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Change is in the Wind: The Need for Wind Power in Missouri & the Obstacles That Stand in the Way

Ellyn Horan

I. INTRODUCTION

Renewable energy is an expanding field in the United States with the potential to create jobs, boost our national economy, and generate significant environmental benefits. This article will focus on Missouri's wind power, including, the positive impact it can have on the state economically and environmentally, as well as the hurdles that stand in the way. The article begins with a historical examination of the United States' use of wind power, the federal government's role in this industry, and the status of wind power in Missouri. Next, it will discuss the political and fundamental aspects of implementing wind power in Missouri, where wind power stands today, and where it may go in the future. Last, this article will argue for the development and implementation of additional, new wind power sources in Missouri through pro-renewable energy lobbying and incentive programs for businesses and individuals alike.

II. BACKGROUND

Wind power is an affordable and efficient source of domestic electricity, which is "pollution-free and cost-competitive with energy from new coal- and gas-fired power plants."¹ Today, wind power throughout the country produces enough electricity to power more than 11 million homes, while also creating a reliable source of income for investors and landowners, and simultaneously providing "manufacturing, construction, and operation jobs for at least 75,000 Americans."² A 250-megawatt wind farm, with approximately 100 wind turbines, has the potential to create 1,073 jobs over

¹ *Wind Energy*, NATURAL RESOURCES DEFENSE COUNCIL, <http://www.nrdc.org/energy/renewables/wind.asp> (last visited Feb. 18, 2016).

² *Id.*

the project's lifetime.³ Furthermore, wind farms also generate local and state tax revenues from lease payments, while also having "the potential to support other community priorities, like infrastructure, education, and economic development."⁴ Experts estimate that wind energy could potentially supply up to 30 percent or more of America's electricity needs.⁵

According to the U.S. Department of Energy, "the cost of wind energy has come down 85 percent in the last twenty years."⁶ Since 2010, highly successful wind farms, located in areas with excellent wind resources, have lowered energy costs to an average of seven cents per kilowatt-hour, making wind the most cost-competitive source of non-hydroelectric renewable electricity.⁷ To incentivize wind energy, the federal government has created programs like offering tax credits for the power a wind turbine generates during its first ten years of operation.⁸

In 2012, wind energy was the fastest growing energy-producing sector in the United States for new electrical power, and comprised 43 percent of all new electrical installations.⁹ To continue the development of wind energy, the industry's top federal policy priorities are: "(1) stable and predictable tax credits, (2) a national standard for renewable electricity, (3) transmission policies to improve the nation's power grid, and (4) prudent siting policies."¹⁰

Federal tax policy has been the predominant driving force of wind energy development over the last decade. The two primary federal subsidies

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Joan Koka, *Wind Energy On Track To Quadruple in Missouri*, MISSOURI BUSINESS ALERT (Feb. 26, 2014, 8:10 AM), <http://missouribusinessalert.com/industry/41733/2014/02/26/wind-energy-on-track-to-quadruple-in-missouri/>.

¹⁰ *Federal Advocacy*, AMERICAN WIND ENERGY ASSOCIATION, <http://www.awea.org/Advocacy/Content.aspx?ItemNumber=791&navItemNumber=580> (last visited Feb. 18, 2016).

for renewable energy are the Production Tax Credit (“PTC”) and the Investment Tax Credit (“ITC”).¹¹ These tax credits have been crucial to:

“[i]nstalling enough American wind power capacity to power the equivalent of over 15.5 million homes; [b]uilding over 550 wind energy-related manufacturing facilities across forty-three states; [g]rowing the wind energy workforce to 50,500 direct employees; and [d]riving down the cost of wind by forty-three [percent] between 2008 and 2012.”¹²

The PTC, initially approved in 1992, offered a 2.3-cent tax credit to owners of renewable energy facilities for every kilowatt-hour of electricity produced over a ten-year period. The ITC is a corporate tax incentive providing wind energy investors tax credits “worth up to 30 percent of the value of their first new wind facility.”¹³ PTC and ITC are not permanent laws; these credits can expire and regularly come up for renewal.¹⁴ Since players in the wind industry are never certain if the tax credits will be extended, investment decelerates to a halt during the year leading up to the expiration date, causing instability in the industry. The federal government needs to create stable, predictable, tax credits that not only facilitate wind energy investment but also allow wind power to compete on a level playing field with traditional electricity sources. As such, predictable and stable tax treatment is the wind industry’s top policy priority.¹⁵ At the end of 2013, Congress did not consider legislation that would have extended federal tax credits, and thus, the PTC and ITC were allowed to expire.¹⁶ Congress again failed to reinstate the PTC in January 2015.¹⁷

¹¹ *Id.*

¹² *Id.*; Koka, *supra* note 9.

¹³ Koka, *supra* note 9.

¹⁴ *Id.*

¹⁵ *Federal Advocacy*, AMERICAN WIND ENERGY ASSOCIATION, <http://www.awea.org/Advocacy/Content.aspx?ItemNumber=791&navItemNumber=580> (last visited Feb. 18, 2016).

¹⁶ *Id.*

¹⁷ Nick Juliano, *Renewable Energy: Senate Votes Down PTC Amendment*, E&EDAILY (Jan. 29, 2015), <http://www.eenews.net/stories/1060012507>.

CHANGE IS IN THE WIND

Wind power has a significant impact both in Missouri and throughout the country. Renewable energy developers provide tax revenues to states and secondary revenue to private landowners, usually farmers.¹⁸ Landowners in Missouri receive over \$1.2 million annually as payment for leasing land to renewable energy developers, and the state has gained over \$950 million in capital investments from the wind industry.¹⁹ Wind power projects also introduce new jobs in manufacturing, construction, distribution, and wind operations.²⁰

Missouri has the potential to become a national leader in wind energy. Missouri is home to twelve manufacturing facilities linked to the wind industry, and there are more than 500 facilities nationwide.²¹ The state currently generates enough wind energy to power 110,000 homes, lessening its dependence on dirty energy and avoiding nearly 800,000 metric tons of carbon emissions each year.²² While Missouri imports 80 percent of its coal from Wyoming, the state could produce nine times its current energy needs from wind power alone.²³

A 2008 ballot initiative replaced the existing Missouri targets with a mandatory Renewable Energy Standard (“RES”), requiring 15 percent of the power generated by state’s investor-owned utilities to come from renewable resources by 2021.²⁴ Historically, wind energy has been the means chosen to meet renewable standards requirements, fulfilling 86 percent of Renewable Performance Standards (“RPS”) requirements through 2011, and driving economic development in the state as a result.²⁵ However, in order to achieve these goals there must be substantial political backing and economic incentives in place throughout the country, particularly in Missouri.

¹⁸ Koka, *supra* note 9.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *More Wind, Less Warming: How American Wind Energy’s Rapid Growth Can Help Solve Global Warming*, ENVIRONMENT MISSOURI, (Dec. 4, 2014), <http://www.environmentmissouri.org/reports/moe/more-wind-less-warming>.

²³ *Id.*

²⁴ Koka, *supra* note 9.

²⁵ *Industry Statistics: State-by-State*, AMERICAN WIND ENERGY ASSOCIATION, <http://www.awea.org/resources/statefactsheets.aspx?itemnumber=890> (last visited Feb. 18, 2016).

III. POLITICS & WIND POWER

Across the country, industry and advocacy groups are persuading legislators to limit regulations aimed at reducing greenhouse gases in order to roll back environmental regulations.²⁶ These potential new rules would “abolish climate mandates—including those that require utilities to use solar and wind energy, as well as proposed Environmental Protection Agency rules that would reduce carbon emissions from power plants.”²⁷ These measures, which have been introduced in 18 states, are at the heart of an effort to expand the battle between fossil fuels and renewable energy at the state level.²⁸

Despite the fossil fuel industry and advocacy groups’ efforts, these campaigns have encountered pushback from “the growing political clout of renewable-energy interests, even in rock-ribbed Republican states like Kansas.”²⁹ Approximately one year ago, these groups began a multifaceted conservative effort to limit regulations, which has been supported by a “loose, well-funded confederation” that includes the U.S. Chamber of Commerce, the National Association of Manufacturers, and Americans for Prosperity.³⁰ These organizations argue that “existing government rules violate free-market principles and will ultimately drive up costs for consumers.”³¹ These campaigns have achieved concrete victories in the majority of states, and they have proven successful in Missouri.³² As Gabe Elsner, executive director of the Energy and Policy Institute, a clean-energy think-tank in Washington, explained, “[c]lean energy is beginning to become mainstream . . . [r]enewable energy is popular and has increased political

²⁶ Steven Mufson & Tom Hamburger, *A Battle is Looming over Renewable Energy, and Fossil Fuel Interests are Losing*, WASH. POST (April 25, 2014), http://www.washingtonpost.com/business/economy/a-battle-is-looming-over-renewable-energy-and-fossil-fuel-interests-are-losing/2014/04/25/24ed78e2-cb23-11e3-a75e-463587891b57_story.html.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

power now, [but] that power is still eclipsed by the resources of the fossil fuel industry.”³³

On June 9, 2014, Americans for Prosperity, “a politically active nonprofit organization founded in part by the Koch Brothers and funded by fossil fuel organizations,” organized a letter that was published in *Politico*.³⁴ The letter attacked the wind industry by calling on lawmakers to not revive renewable energy tax breaks, like ITC and PTC, which expired at the end of 2013.³⁵ One hundred seventeen organizations signed the Americans for Prosperity letter.³⁶ Soon after, the Energy and Policy Institute studied the list of signatories and found that “a majority of the groups have ties to the Koch Brothers or other fossil-fuel interests.”³⁷ Sixty of these organizations were “either funded by fossil fuel interests such as the Koch Brothers, ExxonMobil, and the American Petroleum Institute, or have known ties to the Koch Brothers’ political network.”³⁸ Forty-two of the organizations are “local anti-wind groups, many of which have minimal public presence or are small collections of local anti-wind activists.”³⁹ United for Missouri, which is funded by Americans for Prosperity and other fossil fuel organizations, and is part of the Koch Brothers network, was among the organizations to sign the letter.⁴⁰

The fossil fuel industry reaps the benefits from taxpayer handouts written into the tax code, and funds “free-market” front groups mobilizing clean-energy tax breaks.⁴¹ Fossil fuel-funded groups are taking action across the country to injure the clean energy industry, because it has become such a major threat to the fossil fuel industry’ power.⁴² This letter is just one of a

³³ *Id.*

³⁴ Gabe Elsner, *Koch Network, Fossil-Fuel Front Groups Lobby Congress Against Wind-Energy Tax Breaks*, HUFF. POST (June 6, 2014, 6:35 PM), http://www.huffingtonpost.com/gabe-elsner/koch-network-fossil-fuel-_b_5509075.html.

³⁵ *Id.*

³⁶ Gabe Elsner, *Analysis: Americans for Prosperity Anti-Wind Letter, June 2014*, ENERGY & POLICY INSTITUTE (June 16, 2014), <http://www.energyandpolicy.org/americans-for-prosperity-anti-wind-letter-analysis>.

³⁷ Elsner, *supra* note 34.

³⁸ Elsner, *supra* note 36.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Elsner, *supra* note 34.

⁴² *Id.*

multitude of examples of these “fossil-fuel front groups attacking clean energy on the federal level.”⁴³ Fossil fuel groups are attempting to weaken the clean energy industry through increased lobbying efforts, especially now that wind power electricity is cheaper than both coal and natural gas.⁴⁴

Even though wind power is making positive strides, it is not yet completely sustainable on its own, as the industry heavily relies on tax credits.⁴⁵ According to the American Wind Energy Association (“AWEA”), “capacity and construction drop a full 84 percent when the PTC isn’t available.”⁴⁶ The troubling thing about this is the way the fossil fuel advocacy groups manipulate the perception of wind energy into a climate change issue, when, in actuality, it is a relatively simple issue with widespread support from both sides of the political spectrum.⁴⁷ In March 2013, 144 Congressmen called for the PTC’s renewal.⁴⁸ Even members of the “conservative” Republican Party support the tax credit renewal. For example, Iowa Governor Terry Branstad wrote a letter to the *Wall Street Journal* calling out the publication for trying to politicize the PTC, arguing that the wind industry is “an American success story that is helping us build our manufacturing base, create jobs, lower energy costs and strengthen our energy security.”⁴⁹ The letter, spearheaded by Americans for Prosperity, is evidence of the fossil fuel industry’s fear that its allies in the federal government are no longer on its side; a point illustrated through examples like the one above.⁵⁰

There is no better proof of the “eclipse” of the fossil fuel industry’s influence over politics than the January 2015 decision by the Senate to vote

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Lindsay Abrams, *The Koch Brothers’ Underhanded Attack on Wind Energy*, SALON (Nov. 7, 2014, 2:04 PM), http://www.salon.com/2014/11/07/koch_brothers_waste_absolutely_no_time_going_after_wind_energy/.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

against reinstatement of the PTC.⁵¹ Senator Heidi Heitkamp offered the PTC amendment to the Senate’s spending bill to approve the TransCanada’s Keystone XL pipeline.⁵² Jim Reilly, AWEA’s senior vice president for federal affairs, wrote, “Senator Heitkamp’s amendment to extend the PTC could have encouraged a constructive, bipartisan conversation. . . . Instead the amendment, like many offered today to the Keystone XL bill, was viewed as a political issue rather than an opportunity to advance important policy and America’s energy security.”⁵³

In 2008, Missouri residents approved Proposition C, which requires the state’s three largest investor-owned utilities to gradually phase in renewable power, starting with two percent of the electricity sold in 2011 to 2013, and gradually increasing that proportion to 15 percent by 2021.⁵⁴ Unfortunately, more than five years after this law was enacted, very little has changed about Missouri’s power supply.⁵⁵ Soon after voters approved this law, state officials removed language requiring the energy to be generated in Missouri.⁵⁶ As a result, P.J. Wilson, Director of Renew Missouri, a nonprofit that advocates for Proposition C, explained, “the utilities are not building renewables . . . [t]hey have found ways around it.”⁵⁷

In December 2013, a bill was introduced into the Missouri Senate, SB 598, that “. . . would make the RES work” and clear up uncertainties.⁵⁸ This bill would only allow credit for renewable energy sold directly to Missouri customers to count towards the standard, but progress continues to be extremely slow.⁵⁹ So far, two of the state’s utilities have managed to meet the standard, primarily by continuing to generate power at hydropower plants

⁵¹ Nick Juliano, *Renewable Energy: Senate Votes Down PTC Amendment*, E&E DAILY (JAN. 29, 2015), <http://www.eenews.net/stories/1060012507>.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Karen Uhlenhust, *Five Years Later, Missouri Still Grappling With Renewable Law*, MIDWEST ENERGY NEWS (Feb. 11, 2014), <http://www.midwestenergynews.com/2014/02/11/five-years-later-missouri-still-grappling-with-renewable-law/>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

that they have owned and operated for about a century.⁶⁰ Meeting RES with credits from out of state “...promotes renewable growth in a state that might have cheaper renewables,” but it does not fuel the renewable energy industry in Missouri.⁶¹

Like most renewable energy initiatives, after the Missouri Public Service Commission (“PSC”) released its formal “rules” for the Secretary of State to “publish” for Proposition C in 2010, four industrial power producers filed a lawsuit claiming the PSC’s rules were “unlawful” and “unreasonable.”⁶² In 2011, the Cole Country Court ruled in favor of the industrial energy users, but the Court of Appeals for the Western District of Missouri reversed the order, stating that the PSC’s rules were acceptable as written.⁶³ Industrial power users continue to fight against anything that could possibly raise their electric rates, yet they fail to realize that constructing new solar and wind facilities is actually cheaper than constructing new fossil-fuel plants.⁶⁴ In 2011, none of the investor-owned utilities in Missouri complied with the new law.⁶⁵ Instead, they wasted Missouri’s money by subsidizing already-built renewable energy in faraway places like California and Canada.⁶⁶ It will likely take a court order to force the utilities to comply with the RES.⁶⁷

IV. THE FUTURE OF WIND POWER IN MISSOURI

Nationwide, there are changes occurring to help implement wind power on a larger scale in the future. For example, there has been growth in the development of new technologies for use in low-wind areas and offshore.⁶⁸ Engineers are participating by “...creating new blade designs, more efficient turbines, and ocean mooring systems to produce economical

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² P.J. Wilson, *Prop C: Missouri’s Renewable Energy Standard*, RENEW MISSOURI, <http://www.renewmo.org/mo-res-prop-c.html> (last visited Feb. 18, 2016).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Wind Energy*, *supra* note 1.

wind energy” around the country.⁶⁹ Furthermore, there is the strong possibility that costs will decline, even in low-wind areas, in order to stay competitive with the cheapest traditional energy sources like natural gas.⁷⁰ The goal of the U.S. Department of Energy is to lower the cost of land-based wind energy by 18 percent and decrease the cost of offshore wind energy by 63 percent by 2020.⁷¹ Also, wind power will continue to expand to meet larger portions of the nation’s energy demand through the promotion of clean, renewable energy standards nationwide that will enable “the development of affordable wind capacity by requiring utilities to include a certain percentage of clean energy resources in their electricity mix.”⁷² This would provide a stable policy framework that is essential to sustainably growing wind power in the United States.⁷³

However, there are obvious challenges facing the future development of wind power, including inconsistencies with renewing the federal wind tax credits, which have caused uncertainty in the wind industry.⁷⁴ The AWEA blames the delays in renewal for the significant drops in investment.⁷⁵ Since the PTC was originally enacted as part of the Energy Policy Act of 1992, “Congress has extended the provision six times and has allowed it to expire on six occasions.”⁷⁶ This inconsistency has resulted in a “boom-bust cycle” of wind energy development.⁷⁷ In order to sustain the long-term growth of wind energy, it is not enough to temporarily extend the PTC.⁷⁸ It can take up to two years, or potentially longer to complete the designing and permitting process of a new wind facility. Therefore, due to the uncertainty of this timeline, many wind energy developers that count on the PTC credits hesitate to begin a new project in fear that the credit will be unavailable when the project is completed.⁷⁹ As such, to endure the continued development of the

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Koka, *supra* note 9.

⁷⁵ *Id.*

⁷⁶ *Production Tax Credit for Renewable Energy*, UNION OF CONCERNED SCIENTISTS, http://www.ucsusa.org/clean_energy/smart-energy-solutions/increase-renewables/production-tax-credit-for.html#.VTK11FZL5cN (last visited Feb. 18, 2016).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

renewable energy industry in the U.S., there must be strong, long-term policy support throughout the country.⁸⁰ Extending the PTC would increase the stability of the renewable energy industry, while also helping create a fair fight against the fossil fuel industries who receive greater tax payer support.⁸¹ Despite these reasons, the most important motive to renew the PTC is that it works. With the PTC in place, wind energy production dramatically increased, "...reducing the reliance on fossil fuels, driving innovation and economic development, lowering costs, and providing important environmental benefits."⁸²

Creating change in the energy industry begins with understanding policy. To truly compete in the energy field, the wind industry has to keep up with state legislative and regulatory activities. For instance, setting firm state-wide RES targets for renewable energy in the near- and long-term diversifies the electricity supply, spurs local economic development, reduces pollution, cuts water consumption, and saves consumption money.⁸³ Today, "...twenty-nine states have [RES], and seven states have renewable energy goals."⁸⁴ As stated above, Missouri's RES is 15 percent by 2021.⁸⁵ Also, the federal PTC has created greater opportunity for wind energy production to compete with the federally supported incentives of conventional energy sources.⁸⁶

Additionally, in order to continue the growth of wind energy, there must be continued expansion of the transmission grid.⁸⁷ To promote future development of renewable energy "...the transmission grid should be built to link areas with vast wind resources to the areas that have significant demand

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *State Advocacy*, AMERICAN WIND ENERGY ASSOCIATION, <http://www.awea.org/Advocacy/Content.aspx?ItemNumber=4361&navItemNumber=614> (last visited Feb. 18, 2016).

⁸⁴ *Id.*

⁸⁵ *Advocacy: Renewable Electricity Standards Map*, AMERICAN WIND ENERGY ASSOCIATION, <http://www.awea.org/Advocacy/Content.aspx?ItemNumber=5209> (last visited Feb. 18, 2016).

⁸⁶ *State Advocacy*, *supra* note 83.

⁸⁷ *Id.*

for electric power.”⁸⁸ As with most aspects of wind energy development, state regulators play an important role in preparing, authorizing, and paying for the expansion of these transmission grids.⁸⁹ Furthermore, in order to successfully continue the development of wind energy, it is imperative to resolve wind power siting issues early in the process.⁹⁰ The ultimate goal in resolving wind energy siting issues should aim to promote “efficient, fair, and open permitting processes at the federal, state, and local levels.”⁹¹ Given the vast possibilities and benefits Missouri stands to gain from future wind energy development, the wind industry should be considered alongside other forms of energy production and treated with the same significance and respect during the policy-making process.⁹² Without the implementation of such policies, it is unlikely wind energy will proceed to successfully develop and progress in the United States.

In 2009, Missouri’s wind power capacity increased by 90 percent.⁹³ One reason for this growth is that Missouri does not have as much wind power overall as other states like Iowa, and therefore the growth that has occurred there has been more significant, making it among the ten states with the most wind power overall.⁹⁴ Historically, Missouri has been viewed as having low wind speeds and has therefore been overlooked regarding long-term potential.⁹⁵ However, this has led to developers ignoring areas, such as northwest Missouri, where there are wind speeds similar to those in the Great Plains, and where 90 percent of the nation’s wind energy resources exist.⁹⁶ Developers simply need to invest the necessary time and resources into locating and capitalizing on these potential sources of wind energy. Currently, 80 percent of Missouri’s energy comes from coal imported from other states. However, Missouri could develop wind power locally that would allow the state to retain a portion of the capital spent in other states on coal.⁹⁷

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Kate Galbraith, *A Wind Boom in Missouri?*, N.Y. TIMES (Aug. 13, 2009 9:01AM), http://green.blogs.nytimes.com/2009/08/13/a-wind-boom-in-missouri/?_r=2.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ U.S. DEPT. OF NAT. RESOURCES, ENERGY PRODUCTIONS SYSTEMS: WIND POWER, at 32,

The heavy reliance on coal and high population has led to Missouri producing twice as much carbon dioxide as most of its neighboring states.⁹⁸ However, AWEA estimates that if only 10 percent of the potential wind energy available in the U.S. is utilized, then carbon dioxide emissions could be reduced by 30 percent.⁹⁹

Texas is the nation's leader in installed wind capacity and is a great model for state policy.¹⁰⁰ In 1999, wind development began in Texas when the state legislature passed its first RES, requiring "...utilities to begin to diversify their electricity sources."¹⁰¹ In 2005, the Texas legislature "strengthened the RES and added the landmark transmission policy calling for the creation of Competitive Renewable Energy Zones, which allowed for movement of electricity from wind-rich west Texas to the heavy load centers in the east and south."¹⁰² As a result, Texas exceeded its renewable energy targets in 2009.¹⁰³ In 2010, the Electric Reliability Council of Texas generated about eight percent of its electricity from wind, and on some days, it now secures as much as 25 percent of their electricity from wind.¹⁰⁴ The Texas Public Utilities Commission ("PUC") has determined that electricity from wind production saves Texas residents money.¹⁰⁵ The PUC Scope of Competition 2009 Report to the Texas Legislature said, "[f]or each additional 1,000 MW of wind that was produced, the analysis showed that the clearing price in the balancing energy market fell by \$2.38."¹⁰⁶ Therefore, if Missouri could learn from Texas's example and implement good market policies, high electricity demand, and a great wind resource, then Missouri could also accomplish extraordinary results.¹⁰⁷ However, it is up to the residents of Missouri to push for these goals, and to the elected officials to create and execute policies that will take this possibility to fruition.

<http://dnr.mo.gov/education/energy/windpower.pdf>.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *State Advocacy*, *supra* note 83.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

V. THE PUSHBACK

As it can be seen, there has been an enormous push from fossil fuel and utility interests concerned with the rise of inexpensive clean energy -- the price of wind power is down more than 50 percent in the past four years. Also, there have been attacks on the financial aspects of the pro-clean energy policies in an effort to delay their success in the marketplace.¹⁰⁸ In an effort to continue to sell as much fossil fuel energy as possible, including coal and oil, the Koch Brothers and their allies are spreading falsehoods about the energy market.¹⁰⁹ These “attacks on pro-clean energy policies are not about creating free markets” as opponents of clean energy policies, like American Legislative Council (“ALEC”), claim.¹¹⁰ They are about manipulating markets to create beneficial outcomes for themselves, their allies, and backers who deal in the fossil fuel business.¹¹¹ In the majority of the country, individuals do not have the ability to choose from which company to buy their electricity.¹¹² In many places, public utilities commissions (“PUC”) regulate through a monopoly and a closed marketplace.¹¹³ In Missouri, Republican state Representative Bart Korman filed House Bill 44 in late 2012, which would have effectively eliminated incentives to increase renewable energy use in Missouri and watered down the state’s Renewable Energy Standards (“RES”) by allowing existing hydroelectric power to be included in the standard.¹¹⁴ However, the bill was not passed before the legislative session adjourned.¹¹⁵ Notably, Representative Korman is a dues-paying member of ALEC.¹¹⁶

Although RES and net metering policies are igniting substantial investment, the deployment of clean energy technologies are under attack by

¹⁰⁸ Gabe Elsner, *Attacks on Renewable Energy Policy by Fossil Fuel Interests 2013-2014*, ENERGY & POLICY INSTITUTE, <http://www.energyandpolicy.org/renewable-energy-state-policy-attacks-report> (last visited Feb. 18, 2016).

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Elsner, *supra* note 108.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

fossil fuel interests at the state level.¹¹⁷ Renewable Performance Standard (“RPS”) laws have generated interest and billions of dollars of investment into clean technology projects, simultaneously creating thousands of jobs.¹¹⁸ Net metering policies “ensure that utilities pay consumers the full retail price for electricity generated by customers when they invest in distributed energy systems, like rooftop solar systems.”¹¹⁹ Ultimately, the trend of downward costs in clean energy poses a serious threat to the fossil fuel and utility industries’ business models.¹²⁰ Due to the state of the electricity market today, fossil fuel and utility interests feel the need to attack RES and net metering programs in order to protect their own financial interests.¹²¹ ALEC is an example of a group the utility industry is utilizing “to weaken or eliminate pro-clean energy policies, and is a valuable tool for utilities to lobby state legislators across the country.”¹²² However, there are also threats by special interest groups who use widespread “front groups to lobby, spread disinformation, and pressure decision makers to eliminate clean energy policies.”¹²³

Fossil fuel front groups use aggressive “lobbying and propaganda to achieve their goals.”¹²⁴ Within this aggressive lobbying, “free market think tanks” are some of the most efficient advocates for the fossil fuel industry in terms of policy change.¹²⁵ Many of these self-proclaimed “free market organizations” work to at the state level to influence energy policies and hurt the clean energy industry.¹²⁶ In an effort to appear neutral, these organizations typically describe themselves in nondescript terms, like “think tank” or “policy group,” but publicized internal documents suggest a number of these organizations embrace relationships with corporate lobbying interests, like the Koch Brothers, that fund their organizations.¹²⁷

¹¹⁷ Elsner, *supra* note 108.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

Over the years, fossil fuels have derived their government support from a diverse group of sources: “tax deductions, tax credits, direct subsidies, cheap access to public property, pollution remediation, research and development, and entire government agencies devoted to helping promote and assist fossil fuel industry growth.”¹²⁸ Fossil fuel-funded front groups operate in multiple areas to influence the policy-making process in attempts to eliminate, or gravely impact, clean energy policies.¹²⁹ First, these groups provide biased “reports or analysis claiming clean energy policies have negative impacts.”¹³⁰ Second, “think tanks” use this defective data in “testimony, opinion columns, and in the media.”¹³¹ Next, front groups, like Americans for Prosperity, spread misleading information through grassroots networks, “in postcards mailed to the public, and in television ads attacking clean energy policy.”¹³² Finally, fossil fuels lobbyists use their influential power, from campaign donations and meetings with decision makers, to push for anti-clean energy policies.¹³³

Missouri needs to respond to the fossil fuel and utility interests that lobby and control state legislators, to prove the truth about clean energy and urge the legislature to create policies and incentive programs that will encourage the people of Missouri to do the same. Although Missouri seems to be heading in the right direction, there is still much more to do. Following the Texas model, there needs to be a clear and aggressive stance by the legislature about where it wants Missourians to get their energy. Strong policies that require “utilities to begin to diversify their electricity sources” and conform to a high RES are a great place to start.¹³⁴

However, because of the assertive efforts by the fossil fuel and utility interest front groups that push to destroy renewable energy projects, pro-renewable energy lobbyists are forced to push back just as hard, if not harder. Unfortunately, one major hurdle renewable energy source supporters face is the lack of funding and support they possess as compared to their opponents.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *State Advocacy*, *supra* note 83.

Nevertheless, as the truth about renewable energy sources continues to grow and large corporations begin to understand that by using wind power they will actually be saving themselves money in the long run, the monetary, and thus the political, support will grow along with it. Ultimately, it is up to the pro-renewable energy companies, groups, and individuals of Missouri to stand strong and pushback at an industry that has dominated the energy production for centuries by calling for stable and predictable tax credits and more aggressive policies.¹³⁵

VI. CONCLUSION

This article explored some of the issues surrounding wind power throughout the United States, Missouri in particular. It began by providing background information on the wind power industry, its goals for the future, and the role the federal government has played in the wind industry's growth. The wind power industry's top federal policy priorities include stable and predictable tax credits, a proposition that has been curtailed by anti-renewable energy lobbyist groups for years, most recently through the expiration of the PTC in January 2015, a credit that was vital for the future success of the wind power industry. Without these incentives, the potential of growth is extremely slim and industry stability may be next to impossible. Therefore, without appropriate tax credits and incentive programs in place, it is unlikely the wind power industry will ever succeed to its full potential.

Another policy priority is the creation of a national standard for renewable electricity. This has been proven extremely effective in Texas. If Missouri can implement and execute a strong RES that requires utilities to get their renewable energy from sources within the state, the likelihood of success is much greater. Ultimately, Missouri has the potential to become a leader in the wind power industry; it is just a matter of introducing the correct policies and programs to attain that goal.

Finally, this article discussed the political issues surrounding the wind power debate, divulging fossil fuel-funded groups, mobilizing across the country, to weaken the clean energy industry. The letter organized by Americans for Prosperity was a perfect example of the attack that is

¹³⁵ *Federal Advocacy*, *supra* note 85.