

Demystifying Diesel Reduction

A set of introductory guides in support of remote community clean energy

Do you want to bring renewable energy — such as wind, solar, or hydro — to your remote community? This series, *Demystifying Diesel Reduction*, is a set of introductory guides that will give you the info you need to help get clean energy working for you.

The other guides in this series are available at pembina.org/demystifying-diesel

Community ownership of renewable energy projects

Figuring out what ownership approach is best for your remote community

One important decision to make if you are building a renewable energy project is “what is the business entity that will manage this project and who is going to own it?”

This guide will give you a general understanding of some of the key concepts around project ownership, but these decisions should be made with extensive consultation from a trusted lawyer and tax advisor.

Why is understanding project ownership so important?

Large, community-scale energy projects are run like a business. These businesses handle all aspects of the project, from finances, design, and construction all the way to long-term operations and profits.

Sometimes these businesses are owned and managed by an individual Indigenous government or development corporation. In other cases a partnership is formed with a developer, utility, or other Indigenous group.

It is important to carefully consider how much time, capacity, and financial resources you and your community have to put towards a new business venture. Communities can choose from a variety of business structures depending on their level of experience, capacity, and access to capital.



What is a business entity?

The **business entity** is the legal name for the organization that owns and operates the project. Setting up a new business entity is generally the first step of establishing the legal and financial structure of your renewable energy project.

There are several ways you can create a business entity, but the way the business is set up will have an impact on the management of your project, and how **liabilities** and **risks** are distributed.



DEFINITIONS

Liability:

Being legally and financially responsible for something.

Risk:

Unforeseen circumstances that create additional cost and complication.

There are three basic forms of business entities:



Sole proprietorship

(one person)



Partnership

(2+ persons or corporations)



Corporation

(separate entity distinct from shareholder owners)

These business structures have implications for your liability.

Corporations can be founded for the exclusive purpose of managing the project's finances, construction, and operation. The corporation has "**unlimited liability.**"

Unlimited liability:

The organization is responsible for all debts and obligations.

Limited liability:

The organization is responsible for only a specific financial amount, commonly the value of the initial investment.






A common partnership arrangement is a **limited partnership**. A limited partnership has one *general partner*, generally a new corporation established for the purposes of this project, with unlimited liability. It also has one or more *limited partners*, which are often existing Indigenous development corporations or industry partners, who have "**limited liability.**"

Choosing your business entity

There are pros and cons with each business entity. The approach you select will depend on your community's goals, risk tolerance, financial capacity, and tax situation.

Some things to consider:

- What are your long-term plans for the business?
- How much risk and liability are you willing to be personally responsible for?
- Where is the equity (or upfront money) for your project going to come from?
- What are your tax priorities?

 Advantages	Structure	 Disadvantages
Low startup costs Direct control & profits	 SOLE PROPRIETORSHIP	Unlimited liability Harder to raise money
Flexible liability, control, and distribution of profits based on partnership terms	 PARTNERSHIP	Divided authority More difficult to transfer ownership
Limited liability Transferable ownership Separate legal entity Easier to raise money	 CORPORATION	Strictly regulated Significant reporting requirements High startup costs Shareholder and executive conflicts possible

For example, in limited partnerships where one of the partners is an Indigenous government or development corporation, the business entity is generally exempt from paying tax on its taxable income as stated in the Income Tax Act. On the other hand, corporations can directly claim federal Investment Tax Credits, which limited partnerships cannot do.

When setting up a joint corporation or partnership, the ownership of the corporation or limited partnership depends on how much equity you contribute to the project. This is described below.

Once the business entity is set up, it will be used to acquire the assets (e.g., the solar panels), business licences, permits, and authorizations (environmental approvals) needed to build the project. This business entity would also be taking out financing and receiving any grants for the project.

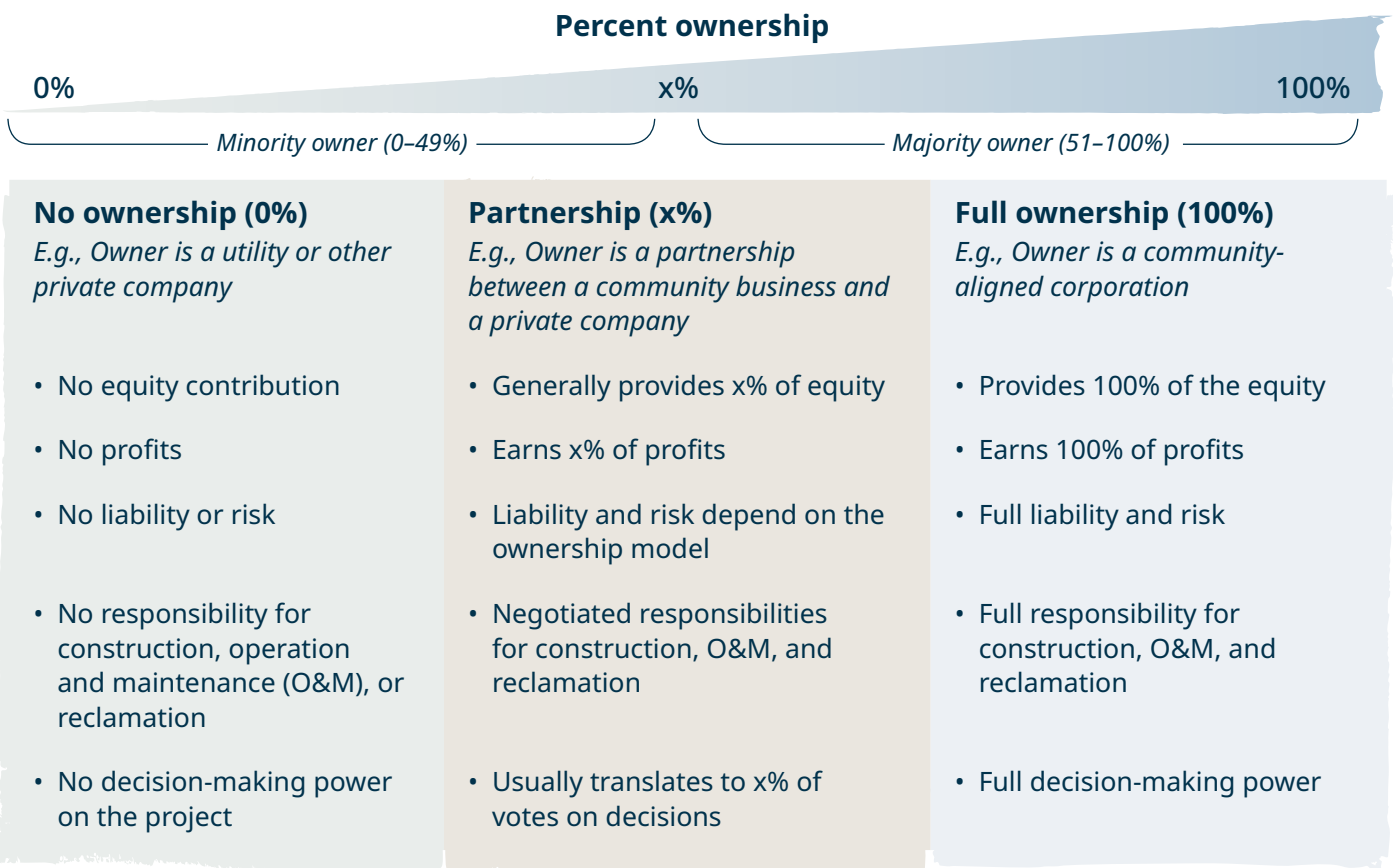
Understanding equity ownership

If you have “equity ownership” in a corporation or partnership, that means you have contributed real financial equity (the initial cash investment) to the project.

The percentage you contribute to the project determines your percent ownership of the business entity. This has implications for profit distributions and can affect how decisions about the project are made.

Equity can come from your existing funds, loans, or grants.

For example, if your development corporation contributes 51% of the equity to a new corporation formed to run a project, and an external partner contributes 49% of the equity, your development corporation will own 51% of the project and collect 51% of the profits.



Especially for larger projects, it is common for the percentage of equity for the Indigenous owner to start lower but increase over the life of the project. This is a result of the Indigenous owner buying into the project over time with their revenues. (E.g., you start at 25% equity, but you increase by 5% every year until you reach 50% by purchasing shares from your project partner.)

Common ownership scenarios

Full ownership of a corporation

This means a distinct business entity that is wholly owned by a community organization, such as an Indigenous government or development corporation. That corporation is fully responsible for the renewable energy project's construction and operation. The project is entirely paid for by the corporation through grants, financing, or its own resources. The corporation manages the project and is responsible for all the risk and liability of the project, but the owner (shareholder) has oversight over the operations of the corporation. The owner also receives 100% of the profits from the corporation.

Limited partnership

Limited partnerships are highly flexible and work at many different levels of ownership but require an agreed-upon distribution of responsibilities.

In some cases, limited partnerships allow more Indigenous groups to pool resources and become part of a bigger project.

In other cases, a limited partnership is used to protect an individual parent organization from the full liability of owning a project.

EXAMPLE: Eagle Hill Energy Limited Partnership (Haeckel Hill-Thay T'aw Wind Energy Project) is a wholly owned subsidiary of Chu Níikwän Limited Partnership, the business arm of the Kwanlin Dün First Nation Government.



*Haeckel Hill-Thay T'aw Wind Energy Project.
Photo: Pembina Institute/Archbould Photography*



Three Nations Energy Solar, Fort Chipewyan. Photo: David Dodge, Green Energy Futures

Is full ownership right for you?

Full ownership of a project means your community gets maximum control. Full community ownership of renewable energy can be a great step towards energy sovereignty for your nation or Indigenous organization.

However, it also means that you need to come up with all the necessary start-up capital and shoulder all of the liability and risk for the project. If the project is fully community owned and something goes wrong, your community is the only one responsible.

The most common reasons a community project would not be fully community owned are:

- Insufficient funding to cover the entire cost of the project.
- Inaccessible financing to cover project costs.
- Lack of community interest, experience, or capacity to manage the project.
- Desire to minimize community liability or risk.

Is shared ownership right for you?

There are many reasons to seek a partner to share project ownership:

- To distribute risk (e.g., in securing funding and financing or in making sure the project's long-term operations are successful)
- To increase a project's access to equity (this can be through direct capital, greater access to loans, or new funding opportunities)
- To share expertise (e.g., a renewable energy developer partner can share their significant experience and expertise in the project development process)

Who might you partner with?

Potential partners include:


- Indigenous development corporations
- Other Indigenous nations / governments
- Renewable energy developers
- Electric utilities

If a partnership is chosen as the project's business entity, it is important to manage the risks. This can be done by ensuring the potential partner has sufficient project experience (preferably with Indigenous communities) and ensuring the partnership is set up to facilitate knowledge and experience transfer to grow capacity.

As your community builds more capacity and expertise, in the future it may (by purchasing more equity or setting up a new project) choose a higher ownership percentage or full ownership.



*Haekkel Hill-Thay T'aw Wind Energy Project.
Photo: Pembina Institute/Archbould Photography*



The Pembina Institute is a Canadian think tank that researches the clean energy transition across Canada, including how to advance Indigenous energy sovereignty and diesel reduction for remote communities.

We work with Indigenous clean energy leaders, policy makers, and utilities to collaboratively address barriers to diesel reduction and advocate for funding and policy reforms that support community-led clean energy projects.

Questions? Reach out to an expert – email us at info@pembina.org to get the conversation started.

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