

State Tax Commission of Missouri

LOST CREEK WIND, LLC,

Complainant,

V.

RUTH A. ROSS, ASSESSOR,
DEKALB COUNTY, MISSOURI,

Respondent.

Appeal Number 11-55000

DECISION AND ORDER

HOLDING

Decision of the DeKalb County Board of Equalization for tax year 2011 is AFFIRMED.

True value for the subject property for tax year 2012, with the three additional turbines, is set at \$93,010,000, commercial assessed value of \$29,763,200.

Complainant appeared by Counsel George M. Knapp, and Counsel, Elkin L. Kistner.

Respondent appeared by Counsel, Patricia L. Hughes.

Case heard by Senior Hearing Officer Luann Johnson and decided by the full Commission.

SUMMARY

Complainant appeals, on the ground of overvaluation, the decision of the DeKalb County Board of Equalization, which sustained the valuation of the subject property. The Assessor originally determined an appraised value of \$90,219,700 (assessed value of \$28,870,300). Complainant proposed a value of \$43,235,530 (assessed value of \$13,835,379). Respondent

proposed an improvement value of \$206,891,630, assessed value \$66,205,320¹. A hearing was conducted on November 1, 2012, and December 19, 2012, at the DeKalb County Courthouse, Maysville, Missouri. The parties submitted their proposed findings of fact on March 11, 2013. The parties submitted their briefs on April 15, 2013.

The Commission, having considered all of the competent evidence upon the whole record, enters the following Decision and Order.

ISSUE

The Commission takes this appeal to determine the true value in money for the subject property on January 1, 2011, and January 1, 2012. It is undisputed that there were 97 turbines operational on January 1, 2011, and 100 turbines operational on January 1, 2012. Values of miscellaneous structures are not included in this appeal.

EXHIBITS

A table reflecting the Exhibits introduced into evidence by Complainant and by Respondent is set forth in Appendix 1 hereto.

FINDINGS OF FACT

Parties and History

1. Complainant Lost Creek Wind, LLC ("Complainant"), is the owner and operator of a wind farm situated in DeKalb County, MO ("subject property").
2. Respondent Ruth A. Ross is, and has been for all times pertinent to this proceeding, the duly elected and acting Assessor of DeKalb County ("Respondent").
3. Complainant initially reported a total construction cost for the wind turbines of \$2,319,000 each to which the Assessor applied 60% depreciation and arrived at a market value of \$927,600 for each turbine, plus \$2,500 for the value of the lease for each parcel.² The value

of each tower was thus determined to be a total of \$930,100, assessed as commercial property at 32%, for an assessed value of \$297,630 each. The assessed valuation was affirmed by the County Board of Equalization.

4. Complainant timely appealed to the DeKalb County Board of Equalization. That Board affirmed the Assessor's appraisal of the Subject Property.

5. Respondent now proposes a market value of \$206,649,130 for the turbines and \$242,500 for the land leases; each turbine had a market value of \$2,139,400 ($\$206,649,130/97=\$2,139,403$). This market value varies from what was actually proposed at hearing because evidence was presented at hearing which suggested that current cost of turbines was lower than the cost initially contracted for by Complainant.

6. Complainant contends that, as of the valuation date, the Subject Property had a market value of \$43,235,527, resulting in a per turbine value of \$445,727.³

Leased Property

7. There are some 78 parcels of land leased for this project. Those leases should be a part of the value but were not included in either appraisal report.

Commercial Improvements on Leased Property

8. For purposes of the 2011 tax year, the subject property consisted of 97 General Electric 1.5 MW wind turbines located on multiple parcels of realty leased by Complainant, together with an operations facility and various supporting facilities and equipment, all of which items of property have been owned by Complainant at all times pertinent to this proceeding.⁴ The assessed value of that facility is not on appeal and is not part of the subject property in this case.⁵

9. The parties agree – and this Commission finds – that the only property at issue in this proceeding are the 97 turbines that were the subject of the Notices (“Subject Property”). These 97 wind turbines are nearly identical and, for purposes of this appeal, were valued as a group by each party’s appraiser. For the purpose of this proceeding, the parties agree, and this Commission finds, that the value conclusion for the Subject Property may be divided equally among the 97 wind turbines and assessed to each parcel in direct proportion to the number of turbines on the particular parcel. The parties also agree, and the Commission finds, that for the tax year 2012 the Subject Property was comprised of 100 turbines.⁶

Sales of Wind Farms

10. Wind farms are occasionally sold as enterprises. There have been no sales of wind farms for investment purposes.⁷

Appraisers

11. Complainant produced the appraisal report of P. Barton DeLacy, a certified general real estate appraiser in Missouri. Mr. DeLacy wrote an article, “Wind Farms—A Valuation Primer”, published in the Winter 2011 issue of the Appraisal Journal.⁸

12. Respondent produced the appraisal report of James Goodale, who is also a certified general real estate appraiser in Missouri.⁹

Net Capacity Factor

13. Power generating facilities are assigned a “net capacity factor.” The net capacity factor of a power plant is the ratio of the actual output of a power plant over a period of time and its potential output if it had operated at full nameplate capacity the entire time. To calculate the capacity factor, take the total amount of energy the plant produced during a period of time and divide by the amount of energy the plant would have produced at full capacity.¹⁰

14. Generally, in the United States, the average NCF is only 28.8%. The subject property has a net capacity factor of 35.6%.¹¹ (This factor also helps establish the level of risk for financing. The P50 factor is 35.6% meaning that there is a 50% chance that the wind will be higher than 35.6% and a 50% chance that the wind will be less than 35.6%. Similarly a P99 of 20% indicates that a wind farm will have a NCF of 20% at least 99% of the time.) Wind farms can have NCF in the 20% range and be economically viable, if the market price of energy is sufficient.¹² Wind farms in Western Kansas have a net capacity factor of 35% to 45%.¹³ A wind farm in Hawaii has a NCF of over 50% because of trade winds.¹⁴ The subject property is capable of producing power at a similar rate as other optimally producing wind farms in this area.

Cost Approach

15. The initial construction of the project cost around \$337 million. Under a "cash grant program" the federal government returned \$109 million to Complainant in July of 2010.¹⁵ Contracts for the construction of the project were all executed in 2009.¹⁶ The cost includes the cost of buildings which are not under appeal.¹⁷ Both appraisers used a cost approach to value the property.¹⁸

Replacement Cost New

16. The Complainant's appraiser, Mr. DeLacy, stated that the Replacement Cost New for the subject property is \$233,818,200 for 100 turbines, or \$2,338,182 per turbine.

17. Respondent's appraiser, Mr. Goodale, testified that he utilized the construction cost of the one year old turbines in his cost formula based on Complainant's cost data. He found the construction cost to be \$280,936,541 for 97 turbines, or \$2,896,247 per turbine.¹⁹ After

receiving additional information from Complainant, Respondent's appraiser modified his calculations to show a replacement cost new of \$225,355,541.²⁰

Economic Life

18. Complainant's appraiser states that wind turbines "have useful economic lives of 20-25 years (with routine maintenance)".²¹ He uses 5% physical depreciation for 1 year. Respondent's appraiser uses a 25 year life, or 4% depreciation.²² Both appraisers agree that a 25 year life is reasonable.

Functional Obsolescence

19. Functional obsolescence is caused by a flaw in the structure, materials, or design of the improvement when compared to the highest and best use and the most cost-effective functional design requirements at the time of the appraisal. . . Functional obsolescence is attributable to defects within the property, while external obsolescence is caused by external factors. Functional obsolescence can be either a deficiency or a superadequacy.²³ Neither party presented any persuasive evidence establishing functional obsolescence.

Tax Grant/Economic Obsolescence

20. Complainant was given federal tax grants to build the subject properties. Complainant's appraiser testified that the value of the improvements should be reduced in an amount similar to the tax grants because, without the grants, the improvements would not have been built. Respondent's appraiser contended that tax grants did not impact value. There is no market data to support either position.

External (Economic) Obsolescence/Net Capacity Factor

21. External obsolescence is a loss in value caused by factors outside a property.²⁴
22. The appraisers considered economic obsolescence but provided limited information or support for any market or quantitative dollar adjustment for the obsolescence.

Government Guaranteed Market

23. Regulations have been enacted in 33 states, including Missouri, requiring power distribution companies to purchase energy from renewable sources. States who have less renewable energy available within their states must buy certificates from other states that are capable of generating renewable energy. Wind is the least expensive of the available renewable sources.²⁵

Parties Failed to Prove Value

24. Neither party presented substantial and persuasive evidence to rebut the presumption in favor of the Board of Equalization and to establish the true value in money of the subject property for tax days January 1, 2011, and January 1, 2012.

CONCLUSIONS OF LAW

Jurisdiction

The Commission has jurisdiction to hear this appeal and correct any assessment which is shown to be unlawful, unfair, arbitrary or capricious. The hearing officer shall issue a decision and order affirming, modifying or reversing the determination of the board of equalization, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious.²⁶

Presumptions In Appeals

There is a presumption of validity, good faith and correctness of assessment by the County Board of Equalization.²⁷

The presumption in favor of the Board is not evidence. A presumption simply accepts something as true without any substantial proof to the contrary. In an evidentiary hearing before the Commission, the valuation determined by the Board, even if simply to sustain the value made by the Assessor, is accepted as true only until and so long as there is no substantial evidence to the contrary.

The presumption of correct assessment is rebutted when the taxpayer, or respondent when advocating a value different than that determined by the Board, presents substantial and persuasive evidence to establish that the Board's valuation is erroneous and what the fair market value should have been placed on the property.²⁸

Standard for Valuation

Section 137.115, RSMo, requires that property be assessed based upon its true value in money which is defined as the price a property would bring when offered for sale by one willing or desirous to sell and bought by one who is willing or desirous to purchase but who is not compelled to do so.²⁹ It is the fair market value of the subject property on the valuation date.³⁰ Market value is the most probable price in terms of money which a property should bring in competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeable and assuming the price is not affected by undue stimulus.

Implicit in this definition are the consummation of a sale as of a specific date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed and well advised, and both acting in what they consider their own best interests.

3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in cash or its equivalent.
5. Financing, if any, is on terms generally available in the Community at the specified date and typical for the property type in its locale.
6. The price represents a normal consideration for the property sold unaffected by special financing amounts and/or terms, services, fees, costs, or credits incurred in the transaction.³¹

Weight to be Given Evidence

The Commission is not bound by any single formula, rule or method in determining true value in money, but is free to consider all pertinent facts and estimates and give them such weight as reasonably they may be deemed entitled. The relative weight to be accorded any relevant factor in a particular case is for the Commission to decide.³²

Trier of Fact

The Commission as the trier of fact may consider the testimony of an expert witness and give it as much weight and credit as he may deem it entitled to when viewed in connection with all other circumstances. The Commission is not bound by the opinions of experts who testify on the issue of reasonable value, but may believe all or none of the expert's testimony and accept it in part or reject it in part.³³

Methods of Valuation

Proper methods of valuation and assessment of property are delegated to the Commission. It is within the purview of the Commission to determine the method of valuation to be adopted in a given case.³⁴

Missouri courts have approved the comparable sales or market approach, the cost approach and the income approach as recognized methods of arriving at fair market value.³⁵

Opinion Testimony by Experts

If specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert on that subject, by knowledge, skill, experience, training, or education, may testify thereto.

The facts or data upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing and must be of a type reasonably relied upon by experts in the field in forming opinions or inferences upon the subject and must be otherwise reliable, the facts or data need not be admissible in evidence.³⁶

Respondent's Burden of Proof

Respondent, when advocating a value different from that determined by the original valuation or a valuation made by the Board of Equalization, must meet the same burden of proof to present substantial and persuasive evidence of the value advocated as required of the Complainant under the principles established by case law.³⁷

Complainant's Burden of Proof

In order to prevail, Complainant must present an opinion of market value and substantial and persuasive evidence that the proposed value is indicative of the market value of the subject property on January 1, 2011.³⁸ There is no presumption that the taxpayer's opinion is correct. The taxpayer in a Commission appeal still bears the burden of proof. The taxpayer is the moving party seeking affirmative relief. Therefore, the Complainant bears the burden of proving the vital elements of the case, i.e., the assessment was "unlawful, unfair, improper, arbitrary or capricious."³⁹

Substantial evidence can be defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁴⁰ *Persuasive evidence* is that evidence which

has sufficient weight and probative value to convince the trier of fact. The persuasiveness of evidence does not depend on the quantity or amount thereof but on its effect in inducing belief.⁴¹

ORDER

The assessed valuation for the subject property, for tax year 2011, as determined by the Assessor and sustained by the Board of Equalization for DeKalb County is AFFIRMED.

The assessed value for the subject property for tax year 2012 is set at \$29,763,200.

A party may file with the Commission an application for review of this decision within thirty (30) days of the mailing date shown in the Certificate of Service. The application shall contain specific grounds upon which it is claimed the decision is erroneous. Said application must be in writing addressed to the State Tax Commission of Missouri, P.O. Box 146, Jefferson City, MO 65102-0146, and a copy of said application must be sent to each person at the address listed below in the certificate of service.

*Failure to state specific facts or law upon which the appeal is based will result in summary denial.*⁴²

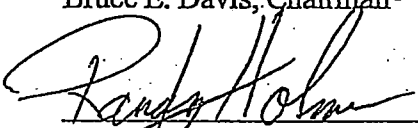
The Collector of DeKalb County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending a filing of an Application for Review, unless said taxes have been disbursed pursuant to a court order under the provisions of 139.031.8 RSMo.

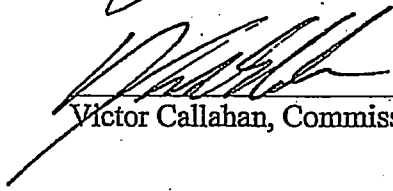
Any Finding of Fact which is a Conclusion of Law or Decision shall be so deemed. Any Decision which is a Finding of Fact or Conclusion of Law shall be so deemed.

SO ORDERED June 25, 2013.

STATE TAX COMMISSION OF MISSOURI




Bruce E. Davis, Chairman

Randy Holman, Commissioner

Victor Callahan, Commissioner

Certificate of Service

I hereby certify that a copy of the foregoing has been mailed postage prepaid on this 25th day of June, 2013, to: Elkin Kistner, 101 South Hanley Road, Suite 1280, St. Louis, MO 63105, Attorney for Complainant; Patricia Hughes, 17 W. Kansas, Liberty, MO 64068, Attorney for Respondent; Ruth Ross, Assessor, P.O. Box 248, Maysville, MO 64469-0248; Melissa Meek, Clerk, P.O. Box 248, Maysville, MO 64469; Joan Judy Pearl, Treasurer and ex officio Collector, P.O. Box 248, Maysville, MO 64469.



Barbara Heller
Legal Coordinator

APPENDIX A

Complainant's Exhibits

Exhibit A	Appraisal of Improvement on Leased Land, prepared by P. Barton DeLacy
Exhibit B	Curriculum Vitae of P. Barton DeLacy
Exhibit C	"Wind Farms—A Valuation Primer" by P. Barton DeLacy
Exhibit D	"Renewable Energy: Headwinds Ahead?" by P. Barton DeLacy
Exhibit E	The Appraisal of Real Estate (13th Edition), excerpts
Exhibit F	Biographical Description of Dr. Chris Ziesler
Exhibit G	Complainant's Rebuttal Testimony of Dr. Chris Ziesler
Exhibit H	Complainant's Rebuttal Testimony of P. Barton DeLacy
Exhibit I	Excerpts from July 9, 2012 deposition of Respondent Ruth A. Ross
Exhibit J	Complainant's Written Direct Testimony of P. Barton DeLacy
Exhibit K	Complainant's Written Direct Testimony of Robert Scheuermann
Exhibit L	Complainant's Written Direct Testimony of Respondent Ruth A. Ross
Exhibit O	Gentry County Assessor July 6, 2006 letter to Wind Capital Group
Exhibit P	Affidavit of Dr. Chris Ziesler, 12/10/12
Exhibit Q	Affidavit of David Boyce, 12/17/12
Exhibit R	"Understanding Trends in Wind Turbine Prices Over The Past Decade" by Lawrence Berkeley National Laboratory, October 2011
Exhibit S	"2011 Wind Technologies Market Report" by Lawrence Berkeley National Laboratory, August 2012
Exhibit V	Affidavit of P. Barton DeLacy, 9/28/12

Respondent's Exhibits

Exhibit 1	Summary Appraisal of a portion of Lost Creek Wind Energy Farm prepared by Jim Goodale
Exhibit 2	Assessment of the Energy Production of the Lost Creek Wind Farm (7/20/10)
Exhibit 3	Assessment of the Energy Production of the Lost Creek Wind Farm (2/15/11)
Exhibit 4	Respondent's Rebuttal Testimony of Ruth A. Ross
Exhibit 5	Respondent's Written Direct Testimony of Jim Goodale

APPENDIX B

PARCEL #	TOWER(S)	DEKALB CO.'S MAY, 2011 ASSESSMENT		COMPLAINANT'S PROPOSED VALUE		GOODALE'S PROPOSED VALUE
		Market value	Assessed value	Market value	Assessed value	Market value
0000-03121100-000-000250	113	\$930,100	\$297,630	\$445,727	\$142,632.64	\$2,638,081.32
0000-03121100-000-000350	105	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03121100-000-000450	115	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03220900-000-000150	5	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03220900-000-000151	3, 15	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03220900-000-000451	102	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03221000-000-000250	1, 103	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03221000-000-000450	104	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03320800-000-000950	2	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401700-000-000450	21	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401700-000-000550	17	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401800-000-000150	14	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401800-000-000450	20	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401800-000-000550	8	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401900-000-000250	24	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401900-000-000450	32	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03401900-000-000550	37	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03402000-000-000150	4, 27, 31	2,790,300	892,900	1,337,181	427,897.92	7,914,243.96
0000-03501500-000-000350	10	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03501500-000-000650	22	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03501600-000-000251	13, 16, 18	2,790,300	892,900	1,337,181	427,897.92	7,914,243.96
0000-03501600-000-000450	6	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03502100-000-000151	33	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03502100-000-000250	28	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03502200-000-000150	25, 29	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03502200-000-000352	30	930,100	297,630	445,727	142,632.64	2,638,081.32

0000-03601400-000-000250	23	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03601400-000-000350	12	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03602300-000-000550	35	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03602300-000-000750	36	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03712500-000-000250	47*, 54	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03712600-000-000150	39	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03712600-000-000251	44, 45, 74	2,790,300	892,900	1,337,181	427,897.92	7,914,243.96
0000-03723500-000-000350	63	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03723500-000-000751	75	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03723500-000-000850	70	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03812700-000-000150	41	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03812700-000-000250	38	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03812700-000-000550	48	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03812800-000-000150	42	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03812800-000-000250	84	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03812800-000-000350	53, 55	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03823300-000-000150	66	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03823300-000-000350	62	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03823400-000-000250	59, 60	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03823400-000-000350	68	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03823400-000-000450	76	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03912900-000-000250	43	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03912900-000-000350	50	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03912900-000-000450	58	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03912900-000-000550	49, 51	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03913000-000-000250	40	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03913000-000-000450	52	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03923100-000-000450	72	930,100	297,630	445,727	142,632.64	2,638,081.32
0000-03923100-000-000550	57, 71	1,860,200	595,260	891,454	285,265.28	5,276,162.64
0000-03923200-000-000250	73	930,100	297,630	445,727	142,632.64	2,638,081.32

0000-03923200-000-000350	65, 77	1,860,200	595,260		891,454	285,265.28	5,276,162.64
0000-04601300-000-000150	9, 19	1,860,200	595,260		891,454	285,265.28	5,276,162.64
0000-04723600-000-000150	56, 64	1,860,200	595,260		891,454	285,265.28	5,276,162.64
0000-04723600-000-000250	67*, 101*	n/a	n/a		n/a	n/a	n/a
0000-04723600-000-000450	69	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-05101200-000-000150	61	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-05101200-000-000151	89	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200300-000-000150	78	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200300-000-000450	114	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200400-000-000150	81	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200400-000-000250	80	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200400-000-000350	88	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200400-000-000450	86	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06200900-000-000250	97	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06300500-000-000250	7	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06300500-000-000450	83	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06300500-000-000550	90, 91	1,860,200	595,260		891,454	285,265.28	5,276,162.64
0000-06300600-000-000150	79, 82	1,860,200	595,260		891,454	285,265.28	5,276,162.64
0000-06300700-000-000250	92	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06300700-000-000450	34	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06300800-000-000150	98	930,100	297,630		445,727	142,632.64	2,638,081.32
0000-06300800-000-000151	93, 94, 100	2,790,300	892,900		1,337,181	427,897.92	7,914,243.96
TOTAL	97 turbines	\$90,219,700	\$28,870,150		\$43,235,519	\$13,835,366	\$255,893,888
	O&M Building	\$708,260	\$226,640				

* = Turbines not included in appeal

¹ This number was initially higher but evidence was presented that tended to show that turbine cost had decreased between the initial purchase date and the tax date.

² Respondent's Exhibit 4, page 2, 3.

³ . Exhibit A, p. 4.

⁴ See Appendix B hereto; Exhibit A (DeLacy Summary Appraisal), p. 3.

⁵ . Exhibit 1 page 6.

⁶ Exhibit J (Written Direct Testimony of P. Barton DeLacy, pp. 5-6.

⁷ Tr. 99-100

⁸ See Exhibit J, pp. 1, 4, 8; Exhibit A, last page (p. 3 of Professional Qualifications Appendix); Exhibit C (copy of "Wind Farms-A Valuation Primer").

⁹ . Exhibit 1

¹⁰ Exhibit 1, page. 64.

¹¹ Tr. 35

¹² Tr. 41

¹³ Exhibit 1, page. 64

¹⁴ Tr. 44

¹⁵ Tr. 13, 14.

¹⁶ Tr. 17

¹⁷ Tr. 27

¹⁸ Exhibits 1 and A.

¹⁹ Exhibit 1, page 61.

²⁰ Respondent's post hearing brief.

²¹ Exhibit C page 7

²² Exhibit 1, page 61. Exhibit A, page 16.

²³ The Appraisal of Real Estate, 12th Edition, p. 403

²⁴ The Appraisal of Real Estate, 12th Edition, pg. 412.

²⁵ Tr. 53 - 56

²⁶ Article X, section 14, Mo. Const. of 1945; Sections 138.430, 138.431, 138.431.4, RSMo.

²⁷ *Hermel, Inc. v. STC*, 564 S.W.2d 888, 895 (Mo. banc 1978); *Chicago, Burlington & Quincy Railroad Co. v. STC*, 436 S.W.2d 650, 656 (Mo. 1968); *May Department Stores Co. v. STC*, 308 S.W.2d 748, 759 (Mo. 1958).

²⁸ *Hermel, supra*; *Cupples-Hesse Corporation v. State Tax Commission*, 329 S.W.2d 696, 702 (Mo. 1959).

²⁹ *St. Joe Minerals Corp. v. State Tax Commission*, 854 S.W.2d 526, 529 (Mo. App. E.D. 1993); *Missouri Baptist Children's Home v. State Tax Commission*, 867 S.W.2d 510, 512 (Mo. banc 1993).

³⁰ *Hermel, supra*.

³¹ *Real Estate Appraisal Terminology*, Society of Real Estate Appraisers, Revised Edition, 1984; See also, *Real Estate Valuation in Litigation*, J. D. Eaton, M.A.I., American Institute of Real Estate Appraisers, 1982, pp. 4-5; *Property Appraisal and Assessment Administration*, International Association of Assessing Officers, 1990, pp. 79-80; *Uniform Standards of Professional Appraisal Practice*, Glossary.

³² *St. Louis County v. Security Bonhomme, Inc.*, 558 S.W.2d 655, 659 (Mo. banc 1977); *St. Louis County v. STC*, 515 S.W.2d 446, 450 (Mo. 1974); *Chicago, Burlington & Quincy Railroad Company v. STC*, 436 S.W.2d 650 (Mo. 1968).

³³ *St. Louis County v. Boatmen's Trust Co.*, 857 S.W.2d 453, 457 (Mo. App. E.D. 1993); *Vincent by Vincent v. Johnson*, 833 S.W.2d 859, 865 (Mo. 1992); *Beardsley v. Beardsley*, 819 S.W.2d 400, 403 (Mo. App. 1991); *Curnow v. Sloan*, 625 S.W.2d 605, 607 (Mo. banc 1981).

³⁴ See, *Nance v. STC*, 18 S.W.3d 611, at 615 (Mo. App. W.D. 2000); *Hermel, supra*; *Xerox Corp. v. STC*, 529 S.W.2d 413 (Mo. banc 1975).

³⁵ *St. Joe Minerals Corp. v. STC*, 854 S.W.2d 526, 529 (App. E.D. 1993); *Aspenhof Corp. v. STC*, 789 S.W.2d 867, 869 (App. E.D. 1990); *Quincy Soybean Company, Inc. v. Lowe*, 773 S.W.2d 503, 504 (App. E.D. 1989), citing *Del-Mar Redevelopment Corp v. Associated Garages, Inc.*, 726 S.W.2d 866, 869 (App. E.D. 1987); and *State ex rel. State Highway Comm'n v. Southern Dev. Co.*, 509 S.W.2d 18, 27 (Mo. Div. 2 1974).

³⁶ Section 490.065, RSMo; *State Board of Registration for the Healing Arts v. McDonagh*, 123 S.W.3d 146 (Mo. SC. 2004); *Courtroom Handbook on Missouri Evidence*, Wm. A. Schroeder, Sections 702-505, pp. 325-350; *Wulfig v. Kansas City Southern Industries, Inc.*, 842 S.W.2d 133 (Mo. App. E.D. 1992).

³⁷ *Hermel, Cupples-Hesse, Brooks, supra*.

³⁸ *Hermel, Inc. v. State Tax Commission*, 564 S.W.2d 888, at 897.

³⁹ See, *Westwood Partnership v. Gogarty*, 103 S.W.3d 152 (Mo. App. E.D. 2003); *Daly v. P. D. George Co.*, 77 S.W.3d 645 (Mo. App. E.D. 2002); *Reeves v. Snider*, 115 S.W.3d 375 (Mo. App. S.D. 2003). *Industrial Development Authority of Kansas City v. State Tax Commission of Missouri*, 804 S.W.2d 387, 392 (Mo. App. 1991).

⁴⁰ See, *Cupples-Hesse Corporation v. State Tax Commission*, 329 S.W.2d 696, 702 (Mo. 1959).

⁴¹ *Brooks v. General Motors Assembly Division*, 527 S.W.2d 50, 53 (Mo. App. 1975).

⁴² Section 138.432, RSMo 2000.