

# Proposition C's Outcome Will Affect Missouri's Wind Future

*How will a voter-approved initiative affect future wind development in Missouri?  
Wind industry advocates await the answer.*

BY ALAN CLAUS ANDERSON AND J. BRITTON GIBSON

On Nov. 4, 2008, Missouri became the 27th U.S. state to adopt a renewable portfolio standard (RPS) and only the third state to do so through a voter-approved initiative. Missouri's RPS, also known as Proposition C or the Missouri Renewable Energy Standard, was approved by 66% of the popular vote. Only two other states, Colorado and Washington, have passed RPS through voter-approved initiatives, and both did so with much smaller margins of victory (53% in Colorado and 52% in Washington).

Missouri currently has 308.5 MW of installed wind capacity, ranking it 19th among U.S. states. The best wind resources in Missouri are found in the extreme northwestern part of the state, from St. Joseph north to the Iowa border, and all of Missouri's existing wind projects are located in this region.

The Proposition C ballot initiative repealed Missouri's voluntary renewable energy and energy efficiency objectives and replaced them with an RPS that requires Missouri's investor-owned utilities to obtain 15% of

their electricity from renewable resources by 2021.

Before the passage of Proposition C, Missouri's investor-owned utilities were subject to a voluntary renewable energy and energy efficiency objective enacted in 2007. The voluntary objective required that each utility make a "good-faith effort" to generate or procure renewable electricity equivalent to 4% of total retail electric sales by 2012, 8% by 2015 and 11% by 2020.

Credit toward these targets could also be fulfilled through energy efficiency efforts by utilities and consumers. The voluntary nature of this program hindered its widespread effectiveness and led to an effort to create a mandatory program through the ballot initiative process that resulted in Proposition C.

Like the prior voluntary objective, Proposition C applies only to Missouri's investor-owned utilities and does not place renewable energy requirements on electric cooperatives or municipal utilities. Unlike the voluntary objective, energy efficiency measures are not

eligible for credit toward compliance.

Under Proposition C, eligible renewable energy resources include electricity produced from wind, solar thermal, solar photovoltaic cells, small hydropower (excluding pumped storage), biogas from landfills and wastewater treatment plants, as well as various forms of biomass, fuel cells using hydrogen from renewable resources, and other renewable energy resources approved by the Missouri Department of Natural Resources (DNR).

Proposition C establishes the following minimum benchmarks for electric utilities based on their annual electricity sales and includes a solar electricity carve-out of 2% for each interim portfolio requirement:

- 2% for calendar years 2011 through 2013;
- 5% for calendar years 2014 through 2017;
- 10% for calendar years 2018 through 2020; and
- 15% in each calendar year beginning in 2021.

Covered utilities will receive credit equal to 1.25 kWh toward these requirements for each single kilowatt-hour of eligible

renewable energy produced in Missouri. This 25% bonus for in-state production has the potential to spur additional renewable energy development projects in the state.

Alternatively, or in combination with its own production of renewable energy, a covered utility may choose to purchase renewable energy certificates (RECs) to achieve the benchmark percentages.

Proposition C's enforcement provisions dictate that investor-owned utilities that fail to meet RPS obligations will be subject to penalties of at least twice the average market value of RECs for the applicable compliance period.

The DNR will then use the revenue generated by these penalties to purchase the RECs necessary for compliance. Any excess revenue received from the penalties will be used to fund renewable energy and energy efficiency projects in the state. Proposition C prohibits covered utilities from recovering the costs incurred by these penalties from ratepayers.

### **PSC rulemaking**

On Feb. 27, 2009, the Missouri Public Service Commission (PSC) commenced the rulemaking process through which the PSC will promulgate rules to implement Proposition C by submitting a draft set of rules for public comment.

A series of public workshops, working sessions and PSC meetings in 2009 elicited 16 revisions to the draft rules and focused attention on several key issues, such as geographical sourcing requirements, rate increases and RECs.

For instance, if the final rules prevent a covered utility from effective cost recovery related to renewable energy development, or if the rules permit covered utilities to comply with Proposition C by producing or



**The 146 MW Farmers City wind farm in Atchinson County, Mo.**

Photo courtesy of Iberdrola Renewables

purchasing renewable energy that is not ultimately sold to Missouri retail electricity customers, future renewable energy development in Missouri may be far from robust.

Ultimately, the resolutions to these issues, expected in mid-March at the earliest, will have a significant impact on wind development in Missouri.

### **Geographical sourcing**

One area of particular interest to Missouri's investor-owned utilities, wind developers and consumers is the question of where the applicable renewable energy is sourced. Proposition C states that the portfolio requirements apply to all power "sold to Missouri consumers, whether such power is self-generated or purchased from another source in or outside of this state."

Much of the debate over the geographic sourcing of the renewable energy production surrounds the question of verification and whether certain utilities possess the means necessary to confirm that the renewable energy they produce or purchase is delivered to Missouri customers.

Some argue that if the rules require the literal delivery of the renewable energy to Missouri consumers, utilities must be capable of physically tracking the energy delivered in order to

verify compliance with the statute; others suggest that delivery to consumers can be confirmed through financial or contractual tracking.

Much of the perceived conflict centers on the covered utilities' participation in different regional transmission organizations (RTOs).

Because parts of Missouri are covered by the Southwest Power Pool (SPP) and other parts are covered by the Midwest Independent Transmission System Operator (Midwest ISO), concerns have been raised about these utilities' ability to comply with the rules if they are required to physically track the delivery of the renewable energy production to Missouri customers.

Midwest ISO utilities do not physically track the electricity, but only the contracts through which the electricity is generated, transmitted, distributed and delivered. Because of this, some argue that renewable energy products that are delivered into any RTO whose tariff serves a Missouri electric utility should satisfy Proposition C.

The key, however, is the extent to which the final rules will require these utilities to verify compliance by tracking the renewable energy from within the RTO to the consumer or whether the presence of renewable energy within the RTO will suffice.

In the latest version of the PSC rules, Version 16, the PSC attempts to ameliorate these concerns by revising the former language to require that the renewable energy be sold to Missouri electric energy retail consumers instead of being “delivered.”

The main difference between previous drafts of the rules and Version 16 is the perception that the latter allows for verification via financial or contractual tracking, as opposed to the literal physical tracking of electrons. It is noteworthy that other Midwest ISO states, such as Montana, Ohio and Wisconsin, have required in-state generation or delivery without having created an impasse for administration for the RPS in these states.

Final resolution of these geographic sourcing issues will likely have a significant impact on renewable energy development in Missouri. If the final PSC rules require that the renewable energy be sold to Missouri retail customers and that the utilities verify the sale through whatever means is approved by the PSC, actual development will take place in the state, or at least at points responsible for electricity transmission into Missouri.

If the PSC rules allow for the delivery of renewable energy into any point within the Midwest ISO or SPP, the likelihood of significant renewable energy development in Missouri will be impaired.

### **Rate increases**

Not surprisingly, investor-owned utilities and wind developers are concerned about cost recovery related to renewable energy generation. Proposition C permits “a maximum average retail rate increase of 1%, taking into proper account future environmental regulatory risk,

including the risk of greenhouse gas (GHG) regulation.”

Some have interpreted this language as a hard cap of 1% on the retail electricity rates, while others have suggested that, when factoring in future environmental regulatory risk, the number may be greater than 1% in the aggregate.

Yet another suggestion is that the retail rate increase may be averaged over a longer term, such as 10 years to 20 years, and therefore, an initial increase of more than 1% may be acceptable.

The latest draft of the rules calculates the average 1% increase over a 10-year period and permits further reductions based upon deducting the cost of GHG reductions at the then-current cost per ton of GHG emissions allowances or GHG emissions reduction technology – whichever is lower.

Some have indicated that a 10-year to 20-year time frame corresponds to what is already required by the investor-owned utilities in their own integrated resource planning, and therefore, the utilities already have the models required to compare the average cost of renewable energy production over a longer term.

The revisions in Version 16 represent a significant departure from prior versions. A firm 1% cap on rate increases will face strong opposition from the covered utilities and wind developers because of the financial burden it will place upon them.

Viewing the average rate increase over a longer-term horizon is more likely to bring the average annual rate increase in line with or below the cap, while also increasing the likelihood that the utilities will meet the Proposition C targets. This is particularly true if the cost of renewable energy production is further reduced by the cost of

GHG reduction allowance or technology costs.


### **Eligibility of RECs**

Some controversy has arisen concerning the type of REC that should be eligible for purchase under Proposition C. The nature and underlying composition of the RECs that are eligible to satisfy Proposition C’s requirements is another factor that will affect the future of wind and solar development in Missouri.

Initially, the draft rules allowed RECs to be purchased from any source.

Opposition to this version of the rules argued that this approach would violate the spirit of Proposition C by qualifying RECs produced from a source that would not otherwise be eligible under Proposition C if it were produced directly by the covered utility.

Version 16 of the rules requires that the underlying production of any RECs utilized by a covered utility to satisfy the benchmarks be produced from a renewable source that is otherwise eligible under Proposition C.

The draft rules also require that the underlying production either be located in Missouri or sold to Missouri retail customers. As with each of the other key issues discussed above, the outcome of this debate will undoubtedly impact the level of future renewable energy production in Missouri. 

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