

## 2015 Tribal Renewable Energy Webinar Series

### Questions and Answers

#### “Organizations Models in Tribal Energy Development” Webinar February 25, 2015

##### Speakers

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Attendees: 73

##### For Doug MacCourt:

Q: What are RECs?

A: Renewable Energy Certificates (RECs), also known as Green tags, Renewable Energy Credits, Renewable Electricity Certificates, or Tradable Renewable Certificates (TRCs), are tradable, non-tangible energy commodities in the United States that represent proof that 1 megawatt-hour (MWh) of electricity was generated from an eligible renewable energy resource (renewable electricity). Solar renewable energy certificates (**SRECs**) are RECs that are specifically generated by solar energy. These certificates can be sold and traded or bartered, and the owner of the REC can claim to have purchased renewable energy. According to the U.S. Department of Energy's Green Power Network, RECs represent the environmental attributes of the power produced from renewable energy projects and are sold separately from commodity electricity. While traditional carbon emissions trading programs use penalties and incentives to achieve established emissions targets, RECs simply incentivize carbon-neutral renewable energy by providing a production subsidy to electricity generated from renewable sources. It is important to understand that the energy associated with a REC is sold separately and is used by another party. The consumer of a REC receives only a certificate. Renewable Energy Credits can count towards a state's mandated percent of renewable energy requirements such in their energy portfolio. An example is the state of Colorado requires 20% of their energy comes from renewable sources. Often states set goals to have 30% renewables by 2020, for example.

Q: You mentioned the Section 17 Corporations have tribal attributes such as issuing tax exempt debt and waiving sovereign immunity. Could you elaborate with an example of how this benefits a tribal business model? Does the status allow the collection of tax rebates such as the 30% renewable tax rebate on residential solar, geothermal and wind?

A: Yes it does allow for Section 17 corporations to take advantage of tax rebates and credits.

Q: The four step process to set up a Section 17 Corporation usually takes how long?

A: One I completed in Arizona took, from start to finish, about a year, however it can be done in less time, possibly six months. Start with the BIA model, and work closely with them. For example BIA has model charters you can get from their website. Try to stick close to the model, and work closely with your BIA representatives.

Margie: It can take a very long time depending on your BIA resource.

Q: You mentioned there are more vehicles for tribal investment than non-tribal. Could you give an example of the most common tribal investment model(s)?

A: If by “investment” we mean financing by the tribe, it depends but the LLC is the most common.

Margie: Bond financing will determine what other financial structure are allowed.



New Market Tax Credits –introduce other complexities. Oil and gas development leases versus the tribal utility, versus a renewable project. All these different issues factor into the best organizational approach for the situation.

Doug: Many of the issues depend on the roots of the federal income tax laws.

Q: What are the most common types of entities for creating a joint venture between a tribe and a non-tribal business partner?

A: The most common are

- Corporation
- Limited Liability Company
- Partnership

The Section 17 Corporation can establish all of these entities.

Q: How long did it take for the Kerr Hydro project to set up a Section 17 Corporation?

A: Probably in less than one year. They had done a lot of set up work ahead of time. But remember the entire project took 25 years because it was a 181 megawatt project. The tribe has been very devoted to the project, especially since the original dam did a lot of damage to the tribal land and resources.

Q: Does Federal Court have jurisdiction for Section 17 Corporations?

A: Yes, but it depends on your jurisdiction agreement.

#### **For Margaret Schaff**

Q: Regarding the case study paper updated in 2009 that highlights the conversion of on-reservation electric utilities to tribal ownership, how long on average did the conversion process take?

A: Each utility has a very different story and each is still evolving. So the "conversions" are ongoing and no estimate is really valuable. For the initial steps, it's usually about 2 years.

Q: Are there networking opportunities with tribes in the conversion process to share lessons learned and to work through the new or current requirements?

A: Tribes generally keep this information confidential until they are ready to announce a settlement with existing utilities. However getting involved with DOE's technical assistance program can help tribes navigate the changing landscape. The DOE Office of Indian Energy and Tribal Energy Program offer up to 40 hours of in-depth [technical assistance](#) for federally recognized Indian Tribes, tribal energy resource development organizations, and other organized tribal groups and communities to advance tribal renewable energy and energy efficiency projects.

Q: How long does it typically take for a utility conversion to make money for the tribe, or at least be more cost effective than pre tribal ownership?

A: Utilities must be non-profit to purchase federal power. So most don't "make money" but create other savings. Savings depends on what their utility rates were before the conversion.

Q: Working with WAPA on tribal utility allocations seems to keep energy costs down. Some of the examples include tribal employment, sovereign energy control, and others. How often do the tribes seek to create their own utilities to increase renewable energy?

A: Renewable energy isn't usually the first goal of a tribal utility. Renewable energy companies can be formed by the tribe based on sound economics - without involving the tribe's other services.

Q: Of the WAPA Power Administration, how many tribal utilities exist within WAPA?

A: I believe the report cites about 6.



- Q Could you provide a link to the case study paper, "Tribal Authority Process Case Studies: The Conversion of On-Reservation Electric Utilities to Tribal Ownership and Operation" January 1996 (Updated and Revised 2009)?
- A: [http://apps1.eere.energy.gov/tribalenergy/pdfs/tribal\\_authority.pdf](http://apps1.eere.energy.gov/tribalenergy/pdfs/tribal_authority.pdf)
- Q: If you have already established a state chartered LLC, can you transition it to a Section 17 at a later time?
- A: No, you have to start as a Section 17. You can start over and it is worth the effort due to the many benefits of a Section 17 versus a state corporation.
- Q: Once a Section 17 Corporation charter is submitted to DOI, is there a 45 day or time limit for approval or denial from DOI?
- A: Yes, there is. The BIA model is good, and flexible, especially if you keep it within the purpose of what Section 17 was set up for.

### Links to Helpful Resources

There are many resources available to help Tribes decide which renewable resource is best for them. These include:

- The DOE Office of Indian Energy and Tribal Energy Program offer up to 40 hours of in-depth [technical assistance](#) for federally recognized Indian Tribes, tribal energy resource development organizations, and other organized tribal groups and communities to advance tribal renewable energy and energy efficiency projects.
- The DOE Office of Indian Energy Strategic Technical Assistance Response Team (START) Program is to assist in the development of tribal renewable energy projects. Applications are due in May annually. To apply find an application here: <http://www.energy.gov/indianenergy/resources/start-program>
- The DOE Office of Indian Energy offers [education and training](#) on project development and financing and renewable energy fundamentals and an [Energy Resource Library](#).
- Tribal-specific renewable energy curriculum developed by the DOE Office of Indian Energy can be accessed any time on the [National Training Education Resource website](#).
- Basic information on the [types of renewable energy](#), as well as [tools and resources](#) for assessing renewable energy potential, are available on the NREL website.
- [Energy 101](#) videos developed by the DOE Office of Energy Efficiency and Renewable Energy provide short, basic overviews of the various types of renewable energy.
- The DOE offers information on renewable energy or energy efficiency from their Help Desk: [http://apps1.eere.energy.gov/tribalenergy/request\\_information.cfm](http://apps1.eere.energy.gov/tribalenergy/request_information.cfm)
- The DOE offers [approved ESPC contractors](#). Please see this link.
- The DSIRE website records all rebates and resource information by state: <http://www.dsireusa.org/>
- The Tribal Energy Program tribal projects by technology: [http://apps1.eere.energy.gov/tribalenergy/projects\\_technology.cfm#Biomass](http://apps1.eere.energy.gov/tribalenergy/projects_technology.cfm#Biomass)

Answers are provided by the National Renewable Energy Laboratory and webinar guest speakers. If you have additional questions, email [indianenergy@hq.doe.gov](mailto:indianenergy@hq.doe.gov). The Tribal Renewable Energy Webinar Series is sponsored by the DOE Office of Indian Energy, Tribal Energy Program, and Western Area Power Administration.

