

ARIZONA SUPREME COURT

SAN DIEGO GAS & ELECTRIC
COMPANY,

Plaintiff/Appellee,

v.

ARIZONA DEPARTMENT OF
REVENUE, et al.,

Defendants/Appellants.

No. CV-23-0283-PR

Court of Appeals
No. 1 CA-TX 21-0008

Arizona Tax Court
No. TX2019-001758

DEFENDANTS/APPELLANTS' SUPPLEMENTAL BRIEF

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INTRODUCTION

The Court directed the parties to address the following question:

What is the relationship between A.R.S. §§ 42-14154, -14157,¹ and -15001 and what consequence, if any, does a negative reduced plant in service cost have on the allocations provided for in A.R.S. § 42-14157?

The answer to the first part of the question is simple. These statutes are part of the procedure for the Arizona Department of Revenue (the “Department”) to value and for the counties to assess property taxes on electric transmission property.

The second part of the question stems from the court of appeals’ fundamentally flawed opinion in this case (the “Opinion”). The court of appeals held that monies set aside to pay for the transmission plant’s removal at the end of its economic life are lawful straight-line depreciation of plant in service costs. The holding causes the plant’s statutory full cash value to go increasingly negative over the final years of its life. By definition, straight-line depreciation spreads an asset’s cost evenly over the asset’s useful life. A.R.S. § 42-14154(G)(2). The negative value scenario that the court of appeals created is impossible under any known depreciation regimen or authority. Once the asset’s original cost is

¹ The Court’s Order lists A.R.S. § 42-15147, which does not exist. Defendants assume that the Court meant A.R.S. § 42-14157.

depreciated to zero, there is no more value to depreciate. Operating property should never have a negative value.

Regardless, a negative plant in service value is in effect simply a zero value for the plant resulting in the plant not being taxed. Plant in service value greater than zero is “allocated” under [A.R.S. § 42-14157\(A\)\(3\)](#) based on original cost for that plant in the various taxing jurisdictions. But a zero value (or the oxymoronic “negative value”) of a plant in service leaves nothing to allocate. As to the construction work in progress (“CWIP”) component, the statutes value and allocate CWIP separately. [A.R.S. §§ 42-14154\(C\)](#), -14157(C). Therefore, a negative plant in service value has no effect whatsoever on the CWIP component.

ARGUMENT

I. A Negative Plant in Service Value Will Mean that There Will Be No Plant in Service Value to Allocate to the Various Taxing Jurisdictions Under [A.R.S. § 42-14157\(A\)](#), and It Will Have No Effect on the CWIP Allocation Under [A.R.S. § 42-14157\(C\)](#).

Sections 42-14154, -14157, and -15001 set forth the process for valuing, allocating, and assessing property used in transmitting and distributing electricity in Arizona. They are simply some of the steps that the Department and the counties take in valuing, assessing, levying, and collecting property taxes for centrally assessed properties.

Section [42-14154](#) provides the electric transmission property’s valuation formula. Subsection (B) prescribes the method for valuing the plant in service

component, and Subsection (C) prescribes the method for valuing the CWIP component.

After the Department sets the full cash values for the plant in service component and the CWIP component, Section 42-14157 allocates those values to the taxing jurisdictions in which the property is located. The plant in service component value becomes part of a system value that is allocated to the respective taxing jurisdictions in proportion to the plant's original cost. [A.R.S. § 42-14157\(A\)\(3\)](#). In other words, the system value is divided and apportioned among the various taxing districts where the plant is located. The statute provides a very different allocation method for CWIP. The CWIP value is not added to the system value. It is allocated solely to the jurisdiction in which it is located on a stand-alone basis. [A.R.S. § 42-14157\(C\)](#). In other words, all of the CWIP value is allocated to a single place.

Section [42-15001](#)² determines the property's assessment ratio for purposes of placing the property on the counties' tax roll. The counties assess, levy, and collect property tax for themselves and for each taxing district appearing on the tax rolls based on the Department's determined full cash value under [A.R.S. §](#)

² Section 42-15001 highlights the absurdity that results from applying the Opinion. If a property has a zero value, it is impossible to apply this statute. Section 42-15001 provides that the "assessed valuation of class one property . . . is the following percentage of its full cash value or limited valuation." The statute does not say "if the property has value," then "the assessed valuation of class one property is the following percentage of its full cash value or limited valuation."

42-14154 as allocated to each taxing district under A.R.S. § 42-14157(C). The county assessor applies the appropriate percentage provided under Section 42-15001 to the property's full cash value to show the assessed value. A.R.S. § 42-15010.

As to the plant in service component, the consequence of a negative plant in service value under A.R.S. § 42-14154(B) on the allocation provided for in A.R.S. § 42-14157(A)(3) leaves nothing of plant in service value to divide and apportion to various taxing jurisdictions. Section 42-14157(A) states that the “value of property” shall be allocated among the various taxing jurisdictions. If the “value of property” is zero or negative, there is no value to allocate.

As to the CWIP component, a negative plant in service value has no effect on the CWIP value or its allocation under A.R.S. § 42-14157(C) because it is handled separately. The statutory CWIP value is fifty percent of its book cost. Section 42-14154(C) provides that “[t]he value of construction work in progress is fifty percent of the amount spent and entered on the taxpayer's accounting records as of December 31 of the preceding calendar year as construction work in progress.” Applying a negative plant in service value to the CWIP would reduce the CWIP value below its statutory formula's value. This expressly contradicts A.R.S. § 42-14154(C). The Legislature purposefully chose to break off the CWIP

component of electric transmission property and to apply a different valuation and allocation method.

Moreover, in this case, all of the CWIP property is in Yuma County (Index of Record [“IR”] 59 [Exhibit (“Ex.”) 2 to Ex. C at 28]), so it is allocated 100% to that situs under [A.R.S. § 42-14157\(C\)](#). Beyond the generous fifty percent allowance that [A.R.S. § 42-14154\(C\)](#) provides, the statutes do not provide any additional offsets. The excessive “depreciation” here is from a plant in service located in Maricopa County and Yuma County. (IR 59 [Ex. 2 to Ex. C at 27].) No statutory authority exists that allows depreciation from a plant that is located in more than one taxing jurisdiction to lower the CWIP value that is specifically allocated to one particular location. Therefore, all the CWIP value should be allocated to and taxed by the Yuma County taxing jurisdictions.

CONCLUSION

Although an interpretation that a negative plant in service value can result from applying straight line depreciation is bizarre, a negative plant in service value will mean that there will be no plant in service value to allocate to the various taxing jurisdictions under [A.R.S. § 42-14157\(A\)](#), and it will have no effect on the CWIP allocation under [A.R.S. § 42-14157\(C\)](#).

Respectfully submitted this 29th day of November, 2024.

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