

The Federal Wind Energy Production Tax Credit: How will it affect the wind industry's development in the coming years?

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The Essentials

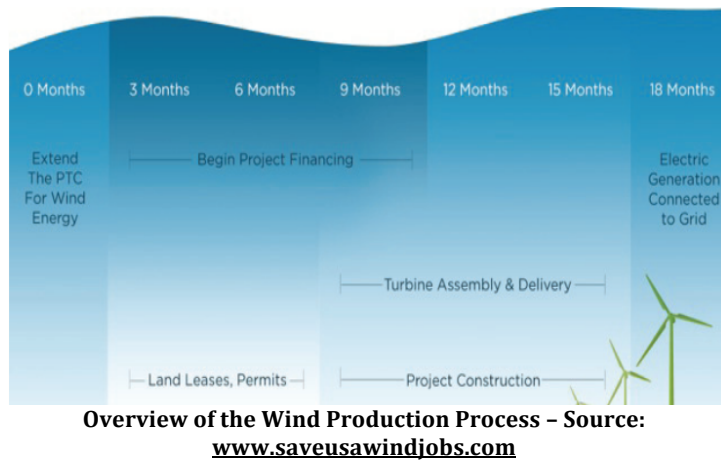
- In January of 2013, U.S. Congress approved a one year extension of the Production Tax Credit (PTC) for Wind Power in the American Taxpayer Relief Act, as a part of the “fiscal cliff” budget negotiations. The Wind Power PTC currently expires on January 1, 2014.
- The PTC provides temporary support for the development of wind power by providing a 2.2cents/kWh subsidy for wind power produced over the wind farm's first 10 years of operation, starting when construction begins.
- Wind facility construction must begin before January 1, 2014 in order to qualify. Residential wind power production is exempt from the tax credit.
- Of all new generating capacity installed from 2007-2011, 35% was wind power. In 2012, the percentage grew to 44%. (AWEA).

Details of the policy

Wind energy production tax credits (PTCs) have been in existence in the United States since 1992, and have been renewed eight times as part of a larger program encouraging the growth of renewable energy production. However, it has been an inconsistent subsidy. Historically, Congress has thrice allowed the PTC to lapse, causing turmoil and uncertainty in the wind power production industry, and driving some producers out of the market.¹ The current extension - negotiated at the 11th hour as part of the American Taxpayer Relief Act during the fiscal cliff negotiations - extends the PTC for one additional year. As before, it is expected to encourage further growth of the wind industry, allow development of new projects to come to fruition, and ensure that wind production will remain competitive against conventional fuels through the beginning of 2014.

¹ <http://www.nytimes.com/2013/03/22/business/energy-environment/a-tax-credits-renewal-lifts-wind-projects.html?r=2&>

The extension of the wind energy production tax credit requires that a business prove that its wind project be “in construction” before January 1, 2014, when the tax credit expires.² The language of “in construction” was a crucial and unprecedented change of the PTC requirements, which historically required proof that the project be “in



production.” This is a significant change as it is an easier standard to meet, especially for an industry that typically takes well over a year to get production started. By contrast, physical construction of wind projects typically begins between six and nine months from project conception. (See graph above).

According to recently issued IRS regulations, the requirement can be met in two ways: first, a project which has begun “physical work of a significant nature,” or by satisfying a safe harbor based on the amount paid or incurred with respect to a project.³ The “significant nature” requirement will be determined on a case-by-case basis, but certainly does not include preliminary activities such as financing and permitting, and will likely be satisfied by beginning contracted construction work. The “safe harbor” provision alternatively allows taxpayers to claim the PTC if he has paid or incurred 5% or more of the total cost of a facility by the deadline. These provisions further require continuous progress after the PTC requirement is met in order to claim the PTC. Furthermore, construction need not begin on every single windmill; instead, the IRS regulations consider construction on a project-wide basis. Thus the requirement has become more flexible and somewhat ameliorates the risk to wind project developers that they will not be able to meet the requirements of the PTC by the January 1, 2014 deadline.

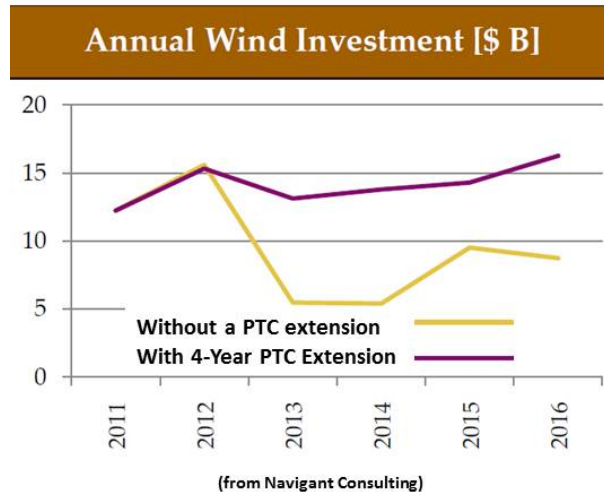
Support and criticism for a long-term PTC

According to the AWEA, an industry group advocating the advancement of wind power, a main concern facing the wind industry in the future is the uncertainty produced by sporadic, short-term renewals of the federal wind energy PTC. Not only does it discourage long-term investment in production, it also stifles innovation in the wind industry. For example, in 2000, 2002, and 2004, when Congress allowed the PTC to lapse temporarily, wind power production dropped to nearly zero.

² See American Taxpayer Relief Act, Sec. 407 (pp.70-76)

³ See IRS Notice 2013-29 <http://www.irs.gov/pub/irs-drop/n-13-29.pdf>

However, critics argue that “Wind is certainly not a competitive free market source of energy, or a charity we can continue to afford.”⁴ Greater certainty would be provided by a long-term extension of the PTC, but some argue that the PTC actually stifles innovation in the wind industry. Free market proponents argue that wind will become competitive on its own if it is indeed a better choice for power consumers, and if it is bereaved of its dependence on governmental subsidies.”⁵ The wind industry has countered that it believes the wind industry will be competitive without a PTC by 2018,⁶ given that the PTC is extended until then. They also argue that all conventional sources of electricity continue to benefit from various subsidies.



Regardless of one’s opinion on wind power, given the current political climate of brinksmanship, a long term extension of the PTC is a dubious proposition, despite (and possibly in spite of) support of the White House. Politicians must weigh the necessity for austerity against the policy interests of subsidizing wind energy.

Read more

A legal explanation of the “in construction” requirement of the PTC <http://www.stoel.com/showalert.aspx?Show=10317> ; or for the original document see: <http://www.irs.gov/pub/irs-drop/n-13-29.pdf>

AWEA Wind PTC Fact-Sheet: http://awea.org/issues/federal_policy/upload/PTC-Fact-Sheet.pdf

Wind Capacity by State from the Dept. of Energy: http://www.windpoweringamerica.gov/wind_installed_capacity.asp

Text of the American Taxpayer Relief Act (Relevant provisions at Sec. 407, pp.70-76) <http://www.gpo.gov/fdsys/pkg/BILLS-112hr8eas/pdf/BILLS-112hr8eas.pdf>

⁴ <http://www.forbes.com> – Larry Bell, “Tax Blowing Boondoggle: Don’t Give Wind Energy More Credit Than It Deserves.” Dec. 11, 2012

⁵ <http://www.heritage.org/events/2012/11/wind>

⁶ See AWEA’s PTC fact sheet: http://awea.org/issues/federal_policy/upload/PTC-Fact-Sheet.pdf

Contact information

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Latest developments

For the latest comments from the House Subcommittees on Energy and Oversight, and a recording of the hearing, visit: <http://science.house.gov/hearing/oversight-subcommittee-and-energy-subcommittee-joint-hearing-assessing-efficiency-and>

To register for the Renewable Energy World Webcast: ***The Renewable Energy PTC in 2013: Defining "Under Construction"*** on May 1, 2013, visit: <http://video.webcasts.com/events/pmny001/viewer/index.jsp?eventid=45947&adid=em>