
**STATE TAX COMMISSION OF MISSOURI
ASSESSOR MANUAL**

CHAPTER:

ASSESSMENT OF WIND ENERGY FACILITIES

REVISION DATE: August 28, 2021

Page 1 of 3

7.7 ASSESSMENT OF WIND ENERGY FACILITIES

The assessment of these facilities falls upon the county assessor.

I. Valuation

Section 137.123, RSMo. defines “wind energy property, true value calculation for assessment purposes” as:

- (1) Beginning January 1, 2022, for the purposes of assessing all real property, excluding land, or tangible personal property associated with a project that uses wind energy directly to generate electricity, 37 ½% of the original costs shall be the true value in money of such property. Such value shall begin the year immediately following the year of construction of the property. The original costs shall reflect either:
 - (1) The actual and documented original property cost to the taxpayer, as shall be provided by the taxpayer to the assessor; or
 - (2) In the absence of actual and documented original property cost to the taxpayer, the estimated cost of the property by the assessor, using an authoritative cost guide.
- (2) Nothing in this section shall be construed to prohibit a project from engaging in enhanced enterprise zone agreements under sections 135.950 and 135.973, RSMo. or similar tax abatement agreements with state or local officials or to affect any existing enhanced enterprise zone agreements.

The International Association of Assessing Officers (IAAO) provides a “Wind Energy Guide” on its website at: <https://www.iaao.org/>, which provides information on wind generation. The Guide is accessible by non-members of IAAO and has valuable cites to other resources as well.

II. Classification

The classification of wind generators could be determined under a common law fixture analysis, as a structure, or in a similar fashion to installed poles as defined in section 137.010(3), RSMo. As the discussion below indicates, it is the Commission’s recommendation that wind generators be classified as real property.

A. Fixture Analysis

Please refer to the discussion of Fixtures in Chapter 2 of the manual. If the equipment definitely is annexed to the property and not intended to be removed in the short term—especially the

**STATE TAX COMMISSION OF MISSOURI
ASSESSOR MANUAL**

CHAPTER:

ASSESSMENT OF WIND ENERGY FACILITIES

REVISION DATE: August 28, 2021

Page 2 of 3

foundations or bases, the wind generators would be real estate—whether on leased land or land owned by the owner of the generators, and would be analogous to the classification of billboards. *State ex rel. Thompson v. Osage Outdoor Advertising*, 674 S.W. 2d 81 (Mo. App. W.D. 1984). Intent is an objective rather than subjective test. If the fixture is apparently part of the realty, the assessor is justified in relying on its appearance regardless of the existence of secret agreements for retention of title or a right of removal under the doctrine of trade fixtures. Although the parties may disclose the existence of separate ownership, the assessor is not compelled to make a laborious inquiry into the possible real or personal nature of annexations. Simple expedience requires that assessors be allowed to rely on the apparent character of assessed land or chattels. *Oberjuerge Rubber Co. v. State Tax Com'n of Missouri*, 674 S.W. 2d 186 (Mo. App. E.D. 1984).

B. Section 137.010 Analysis

Section 137.010(3), RSMo. defines real property (emphasis added) as including:

. . . land itself, whether laid out in town lots or otherwise, **and all** growing crops, buildings, **structures**, improvements and fixtures of whatever kind thereon . . .

In *State ex rel. Thompson v. Osage Outdoor Advertising*, 674 S.W. 2d 81 (Mo. App. W.D. 1984) the Court of Appeals, after reviewing numerous cases, determined that billboards were not only fixtures, but were also structures within the meaning of Section 137.010(3), RSMo, indicating that the word “structure” should be given a broad interpretation to include a thing built, erected or fabricated.

III. Commercial Real Property Subclassification

It is the Commission’s position that wind generating systems are properly classified as commercial property. Section 137.016.1(3) RSMo. defines “utility, industrial, commercial, railroad and other real property” as:

[A]ll real property used directly or indirectly, for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed

**STATE TAX COMMISSION OF MISSOURI
ASSESSOR MANUAL**

CHAPTER:

ASSESSMENT OF WIND ENERGY FACILITIES

REVISION DATE: August 28, 2021

Page 3 of 3

to be included in the term “utility, industrial, commercial, railroad and other real property.”

Both the cited statute and Article X, Section 4(b) of Missouri’s Constitution clearly indicate that “utility” property falls into a commercial classification. A “utility” is business enterprise that performs essential public service and is subject to governmental regulation. A public utility is a company that provides necessary services to the public, such as telephones, electricity and water. *Black’s Law Dictionary*, Seventh Edition, 1999. Property used to provide electricity is best characterized as “utility” property.

Using wind to produce electricity is analogous to using water to produce electricity (dams) or removing natural resources from the soil (mining), both of which are commercial pursuits.