



STEVEN L. BESHEAR  
Governor

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JONATHAN MILLER  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

██████████ COMPANY

Contact: ██████████ Company

██████████  
██████████

FINAL RULING NO. 2010-26  
April 29, 2010

Assessment of Public Service Company  
Periods January 1, 2008 through January 1, 2009

FINAL RULING

The Kentucky Department of Revenue has a Kentucky allocated public service company ad valorem tax assessment of property totaling \$██████████ for tax year 2008 and \$██████████ for tax year 2009 outstanding against ██████████ Company ("██████████"). ██████████ has protested these assessments and pursuant to KRS 136.180 (2) has asserted a true value of \$██████████ for tax year 2008 and \$██████████ for tax year 2009. ██████████'s principal business activity is a sewer utility service, making it subject to assessment as a public service corporation. See KRS 136.120 (1)(a)16.

At issue is whether the Department's 2008 and 2009 valuations exceed ██████████'s true fair cash value. ██████████ contends that the Department's valuation exceeds the company's true fair cash value for the following reasons:

1. The equipment is forty years old, in need of constant maintenance.
2. The property is located in a flood plain, unsuitable for building construction.
3. Income should not be a factor of property worth.

In accordance with KRS 136.160(1) and 136.120, the fair cash value for ██████████ was determined as a unit, allocated, and properly assessed. In determining the value of a public service company's operating property, all appraisal approaches are considered. After reviewing

the information submitted by the taxpayer, and other factors that may be available, the specific approach or combination thereof that is deemed to be representative of the fair cash value is chosen. It is acceptable appraisal procedure to rely on one or more approaches to value if that approach represents the company's fair cash value. It is the Department's position that the combination of cost, income and stock and debt approaches used in determining the valuation of [REDACTED] represents that company's fair cash value as of December 31<sup>st</sup> of the assessment years.

Therefore, the Public Service Property Tax assessments of \$ [REDACTED] for 2008 and \$ [REDACTED] for 2009 are correct and the state and local taxes due thereon are legitimate liabilities of [REDACTED] Company due to the Commonwealth of Kentucky.

This letter is the final ruling of the Kentucky Department of Revenue.

#### APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner's or appellant's position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 3 of 802 KAR 1:010:

1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;

3. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; and
4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,  
FINANCE AND ADMINISTRATION CABINET



E. Jeffrey Mosley  
Interim Executive Director  
Office of Legal Services for Revenue