

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

Request to Approve Project for a Sales and Use Tax Exclusion¹

**BHE Renewables, LLC and its Subsidiaries, Magma Power Company, Elmore North
Geothermal LLC and CalEnergy Operating Corporation
Application No. 23-SM008**

Tuesday, July 18, 2023

Prepared By: *Stefani Wilde, Program Analyst*

SUMMARY

Applicant – BHE Renewables, LLC and its Subsidiaries, Magma Power Company, Elmore North Geothermal LLC and CalEnergy Operating Corporation

Location – Calipatria, Imperial County

Industry – Geothermal Brine and Steam Production

Project – New Geothermal Brine and Steam Production Facility (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$239,233,728	\$19,999,940

Estimated Net Benefit ³	Dollar Value	Points Earned
Estimated Fiscal Benefits	\$26,042,499	1,302
Estimated Environmental Benefits	\$12,700,092	635
Additional Benefits	N/A	205
Total	\$38,742,591	2,142
Estimated Quantifiable Net Benefit	\$18,742,651	

Competitive Criteria Score – 225

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the STE Program’s statutes and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.36%.

³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

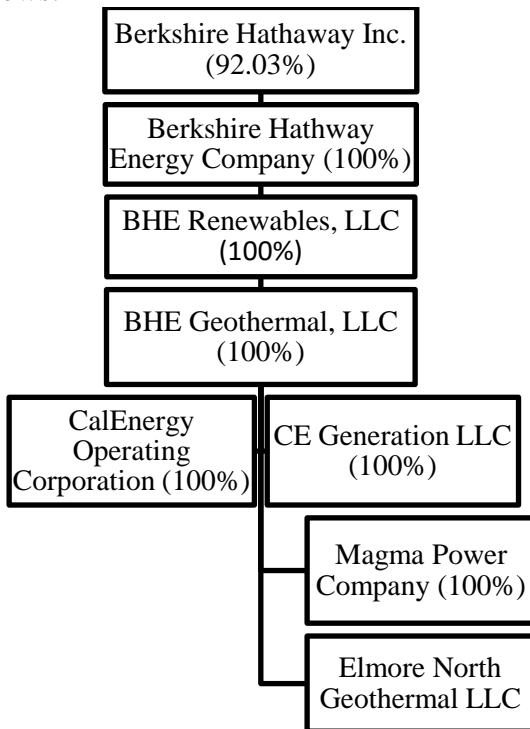
THE APPLICANT

BHE Renewables, LLC and its subsidiaries, Magma Power Company, Elmore North Geothermal LLC and CalEnergy Operating Corporation (collectively the “Applicant”) are all subsidiaries of Berkshire Hathaway Inc., a publicly traded company on the NYSE under the ticker symbol BRK.A. BHE Renewables, LLC is a Delaware limited liability company that formed in 2011, Magma Power Company is a Nevada corporation that formed in 1981, Elmore North Gerothermal, LLC is a Delaware limited liability company that formed in 2022, and CalEnergy Operating Corporation is a Delaware corporation that formed in 1987.

On June 21, 2022, the CAEATFA Board granted BHE Renewables, LLC, and its subsidiaries Magma Power Company and CE Generation, LLC a sales and use tax exclusion (“STE”) award for the purchase of up to \$188,422,290 in Qualified Property for an estimated STE value of \$16,015,895 to build a new geothermal steam production facility located in Calipatria. As of February 2023, the Applicant has not used any of this STE award.

On June 21, 2022, the CAEATFA Board granted BHE Renewables, LLC and its subsidiaries Magma Power Company, BHER Minerals, LLC, and CE Generation, LLC an STE award for the purchase of up to \$21,434,530 in Qualified Property for an estimated STE value of \$1,821,935 to build a new lithium recovery and processing facility located in Calipatria. As of February 2023, the Applicant has reported \$838,623 in Qualified Property purchases (4% of the total Qualified Property amount approved).

The ownership structure of the Applicant is as follows:



The corporate officers of the Applicant are:

- Alicia Knapp, President, CEO & Manager
- Gregory Cardenas, Senior Vice President & CFO
- Todd A. Anliker, VP & Treasurer
- Jake S. Anonson, VP
- Alan Brown, VP
- Robert B. Berntsen, SVP, General Counsel, Assistant Secretary & Manager
- Jennifer L. Cavanagh, VP
- Jeffery B. Erb, Secretary
- Robert D. Garman, VP, Assistant General Counsel
- Jonathan D. Hale, VP of Taxation
- Matthew A. Mitchell, VP
- Eric J. Smith, VP
- Bryan Whitcomb, VP of Geothermal & Solar Ops
- Eric Bowen, VP of Wind & Gas Ops
- James C. Galt, VP & Assistant Treasurer
- James W Dougherty, Senior Vice President, Operations

Steven C. Rowley, VP Energy Marketing &
Trading

THE PROJECT

The Applicant is requesting an STE award to construct a new geothermal brine and steam production facility located in Calipatria (the “Project”). The Applicant plans to construct a steam Resource Production Facility (“RPF”), which will use production and injection wells to produce geothermal brine from the Salton Sea Known Geothermal Resource Area (“SSKGRA”) to support the Elmore North Geothermal Project (“Elmore North”). The RPF will use a flash steam design to produce both geothermal brine and steam. Once extracted, the steam will be used as an alternative source fuel to generate electricity at a Power Generator Facility (“PGF”). The PGF will use a three-pressure geothermal steam turbine and generator to produce power. The geothermal brine will be transported from the RPF via cross-country pipelines to injection wells to recharge the geothermal reservoir in the Salton Sea. According to the Applicant, BHE Renewables, LLC, holds the appropriate minerals rights and surface rights for the RPF and PGF as well as access rights for the Elmore North RPF’s planned wells and pipelines.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture geothermal steam; the Qualified Property also includes a portion of the power generation equipment used to power the facility. The Project’s equipment will consume approximately 10 percent of the total amount of available energy generated from the geothermal steam; therefore, 10 percent of the power generation equipment is eligible for a sales and use tax exclusion. However, 90 percent of the power generation equipment cost is not included in this Application, as it represents the proportion of available energy in the form of electricity.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Turbine Generator	\$2,376,000
Vessels and Tanks	\$43,488,710
Pumps	\$7,427,935
Electrical & Instrument	\$28,223,169
Cooling Tower, Condenser, NCG	\$1,005,544
Valves	\$8,838,599
Cross-country piping	\$79,541,736
Geothermal well equipment	\$68,332,035
Total	<u>\$239,233,728</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff’s report are estimated costs. At the termination of the Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the

closing due to increased costs of certain components of the Project over original estimates, and other reasons. In addition, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

According to the Applicant, the site for the Project is currently undergoing biological and archeological field studies. The Applicant states that power purchase agreement meetings are currently taking place. The Applicant has submitted an interconnection request to the Imperial Irrigation District and a transmission service request was submitted in January 2022. The Applicant states that Qualified Property purchases, specifically equipment with long-lead times, will begin in July of 2023 and continue through July 2025. The Applicant plans to commence construction in 2024, with a target date of June 1, 2026, for the facility to come on-line.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

According to the Applicant, the Project will require multiple certifications and permits, including an Application for Certification from the California Energy Commission, a permit from the Imperial County Air Pollution Control District, an conditional use permit from Imperial County, and a Water Quality Control Board Waste Discharge Permit. The Applicant expects to have all permits by the Q2 of 2024.

COMPETITIVE CRITERIA SCORE

The Applicant received 225 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points)**. The Application has a Project that produces an Alternative Source product, component, or system, and, therefore, 100 points are awarded.
2. **Unemployment (50 of 50 points)**. The Applicant's Project is located in Imperial County, which has an average annual unemployment rate of 14.3%.⁴ When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant 50 points.
3. **Job Creation (0 of 75 points)**. The Applicant anticipates the Project will support a total of 25 production-related jobs at its facility. CAEATFA estimates that approximately 3.67 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.

⁴ Unemployment rates are based on data available in October 2022.

4. **California Headquarters (0 of 15 points)**. The Applicant does not have a California Corporate Headquarters, and, therefore, zero points are awarded.
5. **Natural Disaster Relief (0 of 50 points)**. The Project is not to rebuild or relocate the Applicant’s facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points)**. The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.
7. **Emerging Strategic Industry (75 of 75 points)**. The Project’s industry, geothermal steam, is in an Emerging Strategic Industry, and, therefore, 75 points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 2,142 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 635 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (1,302 points)**. The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s sales and use taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$26,042,499, resulting in a Fiscal Benefits score of 1,302.
- B. **Environmental Benefits (635 points)**. The Project is anticipated to result in \$12,700,092 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 635 points. These benefits derive from the capture and production of geothermal brine and steam.
- C. **Additional Benefits (205 points)**. Applicants may earn additional points for their Total Score. The Applicant received 205 additional points.
 1. **Production Jobs (0 of 75 points)**. The Applicant anticipates the Project will support a total of 25 production-related jobs at its facility. CAEATFA estimates that approximately 3.67 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.

2. **Construction Jobs (40 of 75 points)**. The Applicant anticipates the Project will support a total of 504 construction jobs at its facility. CAEATFA estimates that approximately 73.99 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 40 points.
3. **Unemployment (50 of 50 points)**. The Applicant's Project is located in Imperial County, which has an average annual unemployment rate of 14.3%. When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant 50 points.
4. **Workforce Partnerships (25 of 25 points)**. The Applicant has a partnership with Imperial Valley College for the purpose of assisting in the training of potential future workers.
5. **Industry Cluster (25 of 25 points)**. The industry associated with this Application has been identified by State of California as a Lithium Valley industry cluster of the region of the Project's location.
6. **Benefits and Fringe Benefits (25 of 25 points)**. The Applicant states it provides medical, health, dental, and vision benefits, bonuses, retirement contributions, education reimbursement, employee discounts, and paid leave to its employees, earning the Applicant 25 points.
7. **Emerging Strategic Industry (40 of 40 points)**. The Project's industry, geothermal steam, is in an Emerging Strategic Industry, earning the Applicant 40 points.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant's responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

CAEATFA FEES

In accordance with STE Program regulations,⁵ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$350,000.

⁵ California Code of Regulations Title 4, Division 13, Section 10036

RECOMMENDATION

Staff recommends the approval of Resolution No. 23-SM008-01 for BHE Renewables, LLC and its subsidiaries, Magma Power Company, Elmore North Geothermal, LLC and CalEnergy Operating Corporation 's purchase of qualifying tangible personal property in an amount not to exceed \$239,233,728 anticipated to result in an approximate STE value of \$19,999,940.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH BHE RENEWABLES, LLC AND ITS
SUBSIDIARIES, MAGMA POWER COMPANY, ELMORE NORTH GEOTHERMAL
LLC AND CAENERGY OPERATING CORPORATION**

July 18, 2023

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **BHE Renewables, LLC and its subsidiaries, Magma Power Company, Elmore North Geothermal, LLC and CalEnergy Operating Corporation** (the “Applicant”) for financial assistance under the Sales and Use Tax Exclusion Program, as established in Public Resources Code Section 26011.8; and

WHEREAS, the Applicant qualifies as a Participating Party under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8; and

WHEREAS, the Applicant’s qualifying tangible personal property meets the requirements of a Project under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8 (the “Project”); and

WHEREAS, after the Authority approves an Application, the Authority enters into a Regulatory Agreement, as described in Authority Regulations Section 10035(a), with the Applicant for the Project; and

WHEREAS, the Applicant has stated the Project has an estimated cost not to exceed \$239,233,728 over a period of three (3) years; and

WHEREAS, the Applicant asserts that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Project pursuant to Revenue and Taxation Code Section 6010.8; and

WHEREAS, the approval of the terms of the Regulatory Agreement and authority for the Executive Director or Chair of the Authority to execute the necessary documents to effectuate the Regulatory Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Regulatory Agreement includes a Project within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The Regulatory Agreement constitutes financial assistance within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a participating party within the meaning of Public Resources Code Section 26003(a)(7).

Agenda Item – 4.A.17
Resolution No. 23-SM008-01

Section 4. The Executive Director or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Authorized Signatories deem appropriate, provided that the amount of the qualifying tangible personal property to be purchased for the Project may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Regulatory Agreement between the Applicant and the Authority, as filed with the Authority prior to this public meeting, is hereby approved. For, on behalf and in the name of the Authority, the Authorized Signatories are hereby authorized and directed to execute, acknowledge, and deliver to the Applicant the Regulatory Agreement in substantially the form filed with or approved by the Authority.

The Regulatory Agreement may contain insertions, deletions or changes as the Authorized Signatories executing the Regulatory Agreement may require or approve, including particular information inserted in substantial conformance with the staff summary and in the Application to the Authority. The approval of the Regulatory Agreement will be conclusively evidenced by the execution and delivery of the final Regulatory Agreement.

The Authority understands and agrees that, pursuant to the terms of the Regulatory Agreement, the obligations of the Applicant, under some circumstances, may be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including, without limitation, the execution and delivery of any and all documents and certificates they may deem necessary or advisable to consummate the Regulatory Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall ensure that all of the qualifying tangible personal property acquired as part of the Project that is listed in the semi-annual reports provided to the Authority pursuant to the Regulatory Agreement will be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Regulatory Agreement shall only apply to qualifying tangible personal property acquired as part of the Project that the Applicant certifies will be installed, maintained and operated at facilities physically located within the State of California.

Section 9. Neither the adoption by the Authority of this Resolution for the Applicant nor the Regulatory Agreement may be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project and may not be referred to in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty (30) days if necessary.