

**MINUTES**

**California Alternative Energy and Advanced  
Transportation Financing Authority  
915 Capitol Mall, Room 587  
Sacramento, California  
August 25, 2010**

**1. CALL TO ORDER & ROLL CALL**

Bettina Redway, Chairperson, called the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA or Authority) meeting to order at 11:10 a.m.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer  
Cindy Aronberg for John Chiang, State Controller  
Cynthia Bryant for Ana J. Matosantos, Department of Finance  
Paul Clanon for Michael R. Peevey, Director,  
Public Utilities Commission  
Panama Bartholomy for Karen Douglas, Chair,  
California Energy Commission

Staff Present: Christine Solich, Executive Director  
Sherri Kay Wahl, Deputy Executive Director

Quorum: The Chairperson declared a quorum.

**2. MINUTES**

Ms. Redway asked if there were any questions or comments concerning the July 28, 2010 meeting minutes. There were none.

Ms. Redway asked if there was a motion.

Mr. Clanon moved approval of the minutes; upon a second, the minutes were approved.

**3. EXECUTIVE DIRECTOR'S REPORT**

Ms. Wahl reported that back in April, staff brought to the Board several initial resolutions for Qualified Energy Conservation Bonds (QECCBs) and upon Board approval, staff applied to the California Debt Limit Allocation Committee (CDLAC) for QECCB allocation. At the May 26, 2010 CDLAC Meeting, only the application for Oxnard Union High School District (Oxnard Unified) received QECCB allocation. The other applicants were placed on a waiting list in case additional QECCB allocation was made available. Oxnard Unified initially received \$5,975,242 of the original requested amount of \$25,148,710. On August 12, 2010, QECCB allocation was returned to CDLAC and four projects remaining on the waiting list were

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granted allocation, along with Oxnard Unified receiving the remaining amount of its request. Oxnard Unified and Lodi Unified School District (Lodi Unified) are both using a financing structure that does not allow for CAEATFA to enter into a lease agreement; therefore, they will not be issuing bonds through CAEATFA. In July, the Board approved Oxnard Unified's transfer of allocation. Staff will bring a similar request for Lodi Unified to the September meeting. The other two projects, Fallbrook Public Utility District and Rancho California Water District, are anticipating that they will be issuing through CAEATFA. Staff is in the process of talking with them about documents and due diligence and anticipates bringing them to the Board either at the September 22, 2010 or October 27, 2010 Board meeting for a final resolution to issue bonds. The QCEBs for these two projects must be issued by November 10, 2010.

Ms. Solich started her report by updating the Board regarding SB 77. There has been no movement on the Federal legislation since the July 28, 2010 Board meeting; staff continues to follow the progress on that. Staff has been working with the California Energy Commission (CEC) to continue to expand energy efficiency financing programs in California. Staff is hoping to find a use for the funds if for some reason they are not used for Property Assessed Clean Energy Program (PACE) financing.

Ms. Solich further reported that staff is adjusting the proposed timeline for SB 71. The draft regulations were posted on the CAEATFA website on July 26, 2010, and the third public workshop was held on August 2, 2010. Staff received comments and has updated the frequently asked questions (FAQs) on the CAEATFA website. One question that has arisen repeatedly is whether or not equipment purchased for use in alternative energy generation facilities qualifies under SB 71. In interpreting the statute and in consultation with CAEATFA's legal counsel, staff has determined that this type of purchase is not eligible for the sales tax exclusion under SB 71. However, later in this meeting, the Board will have a policy discussion regarding renewable energy generators. Revised SB 71 regulations will be posted in a couple of days and staff will post an interactive worksheet that individual companies and projects can use to understand the type of information that staff will be needing for the evaluation process. The fourth workshop is scheduled for September 1, 2010, here in the Treasurer's Office. Staff is hoping to have emergency regulations to the Board for approval at the September 14, 2010 Board meeting, which was scheduled for the purpose of considering the regulations. The Authority is hoping to receive applications in early October 2010 and issue the initial sales tax exclusions at the November 2010 meeting.

Mr. Clanon questioned with regard to the SB 71 workshop process if the Board was concluding that SB 71 does not apply to the renewable generators, where it leaves those projects now.

Bob Hedrick, State Treasurer's Office Legal Counsel, stated that the regulation process has been driven in part by the participants representing renewable generation interests. To the extent that comments are exclusive to generation, he presumed those issues will roll over into the discussion of the policy under the pre-existing statute. In large part, whatever the policy ultimately looks like, part of the thought was that it will trail behind the SB 71 process so that those regulations could be crystallized. Then, the generator policy can piggy back on those

regulations to avoid a duplicative process.

Ms. Redway stated that staff's original position is that generation is not included.

Ms. Redway asked if there were any further questions or comments from the Board or public. There were none.

**4. BUSINESS ITEMS**

Ms. Solich started by introducing the policy review of sales and use tax exclusion program for energy generation projects. There has been renewed interest on the part of the Board in considering granting sales tax exclusions to renewable energy generators and the Board set out some criteria in July 2010. The Board directed staff to work with the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) staff. Staff took the Board's direction and is now returning with a policy discussion. Staff is looking at developing a targeted policy being mindful of the State's financial condition in extending sales tax exclusions. Staff was looking to identify technologies that support the renewable energy goals of the State, including AB 32 goals, by providing quality baseload generation. Staff also wanted to focus on economic development in the State as staff heard loud and clear from the Board members that job creation, particularly in economically distressed areas in the State, would be preferable. So, staff's goal was to look at incentivizing renewable energy generators that further the State Renewable Portfolio Standard (RPS) and AB 32 goals. In addition, staff wanted to target economically distressed areas. Staff welcomed further discussion and is seeking direction from the Board.

**A. POLICY REVIEW OF SALES AND USE TAX EXCLUSION PROGRAM FOR ENERGY GENERATION PROJECTS**

Presented by: Heather Williams and Alejandro Ruiz

At the July 28, 2010 CAEATFA Board meeting, the Board directed CAEATFA staff to draft a policy to grant sales and use tax exclusions (STEs) for renewable energy generators. The Board provided further direction to staff to work with the CEC and the CPUC in identifying technologies that quickly advance renewable energy goals of the State, provide quality baseload generation, and target economically distressed areas within the State. Two criteria were developed; one is the environmental criteria presented by Mr. Ruiz, and the other is the economic criteria presented by Ms. Williams.

Ms. Redway asked for the questions and comments from the Board members.

Mr. Clanon thanked staff, particularly Ms. Williams and Mr. Ruiz, who have done a lot of work to get the Board to this point and to Ms. Solich knowing how complex it is and how it is easy to get off and into the complexity. The Board is pursuing two goals: greenhouse gas reduction and a renewable portfolio standard as a statutory goal in addition to pursuing an overall goal as a Board to use the State's money wisely. When pursuing distinct goals, a person attempts to come up with two or three screening criteria which can very often lead you away from pursuing the original goals and then move onto

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new goals. Mr. Clanon thought that this is the bind that the Board put staff in during the Board's discussion and that is what's reflected in the current staff thinking. He wanted to be clear that what he is saying is not a criticism of staff; the Board put the staff on the spot. He recommended that the Board hear from the public and then the Board can take this as a starting point and keep working in this direction. Mr. Clanon further stated that he would like to get the PUC with the CEC staff to do two things: first, to get some clarity on the interplay between the SB 71 results, which were very encouraging. He was also really happy to see the staff analysis on this item, and the discussion of the use of the net benefits criteria on the SB 71 side. That is a productive piece to be looking at so the Board can be looking at the melded process, not ones that are completely different. He stated that it will take some discussions to meld those properly and members of the public will have things that they want to say about that. Mr. Clanon wants some clarity on SB 71 first and then to establish the correct level of discretion from the Board. He is fully aware that the Board is in tax world now and not in the "PUC world". In the "PUC world," they are very accustomed to doing what amounts to a request for a process with the set of criteria, and then ultimately discretionary act at the Board level. He is fully aware that is not the way things are done normally in "tax world". He is going to try to use the PUC thumb on the scale to lead the Board a little bit in that direction. He is also very happy to see in the staff analysis some understanding of the ability of the Board to waive the criterion around unemployment rates. This is an acknowledgement that there are times when the Board needs to exercise some discretion among competing technologies and among competing projects. He ultimately recommended to the Board that they discuss this further, spend some time working with the various staff, get some more public comment, and then try to come up with something clearer at the next meeting at which the Board can inform the public that it is a coherent melding of the SB 71 process with the existing legislation process if applicable. Finally, the Board can set criteria and a method for deciding the actual exemptions that are ultimately granted.

Ms. Redway asked if there were further comments from the Board.

Mr. Bartholomy also complimented staff. He was very impressed and stated that the report looks like one of the CEC's staff, with years of experience working in this field, put it together. There are a number of criteria to be looked at in addition to some of the criteria that the staff discussed, particularly under economic development. He is very interested in the rest of the conversation, including public and additional conversation with the Board.

Ms. Aronberg stated that she would like to hear the public's comments.

Ms. Redway summarized that the Board was not completely satisfied with the staff recommendation, and the Board needs to give some more thought on it and hear comments from the public. Ms. Redway wanted to clarify that the SB 71 process is running on a parallel track; there is a public workshop scheduled for September 1, 2010. The Board can take comments, but should not get into a lot of back and forth discussion about SB 71 specifically, because it has not been presented to them and the regulatory hearing process is not complete. The agenda item was not specifically noticed as part of

that process. The Board is specifically looking for comment on this particular proposal for a limited/select generator policy.

Ms. Aronberg asked for a clarification on SB 71 versus pre-existing law, specifically where concerning generation.

Ms. Redway responded that because of the SB 71 regulatory public hearing process still going on, CAEATFA staff has determined, under the statute, that power generation does not qualify and people are clearly aware of it. Under SB 71, they would not be able to apply for sales tax exclusion. However, when the Legislature passed SB 71, they made it very clear that they left intact the existing sales tax exclusion authority, which was used to give Tesla a sales tax exclusion. This policy, as discussed, envisioned using either/or; but because of staff's opinion on SB 71, the Board is now looking at using pre-SB 71 authority to support a limited sales tax exclusion, which is the current thinking.

Mr. Clanon asked Ms. Redway if that legal question comes to this Board for an ultimate resolution, whether the interpretation of SB 71 is what the Board should ultimately decide.

Ms. Redway asked Mr. Hedrick if the Board has to approve the draft regulations before they are submitted to the Office of Administrative Law (OAL). Mr. Hedrick responded in the affirmative. The regulations will come to the Board with staff's recommendation and opinion of legal counsel.

Public comment commenced.

Mr. Joshua Bar-Lev, Vice President of BrightSource Energy Company was representing the Large-scale Solar Association (LSA), which represents about a dozen companies. He was commenting for all of them. LSA is on the verge of an incredible boom. LSA has around 6,000 Megawatts of companies that are trying to get fast tracked or are being fast tracked and on their way to getting permits. That represents almost 10% of the State's load, who are literally creating a green economy during the toughest economic times since the great depression. That would be a more than \$20 billion investment in the State. It is billions in new net tax revenues from income taxes, sales taxes, property taxes and all kinds of new taxes. It is more than \$6 billion in construction worker earnings and tens of thousands of construction workers. This is all interpolated from the company's experience where they are hoping to get financed and hoping to start construction this coming Fall and hoping to be on time for the American Recovery and Reinvestment Act (ARRA) deadline. California's neighboring states have recognized this potential, and Nevada has passed legislation that excludes companies from sales taxes because they recognize these tremendous economic benefits that will more than pay for themselves—Arizona as well. This is a tremendous opportunity. When he saw the particular regulation that has been proposed, he asked himself why the entire category of companies that may need help would get excluded. LSA as a group are totally confused with the pre-SB 71 and post-SB 71 distinctions. After looking at the existing statute about a year ago, he thought that the company qualified. When he spoke

with CAEATFA staff, the message was staff was not sure that their company qualifies and should go back to the Legislature, which they did, and got very clear resolutions. Now, they are either covered under the old statute or the new statute. Looking at the new statute, the company believes it is very well within solar energy generation and the processes leading to the creation of renewable steam or renewable electricity from photovoltaic is clearly covered by this language. The company is thoroughly confused, as an industry, as to why there should even be a distinction between pre-SB 71 and post-SB 71; either way the company is covered. It is important to have criteria that apply to both pre-SB 71 and post-SB 71 and those criteria need to be based on the criteria that the staff was well on its way to implementing. The company saw the draft regulations which were not everything they wanted, but it was progressing. The company made comments and thought that there should have been more emphasis placed on construction workers instead of O and M and other things, but the company did not think that there was going to be a distinction between pre-SB 71 and post-SB 71. The company did not see any basis for the distinction. Coming to this meeting, he found out that the regulation that applies to pre-SB 71 is a little surprising. He also said that there has been notice of this regulation and that the company thinks that it is arbitrary and capricious. This proposal came on, but has not been vetted, has not been discussed and has not been noticed; where as the post-SB 71 has regulations attached to it in which the company has been commenting on those. After looking at the pre-SB 71 criteria and statute, the net economic benefits and net environmental benefits do not show any reference to those in the new regulation. He asked where the capacity factor came from. The CPUC and the CEC developed energy policies to implement AB 32; they are in the process of doing that. He also asked why technologies with a base load of 80% capacity factor should be awarded sales taxes, but everyone else below 80% is excluded. As Mr. Clanon knows, when solar energy bids, it gets a premium depending on where in the State the company is located—like PG&E in Southern California because it is so valuable for generating during peak hours when the air is the dirtiest and where the company has the oldest plant. Again, he asked, where did the proposed regulation come from that says baseload is especially good, but everybody else is not good?

Ms. Redway acknowledged that in Mr. Bar-Lev's comments he concurred with Mr. Clanon's comments and the Energy Commission's support of the policy needing to go out and have some further work and refinement and that the criteria staff proposed trying to reflect the Board's discussion of the last month's Board meeting needs more work.

Mr. Bar-Lev responded affirmatively, but his recommendation is for the Board to go back to the drawing board and come up with regulations that actually apply to both pre-SB 71 and post-SB 71. As Mr. Clanon was saying, merge pre-SB 71 with post-SB 71 because Mr. Bar-Lev does not see the distinction. He also recommended to the Board to really think about what the statute is intended to accomplish. He perfectly understands the fact that the State of California is in a budget deficit, no one is ignorant about it and it has to be solved. The company understands that the Board cannot make all the money available to get everybody over this difficult economic time. He suggested at least creating criteria based on the biggest bang for the buck and almost measure it by the way of choosing which company really needs the sales tax exclusion because of their credit

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requirement and needing to meet certain thresholds should get it. Maybe what the Board needs to do is to divide it more evenly, but take account of the fact that some of these industries are being born here in California. 6,000 Megawatts—the company—has an industry that is being born that is trying to get this thing done in the most difficult economic time; and if what the company needs is a little help to get to that point, the State will ultimately be rewarded with new tax revenues and new earnings. Help companies get there; do not just exclude them. And develop criteria that are way more refined than what has been done today. The company will be happy to help staff develop a more refined regulation.

Mr. Chuck White, Waste Management Inc., stated he has given testimonies and some written comments in support of the renewable energy eligibility at a previous Board meeting and the CAEATFA workshops. He stated that it would be helpful, before the debate over the pre-SB 71 versus the post-71 is concluded, to create some kind of word diagram of the actual legislation, which he had Ms. Redway explain to him twice, that leads to the conclusion that the renewable equipment might not be included in the post-71. He stated that he has tried to articulate in writing his own interpretation of the language to the Board that he thinks the Board could interpret the SB 71 language broader. With respect to the policy document that was before the Board for discussion, he was pleased to see biomass and biogas supported by the capacity factor as the two criteria. The company was interested in generating energy from waste materials, and they do have a very high capacity factor. He suggested the Board look at the Governor's Bioenergy Action Plan that was put together by the Energy Commission which goes into considerable detail of the benefits of bioenergy and baseload need. The Board might want to include the Bioenergy Action Plan as a reference which extensively supports the staff recommendation on the policy document. The issue on the unemployment relief, SB 71, and the prior bill encourage the Board to address the criteria of 125% will help move forward all waste management projects that are potential, but only two small ones are within the area of 125 % level. If the Board were to take a look above the average or 100% average of the statewide, it would potentially add at least three of the significantly larger projects; these could be both landfill gas and anaerobic digestion projects that the company is looking at and possibly doing in the foreseeable future. He understood why the 125% is being done, but expressed his support on the flexibility language that the staff is suggesting that would allow the company to reach down below the 125% if the Board sees a particular meritorious project for the other goals of SB 71.

Mr. Reed Addis, on behalf of a coalition of the entities, is working with the author of SB 71, Bloom Energy, Simbol Mining, Mohr Davidow Ventures and CALSTART. There was a concern some weeks ago about the development of the programs before the Board today. Having seen the staff write-up and hearing the comments prior to his, the companies are in a more comfortable position. Specifically, that is because it sounds like there will be a firewall between the renewable energy generators and SB 71. It seems that this is the direction the Board is heading. As a reminder when he was working with the various parties on SB 71, they were trying to address the basic distinction because California was one of only three other states in the union that taxed the equipment that manufacturers used. The companies had a rather difficult negotiation in the Legislature

on how to actually craft that, what is the limit, and how much funding authority does the entity have. The companies were concerned earlier that the Board is potentially opening up SB 71 to other industries, that the Board was not going to be using the arguments or economics that the companies argued in SB 71, which is that the Board provide an upfront tax exemption. On the backside, the State is getting rewarded by the sales tax on the units that are being sold. Finally, the companies were concerned that there was not a notification to the Legislature when the CAEATFA program reaches a \$100 million. Given all that, the companies are somewhat concerned; but his understanding of the staff recommendation and the Board's comments sounds like it will have a very clear firewall between SB 71 and the renewable energy generator program. The semantics between pre-SB 71 and post-SB 71 are understood; but from a statutory perspective, the companies saw SB 71 as establishing a new program within the existing statute. It is a new program, has its own authorities, and as the Board said, the companies were not trying to tweak or mess with the other existing authorities. The public companies appreciate, and do not necessarily have an opinion about the debate between who should qualify or not qualify in the new program, but are happy that it sounds that the Board is moving away from impacting SB 71.

Mr. Keith Davidson with Engineering Consulting Firm, DE Solutions, Inc. and member of the California Clean DG Coalition that represents participants, stakeholders and the cogeneration industry or combined heat and power industry. Mr. Davidson stated that he represents Solar Turbines—a maker of industrial gas turbines. They are used extensively—not exclusively—for cogeneration, combined heat and power and generation of electricity from renewable gaseous fuels like biogas and landfill gas. They are headquartered in San Diego and have employed 35,000 people. In California, they sell products throughout the world and have approximately 150 gas turbines that are operating either in the cogeneration mode, combined heat and power mode, or serving biomass applications that are currently in operation. All told, that represents about 500 Megawatts of power in the State of California. Almost all of it has a very high capacity factor because of the nature of that technology. In cogeneration, some are renewable and are energy efficient; that reduces the use of fossil fuels and reduces greenhouse gas emissions. It is highlighted in some of the supporting documents to AB 32 and has been an important component for the State to realize its greenhouse gas emission targets. It was specifically mentioned in SB 71 as an alternate source technology along with renewable fuels. The company is definitely okay with the concept of using the pre-existing authority, but would really like to see cogeneration added to the eligible technologies. He stated that electricity generation projects from cogeneration and biomass should be eligible for the sales tax exclusion. Different people have different definitions of biogas or biomass and the company would like to see landfill gas specifically acknowledge as a biomass fuel. The company is also concerned that if there is a cap put on the total money available, it is vulnerable to all of it going to relatively few numbers of projects. The company would be interested in seeing some cap put on each project so that the benefit can be spread around. He was terrified looking at the unemployment chart of the staff report. In the “good section,” unemployment is not good and the company would like to see all parts of California considered; perhaps, going to Mr. Clanon's suggestion, that maybe some kind of weighing criteria should be



used of a “yes and no” criteria and maybe weigh the counties with higher unemployment rate a little bit higher than those that have lower, but still high unemployment rates.

Ms. Redway stated that the comments are helpful.

Ms. Audra Hartman for NextEra Energy, who own and operate many renewable energy facilities in California, including wind and solar. This company is actively developing wind facilities and a large solar thermal facility in the desert. The company has been very involved in the SB 71 process, submitting comments, gave testimony at the last CAEATFA workshop, and was urging CAEATFA to include renewable energy within the SB 71 program. If the Board is going forward with the pre-SB 71 process, the company would like renewable energy to be in this program as well; but have it more in the line of what the PUC and the Energy Commission were saying—develop other criteria which would allow you to look at all of the projects and determine which ones provide the most benefit to California. The company supports the PUC and CEC’s suggestion. Ms. Redway agreed and stated that they were well presented.

Mr. Saul Gomez with Ernst and Young concurred with the previous speakers. Mr. Gomez’s background is in economic development having worked for various cities and working alongside with the State of California on various projects. Part of his job is to analyze the cost of doing business in California—net profits, net gains, net losses with certain companies as they relate to comparison between California and some of the other states that were previously mentioned. The company was on a project with the Arizona Governor’s Office of Economic Development and they enacted certain legislation just to track that particular client which California ultimately won. His job is to diagram where California falls in a matrix compared to Arizona, Oregon, New Mexico, and recommend where the company should go; and he would work with the site selectors to find the right property. It does not have to do with biomass, solar or wind. From a tax perspective, they represent the entire spectrum. Part of what the company is looking for from an economic development, tax-end, and from a regulatory policy perspective, is diversity. The company thinks that by excluding wind and solar in this particular piece of policy, it is almost like not investing in Apple. It is like not investing in Google just because they are so big. He thinks that in the Board’s portfolio, it would own a little bit of Google and a little bit of Apple. With solar and wind being part of the biggest segment of the renewable energy space, it will be difficult to try to explain to other states why solar and wind were not included. He urged the Board members to follow part of the discussion, really sit down with the renewable energy generators, and look to see what is in the pipeline for the future where this program can make an impact—whether it is large, medium or smaller projects—and get that dialogue rolling so that the Board can solidify California’s space in the long term, not just the short term. \$100 million is a small pot of money; but looking over a 10-year, 15-year, or 20-year period, this is to the Board’s detriment to exclude such a large portion of the population. All his clients would benefit, whatever the Board’s decision is, but the company is looking on a grand scale. The Board really needs to consider wind and solar and add them back into the generator program.

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Mr. Craig Winchester, also from Ernst and Young, and has been working with Mr. Gomez for the last 15 years. Mr. Winchester added clarity associated with these types of projects by explaining that their company has one existing client that is contemplating building 1,000 Megawatts of solar within California. This particular client is a global client. It is outside of the United States—Global 100. At this point to date, they have not done much expansion or any type of development within California. They have done their expansion all outside of the United States. What the company is doing right now is an economic impact report which validates the numbers of what has been previously mentioned and they are doing it in buckets of \$1 billion investments. It is true that thousands of jobs will be created with thousands of suppliers providing economic benefits to the State. With that particular analysis, the company makes a calculated decision of where they are going to place their investment. Right now, 1,000 Megawatts is a really large investment; but in the grand scheme, this is relatively small. To date, this company had decided not to come to California. In this particular case, Nevada is not the competition; the competition is Canada. The competition is also in South America and this is where it is evolving, more of a global scheme. After this meeting, their client will be asking them, as part of the cost analysis, to take into consideration how CAEATFA fits into the big scheme of things; and it will be reported in a line item in one of their spreadsheets. The company will use that for its calculations and its determinations of where to go.

Mr. Brian Sager, co-founder of Nanosolar. Nanosolar is now building one of the world's largest solar cell manufacturing facilities in San Jose enabled by hundreds of patents. A lot of the technologies used are their product. It is the world's most inexpensive solar cell. The company would love to be building out the manufacturing facilities in California, employing and paying taxes in California. Like the other companies, his company would like the original intent of SB 71 be followed. He very much appreciated the CAEATFA Board following the original legislative intent to allow green manufacturers to actually build out manufacturing facilities with physical products, employing folks in California and to produce products that are being used for the renewable space which allow for environmental benefit. \$100 million may not seem to be a lot of money, but for a company like his, it is very large leverage. If hundreds of millions of dollars are spent on building out a manufacturing facility before taking in one cent of revenue, it is very difficult. Anything that will help the company to build out their facilities in a way which is more economic and competitive for the other forty-seven states that don't do that is extremely helpful. When SB 71 was passed, the company felt that it leveled the playing field with California versus many other states. The company very much appreciates what the Legislature has done and what CAEATFA is doing as well. In particular, the company encouraged the Board to stay the course with the original legislative intent to create a firewall between SB 71's \$100 million for manufacturing factories. If other companies are interested in doing project development, the company is not necessarily opposed to that, but would feel strongly about very high level of separation for several reasons. He's worried that all of that money would be used for project development and the original intent would certainly not be followed if no factory could compete. It could be a great economic stimulus package for China because a lot of Chinese solar panel manufacturers would then be supplying California

projects. To stimulate the California economy, it would be good, really good, to follow SB 71's original intent. The second point is the entire business case for SB 71 was on the promise that companies have growing concerns. And one of the reasons is because they sell a product for a price that is higher than its cost; and of the cost components, only one of those cost components is the manufacturing cost. Only a piece of that is related to the factory tools in that manufacturing process. By exempting sales tax on that small fraction of the cost, and then recouping that on the actual price of the product that is manufactured with those factory tools, there is very rapid return on investment that is much less than a year. This is a very sound win-win policy for the State, for the employees can now have jobs, for building out the manufacturing space, and growing the green economy. If focused on project development, per se, that creates a situation where that business case no longer exists. There is no longer return on your investment in the company's view. So rather than exempting large, multi-billion dollar project developers, he encouraged the Board to have a very clean separation of that from the emerging manufacturing companies that are producing physical products, creating jobs, and building out factories in California today and not conflicting because they are both in the renewable energy space. The scale of these companies and their lack of capacity to pay back in the timeframe that his company can pay back in, and will be paid back in, are pretty stark.

Mr. Steve Larsen, President of the CalEnergy and Mr. Steve Evans, Vice President of Taxation for CalEnergy and its parent company, were most appreciative of the direction the CAEATFA Board is moving toward—acknowledging the alternative energy side of the story. Mr. Evans stated that his company is very appreciative of the process. He thought that it is a good process and commended staff for responding to what the staff and company heard last time they were in the CAEATFA meeting and how things have moved forward. The company reminded the Board that the company's subsidiary, CE Obsidian Energy, has had pending for six years an application for the pre-SB 71 benefit. In that application, there is a large amount of detail; that perhaps the Board would consider all the data and any other things the company could do to support, as a test case, if criteria need to be explored and developed. The Board already has a lot of data from the company which staff could review and CEC and PUC could take a look at it as well. Mr. Evans hopes that the CAEATFA Board and the actions do move forward because it sounds like it is not a good course.

Mr. Larsen also encouraged the Board to continue the process so the company could move forward with the benefit at some point and build the company's project.

Ms. Redway stated that the comments were all very constructive and that the Board will definitely go back to the drawing board. Ms. Redway asked the Board members for some input about what they think would be a good process for the next steps.

Mr. Clanon stated that the public comments affirmed some things that he knew already and reinforced some things that he thought he knew before. He thinks that Ms. Redway was right, that the Board needs to build on what the staff has done now, take it back a notch, and then build from that. The Board may have to have an offline discussion about

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process, but he does not know himself all the laws that CAEATFA operates under in terms of process. He stated that after the vibrant display of public comment, this open process gives the Board plenty of access to the kind of comment that is really helpful. The Board needs to get going on SB 71, and on the pre-existing program as well; it is not something the Board would want to spend months doing. Things are always more complex the more you think about them. Mr. Clanon wants to move quickly and wants some process, but he is not sure how to do that with the Board.

Ms. Redway suggested that the Board could go two ways. One would be that at the next Board meeting, the PUC and the CEC could individually, or jointly, come back with more specific written criteria. The staff considers creating policy, and if a project falls within that policy they are in, or they are out. Another way to do it would be to develop 10 criteria; the companies are scored using these criteria, and maybe they have to get a certain score on five of them before they are even eligible, or they have to get the total score. The Board could come back with the criteria, how a project interfaces with the grid and specific locations, etc. The Board could talk about it publicly and then staff could work on the scoring. Or, an alternative is that Ms. Solich could meet with PUC staff and come back to the Board, but that did not work so well last time. This is because the Board members themselves cannot participate in that process due to the Bagley Keene Act. This is why the Board is having the prolonged discussion. Unlike the Legislature, the Board has to operate under the Bagley-Keene, where three Board members cannot have a discussion outside of a public hearing process; so it constrains the Board's ability to develop policy behind the scenes. The Board has to do it all in public.

Mr. Clanon stated that he is very happy to commit PUC resources where a PUC staff could work with Ms. Solich. Mr. Bartholomy and Mr. Clanon could certainly coordinate this. He also wondered whether between now and the next Board meeting they could solicit some more public participation.

Ms. Redway asked Ms. Solich when the public hearing is scheduled.

Ms. Solich responded that it is scheduled for August 31, 2010; but it was not noticed so the meeting will be moved.

Ms. Redway suggested that CAEATFA could try to have a public workshop, but it might push the Board back because they are busy with SB 71. Staff could try to hold a public workshop, but if not, the Board will come back to it at the next Board meeting.

Mr. Clanon suspected that he and Mr. Bartholomy would need to go back and work out the logistics and may be able to report to Ms. Redway and to Ms. Solich on when they could come up with some criteria for companies. If Mr. Clanon and Mr. Bartholomy could do that quickly, then maybe they could talk to staff internally about a way to somehow clear things up, and then get public comments; maybe it can be done as a written process.

## Agenda Item – 2.

Ms. Redway clarified that PUC and CEC Board members will talk if there is time, develop written criteria, and discuss if it is worth it to have a workshop. If not, the criteria will be discussed at the next Board meeting. Ms. Redway let the public know that the next Board meeting is scheduled for September 14<sup>th</sup>. It is the Board meeting where the Board is scheduled to adopt the SB 71 regulations. There is another Board meeting that is scheduled for September 22<sup>nd</sup>, which is there as a fallback, so things might get moved around depending on the SB 71 calendar. Ms. Redway asked Ms. Solich if she now has a clear sense of what has been discussed.

Ms. Solich responded that staff has a clear sense. Staff is going to work with the PUC and the CEC staff after the PUC and CEC work together; they will provide the CAEATFA staff with some criteria. Staff will try to solicit public comments once criteria have been established and then bring it back to the next Board meeting. Ms. Solich asked for the Board's verification and stated that she was not sure what the timing would be because staff only has three weeks until the next Board meeting.

Mr. Clanon agreed and expressed interest in whatever public comment they receive to get a meaningful understanding before the Board acts.

Ms. Redway asked whether the public comments should be submitted to Ms. Solich or Mr. Clanon and Mr. Bartholomy. She thought that it is helpful to be specific about the type of criteria because there was a lot of discussion about whether it is needed or not.

Mr. Clanon said that Ms. Redway's suggestions are very helpful. He amended what Ms. Redway stated regarding communication and asked that the public not communicate directly with him, but to Ms. Solich instead.

Ms. Redway agreed, and put emphasis on submitting the public comments to Ms. Solich and for the public to put them under the subject of generator policy.

Ms. Bryant stated that one of the things that the Board would have to talk about is how to put a band around the funding level in the CAEATFA program. The Treasurer brought that up in the last meeting very clearly and Ms. Bryant continues to look at that and be concerned about it. She did like it when the Board was talking about a broader number of categories and looking into some kind of scoring system—not losing sight that economic development is as important as their energy goals are. She also commended the staff for doing great work.

Ms. Redway seconded Ms. Bryant's comments that the Board needs to look at a project cap.

Ms. Aronberg stated that great ideas have been discussed. She further commented that it is the right thing to do to move away from the focus on a particular kind of alternative energy type of project and look at some other ways to evaluate projects. She is glad that the Board is now going in the direction that they are going. She also thought that it is important that staff is getting the SB 71 manufacturing program under way so that they

do not contribute to China, and moving as quickly as possible for those companies. She did not think that they will use nearly as much STE as the energy producers. She also thanked the public for all the helpful comments.

Ms. Redway stated that for those companies that are following the SB 71 process, staff is hoping to post regulations later that week. She encouraged them to look at the application that will be included. There is also a SB 71 public workshop scheduled on September 1, 2010, and staff is moving very quickly. There is a very fast turnaround time on this process. Staff is trying to test the application and hopes that if there is something that the public sees that does not work, constructive or helpful comments will be useful to the extent that it will help staff fix the application quickly. It is a little bit different than some regulatory processes because staff is moving so quickly.

**5. PUBLIC COMMENT**

Ms. Redway asked if there were any comments from the public. There were none.

**6. ADJOURNMENT**

There being no further business, public comments, or concerns, the meeting adjourned at 12:20 p.m.

**Respectfully submitted,**

Christine Solich  
Executive Director