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# Illinois customers file lawsuit against Prairie State coal plant over power costs

By [Matthew Bandyk](#)


The 1,600-MW Prairie State Energy Campus, one of the last coal-fired plants built before federal greenhouse gas regulations made such projects difficult to pursue, is the target of a class action lawsuit alleging that the [Indiana Municipal Power Agency](#), one of Prairie State's co-owners, and various consultants misrepresented the cost of the plant's power.


Several electricity customers in the city of Batavia, Ill., contend that overly optimistic and misleading statements from the plant's developers enticed Batavia to buy power from Prairie State, locking the city into rates that proved to be much higher than advertised due in part to billion-dollar cost overruns when building the plant, according to the Aug. 19 lawsuit.

The promotion of ultimately illusory benefits from Prairie State caused Batavia "to be bound, for at least decades, to an unaffordable and unreliable source of power that is draining the city's resources," the plaintiffs said in the lawsuit.

The lawsuit is already being trumpeted by at least one environmental group that has long attacked the Prairie State project as proof that coal plants often do not make economic sense.

The head of the Institute for Energy Economics and Financial Analysis, or IEEFA, a group that frequently supplies economic testimony against coal projects across the country, said the case is a bellwether, indicating that more municipalities buying power from Prairie State will make similar protests. "Batavia is the first sign," IEEFA Executive Director Sandy Buchanan said. "There probably will be more."

In 2012, IEEFA  predicted in a study that Prairie State would create "significant fiscal problems and stress" for many of the 234 municipalities and electric membership cooperatives, mostly in the Midwest, that have signed purchase agreements for Prairie State's power through utility agencies such as [American Municipal Power Inc.](#)

More recently, an IEEFA  study concluded that Batavia specifically will pay about \$118 million in "excess power costs" from 2014 to 2023 due to Prairie State. Batavia buys power from the plant through the [Northern Illinois Municipal Power Agency](#), or NIMPA.

According to the lawsuit, in 2007, when the Batavia City Council was looking at new electric supply options, Indiana Municipal Power Agency, or IMPA, President and CEO Raj Rao told a city committee that the cost of Prairie State's power would be \$46 per MWh, even though as early as 2005 the defendants had knowledge that this rate was not attainable, the plaintiffs alleged. By November 2013, the cost of power from the plant was \$179.92 per MWh, the lawsuit said.

NIMPA's cost of power from January 2012 to May 2014 was \$52.3 million higher than if the price had been \$46 per MWh, and \$19.8 million of these costs have been passed on to the city of Batavia, leading to higher rates for the nine residents named as plaintiffs in the lawsuit.

The plaintiffs also contend that their pocketbooks have been harmed because the city raised its sales tax from 7.5% to 8% to support a rate increase.

In addition to Rao, the lawsuit targeted other parties for allegedly glossing over the plant's problems. For example, it claimed that Sargent & Lundy LLC, a Chicago-based firm that worked as consultants for NIMPA, "negligently misrepresented the construction cost and operating performance" of Prairie State. The estimated cost of construction for Prairie State climbed from \$2.75 billion in 2004 to \$5.1 billion in 2013.

The lawsuit, filed in circuit court in Kane County, Ill., asked for a trial to assess actual and punitive damages against the defendants, including IMPA, Rao and Sargent & Lundy. The other defendants named in the lawsuit are Skelly and Loy Inc., an engineering and consulting firm, and IMPA Services Corp.

Other owners of Prairie State, such as [Peabody Energy Corp.](#), were named as respondents because they have information relevant to the case.

Representatives of Peabody, the Indiana Municipal Power Agency and Sargent & Lundy did not respond to requests for comment.

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