



Background

In 2006 voters in Washington State passed Initiative 937, which requires, among other things, electric utilities serving more than 25,000 customers to obtain 3 percent of their electricity from renewable sources by 2012, growing to 15 percent by 2020.

Four electric utilities in Washington and Oregon jointly developed the Harvest Wind Project in south-central Washington, a facility with 43 wind turbines with a total nameplate capacity of 98.9 megawatts, enough to power more than 23,000 homes.

Davis Wright had represented two of the clients, Cowlitz PUD and Lakeview Light & Power, in connection with the 205 megawatt White Creek wind project in 2006-2008. Based on that work, Cowlitz and Lakeview retained us early on as project counsel for Harvest Wind. The other two clients, the Eugene Water & Electric Board and Peninsula Light Co., came into the deal in 2008 during the early development process.

Davis Wright Tremaine represented the Harvest Wind Project in all aspects of the project's development.

Clients

- Public Utility District No. 1 of Cowlitz County, Washington (based in Longview, Washington)
- Eugene Water & Electric Board (based in Eugene, Oregon)
- Lakeview Green Energy, Inc. (a wholly owned subsidiary of Lakeview Light & Power, an electric cooperative based in Lakewood, Washington)
- Peninsula Light Co. (an electric cooperative based in Gig Harbor, Washington)

Defining Success Together

Our energy team not only created a successful plan for a complex ownership structure, but saw the opportunity to obtain funding through the American Recovery and Reinvestment Act ("ARRA").

About Us

Our energy attorneys advise independent power producers, investor-owned utilities, municipal utilities and electric cooperatives in the development and project financing of energy infrastructure projects throughout the United States. Let us contribute to the success of your next project.

Unique Project Structure

The Harvest Wind Project is owned by the two municipal utilities (EWEB and Cowlitz) and two private parties (Lakeview and PenLight). The four owners wanted to realize the fiscal benefits provided to wind projects under federal law, but faced constraints under state law that limit business combinations by municipal entities and private parties, as well as a myriad of federal tax law issues. Davis Wright Tremaine's cross-functional team was able to develop a structure that satisfied the state law requirements, and qualified the project to receive a grant in lieu of tax credit from the United States Department of the Treasury under Section 1603 of ARRA.

Section 1603 Grant

The \$60,755,706 grant, issued on April 7, 2010, will ultimately lead to lower power costs for each owner's ratepayers. By utilizing the Section 1603 grant instead of the production tax credit, the owners were able to achieve lower financing costs and to retain ownership of the project for its full useful life.

Our work on Harvest Wind also included:

- Wind leases, easements and other real estate matters
- Turbine supply and balance of plant construction contracts
- Power sales agreements
- Interconnection and transmission agreements with the local public utility district and the Bonneville Power Administration
- The operation and maintenance agreement and turbine service agreement

Results

The Harvest Wind Project began operating on Dec. 15, 2009, providing clean, renewable energy to commercial, industrial and residential consumers in Washington, Oregon and California.