



STATE TAX COMMISSION OF MISSOURI

THE EMPIRE DISTRICT)	Appeal No. 23-89604 & 23-89605
ELECTRIC COMPANY,)	Parcel No. 17-2.0-03-004-003-028.000
)	And 17-2.0-03-004-003-027.000
Complainant(s),)	
)	
v.)	
)	
SUSAN CHAPMAN, ASSESSOR,)	
TANEY COUNTY, MISSOURI,)	
Respondent.)	

DECISION AND ORDER

This decision encompasses 2 of 139 tracts appealed by Complainant that were all combined for hearing, but in the hearing officer's discretion and for ease of understanding and analysis, were divided into categories for decision.

The Empire District Electric Company, (Complainant) appeals the Taney County Board of Equalization's (BOE) decision finding that the properties are commercial in nature, subject to local assessment and the true value in money (TVM) of the subject properties on January 1, 2023 were \$7,970 and \$35,590, respectively. Complainant further alleged discrimination on the Complaint for Review filed with the State Tax Commission (STC), but stated in the hearing that Discrimination was not being pursued. Complainant claims the subject properties are state assessed, therefore, should not be locally assessed

and are without value for the local assessment. Complainant did not produce substantial and persuasive evidence establishing state assessment, overvaluation or misclassification. The BOE's decision is affirmed.¹

Complainant was represented by counsel Matthew Landwehr. Respondent was not represented by counsel. The evidentiary hearing was conducted on January 22, 2025, via WebEx before Senior Hearing Officer Todd D. Wilson.

Preliminary Matters.

Prior to the beginning of the hearing, Complainant moved to have a Court Reporter record and transcribe the hearing. Respondent objected. The objection is overruled. The motion is granted, Complainant may have the hearing recorded and transcribed.

Complainant asserted a Motion in Limine to prohibit the Respondent from presenting any evidence as the deadline for providing exhibits and witnesses had passed and Respondent had not presented any evidence or names of witnesses to Complainant. The motion was initially taken under advisement to see if the situation would arise. Complainant renewed its Motion when Respondent was giving her opening statement. The Motion is overruled, and Respondent was allowed to make a statement and the statement was given the weight due. At the conclusion of the hearing, the parties were given until March 21, 2025, to submit briefs. Complainant timely submitted a brief in support of its position. On or about April 7, 2025, the SHO requested further information and

¹ Complainant timely filed a complaint for review of assessment. The State Tax Commission (STC) has authority to hear and decide Complainant's appeal. Mo. Const. art. X, Section 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

clarification from Complainant regarding the tracts that are the subject of these appeals. In response, Complainant provided the 2021 and 2023 Schedule 14 Renditions that were initially prepared by Complainant, with notations purportedly made by the Respondent's office. The hand-written notation was that of "State Assessed" with a 0. These are received as Exhibit B13.

FINDINGS OF FACT

1. Subject Property. The subject properties are 2 of 139 properties owned by Complainant and appealed for 2023. Complainant listed 6 properties as "State Assessed". The two subject properties are located in or near the floodplain of Lake Taneycomo. The remaining four properties listed as "State Assessed" by Complainant have electrical substations located on them.

Lake Taneycomo was created in 1913 by the completion of the Ozark Beach Dam Project. Ownership of the main channel of the lake is primarily held by the United States Army Corps of Engineers. Complainant owns most of the remaining parcels adjoining Lake Taneycomo with much of it being subject to the Federal Energy Regulatory Commission (FERC) rules and regulations.

The tract in Appeal 23-89604 is comprised of approximately 1.83 acres, 35% of which is located in the flood plain. (Exhibit A at 164). The parcel/locator number is 17-2.0-03-004-003-028.000. This irregular tract is described as part creek and floodplain and is located outside the FERC boundaries. (Exhibit A at 164). It is located in the M-1, Light Manufacturing/Industry District for Zoning.

The tract in Appeal 23-89605 is located on the opposite side of the creek from the tract in Appeal 23-89604, is comprised of approximately 8.17 acres, 5% of which is in the floodplain. (Exhibit A at 165). The parcel locator number is 17-2.0-03-004-003-027.000. This irregular tract is described as part creek and floodplain and is located outside the FERC boundaries. (Exhibit A at 165). It is also located in the M-1 Light Manufacturing/Industry District for Zoning.

2. Respondent and BOE. Respondent classified the subject properties as commercial and determined the TVM on January 1, 2023, was \$7,970 and \$35,590, respectively. The BOE classified the subject property as commercial and independently determined the TVM on January 1, 2023, was \$7,970 and \$35,590, respectively.

3. Complainant's Evidence. Complainant presented testimony from Jeff Lebeda and Edward Dinan. Complainant submitted the following exhibits, which were all received without objection:

Exhibit	Description	Ruling
A	Written Direct Testimony of Edward Dinan	Admitted
A1	Appraisal Report	Admitted
A2	Spreadsheet	Admitted
A3	Correction to page 372 of appraisal	Admitted
B	Written Direct Testimony of Jeffrey Lebeda	Admitted
B1	Photos of Flooding	Admitted
B2	FERC Order	Admitted
B3	Summary of Parcels	Admitted
B4	Master Lease	Admitted
B5	Branson Landing	Admitted
B6	Branson Landing Lease	Admitted
B7	Letter from City of Branson	Admitted
B8	Recorded Flowage Easement	Admitted
B9	City of Branson Lease	Admitted

B10	2004 Amendment to City of Branson Lease	Admitted
B11	MDC Cooper Creek Agreement	Admitted
B12	MDC Lease area survey	Admitted
B13	2021 and 2023 Schedule 14 Renditions	Admitted

Jeffrey Lebeda is a Land Administrator and is employed by Complainant. Mr. Lebeda is responsible for overseeing the real property of Complainant and to ensure compliance with FERC rules and regulations. Mr. Lebeda prepared Exhibit B3, which is an explanation of the FERC restrictions on most of the properties owned by Complainant. Mr. Lebeda also explained that nine of the tracts owned by Complainant are leased to the Missouri Department of Conservation (MDC), for use as Wildlife Management Areas under the terms of the lease set out in Exhibit B11. The two tracts in these appeals are not subject to FERC restrictions and are not part of the tracts leased to MDC.

Complainant then had Edward Dinan testify. Mr. Dinan is an MAI certified and Missouri Licensed real estate appraiser. Mr. Dinan utilized the comparable sales approach to value and developed it for most of the tracts, but did not develop it or a TVM for the subject properties as he had them categorized as “State Assessed”.

There was no evidence presented that the properties were devoted primarily to raising or harvesting of crops; or to the feeding, breeding and management of livestock. There was no evidence presented that the properties include land devoted to and qualified for payments or other compensation under a soil conservation or agricultural assistance program.

4. State Assessment. In accordance with Missouri Revised Statute section

153.034, the Original Assessment Division of the State Tax Commission assesses certain electric companies' properties at the State level.

The procedure for assessment of Electric companies by the Original Assessment division is that the total company value is determined, then it is determined what portion of that value is attributable to Missouri, once that is determined, the locally assessed properties are subtracted and then the value remaining is attributed to the various counties in Missouri by GIS location by taxing district. The Original Assessment division does not track individual parcels, therefore, it is incumbent upon the Electric company to list for local assessment only the properties that do not meet the definition of "distributable property" in Section 1 of Missouri Revised Statute section 153.034.

5. Respondent's Evidence. Respondent made a statement in which she stated that assessment of the property of Complainant had not been increased for decades and she was merely attempting to bring the property to market in accordance with her duties as Assessor.

6. Value. The properties are commercial and the TVM on January 1, 2023, was \$7,970 and \$35,590, respectively.

7. No Evidence of New Construction & Improvement. There was no evidence of new construction and improvement from January 1, 2023, to January 1, 2024, therefore the assessed value for 2023 remains the assessed value for 2024. Section 137.115.1.

CONCLUSIONS OF LAW

1. Assessment and Valuation

Pursuant to Article X, Sections 4(a) and 4(b), Mo. Const. of 1945 real property and tangible personal property is assessed at its value or such percentage of its value as may be fixed by law for each class and for each subclass. Article X, Sections 4(a) and 4(b), Mo. Const. of 1945. Commercial real property is assessed at 32% of its TVM as of January 1 of each odd-numbered year. Section 137.115.5(1)(c). "True value in money is the fair market value of the property on the valuation date, and is a function of its highest and best use, which is the use of the property which will produce the greatest return in the reasonably near future." *Snider v. Casino Aztar/Aztar Mo. Gaming Corp.*, 156 S.W.3d 341, 346 (Mo. banc 2005) (internal quotation omitted). The fair market value is "the price which the property would bring from a willing buyer when offered for sale by a willing seller." *Mo. Baptist Children's Home v. State Tax Comm'n*, 867 S.W.2d 510, 512 (Mo. banc 1993). Determining the TVM is a factual issue for the STC. *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008). The "proper methods of valuation and assessment of property are delegated to the Commission." *Savage v. State Tax Comm'n*, 722 S.W.2d 72, 75 (Mo. banc 1986).

"For purposes of levying property taxes, the value of real property is typically determined using one or more of three generally accepted approaches." *Snider*, 156 S.W.3d at 346. These three approaches are the cost approach, the comparable sales approach, and the income approach (also known as income capitalization). *Id.* at 346-48; *Missouri Baptist Children's Home v. State Tax Comm'n* ("MBCH"), 867 S.W.2d 510, 511 n.3 (Mo. banc 1993).

The comparable sales approach "is most appropriate when there is an active market for the type of property at issue such that sufficient data are available to make a comparative analysis." *Snider*, 156 S.W.3d at 348. For this reason, the comparable sales approach is typically used to value residential property. "The comparable sales approach uses prices paid for similar properties in arms-length transactions and adjusts those prices to account for differences between the properties." *Id.* at 347-48 (internal quotation omitted). "Comparable sales consist of evidence of sales reasonably related in time and distance and involve land comparable in character." *Id.* at 348.

2. Evidence

The hearing officer is the finder of fact and determines the credibility and weight of the evidence. *Kelly v. Mo. Dep't of Soc. Servs., Family Support Div.*, 456 S.W.3d 107, 111 (Mo. App. W.D. 2015). The finder of fact in an administrative hearing determines the credibility and weight of expert testimony. *Hornbeck v. Spectra Painting, Inc.*, 370 S.W.3d 624, 632 (Mo. banc 2012). "It is within the purview of the hearing officer to determine the method of valuation to be adopted in a given case." *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 9 (Mo. App. S.D. 2020). The hearing officer "may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property." Section 138.430.2. The Hearing Officer's decision regarding the assessment or valuation of the property may be based solely upon his inquiry and any evidence presented by the parties, or based solely upon evidence presented by the parties. *Id.*

3. Complainant's Burden of Proof

The BOE's valuation is presumptively correct. *Rinehart v. Laclede Gas Co.*, 607 S.W.3d 220, 227 (Mo. App. W.D. 2020). To prove overvaluation, a taxpayer must rebut the BOE's presumptively correct valuation and prove the "value that should have been placed on the property." *Snider*, 156 S.W.3d at 346. The taxpayer's evidence must be both "substantial and persuasive." *Id.* "Substantial evidence is that evidence which, if true, has probative force upon the issues, and from which the trier of fact can reasonably decide the case on the fact issues." *Savage*, 722 S.W.2d at 77 (internal quotation omitted). Evidence is persuasive when it has "sufficient weight and probative value to convince the trier of fact." *Daly v. P.D. George Co.*, 77 S.W.3d 645, 651 (Mo. App. E.D. 2002); *see also White v. Dir. of Revenue*, 321 S.W.3d 298, 305 (Mo. banc 2010) (noting the burden of persuasion is the "party's duty to convince the fact-finder to view the facts in a way that favors that party"). A taxpayer does not meet his burden if evidence on any essential element of his case leaves the STC "in the nebulous twilight of speculation, conjecture and surmise." *See, Rossman v. G.G.C. Corp. of Missouri*, 596 S.W.2d 469, 471 (Mo. App. 1980).

4. State Assessment. In accordance with Missouri Revised Statute section 153.034, the Original Assessment Division of the State Tax Commission assesses certain electric companies' properties at the State level. The pertinent part of section 153.034 is set out herein, any property deemed to be "distributable property" would be assessed at the State level rather than the County level:

1. The term "**distributable property**" of an electric company shall include all the real or tangible personal property which is used directly in the

generation and distribution of electric power, but not property used as a collateral facility nor property held for purposes other than generation and distribution of electricity. Such distributable property includes, but is not limited to:

- (1) Boiler plant equipment, turbogenerator units and generators;
- (2) Station equipment;
- (3) Towers, fixtures, poles, conductors, conduit transformers, services and meters;
- (4) Substation equipment and fences;
- (5) Rights-of-way;
- (6) Reactor, reactor plant equipment, and cooling towers;
- (7) Communication equipment used for control of generation and distribution of power;
- (8) Land associated with such distributable property.

2. The term "**local property**" of an electric company shall include all real and tangible personal property owned, used, leased or otherwise controlled by the electric company not used directly in the generation and distribution of power and not defined in subsection 1 of this section as distributable property. Such local property includes, but is not limited to:

- (6) Land held for future use;
- (11) Land associated with other locally assessed property and all generating plant land.

5. Classification of vacant land.

Missouri Revised Statute Section 137.016(5) sets out 8 factors to be used to determine the classification of land which is vacant, unused, or held for future use if a determination as to its classification cannot be made under the definitions set out in 137.016(1). The 8 factors are:

- (1) Immediate prior use, if any, of such property;
- (2) Location of such property;
- (3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;
- (4) Other legal restrictions on the use of such property;
- (5) Availability of water, electricity, gas, sewers, street lighting, and

- other public services for such property;
- (6) Size of such property;
 - (7) Access of such property to public thoroughfares; and
 - (8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. Complainant Did Not Prove Overvaluation, Misclassification or Assessment at the State Level.

Although Complainant presented evidence to support its opinion of value on most of the properties, the Complainant's evidence did not include a value for the two tracts in these appeals. Without a value for the tracts, the Hearing Officer is left without anything to rebut the BOE's value and to establish the TVM of the subject property on January 1, 2023.

Upon review of Missouri Revised Statute section 153.034(1), it is clear that the subject properties do not fall within the definition of distributable property, which would be assessed at the state level. The subject properties fall within the definition of "local property" as set out in 153.034(2) as either (6) Land held for future use; or (11) Land associated with other locally assessed property and all generating plant land. The subject properties are locally assessed.

The evidence established that the properties were vacant, irregular tracts, outside the FERC boundaries that were not used to further any agricultural purpose. The 8 factors set out in 137.016(5) shall be reviewed to determine whether those factors would indicate that the properties should be agricultural or commercial in nature. 1, the immediate prior use of the property - Complainant maintains that prior to the property being used for Lake

Taneycomo, the property was agricultural in nature. 2, the location of the properties – by the aerial photos contained in Exhibit 1, it is clear that in close proximity to the subject properties, there are developed properties either for residential or commercial use and it appears that there are traveled paths that access the properties. 3, zoning classification – the properties are both zoned for Light Manufacturing/Industry. 4, Other legal restrictions – the properties are not within the FERC boundary, so no evidence of legal restrictions has been provided. 5, Availability of utilities – it does not appear that the properties have immediate access to utilities, but they are in relatively close proximity to other, developed tracts. 6, Size of the properties – at 1.83 acres and 8.17 acres, the tracts would be marginal, at best, for agricultural use. 7, Access to roads – the tracts do not appear to have direct access to public roads, however, there do appear to be open, public roads which are Valley Drive, Coon Creek Road and Blueridge Road within a quarter of a mile and it appears that there are open trails that access the properties. 8, Other factors – part of each of the properties is in a floodplain, but the majority of both of the properties are not contained in the floodplain. Other than a reported prior use of the property over 100 years ago, the factors do not indicate that the properties should be considered agricultural, therefore, they are commercial.

Complainant failed to provide substantial and persuasive evidence, therefore, the presumption that the BOE determination was correct has not been overcome.

CONCLUSION AND ORDER

The properties are commercial and the TVM on January 1, 2023, was \$7,970 and \$35,590, respectively.

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 Taney 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 on July 10, 2025.
STATE TAX COMMISSION OF MISSOURI

Todd D. Wilson
Senior Hearing Officer

State Tax Commission

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on July 11th, 2025, 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