dissatisfied with the Tax Department's final determination of STAR eligibility.

Adequate opportunity to comment on matters considered by the Board is available through hearings and written submissions. All written documents relating to items on the agenda are available to the Board members in advance of the meeting. The agenda is ordinarily available four weeks prior to a Board meeting.

**- OVER -**

Persons who wish to address the Board concerning a specific item on the agenda may request permission to do so by notifying the Assistant to the State Board at least seven days prior to the date of the meeting. The Board encourages individuals who wish to address the Board at the meeting to provide written comments concerning a specific item on the agenda prior to the meeting in accordance with the above schedule. This process allows the Board to adequately address interested individuals' concerns. When addressing the Board, presenters are encouraged to limit statements to no more than ten minutes.

**Services Available – Upon Request**

To ensure that Board meetings are accessible to individuals with disabilities, services are available upon request if made the day before the Board meeting. For those attending the Board meeting who have hearing difficulties, an Assisted Listening System is available for use to amplify speakers' voices, or an interpreter may be provided for those with deafness. For those watching the video of the Board meeting, closed captioning will be available. Please contact the Assistant to the State Board for these services.

**Visitor Information and Parking**

Visitor parking is located in the Visitor Parking area perpendicular to the front of Building 9 and in Visitor Lot D at the State Campus. If you have special needs for parking, please notify the Assistant to the State Board in advance of the Board meeting. Visitor entry to the Tax Department is at the Security desk through Building 9, Western Avenue side. All facilities at the New York State Department of Taxation and Finance are accessible.

(5/20/19)

**MINUTES – SUBJECT TO APPROVAL BY STATE BOARD  
NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE  
STATE BOARD OF REAL PROPERTY TAX SERVICES**

**MEETING OF JULY 31, 2018**

A meeting of the State Board of Real Property Tax Services was held in Executive Conference Room A at the New York State Department of Taxation and Finance at the W.A. Harriman Campus, Albany, New York. The following members and staff were present:

Matthew Rand, Chairman  
Scott Becker  
Samuel Casella

Timothy Maher, *Acting Secretary of the State Board and Director of Real Property Tax Services*

Jason Ayotte, *Real Property Analyst, Equalization & Central Services, Office of Real Property Tax Services (ORPTS)*

Stephen Beals, *Director, Valuation Services, ORPTS*

Nancy Campone, *Real Property Analyst, Equalization & Central Services, ORPTS*

Edward Chaszczewski, *Deputy Commissioner, ORPTS*

Kristen Forte, *Real Property Analyst, Equalization & Central Services, ORPTS*

James Gazzale, *Assistant Public Information Officer, Office of Communications & Public Affairs*

Joseph Gerberg, *Legal Advisor to the State Board, Office of Counsel*

Zaid Hasan, *Real Property Analyst, White Plains Regional Office, ORPTS*

Tobias Lake, *Senior Attorney, Office of Counsel*

Paul Miller, *Director, Regional Services, ORPTS*

Brian Moon, *Real Property Analyst, Equalization & Central Services, ORPTS*

Margaret Owens, *Manager, Equalization & Central Services, ORPTS*

Matt Riordan, *Real Property Analyst, Valuation Services, ORPTS*

Barbara Skaarup, *Program Aide, Equalization & Central Services, ORPTS*

Henry Szypulski, *Project Director, Valuation Services, ORPTS*

Daniel Tilley, *Real Property Analyst, White Plains Regional Office, ORPTS*

John Wolham, *Manager, White Plains Regional Office, ORPTS*

Also in attendance was:

James Basile, *Assessor, Town of Hancock*

William Cook, *Assessor, Town of Olive*

Laurence Farbstein, *President, Industrial Utilities Valuation Consultants for the Town Olive*

David Murphy, *Attorney, for the Town of Olive*

Sylvia Rozzelle, *Supervisor, Town of Olive*

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

Mr. Rand called the State Board of Real Property Tax Services meeting to order at 11:03 A.M.

**Agenda Item No. I-A – State Board Administration – Minutes of June 12, 2018 State Board meeting**

On motion of Mr. Becker, seconded by Mr. Casella, Mr. Rand stated that the minutes of the June 12, 2018 Board meeting stand approved and are, hereby, adopted as written.

**Agenda Item No. I-B – State Board Administration – Darlene Resolution**

Mr. Rand explained that Ms. Bryce recently became the Assistant to the State Board of Real Property Tax Services, after Ms. Darlene A. Maloney's retirement. Working with Ms. Maloney was a true pleasure; she made everything run seamlessly and took care of the Board members and all visitors. Ms. Maloney was always one step ahead of everyone, thought about all possible outcomes, and treated each of her colleagues kindly and professionally.

Mr. Rand then read the resolution written in honor of Ms. Maloney. He asked if anyone else would like to add to the comments. Mr. Maher and Mr. Gerberg added a few comments. Mr. Casella and Mr. Becker agreed.

On motion of Mr. Casella, seconded by Mr. Becker, Mr. Rand stated that Resolution 18-05 stands approved. All Board members voted Aye to adopt the resolution as written.

**Agenda Item II-A – State Equalization – Establish final 2018 State equalization rates where complaints were filed**

Mr. Rand explained that there were three complaints received, and that the first complaint to be discussed would be the Town of Napoli. He introduced staff to discuss the complaint and the ORPTS recommendation.

Mr. Miller, Director of ORPTS Regional Services, explained that much of the process for full value measurement is completed in the Regional offices. Equalization rates were already established for 951 Cities and Towns. In 99 percent of the cases, ORPTS sets and establishes the equalization rate at the locally declared Level of Assessment (LOA), if ORPTS' observation is within plus or minus five percent of where the Town declares itself to be.

Mr. Miller stated there were three complaints this time, and in two of the cases, ORPTS set the rate at the local LOA. ORPTS has no interest in this process other than to be accurate, as this deals with local taxes. The State stands as an umpire, using the same processes to review Cities and Towns statewide. ORPTS uses a pre-decisional collaboration process, in which they share data with localities early in year, so those localities may provide information and

supporting documentation for ORPTS to take into consideration. Towns can declare the level at which they are assessing; the complaints are assigned for review and investigation by ORPTS staff, and recommendations are made.

Mr. Miller then advised the Board that two of three complainants attended their Hearing dates. The average town government in New York State has approximately 4,250 parcels – or about 3,100 parcels if larger downstate towns from Nassau, Suffolk, and Westchester are excluded.

Town of Napoli, Cattaraugus County

Mr. Miller presented the staff recommendation, dated July 24, 2018, for a recommended final State equalization rate of 91.00 for the Town of Napoli. Mr. Miller explained that the Town of Napoli has 1,158 parcels, and said that the Town declared its level of assessment (LOA) to be 91.00% and ORPTS established the tentative rate at 91.00%. They are now seeking a rate of 94.00. At pre-decisional collaboration time, ORPTS observed Napoli to be at 86.94% value. That ratio was within five percent of the ORPTS estimated ratio and therefore, a tentative State equalization rate of 91.00 was determined.

Mr. Miller stated that the Town of Napoli filed a complaint last year, and this year's complaint is similar. It focuses solely on Major Type A (regarding Residential Property). Because there has not been a reassessment done since 2015, and there are not sufficient sales to use a Sales Ratio study, ORPTS used a Computer Assisted Mass Appraisal (CAMA) model, which is a multiple regression technique. Mr. Miller explained this technique in detail. Mr. Miller also mentioned that the model included a market area of 32 of the municipalities in Cattaraugus County, and did not include the Town of Ellicottville, a resort area.

Mr. Miller went on to explain that when the complaint was filed, the Assessor generally criticized the CAMA model used, and believes ORPTS arrived at values that are too high. Other supporting documentation was never received. Mr. Miller explained that ORPTS used inventories associated with 1,300 sales within the market area and broke that into smaller clusters, combining similar towns together. This model allowed ORPTS to look at the characteristics of the properties in the town and come up with a full value measurement. The complainant suggested that instead of the CAMA model, ORPTS should have used the general trend for the entire market area and applied it to the 2015 reassessment value for Major Type A. Mr. Miller explained trending of that sort would not be an appropriate method, because those trends are very general, and are derived from the entire broad market area. The CAMA model is applied to properties in the Town, and reflects the contributory value of specific property characteristics. Therefore, staff recommendation is to allow the results to stand as ORPTS found them in the CAMA model.

In response to a question from Mr. Casella, Mr. Miller stated that if there was a current 2018 revaluation, that would have been used directly to establish full value.

There was no one present from the Town of Napoli.

Mr. Rand confirmed with Mr. Miller that the Town disagreed with the CAMA model, and they requested a different number the second time. There was no real substance or supporting documentation provided. Mr. Casella then asked if the Town is challenging the 91.00% and would like to go to 94.00, or if they are challenging the concept of the CAMA model itself. Mr. Miller responded that the complainant would like to go back to their reassessment from 2015 for that residential class, applying a three percent trend up, a three percent trend down, and one percent trend up over the past three years. This would result in a full value that is less than what ORPTS has in the present day. The complainant suggested lowering the market value of the residential class (Major Type A), which would drive the overall ratio up, and allow for a higher equalization rate. Mr. Miller then reiterated that the Town of Napoli originally declared themselves at 91.00%, and ORPTS had agreed.

In response to Mr. Becker's questions in terms of protesting the value once it is adopted by the State, Mr. Miller advised the Board that the Town can always protest the value. Mr. Casella believes ORPTS used the CAMA model properly, and because the Town has not completed a revaluation since 2015, it was the best method that could be used by ORPTS. Mr. Becker and Mr. Rand agreed.

On motion of Mr. Casella, seconded by Mr. Becker, the Board adopted Resolution No. 18-02 to establish a final 2018 State equalization rate of 91.00 for the Town of Napoli as set forth on the list entitled "Recommended Final State Equalization Rates for 2018 Assessment Rolls for Towns Which Have Filed Complaints." All Board members voted Aye to adopt the resolution as written.

#### Town of Hancock, Delaware County

Mr. Miller presented the staff recommendation, dated July 24, 2018, for a recommended final State equalization rate of 11.71 for the Town of Hancock. He stated that there are 4,088 parcels. The Town declared a local LOA of 12.65, but ORPTS data had indicated the Town was at 11.71, which is greater than five percent difference. Mr. Miller introduced Mr. Wolham, Southern Regional Director who would explain the complaint and staff response in more detail.

Mr. Wolham explained that there are three parts of the complaint. The first part in the complaint pertained to the Town's objection to the ratio determined by ORPTS for Major Type A (residential property). The Town had objected in last year's complaint, and referred to it in this year's complaint. Mr. Wolham explained we were unable to produce a Sales Ratio study for the Town that meets minimum confidence testing levels of 90% because there were insufficient sales. Instead, ORPTS does appraisals of residential properties, which are then supplemented by some available sales. This is how they develop a ratio, and what they believe to be a better alternative than to rely on a statistically-invalid Sales Ratio study.

The second part of the complaint involves Major Type C properties (vacant and agricultural land). Mr. Wolham compares last year's complaint to this year's. ORPTS conducted appraisal sampling for the non-residential property types. The Town essentially completed their



own valuation of vacant lands, and provided it to the County liaison for ORPTS. The liaison explained to Mr. Basile, the Town Assessor, that unless they were provided an electronic inventory, sales inventory, and list of sales that were used to develop the valuation tables, ORPTS would be limited in what they could do. Mr. Wolham stated that Mr. Basile did provide an Excel file, but it was missing pertinent data, and therefore very little could be done to attempt to verify the proposed alternate ratio.

The third part of the complaint was submitted to the White Plains Regional Office, separately from the formal complaint sent to Albany. This part of the complaint was a letter that called into question four sales. Three sales were requested to be excluded, and based on the documentation submitted, ORPTS did exclude those sales. The Assessor also submitted documentation in support of his request to correct the selling price of a fourth sale. ORPTS corrected the price, re-ran the ratio, and it did not produce any change, so ORPTS still had a ratio that did not meet the 90% minimum confidence testing.

Mr. Wolham stated that the sales that were excluded this year, which were not excluded last year, had not been a part of the Ratio study, regardless, but ORPTS still re-ran the ratio to verify nothing about the sample changed sufficiently.

Mr. Basile advised the Board that Hancock has a new Town Supervisor this year, who is adamant about fixing the equity problem in the Town, which will be done with a reappraisal. Mr. Basile asked the Board members to look at the graphs that were sent in on July 31, 2018, and explained that all of Delaware County was placed within the same market area. Mr. Basile stated that the Town of Hancock, over an eight-year period, has continuously gone down in equalization rate, ten percent more than any other municipality in the county. The other three towns that have declined significantly have New York City watershed property.

Mr. Basile explained that the Major Type C sample has 15 appraised parcels, and that is what was used to determine the full value for the Town of Hancock. He said that Hancock will be moving forward on a reappraisal soon, so they developed a land model, to determine how they would run a CAMA on the land, and for all parcels. Mr. Basile's memory is that he provided the County liaison, Victoria Costello, with the Sales Ratio study (after she requested it), which was broken up by neighborhood. He said ORPTS should have had enough time to review his land model since April, but they say they still cannot confirm it. Mr. Basile expressed that there was no communication, and he is concerned because the Town is moving forward with a reappraisal. Mr. Basile reiterated that he sent the model to ORPTS in RPS v4. He thinks that his Excel spreadsheet had neighborhood codes on it, which tie to location and waterfront. The pivot chart, which was provided with the complaint lists the 15 observations that ORPTS made and the appraisals they did. Five parcels in the private forest land property code were appraised by Ray Brook staff, and those five parcels alone (all in one neighborhood, and one property class within the neighborhood, waterfront) represent 82% of the market value of the sample. The land model ratio came to 8.42. Mr. Basile pointed out that the Town's full value was actually higher than ORPTS' estimated value. He stated that the ORPTS Ratio study of 15 parcels is not representative of the Town. He said that it would be more accurate if the entire population were appraised, and even more accurate if there were communication between the Town and ORPTS.

In response to a question Mr. Becker asked regarding where an appraisal of \$3 million came from (a different number than ORPTS had come up with for their 15-parcel appraisal), Mr. Basile advised the number is nowhere in his complaint submission; it is just the number he came up with during his ratio study and sent to the State Board members this morning.

Mr. Basile then moved on to the Major Type A (Residential) section of his complaint. He stated that ORPTS' procedures say when there is evidence of different value levels within the group, they can stratify, but they apparently refuse to do it. Stratification allows for a Sales Ratio study confidence level that works. Mr. Basile expressed that he believes he should have been made aware sooner that the sales were removed, and that they should have been removed last year.

Mr. Basile said the IAAO Standard on Ratio Studies says that when an Appraiser is working for an equalization agency, they should not have the local appraised value with them. He does not believe the Appraiser used the 2014 numbers for last year's rate. He says that within the residential major type, they are within the five percent. He understands that it does not go by major type; it goes by the overall value, but the issue (more than five percent difference) is on the vacant land, not the residential properties. Mr. Basile found that if his calculations are right, ORPTS would have gone with a 12.33 LOA, but could not take 12.65 as requested.

Mr. Basile is not sure when the last revaluation was done. Mr. Casella verified with Mr. Basile that the Town is working toward a reappraisal, and Mr. Basile asked that the Board not punish the Town of Hancock, and accept staff's numbers just because there has not been a reappraisal done. The level still needs to be determined, but as with all reappraisals, it is going to take a while to complete.

Mr. Becker then asked about Mr. Basile's five-page spreadsheet with 1,756 parcels, and if those were the numbers he came up with, as opposed to the one-page spreadsheet from ORPTS staff. Mr. Basile said yes, the 118,000 is his number. Mr. Becker also asked about the sentence in the Town's submission, stating information was previously supplied on April 5, 2018. Mr. Basile said he submitted all the observations, approximately 1,700 pages, and that it was sent to staff for review.

Mr. Rand then asked Mr. Wolham to respond to Mr. Basile's comments. Mr. Wolham explained that Mr. Basile did have a conversation with Ms. Victoria Costello (County liaison) on April 4, 2018 at the Delaware County Assessor's Association, and Mr. Basile sent documentation on April 5. Mr. Wolham has copies of emails sent to Mr. Basile as follow-ups in subsequent weeks, asking for additional information (sales, analysis, sales ratio studies, etc.). Mr. Wolham stated that Mr. Basile did provide some of the requested additional information (tables, five sales ratio studies, etc.). The analysis included 20 neighborhoods – eleven of those neighborhoods (subject parcels were vacant land) had less than 30 parcels in them. Mr. Wolham explained that with neighborhoods that small, it would be difficult to get sales information that could develop credible land tables. Of the five ratio studies provided, four were invalid.

Mr. Wolham said that ORPTS is happy to work with municipalities while they complete reappraisals or reassessments, as ORPTS agrees that it is the best way to determine overall full

values. However, part of monitoring those reappraisals includes the municipalities sending in their inventory, sales, and sales inventories, instead of excluding them. It is a key element needed for staff to review, to determine accuracy and confirmation of the locality's project. Mr. Basile's only submission was an Excel file, which was missing important pieces of data to analyze how the land values were developed. The land table was provided, but the sales information by which those numbers in the table were determined was not provided.

Mr. Wolham then explained that for Hancock's Major Type A, ORPTS used approximately 169 sales over a five-year period, but again, the sales in total did not pass the minimum confidence threshold testing of 90%. Mr. Wolham stated that ORPTS did do stratification testing, because Mr. Basile requested it be done at the SWIS level. In breaking down the village from the town outside, ORPTS did produce a Ratio study, but it was statistically invalid for ORPTS' use. There were only two sales coded as "waterfront" in that sampling. ORPTS had no other approach to take.

Mr. Wolham expressed that the State relies on Assessors to review and correct sales, and takes their corrections if no issues surface through sales pattern testing (no issues were identified for Hancock). ORPTS reviewed the sales last year during the 2017 complaint (when the Town objected to 22 sales), and agreed to eliminate 17 of those sales from Ratio study use. The five sales that were not excluded had no basis for exclusion based on the information found in Sales Web. ORPTS cannot agree to exclusions unless documentation substantiating the exclusion is received.

In response to Mr. Becker's concern about more than 80% of the total value for Major Type C being from one area, and not being representative of the whole Town, Mr. Wolham explained that ORPTS has always done appraisal selections based on value interval. ORPTS believes that if properties are assessed reasonably by Assessors, it should not matter whether the sampling is based on property type or value interval. Mr. Miller then added that private forest land is appraised by Ray Brook staff because that is where our forest appraisers are located. He also added the last reassessment in Hancock was done in 1968.

Mr. Basile, in response to Mr. Miller's and Mr. Wolham's comments agreed it is related to value, but explained that Neighborhood 501 on the pivot chart, which has most of the parcels in it, were observations, not sales. He then discussed the assessment value and model estimates of that Neighborhood, which represent 46% of the Town's value.

Mr. Becker asked Mr. Wolham if he could respond to Mr. Basile's statement that ORPTS does not follow their own procedures, refusing to stratify sales. He also asked if there was something missing from the Town's submission that he would have liked to see. Mr. Wolham said that there are procedures for ORPTS to stratify a Sales Ratio, but they are rarely used because a stratification is done when the Assessor and ORPTS agree that there is a noticeably different trend for one grouping of property in a Town than another grouping. It allows them to make a more mutually-agreeable decision on overall ratio and trend. ORPTS did stratify the Sales Ratio as requested, both resulting in less than a 90% minimum confidence level. Mr. Wolham then stated that ORPTS did not receive the mechanized subject inventory, and the mechanized inventory for properties sold, which is presumably the basis of Mr. Basile's

determination of land tables. ORPTS needs that information to verify results.

In response to Mr. Casella's question, Mr. Wolham said he presumed the information is available, but was not included in what was provided by the Town. At Mr. Rand's request, Mr. Wolham confirmed that ORPTS received the output of information, but needed the background numbers (subject inventory and sales inventory) to see how Mr. Basile came to those conclusions. Mr. Wolham explained that if the subject inventory were there, they may have been able to produce a CAMA Ratio study with additional information.

Mr. Casella confirmed with Mr. Wolham that there had been communication between the Assessor and County liaison, and asked if June 27, 2018 was late to receive the sales transmittal. Mr. Wolham advised that the transmittal is sent to sales unit, corrections are submitted, and applied to the file on SalesWeb. If the sales transmittal was received sooner, certainly the sales would have been excluded at that time. Mr. Basile stated that someone in a clerical position enters the data, and it gets transmitted once submitted.

Mr. Casella expressed his appreciation to Mr. Basile regarding his desire and enthusiasm to fix the problem and the challenges being faced for the Town of Hancock. He stated that it puts the Department in a difficult position, without the most current information, and ORPTS can only do so much when they do not have everything they need provided to them. ORPTS seems to be doing things accurately and efficiently however they can, but without a reassessment, they cannot do much.

Mr. Becker reiterated that ORPTS cannot verify without the underlying data. However, he is concerned that the Towns are being tasked with providing more documentation than they can provide. Mr. Casella, in response to Mr. Becker's concerns, stated that he does not believe the Department is pushing the bar forward for the Towns. The fact is that this municipality is not providing as up-to-date information as the State needs to come to an agreement. If ORPTS had more current, timely, accurate documentation, they may be able to agree. Mr. Rand said that ORPTS does not have the documentation they would like/need to have. There is not 100% confidence in the numbers, and ORPTS is using the only approach they can. ORPTS always prefers to use a Town's reassessment, if it can be confirmed.

Mr. Becker asked how the equalization rate would be affected if the Board was to adopt Major Type C as requested by the Town. Mr. Gerberg explained the overall rate could be recomputed based on the LOA for Major Type C. Mr. Rand stated he does not believe they can say if the data is right or wrong, since staff did not have the proper supporting documentation. Mr. Becker agreed. However, he would be open to adopting the Major Type C section, by changing that rate, so the overall could be within the five percent.

Mr. Casella added that he wants what is best for the municipality and the State. He understands there was a good faith effort on Mr. Basile's part, but the Department cannot prove it to be factual and accurate, so he cannot support it. Mr. Rand and Mr. Becker agreed there was not enough supporting documentation.

On motion of Mr. Casella, seconded by Mr. Becker, the Board adopted Resolution No.

18-03 to establish a final 2018 State equalization rate of 11.71 for the Town of Hancock as set forth on the list entitled “Recommended Final State Equalization Rates for 2018 Assessment Rolls for Towns Which Have Filed Complaints.” All Board members voted Aye to adopt the resolution as written.

Town of Olive, Ulster County

Mr. Miller explained the location of the Town of Olive in New York State, and offered a very high-level description of the Town’s complaint. The Town has 3,040 parcels, and had declared a Level of Assessment (LOA) of 98.5, which was found within +/- 5% of the level by ORPTS, and a tentative rate of 98.5 was established. The complaint involved Major Type D (Utility) property, having to do with New York City reservoir property. Mr. Miller then introduced Mr. Beals, Director of Valuation Services Bureau for further explanation.

Mr. Beals said that ORPTS had done an analysis and came up with an estimate of 94%, which was within +/- 5% of the stated LOA, so the Town’s stated LOA of 98.5 was accepted as the 2018 equalization rate. Mr. Beals explained that the Ashokan Reservoir is a very large parcel in the Town of Olive, reflecting almost the entire utility class of the properties, and about 50% of the Town’s value overall. ORPTS reviewed how they have valued similar types of property in the past. Value must be based on costs – reproduction costs new, less physical depreciation. They compute an initial value, and trend that value for time and inventory changes.

Prior to 2008, ORPTS and the Town of Olive disagreed upon what the value should be, and in 2008, the appraisal submitted by the Town was sent for ORPTS’ consideration. ORPTS agreed the appraisal did reflect market value and chose to use that specific value. Mr. Beals explained that to simplify implementation of the value, ORPTS developed a Special Uniform Construction Index (SpUCI) value designed to replace the entire inventory for the reservoir. They trend that value with cost indices annually, to get an estimated value.

Since the value was agreed upon, this is the first time the Town has objected to ORPTS’ value for the reservoir. Mr. Beals stated that the ORPTS estimate for the reservoir is still considered to be a valid estimate. Mr. Beals advised that the Town of Olive submitted documentation, which was reviewed by staff, and that he will explain the staff perspective after the Town’s representative discusses their complaint.

Mr. Farbstein, Tax Consultant for the Town of Olive thanked the Board for having him, and stated that although the Town utilized the five percent variability allowable within the equalization rate procedure, the Town and its constituents believe that the initial rate was significantly wrong and needs to be revised. The impact of a significantly lower ratio will affect the apportionment of county and school taxes. The Board should not base any decision on what the Town feels the correct number should be just because they utilized the five percent. Mr. Farbstein said that the issue with the valuation of a reservoir is that it is specialty property, which is valued by a cost approach.

Mr. Farbstein explained that there had been litigation with the City of New York

regarding this reservoir, and that the litigation had been settled. He advised that for the other watershed areas that did not go through litigation, the City of New York and the Catskill Watershed Commission engaged in Tax Litigation Avoidance Program (TLAP). They agreed on a template to value reservoirs as they exist – dams, roads, clearing and grubbing<sup>1</sup>, and all elements that go into a calculation – and review service lives in terms of depreciation, and land values in terms of whether they fall within or outside a village.

Mr. Farbstein then stated that Olive provided the State with the Town's appraisal and the City of New York's appraisal. When the Town received the tentative equalization rate and Major Type D was at 87.5 percent, they found it concerning and submitted a FOIL (Freedom Of Information Law) request. Mr. Farbstein stated that there is no way the towns should be so different, with respect to what they put on the improvements and what ORPTS staff put on the improvements. Mr. Farbstein believes the improvements are significantly overvalued. He referred to Mr. Beals' statement that the reproduction cost new is trended using a factor. Mr. Farbstein said that in 2014, the number in terms of percent good plainly proves why he does not think the numbers add up; The Ashokan Reservoir was built 1914, and therefore was 100 years old in 2014. ORPTS bases their trends on a service life, and depreciation. ORPTS' 2014 percent good number had not changed from 2014 to 2018 on the cost sheets provided.

Mr. Farbstein had submitted what two engineers produced for RCN and RCNLD (City versus Town). They ended in different years and he trended them out, using a forecast routine in Excel. He weighted Town versus City two-to-one. He said that he provided the resulting calculations, as well as percentages, and a future calculation for how it would impact the ratio. Mr. Farbstein then explained that if the Board accepts ORPTS' number, the Town will be in a position where depreciation does not change, and the ratio for Major Type D and the overall Town will continue dropping. Mr. Farbstein is worried that if the Town uses ORPTS' number on the improvement, the Town will be handed a grievance and a tax certiorari from the City, as the City already believes the lower number, 390 million, is too high. If the Town reacts affirmatively and says we will take your number, that could turn into a multi-million-dollar lawsuit.

Mr. Farbstein said that the Town has done a reassessment, and is close to 100 percent. The problem is that the reservoir property is not easily valued. It is also not easy to make a decision on this, as even qualified individuals trying to produce this valuation come up with differing numbers.

In response to Mr. Becker's question of why it was split two-to-one, town-versus-city, Mr. Farbstein said he tried to capture what was done in 2008. The number agreed upon with the City at that time was approximately two-to-one. Mr. Becker verified that Mr. Farbstein is saying he chose to split it two-to-one to mimic the results of agreement in 2008 and avoid litigation, not necessarily because he thinks it is a better indication of value.

In response to a question from Mr. Casella, Mr. Farbstein said that the issue was resolved a decade ago to avoid litigation. Mr. Casella then asked if it was actually "resolved," or if there is

---

<sup>1</sup> Clearing and grubbing describes the stages of land development in which vegetation is removed (known as clearing), and then a root rake or similar device is used to remove the roots that remain in the dirt (the process known as grubbing).

still a disagreement and difference in value. Mr. Farbstein said there have been discussions with the City Law Department, who still believes the 390 million-dollar (RCNLD) number is too high. He explained that it was not actively defended, and that this often happens to avoid the litigation.

Mr. Rand asked Mr. Beals to respond. Mr. Beals said that the first issue he has is that ORPTS did not receive a copy of the two engineering studies, which Mr. Farbstein said were provided in 2008. The historical data ORPTS has for Olive goes back to 1967, but hold no reference of either of the studies in discussion. Therefore, ORPTS cannot verify the information on the spreadsheet or the figures.

Mr. Beals explained that the next issue is that there are inventory differences. He is used to dealing with inventories at a certain point in time, which are known to exist and are verifiable. ORPTS believes that if the inventories for the two studies were different, they should have been reconciled to match what was there, and that number should have been used.

The third issue with Olive's analysis is the use of a forecasting algorithm to predict past values. This algorithm is fine for predicting the future, but since they are looking back at history, they should be using historical cost indices and adjust values based on that. Mr. Beals states that these three issues are relatively minor to him.

The biggest issue Mr. Beals and ORPTS has with the complaint is the weighting scheme that was used – using two-thirds Town and one-third City. He said that this scheme is not supported. Mr. Farbstein blended ratios to support their settled value. However, Mr. Beals explained that the estimated settled value Olive came up with for 2014 was 486 million dollars. At the hearing, the Town said they settled at 590 million.

While the value on the Town's spreadsheet is the RCNLD of all components of reservoir, and does not include land value, if they used the ORPTS land value of seven million, the number would be 493 million. Olive's blending of the two studies did not even produce the agreed-upon settled value, which was their goal.

It's also important to note that using the most current settlement value of 600 million, that was reported by the Town for 2017, and trending it by the Aggregate Adjustment Factor (AAG) from the Engineering News Resource Cost Manual (5%), you would come up with an estimate of 630 million for 2018. Mr. Beals stated that ORPTS value of 617 million is less than this trended settlement amount.

It is Mr. Beals's understanding that the Town used a simple age-life method, which is a valid method. ORPTS used an observed condition method, where they look at the property, take maintenance into consideration, speak to staff at the property/dam, make observations, and estimate depreciation based on that. This is done routinely for all reservoirs throughout the state. The Town's age-life method used 32% depreciation. ORPTS' used 35% depreciation. If ORPTS used the Town's method, it would increase the value of the reservoir, which is not what the Town wants.

In response to a question from Mr. Becker, Mr. Beals said by using the forecasting algorithm, it does not take into consideration inventory changes, the pattern of cost indices or changes; there should be historical data used. He reiterated that his biggest objection was the blending of ratio studies to get a specific figure/value, instead of blending based on merit of the studies.

Mr. Farbstein said that ORPTS looked at the property, and observed its conditions, but that was not on file, per a letter from the Counsel's office. He said the Town's Counsel said both engineering reports were supplied to ORPTS, and that using the forecasting algorithm should be accepted, since they review the historical data, and is done all the time. Mr. Farbstein also does not see an issue with using two-to-one, city versus town, but ORPTS uses a number from 2008 as well. He does not believe that number would be correct in 2008 or currently. Mr. Becker reiterated that this is what ORPTS has done every year since 2008, and asked what happened between this year and last year to change the Town's mind.

Mr. Farbstein indicated that the trend is hurting the Town, and suggested value should be done a different way. The Board asked a few more questions of Mr. Farbstein, and Mr. Rand asked if anyone else had questions. Mr. Murphy added information about the appraisals and engineering. In response to Mr. Casella's earlier question about the issue being resolved, he said it was resolved in a lengthy process which was a reconciliation of differences. Under the monitoring of the Supreme court there was an agreement. Mr. Murphy also stated that the City did not grieve this year because the Town agreed that they would bring their concerns to this Board.

Mr. Becker asked about the settlement figure of 590 million, which Mr. Beals had mentioned earlier. Mr. Farbstein said it included 200 million land value and 390 million reservoir value. Mr. Beals then made the comment that the number from 2014 was at 485 million, and now Mr. Farbstein is stating 490 million. Mr. Farbstein said Major Type D does not include the land value, and Mr. Beals corrected that it does include that as well – 7 million of land value.

Mr. Rand called for a five-minute meeting recess at 1:29 PM.

Mr. Rand called the meeting back to order at 1:34. Upon reconvening, he asked for further explanation of the issues around the depreciation issue that had been raised.

Mr. Farbstein said that if ORPTS continues to trend on a number that the Town believes is too high, and they are not using an age-life method, as the reproduction cost goes up and the depreciation does not go down, the value will continue to rise. When you do analysis for Major Type D with the number the Town has versus the number ORPTS has, the ratio of 87.5% will continue to go down. Because it is 50% of the total assessed value of the Town, the overall ratio will also go down.

Mr. Becker asked how the observed depreciation is accomplished every year. Mr. Henry Szypulski, an ORPTS appraiser who was in attendance, said they follow the guidelines of American Society of Appraisers. They do physical inspections – the last one was in 2011. They speak with staff to see how it is maintained. Mr. Farbstein stated that there was no money put



into the Ashokan reservoir since 2011, and the City recently announced that to maintain the integrity of the reservoir they would have to put in +/- 750 million dollars.

Mr. Rand then asked what ORPTS estimated LOA was, and Mr. Beals advised it was 94.03. Mr. Becker asked about the depreciation resulting in a higher value if ORPTS used the age-life method. Mr. Farbstein said that the four cost sheets he sent the Board shows that it grew the RCN each year, but in terms of the depreciation, it left that at the same percentage. For other reservoirs, where evaluations are done for concrete, elements, construction, etc., a percent good is generated. Mr. Farbstein said this is the first time he has heard of ORPTS using a different methodology. He wants to know why they were not given a copy of the assessments. Mr. Beals commented that he believes the FOIL request was for the 2014 information, not back to 2011.

After a few questions from the Board Members, Mr. Farbstein stated that he still believes the percentage would be lower for 2018 if ORPTS used the same method the Town used. Mr. Rand pointed out that there are two sets of estimates, and we cannot seem to come to an agreement on a number, and ORPTS and the Town are on two separate sides.

Mr. Becker then stated that the studies, according to the Town were delivered in 2008. ORPTS may have had them but they were not reviewed. Mr. Farbstein said that they provided it and ORPTS cannot find it, so because of that, the Town is in a bad position. Mr. Becker stated that either way, it was ten years ago if ORPTS did have them, and even if they had them, ORPTS may not agree with the numbers.

In response to Mr. Casella's question about Ashokan being treated differently than other reservoirs, Mr. Farbstein explained that the Catskill Watershed Commission and the City of New York created TLAP, so litigation like this would not continue for other reservoirs and properties. Mr. Casella asked why it is not available for the Ashokan Reservoir. Mr. Farbstein said that the agreement which settled the case ten years ago ended last year. For the purposes of this year, something needs to be done so there is not a tax shift.

Mr. Becker asked if anyone in ORPTS had requested a copy of the engineering reports. Mr. Beals said no, the Town should have submitted them. Mr. Casella asked if Olive has been in communication with the Catskill Watershed Commission and the City of New York about these issues and possibility of another TLAP program. Mr. Farbstein said when Governor Pataki did that, the City of New York agreed in lieu of them spending what could have been billions of dollars, to add more filtration processes.

Mr. Rand noted that he would like to see the process work between ORPTS and the Town. Going into next year, we need an agreement and more documentation. Mr. Becker said we have some documentation, but ORPTS can only rely on what they have. He is slightly uncomfortable with ORPTS relying on 2008 information. He said there is some evidence submitted in support of a lower valuation. The value of the reservoir should probably be decreased and equalization rate should be higher. Mr. Rand believes the State should be able to come up with a value, and Mr. Casella said he does not want to be bound in future years. He wants to come up with valid reasons why they are doing what they do today.

The Board discussed more, expressing their thoughts and reasoning for agreeing to accept a revised rate of 99.03 for the Town. The Board expressed a desire for more current information to be developed by ORPTS staff going forward.

On motion of Mr. Becker, seconded by Mr. Casella, the Board adopted amended Resolution No. 18-04 to establish a final 2018 State equalization rate of 99.03 for the Town of Olive as set forth on the list entitled “Recommended Final State Equalization Rates for 2018 Assessment Rolls for Towns Which Have Filed Complaints.” All Board members voted Aye to adopt the resolution as written.

**Agenda Item III – Privilege of the Floor**

With no further business to come before the Board, on motion of Mr. Becker, seconded by Mr. Casella, the Board concluded its meeting at 2:11 P.M.

Respectfully submitted,

Timothy J. Maher  
Acting Secretary of the State Board



## Board of Real Property Tax Services

### RESOLUTION 19-01

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on January 24, 2019 and March 15, 2019 the tentative special franchise full values for New York American Water Company, Inc. (and subsidiaries) were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notice of the tentative special franchise full values and the scheduled hearing dates were mailed to the special franchise owner on January 25, 2019 and March 18, 2019; and

**WHEREAS**, complaints (#SF-19-01 and SF-19-02), dated February 22, 2019 and April 15, 2019, were filed by New York American Water Company, Inc. (and subsidiaries) as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to these complaints on March 4, 2019 and April 25, 2019; and

**WHEREAS**, no appearances on behalf of New York American Water Company, Inc. (and subsidiaries) were made at the March 4, 2019 or April 25, 2019 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated March 8, 2019 and May 5, 2019; and

**WHEREAS**, staff having reviewed the complaints and found no supporting data or explanation of how the claimed values were determined, requested New York American Water Company, Inc. (and subsidiaries) to provide supporting data and an explanation of how the claimed values were determined; and

**WHEREAS**, a response was received from NYAWC on May 1, 2019; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated June 4, 2019; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2019 final special franchise full values as set forth in List No. SF-01 and SF-19-02, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to these municipalities to be used as the special franchise full values on the respective 2019 assessment roll.

Voting in favor: Commissioners Becker, Casella and Rand

Voting against: NONE

Abstaining: NONE

Absent: NONE

**STATE OF NEW YORK           )**  
**) ss:**  
**COUNTY OF ALBANY          )**

I, Tim Maher, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 18, 2019.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 18<sup>th</sup> day of June 2019.

Tim Maher, Director  
Acting Secretary of the State Board



## Board of Real Property Tax Services

### RESOLUTION 19-02

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on March 17, 2019 the tentative special franchise full values for Jamestown Board of Public Utilities. (and subsidiaries) were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notice of the tentative special franchise full values and the scheduled hearing date was mailed to the special franchise owner on March 18, 2019; and

**WHEREAS**, a complaint (#SF-19-03), dated April 15, 2019, was filed by Jamestown Board of Public Utilities as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2 regarding its property located in the City of Jamestown; and

**WHEREAS**, a hearing pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 was held with regard to this complaint on April 25, 2019; and

**WHEREAS**, no appearance on behalf of Jamestown Board of Public Utilities was made at the April 25, 2019 hearing; and

**WHEREAS**, the Hearing Officer has filed a report dated May 5, 2019; and

**WHEREAS**, ORPTS staff has reviewed the complaint, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated June 4, 2019; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2019 final special franchise full values as set forth in List No. SF-03, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to these municipalities to be used as the special franchise full values on the respective 2019 assessment roll.

Voting in favor: Commissioners Becker, Casella and Rand

Voting against: NONE

Abstaining: NONE

Absent: NONE

**STATE OF NEW YORK        )**  
**) ss:**  
**COUNTY OF ALBANY         )**

I, Tim Maher, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 18, 2019.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 18<sup>th</sup> day of June 2019.

Tim Maher, Director  
Acting Secretary of the State Board



## Board of Real Property Tax Services

### RESOLUTION 19-03

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on March 17, 2019 the tentative special franchise full values for Jamestown Board of Public Utilities. (and subsidiaries) were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notice of the tentative special franchise full values and the scheduled hearing date was mailed to the special franchise owner on March 18, 2019; and

**WHEREAS**, a complaint (#SF-19-04), dated April 15, 2019, was filed by Jamestown Board of Public Utilities as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2 regarding its property located in the Town of Ellicott; and

**WHEREAS**, a hearing pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 was held with regard to this complaint on April 25, 2019; and

**WHEREAS**, no appearance on behalf of Jamestown Board of Public Utilities was made at the April 25, 2019 hearing; and

**WHEREAS**, the Hearing Officer has filed a report dated May 5, 2019; and

**WHEREAS**, ORPTS staff has reviewed the complaint, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated June 4, 2019; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2019 final special franchise full values as set forth in List No. SF-04, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to these municipalities to be used as the special franchise full values on the respective 2019 assessment roll.

Voting in favor: Commissioners Becker, Casella and Rand

Voting against: NONE

Abstaining: NONE

Absent: NONE

**STATE OF NEW YORK        )**  
  **) ss:**  
**COUNTY OF ALBANY         )**

I, Tim Maher, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 18, 2019.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 18<sup>th</sup> day of June 2019.

Tim Maher, Director  
Acting Secretary of the State Board





## Board of Real Property Tax Services

### RESOLUTION 19-04

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on April 17, 2019 the tentative special franchise full values for Consolidated Edison Company of New York, Inc. were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notice of the tentative special franchise full values and the scheduled hearing date was mailed to the special franchise owner on April 18, 2019; and

**WHEREAS**, a complaint (#SF-19-05), dated May 10, 2019, was filed by Consolidated Edison Company of New York, Inc. as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4. and

**WHEREAS**, a hearing pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 was held with regard to this complaint on May 28, 2019; and

**WHEREAS**, no appearance on behalf of Consolidated Edison Company of New York, Inc. was made at the May 28, 2019 hearing; and

**WHEREAS**, the Hearing Officer has filed a report dated May 28, 2019; and

**WHEREAS**, ORPTS staff has reviewed the complaint, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated June 4, 2019; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2019 final special franchise full values as set forth in List No. SF-05, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to these municipalities to be used as the special franchise full values on the respective 2019 assessment roll.

Voting in favor: Commissioners Becker, Casella and Rand

Voting against: NONE

Abstaining: NONE

Absent: NONE

**STATE OF NEW YORK                 )**

**COUNTY OF ALBANY              ) ss:**

I, Tim Maher, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 18, 2019.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 18<sup>th</sup> day of June 2019.

Tim Maher, Director  
Acting Secretary of the State Board



## Board of Real Property Tax Services

### RESOLUTION 19-05

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final railroad ceiling for which a complaint has been filed pursuant to section 489-ll of the Real Property Tax Law; and

**WHEREAS**, on April 1, 2019 the tentative railroad ceilings for Ithaca Central Railroad, LLC (Ithaca Central Railroad) were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 489-kk of Real Property Tax Law, notice of the tentative railroad ceilings and the scheduled hearing date was mailed to Ithaca Central Railroad on April 2, 2019; and

**WHEREAS**, a complaint (#RR-19-01), dated April 24, 2019, was filed by Ithaca Central Railroad as specified in Real Property Tax Law, section 489-kk and 20 NYCRR 9200-6.4; and

**WHEREAS**, a hearing pursuant to Real Property Tax Law, section 489-kk and 20 NYCRR 8200-6.5 was held regarding this complaint on April 30, 2019; and

**WHEREAS**, no appearance was made on behalf of Ithaca Central Railroad at the April 30, 2019 hearing; and

**WHEREAS**, ORPTS staff has reviewed the complaint, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, dated May 17, 2019; and

**WHEREAS**, the State Board has reviewed the abovementioned staff report and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2019 railroad ceilings as set forth in List No. RR-19, on file in the ORPTS, are determined to be the final railroad ceilings, and that such railroad ceilings be certified to these municipalities for use as the railroad ceiling on the respective 2019 assessment roll.

Tim Maher, Director  
Acting Secretary of the State Board

July 24, 2019  
Meeting Materials

## ***NOTICE***

### **State Board of Real Property Tax Services**

will meet on

**July 24, 2019 – 11:00 A.M.**

Executive Conference Room A – 2<sup>nd</sup> Floor  
New York State Department of Taxation and Finance  
W.A. Harriman Campus – Building 9  
Albany, NY

### ***Agenda***

- I. State Board Administration – Minutes of June 18, 2019 State Board meeting
- II. State Equalization – Final 2019 state equalization rates where complaints were filed
- III. Privilege of the Floor

### **Conduct of Meeting**

All State Board meetings are open to the public and, within a week of the meeting, a link to the meeting webcast will be published on the State Board of Real Property Tax Services webpage.

The Board's functions include the determination of final special franchise assessments and values, railroad ceilings and State equalization rates where complaints were filed. Additionally, the Board hears and determines reviews relating to determinations of County equalization agencies and appeals from property owners who are dissatisfied with the Tax Department's final determination of STAR eligibility.

Adequate opportunity to comment on matters considered by the Board is available through hearings and written submissions. All written documents relating to items on the agenda are available to the Board members in advance of the meeting. The agenda is ordinarily available four weeks prior to a Board meeting.

Persons who wish to address the Board concerning a specific item on the agenda may request permission to do so by notifying the Assistant to the State Board at least seven days prior to the date of the meeting. The Board encourages individuals who wish to address the Board at the meeting to provide written comments concerning a specific item on the agenda prior to the meeting in accordance with the above schedule. This process allows the Board to adequately address interested individuals' concerns. When addressing the Board, presenters are encouraged to limit statements to no more than ten minutes.

**- OVER -**

**Agenda**  
**July 24, 2019**

**Services Available – Upon Request**

To ensure that Board meetings are accessible to individuals with disabilities, services are available upon request if made the day before the Board meeting. For those attending the Board meeting who have hearing difficulties, an Assisted Listening System is available for use to amplify speakers' voices, or an interpreter may be provided for those with deafness. For those watching the video of the Board meeting, closed captioning will be available. Please contact the Assistant to the State Board for these services.

**Visitor Information and Parking**

Visitor parking is located in the Visitor Parking area perpendicular to the front of Building 9 and in Visitor Lot D at the State Campus. If you have special needs for parking, please notify the Assistant to the State Board in advance of the Board meeting. Visitor entry to the Tax Department is at the Security desk through Building 9, Western Avenue side. All facilities at the New York State Department of Taxation and Finance are accessible.

(7/15/19)

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

**MEETING OF JUNE 18, 2019**

A meeting of the State Board of Real Property Tax Services was held in Executive Conference Room A at the New York State Department of Taxation and Finance at the W.A. Harriman Campus, Albany, New York. 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*  
Danielle Sokolov, *Assistant to the State Board, Office of Real Property Tax Services*  
Brittany Murphy, *2<sup>nd</sup> Assistant to the State Board, Office of Real Property Tax Services*

Edward Martorana, *Director, Valuation Services Bureau, Office of Real Property Tax Services*  
Christopher Hayes, *Real Property Analyst 3, Office of Real Property Tax Services*  
Andrew D. Morris, *Executive Deputy Commissioner, NYS Department of Taxation and Finance*  
Michael Schollar, *Deputy Commissioner, Office of Processing and Tax Payer Services*  
Paul Miller, *Director of Regional Operations, Office of Real Property Tax Services*  
Tobias Lake, *Senior Attorney, Office of Counsel*  
James Gazzale, *Public Information Officer, NYS Department of Taxation and Finance*  
Geoffrey Gloak, *Communication Manager, Office of Real Property Tax Services*  
Rebecca Bellard, *Associate Accountant, Office of Real Property Tax Services*  
Linda Conrad, *Senior Accountant, Office of Real Property Tax Services*  
Karla Bartholomew-Lacen, *Senior Accountant, Office of Real Property Tax Services*  
Katie Mastroianni, *Real Property Analyst 1, Office of Real Property Tax Services*  
Erica Foley, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Amanda Norman, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Brian Sprague, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Andrew DiMartino, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Barbara Skaarup, *Program Aide, Office of Real Property Tax Services*

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



## **Meeting Minutes – June 18, 2019**

Mr. Rand called the State Board of Real Property Tax Services meeting to order at 11:05 A.M. and introduced himself and his fellow Board Members, Acting Secretary Timothy Maher and Legal Advisor Joseph Gerberg.

### **Agenda Item No. I – State Board Administration – Minutes of the July 31, 2018 State Board meeting.**

On motion of Mr. Casella, seconded by Mr. Becker, Mr. Rand stated that the minutes of the July 31, 2018 Board meeting stand approved and are, hereby, adopted as written.

### **Agenda Item II-A – State Full Values – Final special franchise full values for the 2019 assessment roll where complaints were filed by New York American Water Company Inc., Consolidated Edison Company of New York, Inc., and Jamestown Board of Public Utilities**

Edward Martorana speaks on behalf of the Valuation Services Bureau of the New York State Office of Real Property Tax Services and provided an overview of special franchise properties and how they are valued. Mr. Martorana states that there were two complaints from New York American Water Company Inc. which are identical in substance and are addressed as one complaint. Mr. Martorana notes that each complaint sought to reduce their value by 70% in every jurisdiction in which the complaint is addressed. Mr. Martorana presented the details of the complaint filed by New York American Water Company Inc. and summarized the June 4, 2019 staff recommendation relative to the complaints.

Mr. Martorana stated that additional information was received in the form of a report prepared by Jerry Weinert, Principal of AUS Consultants. Mr. Martorana explained that the complaint contended that the property is over valued due to the use of the third-party indices. Mr. Martorana indicated that these indices are applied to all special franchise properties of like kind and applied using the long standing widely accepted procedures. Mr. Martorana provided further that the complaint also noted that ORPTS failed to adjust for construction costs. Mr. Martorana explained that the complainant never supplied any construction costs that needed adjustment and that the property was valued using RCNLD which has been upheld by the courts. Mr. Martorana went on to explain that the complaint further contends that inadequate functional obsolescence was applied and that the complainant never requested functional obsolescence. Mr. Martorana explained that in the additional information that was received, the complainant did indicate that the salvage lives were inaccurate and the company used memos from another consulting company Management Applications Consultants (MAC) which came up with much greater salvage values that contradicted the lower values arbitrarily noted in the complainant's reports. Mr. Martorana continued to state that the complaint objected to ORPTS use of a depreciation floor which is applied in accordance with real property rules and procedures and has been applied to every special franchise property in the state. Mr. Martorana noted that there was no additional information supplied that suggested the complainant was due additional depreciation because of ORPTS use of a floor. Mr. Martorana continued to explain that the complaint contended that insufficient economic obsolescence was applied to there property and that ORPTS applies the same method for all municipalities. Mr. Martorana stated that the complainant claimed that ORPTS should have used a weighted average as opposed to a 5-yr average which would have been against the rules promulgated in the real property procedures. Mr. Martorana continued with the details of the complaint which described that the complainant felt it was not a proper way of doing economic obsolescence to use the required rate of return versus the achieved rate of return. Mr. Martorana reviewed the additional information

## Meeting Minutes – June 18, 2019

supplied and noted that it did not include calculations to show where the value was overstated and the records supplied that took a sample of water companies throughout the entire country that were not under the public service commission were inadequate to apply to New York State utilities. Mr. Martorana also explained that the complainant alleged that it was unlawful, illegal, and unconstitutional and that this was brought up in the hearing officer's report.

Mr. Joseph Gerberg, Legal Advisor to the State Board, noted that he reviewed the legal allegations made by the complainant and did not find any merit to them.

Mr. Martorana stated that after review of the previously mentioned materials, he recommended no change to the tentative special franchise value.

Mr. Becker asked whether staff had deviated from the normal procedure when doing their initial analysis.

Mr. Martorana responded by stating that for their calculations they used the procedures that they use for all other utilities and did examine the additional information provided to see if any was applicable as the complainant is entitled to supply alternative methods. Mr. Martorana stated that the alternatives methods provided did not contain the calculations necessary to make any adjustments.

Mr. Casella asked what the staff was able to review if various costs and documentation was not provided.

Mr. Martorana stated that they use inventory that is provided to ORPTS on a yearly basis and inventory that is provided to the Public Service Commission. He also stated that after the hearing additional information was requested to support the complainants request for changes to what was determined by staff.

Mr. Rand noted that there were two individuals present to represent the complainant, New York American Water Company Inc.

Mr. Robert Sorge introduced himself as outside counsel to New York American Water Company Inc. and stated that he does not plan on making any comments depending on how the rest of the meeting goes but did introduce Mr. Michael Mupo, Property Tax Supervisor for New York American Water Company Inc. and stated that Mr. Mupo would like to address the Board.

Mr. Mupo introduces himself as the Property Tax Supervisor for New York American Water Company Inc. and provided history of the company and its acquisitions and service area. Mr. Mupo describes his experience in the valuation field across the country. Mr. Mupo stated that he was appearing before the Board to address the level of property tax that the company pays and has to include in the bills, primarily in the Village of Sea Cliff, the Town of Hempstead, and the Town of Oyster Bay. Mr. Mupo stated that currently 60% of the Village of Sea Cliff's customers' monthly water bill consist of property tax. He further stated that in Services Areas 1 and 2, over 34% of the water bill is property tax. Mr. Mupo continued by comparing these rates to rates around the country which have an average of only 7 percent. Mr. Mupo provided a handout to the Board members and continued stating that due to the property tax burden, the company began to challenge its special franchise full values. Mr. Mupo notes

## Meeting Minutes – June 18, 2019

that the company is being supported by the Public Service Commission to aggressively reduce this property tax burden. Mr. Mupo stated that while the company believes there are many reasons why the company is being over assessed, he only mentioned two. Mr. Mupo suggested to ORPTS two calculation fixes Mr. Mupo stated that the first is to change the negative salvage percentage that is being applied to water mains account. Mr. Mupo explained that the original was developed by an AUS study that was prepared 30 years ago and much has changed in 30 years notably, wages have increased substantially and a majority of the company's cost is labor cost. Mr. Mupo stated that the company is forced to move from one side of the street to the other, forced to put in bigger mains, and forced to put in newer mains.

Mr. Casella asked Mr. Mupo to explain what he means by forced.

Mr. Mupo explained that when people move or change the road texture, the company is forced to move or change the services. Mr. Mupo began to reference the report authored by Mr. Jerry Weinert, which stated that the net salvage is outdated which is because of the labor increase over a 30-yr period and that labor should be increased. Mr. Mupo stated that based on the company's internal depreciation study that ORPTS staff use the latest study that provides for a negative 40% net salvage as opposed to a negative 10%. Mr. Mupo notes that the rules state that is a tax payer has specific evidence to show that their circumstances are different then the staff should take that into consideration when putting together the valuations. Mr. Mupo provided that the company is ready, willing, and able to work with staff and provide additional information to review the study and provide additional facts that are needed to make sure the staff understands that the adjustments are justified. Mr. Mupo moved on to the second issue which is the economic obsolescence allowance for which he provided a second handout which is an excerpt from the company's latest filing. Mr. Mupo describes the handout as a visual of the achieved rate of return which has diminished over the last several years. Mr. Mupo further explained that back in 2013 the company was earning almost 11%, by 2017 it has dropped to under 4%, it is continuing to drop to under 3% in 2018, and it should increase the economic obsolescence allowance. Mr. Mupo provided that this was almost a 70% decrease in a 5-yr period. Mr. Mupo indicated that ORPTS has been using a straight-line method that severely understates the obsolescence requested by the company. Mr. Mupo suggested that since it's a declining pattern that the most current numbers should be the ones that are relied on. Mr. Mupo stated that it is the obligation of the assessor to determine the full market value and by understating the factor, ORPTS is overstating the company's values. Mr. Mupo attested that he has never met an appraiser that says that the average is the only way to fact and that one needs to look at the circumstances. Mr. Mupo explained to the Board that he suggested using a weighted average that could provide a reasonable relief weighted more towards the current year.

Mr. Becker asked Mr. Mupo to walk him through how the rate of return that is displayed on the handout translates to the economic obsolescence number the company is looking to achieve the 70% figure.

Mr. Mupo describes that there is a whole calculation associated with the request which he did not have on hand. Mr. Mupo describes that what happens is that ORPTS takes the 5 numbers displayed at the bottom of the handout, divides them by 5 and comes up with the achieved rate of return and compares it to the elaborated rate of return and comes up with a percentage. Mr. Mupo explained that the cost of capital is in the calculation as well.

Mr. Becker asked if the company believes that it is more appropriate to use the most current

## Meeting Minutes – June 18, 2019

number as opposed to the average of the 5 numbers that ORPTS used.

Mr. Mupo responded by saying that the company believes that ORPTS should use the most current number or a weighted average of the 5 numbers.

Mr. Casella asked Mr. Mupo to explain the difference between using the most current number versus using a weighted average.

Mr. Mupo explained that for a weighted average one would put 5 weights on the most current number, 4 on the second most current, and so on which would be a muted version of just using the most current value and better than using an average.

Mr. Casella asked Mr. Mupo why the values provided on the handout are dropping so significantly.

Mr. Mupo responded by noting that he has only been with the company since 2018 and that he is not sure of the reasons from the previous years. Mr. Mupo provided that he thinks that there is a tendency in the water system for conservation, so rates are set and because of conservation efforts the company is losing 10% of the usage every year thus the company is losing revenue each year. Mr. Mupo also brings attention to the property tax burden as a possible reason. Mr. Mupo continued by stating that making the changes in the calculations, the customers can begin to see relief in their water bills.

Mr. Becker asked Mr. Mupo to describe what types of evidence did Mr. Weinert make in his report to demonstrate that the information used by ORPTS is outdated.

Mr. Mupo explained that Mr. Weinert's point was that over the past 30 years the labor have increased substantially and that he also used the company's latest depreciation study that was done for the Public Service Commission. Mr. Mupo explained that Mr. Weinert concluded that he agreed with the appraiser's consideration that the company's negative net salvage would be much higher.

Mr. Becker narrowed his question and asked if Mr. Weinert provided specific evidence that there is an increase in labor cost or did he just say "as we all know labor cost are going up".

Mr. Mupo responded by stating that Mr. Weinert is an expert and describes that most of the labor force of the company is unionized and there is a percentage increase in labor cost every year.

Mr. Becker confirmed his understanding that the 30-yr change in labor costs was what Mr. Weinert was describing and that the company believed this was what needs to be taken into account in the calculation.

Mr. Mupo continued by saying that if there were annual adjustments in the percentage it should have gone up over the course of the 30-yr period and it would be at the 40%/50%.

Mr. Martorana responded affirmatively and spoke about how the reports from MAC noted a much greater value than the value that the company suggested staff use in the calculation with no support and questioned why the company would lessen the value from what was found. He continued by

## Meeting Minutes – June 18, 2019

questioning why they arbitrarily choose 40% if what the company found was 70%. Mr. Martorana stated that there was no support to show that the labor cost. Mr. Martorana also spoke to the property tax table hand out provided by the complainant and questioned whether or not other states in addition to property tax have personal tax on assets that are in the states which New York does not have. Mr. Martorana described the numbers on the handout inflate New York.

Mr. Casella explained that he was thinking the same thing and then questioned whether or not the complainant provided anything that showed a direct comparison of the amount of property tax paid versus other states.

Mr. Martorana noted that this is the first time staff has heard this particular argument with regards to the comparison of taxes from other states and the report from Jerry Weinert does not contend this argument.

Mr. Casella followed up with an additional question for Mr. Martorana regarding how staff addressed the complainant's comments relating to using a weighted average.

Mr. Martorana responded by stating that staff tries to avoid spikes in the water rate and that when a 5-yr average is used a spike in the rates are avoided. He noted a point brought up by Jerry Weinert that if prices in a commodity went up in one year they may also drop in one year. Mr. Martorana explained that staff did not make a calculation for a weighted average no did the company show how that would adjust their special franchise value. Mr. Martorana continued by saying that economic obsolescence is requested by the company every year and that the company is required to supply calculations. He specified that for this roll year the company provided documentation to show that they requested 8% for service area 1 which staff calculated 9% and for service area 2 they requested 9% where staff calculated 7%.

Mr. Mupo responded to Mr. Martorana's comments by referring to the chart in his handout. He stated that the first part of the chart addresses just property tax and the other part of the chart addresses all other taxes. He continued by explaining that New York's property tax piece is 34% is higher than any of the other taxes including gross receipts, state income tax, and others. He went on to state that the tax rate in Nassau County is probably the highest in the world but aside from that it is really the valuation methodology that is being questioned. Mr. Mupo continued to say that it is the assessor's judgement to come up with not whether a spike occurs from one year to the next it is to come up with the right value which for this company is not 9%. Mr. Mupo reiterated that the company can sit down with staff and work through the issues.

Mr. Rand thanked the speakers and explained that he is sensitive to the high tax that the company is paying and the high rates that get passed down to the customer. He continued to state as far as the arguments that can be made regarding what standards are being used and what can be reviewed and adjusted, he believes that Department welcomes those discussions. He noted that he believes that company is looking at these adjustments in a smart way but is unsure if there is anything that can be accomplished for this year.

Mr. Becker followed up by stating that he agrees with the complainant and that the points are well taken because he can understand staff's position that they don't want rates that fluctuate

## Meeting Minutes – June 18, 2019

significantly and on the other hand he understands the company's position as well. Mr. Becker continued by explaining that in his mind the question is when the Department had to make its decision, what information did they have, what did they need, and what collection of data could they rely on. Mr. Becker indicated that it was his understanding that staff was looking for additional information that was not provided and that maybe if they had earlier in the process, staff may have reached a different result.

Mr. Casella continued the discussion by noting that the Board understands the company's feelings, but it seemed like there was a timeliness for information that could have been provided that either wasn't provided or the complainant wasn't aware that it may have been helpful. He continued by saying that he thought that he heard from the complainant that there was additional information that could be provided and want to provide. Mr. Casella believed that the complainant made convincing arguments and that from his experience as a former Town Supervisor, spikes in the water rates could be problematic but if it should be higher it should be and if it should be lower it should be. He noted that consistency is important but so is accuracy. Mr. Casella stated that he does not need any further information and that he is ready to vote.

Mr. Robert Sorge requested to address the Board and asked whether these assessments must be finalized today. He continued to explain that Nassau County has a very long assessment cycle and wondered if it would be possible to defer this decision, possibly a month, to allow staff and the company to figure out if there is additional information that could sway the staff.

Mr. Gerberg responded noting two issues one of which is that he believes staff has reviewed the information that has been provided and did not convince them that an adjustment was warranted but as far as the timing issue, in most jurisdictions the final rolls must be finalized by July 1<sup>st</sup> and final special franchise assessments are needed before the final assessment rolls are filed. Mr. Gerberg continued by saying that it is true that for the property in Nassau County, the county is on a different assessment cycle, but he cannot speak for the county, but it is not obvious to him that it would be a problem for Nassau County if they got their finals in July rather than in June. Mr. Gerberg then observed that some of this property is elsewhere in the state where there is a July 1<sup>st</sup> deadline but that he does not know if there would be a significant conflict with a delay of a few weeks.

Mr. Becker questioned if the Board has the power to delay the decision for a couple of weeks.

Mr. Gerberg responded by saying if the Board is not prepared to make a final determination at this point, it is within the Board's discretion to delay making the decision.

Mr. Becker addressed his fellow Board members and asked what about the idea of making a determination subject to staff and the company reaching an agreement by a given date and at which point the complainant withdraws their complaint and then the Board's determination becomes void.

Mr. Gerberg stated that it is unorthodox, but he believes that would be within the Board's discretion.

Mr. Becker stated that he always believes that everyone should be given every possible opportunity to work something out and thus would not object to following a procedure of deciding then allowing additional time for staff and the company to reach an agreement if possible.

## Meeting Minutes – June 18, 2019

Mr. Casella stated that it is June 18<sup>th</sup> and that the folks would need to come together with a lot of information and have some sort of agreement that he is not sure if it is fair for the company. He continued by noting that, at this point, he supports the resolution but wonders if it is in everyone's best interest to rush the extended discussion so quickly to reach a better agreement where perhaps if they take enough time to reach the right agreement.

Mr. Becker stated that they could do that for next year.

Mr. Rand stated that he thinks July 1<sup>st</sup> is probably too soon and is unsure if anyone will be able to get much done between now and July 1<sup>st</sup>. He continued to mention that there is another Board meeting on July 24<sup>th</sup> where if possibly the complainant and staff were able to come to some agreement between now and July 24<sup>th</sup> that there would be an opportunity for the Board to review this topic again at least for Nassau.

Mr. Sorge agreed that his suggestion is specifically for Nassau County and that approximately 95% of what is being discussed from a tax stand point is Nassau County and that he does not believe that there is a timing issue preventing the Board from waiting until July 24<sup>th</sup> to make their decision.

Mr. Rand indicated that he understands that it may not be an issue to separate the two areas and put the one off until the next meeting if there is some sense that an agreement can be reached. He continued by saying that he is unsure that the company and staff will be able to and that he believes it is more of an argument of long-standing practice which is a worthwhile debate.

Mr. Casella asked if it is also fair to ORPTS staff to be able to receive the information, meet with the company, understand the information received, and get their responsibilities done by the next Board meeting on July 24<sup>th</sup>.

Mr. Gerberg responded to Mr. Casella's question by stating that the way the process is designed is there was a hearing on March 4<sup>th</sup> and notices of the hearing went out at least 20 days prior and that is the forum that is established by law for evidence to be submitted and review. He added that ORPTS makes every effort to accommodate the complainant by asking for additional information that staff is willing to consider after the hearing as a courtesy.

Mr. Casella agreed that the process described by Mr. Gerberg is the process that should be followed and is prepared to act on the resolutions today in support of staff's position because he feels it is unfair to all parties. Mr. Casella also acknowledged that it is another year of higher taxes for the company's clients, but it is his preference to act on what the Board has before them today and then let this process start anew in the timeframe that is spelled out by procedure.

Mr. Rand agreed with Mr. Casella and continued by stating that he worries about creating a precedent. Mr. Rand introduced Resolution 19-01.

On motion of Mr. Becker, seconded by Mr. Casella, the Board adopted Resolution No. 19-01 and approved the staff recommendation establishing the final 2019 special franchise full values for New York American Water Company Inc.

## **Meeting Minutes – June 18, 2019**

### **Agenda Item II-B – State Full Values – Final special franchise full values for the 2019 assessment roll where complaints were filed by Jamestown Board of Public Utilities.**

Mr. Rand introduced the next item which is a complaint from Jamestown Board of Public Utilities (Jamestown BPU).

Mr. Martorana began by stating that Jamestown Board of Public Utilities filed two complaints one of which is for the City of Jamestown and the other for the Town of Ellicott. Mr. Martorana explained that the complainant requested a 90% reduction in their special franchise value and the complaint contended that the complainant is an exempt municipality that owns the pipeline. Mr. Martorana explained that the sale was not approved by the Public Service Commission until November 2018 which is past the valuation date of July 1, 2018 so at the time of valuation the property in question in the City of Jamestown was still owned by the predecessor Emkey Transportation Inc. Mr. Martorana moved on to the second complaint which dealt with the portion of the pipeline that is in the Town of Ellicott. Mr. Martorana explained that the complainant was looking for a 68% reduction and the complainant based that reduction on the purchase price of the property. Mr. Martorana noted that the complainant failed to consider that the property was purchased for \$5.4 million and the documentation that was supplied by the complainant to the Public Service Commission demonstrated that the property is worth \$5.9 million therefore the value of the property exceeded the purchase price. Mr. Martorana added that they allocated \$1.8 million to the pipeline and the rest to additional gas line assets. Mr. Martorana provided that Jamestown BPU was involved in a 20-yr lease agreement with the predecessor Emkey which makes the transaction non-arm's length. Mr. Martorana continued by saying that when staff reviewed the property, it was valued using the reproduction cost new less depreciation (RCNLD) and there was nothing provided saying it should have been done otherwise.

There was no one present representing Jamestown BPU.

Mr. Rand indicates that there are two resolution regarding this complaint. Mr. Rand noted that Resolution 19-02 addressed the complaint with respect to the City of Jamestown.

On motion of Mr. Becker, seconded by Mr. Casella, the Board adopted Resolution No. 19-02 and approved the staff recommendation establishing the final 2019 special franchise full values for property of Jamestown Board of Public Utilities located in the City of Jamestown.

On motion of Mr. Becker, seconded by Mr. Casella, the Board adopted Resolution No. 19-03 and approved the staff recommendation establishing the final 2019 special franchise full values for property of Jamestown Board of Public Utilities located in the Town of Ellicott.

### **Agenda Item II-C – State Full Values – Final special franchise full values for the 2019 assessment roll where complaints were filed by Consolidated Edison Company of New York, Inc.**

Mr. Rand introduced the next item which is a complaint from Consolidated Edison Company of New York, Inc. (Con Ed).

Mr. Martorana began by stating that the special franchise values for Con Ed are under litigation



## **Meeting Minutes – June 18, 2019**

for the years 2009 through 2018 with the exception of 2017 where they did not file a timely complaint. Mr. Martorana explained that the complainant requested a 50% reduction in all jurisdictions for electric and gas and a 60% reduction for the steam plant. Mr. Martorana stated that the complaint contended that the property is overvalued due to ORPTS' use of the Handy Whitman third-party indices. Mr. Martorana explained that ORPTS applied the indices with long-standing and accepted procedures and applied it to all utilities of a like kind using the same indices. Mr. Martorana noted that the complaint also stated that some construction cost went unadjusted, but staff was provided no construction costs to be adjusted. Mr. Martorana continued that the complaint further contended that the depreciation should be beyond the 120% of the useful life and the floor value that staff used which is applied to all utilities in all jurisdictions in all municipalities across the state. Mr. Martorana further explained that the complaint contended that staff used insufficient salvage values, but no additional information was provided to show use of alternative salvage values and the salvage values that were applied were applied to all utilities in the same fashion. Mr. Martorana continued by saying that the complaint claimed that staff did not take out redundancies in their system, yet no redundancies were noted for removal. Mr. Martorana stated that the complaint contended that staff applied insufficient functional obsolescence and explained that staff did apply a 10% functional obsolescence for the gas mains in Yonkers and a 3% in Queens. Mr. Martorana noted that no additional support from the complainant was provided to show that additional functional obsolescence should be applied. Mr. Martorana also noted that the complaint contended that staff included properties that were not owned by Con Ed but no supporting documentation to that claim was provided. Mr. Martorana stated that the complaint objected to staff's use of economic obsolescence using the original cost less depreciation and the earnings test was conducted as it was for all utilities in the state that requested economic obsolescence and no additional information was provided. Mr. Martorana stated that the last issue in the complaint was an objection to the intangible value for the use of a special franchise which was 5% that is outlined in ORPTS rules and procedures, has historically been considered reasonable, and continually accepted by the courts.

There was no one present representing Con Ed.

On motion of Mr. Casella, seconded by Mr. Becker, the Board adopted Resolution No. 19-04 and approved the staff recommendation establishing the final 2019 special franchise full values for Consolidated Edison Company of New York, Inc.

### **Agenda Item III – Railroad Ceilings – Final 2019 railroad ceilings where complaints were filed by Ithaca Central Railroad**

Mr. Rand introduced the next item which is a complaint from Ithaca Central Railroad, LLC and noted that Christopher Hayes will speak on behalf of staff.

Mr. Christopher Hayes introduced himself as the manager with the Office of Real Property Tax Services that is responsible for the administration of the railroad ceiling program. Mr. Hayes described a railroad ceiling as the maximum taxable assessed value for railroad property that is associated with transportation for a given company or a given municipality that is otherwise not owned or overseen by an industrial development agency or a municipal corporation. Mr. Hayes noted that ORPTS does not traditionally receive complaints in this program however one was received this year by Ithaca Central Railroad against the City of Ithaca as well as the Towns of Van Etten, Barton, Spencer, Danby, Ithaca, Lansing, and Newfield. Mr. Hayes continued by stating that the complaint contained many statements

## Meeting Minutes – June 18, 2019

regarding the ceiling being erroneous and unlawful and that the complainant is entitled to a 48% reduction in the ceiling across the aforementioned municipalities. Mr. Hayes stated that the complainant alleges that ORPTS inappropriately used third-party indices to determine reproduction cost new less depreciation which is relevant because Real Property Tax Law prescribes that in determination of the ceiling both the structural property or mass property has to be valued using the reproduction cost new less depreciation methodology as well as valuing the land. Mr. Hayes stated that staff used indices from Handy Whitman for the structures as well as valuation factors provided by Marshall Swift and the American Association of Railroads for the track and the grading. Mr. Hayes explained that all of these methods come from authoritative sources that are commonly used by appraisers in New York State and across the country which have sustained administrative and legal scrutiny. Mr. Hayes noted that Ithaca Central did not provide any alternative indices or any other information for consideration. Mr. Hayes stated that the complaint further alleged that staff valued the land portion erroneously. Mr. Hayes explained that the Real Property Tax Law prescribes that the land value associated with the railroad is determined in part by the value of the land that is immediately adjacent to the railroad but not used for railroad purposes as well as value of land rights is 10% of the land value that is compiled. Mr. Hayes explained that staff compiled a land schedule to determine the value of land per acre and applied it to Ithaca Central's property in the same way that staff does all other railroad properties in the state and received no additional information from the complainant providing alternative methods. Mr. Hayes continued by stating that the complaint also alleged that staff failed to make appropriate adjustments to the company's originally reported costs for structural property to accommodate excess costs, but the company did not inform staff of the excess costs for construction of other costs and staff relies upon the company reporting this information. Mr. Hayes further explained that the complainant also asserted that there was an inadequate reduction for physical depreciation, functional obsolescence, and economic obsolescence but did not provide any supporting documentation. Mr. Hayes stated that the last item in the complaint was that staff did not take into consideration the impact of the real property taxes upon the value of the company's property and explained that Real Property Tax Law excludes all taxes from consideration as an expense with the exception of taxes associated with old age retirement and unemployment insurance. Mr. Hayes concluded by saying that staff recommends no change to the 2019 tentative railroad ceilings.

There was no one present representing Ithaca Central.

On motion of Mr. Becker, seconded by Mr. Casella, the Board adopted Resolution No. 19-05 and approved the staff recommendation establishing the final 2019 final railroad ceilings for Ithaca Central Railroad, LLC.

## **Meeting Minutes – June 18, 2019**

### **Agenda Item IV – 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.

With no further business to come before the Board, on motion of Mr. Casella, seconded by Mr. Becker, the Board concluded its meeting at 12:18 P.M.

Respectfully submitted,

Timothy J. Maher  
Acting Secretary of the State Board



## Board of Real Property Tax Services

### RESOLUTION 19-06

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final state equalization rate for which a complaint has been filed pursuant to Section 1210 of the Real Property Tax Law; and

**WHEREAS**, on June 24, 2019 the tentative state equalization rate for the Town of Hancock, Delaware County, was determined by the Office of Real Property Tax Services (ORPTS) in accordance with Section 1204 of the Real Property Tax Law and 20 NYCRR 8186; and

**WHEREAS**, pursuant to Section 1204 of the Real Property Tax Law and 20 NYCRR 8186-2.7, the Notice of Tentative State Equalization Rate for the 2019 Assessment Roll and the scheduled July 19, 2019 hearing date was mailed to the municipality on June 24, 2019; and

**WHEREAS**, a complaint (Form RP-6085), dated June 25, 2019 was filed by the Town of Hancock as specified in Section 1206 of the Real Property Tax Law and 20 NYCRR 8186-15.2; and

**WHEREAS**, the hearing was held pursuant to Section 1208 of the Real Property Tax Law, and 20 NYCRR 8186-15.5; and

**WHEREAS**, at the July 19, 2019 hearing no appearance was made on behalf of the municipality; and

**WHEREAS**, ORPTS staff has reviewed the complaint, filed reports regarding such review with the Complaint Review Panel and has made recommendations. The results of the review are annexed hereto, made a part hereof and summarized in the July 23, 2019 memorandum to the State Board; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

Tim Maher, Director  
Acting Secretary of the State Board



## Board of Real Property Tax Services

### RESOLUTION 19-07

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final state equalization rate for which a complaint has been filed pursuant to Section 1210 of the Real Property Tax Law; and

**WHEREAS**, on June 19, 2019 the tentative state equalization rate for the Town of Washington, Dutchess County, was determined by the Office of Real Property Tax Services (ORPTS) in accordance with Section 1204 of the Real Property Tax Law and 20 NYCRR 8186; and

**WHEREAS**, pursuant to Section 1204 of the Real Property Tax Law and 20 NYCRR 8186-2.7, the Notice of Tentative State Equalization Rate for the 2019 Assessment Roll and the scheduled July 16, 2019 hearing date was mailed to the municipality on June 19, 2019; and

**WHEREAS**, a complaint (Form RP-6085), dated July 10, 2019 was filed by the Town of Washington as specified in Section 1206 of the Real Property Tax Law and 20 NYCRR 8186-15.2; and

**WHEREAS**, the hearing was held pursuant to Section 1208 of the Real Property Tax Law, and 20 NYCRR 8186-15.5; and

**WHEREAS**, the Hearing Officer has filed reports dated July 16, 2019; and

**WHEREAS**, ORPTS staff has reviewed the complaint, filed reports regarding such review with the Complaint Review Panel and has made recommendations. The results of the review are annexed hereto, made a part hereof and summarized in the July 23, 2019 memorandum to the State Board; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2019 state equalization rate for the Town of Washington as set forth in the list entitled

Tim Maher, Director  
Acting Secretary of the State Board