

**In Re:**

**NH Electric Cooperative, Inc.**

**(See Attached Case List)**

**ORDER DENYING TAXPAYER’S MOTION TO STRIKE**

This Order addresses the “Motion to Strike . . .” (“Motion”) filed by the “Taxpayer” on April 16, 2015 with respect to “Exhibit A to [the] Joint Post-Trial Memorandum of Law [the ‘Joint Post-Trial Memorandum’]” filed by the municipalities on April 6, 2015. The “municipalities” filed a “Joint Objection” to the Motion to Strike on April 21, 2015 stating it should be denied. The board denies the Motion for the reasons stated below and in the Joint Objection.

At issue is whether Exhibit A, described as a “chart” prepared by George Sansoucy, a representative for certain municipalities as well as one of their expert witnesses, is “new, post-trial evidence” as the Taxpayer contends, or is more accurately viewed, as the municipalities contend in the Objection, as merely a summary of evidence already presented at the hearing on the merits. The board has reviewed Exhibit A and finds merit in the municipalities’ contentions that “Exhibit A is an appropriate exhibit to the” Joint Post-Trial Memorandum and “an appropriate subject of argument therein.” (See Joint Objection, p. 4.)

The board further finds that, in light of the volume and totality of the evidence presented by both parties including a nine day hearing with extensive direct testimony and cross-

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examination of both Mr. Sansoucy and Brenda Inman (cf. her Affidavit attached to the Motion), the Taxpayer will suffer no prejudice if Exhibit A remains part the Joint Post-Trial Memorandum and is not stricken from the record. See, e.g., State v. Lababidi, BTLA Docket No.: 24772-10ED, p. 9:

Significantly, . . . the board is not “bound by the strict rules of evidence adhered to in the superior courts of the state.” (See RSA 71-B:7, RSA 541-A:33, II and Tax 201.30.) The discretion conferred by these statutes and rules allows the board to assess and weigh the evidence presented, using its own judgment and experience, and give it the weight it deserves, whether or not any discrete piece of evidence would or would not be admissible in another forum.

For these reasons, the board denies the Motion.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Chairman

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Albert F. Shamash, Member

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Theresa M. Walker, Member

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(See Attached Case List)

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**NH ELECTRIC COOP CERTIFICATION FOR TAX YEAR 2011**

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Margaret H. Nelson, Esq., Sulloway & Hollis, 9 Capitol Street, Concord, NH 03301, Taxpayer representative; Walter L. Mitchell, Esq. and Judith E. Whitelaw, Esq., Mitchell Municipal Group, P.A., 25 Beacon St. East, Laconia, NH 03246; Mr. George E. Sansoucy and Mr. Brian D. Fogg, George E. Sansoucy, PE, LLC, 89 Reed Road, Lancaster, NH 03584; Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258; and Brett S. Purvis & Associates, Inc., c/o Allison Purvis, 1195 Acton Ridge Road, Acton, ME 04001.

**NH ELECTRIC COOP CERTIFICATION FOR TAX YEAR 2012**

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Margaret H. Nelson, Esq., Sulloway & Hollis, 9 Capitol Street, Concord, NH 03301, Taxpayer representative; Walter L. Mitchell, Esq. and Judith E. Whitelaw, Esq., Mitchell Municipal Group, P.A., 25 Beacon St. East, Laconia, NH 03246; Mr. George E. Sansoucy and Mr. Brian D. Fogg, George E. Sansoucy, PE, LLC, 89 Reed Road, Lancaster, NH 03584; Justin L. Pasay, Esq., Donahue, Tucker & Ciandella, PLLC, 111 Maplewood Avenue - Suite D, Portsmouth, NH 03801; Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258; and Brett S. Purvis & Associates, Inc., c/o Allison Purvis, 1195 Acton Ridge Road, Acton, ME 04001.

Dated: May 15, 2015

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Anne M. Stelmach, Clerk