



years; consequently, the entirety of the facts will not be repeated here. Complainant is a federal-regulated utility company that owns the subject property, which is a locally-assessed natural gas pipeline situated in Clay County, Missouri. In the initial decision, a STC hearing officer upheld the BOE's valuations of the subject property. On application for review, the Commission reversed the hearing officer's decision. On petition for judicial review, the circuit court affirmed the Commission's decision. On appeal, however, the Missouri Court of Appeals, Western District, found:

While the initial information provided to the Assessor by Laclede failed to provide the vintage years for certain personal property such as pipelines that were placed in service before 1997, the record demonstrates that Laclede provided the Assessor with an amended list of property with the correct vintage years when Laclede became aware that the Assessor did not have the proper vintage years for all of its property. The Assessor, and the Assessor's experts failed to amend the valuation based on this information prior to the Board's hearing.

The Assessor admitted that she did not properly apply the depreciation schedule, even though she had the necessary information to properly make those calculations, and this resulted in a higher assessed value. This admission renders the Assessor's valuations unreasonable, and therefore the Board's adoption of those valuations unreasonable. "It is important for the assessor to arrive at a reasonable level of depreciation." *See Estes*, 534 S.W.3d at 358 (citing ASSESSOR MANUAL, VII-7.4-1 (Mo. State Tax Comm'n, Feb. 5, 2015)). On these specific facts, we find that the Board erred in sustaining the Assessor's initial valuation because the Assessor unreasonably failed to consider and properly calculate depreciation based on the vintage years of the property. Therefore, Laclede produced substantial and competent evidence from which the Commission could find the presumption that the Board's valuations are correct was rebutted.

This does not end the inquiry however, because Laclede not only has the burden to demonstrate the Board's valuations are incorrect, Laclede also has the burden to establish the value that should have been placed on the property. *Snider*, 156 S.W.3d at 346; *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 7 (Mo. App. S.D. 2020).

. . .  
"Determining value is an issue of fact for the Commission [; h]owever, 'whether the appropriate standard of value and approach to

valuation were properly applied under the particular facts and circumstances of the case is a question of law,” which we review de novo. *Union Elec. Co. v. Adams*, 539 S.W.3d 779, 782 (Mo. App. E.D. 2017) (“*Adams*”) (quoting *Aspenhof Corp. v. State Tax Comm’n*, 789 S.W.2d 867, 869 (Mo. App. E.D. 1990)).

However, in 2013, the Commission mandated that assessors use the reproduction cost approach to value natural gas pipeline companies’ real and personal property. *Estes*, 534 S.W.3d at 367; *Adams*, 539 S.W.3d at 783. Similarly, the Commission continued to mandate the use of the reproduction cost approach for tax years 2014 and 2015. See *Estes*, 534 S.W.3d at 358 (citing ASSESSOR MANUAL, VII-7.4-1 (Mo. State Tax Comm’n, Feb. 5, 2015)). Also, section 137.122 requires assessors to use the reproduction cost approach for business personal property in use after January 1, 2006. Consistent with *Estes* and *Adams*, we hold that the Commission is obligated to use the reproduction cost approach in the instant case.

*Rinehart*, 607 S.W.3d at 228-231.

Following remand and assignment of the appeal to the undersigned Hearing Officer, the Hearing Officer issued her Order Setting Discovery Schedule and Evidentiary Hearing, which provided in relevant part:

During the two prehearing conferences regarding the schedule for and scope of discovery and proposed dates for Evidentiary Hearing, the hearing officer informed the parties that the State Tax Commission follows the direction of the Court when hearing a case on remand and that the hearing officer believes that the schedule for and scope of discovery and the scope of Evidentiary Hearing should be limited to a determination of the property’s true value in money as of January 1, 2014, and January 1, 2015, using the cost approach based primarily upon the voluminous record already existing in the case.

The hearing officer recognizes that the existing record may be supplemented to a reasonable degree under the circumstances due to the fact that Respondent has retained a new expert following remand.

The Evidentiary Hearing was held on June 15 and 16, 2022, at the Clay County Courthouse, 7th Judicial Circuit, Division 9, Liberty, Clay County, Missouri. In addition to their evidence and exhibits previously admitted into the record, the parties

presented the following evidence and exhibits:

Complainant's Additional Evidence and Exhibits on Remand	
Exhibit V	Appraisal of Laclede Gas Company Taxable Real Property and Tangible Personal Property Located In Clay County, Missouri As Of January 1, 2014, and January 1, 2015 And Supplemental Analysis dated February 25, 2022
Exhibit W	List of Real and Personal Property located in Clay County as of January 1, 2014 and January 1, 2015 (provided electronically to Respondent on 11/30/21 per the Commission's 11/12/21 Order)
Exhibit X	List of Real and Personal Property located in Clay County as of January 1, 2014 and January 1, 2015 (provided electronically to Respondent on 11/30/21 per the Commission's 11/12/21 Order) (native excel version)
Exhibit Y	Laclede Gas Company's Responses to First Interrogatories to Complainant on Remand (served February 1, 2021)
Exhibit Z	Laclede Gas Company's Responses And Objections to Respondent's First Request For Production of Documents and Things to Complainant on Remand (served June 12, 2021)
New Written Direct Testimony Robert F. Reilly, certified appraiser	"I did not consider, and I did not rely on, the (1) sales comparison approach or (2) the income approach in my Appraisal. Based on my appraiser's review of Union Electric Company d/b/a Ameren Missouri v. Estes, 534 S.W.3d 352 (Mo. Ct. App. 2017) ("the Estes decision") and Rinehart v. Laclede Gas Company, 607 S.W.3d 220 (Mo. Ct. App. 2020) ("the Rinehart decision"), I understand that Missouri law requires the application of the cost approach and the original, untrended, cost less depreciation method to determine the true value in money of real property and tangible personal property owned by natural gas distribution utilities for property tax purposes. As an appraiser, I reviewed the above mentioned judicial decisions, and I am familiar with the statement of Missouri law with respect to the property tax appraisal of the subject property, including, for emphasis: (1) the holding that, in Missouri, "the reproduction cost approach begins with the actual or original cost of the real property and/or its improvements" and (2) the holding that, as a matter of Missouri law, the appraisal at any tax appraisal date commences with original costs, untrended, from which depreciation must be deducted. Based on legal instructions, and on my appraiser's reading of the Estes decision and of

	<p>the Rinehart decision, I developed a summation principle property appraisal. I was instructed to limit the scope of work in my summation principle appraisal to the development and reporting of a cost approach, original cost (or historical cost) less depreciation (HCLD) method analysis only. Throughout my Appraisal Report I use the terms original cost and historical cost interchangeably.</p> <p>...</p> <p>Based on my summation principle property appraisal, and after consideration of all components of depreciation and obsolescence, I concluded the true value in money of the subject property as of each appraisal date. Page 25 through page 26 of my Appraisal Report summarize my opinion of the true value in money of the subject property, as of the appraisal dates. My analysis is summarized in Exhibit 1-A through Exhibit 1-B of my Appraisal Report . . . .”</p>
New Written Direct Testimony Randy Holman, certified appraiser and former STC Commissioner	In response to requests from Missouri assessors, the STC developed a form to assist in the reporting of property owned by natural gas distribution companies such as Complainant and to provide guidance to assessors in valuing such property. The form applied to both real and personal property owned by natural gas distribution companies, required natural gas distribution companies to report the original/historical cost of this property based on the year placed in service, and provided a uniform depreciation schedule to be applied to the original/historical cost. The STC presented the guidance to Missouri assessors in public forums where assessors were invited to ask questions and comment on the form.
<b>Respondent’s Additional Evidence and Exhibits on Remand</b>	
Exhibit 17	STC Assessor’s Manual Section 7.4, 2013 and 2015 Reporting Forms
Exhibit 18, a-f	18 C.F.R Subchapter F, Part 201, Excerpt of Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, divided into multiple parts because of size limitations
Exhibit 19	Written Direct Testimony of Lisa Hobart
Exhibit 20	Written Direct Testimony of John Ryan
Exhibit 21	Appraisal Report of John Ryan
Exhibit 22	Appraisal Report Worksheet
Exhibit 23	Laclede Gas 2016 Depreciation Study

The parties’ evidence and exhibits on remand were admitted into the record.

The STC, an administrative tribunal, like the trial court, has considerable discretion in the admission or exclusion of evidence. *Cox v. Kansas City Chiefs Football Club, Inc.*, 473 S.W.3d 107, 114 (Mo. banc 2015). Absent a clear abuse of discretion, which is a ruling that is clearly against the logic of the circumstances before the tribunal or the court and is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of careful and deliberate consideration, the tribunal's or court's discovery rulings will not be grounds for reversal. *Cox*, 473 S.W.3d at 114.

The Hearing Officer finds that Complainant's evidence was substantial, persuasive, and credible and followed the mandate of the Court on the valuation methodology to be used on remand.

## **CONCLUSIONS OF LAW AND DECISION**

### **Jurisdiction**

The STC has jurisdiction to hear this appeal and to correct any assessment which is shown to be unlawful, unfair, arbitrary, or capricious, including the application of any abatement. The Hearing Officer shall issue a decision and order affirming, modifying or reversing the determination of the BOE, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. Article X, Section 14, Mo. Const. of 1945; Sections 138.430, 138.431, 138.431.4<sup>1</sup>.

### **Basis of Assessment**

The Constitution mandates that real property and tangible personal property be assessed at its value or such percentage of its value as may be fixed by law for each class

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<sup>1</sup> All statutory citations are to the RSMo. 2000, as amended, unless otherwise indicated.

and for each subclass. Article X, Sections 4(a) and 4(b), Mo. Const. of 1945. The constitutional mandate is to find the true value in money for the property under appeal. By statute, real property and tangible personal property are assessed at set percentages of true value in money: residential property at 19%; commercial property at 32%; agricultural property at 12%; personal property at 33.33%. Section 137.115.5.

### **Weight to be Given Evidence**

The Hearing Officer is not bound by any single formula, rule, or method in determining true value in money and is free to consider all pertinent facts and estimates and give them such weight as reasonably they may be deemed entitled. The relative weight to be accorded any relevant factor in a particular case is for the Hearing Officer to decide. *St. Louis County v. Security Bonhomme, Inc.*, 558 S.W.2d 655, 659 (Mo. banc 1977); *St. Louis County v. STC*, 515 S.W.2d 446, 450 (Mo. 1974); *Chicago, Burlington & Quincy Railroad Company v. STC*, 436 S.W.2d 650 (Mo. 1968).

The Hearing Officer, as the trier of fact, may consider the testimony of an expert witness and give it as much weight and credit as deemed necessary when viewed in connection with all other circumstances. *Beardsley v. Beardsley*, 819 S.W.2d 400, 403 (Mo. App. W.D. 1991). The Hearing Officer, as the trier of fact, is not bound by the opinions of experts but may believe all or none of the expert's testimony or accept it in part or reject it in part. *Exchange Bank of Missouri v. Gerlt*, 367 S.W.3d 132, 135-36 (Mo. App. W.D. 2012).

### **Complainant's Burden of Proof**

To obtain a reduction in assessed valuation based upon an alleged overvaluation, the

Complainant must prove the true value in money of the subject property on the subject tax day. *Hermel, Inc., v. State Tax Commission*, 564 S.W.2d 888, 897 (Mo. banc 1978). True value in money is defined as the price that the subject property would bring when offered for sale by one willing but not obligated to sell it and bought by one willing or desirous to purchase but not compelled to do so. *Rinehart v. Bateman*, 363 S.W.3d 357, 365 (Mo. App. W.D. 2012); *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008); *Greene County v. Hermel, Inc.*, 511 S.W.2d 762, 771 (Mo. 1974). True value in money is defined in terms of value in exchange and not in terms of value in use. *Stephen & Stephen Properties, Inc. v. State Tax Commission*, 499 S.W.2d 798, 801-803 (Mo. 1973). In sum, true value in money is the fair market value of the subject property on the valuation date. *Hermel, Inc.*, 564 S.W.2d at 897.

“‘True value’ is never an absolute figure, but is merely an estimate of the fair market value on the valuation date.” *Drury Chesterfield, Inc., v. Muehlheausler*, 347 S.W.3d 107, 112 (Mo. App. E.D. 2011), *citing St. Joe Minerals Corp. v. State Tax Comm’n of Mo.*, 854 S.W.2d 526, 529 (Mo. App. E.D. 1993). “Fair market value typically is defined as the price which the property would bring when offered for sale by a willing seller who is not obligated to sell, and purchased by a willing buyer who is not compelled to buy.” *Drury Chesterfield, Inc.*, 347 S.W.3d at 112 (quotation omitted).

A presumption exists that the assessed value fixed by the BOE is correct. *Rinehart*, 363 S.W.3d at 367; *Cohen*, 251 S.W.3d at 348; *Hermel, Inc.*, 564 S.W.2d at 895. “Substantial and persuasive controverting evidence is required to rebut the presumption, with the burden of proof resting on the taxpayer.” *Cohen*, 251 S.W.3d at 348. *Substantial*



*evidence* can be defined as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Cupples Hesse Corp. v. State Tax Commission*, 329 S.W.2d 696, 702 (Mo. 1959). *Persuasive evidence* is evidence that has sufficient weight and probative value to convince the trier of fact. *Cupples Hesse Corp.*, 329 S.W.2d at 702. The persuasiveness of evidence does not depend on the quantity or amount thereof but on its effect in inducing belief. *Brooks v. General Motors Assembly Division*, 527 S.W.2d 50, 53 (Mo. App. 1975). *See also, Westwood Partnership v. Gogarty*, 103 S.W.3d 152 (Mo. App. E.D. 2003); *Daly v. P. D. George Co.*, 77 S.W.3d 645 (Mo. App. E.D. 2002); *Reeves v. Snider*, 115 S.W.3d 375 (Mo. App. S.D. 2003).

There is no presumption that the taxpayer's opinion is correct. The taxpayer in a STC appeal still bears the burden of proof. The taxpayer is the moving party seeking affirmative relief. Therefore, the Complainant bears the burden of proving the vital elements of the case, i.e., the assessment was "unlawful, unfair, improper, arbitrary or capricious." *Westwood Partnership*, 103 S.W.3d 152 (Mo. App. E.D. 2003); *Daly v. P. D. George Co.*, 77 S.W.3d 645 (Mo. App. E.D. 2002); *Reeves v. Snider*, 115 S.W.3d 375 (Mo. App. S.D. 2003); *Industrial Development Authority of Kansas City v. State Tax Commission of Missouri*, 804 S.W.2d 387, 392 (Mo. App. W.D. 1991).

### **Methods of Valuation**

Proper methods of valuation and assessment of property are delegated to the Commission. It is within the purview of the Hearing Officer to determine the method of valuation to be adopted in a given case. *See, Nance v. STC*, 18 S.W.3d 611, 615 (Mo. App. W.D. 2000); *Hermel, Inc.*, 564 S.W.2d at 897; *Xerox Corp. v. STC*, 529 S.W.2d 413 (Mo.

banc 1975). Missouri courts have approved the comparable sales or market approach, the cost approach, and the income approach as recognized methods of arriving at fair market value. *St. Joe Minerals Corp. v. STC*, 854 S.W.2d 526, 529 (App. E.D. 1993); *Aspenhof Corp. v. STC*, 789 S.W.2d 867, 869 (App. E.D. 1990); *Quincy Soybean Company, Inc., v. Lowe*, 773 S.W.2d 503, 504 (App. E.D. 1989), citing *Del-Mar Redevelopment Corp v. Associated Garages, Inc.*, 726 S.W.2d 866, 869 (App. E.D. 1987); and *State ex rel. State Highway Comm'n v. Southern Dev. Co.*, 509 S.W.2d 18, 27 (Mo. 1974).

### **Cost Approach**

In its simplest form, the cost approach is the current cost of the subject property as if new less all forms of depreciation. *Valuing Machinery and Equipment: The Fundamentals of Appraising Machinery and Technical Assets, Second Ed.*, American Society of Appraisers, 2005, p. 43. In the assessment of business personal property, the cost approach estimates market value on the premise that the cost new of the subject property is reduced by an amount equivalent to the total loss in value that has occurred through all forms of depreciation. *Property Assessment Valuation, Second Ed.*, IAAO, 1996, p. 360.

“Cost” can be original acquisition, replacement, or reproduction cost. *Id.* The reproduction cost is the cost of producing an exact duplicate of the subject property using the same or very similar materials, design, and workmanship. Reproduction cost includes the added expense of obsolete or costly design, building techniques, and material. The replacement cost is the cost of producing a property with the same utility as the subject property but using modern materials, design, and workmanship. *Id.*, p. 131. Cost estimation is not an exact science. *Id.*, p. 132. “The usefulness of cost as a representation

of value must be kept in its proper context.” *Id.* “The assessor should remember that the objective is market value, not cost.” *Id.*

### **Original or Historical Cost Less Depreciation**

Disposition of the above-referenced appeals will be governed by the uniform line of binding precedent holding that the applicable valuation methodology for the subject properties is original or historical cost less depreciation. *See Union Electric Co., d/b/a Ameren Missouri v. Estes*, 534 S.W.3d 352, 379 (Mo. App. 2017); *Union Electric Co., d/b/a Ameren Missouri v. Adams*, 539 S.W.3d 779, 783 (Mo. App. 2017); *Union Electric Co., d/b/a Ameren Missouri v. Elfrink*, 544 S.W.3d 246, 249 (Mo. App. 2017).

### **Discussion**

In its opinion remanding this case to the STC with directions, the Court determined that the BOE’s valuations of the subject property were incorrect; therefore, it would be improper for this Hearing Officer to uphold or return the values of the subject property to the BOE’s valuations. The Court directed the STC to apply the historical cost less depreciation methodology.

On remand, Complainant presented substantial and persuasive evidence to support its opinion of the value of the subject property as of January 1, 2014, and January 1, 2015, using the Court’s mandated valuation methodology. *Substantial evidence* is that which is relevant, adequate, and reasonably supports a conclusion. *Cupples Hesse Corp.*, 329 S.W.2d at 702. *Persuasive evidence* is that which causes the trier of fact to believe, more likely than not, the conclusion advocated is the correct conclusion. *Id.* Given the Court’s directive, Complainant’s evidence in the record as a whole, but particularly Complainant’s

remand Exhibit V, regarding the historical cost less depreciation methodology was substantial, persuasive, credible, and established the values that should have been placed on the subject property as of the valuation dates.

### **CONCLUSION AND ORDER**

The subject property's values as of January 1, 2014, and January 1, 2015, were as shown in the following table:

2014 Tangible Personal Property as of January 1, 2014	\$6,600,000.00
2015 Tangible Personal Property as of January 1, 2015	\$7,800,000.00
2015 Real Property as of January 1, 2015	\$39,200,000.00

### **Application for Review**

A party may file with the Commission an application for review of this decision within 30 days of the mailing date set forth in the certificate of service for this decision. The application "shall contain specific detailed grounds upon which it is claimed the decision is erroneous." Section 138.432. The application must be in writing, and may be mailed to the State Tax Commission, P.O. Box 146, Jefferson City, MO 65102-0146, or emailed to Legal@stc.mo.gov. A copy of the application must be sent to each person listed below in the certificate of service. ***Failure to state specific facts or law upon which the application for review is based will result in summary denial.*** Section 138.432.

### **Disputed Taxes**

The Collector of Clay County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending the possible filing of

an application for review, unless said taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

SO ORDERED effective August 9, 2024.

STATE TAX COMMISSION OF MISSOURI

Amy S. Westermann<sup>2</sup>  
Chief Counsel

**Certificate of Service**

I hereby certify that a copy of the foregoing has been sent electronically or mailed postage prepaid August 9th, 2024, to: Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Stacy M. Ingle  
Legal Assistant

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<sup>2</sup> The Hearing Officer heard and decided this appeal prior to leaving employment with the STC.