State's Renewable Energy Fund Lacks Power to Fulfill Purpose

Customers' defection to other suppliers, language in Illinois law are hindering investment in green electricity

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By Julie Wernau

Five years ago, Illinois passed legislation requiring electric suppliers to buy more renewable energy such as wind and solar power and then pass those costs on to customers.

The intent of the mandate was to have so-called green electricity accounting for a quarter of the power flowing into residences and businesses by 2025 while fostering homegrown jobs and cleaner air.

But that was before customers of the state's two major electric utilities defected en masse to other suppliers that purchase power on the open market. With that move, the state is falling short of its green mandate, because money being collected from customers by these other energy suppliers isn't being used for green energy purchases.

(Michael Tercha, Chicago Tribune / May 1, 2013)

About 140 wind turbines spread across 26 square miles generate about 210 megawatts of power at Invenergy's Grand Ridge Energy Center near Marseilles, Ill.

Instead, the money is going into a fund that's sitting untapped because of obscure language in state law. That $15 million account is on track to balloon to nearly $135 million by the end of 2014, according to the Illinois Power Agency, the state agency tasked with spending the funds.

Because of the language in the law, the agency can only use the money to buy renewable energy if the state's two utilities are out buying renewable energy at the same time. With only a fraction of their customer bases left, the utilities already have more renewable energy than they need and aren't buying more.

As a result, the money sits, although at one point the cash-strapped state borrowed the entire amount from the fund then repaid the money. Overall, about two-thirds of the state's electric customers are paying into a renewable-energy fund that isn't being used.

"It really doesn't make sense to have all this money being spent by consumers and then have them not getting anything for it," said David Kolata, executive director of the Citizens Utility Board, a consumer advocacy group. "We'd like to think that this can all be resolved.”

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In June, about 5 percent of the state's electricity will come from renewable sources, according to an Environmental Law and Policy Center analysis of publicly available state data. That's short of the 8 percent target mandated under the law, and amounts to about 4.7 million megawatt hours, enough to power half a million homes for one year.

Environmental groups are clamoring to tweak the law to free up those funds but face resistance from nuclear plant owner Chicago-based Exelon and its utility, Commonwealth Edison. They contend the law is working as intended.

Some take issue with that notion.

"The point of the law is to create an environment in which renewable energy can flourish in Illinois, so that we can get cleaner air, economic development and be competitive with states around us," said Barry Matchett, co-legislative director and policy advocate for the Chicago-based Environmental Law and Policy Center. "While we were able to achieve those goals for the last few years — the renewable energy industry created 19,000 jobs in Illinois in the last five years alone — unless the law is fixed, we won't see much, if any, more solar or wind energy built in Illinois."

Consumer advocates contend that not spending the fund's money is costly for consumers. The Illinois Power Agency said new wind farms have driven down power prices overall by about $177 million each of the last two years. Consumer advocates said greater savings might be achieved with even more renewable power nurtured in Illinois.

"This is a problem that needs to be fixed to protect consumers. Consumers are paying money into this fund for the purpose of procuring renewable energy. And if the fund is used as intended, that will clearly save money for consumers," said Natalie Bauer, a spokeswoman for the state's attorney general's office.

The fact that the renewable fund isn't being spent and that the money is dependent on consumers who can freely switch back and forth between electricity suppliers at any time has already caused some wind and solar power developers to back off on projects.

"The IPA needs additional authority to spend those funds as the General Assembly intended."

- Anthony Star, Acting Director,
Illinois Power Agency

"We don't like unstable markets," said Jeff Bishop, senior manager for government and regulatory affairs at EDP Renewables North America, a Houston-based wind power developer. His firm has paused on $1 billion of near shovel-ready projects in Illinois that his company spent more than a decade developing.

"We need the finance community to feel confident with the project's long-term prospects," said Bishop, whose company has already spent $1.5 billion building wind farms in Illinois.

Energy gridlock: How we got here

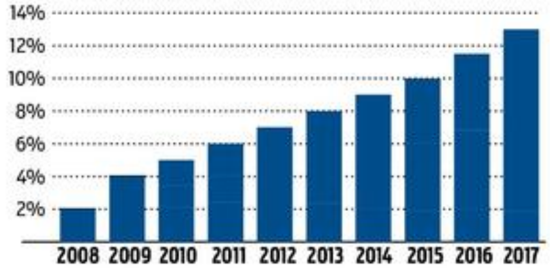
An effort to increase Illinois' use of renewable energy has hit a snag because of quirks in the law and shifting customers. The state is falling short of its goals, while money from consumers put aside for renewable energy goes unused. An effort in Springfield is underway to address the situation. Here is what happened:

1 RENEWABLE ENERGY GOAL

A 2007 state law set out goals for utilities to provide renewable energy and collect money from consumers to make it happen. ComEd, for example, would take this money, purchase the power from green sources and provide it to consumers.

State goals for renewable energy supply

Percentage of energy required by year

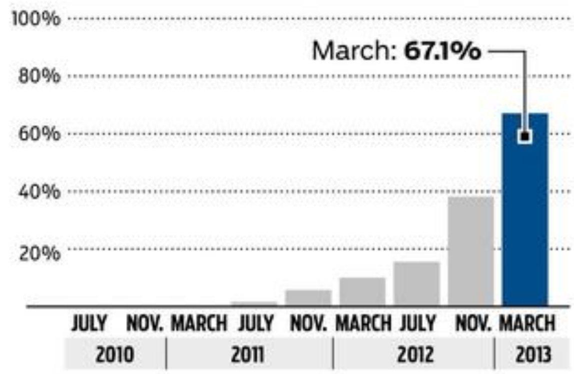


2 GROWTH OF OTHER SUPPLIERS

As more towns opened up to suppliers other than the two major electric utilities, ComEd and Ameren, customers switched in droves. A portion of their bills, by law, still was set aside for renewable energy. Other suppliers legally could spend no more than half on the open market. The rest, by law, was put in an energy fund.

Percentage of residential customers using other retail electric suppliers

For Illinois



3 MONEY PILING UP

Thanks to the way the law is worded, other suppliers can spend the money in the renewable energy fund only if the state's major utilities (ComEd and Ameren) also are buying renewable energy. With so few customers left, the utilities are meeting their goals without buying any. The money piles up.

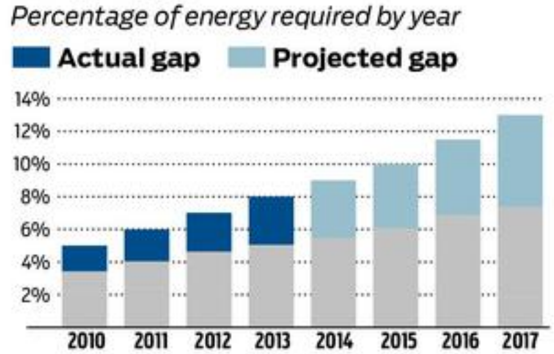
Projected amount in energy fund

4 STATE MISSING GOALS

With the money not being spent, the state is falling behind its goals to build up to 25 percent renewable energy in 2025. Projections show it will miss the goal if no action is taken.

Gap in state goals for renewable energy supply

Percentage of energy required by year



SOURCES: Illinois Power Agency, Environmental Law and Policy Center, Ilinois Commerce Commission

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He said the renewable portfolio standard, the law that mandates how much electricity will come from renewable sources, worked well until customers started defecting from ComEd and Ameren, which serves the southern part of the state.

If the money remains unspent, the state is expected to slip further behind in meeting its green electricity mandate. By 2017, just 7 percent of Illinois electricity is projected to come from renewable resources, a little more than half the mandate of 13 percent set for that year under the law, according to an Environmental Law and Policy Center analysis.

"The IPA needs additional authority to spend those funds as the General Assembly intended," said Anthony Star, the agency's acting director.

As it now stands, most of the state's renewable energy mandates are met through the purchase of energy credits, sold through a market-based system that supports existing wind farms in Illinois and surrounding states.

If more funds were available along with a larger customer base to spread out costs, said David Fein, a vice president of state government affairs at Exelon, consumers could be forced into the pricier "power purchase agreements" that help finance new wind farms. Before a wind farm is built, the agreements force electricity customers to promise that they will purchase 100 percent of the power a wind farm is expected to produce.

With a guaranteed "customer" for their power over the long term, wind developers are able to persuade investors to sign on to the projects, but the agreements are more costly for consumers than the energy credits that support existing wind farms.

Exelon, which owns and operates the country's largest fleet of nuclear power generating units, created a stir last year when the American Wind Energy Association booted it from its membership over Exelon's lobbying to end tax credits for the wind industry, viewed by people in that industry as crucial to continued growth. The company said it no longer felt the country should be subsidizing wind generation development. Those lobbying efforts failed.

Advocates say Senate Bill 103, sponsored by Sen. Michael Frerichs, D-Champaign, would lower prices for all consumers by spreading out the costs.

Christopher Crane, Exelon's chief executive, has said tax credits keep electric wind turbines producing power even when there is no demand for it, driving down the prices Exelon receives for power from its nuclear plants. Exelon's earnings have been battered as power prices have fallen. The company swung to a $4 million loss, down a penny per share in the first quarter, compared with a profit of $200 million, or 28 cents per share, a year earlier.

With fewer customers available to spread out the companies' costs for long-term renewable energy contracts, both ComEd and Ameren are bumping up against a legislative cap that prevents renewable energy purchases from increasing rates by more than 2 percent.

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In ComEd's territory, the utility is charging its customers the maximum allowed under the law for renewable purchases, or about 92 cents per month on average. Customers who receive their electricity supply from ComEd pay into an account that is spent by the utility.

The untapped funds are in a separate account supported primarily by former ComEd and Ameren customers who defected to other suppliers. These other suppliers meet about half their green obligations by buying renewable energy on the open market and the other half through "alternative compliance payments" that flow into the account.

When consumers began switching to other suppliers, ComEd and Ameren's prices were significantly higher than those offered by other suppliers. Recently, those prices have fallen, and policymakers are waiting to see if consumers begin to switch back, which could change everything from how much money is available to buy renewable power to how much that power would cost.

In the ComEd territory, 79 percent of the electricity it delivers comes from other suppliers, according to the Illinois Commerce Commission, compared with 27 percent in 2007.

Mark Pruitt, a former Illinois Power Agency director and an adviser to Chicago for electricity issues, said customers of the other suppliers are overpaying for renewables because the law forces them to pay the same rates for renewable energy that utility customers are paying. Utility customers are paying the maximum amount because they are oversubscribed on renewables due to so many customers defecting.

Assuming consumers don't switch back to ComEd or Ameren, and the law isn't changed, Illinois electricity customers will pay $280 million more for renewable energy between 2014 to 2017 than they would have if all customers paid into a single account, said Pruitt, who analyzed utility projections for electricity purchases provided to the Illinois Power Agency.

Senate Bill 103, sponsored by Sen. Michael Frerichs, D-Champaign, proposes channeling all money for renewable energy into a single utility-controlled account with the Illinois Power Agency procuring all renewable energy on behalf of all Illinois electricity customers. The move, advocates say, would lower prices for all consumers by spreading out the costs.

The agency remains neutral on the legislation but acknowledged that the state is not meeting its mandates for renewable energy.

ComEd opposes the bill.

"There is no reason to reform the RPS (renewable portfolio standard) law, and the proposed changes would significantly increase costs to ComEd customers," ComEd spokeswoman Judith Rader said. She said that, since the law was enacted, "Illinois has seen a major build-out of wind energy: Our state is now the fourth-largest producer of wind energy in the country.''
Gov. Pat Quinn supports the bill.

Brooke Anderson, a spokeswoman for his office, said: "There is no reason for having two Illinois renewable portfolio standards when there is only one Illinois energy market. This is a common-sense solution that will deliver lower energy prices for consumers and businesses, protect the environment, and drive more economic development and new jobs across Illinois.

"Meeting our renewable portfolio standard's goals will not only be good for our environment; it will also support the state's economic recovery and give families a financial break from rising utility rates."