

**Revenue Department Requests Court Review
Of State Tax Appeal Board's Decision
In PPL Montana Tax Protest**

The Montana Department of Revenue yesterday filed a petition in District Court in Cascade County appealing the decision of the State Tax Appeal Board in the PPL Montana property tax protest for tax years 2000 through 2002.

The PPL Montana property tax case is the largest single property tax issue on appeal in Montana—involving more than \$10 million in contested taxes affecting both the state and ten counties.

Dan Bucks, Director of Revenue, explaining the dual purposes of the appeal, stated, “While the board reached certain positive conclusions, the decision is ultimately flawed because it fails to value PPL Montana’s property at 100% of market value. The department is asking the District Court to bring the property values into line with state law. We are also setting the stage for anticipated settlement discussions with PPL Montana—discussions that could cover five and even six years of property taxes for this company.”

Bucks noted that PPL Montana has also protested nearly \$13 million in taxes for 2003 and 2004. The case for those years has not yet been heard by the State Tax Appeal Board, but would be considered in any settlement discussions. He emphasized that one goal of a settlement would be to produce predictability and stability of revenues for local governments and school districts. “Any settlement, however, must meet the standard of the law that property be valued at 100% of market value,” Bucks said.

The Department of Revenue is appealing certain parts of the State Tax Appeal Board’s February 15 decision on PPL Montana’s protested property taxes. The department’s appeal questions whether the board overreached its authority in adjusting PPL Montana’s property values for 2000 and 2001. The department contends that PPL Montana did not actually appeal the property valuations for those years, so it was not within the board’s authority to adjust values for those years.

The department also questions the valuation changes ordered by the board for PPL Montana’s entire property and its pollution control equipment. The department’s appeal contends that the board’s decision on valuations was “clearly erroneous in view of the reliable, probative and substantial evidence on the whole record and/or arbitrary or capricious or characterized by abuse of discretion or a clearly unwarranted exercise of discretion.”

The department questions the board’s decision to disregard the increase in PPL Montana’s property values due to high energy prices in 2001 and 2002. “When Enron and others created the California energy crisis, PPL Montana profited significantly from these higher energy prices. Those profits increased the value of their property in those years. The State Tax Appeal Board was wrong in taking these profits out of the equation in this case,” Bucks noted.

The department also is asking the court to make a decision on a property tax equalization issue not addressed by the State Tax Appeal Board in its decision.

The equalization issue involves the comparison of PPL Montana's property values with the valuation of other hydroelectric and coal-fired electric generation facilities owned by certain regulated utilities. The department argues that power facilities producing electricity for regulated markets have lower property values because their profitability is much more limited than the facilities owned by PPL Montana. PPL Montana's sales of energy are not regulated by any state's Public Service Commission, and the company can sell its electricity at any price the market can bear.

"The department is charged by law with assessing property at market value. Various energy facilities operate in different markets with different earnings. These differences in market conditions yield different market values for plants even if they are of similar age, physical characteristics or generating capacity," Bucks noted.

The Montana counties impacted by the court case are Cascade, Flathead, Gallatin, Lake, Lewis & Clark, Madison, Rosebud, Sanders, Stillwater and Yellowstone.

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