

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2012-000097

04/03/2013

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

SNOWFLAKE POWER L L C

JIM L WRIGHT

v.

ARIZONA STATE DEPARTMENT OF
REVENUE, et al.

KENNETH J LOVE

JENNIFER A PRENDIVILLE

UNDER ADVISEMENT RULING

The Court took Plaintiff's Motion for Partial Summary Judgment Regarding Statutory Method to Determine Full Cash Value and Defendant's Cross-Motion for Partial Summary Judgment under advisement following oral argument on February 4, 2013. Upon further consideration, the Court finds as follows.

The journey through the statutes is a tortuous (and torturous) one. The first point of reference is A.R.S. § 42-14155, which reads in relevant part, "the department shall determine the valuation of taxable renewable energy equipment in the manner prescribed by this section.... For the purposes of this section, 'renewable energy equipment' means electric generation facilities, ... but excluding licensed vehicles and property valued under §§ 42-14154 and 42-14156." Section 14154 does not apply to electric generation facilities, only to transmission and distribution property; Section 14156, however, does apply to generation facilities. (In fact, it applies only to generation facilities, so the argument, made briefly in Plaintiff's reply, that only property valued under both Sections 14154 and 14156 is excluded from Section 14155 cannot stand: by design, no property is valued under both.) Therefore, to be valued under Section 14155, the property must not be valued under Section 14156. The latter, to define its scope, in turn refers back to A.R.S. § 42-14151(A)(4): "The department shall annually determine the valuation, in the manner prescribed by this article, of all property, owned or leased, and used by taxpayers in the following businesses: ... Operation of an electric generation facility." Finally, Section 14151(B) defines "generation of electricity," which the Court takes to mean the activity of an electric generation facility, as "the process of taking a source of energy, including coal, natural gas, oil,

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nuclear fuel or renewable sources and converting the energy into electricity to be delivered to customers through a transmission and distribution system.” The statutory definition seems to include the production of electricity from all sources, excluding only electricity not delivered to customers but used by the producer and/or on site. That there exists a class, however small, of generation facilities not valued under Section 14156 and thus subject to Section 14155 rescues the latter statute from absurdity.

It does not appear to be disputed that Section 14151(B) describes the business of Snowflake Power (though the Court cannot find in either the complaint or the statement of facts explicit confirmation of this, presumably because it is so obvious). Therefore, Section 14151 applies; therefore, Section 14156 applies; therefore, Section 14155 does not apply. Plaintiff’s argument that Section 14155, being the more specific statute, must prevail over the general valuation statutes, has no force here because Section 14155 itself expressly defers to the general Section 14156 where the latter by its terms applies.

The Department’s legal argument is correct. The Court does not understand the Department to be urging that its actual numbers are proven correct to the standard for summary judgment; that must, therefore, await the trial.

IT IS ORDERED denying Plaintiff’s Motion for Partial Summary Judgment Regarding Statutory Method to Determine Full Cash Value filed October 15, 2012.

IT IS FURTHER ORDERED granting Defendant’s Cross-Motion for Partial Summary Judgment filed November 19, 2012.