

INDIGENOUS PARTNERSHIPS IN NEW ENERGY PROJECTS

More governments are requiring that new energy projects must meet requirements for some level of indigenous equity ownership. The 25% minimum equity position imposed by the BC government on BC Hydro's call for the initial 3,000 GWh of additional private power supply is an obvious example.¹

Indigenous ownership is also mandated under Saskatchewan's Solar Generation Power Purchase Agreement between SaskPower and the supplier (SK PPA) which forms part of the SaskPower request for proposals dated February 15, 2024. The SK PPA mandates a minimum 10% First Nation equity ownership of a project for its entire supply period.²

Hydro Québec has lately launched several tender calls for electricity generated from renewable energy to meet the long-term electricity needs of its Québec customers. Part of the assessment criteria for the applications includes additional points for equity participation by Indigenous communities. The Quebec government decided that very large development projects for renewable power will remain under public (Hydro-Quebec) control.³

Manitoba is the latest province to require Indigenous equity participation in new energy projects. The Manitoba government recently announced that it will require a 51% indigenous ownership level in proposals for some 600 MW of new wind generated power. Premier Wab Kinew stated that; "Building more energy capacity starts with a new government-to-government partnership in wind, the best source of new clean energy. By building out the grid we'll keep rates low for everyone and put more Manitobans to work in good union jobs."⁴ The province (not a nation) plans to establish a loan scheme to allow Indigenous communities to fund their share of the cost.

¹The model "allows for First Nations to tap the Canada Infrastructure Bank to finance their participation with the bank able to lend up to 90 per cent of a Nation's equity interest in projects"

<https://vancouversun.com/news/local-news/b-c-hydro-opens-the-door-for-proposals-to-charge-up-provinces-grid>

² <https://www.osler.com/en/insights/updates/bc-hydro-s-request-for-proposals-reinforces-foundation-for-indigenous-participation-in-clean-energy/>

³

https://www.bcpolicyperspectives.com/media/attachments/view/doc/commentary_hydro_quebec_public_ownership_2_june_2024/pdf/commentary_hydro_quebec_public_ownership_2_june_2024.pdf

⁴ <https://www.theenergymix.com/manitoba-plans-600-mw-wind-procurement-with-majority-indigenous-ownership/>

New Approaches or Golden Fetters?

The new emphasis on equity partnerships appears to be designed to more closely bind Indigenous communities to economic development opportunities within their local areas. It offers a potential source of revenue to help raise the standard of living for these small and often isolated communities.

The capital cost of the indigenous share could be a major barrier to participation. However, the federal and provincial programs are in place to provide loans or loan guarantees to these communities to fund most of their equity share. The nature of the publicly funded energy expansion projects, with guaranteed payment streams, makes the loans reasonably low risk.

However, there is risk to the investment in that these small communities often do not have the trained personnel (capacity) to deal with developers, nor the financial capacity to avoid a large debt load.

In essence, the new energy calls with pre-set Indigenous participation levels, are an indirect form of subsidy to these communities. They replace the “community benefit” payment approach, which has been a component in achieving indigenous approval for economic development projects. Equity participation also may avoid direct confrontations with some Indigenous groups who oppose specific projects, such as pipelines.

A Wider Perspective

Indigenous equity ownership saw momentum in 2024, but still more work to do

Amanda Stephenson, The Canadian Press 25 September 2024

When electric utility BC Hydro launched a procurement process earlier this year seeking new sources of clean energy for the province's power grid, it included a specific requirement: projects must be at least 25 per cent owned by First Nations.

The procurement was BC Hydro's first competitive request in more than 15 years, and the utility ended up receiving proposals for three times more energy than it was targeting. It plans to announce the successful proponents by the end of the year.

BC Hydro's power program, and its decision to mandate First Nations equity ownership requirements, was just one of a series of milestones achieved this year on the road to improved economic participation by Canada's Indigenous people.

Other major achievements in 2024 included a positive final investment decision by the proponents of Cedar LNG, a US\$4 billion liquefied natural gas terminal being built off

the coast of B.C. The facility will be majority-owned by the Haisla Nation, making Cedar LNG the largest Indigenous-owned infrastructure project in Canada.

The year also saw the announcement of a \$1-billion agreement that would see TC Energy Corp. sell a minority stake in its Western Canadian natural gas transmission network to a consortium of Indigenous communities. Though the deal hit a snag due to what TC Energy called a "transaction structuring issue" and has not yet closed, it could be the largest-ever Indigenous equity agreement in Canadian history.

"It certainly has been a good year, and it has also given us as Indigenous people a lot of hope about the future, especially going into 2025," said Sharleen Gale, chair of the First Nations Major Projects Coalition and a former Chief of the Fort Nelson First Nation in B.C.

"I really hope that in 2025 we're going to see huge progress."

Indigenous communities across Canada are showing growing interest in acquiring equity positions in major projects and infrastructure to generate revenue and economic opportunity for their people.

The interest in equity ownership comes at a time when Canada has committed to reconciliation with Indigenous people, a commitment that includes the recognition of Indigenous people's right to economic self-determination. And corporations themselves are recognizing the benefits from such deals, as securing the support and consent of Indigenous communities is increasingly essential for the construction and operation of major projects.

"(Equity ownership) is very widely recognized as the next evolution in relationships between Indigenous communities and the operators that operate in their traditional territories," said Justin Bourque, president of Athabasca Indigenous Investments, a partnership of 23 northern Alberta Indigenous communities who came together in 2022 to purchase an 11.57 per cent stake in seven pipelines operated by Enbridge Inc.

"We still see a focus on respecting rights and providing access to procurement opportunities and jobs and employment and training, and that doesn't go away now that we're talking equity in addition. But Indigenous communities are looking to be part owners in the future as we continue to develop Canada," Bourque said.

According to law firm Fasken, which has been tracking announcements of Indigenous equity investments in energy and related infrastructure projects in Canada, the last two years have seen a dramatic uptick in the number of deals struck. The law firm has reviewed 135 energy and related infrastructure projects over the past 15 years that are partially or wholly owned by Indigenous people. Twenty-eight per cent of those Indigenous equity investments occurred in the last two years alone.

Historically, one of the biggest barriers preventing Indigenous partners from pursuing equity ownership has been a lack of access to capital, said Vancouver-based Amy Carruthers, regional leader of Fasken's global energy group. Canada's Indian Act

prohibits First Nations from using their land as collateral, meaning Indigenous communities struggle to access competitive interest rates through mainstream capital markets.

Government-backed loan guarantees, like the ones that have been offered in Alberta since 2020 through a provincial Crown corporation called the Alberta Indigenous Opportunities Corp., have helped increase the number of deals in recent years.

"Access to capital has really been the biggest nut to crack," Carruthers said, adding the new federal loan guarantee program announced earlier this year will likely lead to a bump in project announcements, but additional financing options will be required if First Nations are to take on ever-larger shares of project ownership.

"Alternative sources of financing need to become available through private means and otherwise to help supplement what the government programs are already putting in place," she said.

James Jenkins, executive director at the non-profit Indigenous Clean Energy, said the number of wind, solar and other forms of clean energy projects across Canada that have some level of Indigenous equity ownership has increased by about 30 per cent annually since 2020.

There are now about 600 medium- to large-scale renewable energy projects in Canada with Indigenous equity participation, and the number could grow significantly in the coming years as the clean energy transition ramps up. That's why it's important to keep recent momentum going, he said.

"There's a significant amount of work to be done if we want to see that same level of participation moving into this era of increased energy demand," Jenkins said.

"We need to do what we can to continue to increase the capacity and leadership development of Indigenous communities and businesses so that they are ready for this large wave of projects that's coming."

<https://www.biv.com/news/economy-law-politics/indigenous-equity-ownership-saw-momentum-in-2024-but-still-more-work-to-do-9569713>

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The writer is a retired senior BC government public servant whose paper describing the BC government's manipulation of the finances of BC Hydro from 2008 to 2014 was published by BC Studies in November 2016. BC Studies published his paper on the 40-year financial history of ICBC in 2013. He is an intervener in the BC Utilities Commission's reviews of ICBC's and BC Hydro's rate requests.

