

## Memorandum

**To :** Honorable Claude Parrish  
Honorable John Chiang  
Honorable Johan Klehs  
Honorable Dean Andal  
Honorable Kathleen Connell

Date: June 4, 2001

**From :** Timothy W. Boyer  
Chief Counsel - Legal Division

Richard Johnson  
Deputy Director - Property Taxes Department

**Subject:** *Property Tax Committee Meeting – June 20, 2001*  
*Staff Report on Jurisdiction to Assess the Property of Companies*  
*Selling Electricity*

### **Background**

Assembly Bill 1890 (Ch. 854, stats. 1996) provided for a restructuring of the electric utility industry and opened electrical generation to competition. Among other things, AB 1890 required the regulated public utilities to sell certain of their generation facilities to investor-owned companies. These generation facilities had previously been assessed by the Board as part of the unitary property of the public utilities. The issue thus arose whether the plants that were sold should be state assessed or locally assessed.

Formal discussion of the issue of the Board's jurisdiction to assess electric generation facilities in the post-AB 1890 began with the publication of the staff's Issue Paper 98-032 in November, 1998. There followed a series of Board hearings and interested parties meetings on the subject. Following a public hearing on July 29, 1999, and after accepting and publishing proposed amendments, the Board, on September 1, 1999, adopted Rule 905, *Assessment of Electric Generation Facilities*. Rule 905 was approved by the Office of Administrative Law, and became effective on November 27, 1999. A copy of the Rule is attached (Attachment No. 1).

In adopting Rule 905, the Board determined that its Constitutional jurisdiction to assess electric generation facilities was limited to facilities constructed pursuant to a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission (CPUC) to the company that presently owns the facility.

The practical effect of the Board's action was to delegate to the county assessors the responsibility to assess all electric generation facilities sold by regulated public utilities to non-regulated power generators. The value of the facilities sold was previously included in the unitary value of the regulated utilities assessed by the Board. The facilities in this group presently include 22 facilities sold to 8 companies and the San Diego Port District. (See Attachment No. 2)

The Chair of the Property Tax Committee has scheduled a discussion of the subject of assessment jurisdiction at its June 20, 2001 meeting. While there have been material changes in the price and availability of wholesale power since the Board adopted Rule 905 in 1999, staff is of the view that the basic information and issues on which to base an assessment jurisdiction decision have not changed materially since that time.

Accordingly, the staff is presenting to the Board as the staff report for your June 20 meeting the three issue papers written on this issue in 1998 and 1999 plus background material and comments from interested parties. This staff report consists of this document and six attachments, plus two binders of background material. All the issues are thoroughly discussed in these documents. For convenience, here is a summary of the major issues.

### **Summary of Major Issues**

#### **Jurisdictional Issues**

The jurisdictional issues for Board consideration remain the same:

The staff advises that the Board has authority to assess all companies selling electricity, but they may leave the assessment of companies that are not public utilities to the county assessor.

Since the Board has defined their jurisdiction in a rule, staff advises that any revision of that jurisdiction can only be accomplished through the formal rule amendment process.

If the Board elects to revise Rule 905, they must determine what companies and facilities they elect to assess, and adopt the appropriate standards for that election.

The Board does not assess individual properties, such as electric generation facilities; rather the Board assesses all property owned or used by companies selling electricity using the unitary approach, i.e. the Board assesses the "going concern." Does the Board elect to assess these electric generation facilities separately, or would the Board assess all the property owned or used by companies owning these facilities?

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### **Allocation Issue**

If a facility is state assessed, its value is part of the unitary value which is allocated to a countywide pool and all taxing agencies in the county share in the revenues. If a facility is locally assessed, the total revenue generated accrues to the agencies comprising the tax rate area where the facility is located.

### **Proposition 13 Issue and Comparative Values**

State assessed property is valued annually at its fair market value. Locally assessed property is valued according to its base year value and inflationary protections of Proposition 13.

Prior to the transfer of assessment jurisdiction, Valuation Division staff did not value these generation facilities individually. All operating property owned or used by the state assessee (including electric generation facilities) was valued as a unit. Subsequent to the transfer of assessment jurisdiction, the Valuation Division has obtained no valuation data from the owners of locally assessed electric generation facilities. Staff, therefore, does not have information available to estimate the current value of these facilities.

### **Workload Issue**

The Valuation Division is not staffed to assess any significant number of additional state assessees.

If you have any questions regarding this issue please contact Larry Augusta at (916) 445-6493 or Harold Hale at (916) 324-0038

Attachments (6)

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Precedent/Elec/01/03Laa.doc

cc: Mr. James Speed, MIC:73  
Mr. Harold Hale, MIC:61  
Mr. Larry Augusta