

**Minutes of the  
Administrative Rules Meeting of the  
Utah State Tax Commission**

Tuesday, July 22, 2008 – 8:00 a.m. – Room 1025, Tax Commission Building

**Commissioners Participating:**

D'Arcy Dixon Pignanelli – Commissioner, Chair Administrative Rules  
Pam Hendrickson – Commission Chair  
R. Bruce Johnson - Commissioner  
Marc B. Johnson – Commissioner

**Staff Present:**

Cheryl Lee, Commission Executive Secretary

Note: A list of others present, a copy of related materials and an audio recording of the meeting can be obtained from the Office of the Commission at 297-3900.

**1. Commission Business**

Commissioner Dixon called the meeting to order at 8:00 a.m.

Commissioner Dixon asked for approval of the minutes of June 27, 2008.

**MOTION:** Commissioner Hendrickson moved approval of the minutes. The motion passed unanimously.

**2. Proposed Rules for Adoption by the Commission**

Commissioner Dixon said there were (3) comments from the public for this rule. Two comments were received from Max Miller, on behalf of Utah Taxpayers Association and Milford Wind, an affiliate of UPC Wind Partners and one comment from Thomas Peters, Peters Scofield Price, on behalf of the Utah Association of Counties (UAC).

**Rule R884-24P-62 – Valuation of State Assessed Unitary Property Pursuant to Utah Code Ann. 59-2-201.**

**COMMENTS:** Mr. Randy Grimshaw, local legal counsel on behalf of Milford Wind Corridor, LLC, spoke as the representative for Milford Wind, an affiliate of UPC Wind Partners, and the Utah Taxpayer's Association. He offered a slide presentation explaining the wind power project, unique aspects of the project, parties involved, jurisdiction, and the need for the rule to clarify if the energy tax credits are treated as tangible or intangible property. (See Attachment) He also responded to the UAC comment on proposed amendment to this rule for wind power generating plants. (See Attachment).

**COMMENT:** Tom Peters, Utah Association of Counties, discussed his concerns in creating a rule that might create an improper exemption. He felt the proposed amendment to Rule R884-24P-62 was beyond the Commission's powers and should be brought before the Legislature.

Commissioner B. Johnson clarified, that if passed, the rule would be effective for this lien date of the upcoming year.

**COMMENT:** Kelly Wright, Deputy District Attorney appeared on behalf of Salt Lake County and Assessors Office. He thinks the Tax Commission is acting beyond its jurisdiction as granted by the constitution. He submitted two cases on low-income housing credits for review (See Attachments)

**COMMENT:** Tim Bodily, Attorney General Office, represents the Property Tax Division and the Commission. He stated this is a very difficult issue and advised the commissioners that the appropriate treatment of these credits will probably be appealed to the courts, whether they approve the rule or not.

**COMMENT:** Max Miller, Utah Taxpayers Association, stated they are in favor of adopting this proposed rule.

**MOTION:** Commissioner Hendrickson moved the rule as posted be approved. She stated we cannot determine if the statute is unconstitutional and that the rule will most likely go to the courts. For reasons of expediency she would like to move forward in approving this rule to give our property tax division direction on valuing this property. Commissioner B. Johnson noted that the Legislature has determined that low-income housing credits are intangible. Although the statute is silent on energy credits, he believes we should interpret similar credits in light of this Legislative action. Accordingly, he supports the proposed rule. The motion passed unanimously.

### **3. Other Items/Adjourn**

Commissioner Hendrickson moved to adjourn. The motion passed unanimously.

Commissioner Dixon adjourned the meeting at 9:40 a.m.

Approved:

Attested: Cheryl Lee  
Commission Executive Secretary