Wind Energy/Repowering Project: Iowa Supreme Court Addresses Property Tax Valuation Issue

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05/09/2023

The Supreme Court of Iowa ("SCT") addressed in a May 5th Opinion an issue involving valuation of certain wind plants for property tax purposes. See *Story County Wind, LLC v. Story County Board of Review*, 2023 WL 3260921.

The issue involved the appropriate valuation of a project that involved repowering a wind plant in Story County, Iowa.

Story County Wind, LLC ("SCW") is stated to own and operate certain wind plants in Iowa. A repowering project is stated to have begun in 2019 for the wind plants.

Repowering is stated to involve:

Replacing a substantial part of its parts.

The project is stated to have an objective of "replacing old and obsolete blade and generator technology with new blade and generator technology." This includes:

. . . the replacement of gearboxes, blades, hubs, pitch systems, bearing and main shafts, and oil coolers.

The project did not:

- Add any additional wind towers
- Involve changes to the transmission line, access roads, or tower foundations

Iowa Code Section 427B.26 provides a provision that is titled "Special valuation of wind energy conversion property." This provision states in part:

2. In lieu of the valuation and assessment provisions in [other Code sections], wind energy conversion property ... shall be valued by the local assessor for property tax purposes as follows:

a. For the first assessment year, at zero percent of the net acquisition cost.

b. For the second through sixth assessment years, at a percent of the net acquisition cost which rate increases by five percentage points each assessment year.

c. For the seventh and succeeding assessment years, at thirty percent of the net acquisition cost.

. . . .

4. For purposes of this section:

a. “Net acquisition cost” means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

b. “Wind energy conversion property” means the entire wind plant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation.

The Story County Board of Review (“Story County”) continued to value and assess the wind plants notwithstanding the repowering project. SCW filed a protest and asked for the assessment to be adjusted by:

(1) removing the original acquisition cost of [components replaced during the repowering] from the calculation;

(2) adding the original acquisition cost of new components [added during the repowering] to the calculation; and

(3) restarting the phased in assessment percentages described in Iowa Code § 427B.26 for the new components.”

A lower court denied SCW’s request to modify the assessment.

The SCT asked whether the system for valuing wind plants is altered by “repowering” (i.e., a replacement of a substantial portion of a wind plant’s parts). It acknowledges that, if that was the case, the replaced part would be placed on their valuation schedule and include a separate “first assessment year” for those replaced parts.

In reviewing the Iowa Code provision addressing wind plants, the SCT found:

. . . nothing that supports SCW's proposed separate-schedules-for-replacement-parts regime.

The statute is noted to not reference “repowerings” or any other part replacements.

SCW’s repowering project is noted to have not added or replaced an entire wind plant or incorporated additional towers. Portions of the existing plants (including their foundations) were also not replaced. Consequently, SCT held that the repowering project did not impact the plant’s valuation under Section 427B.26.

The SCT rejects SCW’s arguments that include:

- The statutory term net acquisition cost encompasses repowers and their required costs
- The statute is ambiguous

The SCT holds that under Iowa Code Section 427B.26 repowering a wind plant by replacing component parts does not change the plant’s valuation for property tax purposes.

A copy of the Opinion can be downloaded here.