

Tuesday, June 5, 2018
2:00 p.m.

Newkirk, OK

The Kay County Equalization Board met in Special session at 2:00 p.m. on Tuesday, June 5, 2018, in the Commissioners Court of the Kay County Courthouse in Newkirk, OK. Notice of the meeting was posted on the 31st day of May, 2018 at the Courthouse front door, Commissioners Court, and basement handicapped entrance of the Kay County Courthouse in Newkirk, OK.

Chairman J.C. Estes called the meeting to order. Those present were as follows: John G. Krider, Vice-Chairman; Joe R. Cary, Member; Susan Keen, Kay County Assessor; Janell Leaming, First Deputy Kay County Assessor; Brian Hermanson, Kay County District Attorney; Jerry Wisdom, Total Assessment Solutions Corp (TASC); Will Presson, Rock Fall Wind Representative; Claude Williams, Taxpayers for Transparency; Holly Cline, Secretary/Deputy Kay County Clerk (See sign in sheet).

Motion was made by Cary and seconded by Krider approving the special session meeting minutes of May 31, 2018. Motion carried. Cary, aye; Estes, aye; Krider, aye.

Formal appeal on hearings with Rock Falls Wind, Taxpayer and the Kay County Assessor.

Will Presson, appeared on behalf of Rock Falls Wind Farm. Mr. Presson stated that the position of Rock Falls Wind Farm is that it is currently owned by Blackwell Economic Development Authority, so the issue is a taxability issue and whether it is taxable or not. Presson stated that DA Hermanson was currently reviewing the issue of taxability now. Presson noted that he was attending to mainly uphold Rock Falls standing. He distributed a copy of the letter previously sent to the Assessor and Treasurer stating the position and ownership of the wind farm. Their position being that since the Wind Farm is owned by a municipality that it is tax exempt. A copy of a brief was distributed explaining why they contend it is exempt. Estes asked that the basis of the appeal is whether the property is taxable or not. Presson confirmed that it was and went to state that the Rock Falls position was that because of ownership and the property should be exempt and that there is a payment in lieu of tax agreement in place. He also made a copy of the lease available. Cary recommended that DA Hermanson review that. Presson concluded that their position was the taxability issue and they believe it is not taxable based on the document files.

Jerry Wisdom of TASC spoke on behalf of the Assessor's office. He did the valuation for the county for the wind farm and has been involved in the process since the beginning. He distributed a list of booklet on Valuation Exhibits for Rock Fall Wind. (See Attached) Mr. Wisdom pointed out that on page 8, Tax exhibit 8 of 18, that the owner listed is Rock Falls Wind and that the reason for appealing is stated as the value is over market value and the correct value should be \$43,921,981. Mr. Wisdom noted that Mr. Taylor was protesting the value of the property not the ownership status. Mr. Wisdom stated there should only be one issue, that being the value of the property. He said that the Assessor's office value of the property was \$74,313,969.00. He went back to page 3 of 18 and pointed out that the owner was listed as Rock Falls Wind and that the total original cost or RCN was to be reported. The Assessor's position is the numbers reported do not reflect the total installation costs reported of the \$43 million reported. On page 5 of 18 the fixed asset listing reflects there are 19 wind turbines at 2.6 Megawatts each. That equivocates to 49.4 MW. Wisdom noted that that equates to a total value reported 872,274 or the total cost investment. Mr. Wisdom referenced figures on page 9 of 18 that show the EIA average cost of construction showing the 1,572,000. Mr. Wisdom noted that was one point illustrating that the 872,000 cannot be correct and therefore the total installation cost was not reported and therefore that figure could not be relied upon. On page 10 of 18 information shows average costs of at least twice the amount reported and therefore does not appear to be true or correct. On page 11 of 18 the rendered average is reported as being \$934,989. On page 12 of 18 list the Great Western Wind Project costs as \$1,487,778. Mr. Wisdom stated that the figures reported by Rock Falls do not add up or hold water. He

went on to page 13 of 18 and noted that the information had not been supplied after numerous requests. Page 14 of 18 shows the protest filled out in the name of Rock Falls Wind. Page 15 of 18 is an exhibit of the email from Mr. Taylor stating that Rock Falls Wind Farm should be under the ownership of Blackwell Economic Development Authority. Page 16 of 18 was a letter sent by DA Hermanson stating that the Notice filed by James Menzer on behalf of Blackwell Economic Development Authority was unconstitutional. Wisdom went on to show page 17 of 18 that states Grant County rejects the notice also for payments in lieu of ad valorem taxes. Mr. Wisdom asked that the board take up the position to uphold his valuation of \$74,313,969 which is the equivalent of \$1,504,331. He adjusted the valuation based on the Great Western Wind installation costs that Rock Falls own company built and adjusted it down another 80 million. Wisdom suggested that if the matter went on further that the DA subpoena the EIA-860 to find out the actual costs but the assessor's asked that the board affirm the \$74,313,969.

Estes asked that the two questions are valuation and then taxable or not. Mr. Wisdom argued that the only relevant issue is the valuation since the formal appeal is based solely on that issue. Cary asked for an explanation on why the form of ownership would change. Presson stated that obviously the reason why there is a name/ownership change in the way it's currently held is to escape ad valorem taxes. Cary asked if that had been successful in other counties for Rock Falls and Presson noted that there are other assets within Kay County that Rock Falls owns that are owned by Economic Developments and they are exempt. Susan Keen stated that a company is responsible for paying personal tax on turbines and to be exempt it would have to be school land. Blackwell has personal property that is assessed. Wisdom pointed out that there is Thunder Ranch and Kay Wind that pay property taxes. From the standpoint of equalization he noted that the other wind farms pay. Mr. Wisdom thinks the valuation is sound as asks that it be considered and if the issue is taxability, Rock Falls should have based their appeal on that. DA Hermanson stated that the issue before the board at this time is the valuation as stated on the appeal. He stated that the issue of ownership is not before them and restated that the issue before the board is that of valuation.

No action was taken on the hearing. Mr. Estes stated that he understands they are dealing strictly with valuation and the board decision would be issued by the end of the month and if it is found unsatisfactory it could be appealed in District Court.

There was some discussion between all parties. Mr. Presson and DA Hermanson left the meeting at this time. (2:29.p.m.)

DCP Operating Co., LP: Mr. Crisler did not appear in person, choosing rather to have a statement read in the open meeting pursuant to 68 O.S. §2877 (C). (See attached statement) Estes stated that the hearing was scheduled for 3:00 p.m. but the hearing would proceed since the other party had submitted a statement to be read. Mr. Estes read statement of Mr. Crisler. Mr. Crisler, on behalf of DCP Midstream, requested the board to consider DCP's valuation of \$183,785.

Mr. Wisdom distributed a valuation for Kay County. He stated that the \$244,999. Mr. Wisdom noted that in 2015 DCP agreed with the valuation despite the economic downturn. 2016 DCP filed a formal appeal and the county settled with them upon appeal. In 2017 the county kept the same value of 245,000. Mr. Wisdom suggested that this year DCP is requesting a decrease in valuation despite an increase in operating income of 187.87 percent increase. DCP had an 8% gain and the Assessor did not raise the valuation despite that. Mr. Wisdom stated that according to the figures and income increase, there is not a case economic obsolescence. Cary asked about the different types of depreciation and Mr. Wisdom explained what determines the depreciation. He stated that the difference in the valuation is about \$60,000 market value, approx. \$600 in taxes. Mr. Wisdom stated that DCP protested every valuation he did in every county. Krider noted that the operating value is \$8 billion.

No action was taken. Estes advised the board will make a decision and the County Clerk will notify the involved parties with their decision.

Thunder Ranch Wind Project LLC: No appearance was made.

Motion was made by Krider and seconded by Cary to adjourn (2:50 p.m.) Motion carried. Cary, aye; Estes, aye; Krider, aye.

Approved this 25th day of June, 2018.

J.C. ESTES, CHAIRMAN

JOHN G. KRIDER, VICE CHAIRMAN

JOE R. CARY, MEMBER

ATTEST:

TAMMY REESE, COUNTY CLERK
COUNTY OF KAY, STATE OF OKLAHOMA
SECRETARY, COUNTY EQUALIZATION BOARD
(SEAL)
