

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

Request to Approve Project for SB 71 Sales and Use Tax Exclusion (STE)¹

**DTE STOCKTON, LLC
Application No. 11-SM009**

Tuesday, June 28, 2011

Prepared By: *Heather Williams*

SUMMARY

Applicant – DTE Stockton, LLC

Location – Stockton, San Joaquin County

Industry – Biomass Processing and Fuel Production

Project – Conversion of a Coal Power Plant to a Waste Wood Fuel Processing Facility

Value of Qualified Property – \$10,120,000

Estimated Sales and Use Tax Exclusion Amount² – \$920,920

Estimated Net Benefits - \$5,598,509

Application Score -

Fiscal Benefits Points:	4,667
<u>Environmental Benefits Points:</u>	<u>2,413</u>
Net Benefits Score:	7,080

<u>Additional Benefits Points:</u>	<u>32</u>
Total Score:	7,112

Staff Recommendation – Approval

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

² This amount is calculated based off of the average statewide sales tax rate of 9.1%.

THE APPLICANT

DTE Stockton, LLC (“DTE Stockton” or “Applicant”) was incorporated on June 25, 2007 in Delaware and is headquartered in Ann Arbor, Michigan. DTE Stockton is a cogeneration power plant located in San Joaquin County, California that will be converted from a coal fired plant to burn biomass fuel to produce renewable energy.

DTE Stockton is 100% owned by DTE Energy. The ownership structure of DTE Energy is described in Attachment A.

THE PROJECT

The conversion of DTE’s Port of Stockton power plant from the use of coal to woody biomass consists primarily of the expansion and modification of an existing fuel storage facility (6 acres, 1.1 million cubic foot capacity) to a waste wood fuel storage and processing facility (11 acres, 4 million cubic foot capacity) (the “Facility”) and the construction of a new steam boiler to allow the power plant to use biomass fuel. The Qualified Property in this Application will be used directly in relation to the Facility, not for the construction of the new steam boiler or any part of the process in which the fuel is converted from fuel into electricity.

The waste wood fuel input material will consist of tree limbs, tree tops, agricultural prunings, wood boxes, scrap pallets and crates, wood processing and manufacturing residues, and construction waste wood. The waste wood material handling system will receive wood material delivered by trucks, which are weighed upon entrance and exit on truck scales. The trucks then proceed to the material receiving area where material is deposited in hoppers and discharged onto conveyors. Material passes by a magnetic separator to remove metal, is weighed again and then moves into the biomass processing tower where it is processed to its final size. The screened material is then conveyed to the boiler building where the fuel will be burned to generate electricity.

The Facility will, on average over the next 25 years, produce approximately 321,800 bone-dry tons of biomass fuel each year, resulting in the generation of approximately 354,780 MWh of electricity each year.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Truck scales	\$ 132,400
Truck dumper, Receiving hoppers	1,544,800
Belt conveyors	2,666,000
Magnetic separator	180,000

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Anticipated Qualified Property purchases continued:

Manual reclaimer	300,000
Diverter gates	100,000
Hog	234,100
Screen – scalping	76,800
Stacker/reclaimer	2,159,000
Concrete and steel	660,200
Fuel bin	25,000
Bin drag chain	187,600
Fuel bin screws	331,500
Building materials for buildings to house Motor Control Center (MCC)1, MCC2, air compressors, and scale house	250,000
Electrical feed to fuel yard (bus duct, breakers, transformers, MCCs)	100,000
Electrical distribution equipment (cables, trays, variable frequency drives)	100,000
Fuel yard infrastructure (paving, culverts, lighting, fire protection)	654,000
Dust collection piping	303,600
Controls and digital control system	100,000
Chutes and transitions	15,000
Total	<u>\$10,120,000</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 Master conveyance/reconveyance agreement a finalized Project equipment list will be prepared detailing the value of the Project equipment conveyed and reconveyed and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variations 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 from original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation or for other reasons.

TIMELINE

The Stockton power plant is currently idle; it was shut down as a coal-fired power plant in April 2009. Demolition of the existing coal boiler began in May 2011. Construction of the Facility will begin in June 2011. Construction of the new steam boiler will begin August 2011. Completion of the Facility, steam boiler, and the balance of the power plant is anticipated in September 2013.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$10,120,000 and the total net benefits are valued at \$5,598,509 for the Project. The Project received a Total Score of 7,112 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 2,413 points, which exceeds the 100 point threshold.

- A. **Fiscal Benefits (4,667 points)**: The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s anticipated sales taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes and other indirect fiscal benefits of the Applicant which amounts to \$4,297,636, resulting in a Fiscal Benefits Score of 4,667 points for the Project.

- B. **Environmental Benefits (2,413 points)**: The Project will result in \$2,221,793 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 2,413 points for the Project. These benefits derive from the production of biomass fuel, which offsets the need for coal.

- C. **Additional Benefits (32 of 200 points)**: Applicants may earn up to 200 additional points for their Total Score. The Applicant submitted information and received 32 additional points.
 1. **Permanent Jobs (0 of 40 points)**. The Applicant’s Project will support a total of 8 permanent jobs at its Facility. CAEATFA estimates that approximately one of these jobs will be attributable to a marginal increase in jobs created due to the approved STE. Zero points were awarded because the marginal increase in jobs does not meet the required threshold.

 2. **Construction Jobs (5 of 20 points)**. The Applicant’s Project will support a total of 54 construction jobs at its Facility. CAEATFA estimates that approximately 6 of these jobs will be attributable to a marginal increase in jobs created due to the approved STE, resulting in a Construction Jobs Score of 5 points for the Project.

 3. **Unemployment (27 of 40 points)**. The Applicant’s Project is located in San Joaquin County, which has an unemployment rate of 17 percent. Since this is above 110 percent of the statewide unemployment average, which is currently at 12.4 percent, the Project was awarded an additional 27 points.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Project's draft air permit and a final authority to construct were awarded in June 2011.

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 CAEATFA Regulations,³ the Applicant has paid CAEATFA an Application Fee of \$5,000 and will pay CAEATFA an Administrative Fee up to \$40,480.

RECOMMENDATION

Staff recommends approval of Resolution No. 11-SM009 for DTE Stockton, LLC's purchase of Qualified Property in an amount not to exceed \$10,120,000 anticipated to result in an approximate sales and use tax exclusion value of \$920,920.

³ California Code of Regulations Title 4, Division 13, Article 2, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH DTE STOCKTON, LLC**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **DTE Stockton, LLC** (the “Applicant”), for financial assistance in the form of a conveyance/reconveyance of title agreement (the “Agreement”) regarding tangible personal property for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement transferring title of Project equipment with an estimated cost not to exceed \$10,120,000 over a period of three years; and

WHEREAS, the Agreement will provide that the Applicant will, prior to any use of the Qualified Property, transfer title at no cost to the Authority from time to time as purchases of Qualified Property are made and the Authority will then transfer title back to the Applicant without having taken possession of the Qualified Property; and

WHEREAS, the Applicant believes 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 Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

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

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

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(g)(2).

Section 2. The requested conveyance agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(e)(2).

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

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Section 4. The Executive Director, Deputy 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 Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same, may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant’s Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances 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 in order to consummate the Agreement and otherwise effectuate the purposes of this resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property conveyance pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or 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, as defined in CAEATFA Regulations Section 10035(A), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.

ATTACHMENT A

The ownership structure of DTE Energy is as follows:

There are no major shareholders (10.0% or greater) of DTE Energy Company

The corporate officers of DTE Energy Company are:

Gerard M. Anderson, President and Chief Executive Officer
Daniel G. Brudzynski, Vice President
Patrick Carey, Assistant Corporate Secretary and Associate General Counsel
Paul Cavazos, Assistant Treasurer and Chief Investment Officer
JoAnn Chavez, Vice President and Chief Tax Officer
Anthony F. Earley, Jr., Executive Chairman of the Board
Lynne Ellyn, Senior Vice President and Chief Information Officer
Sandra Kay Ennis, Vice President
Harold Gardner, Senior Vice President and Assistant to Chairman
Paul D. Geick, Assistant Treasurer
Donald J. Goshorn, Assistant Treasurer
Paul Hillegonds, Senior Vice President
Naif A. Khouri, Vice President and Treasurer
Steven E. Kurmas, Group President
Mary Lewis, Assistant Tax Officer
Ronnie A. May, Senior Vice President
David E. Meador, Executive Vice President and Chief Financial Officer
Anthony G. Morrow, Assistant Corporate Secretary
David R. Murphy, Assistant Corporate Secretary and Assistant Treasurer
Lisa A. Muschong, Corporate Secretary, Chief of Staff
Gerardo Norcia, Group President
Peter B. Oleksiak, Vice President and Controller and Chief Accounting Officer
Bruce D. Peterson, Senior Vice President and General Counsel
Michael C. Porter, Vice President
Randall L. Rutkofske, Associate General Counsel
David Ruud, Vice President
Sharon L. Sabat, Assistant Corporate Secretary
Frederick E. Shell, Vice President
Knut A. Simonsen, Vice President, Strategy and Corporate Development
Edward J. Solomon, Chief Risk Officer
Larry E. Steward, Vice President
Anthony M. Tocco, Chief Compliance Officer
James F. Tompkins, General Auditor