

Jefferson County could learn lesson from tax break for Madison Wind Farm

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Moore

When tax breaks for wind projects expire, will municipalities receive full property taxes to which they're entitled?

That's a murky question that will have to be resolved soon for a seven-turbine, 11.5-megawatt wind project in Madison County, which benefited from a 15-year payment-in-lieu-of-taxes agreement that will end in 2016. A new assessed value for the property owned by Houston-based EDP Renewables North America soon will be set by the town of Madison.

But town officials say it appears improbable the company will voluntarily pay taxes it owes when the property is on the tax roll — a scenario that could lead to a lawsuit.

The fate of the 120-acre wind farm in the town of Madison, the first one developed in New York state, should be of interest to elected officials in Jefferson County, where Hudson Energy of Albany has proposed a 31-turbine, 102.3-megawatt wind farm on Galloo Island in the town of Hounsfield. Hudson has said a 20-year PILOT from the Jefferson County Industrial Development Agency will be needed for the project to materialize; approval would be required from the county, the town of Hounsfield and Sackets Harbor Central School District. The project is now undergoing an Article 10 review by the state Public Service Commission.

The two projects have something else in common that is notable. William M. Moore, the principal for Hudson, originally led the development of the Madison Wind Farm in the late 1990s, when he was

the owner of Atlantic Renewable Corp. of Maryland. During the permitting process, the project was acquired from Atlantic by Pacific Gas & Electric Co., San Francisco. It later was acquired by Zilkha Renewable Energy of Houston; that company later changed its name to Horizon Wind Energy, then to EDP Renewables in 2011.

Madison town Assessor Stephen R. Harris said the wind farm is now assessed at about \$15 million, based on a value of about \$2.1 million per turbine. Under the PILOT agreement that took effect in 2000, when the project became operational, EDP has paid \$30,000 each year to both the town and Madison Central School District. The county has not yet received any taxes under the agreement, but it would benefit when the property is fully taxed.

The company has said it can't afford more than the \$60,000 per year it paid under the PILOT agreement, Mr. Harris said.

Several factors will be involved in the reassessment of the property, Mr. Harris said, which he'll need to complete by May. EDP has contended the 1.65-megawatt turbines, manufactured by Vestas, are worth much less than they were in 2000. Mr. Harris, who estimated turbines will drop by at least 50 percent in value, said he'll determine how much they've depreciated by accounting for how much electricity they now produce and what it's sold for.

"They would like to pay the same tax bill they've been paying because they say they can't make money on them for less," Mr. Harris said Friday. But "they're asking for the value to be much lower than it is, and there's no way that could happen."

Mr. Harris said he believes that EDP could decide to contest the town's assessment and resolve the matter in court. He said the developer has not disclosed how long it might operate the wind farm and whether it has a plan to decommission the turbines. He said the company "hasn't said much" about its plans yet because he believes it's waiting to find out what the assessment will be.

"It's only seven windmills ... and I've gathered from them that they feel it's too small to stay involved in," he said. "They could decide to take them down, or they could decide to walk away and not pay the taxes and let it go through a foreclosure process. That would be my biggest concern."

Mr. Harris said that when the project was originally approved, taxing entities had been convinced there would be a "big windfall hitting the assessment rolls" when the PILOT expired.

"But taxpayers haven't really benefited much and probably won't overall," he said, adding that he believes elected officials should approach PILOT agreements with caution. "Ask for all that you can with the PILOT, because the value won't be there at the end of the project."

Based on the depreciated value of the turbines, town Supervisor Ronald C. Bono said he believes the property could be reassessed at "a third or a half" of its current value of about \$15 million. The assessment will be based on the turbines' actual value, he said, and not be affected by whether the company would operate at a loss.

“They will probably pay more than the \$60,000 they’re paying now,” he said. “But I think the town will probably get less than the \$30,000 we’ve been getting because our tax rate is lower than the school and town.”

The school district’s 2015 tax rate is \$24.31 per \$1,000 of assessed value, with the county rate at \$9.80 and the town at \$4.35. The property value would have to drop to about \$1,560,000 — about \$220,000 per turbine — for EDP to collectively pay about \$60,000 in taxes. If that were the case, the school district would receive about \$38,000, the county \$15,000 and the town \$7,000.

The company wants to pay about 10 percent of what it would pay in taxes under the property’s current assessed value of about \$15 million. If taxes were paid based on the \$15 million assessment, the school district would receive \$364,500, the county \$147,000 and the town \$65,250. Paul J. Warneck, director of Jefferson County Real Property Tax Services, said the company’s dilemma in Madison County illustrates why elected officials in Jefferson County need to evaluate the long-term viability of the Galloo Island project.

“This is why taxing jurisdictions in Jefferson County need to be involved in any discussion around taxation, not only going into a PILOT but coming out of it,” he said.

Mr. Warneck said the Madison County project also illustrates that wind developers, in general, probably will have difficulty paying their full share in taxes after tax breaks expire.

Tax breaks “are given with the thought that when they get on their feet they’re going to pay their full share in taxes,” he said. “But looking at the first wind project in New York state coming out of a PILOT, it’s clear that developers may not be able to pay their full share in taxes.”

Hudson, which held [informational meetings about its Galloo Island wind proposal](#) this week in the towns of Henderson and Hounsfield, has said it could sell the project to another developer during the Article 10 permitting process.

That move would be in keeping with the strategy taken by Mr. Moore to develop Madison Wind Farm and the Maple Ridge Wind Farm in Lewis County. That 195-turbine, 320-megawatt wind farm changed hands several times and is now primarily owned by Spanish company Iberdrola Renewables.

Securing a PILOT agreement could be an obstacle for the Galloo Island developer. JCIDA board member Scott A. Gray, a county legislator representing District 13, said he believes only two members of the Board of Legislators might support it.

Thank You

Ed Clark

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