

Now is the Time to Invest in Community Owned Energy

By Derek Simon

2011 will be a big year for community-owned energy projects in Nova Scotia. The Province of Nova Scotia recently announced a new Community Feed-in Tariff Program. Under this program, community organizations that set up small-scale, locally owned renewable electricity projects will be able to sell electricity to Nova Scotia Power at very attractive prices that will be guaranteed for a number of years. Mi'kmaq band councils are one of the organizations that can take advantage of this program.

This program offers Mi'kmaq communities the opportunity to enter a rapidly growing industry, and to earn relatively stable, predictable income for the next several years by selling electricity generated from renewable sources to Nova Scotia Power.

To be considered community-owned, a community organization has to hold a majority interest in the electrical generating facility. The project can be owned by a band council or band-owned corporation. The band council or corporation can also partner with other community organizations, to own a majority of the project. Other organizations, including for-profit corporations, could be brought in as minority partners.

Eligible sources of renewable electricity include wind energy, biomass, and small-scale tidal and hydroelectric projects.

Band-owned projects can be situated on reserve lands or on other lands owned or leased by a band or a band-owned corporation.

Setting up a corporation to own the generating facility may be preferable so that the First Nation can limit their liability for the project, and also offers the opportunity for a First Nation to partner with other organizations that have experience in the renewable energy industry.

Applications for the program will be accepted once the prices have been approved by the Nova Scotia Utility and Review Board. This hearing is currently set to take place on April 4, 2011. While consultations with the Mi'kmaq of Nova Scotia on the program are ongoing, communities will want to move quickly if they want to take advantage of this program.

Applications have to be approved by the Minister of Energy. Once approved, successful applicants will enter into a standard power purchase agreement with Nova Scotia Power.

This provides a tremendous opportunity for Mi'kmaq communities to enter into a growing business and earn revenue to support social and economic development. Nova Scotia has a goal of 40% renewable energy by 2020, and so there may be further opportunities for the Mi'kmaq to own and operate renewable energy projects.

Mi'kmaq communities in Nova Scotia should consider what resources are available to them to take advantage of this program, and begin preparing for the start of the program in April. If communities do not have adequate land, money or other resources, they may be able to partner with other organizations on the project.

Burchells LLP can assist with any legal aspects of these projects, and would be pleased to make referrals to appropriate professionals who can assist with other aspects of the program



BURCHELLS LLP

Aboriginal Law Group



Burchells Aboriginal Law Group

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In addition to litigating Aboriginal and Treaty rights, Burchells has successfully worked on behalf of First Nations, Tribal Councils and other Aboriginal Peoples' political and governance organisations in dealing with a whole range of issues that include:

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