

# ILLINOIS WIND WATCH

## Be **SMART** about being **GREEN**

*In re* Hearing on Certain Expiring Tax Provisions (held April 26, 2012)  
U.S. House of Representatives  
Committee on Ways and Means  
Subcommittee on Select Revenue Measures

Submitted May 6, 2012

Illinois Wind Watch is an unincorporated, grass roots association of citizens and citizens' groups that oppose irresponsible industrial wind development in Illinois. IWW is self-funded and 100% volunteer. Neither the group nor the undersigned representatives are allied with any energy company or industrial interest. For more information, see [www.illinoiswindwatch.com](http://www.illinoiswindwatch.com). As residents and property-owners of the State of Illinois we respectfully submit these comments into the record for the above-referenced hearing.

### EXECUTIVE SUMMARY

**We respectfully request that the Production Tax Credit ("PTC") be allowed to expire because extending the PTC will actually *harm* the U.S. economy from top to bottom:** (1) economic development reports from existing Illinois wind projects show that the wind industry has created very few jobs despite receiving billions in tax breaks and other subsidies; (2) European studies show that renewable energy subsidies and mandates destroy far more jobs than they create; (3) extending the PTC will not prevent climate change; (4) wind is extremely expensive compared to most other sources, and (5) our nation's utilities will move toward cheaper, cleaner natural gas *without government intervention or expense*, thus creating economically sustainable jobs and making all our businesses more competitive. After 20 years of massive subsidies in the form of cash grants, tax breaks and loan guarantees for wind energy, it is high time to retire the Production Tax Credit.

#### I. THE PTC KILLS MORE JOBS THAN IT CREATES.

Empirical evidence suggests that the industry's jobs claims are inflated. However, even if we accept the industry's claims at face value, doing the math reveals that we will be paying too much for these jobs. European studies show, however, that renewable energy subsidies destroy more jobs than they create. Given the overall impact on the rest of the economy, we will be paying billions only to experience net job *losses*.

- ❖ The industry's claims of job creation do not appear to reflect reality. Reports from wind host communities indicate that the wind industry actually creates very few permanent jobs. In Illinois, official quarterly reports filed with the Illinois Department of Commerce and Economic Opportunity (ILDCEO) indicated that the development of eight large industrial wind farms (1,460 turbines) created only 61 to 75 permanent full-time jobs during 2007-

2010. In comparison, a single hardware store created 75 jobs. Furthermore, it appears these jobs were not truly permanent. The local reports either did not indicate how many employees were still employed by the project or noted there were “0” at the time of the report. The review of DCEO reports can be found at <http://illinoiswindwatch.com/each-illinois-wind-job-costs-taxpayers-8-million/>. An independent audit to determine how many long-term, full-time jobs have been created in the U.S. is long overdue.

- ❖ Even if we accept Big Wind’s number, wind jobs are unaffordable. The future cost of the PTC is unknown because there is no cap on the amount of capacity that can qualify under current law. We could not find an official estimate of the cost of extending the PTC. However, if we assume the average annual wind capacity development from 2008-2011 will continue, the PTC will cost the federal treasury about \$4.5 billion per year of extension. Thus, if the PTC is extended for just one more year and development occurs at an average pace, that works out to **\$121,622 PER JOB. Two years would cost \$243,243 PER JOB. This is in addition to the \$10 billion we have already committed for the next 10 years.** Meanwhile, there is no indication that all these alleged jobs actually exist, much less that they will last as long as the subsidy.
- ❖ Picking winners in one sector of the economy inflicts job losses on the rest of the economy. Independent studies of the impact of renewable energy policies in Europe show that for every renewable energy job created (at great cost), 2 to 5 jobs were lost elsewhere in the economy due to higher energy costs and taxes. For a summary of the European experience, see “Green Jobs Resources,” <http://www.instituteforenergyresearch.org/issues/green-jobs-resources/>. As the impact on their economies became clear, many European nations reduced or eliminated subsidies for renewable energy. For a list of cutbacks with supporting links, see “World Wide Subsidy Cuts,” <http://www.evanstonwind.org/worldwide-subsidy-cuts>. The U.S. cannot win the “clean energy race”—**there is no race. Even China is backing away from renewable energy now.** See “China cuts renewables to push nuclear, hydro,” <http://www.modernpowersystems.com/story.asp?sectionCode=131&storyCode=2062146> (April 11, 2012).

## II. THE PTC DOES NOT GUARANTEE PERFORMANCE.

The assertion that the PTC rewards wind developers only if they actually succeed is false for two unrelated reasons:

- ❖ The PTC is being sold--before it is earned—to highly profitable corporations that are willing to take on the risk of buying *future* tax credits at a discount. The PTC is being monetized (reduced to its present cash value) and sold to corporations that are willing to provide cash up front to wind companies to use as capital for the project that will generate the credits. According to pro-wind sources, as of 2007 the banks, fossil fuel

businesses and other companies engaged in these complex transactions paid 40 to 60 cents to get a dollar's worth of tax avoidance in the future. *See Renewable Power, Policy and the Cost of Capital, Improving Capital Market Efficiency to Support Renewable Power Generation Projects*, [http://sefi.unep.org/fileadmin/media/sefi/docs/publications/Renewable\\_Power\\_Policy\\_and\\_the\\_Cost\\_of\\_Capital.pdf](http://sefi.unep.org/fileadmin/media/sefi/docs/publications/Renewable_Power_Policy_and_the_Cost_of_Capital.pdf) (2007). The discount reflects the tax avoiders' estimate of the value of PTCs projected to be generated, the risk associated with the project, and the time value of money. Like a payday loan, this allows wind companies (most of which are foreign) to get cash from American tax equity investors right up front, thus transferring a chunk of the risk of enterprise failure from the foreign wind developers to those American investors. See Appendix B for a detailed description of how a performance-based green incentive has been cleverly (if somewhat inefficiently) converted to corporate welfare for what many might consider "dirty" conglomerates and corporate fat cats. These financing vehicles are complex, with each deal said to be unique, but the report shows there are some standard patterns. Industry representatives have said at conferences that if the PTCs are not earned for any reason, the tax equity investor would lose that portion of the value of its investment. The wind developer gets the benefit of the PTC in the form of startup capital from tax equity investors regardless of whether the project ever generates as much energy as initially projected.

- ❖ The PTC will not play a significant role in preventing global climate change. No further subsidies should be extended until there is independent, scientific proof that adding wind to the grid actually reduces carbon emissions and use of fossil fuels. Several studies suggest it does not. For an accessible discussion of this issue, see "A New Study Takes the Wind out of Wind Energy," by Robert Bryce, <http://www.forbes.com/2011/07/19/wind-energy-carbon.html>. *See also* <http://theenergycollective.com/node/64492> (reviewing recent studies). The time for theoretical modeling and blind faith is over. We understand that the necessary data exist in the form of quarter-hour utility generation reports, but they have not been released and reviewed by independent experts to determine whether there are indeed any net carbon savings.

Furthermore, climate change is a global problem caused by global conditions. Unfortunately, it appears that our current policies have been ineffective: the latest available data from the Energy Information Administration show that after decades of mandates and billions in subsidies, **wind still provides less than 1%** of our nation's energy. *See* <http://www.eia.gov/renewable/annual/preliminary/pdf/preliminary.pdf>. Since our nation accounts for 25% of worldwide energy consumption, American wind energy accounts for *less than a quarter of one percent* of the world's energy needs.

Common sense suggests we had better starting using our limited resources to look for real solutions, including new technologies that our less-fortunate fellow travelers can afford.

### III. NATURAL GAS: CHEAPER, CLEANER and MORE RELIABLE

The smart energy choice is natural gas. Most experts believe that this is a no-brainer. <http://www.newgeography.com/content/002509-gas-against-wind>. **The EIA's latest report shows that the cost of new generation of wind energy is about 50% higher than natural gas, and this does not even account for the cost of extensive subsidies or transmission costs!** [http://205.254.135.24/oiaf/aeo/electricity\\_generation.html](http://205.254.135.24/oiaf/aeo/electricity_generation.html). Nor does it accurately account for the unavailability of wind at times of peak demand (and therefore its lower value). <http://www.instituteforenergyresearch.org/2011/12/22/making-sense-of-levelized-costs/>. There is no free lunch. If the PTC is extended, utilities will pass the higher cost of energy on to industrial customers, who will pass it on to consumers. The federal government is itself a massive consumer. Has anyone determined how higher energy prices impact the federal budget? In contrast to wind, development of domestic natural gas would create good jobs and trigger economic booms wherever natural gas deposits have been found. The natural gas industry needs NO federal subsidy or regulatory market forcing in order to replace dirtier forms of energy. And natural gas plants could be built locally where power is used, avoiding the need to build expensive transcontinental power lines or install "smart meters" that few consumers want. We have abundant domestic gas reserves that will provide a secure and clean source of energy for centuries, giving our scientists plenty of time to look for viable non-fossil options.

### CONCLUSION

**Chairman Tiberi reportedly asked, "What's the magic number?"** with respect to a possible phaseout of the PTC. After 20 years here and 30 years abroad, it is clear that the industry will *never* be self-sustainable. Thus, it will always claim that jobs will be lost if the PTC and other preferences are not extended. If Congress extends the PTC yet again, Big Wind will come back a year before it expires claiming that it needs one more extension, and we will be right back where we are today, except we will have added billions more to our soul-sucking national debt. Big Wind will *never* volunteer to stop feeding at the tax break trough. Given Congress' repeated suspensions of the subsidy over the years, the industry has been given fair warning; no one can claim to be surprised. The time has come. **We are asking Congress to give the American people a better future--more jobs, lower taxes, less debt and lower expenses—by ENDING the PTC now.** Thank you for your time and consideration of the impact of the PTC on our country's future.

Yours truly,

Carolyn K. Gerwin  
705 South Locust Street  
Pontiac, IL 61764  
(815) 842-2486  
[carolyngerwin@mchsi.com](mailto:carolyngerwin@mchsi.com)

Cynthia J. Ihrke  
1458 M 1700 E Rd.  
Roberts, IL 60962  
(217) 841-8120  
[energizeillinois@gmail.com](mailto:energizeillinois@gmail.com)

## APPENDIX A

### Estimated Cost of Extending the Production Tax Credit

The \$4.5 billion/yr figure was calculated as follows:

1 GW capacity = 1 million kW capacity.

1 million kW \* 10 yrs \* 8760 hrs/year \* 33% efficiency \* 2.2 cents/kWh = about \$636 million in subsidies per GW installed.

Wind installations in 2008-2011 were 7, 10, 5 and 6 GW, respectively. That averages to 7 GW per year. 7 GW \* \$636 million/GW = at least \$4.5 billion drained from the Treasury for every year it is extended.

This does not include the impact of higher energy costs on the federal budget or loss of tax revenues from job losses in other sectors of the economy.

## APPENDIX B

### CASHING IN ON THE PTC

Excerpt: Appendix D: Sample PTC Monetization Structure “Partnership Flip,” *Renewable Power, Policy and the Cost of Capital, Improving Capital Market Efficiency to Support Renewable Power Generation Projects*, (Frederick A. & Barbara M. Erb Institute for Global Sustainable Enterprise, University of Michigan, April 2007):

There are two primary reasons for a developer to monetize the tax credits allowed under Section 45 of the IRS tax code. First, the developer often does not have the tax appetite to adequately take advantage of the credit independently. Second, monetizing the credit up front can provide a much needed source of capital for developing a renewable power project (Duffy 2005, 5).

There are several structures that can allow for monetization, including “partnership flip,” “service contract,” and “sale and leaseback” (this structure is not available for wind projects). Among these options, one of the most common for wind facilities is the partnership flip. This structure has several variations that can include non-tax equity investors and debt capital in addition to the developer and tax equity investor. This appendix offers an overview of the partnership flip structure in order to provide a sense of the complexity of monetization. Note that the concepts presented are very general, as most monetization structures are highly customized to fit the circumstances of individual projects.

Under Section 45, there are limitations to transferring credits, primarily as a function of eligibility. Currently, only owners of a given power facility can take advantage of the tax credit (one exception is the result of a special rule, which allows openloop biomass power plant operators or lessees to claim the credits) (Martin 2007, 20). Therefore, it is necessary to establish a limited liability company (LLC) or a joint venture that results in the partners (developer and equity investors) each being classified as owners. The partners are then allocated credits in proportion to their ownership. In addition, there are other limiting factors according to Section 45, including (Zaelke 2005, 20):

Subject to all tax equity investors:

1. Tax credits from the PTC can be diminished by other state, federal, and local incentives that help pay the capital cost of the facility.
2. The PTC will begin to phase out as the power price exceeds 10.7 cents per kWh.
3. The PTC only can be used to offset the alternative minimum tax for the first four years.

Not subject to large institutional investors and corporations who are supplying the tax equity in partnership flip deals:

1. Passive loss rules require that the taxpayer must be actively engaged in the business or must be using the credit only to offset other passive investments.
2. At-risk rules that restrict individuals and smaller companies in claiming full depreciation from a project, limiting the amount to the amount of equity the investor has invested.

The LLC is generally structured with the developer as the managing member and the tax equity investor as a passive participant with limited voting rights, but with 90 to 100 percent of the economic returns from the entity. In return, the tax investor will provide the majority of the equity contribution to finance the construction of the facility. For the first 10 years, the tax equity investor will usually draw the tax credits and revenue in proportion to its economic ownership. Effectively, the LLC is treated as a partnership to take advantages of the tax benefits, though according to IRS regulations, the partners must share the PTCs in the same ratio as taxable income. By the end of this cycle, but not before the tax equity investor has reached a predetermined rate of return, the equity proportions will switch between the tax investor and the developer, hence the term "flip." At this point, the interest of the tax investor usually drops to five percent (Martin 2007, 9).

To provide the developer, who is also commonly the managing member in charge of day-to-day operation of the facility, with cash during the period of minimal equity, an upfront development fee and/or ongoing management contract is often part of the agreement. Many times, after the flip has occurred, the developer has the option to buy the tax investor's remaining interest at the current fair-market value (Zaelke 2005, 31).

Risk allocation between the tax equity investor and developer is negotiated when developing the operating agreement for the LLC as well as any separate purchase or equity commitment agreements. If the forecasts made by the developer during these negotiations fail to materialize, the investor will have a claim against the developer, the damages from which are usually capped. The equity investor accepts the risk that the deal will deliver the tax credits. In addition to damages, the equity investor can delay the flip until the target return is reached.

There are several variations to this structure. First, leverage can be added to the initial capital. Upon completion of the project, construction lenders expect to be repaid. However, there is occasionally some level of debt remaining on the project from a "term" lender. Any term financing is then usually serviced over the same period as the PTC, so when the equity flips, the developer owns the facility debt-free. Non-tax equity investors also may have invested during the development phase of the project. In this case, cash is initially paid to this investor to cover the amount of the original investment, while returns are earned over the same period as the tax equity investor.

In addition to, or in lieu of, an upfront payment, the tax equity investor also can make quarterly equity payments on an ongoing basis. The developer can borrow against these payments like a stream of revenue, used to securitize the debt, effectively monetizing the future tax credits. This structure is commonly referred to as "pay-as-you-go." Whereas in acquisition deals the investor makes payments to the developer to buy the project, tax investors in new projects generally make a capital contribution

to the LLC to repay the construction debt. The pay-as-you-go structure is typically a way for the tax investor to spread risk by not providing the entirety of the project's equity capital upfront (Duffy 2005, 18).

The sophistication inherent in these structures often results in significant legal and accounting fees. Thus flips and other monetization structures may not allow for smaller projects to effectively take advantage of the incentive. To overcome this barrier, small developers may elect to combine their projects into a single entity to pool tax credits for a single tax investor. Even so, there are currently only about a dozen large institutional investors supplying tax equity to REPG projects and often they do not want to spend time with small deals (Duffy 2005, 22).

PTC syndication has allowed for investors such as banks and insurance companies to participate in the renewable power sector, in addition to traditional energy and project finance investors. The result has been greater transfer of PTC value to the developer. In addition, the fact that the structure allows for the developer to remain in control makes it attractive to developers.

See the full report at

[http://sefi.unep.org/fileadmin/media/sefi/docs/publications/Renewable\\_Power\\_Policy\\_and\\_the\\_Cost\\_of\\_Capital.pdf](http://sefi.unep.org/fileadmin/media/sefi/docs/publications/Renewable_Power_Policy_and_the_Cost_of_Capital.pdf).