

**West Virginia Board of Public Works
Wednesday, December 4, 2024 – 2:00 p.m.
Governor’s Cabinet and Conference Room
Minutes**

Attendees:

Members

Governor Jim Justice
Secretary of State Mac Warner
Attorney General Patrick Morrissey
State Auditor John B. McCuskey
State Superintendent of Schools Michele Blatt
Lora Walker for Commissioner of Agriculture Kent Leonhardt
Stephen Bohman for State Treasurer Riley Moore

Guests:

Ryan Ivey, Kroll LLC
Alex Zurbuch, Frontier Entities
Matthew Irby, Commissioner, Tax Department
Deanna Sheets, Tax Department
Ting Zhu, Tax Department
Chad Toney, Division of Highways
Berkeley Bentley, Governor’s Office
Jeff Waybright, Auditor’s Office
Russ Rollyson, Auditor’s Office
Sean Whelan, Attorney General’s Office
Larry Pack, Dept. of Revenue
Brian Tovson, KE Andrews
Tara Johnson, Wipfli LLP
Tracey Hoang, Inspire Energy
Hersh Mittal, TC Energy
Steve Adams, Ogden Newspapers
David Cook, Secretary of State’s Office
Maureen Lewis, Secretary of State’s Office
Denys Snodgrass, Garrett Reporting

The West Virginia Board of Public Works re-convened on Wednesday, December 4, 2024 at 2:00 p.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 second item on the agenda was the approval of minutes from the October 1, 2024 Board of Public Works meeting. Secretary Warner made a motion to approve the minutes. Attorney General Morrissey seconded. The motion carried.

The third item on the agenda was to receive comments from public utility companies concerning notices of tentative assessed values for tax year 2025. Governor Justice asked for the representative from Canaan Valley Gas. There was no response.

Brian Tovson addressed the Board regarding the tentative assessments for Rover Pipeline and Blue Racer NGL Pipelines. He explained that the issue is the same for both companies. That issue is the exclusion of federal income taxes with the income tax approach. Both companies are considered pass-through LLCs. The federal income taxes are not paid at the entity level, they are paid at the parent level. This means the payments don't show up on the FERC reports and results in them not being included in the appraisals from the State. He referenced the document he had submitted to the Board. They are requesting that an estimated tax amount be established and considered in the appraisals. Mr. Tovson continued that they have provided a letter for each company attesting to the fact that they do pay income taxes at the parent level, and the best way to estimate the amount. He provided recommended appraisals that were prepared by his company. They have had discussions with the Tax Department. Another option, if an agreement can't be reached on the exact amount of taxes paid, is to request a pre-tax cap rate. Commissioner Irby replied that the Tax Department is going to continue to work with the company on obtaining the type of documentation needed.

Tara Johnson addressed the Board regarding Inspire Energy. She stated that she had some questions. She asked if the amount stated on the tentative tax assessment is the amount on which taxes will be based if it stays the same. Commissioner Irby confirmed that the amount listed on the tentative assessment is the amount taxes will be based on. Ms. Johnson stated that she had a calculated amount for the market value of taxable property. She asked for some background on how the tentative assessment is determined, in particular for Inspire Energy. Commissioner Irby recommended discussing it privately, outside of the meeting. Ms. Johnson stated that in addition there will be some operation changes coming in 2025 which will affect the tentative assessment. Commissioner Irby replied that can be part of the discussion following the meeting.

The fourth item on the agenda was consideration of items held over from the October 1, 2024 Board of Public Works meeting including requests for relief from erroneous assessment. The first company, UGI Appalachia, was not able to attend the meeting. Governor Justice started the discussion with the request from King Street Wireless.

Ryan Ivey addressed the Board. He explained that King Street Wireless is a fixed wireless communications company that operates in 27 states. The 2024 tax assessment was the initial filing and assessment in West Virginia. He continued that there were some errors in the information submitted to the Tax Department by the company which were reflected in the valuation. The main issues involve the allocation to the State and licenses from the Federal Communications Commission. Mr. Ivey stated that the actual proportioned percentage of the whole value of the company that should have been reported to West Virginia was about 12.5% based on the net property basis. The company reported it on a gross property basis which inflated the percentage. The secondary issue is the licenses from the FCC. There is a deduction applied for the cost of the licenses. That deduction did not occur for King Street because the information was not presented by the company. Commissioner Irby responded by referencing a memo that had been distributed to the Board members. He explained that it was the first year of valuation for the company. The Tax Department used the return information provided by the company and produced the correct value based on that information. They received an amended return from the

company on May 15, 2024. The re-calculation based on the amended return reduces the taxable value of the company. The re-calculation is primarily related to the company failing to provide West Virginia depreciation figures and the FCC licensing information not being included in the original return. Commissioner Irby stated that it was an erroneous filing with clerical errors on the company's part and the Tax Department recommends that the Board accept the adjusted valuation.

Auditor McCuskey made a motion to accept the Tax Department's recommendation as it relates to King Street Wireless. Secretary Warner seconded. The motion carried.

Hersh Mittal addressed the Board regarding item number 3 on the agenda pertaining to Columbia Gas Transmission. He stated that one of the main concerns with this year's appraisal is the cap rate for pipelines dropped by approximately 100 basis points without any discussions taking place. They attempted to schedule a formal meeting with the Tax Department but were not successful. He continued that they are hoping to get a copy of the cap rate study for 2024 from the Tax Department. They would like to review it and have a meeting with them before the values get finalized. Commissioner Irby replied that the cap rate study has never been published. It is prepared by a third party vendor. His goal is to get it publishable. He stated that they would like to have a discussion with the company over the cap rate study. He continued that they always compare the capitalization rate to other states. West Virginia is generally in the mid-range as are other states. The Tax Department is happy to continue discussions with the company prior to making recommendations for the final assessments.

Governor Justice asked if there were any other companies that would like to address the Board. There were no responses.

The fifth item on the agenda was the consideration and approval of the following deeds:

1. Between the West Virginia Department of Transportation, Division of Highways and the Boone County Public Service District, dated September 27, 2024, approved as to form by the Attorney General's Office October 9, 2024.
2. Between the City of Glenville and the West Virginia Department of Transportation, Division of Highways, dated June 4, 2024, approved as to form by the Attorney General's Office October 21, 2024.
3. Between Glenville State College Foundation, N/K/A Glenville State University Foundation and the West Virginia Department of Transportation, Division of Highways, dated June 4, 2024, approved as to form by the Attorney General's Office November 15, 2024.

Chad Toney addressed the Board regarding the deeds. He explained that deed number 1 is an excess land sale to the Boone County PSD for a lift station near Corridor G. The next two deeds are small right of ways for the Glenville Truss Bridge in Gilmer County.

Governor Justice made a motion to approve all 3 deeds. Attorney General Morrissey seconded. The motion carried.

Attorney General Morrissey made a motion that the Board go into executive session for discussion of litigation matters and settlement proposals. Secretary Warner seconded. The motion carried. The Board went into executive session.

The Board was called back in session.

Attorney General Morrissey made a motion to provide counsel with the authority to settle the Hope Gas matter. Auditor McCuskey seconded. The motion carried.

Attorney General Morrissey made a motion to accept an offer from Williams Transport to pay for past liability in the amount of \$88,600. Secretary Warner seconded. The motion carried.

Attorney General Morrissey made a motion to provide counsel with authority to negotiate Frontier and Citizens. Governor Justice seconded. The motion carried.

With no further business, Attorney General Morrissey made a motion to recess until the next meeting. Governor Justice seconded. The motion carried. The meeting recessed.



Kris Warner, Secretary of State
And Ex-Officio Secretary of the
Board of Public Works