

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DCP MIDSTREAM LP,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 65642, 65643, 65644, 65645, 65671,65672, 65673, 65674</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 6 and 7, 2015, Gregg Near and Diane M. DeVries presiding. Petitioner was represented by Arthur A. Hundhausen, Esq. and Jonathan S. Bender, Esq. Respondent was represented by Kerri A. Booth, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2007-2012.

The parties agreed to stipulate to all exhibits. The parties also agreed to the expert witnesses with the exception of Jerry L. Wisdom who was not accepted as an expert appraisal witness.

Subject property is described as follows:

**Various pipeline appurtenances located in Adams County, Colorado
Adams County Schedule No. P0001914 (Docket No. 64642 and 65671);
P0001679 (Docket No. 64643 and 65673); P0001370 (Docket No. 65644
and 65674); and P0004908 (Docket No. 64645 and 65672);**

The subject consists of tangible personal property including various pipeline appurtenances; specifically flow meters used in the oil and gas industry. Adams County, as a result of an audit of the pipeline and meters conducted in 2013 and 2014, asserts that DCP has failed to provide accurate information and has underreported the property value(s).

Petitioner presented the following indications of actual value:

Schedule No.	2007	2008	2009	2010	2011	2012
P0001914	\$613	\$461	\$539,418	\$481,091	\$475,974	\$480,650
P0001679	\$30,676	\$29,899	\$917,034	\$818,210	\$489,963	\$692,485
P0001370	\$8,507	\$8,475	\$3,137,456	\$2,883,025	\$2,587,224	\$2,837,396
P0004908	\$1,584	\$1,578	\$38	\$11	\$38	\$38

DCP Midstream, LLP owns tangible assets in Adams County consisting of approximately 105 miles of pipeline of varying diameter and appurtenances such as meters, valves and “pig launchers”. The assets represent the gathering system owned and operated by DCP. Petitioner cited three issues as the basis for the appeal.

1. Were the meters disclosed in Petitioner’s reporting to Adams County?
2. Even if the meters were not separately disclosed in the reporting, what is the best approach for the taxpayer?
3. Did DCP omit assets in its reporting to Adams County?

Petitioner’s witness, Gregg West, Director of Property Tax for DCP Midstream, discussed his history with DCP and his knowledge regarding the company’s reporting to Adams County. Mr. West was hired by DCP in 2007 and prior reporting was provided by in-house property management of Spectra Energy. Personal property reports for 2007 and 2008 were provided to Adams County based upon previously reported assets and additions. In 2009, at the direction of Mr. West, it was determined that DCP could not substantiate or reconcile the data previously relied upon. DCP had adopted a more modern system of tracking and reporting that relied upon Geographic Information System (GIS) data to identify the physical assets. The system was described as “dynamic”. The amount of pipeline and appurtenances varies depending upon the time the analysis is applied. It is only when DCP runs the GIS system that an accounting can be made because there are new wells being developed or old wells are taken out of service constantly throughout the year.

The original costs reported in 2007 and 2008 were, respectively, \$871,695 and \$756,738. As a result of the decision to adopt a GIS reporting system, Mr. West indicated that DCP adopted a “reset” of all the pipeline values to cost new. The 2009 original cost, based upon the GIS system was reported to be \$10,720,243. No separate cost was applied to meters as the system did not specifically identify them. Mr. West stated he did not know which cost schedule was used for these figures but relied upon the agents in the field.

Petitioner’s next witness, Deana Pratt, the Principal Tax Analyst for the North Region, testified that the Louisiana Cost Schedule was relied upon for the 2013 and 2014 declarations. She indicated this schedule included all appurtenances. The GIS data for the Adams County gather system identified approximately 110 meters. Ms. Pratt noted there are other schedules available and that she had confirmed her application of the schedule with Louisiana.

Petitioner’s next witness, Paul Beacom, a Property Tax Advisor for K.E.Andrews, discussed his prior employment as the oil and gas supervisor for Adams County prior to 2007 and his engagement as a consultant with the County in 2007 through 2009. Mr. Beacom indicated he had reviewed DCP’s tax returns in his tenure as an employee for Adams County and stated that the 2007

and 2008 returns separately identified the meters. The 2009 filing was the first declaration that did not separate the meters and Mr. Beacom testified that he worked with Jonathan Jones, DCP's Agent, regarding the jump from \$750,000 to \$10 million and ultimately accepted the 2009 figures. Mr. Beacom also stated he did not consider the figures reported in 2007 and 2008 to have been willfully misrepresented and he also indicated that no other oil and gas operator had provided the level of detail received from DCP.

Petitioner's final witness, Mark Andrews, an ASA designated appraiser and President of K.E.Andrews, testified his firm was the largest energy tax firm in the United States providing property tax preparations for all 50 states and Canada. Mr. Andrews characterized the subject property as a small diameter gathering pipeline located in the Wattenberg Field in North Adams County. The Wattenberg Field was developed in the 1970's and was described in Mr. Andrews' report as significantly depleted. He noted the gather system was designed for 20,000 MCF/D (million cubic feet per day) and was currently producing only 1,200 MCF/D.

To determine Replacement Cost New (RCN) of the meters, Mr. Andrews provided historic cost information including the diameter of pipe relating to each meter. The historic cost was compared to replacement cost schedules used by various valuation firms utilized by Wyoming, Texas, Oklahoma and Louisiana. These costs were slightly lower than those presented by Respondent so, to reduce the issue of replacement cost, Mr. Andrews accepted the replacement costs presented by the Assessor.

After determination of RCN, Mr. Andrews applied depreciation based on a 10-year economic life. The meters were described as electronic flow meters (EFM) and Mr. Andrews estimated approximately half of the cost is represented by electronic, solar and communication features that are typically associated with 5-year life tables. Mr. Andrews referenced contacts with DCP field personnel who related the meters needed recalibration roughly twice a year; were rebuilt approximately every 5 years and were replaced after 12 years with little or no residual value. Further support to the overall 10-year life was provided by analysis of the rate of decline experienced by new wells over time and reference to the current field's minimal flow rate compared to design capacity.

Additional depreciation resulting from super adequacy and an estimated 10% to 15% of the meters either disconnected or out of service was applied at 33% of cost new, less than the 45% allowed by the state's tables. Additionally, a "floor value" of 10% was established for depreciation of all forms. Mr. Andrews indicated reliance upon the Basic Equipment Lists (BELs) provided by Petitioner as providing support for his analysis.

For 2008 through 2014, Mr. Andrews developed the following conclusions:

METHOD	2008	2009	2010	2011	2012	2013	2014
RCNLD	\$314,647	\$327,705	\$293,866	\$305,075	\$304,694	\$297,378	\$282,994
BEL's Method	\$276,772	\$290,619	\$271,754	\$275,809	\$303,557	\$298,831	\$298,831
Correlated Value	\$295,000	\$309,000	\$283,000	\$290,000	\$304,000	\$300,000	\$290,000

Petitioner presented a correlated value for 2007 in Petitioner’s Exhibit 2 as follows:

RCN Method	\$471,529
BELs Method	\$180,460
Correlated Value	\$300,000
Income Approach	\$250,000

Respondent presented the following indicators of value for 2007 through 2012:

Sched. No.	2007	2008	2009	2010	2011	2012
P0001914	\$56,268	\$53,038	\$586,946	\$521,741	\$489,904	\$510,395
P0001679	\$169,810	\$181,338	\$1,067,772	\$959,917	\$632,571	\$846,176
P0001370	\$691,622	\$691,894	\$3,799,701	\$3,526,172	\$3,178,286	\$3,350,148
P0004908	\$25,634	\$24,310	\$21,821	\$19,772	\$14,348	\$13,127

*Meters and Pipeline

Respondent’s witness, Jerry L. Wisdom, Oil & Gas Appraisal Manager for Total Assessment Solutions Corporation, presented a list of the 2013 DCP Midstream Omitted Meter Values with a total of 131 meters. He testified to physically visiting every one of DCP’s well heads to acquire this information. Each meter was identified by year; code (electronic meter “E”, electronic meter/Bldg., “EB”, or electronic meter/Shed “ES”); asset number and diameter. 25 of the meters were identified by asset number “N/A”. The age of each meter was provided by the Colorado Oil & Gas Commission. Mr. Wisdom then determined the total price for each code by analyzing pricing for each portion of a meter as of 2013 to determine RCN.

To consider depreciation, Mr. Wisdom referenced the listing of DCP’s meters obtained from the Colorado Oil and Gas Commission. The list of 131 meters for 2013 indicated an average age of the meters of 23.65 years based upon the date of installation. Mr. Wisdom noted that many of the meters have been upgraded to EFM. He then indicated having “found in sales” that the original installation date provides an accurate age from which to determine actual value. To recognize physical depreciation, Mr. Wisdom adopted a 20-year economic life as appropriate and noted its use in many other states. No economic obsolescence was applied to the costs as he indicated the property suffers from no impairment in the function for which it was intended. Meters that exceeded the 20-year economic life were given a “floor value” of 20%. For 2013, a RCNLD of \$814,305 was concluded for DCP’s meters.

Petitioner contends the County was fully aware, for the tax years from 2009 to 2012, that the costs reported included meters. Petitioner points to the testimony of Mr. Paul Beacom, the County’s own employee, who reviewed the declarations and discussed them with Petitioner’s representatives to his satisfaction. No communication between the County and DCP were held regarding any insufficiencies in the reporting. Petitioner also argues that declarations in 2007 and 2008, prior to the decision to implement the GIS system, included numerous assets acquired through mergers and acquisitions that had been in service in the 1960’s, 1970’s and 1980’s. Rather than continue reporting information that was unreliable DCP chose, at great cost to itself, to implement the GIS system that resulted in an increase in taxable assets to more than 13 times what it had been previously. Petitioner asserts that meters were included in their declarations by reliance upon yearly

pipeline cost schedules published by the State of Louisiana that include the cost of pipelines and appurtenances.

Petitioner maintains that Respondent's witness presented a flawed analysis by reliance upon an unsupportable contention of a 20-year economic life for the meters. Although admitting the meters that he observed were of a more modern type than would have been available 20 years ago, Mr. Wisdom still applied a physical depreciation estimate that was flawed. Petitioner's appraiser, with additional input from people actually in the field, applied a more reasonable economic life, half that used by Petitioner's witness.

Finally, Petitioner challenges Mr. Wisdom's account that he physically visited all of the meters owned by DCP. Aside from the logistical inconsistencies of trespass as well as access to fenced and/or otherwise secured facilities, Petitioner also questions whether Mr. Wisdom's site inspections determined if the meters were actually functioning, or, if the meters actually belonged to DCP. Mr. Wisdom asserted there were 131 meters in place in 2013 whereas Petitioner's witnesses indicated there were 110.

Respondent contends Petitioner's reliance upon the Louisiana schedule, or any other schedule, does not provide an accurate accounting of the meters. Respondent's witness found several instances where meters were outside of known pipeline segments. Mr. Wisdom presented examples of multiple meters along one segment of pipe. The schedules do not account for such inconsistencies.

Respondent challenges Petitioner's assertion that Mr. Paul Beacom's acceptance of the data provided by DCP in their application of the GIS system represents the County's approval. Rather, Respondent posits that Mr. Beacom did not have the capability to question or research the data provided. There was no indication that Mr. Beacom conducted any sort of field inspection.

Respondent questions whether Petitioner's use of a 10-year economic life is appropriate since the Louisiana schedules apply a 26.5 year life and the Oklahoma schedule utilizes a 20-year life. Use of a 10-year life does not take into consideration the ability of the operator to remove, refurbish and then reuse a meter many times over.

Finally, Respondent argues that Petitioner's witness, Mr. Andrews, provided insufficient evidence to support an economic obsolescence estimate of 33%. The witness did not provide his work papers or his calculations, leaving Respondent with no way to check or analyze Mr. Andrews' contentions.

Petitioner presented sufficient probative evidence and testimony to prove that there were no unreported or underreported assets in the declarations submitted for the 2007-2012 tax years.

The Board was primarily swayed by a lack of confidence in the methods and analysis presented by Respondent's witness. Citing conversion to a GIS system that did not, at that time, identify individual meters, Petitioner was simply unable to provide specific information requested by Adams County. The assessment employee at the time of this decision accepted the new procedure and welcomed the depth of information provided. No charge of deception or intentional omission of

any property was leveled at that time. Petitioner produced a declaration that relied upon an industry schedule - a publication relied upon by other parties in the pipeline industry, to estimate the pipeline and appurtenances.

The Board also questions Respondent's contention of 131 meters. No evidence was presented that the list established by the Oil and Gas Commission is adjusted for wells, or meters no longer in service or whether the original meter installation has been modified. Of the 131 meters reported by Respondent's witness, 25 are identified as "N/A" for asset number. Petitioner reported "approximately" 110 meters and Petitioner's witness Mr. Andrews stated 10% to 15% of the meters were idle or no longer in service. These numbers tend to suggest there are fewer than 131 actual and operable meters.

The Board is not convinced by Respondent's contention that a 20-year economic life is appropriate for the meters. Respondent's own witness stated that "many" of the meters have been converted to EFM. As these meters are recent technology and involve much more computer, solar and wireless connectivity than purely mechanical equipment, it is not reasonable to apply the extended economic life purported by Respondent.

Finally, the Board finds Respondent's contention that no economic obsolescence exists to be unreasonable. Petitioner provided ample evidence that the output from the wells in question has declined significantly. Respondent's witness claims there is no impairment to the function of the meters and thus no economic obsolescence. The Board would maintain that a throughput of 1% of the original design, as illustrated by Petitioner, is ample evidence of impairment.

ORDER:

Petitioner presented sufficient probative evidence and testimony to prove there were no omitted assets in the property declarations submitted from 2007 through 2012.

The Adams County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section

24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

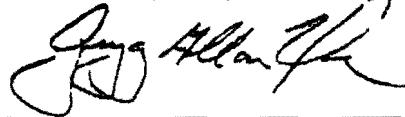
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

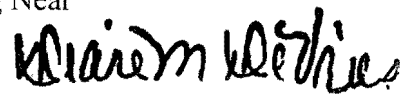
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 15th day of May, 2015.

BOARD OF ASSESSMENT APPEALS



Gregg Near



Diane M. DeVries

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.


Milla Lishchuk