Wyoming Department of Revenue
Property Tax Division
Appraisal of Wind Farm Generation

Introduction

This document is prepared with the specific intent of providing a basic background of the Wyoming statutory provisions and generally accepted appraisal practices of the Wyoming Department of Revenue Property Tax Division, Appraisal Services Group (ASG) for valuation of wind power generation.

Section 1: General Overview

All wind farm generation in the State of Wyoming is valued by the Department of Revenue Property Tax Division, Appraisal Services Group (ASG):

- Wyoming Constitution Article 15 "Taxation and Revenue" requires:
  - (a) All property, except as in this constitution otherwise provided, shall be uniformly valued at its full value as defined by the legislature, in three (3) classes as follows:
    - (i) Gross Production of minerals and mine products in lieu of taxes on the land where produced;
    - (ii) Property used for industrial purposes as defined by the legislature; and
    - (iii) All other property, real and personal.
  - (d) All taxation shall be equal and uniform within each class of property. The legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.
- All Wind Farm generation is valued at Fair Market Value in accordance with W.S. 39-13-102 (m) (iii) "Property of Electric Utilities". This means all facilities (Investor Owned, Rural Electric Cooperatives, Merchant, Wind and Municipal) whether powered by fossil fuel (coal or gas), wind or solar and includes all transmission and distribution properties (real, personal, land, and capitalized and non-capitalized assets).
- Permitting: Takes place at one of two agencies:
  - A. Local County Planning and Zoning Offices; or
  - B. Wyoming Department of Environmental Quality (DEQ)-Industrial Siting Commission.
- One of the primary questions is at what point in the permitting process will the final determination take place (county or state)? Per state regulation, if wind

farm projects have an investment of $193.8 million or thirty (30) or more towers, the application and approvals are completed by the Industrial Siting Commission. If the amount is between $155 million and $193.8 million or the tower limitations, a “Certificate of Insufficient Jurisdiction” must be obtained from the Industrial Siting Council and the local county Planning and Zoning offices may complete the process. Please be aware the dollar amount of investment and tower requirements are reviewed in accordance with DEQ regulations each February and August.

- The properties noted through-out this document **Are** valued (appraised) by the State but taxed by the local county governmental jurisdiction.

The level of assessment for Wind Farm Generation is 11.50% as specified in W.S. 39-11-101 (a) (xvii):

- ((xvii) *[Effective January 1, 2008.]* “Taxable value” means a percent of the fair market value of property in a particular class as follows:

  1. (B) Property used for industrial purposes, eleven and one-half percent (11.5%);

  2. (C) All other property, real and personal, including property valued and assessed under W.S. 39-13-102 (m)(vi and (ix), nine and one-half percent (9.5%).

All wind farm generation in the State of Wyoming is valued at “Fair Market Value” as defined in W.S. 39-13-103 (b) (ii):

- “All taxable property shall be annually valued at it fair market value. Except as otherwise provided by law for specific property, and the department shall prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal principles.”

- The specific rules and regulations for Wyoming Department of Revenue assessments can be found in Chapter 7, “Property Valuation Methodology and Assessment (Department Assessments).”

Section 2: Valuation Procedures and Methodology

All industries identified in W.S. 39-13-102 (m) (ii through ix) must report their company financial matters (investments, revenue, sales, and any and other business activities) to the Department of Revenue on an annual basis. This includes all Tangible – real property (land and improvements), Intangible property, Personal Property assets, and Capitalized and Non-capitalized leased assets. For new start-ups, the company must submit an Annual Report stating any of the above noted matters if applicable, any Construction Work that is In Progress (CWIP), and any Leased property information, even if the project is not complete or in full operation. For the noted industries, W.S. 39-13-107(a) (ii) (B) requires:

- (ii) Annually on or before the dates hereafter indicated, any person whose property is subject to W.S. 39-13-102 (m) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the following property:

- Statutory annual report due dates: April 1st, Pipelines (natural gas, liquid, gas distribution), electric utilities (rural cooperative, municipal, major IOU's and wind farms), telecommunications (long distance, local exchange, cellular, reseller, rural), cable and satellite, and interstate airlines. May 1st, Railroad companies and Private Rail Car companies. Extensions to the statutory due dates of the annual reports may be granted if the company files a written request with the DOR Property Tax Division prior to the statutory due dates per; Department of Revenue Rules and Regulations Chapter 7, Section 5 (a)(b).

- Industry annual reporting forms are posted on the Department of Revenue's web site by mid-December of each year, along with the following information:

  1) Instructions on filing the Annual Reports and the Department appraiser contacts assigned to each industry;

  2) Information related to the Annual Capitalization Rate meeting held by the Department in mid-March each year;

  3) Instructions and Report forms for the submission of Mobile Equipment, Intangible Personal Property Exemptions, Pollution and Fire Control Exemptions;

  4) Current county tax district changes and instructions on how to secure the information from the Department of Revenue web site as prepared by the Property Tax Division Technical Services Group (TSG).

The Department's annual report requests information for preparation of the separate appraisal indicators of value; Cost (improvements and land-owned and leased), Capitalized Earnings (Income), Market/Sales Comparison (Stock and Debt), allocation of interstate portions, if applicable, and Wyoming statutory exemptions.

Section 3: Appraisal Approaches to Value

All approaches to value shall be in compliance with Wyoming Statutes, Wyoming Department of Revenue Rules and Regulations and Uniform Standards of Professional Appraisal Practice (USPAP). There is a great deal of informed appraiser judgment required within each appraisal which mandates that the appraiser maintains a high level of reliance on the information provided by the taxpayer. It should be noted that Wind Farm Generation falls into one of two (2) categories: (A) Regulated or (B) Non-Regulated.

Regulated: (Investor owned, Rural Electric Cooperatives-distribution and generation). This category is for those industries regulated by the Federal Energy Regulatory Commission (FERC) or by the Wyoming Public Service Commission (PSC). These regulatory agencies control the activities of the companies for the protection of the consumer. They dictate how a company keeps their books and records, and how they depreciate their property. Further, they set the rates of return to be earned on the assets and the level of service to be achieved within the limitations and restrictions placed upon the company. For regulated electric companies that have wind power, they have included their wind farm capacity into their Rate Bases for rate making purposes. Each regulatory jurisdiction must review and approve the applications for this power. The rates are at Retail pricing and are included in all of their indicators of value. The Department does not separate wind capacity from other production capacity as it is not necessary because both are earning the same cost of capital.

Non-Regulated: (Wind, Merchant, and Municipal). In this category the market place dictates the methodologies that may be used. These companies do not operate within a regulated rate of return environment. It is important to stress that whatever regulatory or non-regulatory conditions exist, the approaches to fair market value are similar and the end value determinations will not differ as the final appraisal is based on the information provided by the taxpayer within their annual report and supplemental documents upon review by the appraiser. This was reinforced by a Wyoming Supreme Court decision in 1998:

- The Wyoming Supreme Court ruled that non-profit rural electric cooperatives are to be valued no differently than investor-owned utilities and merchant plants, whether rate of return regulated or non-regulated. "There is no rational basis in the record for treating non-profit and for-profit entities differently." *Basin Electric Power vs. Department of Revenue*, 970 P.2nd 841 (Wyo. 1998).

Cost Approach to Value:

- There are several cost indicators of value that can be utilized for valuation purposes. The following appraisal techniques are available for the appraiser's usage:
  - "Historical Cost Less Depreciation" (HCLD): is based upon the historical cost of the good or service when first put into production less accumulated depreciation.
  - "Replacement Cost New Less Depreciation" (RCNLD): is the cost to produce a good or service that yields the same service as the company under appraisal, at a given time and place.
  - "Reproduction Cost New Less Depreciation" (RCNLD): is the cost to produce a replica of the good or service on the date of appraisal.
  - "Depreciation": is based upon appraisal depreciation (physical, functional and external), Not the Internal Revenue Service (IRS) Federal Income Tax depreciation schedules. The difference is the service life for property tax purposes is usually twenty (20) or twenty-five (25) years depending upon the purchase power agreements and loan contracts, Not the IRS Accelerated Cost Recovery System (ACRS) service life of five (5) to seven (7) years, or any other modified depreciation schedules.

- Improvements and Land, if company owned, are included in the Department's Cost Approach at investment value less accumulated depreciation. If property is a non-capitalized lease and used in the operations, the annual rental payment is capitalized into a value at the appropriate capitalization rate and added to the overall value for a final HCLD indicator. The same would apply to the other cost indicators of value, if utilized.
- The most important aspects of each value indicator are accurate and timely information. Absent these conditions, the appraiser must determine what data to utilize (if any) within the scope of the selected appraisal method.
- The preferred Cost Approach to value is the Historical Cost New Less Depreciation (HCLD). This is due to the relationship of the operating company to the parent company. Many times the vintage asset years are not available or the costs are some type of allocation down the corporate financial chain. Additionally, due to the newness of some properties and industry as a whole, the RCNLD Cost Approaches are deemed not appropriate due to a lack of good cost tables and lack of reproduction or replacement investments for comparison.

<u>Land Components for Valuation</u>

- For land, the company will either own the land for the Wind Farm or lease the land from local owners or governmental agencies. Under W. S. 39-13-102 (m) viii) leased property is considered as: "Leased property consisting of warehouses, storage facilities and office structures and any other property that is in support of or which is used or held for use for the activities listed in this subsection. If leased property is assessed to the lessee it shall not be assessed to the property owner." As clarification of this statement, on April 17, 1995, Mrs. Johnnie Burton, Director of Revenue, secured an Attorney General's Opinion which was forwarded to all Wyoming County Assessors about leased property:

    - "the Attorney General's office examined statutes 39-2-201 (a), 39-2-201 (a) and 39-2-301 (c) and concluded that 39-2-301 (c) carves out an exception to county assessment jurisdiction for items listed in 39-2-201 and further "W.S. 39-2-201 (a) clearly appoints the Department as the exclusive assessment authority of the property excepted in W.S. 39-2-301 (c), including leased property identified in W.S. 39-2-201 (a)(viii) ………therefore no conflict exists between W.S. 39-2-201 (a)(viii) and W.S. 39-2-101 (a)(i)." In other words, County Assessors lack authority to assess excepted property. The Department must do it."

- Each company must determine the amount of land necessary for the Wind Farm generation. Below is a generic example of a Wind Farm Lease Agreement with landowners: (provided by Don Boehm, Director or Multistate Taxes, Basin Electric Power Cooperative, Bismarck, ND) from a presentation given to the South Dakota Association of Assessing Officers, May 2008)-

- 30 Months for Wind Data Monitoring
- Payments; $1,000 + $10/Acre
- 18 Month Extension: $6/Acre
- Annual payments: $4,000 /year/turbine
- “Cash Rent” not “Crop Share”
- 45-50 Year Term – 2% Escalation
- Lease Terminates if **NO** Turbines installed

- Each wind turbine can use up to a ½ acre of land which includes the two wheel path to the turbine. Land can be owned or leased.
- The turbine site is no more than 100 feet in diameter with the tower itself being 20 feet in diameter alone. A 1.5 Megawatt (MW) turbine requires the same 100 foot spacing as a 1.0 MW turbine or a 2.0 turbine. The only difference is the diameter of the tower itself.
- All turbines are to be located on the hilltops. The spacing is 2,000 feet in the predominant wind direction and 1,000 feet in the cross wind.
- The land up to the tower can be seeded for crop land or can be used for grazing. The two wheeled path to the tower can be used for grazing but would not support a crop.

Since 1987, The Department of Revenue as a part of the Annual Report, requires information to identify owned and/or leased land and improvements (real and personal). The information must include the completion legal description (acres or other identifiers) by account number or class code. Additionally, each wind farm operation must show the land used specifically for the tower sites and that which is not tower site related. Annually, by the last week in May the Appraisal Services Group sends to each County Assessor the “Inventory of State and Locally Assessed Lands and Improvements”. These are coded as either “State Assessed Property” or “Locally Assessed Property”. A cover letter explaining this concept is included to the assessors and provides instructions as to who values the property. If the land is company owned or leased, it is valued by the Appraisal Services Group at Book Value, or by capitalizing the lease payments. For all properties marked “Locally Assessed Property” the County Assessor is instructed that they shall value the land based upon comparable usage of similar property at the appropriate level of assessment.

<u>Capitalized Earnings or Income Indicator</u>

The Capitalized Earnings or Income approach to value is the second of the three (3) approaches to value that the appraisers may use in the valuation process. It should be noted that it is not an independent system of valuation unrelated to the other approaches. The analysis of cost and sales data is often an integral part of the income capitalization approach, and capitalization techniques are frequently employed in the Cost and Sales Comparison approaches.

The underlying tenet of the Income Approach to value is to capitalize an economic revenue stream less appropriate expenses (operating, maintenance and general) adjusted for any non-capitalized leased operating payments, depreciation and amortization, federal income taxes (current and deferred), and all other taxes (state and local). The remaining income or Net Operating Income (NOI) is capitalized by the appropriate Capitalization Rate as determined by the Appraisal Services Group annual capitalization rate studies for the appropriate industry.

When using the Income Approach to value, the Department considers a Discounted Cash Flow (DCF) analysis in a Yield Capitalization model. It should be noted that deriving accurate revenue streams from the Wind Farm Industry is often difficult. It is not uncommon for there to be a lack of direct financial information for the Department to use to arrive at a final Net Operating Income (NOI) for the company being appraised. Purchase Power Agreements (PPA's) when provided, reflect a wholesale price paid for from the generated turbine power and not the actual market value of the power supplied to the consumer. Conversely, there have been cases in which these PPA's are established at current market prices (with inflation adjustments) through long-term contractual agreements. There are also federal tax incentives which impact the company's operating income numbers. Revenue from federal production tax credits (known as PTC's) and investment tax credits (known as ITC's) generally go straight to the parent company, not the operating wind farm that is generating those credits. The PTC's are also subject to annual Congressional Approval and currently have a life span of ten years. The current mismatches of actual incomes from the true participant to parent company, lack of information from the sale of the produced power, and tax credits, make it difficult at times for the appraiser to arrive at a viable income stream that can be capitalized in the Income Approach. Also, like most utility start-ups, a wind farm over the first several year of initial operation will often times run at a Negative Net Operating Income (NOI) which cannot be capitalized and is not viable for use in the Income Approach. When there is lack of reliable information for the appraiser to use to arrive at a viable final Net Operating Income (NOI) the appraiser may select to only utilize a Cost Approach to value the operation. In cases when viable income streams are supported by company and or market data, the appraiser can place more confidence in the utilization of an Income Approach to value.

Sales Comparison or Stock and Debt Indicator

The appraisal principle of the Sales Comparison approach is the third of three (3) approaches to value based upon the use of valid arms-length market sales that meet the definition of Fair Market Value. Or as a substitute value indicator, The Stock and Debt approach uses financial markets data to calculate Fair Market Value.

- Sales Comparison – The appraiser must compare the property being appraised to similar properties that have recently sold by applying appropriate units of comparison for adjustments. The problem is there are not adequate sales, (if any) for Wind Farm Generation or turbine units to properly make that examination. The sales that may take place are portions of units or Purchase Price Allocations of larger corporate mergers and acquisitions. In the cases where sales are present, finding comparable units of measurement for adjustments purposes are rare. Each wind farm has unique characteristics (wind patterns, turbine loads, land specific leases, etc.) which make unit for unit costs very different at each farm, and thus finding viable comparable data to use in a Sales Comparison model is often not available.

- Stock and Debt – With absent valid sales information the appraiser may turn to the Stock Market to generate a value. The premise of the indicator is the accounting principle which holds that: "the total value of a firm's assets is equal to the total value of its liabilities, including stockholders equity". The source of information is the operating company Balance Sheets. The main valuation problem is generated by the lack of accurate balance sheet data that makes separations between parent companies and operating companies extremely difficult.

Therefore, the Sales Comparison and Stock and Debt models are not considered viable Fair Market Value indicators when appraising wind generation.

Section 4: Reconciliation of Value Indicators

Reconciliation is a process that is continuous from the beginning to the end of the entire appraisal. The Appraisal Institute "The Dictionary of Real Estate Appraisal" Fifth edition, page 152 states:

- Reconciliation is the process of reducing a range of value indications into an appropriate conclusion for that analysis. Value indications are tested for the appropriateness of the approaches and adjustments applied, the accuracy of the data, and the quantity of evidence analyzed.
- Reconciliation is not just the simple mathematical weighting of all approaches, for example, adding up all the value indicators and dividing by the number of indicators, rather, it is the continuous review of the relevance, importance and reliability of the data in each appraisal model.

Section 5: Allocation

Wind Farm Generation in Wyoming (at this time) **DOES NOT** cross state lines and are located solely in Wyoming. Nor do they currently cross county lines. They are 100% site specific and tax district specific within a county. Until such time that Wind Farm Generation does cross state lines, allocation is not an issue.

Section 6: Wyoming Exemptions

Wyoming Law considers exemptions as noted in W.S. 39-11-105 (a) (b):

- (x) Fire Engines, stations, including land upon which located, and equipment use to extinguish fires;

- (xii) Inventories held for resale;

- (xx) Property used for pollution control to the extent provided by W.S. 35-11-1103 for Air, Land or Water pollution;

- (b)(i-vi) Intangibles;

- Other types of exemptions as noted in W.S. 39-11-105 (a) (b) as the above list is not exclusive.

Wind Farm Generation does not qualify for pollution control exemptions. They may qualify for fire suppression, if they apply and meet the requirements. Currently no wind generation company(s) has filed applications for fire suppression exemption at their wind farm. The only exemptions that have been requested have been for "Intangibles". For further clarifications of exemptions, review the Department of Revenue Rules and Regulations, Chapter 14, "Property Tax Exemption Standards".

Section 7: Other Appraisal Considerations necessary for finalization of Value

Preliminary-Fair Market Value Appraisals. Upon completion of the preliminary appraisal, a two (2) stage review of the value is completed in-house.

- The first review constitutes a review of all input numbers from the appropriate annual report pages and/or supplemental documentation. The reviewer and appraiser shall work together to make all necessary corrections of data for accuracy and sign off on all changes prior to the second review.

- A second review shall be completed by the Appraisal Supervisor for continued review of input accuracy and for technical and methodology concerns.

Upon completion of the review process, the appraiser shall mail to the taxpayer a copy of the preliminary appraisal and provide them with an opportunity for an informal conference via telephone or in-house visitation. This is in accordance with Department of Revenue Rules and Regulations, Chapter 7, Section 14. "Preliminary Notice-Informal Conference Procedure-Taxpayer." The taxpayer has ten (10) days from the date of preliminary appraisal postmark to request the conference. If the taxpayers request is received after the ten (10) day period, no conference shall be granted. During the conference, the taxpayer may provide additional information or direct issues to the appraiser that relate to: matters of law, errors of fact about the company, or to explain or expand upon any of the information provided in the original filing, and if properly supported by documentation provide notice of clerical errors. The appraiser will not give consideration to company Opinions on the Fair Market Value or appraisal judgments applied within the Department's appraisal. The appraiser may consider additional information, if appropriate. Following the conference, the appraiser may send a revised appraisal of value to the company, or give notice stating that no value change was made. A Notice of Valuation to the taxpayer stating the Final Wyoming Fair Market Value, Level of Assessment and Final Assessed Value will be sent to each company by June 1st or as soon thereafter of each year.

Section 8: Distribution of Final Wyoming Assessed Values to County Assessors

Following the notification to all wind farm companies of their fair market value and assessed value, the appraiser shall complete a distribution of the assessed value to the county(s) where the property is situated by tax district code. Tax district codes are provided by the Department's Technical Services Group (TSG). The basis for the distribution is the relationship of assessed value to the original situs gross investment for the operation. Certification of county values must be completed by June 1st or as soon thereafter for assessment rolls as required by W. S. 39-13-102 (o) (i)

Section 9: Wind Farm Generation Property Tax Appeal Procedures

Wind Farm companies upon receipt of the final fair market value letter from the Department of Revenue, have the right of appeal if they feel aggrieved by the value in accord with W.S. 39-13-102 (n) which states:

- "Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board (State Board of Equalization) within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy."

Section 10: Conclusion

As discussed within this document, the Department of Revenue Property Tax Division, Appraisal Services Group completes the valuation work on Wyoming Wind Farm Generation which is used for property taxation. The appraisals are in accordance with the Wyoming Constitution, Wyoming Statutes, Department of Revenue Rules and Regulations, Uniform Standards of Professional Appraisal Practice (USPAP), Fair Market Value requirements and Generally Accepted Appraisal principles. All approaches to value are the same as applied to all Department assessed companies, subject to the appraisal information received and the overall judgment of the appraiser. Therefore, no industry and/or company are afforded a special condition of valuation different from any other industry or company and the concept of unequal treatment is not present. The assessed value and resulting taxes are directly given to the local county where the properties are located. The State of Wyoming does not receive any tax dollar benefits from any properties appraised by the Appraisal Service Group.