

STATE OF INDIANA
Board of Tax Review

In the Matter of the Petition for Review)
of Assessment, Form 131) Petition No.: 74-017-95-1-3-00004

Parcel No.: 0901512300015000

Assessment Year: 1995

Petitioner: Indiana Michigan Power
Spencer, Indiana

Petitioner Representative: Baker & Daniels
300 N. Meridian Street
Suite 2700
Indianapolis, IN 46204

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issues

1. Whether the grade factor of the main plant is excessive.
2. Whether obsolescence depreciation is warranted.
3. Whether the condition ratings for the main building, tunnels, condenser pits, and several auxiliary buildings should be “average” rather than “good”.
4. Whether the use type for the condenser pits and tunnels should be heavy utility storage rather than heavy manufacturing.
5. Whether the use type for Buildings #33, #34, #56, and #57 should be light utility storage.
6. Whether Pole Barn #8 should be assessed for the March 1, 1995 assessment date.
7. Whether certain buildings should be valued from the GCK pricing schedule rather than the GCI pricing schedule.
8. Whether the grade factor for all auxiliary buildings should be no higher than “C”.
9. Whether 50% obsolescence depreciation should be applied to the railroad track and switches.
10. Whether the current base rate of \$15,000 per acre being applied to the land is excessive.
11. Whether the assessment of the land and improvements are in accordance with the Indiana Constitution, the Indiana Property Tax Assessment Statutes, and the State Board of Tax Commissioners’ Regulations.
12. Whether the wall height for Building #50 should be 112 feet rather than 117 feet.
13. Whether the improvement value shown on the County Board’s Final Determination should be \$13,133,100 rather than \$13,333,100.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also if appropriate, any conclusion of law made herein shall be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-15-3, Ms. Janet Charles of Baker & Daniels, on behalf of Indiana Michigan Power (Petitioner) filed a Form 131 petition requesting a review by the State Board. The Form 131 was filed on February 10, 1997. The Spencer County Board of Review's (County Board) Assessment Determination on the underlying Form 130 is dated January 29, 1997.
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on July 21, 1999 before Hearing Officer Jennifer Bippus. Testimony and exhibits were received into evidence. Ms. Janet Charles of Baker & Daniels, Mr. Stephen Paul of Baker & Daniels, Mr. Dave Synowick of AEP – Rockport Plant, Mr. Michael Bright of AEP – Rockport Plant, Mr. James Butcher of AEP – Rockport Plant, Mr. Thomas Schilling of AEP – Canton, Ohio, and Mr. Kevin Reiter of Baker & Daniels represented the Petitioner. Ms. Kay Bender, Spencer County Assessor, represented the County. No one appeared to represent Ohio Township.
4. At the hearing, the subject Form 131 petition was made a part of the record and labeled Board Exhibit A. Notice of Hearing on Petition is labeled Board Exhibit B. In addition, the following exhibits were submitted to the State:
 - Petitioner Exhibit A – Brief submitted at the hearing
 - Petitioner Exhibit C – Copy of blue prints from subject Power PlantThe Respondent did not present any documentary evidence at the hearing.
5. The subject is a power plant located on Highway 231, Spencer, Ohio Township, Spencer County.
6. The Hearing Officer did not view the subject property.
7. At the hearing, the Hearing Officer requested additional evidence from the Petitioner. The requested information consisted of photographs of the subject

structures and maintenance ledgers for the structures for 1993 through 1995. The Petitioner response to this request was due on or before August 2, 1999. The Request for Additional Evidence is entered into the record and labeled as Board Exhibit C.

8. On August 1, 1999, the Petitioner responded to the Hearing Officers request in a timely manner. The Petitioner's response is entered into the record and labeled as Petitioner Exhibit B.

Issue No. 1 - Whether the grade factor of the main plant is excessive.

9. The Petitioner contends the grade factor assigned to the main plant improvements should be reduced to a "C-2". The Petitioner bases this request due to the exterior walls, representing the largest real property construction cost of the main plant, being different than what is required in the power generating model found in the Regulation (50 IAC 2.2-11-2(14) and (15)). The model for power generating plants calls for metal-sandwiched panels for exterior walls. The main plant has only 5% sandwiched paneling with the remaining 95% being single 18-gauge (ga.) metal siding. *Charles testimony.*
10. The sandwiched panels are in the material handling areas to retain heat. The other areas of the plant, simply by the nature of the operation, will stay warm without insulation. *Synowick testimony.*
11. The sandwich paneling was physically measured and it was determined there is 30,687 square feet (sq. ft.) of sandwiched paneling, or approximately 5% of the total building. *Reiter testimony.*
12. The exterior wall sq. ft. was determined for the power generating plant portion of the assessment only. The model of the power generating plant calls for sandwiched paneling. There is 268 linear feet (LF) of exterior wall, with a wall

height of 226 feet and 160 LF of interior wall with a wall height of 138 feet. The total square footage involved in the assessment is 613,748 sq. ft. The Unit-in-Place (UIP) schedule is set up asking for the total sq. ft. of exterior wall. *Reiter testimony.*

13. According to the Regulation, the cost difference between UIP cost of metal-sandwiched panels and the largest gauge single-ply corrugated galvanized steel is \$8.20 [\$10.26 (UIP cost for the 18 ga. sandwiched panels) – (\$1.82 (UIP cost for the 20 ga. single-ply corrugated steel galvanized siding) x 1.10% (ga. difference) + \$.06 (UIP cost for vinyl colored finish))] per sq. ft. *Charles testimony.*

14. The cost differential, as it impacts the subject, is as follows:

Total sq. ft. of single-ply 18 ga. exterior	
Walls (613,748 sq. ft. x 95%)	583,060
Cost differential per sq. ft.	<u>x \$8.20</u>
Total reproduction cost differential	\$4,781,092
Current reproduction cost of main plant (Buildings 50-55) before grade and depreciation	\$25,039,440
Percentage of current reproduction cost Before grade factor and depreciation	19.09%

Charles testimony.

15. The cost to reproduce the main plant with the construction material called for by the model in the Regulation is 20% more than the cost of the actual construction materials used. *Charles testimony.*

16. The cost differential analysis by itself would indicate a grade of “D” is actually more appropriate for the main plant. However, the analysis does not include the

other substandard features of the main plant as compared to the model. The other substandard features consist of the following:

- a. The model calls for semi-finished interiors, and the subject plant is unfinished;
- b. The analysis does not account for the impact of the classification of the vast majority of the structural steel and foundation of the main plant as distributable property. Between 70% and 80% of the structural steel of the main plant is classified and taxed as distributable personal property;
- c. Petitioner Exhibit A, Tab 5, shows the internal cost reports allocating the structural steel to distributable personal property;
- d. The structural steel, although distributable personal property is used for the dual purpose of supporting both the equipment as well as the real property. There has been construction costs savings related to the structural steel component of the real property; and
- e. Taxing the structural steel once as distributable property and a second time as part of the real estate amounts to double taxation.

Charles testimony.

17. The determined savings support a “C-2” grade factor for the main plant. A State memo indicates that the grade factor should be adjusted for deviations from the model. It allows for a grade of “C-2” to be assigned to a power-generating station. Accordingly, a “C-2” grade should be assessed to the main plant, since the main plant falls substantially below the model for the power-generating plants under the Regulation. *Charles testimony & Petitioner Exhibit A - Tab 2.*

Issue No. 2 - Whether obsolescence depreciation is warranted.

18. At the hearing, Ms. Charles withdrew this issue from review by the State.

Issue No. 3 - Whether the condition ratings for the main buildings, tunnels, condenser pits, and several auxiliary buildings should be “average” rather than “good”.

19. The main plant consists of Buildings #33, #34, #35, #36, #49, #50, #51, #52, #53, #54, #55, #56, #57, #58, #65, Condenser Pit #1, Tunnel #1, Condenser Pit #2, and Tunnel #2.
20. The 1995 Reassessment showed these structures receiving a condition rating of “average”. The taxpayer filed an appeal for 1995 asking for the 40-Year Life Expectancy Table to be applied to these structures to determine the physical depreciation rather than the application of the 50-Year Life Expectancy Table. A State memo for assessing Power Generating Stations dated June 30, 1994, specifically states that the 40-Year Life Expectancy Table applies when the structure is fire resistant. The County Board changed the depreciation table for these structures from a 50-Year Life Expectancy Table to a 40-Year Life Expectancy Table, but in doing so, the County Board also changed the condition rating from “average” to “good”. *Charles testimony & Petitioner Exhibit A - Tab 3.*
21. At the County Board hearing, the Taxpayer also pointed out that the correct year of construction for Buildings #34, #36, #50, #52, #57, and Condenser Pit 2 should be 1984, not 1989. Based on this change, the physical depreciation of these improvements should be 20%. The Taxpayer also indicated the correct year of construction for Condenser Pit 1 is 1982, not 1989. The County Board corrected the year of construction, but in doing so, it also changed the condition of the structures from “average” to “good”. As a result of these changes in condition, less physical depreciation was provided than required. According to 50 IAC 2.2-10-7(b), condition is determined relative to the age of the building. It is clear from the Regulation that to improve the condition to above “average”, additional costs must be incurred to extend the structures useful life. Relative to its age, the subject is merely in “average” condition. *Charles testimony.*

22. The taxpayer has not incurred any extraordinary cost to maintain the real estate since its original construction in the early 1980's. The total cost of maintenance for the whole Rockport plant is approximately \$32 million dollars. The total cost for building and grounds maintenance in 1993 was - \$31,534, for 1994 - \$51,119 and for 1995 - \$8,581. These costs were not for extraordinary life extension modifications but for grounds upkeep, cleaning of air purification system, and miscellaneous repairs. *Charles and Synowick testimony.*
23. Through working with the State, obtaining a Level II certification, and working in various assessors offices, these experiences lead me to believe the subject property is overall in "average" to "fair" condition. There is some small evidence that some of the siding may have had some repairs due to the thin gauge of the metal. However, other than those repairs, there have been no significant repairs or changes to the subject property since 1995. *Reiter testimony.*

Issue No. 4 - Whether the use type for the condenser pits and tunnels should be heavy utility storage rather than heavy manufacturing.

24. The condenser pits and tunnels should be assessed as heavy utility storage and not heavy manufacturing. Photographs submitted show the condenser pits and tunnels house only piping and pumps. Copies of property record cards from other industrial plants throughout Indiana indicate that similar areas were assessed as heavy utility storage. *Charles testimony & Petitioner Exhibits A, A – Tab 3 and B - Tab 2.*
25. The condenser pits and tunnels are involved in some operation of the plant. The pumps condense condensation and pump it back up into the heat cycle where it picks up heat to be turned into steam. The tunnels then circulate the cooling water into the condensers and some other heat exchanges located on the floors above the condenser pits. *Synowick testimony.*

Issue No. 5 - Whether the correct use type for Buildings #33, #34, #56, and #57 should be light utility storage.

26. Buildings #33, #34, #56, and #57 should be classified as light utility storage for the following reasons: the buildings are used for control and gear rooms; the foundations of these buildings are merely concrete slab; and the buildings are not constructed with heavy structural steel. *Charles testimony.*
27. The precipitator control buildings have a concrete slab base. The base is not heavy duty and the buildings support electronic components. *Synowick testimony.*
28. The buildings are lightly constructed with the slab being not more than 6 inches thick. The building houses switches and electronic components with nothing being suspended from the framing. The buildings are used to keep the weather off the equipment. Buildings #33 and #34 are constructed of concrete block and Buildings #56 and #57 are constructed of steel frame and metal. *Reiter testimony.*

Issue No. 6 - Whether Pole Barn #8 should be assessed for the March 1, 1995 assessment date.

29. Pole Building #8 was razed prior to March 1, 1995 and should be removed from the assessment. *Charles & Synowick testimony.*

Issue No. 7 - Whether certain buildings should be valued from the GCK pricing schedule rather than the GCI pricing schedule.

30. Buildings #1, #2, #28 through #34, #47, #48, #62, #63, #66, #67, #68, #85, #86, #87, #88, #90, and Pole Buildings #1 through #7 should be assessed using the GCK pricing schedule. Grades of “C” and the 30-Year Life Expectancy Table should be applied for the following reasons:
- a. The buildings are American and Butler brand buildings;
 - b. The buildings are characterized by 26 ga. roof and siding;
 - c. The buildings are constructed of light rigid steel framing with minimal tolerances;
 - d. There is X-bracing supporting the structures and uniform bay spacing;
 - e. The subject buildings have been assessed by the County under the GCI schedule, with a “D-1” grade factor, and depreciated off the 40-Year Life Expectancy Table;
 - f. The subject buildings were assessed in 1989 as “kit type” buildings in accordance with the State Instructional Bulletin 91-8, but were changed in 1995 to the GCI pricing schedule;
 - g. The photographs submitted of the buildings are very similar to photographs of pre-engineered buildings shown in the model in the Regulation; and
 - h. Detailed construction information for these buildings can be found in Petitioner Exhibit A, Tab 6.

Charles testimony.

Issue No. 8 - Whether the grade factor for all auxiliary buildings should be no higher than “C”.

31. Auxiliary Buildings #29, #29A, #30 through #40, #46, #56, #57, #58, #65, the Lab, the Cafeteria locker room, and motor control rooms #5, #6, #7E, #7W, and

#9 should be assigned a “C” grade factor rather than a “C+2” grade factor for the following reasons:

- a. The buildings are typically flat roofed;
- b. The buildings are constructed of concrete block or light metal;
- c. The building have no cost additives that warrant a higher than average “C” grade; and
- d. The buildings are merely basic industrial structures used to house piping, pumps, or equipment.

Charles testimony.

32. Ms. Charles submitted a description (Petitioner Exhibit A - Tab 7) of each building, including the shape, wall type, roof, and use.

Issue No. 9 - Whether 50% obsolescence depreciation should be applied to the railroad track and switches.

33. At the hearing, Ms. Charles withdrew this issue from review by the State.

Issue No. 10 - Whether the current base rate of \$15,000 per acre being applied to the land is excessive.

Issue No. 11 - Whether the assessment of the land and improvements are in accordance to the Indiana Constitution, the Indiana Property Tax Statutes, and the State Board of Tax Commissioners’ Regulations.

34. At the hearing, the Petitioner did not present any evidence or testimony regarding these issues.

Issue No. 12 - Whether the wall height of Building #50 should be 112 feet rather than 117 feet.

35. The turbine room (Building #50) is presently valued with a wall height of 117 feet when the actual wall height is 112 feet. *Charles testimony.*
36. A drawing of the elevation of Rockport Plant shows the grade at 100 feet elevation and the top peak at 217 feet. The slope in the grade is 5 feet. Thus, 217 feet minus 100 feet minus 5 feet = 112 feet. *Reiter testimony.*

Issue No. 13 - Whether the improvement value shown on the County Board Final Determination should be \$13,133,100 rather than \$13,333,100.

37. When the County Board issued its final determination for March 1, 1995, it inadvertently included the land total both as a separate value reported as land and in the total assessment of the improvements. This error needs to be corrected. The difference between the amount reported by the County Board (\$13,333,100) and the amount on the revised property record card (\$13,133,100) is the assessed value of the land (\$200,000). *Charles testimony.*

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the Property Tax Assessment Board of Appeals (PTABOA) or issues that are raised as a result of the PTABOA's action on the Form 130 petition. 50 IAC 17-5-3. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-1.1-15-1, -2.1, and -4. In addition, Indiana courts have long recognized the principle of exhaustion of administrative remedies and have insisted that every designated administrative step of the review process be completed. *State v. Sproles*, 672 N.E. 2d 1353 (Ind. 1996); *County Board of Review of Assessments*

for Lake County v. Kranz (1964), 224 Ind. 358, 66 N.E. 2d 896. Regarding the Form 130/131 process, the levels of review are clearly outlined by statute. First, the Form 130 petition is filed with the County and acted upon by the PTABOA. Ind. Code §§ 6-1.1-15-1 and –2.1. If the taxpayer, township assessor, or certain members of the PTABOA disagree with the PTABOA’s decision on the Form 130, then a Form 131 petition may be filed with the State. Ind. Code § 6-1.1-15-3. Form 131 petitioners who raise new issues at the State level of appeal circumvent review of the issues by the PTABOA and, thus, do not follow the prescribed statutory scheme required by the statutes and case law. Once an appeal is filed with the State, however, the State has the discretion to address issues not raised on the Form 131 petition. *Joyce Sportswear Co. v. State Board of Tax Commissioners*, 684 N.E. 2d 1189, 1191 (Ind. Tax 1997). In this appeal, such discretion will not be exercised and the Petitioner is limited to the issues raised on the Form 131 petition filed with the State.

2. The State is the proper body to hear an appeal of the action of the County pursuant to Ind. Code § 6-1.1-15-3.

A. Indiana’s Property Tax System

3. Indiana’s real estate property tax system is a mass assessment system. Like all other mass assessment systems, issues of time and cost preclude the use of assessment-quality evidence in every case.
4. The true tax value assessed against the property is not exclusively or necessarily identical to fair market value. *State Board of Tax Commissioners v. Town of St. John*, 702 N.E. 2d 1034, 1038 (Ind. 1998)(*Town of St. John V*).
5. The Property Taxation Clause of the Indiana Constitution, Ind. Const. Art. X, § 1 (a), requires the State to create a uniform, equal, and just system of assessment. The Clause does not create a personal, substantive right of uniformity and equality and does not require absolute and precise exactitude as to the uniformity

and equality of each *individual* assessment. *Town of St. John V*, 702 N.E. 2d at 1039 – 40.

6. Individual taxpayers must have a reasonable opportunity to challenge their assessments. But the Property Taxation Clause does not mandate the consideration of whatever evidence of property wealth any given taxpayer deems relevant. *Id.* Rather, the proper inquiry in all tax appeals is “whether the system prescribed by statute and regulations was properly applied to individual assessments.” *Id.* at 1040. Only evidence relevant to this inquiry is pertinent to the State’s decision.

B. Burden

7. Ind. Code § 6-1.1-15-3 requires the State to review the actions of the PTABOA, but does not require the State to review the initial assessment or undertake reassessment of the property. The State has the ability to decide the administrative appeal based upon the evidence presented and to limit its review to the issues the taxpayer presents. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113, 1118 (Ind. Tax 1998) (citing *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765, 769 (Ind. Tax 1997)).
8. In reviewing the actions of the PTABOA, the State is entitled to presume that its actions are correct. See 50 IAC 17-6-3. “Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies.” *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.
9. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr.,

Administrative Law and Practice, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128.

10. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Whitley*, 704 N.E. 2d at 1119. These presentations should both outline the alleged errors and support the allegations with evidence. "Allegations, unsupported by factual evidence, remain mere allegations." *Id* (citing *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley*, 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
11. One manner for the taxpayer to meet its burden in the State's administrative proceedings is to: (1) identify properties that are similarly situated to the contested property, and (2) establish disparate treatment between the contested property and other similarly situated properties. *Zakutansky v. State Board of Tax Commissioners*, 691 N.E. 2d 1365, 1370 (Ind. Tax 1998). In this way, the taxpayer properly frames the inquiry as to "whether the system prescribed by statute and regulations was properly applied to individual assessments." *Town of St. John V*, 702 N.E. 2d at 1040.
12. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
13. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence "sufficient to establish a given fact and which if not

contradicted will remain sufficient.” *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).

14. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer’s evidence and justify its decision with substantial evidence. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. See *Whitley*, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not “triggered” if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State’s final determination merely because the taxpayer demonstrates flaws in it).

C. Review of Assessments After *Town of St. John V*

15. Because true tax value is not necessarily identical to market value, any tax appeal that seeks a reduction in assessed value solely because the assessed value assigned to the property does not equal the property’s market value will fail.
16. Although the Courts have declared the cost tables and certain subjective elements of the State’s regulations constitutionally infirm, the assessment and appeals process continue under the existing rules until a new property tax system is operative. *Town of St. John V*, 702 N.E. 2d at 1043; *Whitley*, 704 N.E. 2d at 1121.
17. *Town of St. John V* does not permit individuals to base individual claims about their individual properties on the equality and uniformity provisions of the Indiana Constitution. *Town of St. John*, 702 N.E. 2d at 1040.

Issue No. 1 - Whether the grade factor of the main plant is excessive.

18. “Grade” means the classification of an improvement based on certain construction specifications and quality of materials and workmanship. 50 IAC 2.2-1-30.
19. Grade is used in the cost approach to account for deviations from the norm or “C” grade. The quality and design of a building are the most significant variables in establishing grade. Unlike the application of the pricing schedules, the selection of grade relies on the judgment of the assessor to distinguish significant variations in quality and design. Graded photographs of commercial and industrial buildings are provided in 50 IAC 2.2-11-4 to assist the assessor in selecting the proper grade. (50 IAC 2.2-10-3(a)).
20. Characteristics of “C” grade buildings are described in 50 IAC 2.2-10-3(a)(3) and states: “C” grade buildings are moderately attractive and constructed with average quality materials and workmanship. These buildings have minimal to moderate architectural treatment and conform with the base specifications used to develop the pricing schedules. They have average quality interior finish with adequate built-ins, standard quality fixtures, and mechanical features.
21. The major grade classifications are “A” through “E”. (50 IAC 2.2-10-3) The cost schedules (base prices) in the Regulation reflect the “C” grade standards of quality and design. The following factors (or multipliers) are assigned to each major grade classification:

A grade	160%
B grade	120%
C grade	100%
D grade	80%
E grade	40%

22. Because structures sometimes fall between major classifications or at intermediate grade levels, a method of interpolation is built into the system. (50 IAC 2.2-10-3(c))
- (1) Plus or minus two (+/-2) indicates the grade falls halfway between the assigned grade immediately above or below it.
 - (2) Plus or minus one (+/-1) indicates that the grade falls slightly above or below the assigned grade classification, or at a point approximately twenty-five percent (25%) of the interval between the assigned grade classification and the grade immediately above or below it.
23. The Petitioner contends that the appropriate grade factor for the main plant is “C-2” or 90%. This conclusion is based upon features lacking from the main plant that are present in the “C” model. The Petitioner argues that 95% of the exterior walls are 18 ga. single-ply galvanized steel rather than sandwiched panels included in the model.
24. There are two methods to adjust an improvement’s assessment for deviations from the model. The first is to adjust the grade of the subject. “Where possible, this type of an adjustment should be avoided because it requires an assessing official’s subjective judgment.” *Clark v. State Board of Tax Commissioners*, 742 N.E. 2d 46, 49 (Ind. Tax 2001)(*Clark II*). See also *Whitely*.
25. “Under some circumstances, an improvement’s deviation from the model used to assess it may be accounted for via a grade adjustment.” However, the evidence presented must explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet, Inc. v. State Board of Tax Commissioners*, 2001 WL 419066 (Ind. Tax 2001).

26. The second, and preferred method “is to use separate schedules that show the cost of certain components and features present in the model. This method allows an assessing official to make an objective adjustment to an improvement’s base rate.” *Clark II*, 742 N.E. at 49. See also *Whitley*, 704 N.E. 1113.
27. The Petitioner must identify the model used to assess the improvement. The Petitioner must also demonstrate whether the current grade does not already account for lower construction costs due to these features. *Miller Structures v. State Board of Tax Commissioners*, 2001 WL 422991 (Ind. Tax 2001). Accordingly, the Petitioner must show how the subject deviates from the model, and quantify how the alleged deviations affect the subject’s assessment.
28. The Petitioner attempts to use the UIP tables to show a difference in value between what the subject plant has, and what the model calls for. However, the model for a Power Generating indicates the walls should be “Galvanized sandwiched siding on steel girts for 30’ high walls.” 50 IAC 2.2-11-2(14). The Petitioner selects 18 ga. sandwiched panels from the UIP table. A review of the UIP tables indicates values for a number of different types of sandwiched panels.
29. For example, the siding selected by the Petitioner is under the heading “Sandwiched Panels, Insulated Over 5000 SF, Field Assembled and 18 gauge galvanized steel.” 50 IAC 2.2-15-9.06. This item has a SF price of \$10.26. There is no explanation why the Petitioner selected this item rather than the “Insulated Metal Sandwich Type Paneling, Field Assembled w/ 1½ in. Fiberglass Core, and 18 ga. Galv. Steel Back-up and 18 ga. galv. steel face.” 50 IAC 2.2-15-9.06. This item has a SF price of \$6.56 SF. If the Petitioner had used this alternative item, the difference noted in Findings of Fact ¶13 would be less.
30. The model does not identify any type of galvanized sandwiched siding. Any adjustment based on this would be mere speculation. Accordingly, the Petitioner’s calculation indicating a 20% difference in cost between the subject and the model is not considered to be reliable.

31. The portion of the subject property at issue here is 95% 18 ga. steel siding, with a vinyl color finish. The UIP tables do not identify a price for 18 ga. steel siding. The Petitioner uses the price for the 20 ga. siding, and adds 10% to that cost (\$1.82 x 110%).

32. Though there is no explanation or support given for why an extra 10% was added, the Petitioner's use of this multiplier seems reasonable. It would only come to reason that 18 ga. siding would be more expensive than the 20 ga. siding. The prices in the manual for corrugated galvanized steel siding are as follows:

29 ga.	SF	\$1.43
26 ga.	SF	\$1.54
24 ga.	SF	\$1.60
22 ga.	SF	\$1.77
20 ga.	SF	\$1.82

33. There is no way to credibly extrapolate what the 18 ga. would cost from this table. The cost difference between each of the different gauges varies, with the difference between 24 and 22 ga. being approximately 10%. Since the Petitioner has chosen to use a multiplier of 10% to the cost, the State will accept the Petitioner's multiplier in this instance.

34. Petitioner also made reference to other differences between the subject and the model such as interior finish and parts of the structural steel being assessed as both distributable personal property and real property as part of its grade argument. If the Petitioner believed that the subject building lacked interior finish either completely or to some degree, the Petitioner could have sought a base rate adjustment. It did not. Additionally, if the Petitioner believed that a portion of the subject building had been double assessed as real property and as distributable personal property, the Petitioner could have simply made the argument of double assessment. It did not. Rather, the Petitioner made these

claims and maintained that a grade reduction was appropriate. The State disagrees. It is inappropriate to reduce the grade of a structure to account for items that can be address in an objective manner. Furthermore, if the Petitioner believed that an interior base rate adjustment was warranted or that portions of its building were double assessed, the Petitioner had the obligation to specifically point to these errors and develop its arguments accordingly. The Petitioner did not do so.

35. The Petitioner pointed to a difference in the type of exterior wall construction for 95% of the subject building and claimed that this difference warrants a grade reduction to account for a deviation from the model. Again, the Petitioner's burden in this case was to show how the subject building deviates from the power generating plant model and to quantify how this deviation affects the subject building's assessment. The Petitioner claims that 95% of its building has 18 ga. galvanized steel siding rather than sandwich panel siding.

36. Although the Petitioner has pointed to an alleged difference, the Petitioner has not shown how this difference affects the assessment. The Petitioner did offer a calculation in an attempt to demonstrate how the difference affected the assessment, however, as stated above, the calculation offered is flawed. Though the Petitioner attempts to reasonably determine a value for 18 ga. steel (the cost for 20 ga. siding increased by 10%), the Petitioner does not address the issue as to why one type of sandwich paneling was selected over another. The UIP lists other types of sandwich paneling with different costs per SF. There is nothing in the record that provides any clue why the higher cost item rather than the lower cost item was utilized in the Petitioner's calculation. Although the Petitioner has pointed to an alleged deviation from the model, the Petitioner has not demonstrated how this alleged deviation affects the assessment of the subject building.

37. For all the reasons set forth above, the Petitioner has not met their burden regarding its grade challenge. No change in the assessment is made as a result of this issue.

Issue No. 2 - Whether obsolescence depreciation is warranted.

38. At the hearing, Ms. Charles withdrew this issue from review by the State Board. Accordingly, there is no change in the assessment as a result of this issue.

Issue No. 3 - Whether the condition ratings for the main buildings, tunnels, condenser pits, and several auxiliary buildings should be “average” rather than “good”.

39. The Petitioner requests that the condition ratings for the structures that make-up the main plant, be again classified as “average” as they were before the County Board hearing on this appeal. The County Board changed the condition rating of these structures to “good”.
40. Condition is a judgment of the physical condition of the item relative to its age. Average condition indicates structure is in average condition relative to its age, or the condition in which it would normally be expected. Good condition indicates the structure is in good condition relative to its age. There is minor deterioration, but it is in somewhat better condition than would normally be expected. 50 IAC 2.2-10-5(d)(8).
41. The estimate of depreciation is an essential element in the cost approach. An estimate must be predicated on an understanding of the nature, components, and theory of depreciation, as well as practical concepts for estimating its extent in improvements being valued. Physical depreciation is evidenced by wear and tear, decay, dry rot, cracks, or structural defects. 50 IAC 2.2-10-7(a).

42. Condition, the degree of wear and tear displayed by a building, is determined relative to the age of the building. Condition measures the remaining usefulness of the building based on its age. 50 IAC 2.2-10-7(b).

43. Maintenance is not synonymous with modernization. Maintenance is the general upkeep of existing characteristics. Modernization refers to corrective measures that are taken to bring the building in conformity with change in style or technology. It requires replacing parts of the building with modern replacements of the same kind. Modernization of a building may affect the condition classification of a building. 50 IAC 2.2-10-7(b).

44. Ms. Charles submitted copies of Maintenance Reports for years ending December 31, 1993 to 1995 (Petitioner Exhibit B – No. 1). A review of this exhibit reveals the following:
 - a. The total maintenance for 1993 is \$265,024.
 1. 28% was spent on structural repairs;
 2. 11% was spent on window and door repairs;
 3. 5% was spent on air conditioning repairs;
 4. 13% was spent on heating and ventilating repairs;
 5. 4% was spent on elevator repair; and
 6. 39% was spent on other miscellaneous repairs (i.e. water cooler, plumbing, lighting fixtures, etc.).

 - b. The total maintenance for 1994 is \$207,385.
 1. 15% was spent on structural repairs;
 2. 12% was spent on window and door repairs;
 3. 7% was spent on air conditioning repairs;
 4. 13% was spent on heating and ventilating repairs;
 5. 0% was spent on elevator repairs; and
 6. 53% was spent on other miscellaneous repairs.

 - c. The total maintenance for 1995 is \$207,565.
 1. 16% was spent on structural repairs;

2. 6% was spent on window and door repairs;
 3. 5% was spent on air conditioning repairs;
 4. 14% was spent on heating and ventilating repairs;
 5. 4% was spent on elevator repairs; and
 6. 55% was spent on other miscellaneous repairs.
45. Mr. Synowick testified that there has been no modernization done to the structures for a number of years.
46. There are no major discrepancies from year to year in the maintenance report. There are also no major expenditures resulting in replacing parts of the buildings thus affecting the condition ratings of those structures.
47. The County Board made a decision to change the physical depreciation table used, from the 50-Year Life Expectancy Table to the 40-Year Life Expectancy Table, based on the Petitioner's appeal as well as instructions found in a State Memo (dated June 30, 1994) regarding the assessment of Power Generating Plants. In addition, the County Board also changed the condition rating of the structures from "average" to "good".
48. Based on the Petitioner's submission of maintenance costs for 1993 to 1995, one does not find excessive costs but consistent maintenance costs (\$226,658 average) prior to the condition rating change made by the County Board for the assessment as of March 1, 1995. In addition, for the 1995 General Reassessment the County Board had given a condition rating of "average" to these structures. One must question that if the maintenance costs for the structures were representative of an "average" condition rating prior to the County Board's change (1995 Reassessment), the fact that the maintenance cost for 1995 remain virtually the same as the year before, a question arises as to why then did the condition rating change in 1995 (after the Reassessment) as a result of the Petitioner's filing of a Form 130 petition.

49. There is no testimony on the part of the Respondent to elaborate as to why the condition rating changed. The condition rating changes coincided with the change in the physical depreciation table used. A change from the 50-Year Life table to the 40-Year Life table in itself would increase the amount of physical depreciation a structure would receive. To then change (increase) the condition rating from “average” to “good” would negate wholly or partially this physical depreciation change.
50. Again, the record is devoid of any statements by the Respondent as to why the condition rating changed at the same time the Petitioner filed a Form 130 petition or why such a rating would now be correct. A review of the State memo on Power Generating Stations makes no reference to changing the condition rating of a structure if it is determined that the expectancy table used was incorrect.
51. As stated in Conclusions of Law ¶¶13 and 14, to meet his burden, the taxpayer must present probative evidence to make a prima facie case. The taxpayer must introduce evidence “sufficient to establish a given fact and which if not contradicted will remain sufficient.” In the event a taxpayer sustains his burden, the burden then shifts to the local assessing officials to rebut the taxpayer’s evidence and to justify their decision with evidence.
52. The Petitioner met their burden by presenting evidence in support of their position and undisputed testimony of the existence of an error in the assessment. It is determined that the condition rating of the structures making up the main plant be taken back to “average”. A change in the assessment is made as a result of this issue.

Issue No. 4 - Whether the use type for the condenser pits and tunnels should be heavy utility storage rather than heavy manufacturing.

53. The Petitioner requests that Condenser Pit #1, Tunnel #1, Condenser Pit #2, and Tunnel #2 be classified as Heavy Utility/Storage rather than Heavy Manufacturing. See Property Record Cards 87 and 88.
54. The guidelines for selecting the appropriate pricing schedule for a building are discussed in 50 IAC 2.2-10-6.1. There are four (4) “association groupings” for commercial buildings, and each grouping has a separate schedule to facilitate selection. The four (4) groupings are General Commercial Mercantile (“GCM”), General Commercial Industrial (“GCI”), General Commercial Retail (“GCR”) and General Commercial Kit (“GCK”).
55. In assessing the subject structures, the County has used the GCI pricing schedule, which includes those use types generally associated with industrial operations. The Petitioner does not argue that the structures are not associated with industrial operations but argues that the structure should be valued from the Heavy Utility Storage model verses the Heavy Manufacturing.
56. 50 IAC 2.2-10-6.1 directs assessing officials to select and use the pricing schedule and model that best represents the structure being assessed. Therefore, in this appeal, the Petitioner has the burden of proving that the subject building qualifies to be valued from the Heavy Utility Storage use type.
57. The Petitioner does not make any feature comparison between the Heavy Manufacturing and Heavy Utility Storage, instead the Petitioner provided six (6) photographs (Petitioner’s Exhibits A and B - Tab 2) of the subject area, along with testimony stating that no manufacturing is done in these areas and therefore should not be valued as Heavy Manufacturing. The Petitioner stated these areas house pipes and pumps.

58. In addition, the Petitioner provided two (2) property record cards of purported comparable properties and only one (1) photograph of one (1) of the comparables (Petitioner's Exhibit A – Tab 3) in an attempt to show disparate treatment of the subject.
59. Again, the Petitioner's burden to show that an incorrect use-type was selected for the subject. The Petitioner must identify properties that are similarly situated to the contested property, and then must establish disparate treatment between the contested property and other similarly situated properties.
60. The Petitioner does not present any analysis of comparability between the subject and the purported comparables. Submitting six (6) photographs of the subject areas, which contain over 100,000 SF (See property record cards #87 & 88) and one (1) photograph of a purported comparable consisting of over 5,000 SF (Petitioner Exhibit A - Tab 3), does not establish that these properties are similarly situated to the subject property. Mere references to photographs or regulations, without explanation, do not qualify as probative evidence. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329, 333 (Ind. Tax Ct. 1999).
61. In addition, the Petitioner does not submit any analysis regarding the features of the structures to show that one use type is more representative than the other.
62. For all the reasons set forth above, the Petitioner did not meet their burden regarding their request for a change in the use-type.

Issue No. 5 - Whether the correct use type for Buildings #33, #34, #56, and #57 should be light utility storage.

63. Buildings #33, #34, #56, and #57 are classified as auxiliary buildings. According to the State Memo on Power Generating Stations, dated June 30, 1999, auxiliary

buildings are assessed using the guidelines established in 50 IAC 2.2. The GCI schedules are used in this case.

64. Buildings #33, #34, #56, and #57 are used to house the electronic components and switches at the plant. The subject buildings are considered control and gear rooms. The buildings are currently valued under the Heavy Utility Storage use-type. The Petitioner is requesting these buildings be valued under the Light Utility Storage use-type.
65. Again, the Petitioner's burden is to present similarly situated properties to show how the buildings at issue are receiving disparate treatment. The Petitioner did not present any comparable properties for review by the State. Only photographs of the subject were presented as evidence. Mere references to photographs or regulations, without explanation, do not qualify as probative evidence. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329, 333 (Ind. Tax 1999). The Petitioner has a responsibility to present evidence probative of the alleged error when challenging the assessment of its property. The Petitioner failed to do so.
66. For all the reasons set forth above, the Petitioner did not meet its burden regarding its use-type challenge. Accordingly, no change in the assessment is made as a result of this issue.

Issue No. 6 - Whether Pole Barn #8 should be assessed for the March 1, 1995 assessment.

67. The Petitioner asked that Pole Barn #8 be removed from the tax rolls because it had been razed prior to March 1, 1995. Mr. Synowick, the Plant Manager testified that the building had been razed in 1991.

68. The Respondent did not rebut the Petitioner's testimony nor did they present any of their own testimony or evidence regarding this issue. The Petitioner presented testimony from the Plant Manager that this building had been removed in 1991.
69. In assessment challenges, the Petitioner bears the burden of showing an error in the assessment by presenting evidence probative of the alleged error. Once the Petitioner has met this burden, the burden shifts to the local assessing officials to present evidence justifying its assessment. The Petitioner offered the testimony of its Plant Manager stating the subject structure had been razed in 1991. Because of the responsibilities normally associated with the position of plant manager, Mr. Synowick would certainly know what buildings he is responsible for and, logically, what buildings were no longer in existence. The Petitioner has made a convincing argument regarding the improper assessment of Pole Barn #8 and has shifted the burden to the local assessing officials.
70. The local assessing officials offered no testimony or evidence to justify its assessment of Pole Barn #8. Thus, the local assessing officials have failed to meet their burden and the Petitioner prevails.
71. Accordingly, a change in the assessment is made as a result of this issue.

Issue No. 7 - Whether certain buildings should be valued from the GCK pricing schedule rather than the GCI pricing schedule.

72. The State Regulation, 50 IAC 2.2-10-6.1, provides an explanation of how to determine a base rate. Specifically, base rates are given for a range of perimeter to area ratios for specific construction types for various use and finish types. Models are provided as conceptual tools to use and replicate reproduction costs of a structure using typical construction materials assumed to exist for a given use type. Use type represents the model that best describes the structure.

73. Because of the numerous models provided, the base rates are divided into four (4) association groupings, namely: (1) General Commercial Mercantile (GCM); (2) General Commercial Industrial (GCI); (3) General Commercial Residential (GCR); and (4) General Commercial Kit (GCK). Three of the four groupings contain use type descriptions in order to aid in selection. The GCK schedule is the exception.
74. “[G]CK does not include use type descriptions. This schedule is utilized for valuing pre-engineered, pre-designed pole buildings, which are used for commercial and industrial purposes. A format has been developed to value the base building on a perimeter to area ratio basis and to adjust the value based on various individual components of the building. Buildings classified as a special purpose design are not valued using the GCK pricing schedule.” 50 IAC 2.2-10-6.1(a)(1)(D).
75. In summary, when selecting the appropriate pricing schedule, there are only four factors to be considered in determining whether or not the GCK schedule is appropriate for valuing a structure. These factors are: (1) whether the structure is pole framed; (2) whether the structure is pre-engineered; (3) whether the structure is for commercial or industrial use; and (4) whether the structure is a special purpose designed building.
76. The Petitioner opines that Buildings #1, #2, #4 through #28, #47, #48, #62, #63, #66, #67, #68, #85, #86, #87, #88, #90 and Pole Buildings #1 through #7 should be valued under the GCK schedule rather than the GCI schedule.
77. The Petitioner’s testimony, the detailed descriptions, and photographs (Petitioner Exhibit B – Tab 3) of each building demonstrate that: (1) the subject buildings are commercially/industrially used structures; (2) the subject buildings are of steel and wood pole frame construction; (3) the subject buildings are pre-engineered; and (4) the structures are not special purpose buildings.

78. To prevail in an assessment challenge, the Petitioner bears the responsibility of presenting probative evidence in order to establish a prima facie case. In order to establish a prima facie case, the Petitioner must present evidence sufficient to establish a given fact that if not contradicted will remain fact. The Petitioner has succeeded in making its case regarding the schedule challenge by presenting evidence demonstrating that the subject buildings are pre-engineered, steel and wood pole frame structures used for commercial/industrial purposes and are not of special purpose design. Although the Petitioner did not identify similarly situated properties to the subjects, the evidence speaks for itself giving indication that the incorrect cost schedule may have been selected.
79. In the event a taxpayer sustains his burden, the burden then shifts to the local assessing officials to rebut the taxpayer's evidence and present evidence justifying their assessment. The local assessing officials failed to present any evidence or testimony regarding the assessment of the subject buildings. Therefore, the local assessing officials have failed to meet their burden and the Petitioner must prevail.
80. A change is made in the assessment as a result of this issue.

Issue No. 8 - Whether the grade factor for all auxiliary buildings should be no higher than "C".

81. "Grade" means the classification of an improvement based on certain construction specifications and quality of materials and workmanship. 50 IAC 2.2-1-30.
82. Grade is used in the cost approach to account for variations from the norm or "C" grade. The quality and design of a building are the most significant variables in establishing grade. 50 IAC 2.2-10-3.

83. The determination of the proper grade requires assessors to make a variety of subjective judgments regarding variations in the quality of materials and workmanship and the quality of style and design. *Mahan v. State Board of Tax Commissioners*, 622 N.E. 2d 1058, 1064 (Ind. Tax 1993). For assessing officials and taxpayers alike, however, the Manual provided indicators for establishing grade. The text of the Manual (see 50 IAC 2.2-10-3), models, and graded photographs (50 IAC 2.2-11-4) assist assessors in the selection of the proper grade factor.

84. The major grade classifications are A through E. 50 IAC 2.2-10-3. The cost schedules (base prices) in the Manual reflect the C grade standards of quality and design. The following factors (or multipliers) are assigned to each major grade classification:

“A” grade	160%
“B” grade	120%
“C” grade	100%
“D” grade	80%
“E” grade	40%

85. Intermediate grade levels ranging from A+10 through E-1 are also provided for in the Manual to adequately account for quality and design features between major grade classifications. 50 IAC 2.2-10-3(c).

86. The Petitioner claims Auxiliary Buildings #29, #29A, #30 through #40, #46, #56, #57, #58, #65, the Lab, the Cafeteria locker room, and Motor Control Rooms #5, #6, #7W, and #9 should be graded as average or “C”.

87. The Petitioner presented a listing of components (Petitioner Exhibit A – Tab 7) of the subject buildings that included the use types, exterior wall types, building shapes and roof pitches. Photographs were also submitted for each building (Petitioner’s Exhibit B – Tab 4). However, there is no evidence or analysis of the interior components of the same structures.

88. It should be noted, “the grade selected represents a composite judgment of overall quality and design.” 50 IAC 2.2-10-3(d).
89. The majority of the Petitioner’s evidence (photographs) consists of a single exterior photograph and a single interior photograph. There was no explanation of what features in the photographs indicated the grade, as assigned by the County Board, was incorrect. Instead, the Petitioner presented a number of photographs and opined that the grade was incorrect. Mere references to photographs or regulations, without explanation, do not qualify as probative evidence. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329, 333 (Ind. Tax 1999). In assessment challenges, the Petitioner is required to make a case before the State by presenting factual evidence probative of the alleged error.
90. There are two methods to adjust an improvement’s assessment for deviations from the model. The first is to adjust the grade of the subject. “Where possible, this type of an adjustment should be avoided because it requires an assessing official’s subjective judgment.” *Clark v. State Board of Tax Commissioners*, 742 N.E. 2d 46, 49 (Ind. Tax 2001)(*Clark II*). See also *Whitely*.
91. “Under some circumstances, an improvement’s deviation from the model used to assess it may be accounted for via a grade adjustment.” However, the evidence presented must explain how and to what extent the subject deviates from the model, why those deviations deserve an adjustment, and why subjective (as opposed to objective) adjustment is appropriate. *Quality Farm and Fleet, Inc. v. State Board of Tax Commissioners*, 747 N.E. 2d 88, 94 (Ind. Tax 2001).
92. The second, and preferred method “is to use separate schedules that show the cost of certain components and features present in the model. This method allows an assessing official to make an objective adjustment to an improvement’s base rate.” *Clark II*, 742 N.E. at 49. See also *Whitley*, 704 N.E. 1113.

93. The Petitioner must identify the model used to assess the improvement. The Petitioner must also demonstrate whether the current grade does not already account for lower construction costs due to these features. *Miller Structures v. State Board of Tax Commissioners*, 2001 WL 422991 (Ind. Tax 2001). Accordingly, the Petitioner must show how the subject deviates from the model, and quantify how the alleged deviations affect the subject's assessment. The Petitioner failed to do this.
94. Additionally, the Petitioner did not provide any evidence of disparate treatment between the subject buildings and any similarly situated properties. No comparable properties or analysis of those comparable properties were submitted into evidence.
95. For all the reasons set forth above, the Petitioner failed to make a case regarding its grade challenge. Accordingly, no change in the assessment is made as a result of this issue.

Issue No. 9 - Whether 50% obsolescence depreciation should be applied to the railroad track and switches.

96. At the hearing, Ms. Charles withdrew this issue from review by the State Board. Accordingly, there is no change in the assessment as a result of this issue.

Issue No. 10 - Whether the current base rate of \$15,000 per acre being applied to the land is excessive.

97. At the hearing, the Petitioner did not present any evidence or testimony regarding the land base rate assigned to the subject property.

98. As a result of the lack of evidence and testimony presented by the Petitioner on this issue, the State will make no change to the land assessment.

Issue No. 11 - Whether the assessment of the land and improvements are in accordance to the Indiana Constitution, the Indiana Property Tax Statutes, and the State Board of Tax Commissioners' Regulations.

99. See Conclusion of Law ¶16.

Issue No. 12 - Whether the wall height of Building #50 should be 112 feet rather 117 feet.

100. The Petitioner contends that the wall height of the main plant should be 112 feet rather than 117 feet. The basis of the Petitioner's argument is that the peak elevation is 217 feet and the grade elevation is 100 feet with a 5-foot slope in the grade. The wall height is then calculated by subtracting 105 feet from the peak elevation of 217 feet.
101. The Petitioner presented two elevation drawings of the subject property (Petitioner Exhibit C). The elevation drawings indicate that the peak elevation is at 217 feet and that the grade elevation is at 100 feet. The testimony offered by the Petitioner implies that the grade has a 5-foot slope.
102. As stated in Conclusions of Law ¶9 and 10, in assessment challenges, the burden is upon the Petitioner to make a case before the State by presenting factual evidence probative of the alleged error. "Allegations, unsupported by factual evidence, remain mere allegations."

103. The blue prints clearly show the peak elevation is 217 feet and that the grade elevation is 100 feet, however, the evidence does not support the 5-foot slope in grade as stated to by the Petitioner.
104. The Petitioner has not presented any evidence, other than their testimony, to the slope in grade and its effect on the wall height. Without additional documentation to the existence of the slope in grade the Petitioner's statement of such is speculative.
105. For the reasons set forth above, no change in the assessment is made as a result of this issue.

Issue No. 13 - Whether the improvement value shown on the County Board Final Determination should be \$13,133,030 rather than \$13,333,100.

106. The Petitioner claims that the County Board erred in recording the improvement value on the County Board's Final Determination, Form 115. The Petitioner believes that the \$13,333,100 improvement value adopted by the County Board includes the \$200,000 land value. The Petitioner seeks to have this alleged error corrected to reflect an improvement value of \$13,133,100.
107. The assessed value for improvements, as shown on the property record card reflecting the County Board's action, is \$13,133,100. The Form 115 establishes the assessed value for improvements at \$13,333,100. It is obvious that an error exists. Although the State is under no obligation to do so, the State performed a review of the property record cards and totaled the improvement values of each individual card. This review arrived at the conclusion that the correct assessed value for the improvements is \$13,133,100.

108. This conclusion does not affect the assessment of the subject property. It merely establishes which assessed value reported by the County Board is the correct assessed value under review in this appeal.

Other Findings

Additional findings on GCK buildings (Issue No. 7)

Physical Depreciation

109. The Petitioner maintains that, because Buildings #1, #2, #4 through #28, #47, #48, #62, #63, #66, #67, #68, #85, #86, #87, #88, #90 and Pole Buildings #1 through #7 are pre-engineered structures, the physical depreciation should be established using the 30-Year Life Expectancy Table.
110. The State Board's Regulation, 50 IAC 2.2-10-7, provides an explanation of how depreciation is determined. Physical depreciation is a combination of age and condition. Life expectancy tables are provided to enable the correct selection of physical depreciation. There are four tables provided for the physical depreciation of commercial and industrial buildings. These are: (1) the 30-Year Life; (2) the 40-Year Life; (3) the 50-Year life; and (4) the 60-Year Life.
111. In short, to determine the correct amount of physical depreciation of a building, the first step is to select the appropriate life expectancy table based on a building's use and components. The second step is to determine the age and condition of the building.
112. As determined in Conclusions of Law ¶¶72 through 80, the structures are commercial/industrial pre-engineered steel and pole framed structures to be valued from the GCK pricing schedule.

113. As per 50 IAC 2.2-11-7, 30-Year Life Expectancy, the following structures are depreciated from this schedule - wood joist offices, wood joist manufacturing facilities, low-cost motels, light pre-engineered buildings and all wood joist construction other than apartments.
114. As a result of the determination to value the structures from the GCK pricing schedule, it is also determined the structures will be depreciated using the 30-Year Life Table. A change in the assessment is made.

GCK Components

115. With regard to the subject buildings determined to be valued from the GCK schedule, the Petitioner provided proposed pricing ladders and a detailed list of components for each of the buildings (Petitioner's Exhibit A) it sought to have valued under this schedule. Because the local assessing officials did not object to or rebut any of the information provided by the Petitioner regarding the components of each building, the State will use the Petitioner's component listing to calculate the value of each building. Any differences between the Petitioner's proposed values and the values established as a result of this matter are a direct result of any discrepancy between the Petitioner's proposed pricing ladder and the component information provided by the Petitioner for each individual building.

Grade

116. As a result of the determination made by the State, in Conclusions of Law ¶¶72 through 80, to value the structures using the GCK pricing schedule, it is also determined to review the grade factor assigned to these structures.
117. Because the subject buildings will now be valued under the GCK schedule, a comparison to the GCI models to determine grade is no longer appropriate. For the assessment to be correct, the grade must be adjusted, based on the GCK

descriptions. See *Barth v. State Board of Tax Commissioners*, 699 N.E. 2d 800 (Ind. Tax 1998).

118. The evidence submitted by the Petitioner indicates the contested buildings are average pre-engineered structures (Petitioner Exhibits A and B). Nothing in the record indicates that the subject buildings possess (or lack) features that would require a grade adjustment either upward or downward from the norm or “C” grade factor. Therefore, the grades of the subject buildings are changed to “C” grades. A change in the assessment is made.

SUMMARY OF STATE DETERMINATIONS

Issue No. 1 – No Change

Issue No. 2 – Withdrawn by Petitioner

Issue No. 3 – Changed condition ratings to “average” for the main buildings, tunnels, condenser pits, and several auxiliary buildings

Issue No. 4 – No Change

Issue No. 5 – No Change

Issue No. 6 – Removed Pole Barn #8 from the assessment

Issue No. 7 – Buildings #1, #2, #4 through 28, #47, #48, #62, #63, #66 through #68, #85 through #88, #90, and Pole Buildings 1 through 7 to be valued using the GCK pricing schedule

Issue No. 8 – No Change

Issue No. 9 – Withdrawn by Petitioner

Issue No. 10 – No Change

Issue No. 11 – No Change

Issue No. 12 – No Change

Issue No. 13 – Assessed Value of record for the Improvements in the appeal under review is \$13,133,100

Additional Issues Affecting the Property Record Cards

- * Buildings described in Issue No. 7 to be depreciated from the 30-Year Life Table
- * The GCK pricing for buildings described in Issue No. 7 are valued based on the components presented by the Petitioner in their proposed pricing ladders
- * Buildings described in Issue No. 7 to be graded "C"

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review