

**California Alternative Energy and
Advanced Transportation Financing Authority**

Meeting Date: December 13, 2011

***Consideration of Applicants' Requests for Waivers to Purchase 25% of Qualified Property
within One Year of Application Approval under the SB 71 Program***

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Summary

The SB 71 Program (“Program”) requires that an Applicant purchase at least 25 percent (25%) of the total eligible equipment and machinery (Qualified Property) listed in the approved Board resolution within one year of Board approval of the Application (Regulations Section 10035(c)(1)) (“25% Purchase Requirement”). The 25% Purchase Requirement under the Program serves as both an indicator of project readiness and ensures that the financial assistance is used in a timely fashion to incentivize economic activity. The regulations also enable the Board to waive the 25% Purchase Requirement upon a finding that it is in the public interest and advances the purposes of the Program (Section 10035(c)(1)(A)). This staff report provides an overview of the 25% Purchase Requirement and Applicants progress toward the requirement since their approval in December 2010.

25% Purchase Requirement

The SB 71 Program requires that Applicants approved by the Board must purchase the total eligible equipment and machinery (Qualified Property) as listed in the approved Board resolution within a specific timeframe. This time requirement under the Program serves as both an indicator of project readiness and ensures that the financial assistance is used in a timely fashion to incentivize economic activity.

As a standard, in addition to the 25% Purchase Requirement, Applicants are required to make the remainder of the purchases within three years of Board approval. These requirements are established in the Program’s Regulations¹ and are in the terms of the Regulatory Agreement between CAEATFA and the approved Applicants.²

In addition, upon a finding that it is in the public interest and advances the purposes of the program, the CAEATFA Board may waive the 25% Purchase Requirement.³ The Board may make this finding at any point, whether it is at the time of Application approval or during the term of the Regulatory Agreement between CAEATFA and the Applicant.

¹ The Program Regulations require an applicant to purchase at least 25% of its Qualified Property within one year. A number of applicants have represented that the equipment has been purchased, but has not yet been conveyed under the Program.

² Master Regulatory Agreement Section 6.A.

³ Program Regulations Section 10035(c)(1)(A).

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If an Applicant does not meet the 25% Purchase Requirement, and does not receive a waiver of this requirement from the Board, the Applicant is no longer in compliance with the Program Regulations and the Regulatory Agreement between the Applicant and CAEATFA will be terminated.

In September 2011, CAEATFA staff provided a formal courtesy reminder to Applicants of the 25% Purchase Requirement, requested an update on the Projects, and provided notification that if Applicants fail to meet the 25% Purchase Requirement, the STE awarded would be forfeited.

The table below shows the Applications approved in December 2010, and their status in reaching the 25% Purchase Requirement (as of December 1, 2011).

Applications Approved in December 2010						
	Applicant Name	Location	Use of Proceeds	QP Amount	Estimated STE⁴	Percent Conveyed as of 12/1/2011
1	Quantum Fuel Systems Technologies Worldwide, Inc.	Irvine (Orange County)	Solar Photovoltaic Manufacturing	\$ 8,945,858	\$814,073	0.0%
	Green Vehicles, Inc.	Salinas (Monterey County)	Electric Vehicle Manufacturing	\$3,708,050	\$337,433	0.0%
	Soliant Energy, Inc.	Monrovia (Los Angeles County)	Solar Photovoltaic Manufacturing	\$9,966,500	\$906,952	0.0%
2	Ameresco Butte County LLC	Paradise (Butte County)	Landfill Gas Capture and Production	\$1,085,554	\$98,785	0.0% ⁵
3	Ameresco Crazy Horse LLC	Salinas (Monterey County)	Landfill Gas Capture and Production	\$1,558,460	\$141,820	0.0%
4	Ameresco Forward LLC	Manteca (San Joaquin County)	Landfill Gas Capture and Production	\$2,227,596	\$202,711	0.0%
5	Ameresco Johnson Canyon LLC	Gonzales (Monterey County)	Landfill Gas Capture and Production	\$766,293	\$69,733	0.0% ⁵
6	Ameresco San Joaquin LLC	Linden (San Joaquin County)	Landfill Gas Capture and Production	\$1,723,486	\$156,837	0.0%
7	Ameresco Vasco Road LLC	Livermore (Alameda County)	Landfill Gas Capture and Production	\$1,828,204	\$166,367	0.0%
8	BioFuels Point Loma, LLC	San Diego (San Diego County)	BioGas Capture and Production	\$6,236,024	\$567,478	33.0%
9	Alta Devices, Inc.	Sunnyvale (Santa Clara County)	Solar Photovoltaic Manufacturing	\$40,845,000	\$3,716,895	11.4%
10	California Institute of Technology	Pasadena (Los Angeles County)	Research & Development of Solar Fuel Generator Systems	\$13,400,000	\$1,219,400	14.0% ⁶
11	SunPower	Milpitas (Santa Clara County)	Solar Photovoltaic Manufacturing	\$8,000,000	\$728,000	96.8%
12	Simbol, Inc	Calipatria, Niland, Bawley (Imperial County)	Lithium and Battery Material Manufacturing	\$42484,174	\$3,866,060	3.2%

⁴ The anticipated sales and use tax exclusion was calculated at time of Board approval using the statewide average of 9.1%. The statewide average decreased to 8.1% on July 1, 2011.

⁵ Ameresco intends to meet the 25% Purchase Requirement for its Butte and Johnson Canyon Projects, but has not conveyed equipment prior to CAEATFA providing this item.

⁶ The 25% Purchase Requirement was waived for the California Institute of Technology at the time of Board approval.

Applicants Not Meeting the 25% Purchase Requirement

Of the twelve applicants approved in December 2010 that moved forward, eight have not met the 25% Purchase Requirement. Of the eight, six are requesting waivers and one already had the 25% Purchase Requirement waived at the time of Board approval. Staff is recommending that the waivers requested be granted as detailed in Agenda Item 4.B.1. – 4.B.6

Ameresco Crazy Horse LLC (“ACH”)

ACH’s Application was for \$1.6 million in Qualified Property for a landfill gas facility in Salinas, Monterey County. The Applicant has requested an extension of the 25% Purchase Requirement for nine and a half months (September 30, 2012) due to delays caused by interconnection cost overruns and permitting. Staff’s review of this request and its recommendation to waive the time requirement can be found in Agenda item 4.B.1.

Ameresco Forward LLC (“Forward”)

Forward’s Application was for \$2.2 million in Qualified Property for a landfill gas facility in Manteca, San Joaquin County. The Applicant has requested an extension of the 25% Purchase Requirement for eight months (August 1, 2012) due to unanticipated delays in its permitting process. Staff’s review of this request and its recommendation to waive the time requirement can be found in Agenda item 4.B.2.

Ameresco San Joaquin LLC (“ASJ”)

ASJ’s Application was for \$1.7 million in Qualified Property for a landfill gas facility in Linden, San Joaquin County. The Applicant has requested an extension of the 25% Purchase Requirement for six and a half months (May 31, 2012) due to delays caused by interconnection cost overruns and permitting. Staff’s review of this request and its recommendation to waive the time requirement can be found in Agenda item 4.B.3.

Ameresco Vasco Road LLC (“Vasco”)

Vasco’s Application was for \$1.8 million in Qualified Property for a landfill gas facility in Livermore, Alameda County. The Applicant has requested an extension of the 25% Purchase Requirement for five and a half months (June 1, 2012) due to unanticipated delays in its permitting process. Staff’s review of this request and its recommendation to waive the time requirement can be found in Agenda item 4.B.4.

Alta Devices, Inc. (“Alta Devices”)

Alta Devices’ Application was for \$40.8 million in Qualified Property for a solar photovoltaic manufacturing facility in Sunnyvale, Santa Clara County. The Applicant has requested an extension of the 25% Purchase Requirement for nine and a half months (September 30, 2012) due to the long lead times its experiencing on equipment purchases. Staff’s review of this

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request and its recommendation to waive the time requirement can be found in Agenda item 4.B.5.

Simbol Inc. (“Simbol”)

Simbol’s Application was for \$42.5 million in Qualified Property for a facility for the mining and manufacturing of lithium and other materials to produce battery-grade lithium compounds in Brawley, Calipatria and Niland, Imperial County. The Applicant has requested an extension of the 25% Purchase Requirement for one year (December 15, 2012) due to unanticipated delays in the Project’s permitting process, construction planning and raising project capital. Staff’s review of this request and its recommendation to waive the time requirement can be found in Agenda item 4.B.6.