WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Tax TITLE-SERIES: 110-01M

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: VALUATION OF PUBLIC UTILITY PROPERTY FOR AD VALOREM PROPERTY TAX PURPOSES

CITE STATUTORY AUTHORITY: W. Va. Code §11-1C-5(b)

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4245

Section §64-7-6(b) Passed On 3/14/2026 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 28, 2026

This rule shall terminate and have no further force or effect from the following date:

August 01, 2031

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Anoop Bhasin -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 110
LEGISLATIVE RULE
STATE TAX COMMISSION

SERIES 1M
VALUATION OF PUBLIC UTILITY PROPERTY
FOR AD VALOREM PROPERTY TAX PURPOSES

§110-1M-1. General.

1.1. Scope. -- This rule clarifies and implements State law as it relates to the appraisal, at market value, of property subject to taxation as public utilities; and general rules for distinguishing between operating and non-operating public utility property for ad valorem taxation purposes.

1.2. Authority. -- W. Va. Code §11-1C-5(b).

1.3. Filing Date. -- April 28, 2026.

1.4. Effective Date. -- April 28, 2026.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect after August 1, 2031.

§110-1M-2. Definition.

As used in this rule and unless the context clearly requires a different meaning, the following terms have the meaning ascribed in this section.

2.1. "Bands of investment technique" means a synthesis of capital components used in financing and investment to estimate the overall capitalization rate of a property. It involves combining the capitalization rates of different components of a capital investment (e.g., debt and equity) to arrive at a weighted average overall rate for the entire property.

2.2. "Capitalization rate" means a rate, used to convert an estimate of income to an estimate of market value. Capitalization rate is typically a ratio that compares a commercial property's net operating income to the property's market value. Capitalization rate is typically expressed as a percentage and indicates the estimated expected rate of return from a property investment.

2.3. "Interstate commercial motor vehicle" means a qualified motor vehicle registered under a proportional registration agreement, or a qualified motor vehicle that, except for the fact that it is engaged only in intrastate commerce, would otherwise be subject to registration under proportional registration agreements. "Commercial motor vehicle" status may, at the option of the party registering the vehicle, be conferred upon a non-qualified motor vehicle such as a vehicle that has a gross vehicle weight of 26,000 pounds or less, that has only two axles, or that is used in the transportation of charter parties.

2.4. "Cost approach" means the appraisal process in which cost of the property being valued is

considered in determining an estimate of fair market value. As a general rule, original cost shall be used to value public utility operating property. However, when such original cost is not available, replacement cost or reproduction cost may be considered.

2.5. "Economic obsolescence" means a loss in value of an asset caused by external economic conditions or events not directly related to the asset's condition or design. This loss in value could, for example, arise from factors such as changes in use, legislation that restricts or impairs property rights, or changes in supply and demand relationships.

2.6. "Fair market value" means the highest price in terms of money that a property will bring in a competitive and open market, assuming that the buyer and seller are acting prudently and knowledgeably, allowing sufficient time for the sale, and on the condition that the price is not affected by improper manipulation or influences, with neither the buyer or the seller being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

2.7. "Final assessed values" means values established by the Board of Public Works required by W. Va. Code §11-6-11.

2.8. "Functional obsolescence" means a loss in value of a property due to changes in style, taste, or technology, or due to outdated design, diminished utility or usefulness, inefficient technology, or poor condition.

2.9. "Gross capital cost" means the actual cost of the new or used vehicle at the time of purchase, as illustrated on the bill of sale, purchase contract, or similar document showing the purchase price of the vehicle. The cost at the time of purchase means 100% of the cost as shown on the books and records of the purchaser and includes freight, installation charges, trade-ins, federal tax allowances and any applicable credits utilized by the purchaser at the time of purchase.

2.10. "Income approach" means the appraisal process of discounting an estimate of future benefits into an expression of present worth.

2.11. "Market data approach" means the appraisal process of examining sales data and translating the data into an estimate of present worth.

2.12. "Operating property" means utility operating property used for purposes immediately connected with providing the respective utility service or in providing microgrid power or data center services. The Tax Commissioner construes "utility operating property used for purposes immediately connected with providing utility service" to be synonymous with properties considered by regulatory bodies in constructing the utility rate base for rate making purposes. The Tax Commissioner shall therefore give primary consideration to whether property is included in the “utility operating property” classification as reflected in the applicable uniform system of accounts, when deciding operating versus non-operating property issues. If the business is a certified high impact data center as defined in W.Va. Code § 11-6N-2 or power generation enterprise within a certified microgrid district and not subject to regulation by a rate-making regulatory body, the valuation of property of the business shall be made with consideration paid to whether the property is necessary to perform the function of the enterprise. Property necessary to perform the function of the certified high impact data center or power generation enterprise(s) within a certified microgrid district is hereby designated “operating property” for the purposes of ad valorem property tax valuation and

for the purposes specified with reference to certified high impact data centers or certified microgrid districts in sections 4.3 *et seq*. of these rules.

2.13. "Original cost" means the initial cost paid for constructing or acquiring property.

2.14. "Physical deterioration" means a loss in value due to wear and tear in service.

2.15. “Proportional registration agreement” means an agreement entered into by the West Virginia Commissioner of Motor Vehicles under the authority of W. Va. Code §17A-2-10a.

2.16. "Public service corporation" means business entities contemplated by the provisions of W. Va. Code §11-6-1 *et seq.*

2.17. “Public utility” means a “public service corporation” as herein defined.

2.18. “Qualified motor vehicle” means a motor vehicle used, designed or maintained for the transportation of persons and property and:

2.18.1. Which is a self-propelled unit having a gross vehicle weight in excess of 26,000 pounds;

2.18.2. Is a self-propelled unit having three or more axles, regardless of weight;

2.18.3. Is used in combination with another vehicle, when the combined gross vehicle weight exceeds 26,000 pounds; or

2.18.4. The combined gross vehicle weight or combined registered gross vehicle weight of the two or more vehicles exceeds 26,000 pounds.

2.19. "Rate base" means that group of accounts or derivatives of those accounts, from the Uniform System of Accounts, on which a public utility is allowed a return on investment.

2.20. "Regulation" means the oversight of public service corporations by applicable federal and state regulatory bodies.

2.21. "Replacement cost" means the cost, including material, labor, and overhead, that would be incurred in constructing an improvement having the same utility to its owner as the improvement in question, without necessarily reproducing exactly any particular characteristic of the property.

2.22. "Reproduction cost" means the cost, including material, labor, and overhead, that would be incurred in constructing an improvement having exactly the same characteristics as the improvement in question.

2.23. "Return on investment" means a margin of profit generally expressed as a percentage of investment capital.

2.24. "Stock and debt technique" means a process of reviewing market trading prices of securities in order to arrive at an estimate of value.

2.25. "Tentative assessments" means property valuation estimates furnished by the Tax Commissioner to the Board of Public Works in accordance with W. Va. Code §11-6-9.

2.26. "Uniform system of accounts" means the most current system of accounting developed and required by state and federal regulatory bodies, as further described in section 4.3 *et seq.* of these rules.

2.27. "Unit rule" means an appraisal of an integrated property as a whole without any reference to the values of its component parts.

§110-1M-3. Situs.

3.1. Generally, when the cost approach is used, operating properties physically located in West Virginia shall be considered for tax purposes; however,

3.1.1. When the income approach is used, the unit of value shall be allocated to the state of West Virginia using operating plant data after which;

3.1.2. Apportionment of physical plant tax revenues, considering the location in the various taxing districts, shall be made by the West Virginia State Auditor's Office.

§110-1M-4. Valuation of Operating Public Utility Property (excluding interstate commercial motor vehicle property).

4.1. Unit method. -- The Tax Commissioner provides tentative assessments based on fair market value of operating property of public service corporations to be used as a guide by the Board of Public Works in establishing final assessed values for property tax purposes. In this regard the Tax Commissioner shall use the "Unit Rule" where applicable in furnishing tentative valuation estimates for the Board's consideration.

4.2. Generally accepted appraisal methods. -- In determining tentative assessments the Tax Commissioner shall consider, and use where applicable, three (3) generally accepted approaches to value: (A) cost, (B) income, and (C) market data. Application of these approaches shall recognize the impact of regulation on the value of utility operating property where applicable.

4.2.1. Cost approach. -- Recognizing that public service corporations are predominantly cost regulated, when the cost approach is used in the valuation process, original cost less applicable depreciation shall be employed. In applying the cost approach, the Tax Commissioner shall consider three (3) types of depreciation (a) physical deterioration, (b) functional obsolescence, and (c) economic obsolescence.

4.2.2. Income approach. -- In developing income approach valuations, the Tax Commissioner shall estimate capitalization rates considering the interrelationships of the income to be capitalized and the capitalization rate. In this regard, net operating income after taxes, but before interest on long-term debt shall be given primary consideration as the point on the income stream to be capitalized. The bands of investment technique shall be employed in estimating appropriate capitalization rates.

4.2.3. Market data approach. -- Recognizing that a sufficient number of sales of public service corporations do not occur to enable application of the market data technique, the Tax Commissioner shall consider the substitute stock and debt technique. The stock and debt technique shall be used in instances

where a utility class possesses actively traded stocks and bonds that enable reasonable valuation estimates to be made.

4.2.4. Correlations. -- Once generated, the various estimates of value shall be correlated into a final value estimate. The income approach value shall generally be given primary consideration in the correlation process.

4.3. Classification of public utility and certain common carrier operating properties.

4.3.1. Electric utilities. -- Operating property for electric utilities shall primarily include properties that are considered by the Federal Energy Regulatory Commission (FERC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FERC Uniform System of Accounts prescribed for Electric Utilities shall be used.

4.3.2. Gas utilities. -- Operating property for natural gas utilities shall primarily include properties that are considered by the Federal Energy Regulatory Commission (FERC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FERC Uniform System of Accounts prescribed for Natural Gas Utilities shall be used.

4.3.3. Gas pipeline utilities. -- Operating property for natural gas utilities shall primarily include properties that are considered by the Federal Energy Regulatory Commission (FERC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FERC Uniform System of Accounts prescribed for Gas Pipeline Utilities shall be used.

4.3.4. Telephone companies. -- Operating property for telephone carriers shall primarily include properties that are considered by the Federal Communications Commission (FCC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FCC Uniform System of Accounts prescribed for Telephone Utilities shall be used.

4.3.5. Telegraph carriers. -- Operating property for telegraph carriers shall primarily include properties that are considered by the Federal Communications Commission (FCC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FCC Uniform System of Accounts prescribed for Wire-Telegraph and Ocean-Cable Carriers shall be used.

4.3.6. Airline companies. -- Operating property for air carriers shall primarily include properties that are considered as operating property by the Department of Transportation. In determining which properties are properly included as operating property, the most recent Uniform System of Accounts and Reports for Certified Air Carriers shall be used.

4.3.7. Interstate railroads. -- Operating property for interstate railroads shall primarily include properties that are considered as operating property by the Surface Transportation Board. In determining which properties are properly included as operating property, the most recent Uniform System of Accounts for Railroad Companies shall be used.

4.3.8. Intrastate railroads. -- Operating property for intrastate railroads shall primarily include

properties that are considered by the West Virginia Public Service Commission as operating property. In determining which properties are properly included as operating property, the most recent Uniform System of Accounts for Railroad Companies as prescribed by the Surface Transportation Board shall be used.

4.3.9. Water utilities. -- Operating property for water utilities shall primarily include properties that are considered by the Public Service Commission as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, water utilities shall use the most recent Uniform System of Accounts of the National Association of Regulatory Utility Commissioners for Class A and B, and Class C and D water utilities.

4.3.10. Sewer utilities. -- Operating property for sewer utilities shall primarily include properties that are considered by the Public Service Commission as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, sewer utilities shall use the most recent Uniform System of Accounts of the National Association of Regulatory Utility Commissioners for Class A and B, and Class C and D sewer utilities.

4.3.11. Carline companies. -- Operating property for carline companies shall include consideration of Rolling Stock used in transportation of freight or passengers.

4.3.12. Underground gas storage companies. -- For public service corporations with underground gas storage and no other West Virginia property, operating property shall consist of only the gas stored underground.

4.3.13. Certified Microgrid Districts. -- Operating property for a certified microgrid district shall include all property used by a microgrid power generator within a certified microgrid district including but not limited to all generation systems and equipment, all distribution systems and equipment, all storage systems and equipment, any equipment connecting to the power grid outside the certified microgrid district, and all rolling stock.

4.3.14. Certified High Impact Data Centers. -- Operating property for a certified high impact data center shall include all property used at a data center's location to construct, outfit, operate, support, power, cool, dehumidify, secure, or protect a data center and any contiguous dedicated substations. The term includes, but is not limited to, construction materials, component parts, machinery, equipment, computers, servers, installations, redundancies, back-up equipment and property, emergency equipment and property, and operating or enabling software, including any replacements, updates and new versions, and upgrades to or for such property, regardless of whether the property is a fixture or is otherwise affixed to or incorporated into real property.

4.3.15. Reorganization of regulatory bodies. -- In the event that there should be a reorganization of federal or state regulatory bodies, and any of the public service corporations described herein would be required to report to an agency other than that listed in the applicable subdivision; or in the event that there should be any other utilities considered taxable by the Board of Public Works, operating property for the public service corporations shall include properties that would be considered as operating property by the appropriate state or federal regulatory body in the prescribed Uniform System of Accounts.

4.3.16. Exceptions. -- Circumstances may arise where properties may be considered operating property by the appropriate regulatory body, but a portion of the property may be devoted to non-utility

use. The Tax Commissioner may in these instances where deemed appropriate classify a portion of the property as non-operating and require that the non-operating portion so determined be assessed by the county assessor. In these instances adjustment to the public utility appraisal will be made to remove from the West Virginia unit values a proportionate value for such non-operating property.

§110-1M-5. Valuation of Interstate Commercial Motor Vehicles.

5.1. Classification of interstate motor carrier operating property. -- Operating property shall include each power unit used as an interstate commercial motor vehicle registered under a proportional registration agreement.

5.2. Appraisal method. A cost approach shall be used to determine the appraised value of an interstate commercial motor vehicle. The gross capital cost of the interstate commercial motor vehicle shall be multiplied by a percentage factor representing the remainder of the vehicle's value after depreciation.

5.2.1. The Tax Commissioner shall annually provide the depreciation schedule for power units to the West Virginia Commissioner of Motor Vehicles for use in assessing power units subject to proportional registration agreements. The property assessment and tax collection upon interstate power units will occur at the time of registration through the International Registration Plan.

5.3. Interstate Motor Carrier Apportionment Factor. For each interstate truck, road tractor and power unit registered under a proportional registration agreement, the appraised value, as determined under Subsection 5.1 of this rule, shall be multiplied by an apportionment factor the numerator of which represents the total fleet miles driven in the most recent taxable year in West Virginia and the denominator of which represents the total fleet miles driven in the most recent taxable year everywhere; the mileage amounts shall be the mileage amounts as reported to the West Virginia Division of Motor Vehicles.

§110-1M-6. Taxpayer Returns For All Public Utility Property Except Commercial Motor Vehicles.

6.1. Returns for all property subject to valuation by the Board of Public Works shall be filed on a form provided by the State Tax Division. The forms may be provided by the Tax Division electronically or on paper. The forms shall be made available to taxpayers for completion and return. The Tax Division may require that the form be filed electronically, and forms may be found at the Tax Division's website, https://tax.wv.gov.

6.2. To assure equality and uniformity in administration, no assessor or taxpayer shall substitute or supplement any other form for the Tax Commissioner's prescribed returns, without the prior approval of the Tax Commissioner. All approvals granted by the Tax Commissioner prior to the effective date of this rule are withdrawn.

6.3. All taxpayers shall prepare one (1) copy of the appropriate property tax return and file it with the Tax Commissioner.

6.4. Public utility property tax returns shall be filed no later than May 1st of each year.

6.5. The Tax Commissioner, for good cause shown, may grant an extension of filing deadlines.