

CALIFORNIA STATE BOARD OF EQUALIZATION

SUMMARY DECISION UNDER REVENUE AND TAXATION CODE SECTION 40

In the Consolidated Matter of the Petitions for
Reassessment of the 2020 Unitary Value for:

LODI GAS STORAGE, LLC (0198) AND

WILD GOOSE STORAGE, LLC (0195)

Petitioners

Appeal Nos.: SAU 20-006 and 20-007

Case ID No.: 1064098 and 1064099

Nonappearance Hearing Date:
November 17, 2020¹

Representing the Parties:

For the Petitioners:

Antreas E. Ghazarossian, Representative
Cost Containment Advisors

For the Respondent:

Sonya Yim, Tax Counsel III (Specialist)
Attorney for the State-Assessed Properties Division

Jack McCool, Chief
State-Assessed Properties Division

Appeals Attorney:

Sarah J. Garrett, Tax Counsel III (Specialist)

VALUES AT ISSUE

Lodi Gas Storage, LLC

| | Value | Penalty | Total |
|---|--------------|----------------|--------------|
| 2020 Board-Adopted Unitary Value | \$58,500,000 | \$0 | \$58,500,000 |
| Petitioner's Requested Unitary Value | \$22,665,000 | \$0 | \$22,665,000 |
| Respondent's Appeal Recommendation | \$58,500,000 | \$0 | \$58,500,000 |
| Petitioner's Revised Pre-Appeals Conference Requested Unitary Value | \$18,529,249 | \$0 | \$18,529,249 |
| Petitioner's Revised Post-Appeals Conference Requested Unitary Value | \$0 | \$0 | \$0 |
| Respondent's Revised Recommendation | \$56,800,000 | \$0 | \$56,800,000 |

¹ The Board voted unanimously to grant the consolidated petitions for reassessment, in part, and reduced the 2020 Board - adopted unitary values from \$58,500,000 to \$56,800,000 for Lodi Gas Storage, LLC and from \$106,800,000 to \$98,400,000 for Wild Goose Storage, LLC.

Wild Goose Storage, LLC

| | Value | Penalty | Total |
|--|---------------|----------------|---------------|
| 2020 Board-Adopted Unitary Value | \$106,800,000 | \$0 | \$106,800,000 |
| Petitioner's Requested Unitary Value | \$91,460,000 | \$0 | \$91,460,000 |
| Respondent's Appeal Recommendation | \$106,800,000 | \$0 | \$106,800,000 |
| Petitioner's Revised Pre-Appeals Conference Requested Unitary Value | \$75,409,393 | \$0 | \$75,409,393 |
| Petitioner's Revised Post-Appeals Conference Requested Unitary Value | \$30,700,000 | \$0 | \$30,700,000 |
| Respondent's Revised Appeal Recommendation | \$98,400,000 | \$0 | \$98,400,000 |

Factual Background

Lodi Gas Storage, LLC (LGS) owns and operates a natural gas storage facility located near Lodi in Northern California and a facility in Kirby Hills, California. LGS's Lodi facility provides approximately 33 billion cubic feet (Bcf) of natural gas storage capacity and is connected to Pacific Gas and Electric Company's (PG&E) intrastate gas pipelines which service the San Francisco and Sacramento areas. After its acquisition by Brookfield Infrastructure Partners, L.P. (Brookfield) in 2014, LGS began to report property costs on its property statement based on the purchase price allocation² (PPA).

Wild Goose Storage, LLC (WGS) owns and operates a natural gas storage facility in Butte County in Northern California. The facility was first constructed around 1998 and currently consists of 8 compressor units, 2 of which are used primarily for recycling the same gas in and out of the reservoir. After its acquisition by Niska Gas Storage Partners, LLC³ (Niska) in 2016, WGS began to report property costs on its property statement based on the PPA.

After the rebranding and reorganization of some of Brookfield's assets, its subsidiary, Rockpoint Gas Storage, currently directs both Petitioners' facilities. Additionally, both Petitioners are regulated by the California Public Utilities Commission (CPUC).

² A purchase price allocation (PPA) represents a valuation analysis that is required under the Financial Accounting Standards Board, Accounting Standards Codification Topic 805, Business Combinations, when an entity acquires a controlling interest in a business. A PPA allocates the purchase price to assets and liabilities accounts and is used to fulfill financial and tax reporting requirements.

³Niska Gas Storage Partners, LLC's 10-k (2016).

<https://www.sec.gov/Archives/edgar/data/1483830/000104746916013761/a2228789z10-k.htm>.

1 LGS's 2020 Board-adopted unitary value of \$58,500,000 is based on 100-percent reliance on
2 the Reproduction Cost Less Depreciation (ReproCLD) value indicator. WGS's 2020 Board-adopted
3 unitary value is based on 50 percent reliance on the ReproCLD value indicator and 50 percent reliance
4 on the Capitalized Earning Ability—Perpetual Life Premise⁴ (CEA) value indicator.

5 Petitioners each filed a timely petition with the same primary issue. The petitions were
6 consolidated on October 12, 2020.

7 **Legal Issue: Whether Petitioners Have Shown That Respondent Failed to Account for the**
8 **Appropriate Level of Economic Obsolescence in Determining the ReproCLD Value of Petitioners'**
9 **Storage Leaseholds, Other Land Rights, and Pad Gas⁵ in Petitioners' 2020 Board-Adopted Unitary**
10 **Values.**

11 **Findings of Fact and Related Contentions**

12 Petitioners contend their 2020 Board-adopted unitary values should be adjusted for additional
13 obsolescence because the natural gas market is facing growth in domestic shale gas production, lower
14 gas prices, reduced price/market volatility, unfavorable leases, and negative (LGS) or greatly reduced
15 (WGS) revenue projections, which have resulted in a lower than expected return on their investments,
16 leaving Petitioners "at the mercy of unfavorable market conditions" beyond their control. Petitioner
17 maintains that the obsolescence adjustment applied to its assets in service should also be applied to their
18 storage leaseholds and rights of way, other land rights, and pad gas.

19 Respondent agrees economic obsolescence exists in Petitioners' facilities but asserts the
20 ReproCLD value indicator already adequately reflects all forms of depreciation (physical deterioration
21 and obsolescence) based on the information Petitioners provided. Further, Respondent argues that
22 Petitioners' request to extend the economic obsolescence adjustment to leasehold rights and other land
23 rights is inconsistent with accepted appraisal guidance, and instead, "[t]o estimate an adjustment for
24

25 _____
26 ⁴ The CEA-PL is a capitalization technique, one of two CEA models typically used by Respondent in the income approach to
27 valuation. Under the perpetual life concept, the capital investment necessary to maintain a perpetual income flow is deducted
28 from expected revenues. With the necessary capital investment, the income stream is sustained into perpetuity. *See Unitary
Valuation Methods (UVM)*, Board of Equalization (Revised March 2003),
<https://www.boe.ca.gov/proptaxes/pdf/methodsbook2003.pdf>, pp. 38-40.

⁵ Pad gas is the natural gas in a gas storage facility assumed necessary to maintain reservoir pressure sufficient to permit the
withdrawal, injection, and maintenance of working gas in inventory in such storage facility.

1 lease terms, data regarding existing and current market lease terms and conditions for both the subject
2 and comparable sales must be obtained and analyzed,” consistent with Assessors’ Handbook section
3 502 (AH 502), *Advanced Appraisal*. (AH 502 (December 1998, reprinted January 2015), at p. 38.)
4 However, neither Petitioner has provided any comparable lease data or information to indicate the value
5 of any other similar leaseholds or other land rights, nor provided any other support or documentation to
6 substantiate the requested reduction. Additionally, with respect to the pad gas, Respondent contends
7 Petitioners’ Board-adopted value already correctly reflects market value, based on the United States
8 Energy Information Agency reported costs as of the lien date. Therefore, Respondent asserts
9 Petitioners’ obsolescence adjustments within the 2020 Board-adopted values are sufficient, as
10 Petitioners have not shown that any further adjustments are warranted.

11 In their Pre-Appeals Conference Statement and as discussed at the Appeals Conference,
12 Petitioners contend further adjustment for economic obsolescence is needed, arguing that it is being
13 valued on a unit basis, and, thus, economic adjustments should flow to all assets. In support of the
14 requested adjustments, Petitioners cite: dire market conditions for gas storage facilities, including
15 falling gas prices; unsustainable existing lease terms that no willing buyer would assume; each
16 facility’s failure to meet projected revenue growth; and each facility’s increased costs of regulatory
17 compliance requirements after the Aliso Canyon incident. Further, Petitioner argues that pad gas cannot
18 be sold as an asset, as it is required for each facility to function. On the basis of their filing, Petitioners
19 generally assert that their 2020 Board-adopted valuations are inconsistent with Property Tax Rules 2, 6,
20 and 8, and request a revised value for LGS of \$18,529,249, based on its calculation of 15 percent of
21 LGS’s 5-year average annual revenue to calculate its leasehold and other land rights value and applying
22 an obsolescence adjustment to its pad gas, and a revised valuation for WGS of \$75,409,393, based on a
23 revised reliance of 75 percent weight on the CEA value indicator and 25 percent weight on the
24 ReproCLD value indicator.

25 At the appeals conference, Respondent contends each Petitioner’s request for additional
26 obsolescence adjustment requires data and substantiation, instead of generalized claims. Specifically,
27 Respondent has noted that if an adjustment is sought on leasehold values, market data is needed to
28 substantiate the claim. Respondent also reaffirmed that the pad gas value is derived by multiplying each

Petitioner's reported volume on its books as of the lien date, by the market price as reported by the United States Energy Information Agency. Respondent reaffirmed that while it is willing to review information submitted by the Petitioners, Petitioners have provided no data to substantiate their claims. Respondent also committed to reviewing Petitioners' submitted information related to regulatory compliance costs.

In response to the Appeals Attorney's request, Petitioners submitted additional information substantiating their connection to the PG&E system and asserting the need for Respondent to utilize PG&E CityGate pricing given this connection. Petitioners also included an unsolicited third revised opinion of value of \$0 for LGS and \$30,700,000 for WGS, based on a Discounted Cash Flow Analysis.

In the Revised SAPD Analysis and Recommendation, Respondent recommends two adjustments to each Petitioner's unitary value based on the information Petitioners submitted. First, after reviewing the specific post-Aliso Canyon gas leak regulatory requirements affecting Petitioners, Respondent calculated an obsolescence adjustment based on the present value of the 6 remaining regulatory required payments, resulting in a value reduction of \$500,000 for LGS and \$5,200,000 for WGS. Second, Respondent reviewed and analyzed Petitioners' submission regarding the pad gas and is recommending a reduction in unitary value for LGS of \$1,200,000 and for WGS of \$3,200,000, based on revised calculations utilizing the PG&E CityGate prices as of the January 2020 lien date. Together, these two adjustments represent a total recommended reduction in unitary value for LGS of \$1,700,000 and for WGS of \$8,400,000. With respect to all other contentions raised by the Petitioners, Respondent contends Petitioners have not provided data or evidence to show error in Respondent's calculations; therefore, Respondent cannot recommend any further adjustment to Petitioners' 2020 unitary values.

Applicable Law and Appraisal Principles

Burden of Proof

Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.) The Board has promulgated the Rules for Tax Appeals (RTA) to govern the administrative and appellate review processes for all of the tax programs administered by the Board. (Cal. Code Regs., tit. 18, § 5000.) Of relevance here, RTA 5541, subdivision (a), places the burden of proof upon the taxpayer as to all issues of fact except as otherwise specifically provided by law. Courts have long

1 presumed that the Board assesses all property correctly, placing on the taxpayer the burden of proving
2 that an assessment is incorrect. (Trailer Train Co. v. State Bd. of Equalization (1986) 180 Cal.App.3d
3 565, 584.) Therefore, petitioner bears the burden of showing that the assessment is illegal. (ITT World
4 Communications v. Santa Clara County (1980) 101 Cal.App.3d 246.)

5 **Value Standard**

6 Section 1 of article XIII of the California Constitution states that all property must be valued at
7 fair market value. Property Tax Rule 2, subdivision (a), states that “in addition to the meaning ascribed
8 to them in the Revenue and Taxation Code, the words “full value”, “full cash value”, “cash value”,
9 “actual value” and “fair market value” mean the price at which a property, if exposed for sale in the
10 open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its
11 equivalent under prevailing market conditions between parties who have knowledge of the uses to
12 which the property may be put, both seeking to maximize their gains and neither being a position to
13 take advantage of the exigencies of the other.”

14 **Income Approach to Value**

15 Property Tax Rule 8, subdivision (a), states that “the income approach is used in conjunction
16 with other approaches when the property under appraisal is typically purchased in anticipation of a
17 money income and either has an established income stream or can be attributed a real or hypothetical
18 income stream by comparison with other properties.” Subdivision (b) describes the income approach to
19 value as the valuation method whereby, “an appraiser values an income property by computing the
20 present worth of a future income stream. This present worth depends upon the size, shape, and duration
21 of the estimated stream and upon the capitalization rate at which future income is discounted to its
22 present worth.” Subdivision (c) provides that “the amount to be capitalized is the net return which a
23 reasonably well informed owner and reasonably well informed buyers may anticipate on the valuation
24 date that the taxable property existing on that date will yield under prudent management and subject to
25 legally enforceable restrictions as such persons may foresee as of that date.”

26 **The Reproduction Cost Approach to Value**

27 Property Tax Rule 6, subdivision (a) provides, in part, that: “The reproduction or replacement
28 cost approach to value . . . is preferred when neither reliable sales data . . . nor reliable income data are

1 available. . .” In general, the “reproduction cost of a reproducible property may be estimated either by
2 (1) adjusting the property’s original cost for price level changes and for abnormalities, if any, or (2)
3 applying current prices to the property’s labor and material components, with appropriate additions for
4 entrepreneurial services, interest on borrowed or owner-supplied funds, and other costs typically
5 incurred in bringing the property to a finished state.” (Property Tax Rule 6, subd. (b).) The resulting
6 adjusted cost is the Reproduction Cost New (ReproCN) which is then “reduced by the amount that such
7 cost is estimated to exceed the current value of the reproducible property by reason of physical
8 deterioration, misplacement, over or under improvement, and other forms of depreciation or
9 obsolescence.” (Property Tax Rule 6, subd. (e).)

10 **Depreciation and the Cost Approach**

11 In general, the cost approach recognizes three types of depreciation: physical deterioration,
12 functional obsolescence, and external or economic obsolescence, through the application of the Board’s
13 trend factors and “percent” good factors. Obsolescence may occur when property is outmoded
14 (functional obsolescence) or when some event has substantially diminished the future earning power of
15 the property (economic obsolescence). (See Assessors’ Handbook section 501, Basic Appraisal (January
16 2002), pp. 80-83.) Functional obsolescence is the loss of value in a property caused by the property’s
17 loss of capacity to perform the function for which it was intended. (Id. at p. 81.) Economic
18 obsolescence is the diminished utility of a property due to adverse factors external to the property being
19 appraised and is incurable by the property owner. (Id. at p. 82.) Petitioner has the burden of
20 establishing the existence of any additional or extraordinary obsolescence. (See Property Tax Rule 6,
21 subds. (d) & (e); Cal. Bd. of Equalization, Assessors’ Handbook section 502, *Advanced Appraisal*
22 (Reprinted January 2015) (AH 502), pp. 20-21; UVM, p. 30.)

23 **Reconciliation of Value Indicators**

24 Property Tax Rule 3 requires that, in estimating value, the assessor shall consider one or more
25 of the approaches to value “as may be appropriate for the property being appraised,” which includes the
26 comparative sales approach, the replacement or reproduction cost approach (e.g., ReproCLD valuation
27 methodology), or the income approach (e.g. CEA valuation methodology). The appropriateness of an
28 approach is often related to the type of property being appraised and the available data. (AH 502, p.

109.) In addition, the validity of a value indicator will depend upon the accuracy of data and adjustments made to the approach. That is, the accuracy of a value indicator depends on the amount of available comparable data, the number and type of adjustments, and the dollar amount of adjustments. Finally, if a large amount of comparable data is available for a given approach, the appraiser may have more confidence in that approach. For example, if income, expense, and capitalization rate data can be obtained from many properties comparable to the subject, the appraiser may attribute significant accuracy to the income approach. The greatest reliance should be placed on that approach or combination of approaches that best measures the type of benefits the subject property yields. The final value estimate reflects the relative weight that the appraiser assigned, either implicitly or explicitly, to each approach. (AH 502, p. 112.)

Analysis and Disposition

Respondent is presumed to have correctly determined the value of the property at issue, and Petitioners bear the burden of proving otherwise. Here, Petitioners' state that Respondent failed to account for the appropriate level of economic obsolescence in determining the ReproCLD value of Petitioners' storage leaseholds, rights of way, other land rights, and pad gas within their 2020 Board-adopted unitary values. Based on the evidence submitted, Respondent agreed with Petitioners that an adjustment to Petitioners' pad gas value was warranted and made an adjustment of \$1,200,000 for LGS and \$3,200,000 for WGS. Additionally, while not raised in their original Petitions, Respondent agreed with Petitioners that an adjustment for increased regulatory costs after the Aliso Canyon incident was warranted and made an adjustment of \$500,000 for LGS and \$5,200,000 for WGS. We find both of Respondent's adjustments to be appropriate based on the evidence submitted and approve the total reduction in unitary value for LGS of \$1,700,000 and for WGS of \$8,400,000. With respect to all other additional obsolescence claims, we find that Petitioners have failed to identify and quantify any additional obsolescence which they assert Respondent has not recognized. With respect to all other arguments raised, we find that Petitioners have advanced arguments beyond the scope of their original petitions, in violation of Rules for Tax Appeals,⁶ Rule 5326.6 (c), and, regardless, have presented no

⁶ Rules for Tax Appeals are found in Title 18 of the California Code of Regulations.

evidence to show Respondent erred. Therefore, we find that Petitioners have not presented sufficient evidence to meet their burden of proof to show that any further adjustments are warranted beyond Respondent's recommended adjustments.

Decision

Accordingly, the consolidated petitions for reassessment are granted, in part, and the 2020 Board-adopted unitary values are reduced from \$58,500,000 to \$56,800,000 for Lodi Gas Storage, LLC and from \$106,800,000 to \$98,400,000 for Wild Goose Storage, LLC.*

Antonio Vazquez, Chairman

Mike Schaefer, Vice Chair

Ted Gaines, Member

Malia M. Cohen, Member

Betty T. Yee, Controller

* The decision was rendered in Sacramento, California on November 16, 2020. This summary decision document was approved on February 23, 2021, in Sacramento, California.

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