

**West Virginia Board of Public Works  
Friday, January 29, 2021 – 10:00 a.m.  
Governor’s Cabinet and Conference Room  
Minutes**

**Attendees:**

Members

Governor Jim Justice  
Secretary of State Mac Warner  
Commissioner of Agriculture Kent Leonhardt  
State Auditor John B. McCuskey  
State Treasurer Riley Moore  
Kathy Schultz for Attorney General Patrick Morrisey

Guests:

Commissioner Dale Steager, State Tax Department  
Leroy Barker, State Tax Department  
Sean Hammond, State Tax Department  
Allen Prunty, Dept. of Revenue  
Brian Abraham, Governor’s Office  
Berkeley Bentley, Governor’s Office  
Russ Rollyson, Auditor’s Office  
Jeff Waybright, Auditor’s Office  
Jennifer Greenlief, Comm. Of Agriculture Office  
Chuck Flannery, Secretary of State’s Office  
Chris Alder, Secretary of State’s Office  
Maureen Lewis, Secretary of State’s Office

The West Virginia Board of Public Works met on Friday, January 29, 2021 at 10:00 a.m. in the Governor’s Cabinet and Conference Room, Building 1, Suite 10 of the State Capitol Complex. The meeting was called to order and chaired by Governor Justice. A quorum of members was established.

The first item on the agenda was the approval of minutes from the January 20, 2021 WV Board of Public Works meeting. Commissioner Leonhardt made a motion to approve the minutes. Secretary Warner seconded the motion. The motion carried.

The next item on the agenda was the review of the Tax Department memo dated January 28, 2021 and vote on the matter of correcting the clerical error detailed therein. Leroy Barker addressed the Board. He stated that the assessment numbers presented at the January 20, 2021 meeting indicated that an adjustment to the value of CityNet was included. It was not, so an incorrect number was approved. The correct value for the total public utility assessments for tax year 2021 is \$12,437,317,215. That includes the adjustment to CityNet that was approved at last week’s meeting. Auditor McCuskey clarified that the Board is considering the approval of the change of the number, not the approval of the adjustment. He asked if the change is to make it correct. Mr. Barker replied that was correct.

Commissioner Leonhardt made a motion to reconsider and approve the new number for tax assessments as explained by the Tax Department for tax year 2021. Treasurer Moore seconded the motion. The motion carried.

The next item on the agenda was discussion of any outstanding matters regarding final assessments of public utility companies. Auditor McCuskey stated that he raised a question about the First Energy revenue report being approximately 143 million dollars different between 2017 and 2018 because the Board is dealing with the next year. He continued that it was the opinion of the Tax Department that it had to do with a natural gas plant being built. After some research, he came to the conclusion that it is because they sold one of their plants to a merchant supplier. Mr. Barker responded yes. He continued that a merchant supplier is taxed by the County as equipment as opposed to being assessed by the Board. Mr. Barker replied that was correct. Auditor McCuskey asked if that was the entirety of the revenue disparity. Mr. Barker responded yes and continued that part of it will still be taxed under public utility. The new company is not a public utility so it will be valued as an industrial through the County. Auditor McCuskey asked if it's because it is a merchant plant selling electricity in to the grid as opposed to being regulated by the Public Service Commission. Mr. Barker responded yes and stated that the County will not lose any money, they will receive it in two different ways. Auditor McCuskey replied that the other 54 will. He asked if it is anticipated that this will be a trend in the power generation world, and if there is a financial incentive that would cause First Energy to do this again or lead to other companies doing this. Mr. Barker stated that he is not aware of that. Auditor McCuskey stated that is something that would need to be planned for in a significant way. He asked Mr. Barker if this is something that is likely going to keep happening. Mr. Barker responded not that he knows of. Allen Prunty stated that First Energy was in a unique situation as being a merchant power plant. They were not regulated by the Public Service Commission. There was statute passed that enabled them to achieve some tax benefits that are not available to other companies. He continued that it is not expected for this to happen with any of the other power companies. Auditor McCuskey asked if the statute was passed in 2017. Mr. Prunty replied that it was in 2019. Auditor McCuskey asked if all of this has to do with the entirety of that situation in conjunction with the bill. Mr. Prunty replied yes.

With no further business, Auditor McCuskey made a motion to adjourn. Treasurer Moore seconded. The motion carried. The meeting adjourned.



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Mac Warner, Secretary of State and Ex-Officio Secretary of the Board of Public Works