

MINUTES

**California Alternative Energy and Advanced
Transportation Financing Authority
801 Capitol Mall, Room 150
Sacramento, California
July 21, 2020**

1. CALL TO ORDER AND ROLL CALL

Fiona Ma, CPA, Chairperson, called the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” or the “Authority”) meeting to order at 10:56 a.m.

Members Present: Fiona Ma, CPA, State Treasurer
Anne Baker for Betty T. Yee, State Controller
Gayle Miller for Keely Martin Bosler, Director, Department of Finance
Ken Rider for David Hochschild, Chair, California Energy Commission
Marybel Batjer, President, Public Utilities Commission

Staff Present: Deana J. Carrillo, Executive Director

Quorum: The Chairperson declared a quorum.

Due to the recommended precautions and public health recommendations resulting from the novel coronavirus (COVID-19), members of the Board were instructed by the Governor’s Office that they may call in to the meeting by teleconference line, which is an exception to the usual requirement (Bagley-Keene Open Meeting Act – 1967) that they attend in person. CAEATFA staff (“Staff”) has implemented additional social distancing measures, and participants have been asked to also participate remotely. Ms. Ma attended the meeting in person. Ms. Baker, Ms. Miller, Mr. Rider, and Ms. Batjer all attended the meeting via teleconference line.

2. MINUTES

Ms. Ma asked if there were any questions or comments concerning the June 16, 2020, meeting minutes. There were none.

Ms. Ma asked if there was a motion.

Ms. Miller moved for approval of the minutes; upon a second from Mr. Rider, the minutes were approved.

Due to technical issues, Ms. Batjer was not able to vote on the minutes from the June 16, 2020 meeting, and is therefore marked as abstaining from the vote. Ms. Batjer took her leave from the meeting at 11:30 a.m., and Grant Mack sat in as representative for Ms. Batjer.

The item was passed by the following vote:

Fiona Ma, CPA, State Treasurer	Aye
Anne Baker for the State Controller	Aye
Gayle Miller for the Director of Finance	Aye
Ken Rider for the California Energy Commission	Aye
Marybel Batjer, President, Public Utilities Commission	Abstain

3. EXECUTIVE DIRECTOR’S REPORT

Ms. Carrillo welcomed the Board members, and stated that today’s meeting did not include any action items for approval; rather, CAEATFA staff (“Staff”) had three informational items for Board discussion. She stated that Staff has spent the last several months reflecting on CAEATFA’s programs to assess how to better reach those communities in the most need, and are developing plans to strengthen outreach efforts. Ms. Carrillo stated that CAEATFA has also been reviewing its workload plans and budget to assess where cost savings can be found in the State’s efforts to further reduce costs while maintaining services. Ms. Carrillo then provided some program updates.

Under the California Hub for Energy Efficiency Financing (“CHEEF” or the “Hub”), Ms. Carrillo reported that the recent State budget that was approved included the reimbursement and expenditure authority to support the California Public Utilities Commission’s (“CPUC”) recent decision to transition the Residential Energy Efficiency Loan Assistance (“REEL”) Program pilot into a full-fledged program. Staff is developing its plans to implement the transition, which will include building the infrastructure to absorb much of the REEL Program’s complexity to better position it to scale. The budget also included authority to create two new positions to assist with the transition and help REEL to grow. Ms. Carrillo stated that it is Staff’s belief that the CHEEF programs will be a helpful tool to address energy inequity and contribute to a green economic recovery, and Staff is working toward these goals. She added that activity under the REEL Program has continued at a healthy pace over the last few months, with an additional \$1.5 million in enrolled financing.

Under the Sales and Use Tax Exclusion (“STE”) Program, Ms. Carrillo reported that Staff has spent the last several weeks exploring various potential modifications for regulatory changes. Staff’s proposal is the subject of Agenda Item 4.B; after soliciting input from the Board today, Staff will work to draft STE Program regulation text for consideration at the August Board meeting.

Under the PACE Loss Reserve Program, Ms. Carrillo stated that Staff is bringing the longevity analysis of the loss reserve for discussion today under Agenda Item 4.C. She stated that CAEATFA is also continuing its work on auditing the various PACE programs.

Ms. Carrillo reported that under her delegated authority, no actions were taken.

Ms. Carrillo reported that she had a personnel update. Chor Vue, who started as an office technician under the Hub, was recently promoted to the analyst position in CAEATFA’s

compliance unit. Ms. Carrillo also stated that there are a number of other open positions under the Hub which will need to be filled before CAEATFA is fully staffed.

Ms. Carrillo then concluded her report.

4. BUSINESS ITEMS

A. REPORT FROM TESLA, INC. ON STATUS OF PROJECT PURSUANT TO RESOLUTIONS NO. 17-SM003, NO. 18-SM004, AND NO. 19-SM008 (INFORMATIONAL ITEM)

Staff introduced Erin Bradley, Associate General Counsel, Tax Incentives, Tesla, Inc.; Dan Chia, Senior Managing Policy Director, Tesla, Inc.; Laurie Shelby, Vice President of Environmental Health and Safety (EHS), Tesla, Inc.; and Dr. James Craner, Corporate Medical Director (EHS), Tesla, Inc., all of whom attended by phone.

On March 20, 2018, the CAEATFA Board approved Resolutions 17-SM003 and 18-SM004 approving two sales and use tax exclusion awards for Tesla, Inc.'s ("Tesla") expansion of its manufacturing facility for the production of its Model 3 vehicle. On April 16, 2019, the CAEATFA Board approved Resolution 19-SM008 for an additional award for Tesla's Model 3 manufacturing facility. All three resolutions require that Tesla update the CAEATFA Board in writing and in person every four months for three years with regard to the following:

1. Progress in meeting its production goals;
2. Progress in improving the health and safety standards at its facilities; and
3. Providing an updated Legal Status Questionnaire.

Ms. Shelby gave an overview of Environmental Health and Safety ("EHS") at Tesla by stating that though Tesla's overall 2020 strategy has been impacted by the pandemic, recordable injuries have been trending downward. Total Days Away from work has been reduced by 30% compared to the same time last year. Ms. Shelby stated that Tesla began preparing for COVID-19 in December of 2019 as it worked with its Shanghai facility, and implemented aggressive travel quarantines based on the virus spread. She stated that returning to work and working safely are the key focus of the EHS team at Tesla.

Ms. Shelby stated that Tesla has implemented a phased return-to-work process at its Fremont production facility. She stated that she has worked directly with the Alameda County Public Health Department on Tesla's restart plan, and has been in close communication with the office. She added that Tesla continues to collaborate with the county to ensure that it helps to control the spread of COVID-19 at its facilities and in the community. Ms. Shelby also reported that Tesla has a 38-page return-to-work playbook, which details the safety measures Tesla has introduced to ensure employee and contractor safety at its 500 locations worldwide, as well as its 20,000 project sites and for its more than 55,000 employees. Ms. Shelby stated that each operation and project has its own site-specific COVID-19 prevention and control plan in place.

Ms. Shelby reported that during the temporary shutdown at the Fremont factory, Tesla's EHS team, as well as its security, human resources, workplace, procurement, and transportation units continued to work toward creating a safe environment for employees who would return

to work during the pandemic. Ms. Shelby reported that the following are examples of actions taken and controls put in place:

- Tesla's employees continue to work from home where possible. Administrative staff has been put on an alternating work schedule to minimize the total number of employees onsite.
- Tesla has been conducting risk assessments at the Fremont factory to determine what specific measures are needed to meet its standards for safety, health, and social distancing. Based on the assessments, barriers have been installed, factory worker placements have been marked, tasks have been changed to single person and spread out where possible, and personal protective equipment has been distributed. She stated that masks are currently required to be worn at all times at all Tesla locations.
- Access to the factory is being controlled, including reducing the number of guests and visitors to the plant. She stated that all visitors, including suppliers, vendors, and contractors, must complete health screenings and questionnaires prior to entry. In addition, international travelers must quarantine or provide a negative COVID-19 test before they are allowed to enter.
- At all entrances to the main factories, thermal cameras are used for temperature screening, hand sanitization is required before entry, and security personnel is present to verify policy compliance.
- Daily self-health screening questions must be completed by everyone entering the factory, and employees with COVID-19-like symptoms or who have been in close contact with someone who has tested positive or believes they have the virus are instructed to stay at home.
- Occupancy of all shuttles has been reduced, temperature screenings are conducted before boarding, and masks are required on all shuttles. Cleaning and disinfecting of the vehicles is conducted after each run.
- Cleaning and disinfection of work areas, tools, mobile equipment, common areas, and customer areas has been increased, and Tesla currently has over 300 cleaning and sanitizing personnel at the Fremont factory, which represents a 50% increase since the COVID-19 pandemic.
- Social Distancing and Health monitors have been added to help enforce rules related to COVID-19 precautions, especially around entrances and exits, time clocks, and break areas.
- Additional break rooms have been added, tables and chairs have been moved further apart, and Plexiglass barriers have been added to tables. Employee breaks have also been staggered.
- Touchless services were added for employees who interact directly with customers or suppliers.
- A COVID-19 training must be completed by all new and returning employees.
- Tesla has put in place a tracing process for all positive or potential positive cases, and has also hired a third party tracing company to assist with this task.
- Tesla is also providing COVID-19 sick leave during the pandemic.

Ms. Shelby continued her report by stating that recent media reports that Tesla has terminated employees due to their concerns regarding health and safety practices at Tesla facilities are

untrue. She stated that employees quoted in these stories are still employed with Tesla, and they have been offered work multiple times. She added that Tesla is also offering unpaid leave with employee medical benefits intact during the crisis.

Ms. Shelby reported that Tesla has had less than 10 positive COVID-19 workplace transmission cases since January amongst all of its facilities, and less than 0.25% of Tesla workers have tested positive globally since the beginning of the year. She stated that some reports on this topic used data that was in the process of being validated and included people from all Tesla locations around the world, such as those who may have been infected but never came on site or were infected at home while operations were temporarily paused, which Tesla does not consider workplace transmissions. She stated that most positive cases have resulted from employees living with or traveling with someone who has contracted the disease, or from social gatherings.

Ms. Shelby elaborated on Tesla's COVID-19 tracing process for those with COVID-19-like symptoms, positive tests, or close contact with an infected person. She stated that personnel who meet these criteria are quarantined and their symptoms are monitored at home in order to curb the spread of the virus. All confirmed cases are reported to the county. She added that Tesla does not have any employees hospitalized or in serious condition anywhere in the world as a result of COVID-19.

Ms. Shelby also reported that Tesla has worked to gather employee feedback on its COVID-19 safety practices, and how the company can continue to improve. Results from its employee survey showed that the majority of Tesla employees feel comfortable with the steps the company is taking so far.

Ms. Shelby gave an update on her EHS team. She stated that Rob McCafferty, Certified Industrial Hygienist (CIH), joined Tesla to lead the Fremont Factory Health and Safety program. Mr. McCafferty has over 20 years of experience in the health and safety field.

Ms. Bradley then gave an overview of production and sales. She stated that in the second quarter of 2020, Tesla produced a total of 82,272 vehicles. Of those, 6,326 were Model S and Model X electric vehicles, and 75,946 were Model 3 and Model Y. In the second quarter, Tesla delivered 90,650 total electric vehicles. Of those, 10,600 were Models S and X, and 80,050 were Models 3 and Y.

Ms. Bradley reported that since its last report before the Board, Tesla has released its second annual company-wide global Impact Report, which measures the impact its products and operations have on the environment and communities. She stated that Tesla's goal is to help the world move toward a zero-emission future, and that the sooner this is accomplished, the better. She stated that to this end, Tesla is working hard to minimize its greenhouse gas footprint, while investing in its employees and the communities in which it operates.

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

B. DISCUSSION OF PROPOSED MODIFICATIONS TO THE SALES AND USE TAX EXCLUSION PROGRAM (INFORMATIONAL ITEM)

Presented by Ashley Emery, Program Manager

Ms. Emery reported that CAEATFA staff has been in the process of modifying the regulations of the Sales and Use Tax Exclusion (“STE”) Program (the “Program”) to address the oversubscription over the last two years and the unprecedented COVID-19 pandemic.

Ms. Emery stated that Staff has incorporated feedback from the Invitation for Comment soliciting initial input from stakeholders and the discussion of potential modifications at the June 2020 Board meeting to prepare a list of proposed modifications to discuss today. Upon feedback from the Board and stakeholders, Staff will draft regulation text to bring to the Board for consideration at next month’s Board meeting, which will start the regular rulemaking process.

Staff proposes to continue accepting Applications on a rolling first-come-first-served basis until competitive to help invest in the economic recovery quickly, while providing more stability and certainty for end-users by promptly reviewing requests. In addition, in an effort to balance the Board’s interest in both ensuring a broad distribution of awards and being able to assist scalable projects, Staff is proposing two modifications:

1. Setting aside \$20 million out of the \$100 million annual Program cap for Applications requesting sales and use tax exclusion awards in amounts of \$2 million or less – this \$20 million would be set aside through September, ensuring availability for smaller projects throughout the year, and if any remains after the September Board meeting, it would be made available to award to all Applicants beginning in October.
2. Retaining the \$10 million per-Applicant award cap, except that at the first Board meeting of the year, \$15 million in sales and use tax exclusions would be available to award on a competitive basis in addition to the \$10 million from the general pool, up to \$20 million per Applicant. So potentially, one Applicant could receive a \$20 million STE award and another could receive \$15 million. Alternatively, a handful of Applicants could be awarded smaller mid-sized awards. If any of this \$15 million is not awarded, it will be released to the general pool to be made available to all Applicants. Staff hopes this approach will help provide flexibility to support larger investments and continued business investment in California, but also ensures that larger awards do not inadvertently absorb all of the yearly STE award allocation.

Ms. Emery continued by explaining that if the Program becomes competitive and the last Applicant is not fully awarded, it will not automatically be made whole from the next calendar year’s STE award allocation, but the Applicant may be considered the next calendar year. Applicants not awarded are placed on a waitlist, and CAEATFA will continue to accept Applications to be put on the waitlist. If any sales and use tax exclusion remains at the end of the year, or if additional exclusions become available (for example, if an Applicant does not

sign the Master Agreement or voluntarily relinquishes its award before the end of the calendar year in time to consider additional Applicants):

- First, if applicable, the last Applicant considered, if partially awarded, is fully awarded;
- Second, all Applicants on the waitlist are considered in order based on Competitive Criteria; and
- Third, Applicants requesting more than \$10 million in exclusions are considered in order based on Competitive Criteria.

Ms. Emery stated that Staff also proposes ending the waitlist at the end of the year. Additionally, the Board may limit the amount of sales and use tax exclusion awarded at specific meetings, if necessary, to provide flexibility for potential award rounds.

To provide additional flexibility to awardees to help mitigate the uncertainty in the current market, Staff proposes no longer having a bright-line rule that a current lack of funding does not qualify as an extraordinary circumstance when considering a request to extend or waive the 15% purchase requirement timeframe.

To acknowledge the difference between the STE Program and the California Department of Tax and Fee Administration (“CDTFA”) partial exemption, which can offset the Applicant’s costs of not receiving a CAEATFA STE award, Staff proposes awarding 50 points for Applicants that do not qualify to use the CDTFA partial sales tax exemption in the Competitive Criteria.

To learn more about STE Program Applicants in order to better understand and evaluate Program impact and reach, Staff proposes asking in the Application whether the Applicant is a small business, how the Applicant learned about the Program, and whether the Applicant has received or applied for other State incentives or financing (which also helps inform the funding status for the Project).

Staff also proposes increasing the administrative fee from \$500 to \$1,500 for requests to extend the 15% purchase requirement timeframe, and increasing the fee from \$500 to \$2,000 for requests to extend the three-year initial term, to better reflect the amount of Staff time spent reviewing, processing and presenting these requests and to account for the additional years of reporting and administration.

Ms. Emery continued by stating that in order to implement Assembly Bill 176 (“AB 176”), which requires CAEATFA to evaluate Applications based on the extent to which the project will create new, or result in the loss of, permanent, full-time jobs in California, including the average and minimum wage for each classification of full-time employees proposed to be hired or not retained, Staff proposes asking for the projected number of employees assuming the Project is not implemented and determining if there would be a net loss in jobs as a result of the Project (using the estimated number of employees assuming the Project is implemented, which is already provided in the Application). If there is a net loss in jobs, then the Applicant will lose points in the Application scoring. Additionally, Staff proposes asking for the minimum and average wage of each classification of full-time employees proposed to be hired

or not retained using wage bands, as well as an explanation of why a classification is being eliminated and if any existing employees in the classification will be retrained or reclassified. Staff believes this approach enables CAEATFA to incorporate the statutory modifications into the Program while keeping data anonymized, and addressing employee confidentiality and company trade secret concerns.

Finally, Staff also proposes awarding points in the Application scoring for Applicants that provide benefits and fringe benefits to employees, in order to recognize the benefits of providing jobs that include additional benefits to employees in the Application review, while recognizing that the Program supports diverse industries, labor markets, and regional economies.

As mentioned previously, Staff will prepare regulation text for consideration at the August Board meeting, and if approved, intends to file the Notice of Proposed Rulemaking package shortly thereafter for publication in the California Notice Register to begin the 45-day public comment period in September. Simultaneously, Staff will take the necessary steps to readopt the current emergency regulations before they expire on August 14, 2020. Staff intends to incorporate the modified regulations to become effective in November 2020 in advance of the 2021 award process.

Ms. Emery then ended her report.

Ms. Ma asked if there were any questions or comments from the Board or the public.

Mr. Rider commended Staff on the proposed changes to the regulations. He stated that the proposals are innovative solutions for some of the issues raised by Board members and stakeholders, especially regarding dealing with the ability of larger companies to scale in the state, while still assisting smaller companies. Mr. Rider also stated that the California Energy Commission continues to support the Program and its goals of helping to green the California economy.

Ms. Miller praised Staff's efforts to find a good middle ground on some of the more difficult issues that had arisen in the Program regarding the size of Projects and availability of funding. She suggested that CAEATFA should work to coordinate with CDTFA to verify data regarding Applicants who would receive the extra points awarded for not qualifying for the CDTFA partial exemption. Ms. Carrillo replied that CAEATFA would be sure to work with CDTFA staff to determine the eligibility of STE Program Applicants for these Competitive Criteria points.

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

C. PRESENTATIONS AND DISCUSSION ON THE PACE LOSS RESERVE PROGRAM AND THE PACE LOSS RESERVE LONGEVITY AND RISK ANALYSIS (INFORMATIONAL ITEM)

Presented by Ashley Emery, Program Manager and Matt Newman, Partner, Blue Sky Consulting Group

Ms. Emery began her report by giving an overview of the PACE Loss Reserve Program (the “Program”). She stated that the Program launched in March 2014 to support residential PACE financing by making first mortgage lenders whole for direct losses as a result of a PACE lien in a foreclosure or forced sale. The legislature funded the loss reserve with a one-time appropriation of \$10 million, which currently supports 151,453 PACE financings with an outstanding value of over \$3.5 billion from 22 PACE programs, half of which are still actively enrolling financings in the Program. Although the mortgage industry has maintained its position against first-priority PACE liens, since the PACE Loss Reserve Program’s launch, the residential PACE market has matured and is widely available throughout the state. Additionally, legislation in recent years established consumer protection requirements, minimum underwriting (including ability-to-pay), and regulatory oversight under the California Department of Business Oversight.

Ms. Emery continued by stating that with the growth and maturity of the PACE industry, coupled with recent legislation that increased consumer protections and established PACE regulatory oversight, CAEATFA staff has been exploring several policy questions, including:

- How long might the PACE Loss Reserve last and what is the potential demand for claims against the reserve?
- Has the PACE Loss Reserve addressed its original policy goal?
- Given recent developments, does the residential PACE industry still need this support?

Ms. Emery stated that CAEATFA hired a contractor, Blue Sky Consulting Group (“Blue Sky”), to conduct a longevity analysis of the loss reserve to better assess the possible demand during anticipated economic downturns. Blue Sky’s analysis can be found in Attachment A of the corresponding Staff report for today’s Board meeting, which can be found on the CAEATFA webpage. Although CAEATFA has not paid a claim from the loss reserve yet, it is likely that foreclosure rates will rise in the future given current economic conditions, which would increase the likelihood of claims against the loss reserve. The analysis anticipates that the loss reserve would have the capacity to make all eligible claims for approximately eight years under the Moderate Stress Scenario, which is based on currently low foreclosure rates rising to levels similar to those during the recession in the mid-1990s. Under the High Stress Scenario, which assumes a pattern of foreclosures similar to the financial crisis that started in 2008, the fund would be depleted by 2025.

Based on the loss reserve longevity analysis, the \$10 million loss reserve may not be sufficient to pay all potential claims. One solution would be to size the loss reserve to correspond to potential demand, but this would require legislation and a source of funding. Another option would be to sunset the Program and stop enrolling new financings for coverage under the loss reserve while continuing to support the current portfolio; this would

also require legislation. Alternatively, the state could take a wait-and-see approach to determine actual demand and whether there is a need for additional funding.

Ms. Emery stated that given the significant growth of residential PACE and how much the market and regulatory framework has developed since the Program began, CAEATFA staff will be engaging stakeholders to assess the current role of the loss reserve in the residential PACE market.

Ms. Emery then ended her report.

Ms. Ma asked if there were any questions or comments from the Board or the public.

Ms. Carrillo reiterated that Staff is open to input regarding the direction of the loss reserve, and will be engaging in a stakeholder outreach process.

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

5. PUBLIC COMMENT

Ms. Ma asked if there were any comments from the public and there were none.

6. ADJOURNMENT

There being no further business, public comments, or concerns, the meeting adjourned at 11:42 a.m.

Respectfully submitted,

Jennifer Gill
Senior Core Programs Manager