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Counties net minor win wind tax fight

Mary Drier For the Tribune **Published 6:11 pm, Thursday, September 7, 2017**

UPPER THUMB — Two counties received a minor win in the ongoing battle over how wind turbines are taxed.

For several years, the five counties with wind farms have been at odds over the state's abrupt change in the taxing method and depreciation schedule of wind turbines.

Because of that, the counties with wind farms — Tuscola, Huron, Sanilac, Gratiot and Mason — formed the Michigan Renewable Energy Collaborative (MREC) to challenge the changes.

“We were scheduled to go to court Sept. 18 with NextEra Energy Resources, when we received notice NextEra asked the Michigan Tax Tribunal to dismiss their tax appeal on their Tuscola Bay 1 wind park,” said Huron County Economic Development Corp. Director Carl Osentoski, who is the spokesperson for MREC.

NextEra Energy Resources LLC’s stance has been that the amount the federal government provided for each turbine should be deducted from the cost before it is taxed rather than the true cash value of the turbine.

The Tuscola Bay I wind farm, which became operational in 2012, consists of 68 Turbines located in Tuscola County’s Gilford Township and seven turbines in Blumfield Township in Saginaw County.

“While we are pleased with this outcome, it only covers that one NextEra wind farm and not their second wind farm in our county,” said Tuscola County Controller Mike Hoagland.

The energy company’s decision to have the Michigan Tax Tribunal dismiss the case only covers that one wind farm in Tuscola and Saginaw counties.

“It has no impact on the wind farms in Huron County and in Sanilac County. The issue of taxes and depreciation on the wind farms in those counties are still before the tribunal,” said Osentoski.

The appeal that was dismissed on Tuscola Wind 1 was for tax years 2014 through 2017.

However, the dismissal is not a financial windfall for Tuscola County. Ever since the state changed the tax and depreciation method of wind turbines, Tuscola officials have escrowed a portion of the tax money collected to be on the safe side in case the tribunal found in favor of the energy company.

Hoagland estimates the county escrowed about $970,000 for the general fund, and about $576,000 from the eight special millages the county levies.

“I caution that all of that approximate $1,546,000 is not free and clear to use. That includes escrowed money from NextEra’s second wind project that is still before the tribunal,” Hoagland cautioned. “And, we do not have all of the details from the tribunal of what the dismissal actually means.

“That money is in the bank, but we are not banking on being able to use all of it until everything is worked out. That will still take some time.”

In addition, NextEra also has the Tuscola Wind II that is located in the townships of Gilford, Akron, Fairgrove, and Juniata.

The dismissal has no impact on the second wind farm that became operational in 2013, said Hoagland.

The heart of the issue is that in 2011 the State Tax Commission (STC) changed the depreciation schedule for wind turbines. That change resulted in lower taxable values for wind projects, which in turn meant less tax revenue.

Officials from the five counties with wind farms protested the abrupt change, which had no input from local municipalities. Since the tax change was implemented, MERC has been trying to get the state to institute a fair tax process that reflects the taxable value and life of a turbine.

Under the tax commission's 2011 ruling, wind turbines went from a 100 percent assessment in year one, with a scheduled depreciation to 30 percent value in 15 years, to an 80 percent initial assessment, with a depreciation to 30 percent value in six years.

The change meant reduced revenue to the counties and the other taxing agencies within them.

Because of that, and the STC's refusal to answer questions on why they made the changes, the five counties formed MREC with the common goal of correcting this taxation dispute.

Those in MREC hired the law firm of Clark Hill to handle legal matters and make the argument for the original or another fair and reasonable method of wind energy taxation.

"At NextEra Energy Resources, we want the communities where we do business to benefit from our projects. We also want them to know what they can expect to collect in tax revenue and have certainty in their budgeting processes," said Steven Stengel with NextEra Energy. "While there are many issues we would like the state to clarify with regard to assessing the taxable value of wind farms, our case with the Michigan Tax Tribunal has simply dragged on too long.

"In the interest of maintaining strong relationships with the communities we serve, we have chosen to withdraw our case with the tribunal (on that one issue)."

Had NextEra's appeal been successful, it would have lowered the overall value of the 75 turbines in Tuscola and Saginaw counties.

"We would like to acknowledge the professional nature in which the attorneys and management at NextEra handled their part of the appeal process," said Osentoski. "NextEra indicated to us that their request to dismiss was in the interest in maintaining a strong positive relationship with communities it serves."

Osentoski also thanked MREC members, the law firm of Clark Hill, Appraisal Economics, local township assessors, supervisors and trustees who have led the local responses to the hundreds of tax appeals that have challenged MREC's positions on taxes and property valuations.