

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

Request to Approve Project for a Sales and Use Tax Exclusion¹

**BHE Renewables, LLC, and its subsidiaries Magma Power Company,
BHER Minerals, LLC, and CE Generation, LLC
Application No. 22-SM020**

Tuesday, June 21, 2022

Prepared By: *Matthew Jumps, Program Analyst*

SUMMARY

Applicant – BHE Renewables, LLC, and its subsidiaries Magma Power Company, BHER Minerals, LLC, and CE Generation, LLC

Location – Calipatria, Imperial County

Industry – Lithium Recovery and Processing

Project – New Lithium Recovery and Processing Facility (Advanced Transportation)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$21,434,530	\$1,821,935

Estimated Net Benefit ³	Dollar Value	Points Earned
Estimated Fiscal Benefits	\$1,836,944	1,008
Estimated Environmental Benefits	\$138,939	76
Additional Benefits	N/A	250
Total	\$1,975,883	1,334
Estimated Quantifiable Net Benefit	\$153,948	

Competitive Criteria Score – 255

Staff Recommendation – Approval

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

² This amount is calculated based on the average statewide sales tax rate of 8.5%.

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

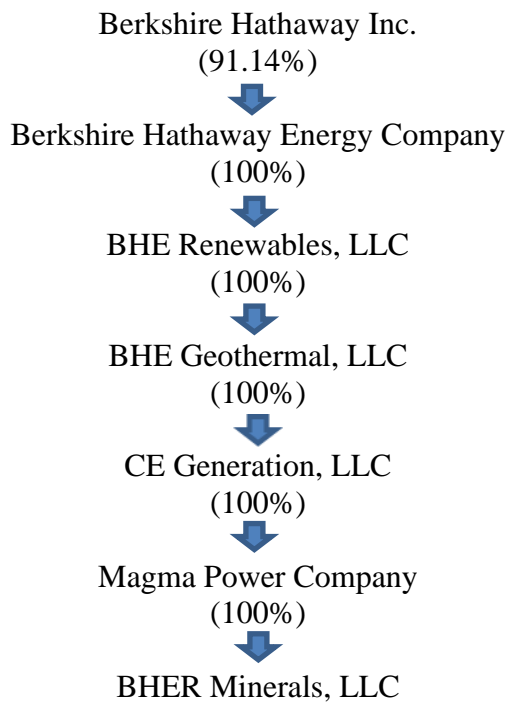
THE APPLICANT

BHE Renewables, LLC, and its subsidiaries Magma Power Company, BHER Minerals, LLC, and CE Generation, LLC (the “Applicant”), are Delaware and Nevada companies that formed in 2011, 1981, 2020, and 1999 respectively. The Applicant are all subsidiaries of Berkshire Hathaway Inc., a publicly traded company on the NSYE under the symbol BRK.A. The Applicant has its corporate headquarters in Urbandale, Iowa.

On August 29, 2011, the CAEATFA Board granted a subsidiary, CE Obsidian Energy, LLC, of the Applicant’s parent company, Berkshire Hathaway, Inc., an STE award for the purchase of up to \$174,453,978 in Qualified Property for an estimated STE value of \$14,130,772 to construct a geothermal power project in Imperial County. CE Obsidian Energy, LLC, did not make any Qualified Property purchases and its Regulatory Agreement with CAEATFA ended on December 31, 2019.

The Applicant received a \$6,000,000 matching grant from the California Energy Commission.

The ownership structure of the Applicant is:



The corporate officers of the Applicant are:
Alicia Knapp, President, CEO and Manager
Thomas W. Cross, VP, CFO, Treasurer, and Manager
Rob Berntsen, SVP and General Counsel
Jake S. Anonson, VP
Alan Brown, VP
Jennifer L. Cavanagh, VP
Jeffery B. Erb, Secretary
Robert Bernsten, Manager and VP, General Counsel and Assistant Secretary
Jonathan D. Hale, VP of Taxation
Matthew A. Mitchell, VP
Eric J. Smith, VP
Bryan Whitcomb, VP of Geothermal and Solar Ops
Eric Bowen, VP of Wind and Gas Ops
James C. Galt, AVP and Assistant Treasurer

THE PROJECT

BHE Renewables, LLC, and its subsidiaries Magma Power Company, BHER Minerals, LLC, and CE Generation, LLC, are requesting an STE award to build a new lithium recovery and processing facility located in Calipatria (the “Project”). According to the Applicant, the Project will recover lithium from geothermal brine produced through the Applicant’s geothermal brine

and steam production facilities, including existing geothermal facilities and a new facility, which is also before the Board for consideration for an STE award at the June board meeting. That project will produce geothermal brine and steam from the Salton Sea Known Geothermal Resource Area to be used as an alternative source fuel. The Applicant states that the Project will initiate with a lithium recovery demonstration process to demonstrate the viability of extracting lithium from the produced geothermal brine. A subsequent lithium carbonate demonstration process will follow to demonstrate the viability of processing the lithium into battery-grade lithium carbonate monohydrate to be used in lithium-ion batteries for zero-emissions vehicles.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Lithium Recovery Equipment	6,668,729
Lithium Carbonate Production Equipment	14,765,801
Total	<u>\$21,434,530</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components of the Project over original estimates, and other reasons. In addition, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

According to the Applicant, the Project is currently under construction and set to be completed for testing and commissioning by the end of 2022 and be fully operational within the first quarter of 2023.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

According to the Applicant, the appropriate permits and certifications have been issued or approved, including a California Environmental Quality Act Notice of Exemption, an Imperial County Conditional Use Permit, an Acid Tank Scrubber Authority to Construct permit, a Waste Discharge Permit from the Regional Water Quality Control Board, a building permit from Imperial County, and a Construction Trailers and temporary Power Permit. The Applicant states that all permits have been approved for the lithium recovery demonstration process, while an Acid Tank Scrubber Authority to Act and a building permit from Imperial County are being processed for the lithium carbonate demonstration process. Those permits are expected to be approved in 2022.

COMPETITIVE CRITERIA SCORE

The Applicant received 255 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points)**. The Application has a Project that produces an Advanced Transportation technology, and, therefore, 100 points are awarded.
2. **Unemployment (50 of 50 points)**. The Applicant's Project's primary Facility is located in Imperial County, which has an average annual unemployment rate of 17.3%.⁴ When compared to the statewide average annual unemployment rate of 7.89%, the Project location earned the Applicant 50 points.
3. **Job Creation (30 of 75 points)**. The Applicant anticipates the Project will support a total of 27 production-related jobs at its Facility. CAEATFA estimates that approximately 3.41 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
4. **California Headquarters (0 of 15 points)**. The Applicant does not have a California Corporate Headquarters, and, therefore, zero points are awarded.
5. **Natural Disaster Relief (0 of 50 points)**. The Project is not to rebuild or relocate the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points)**. The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.
7. **Emerging Strategic Industry (75 of 75 points)**. The Project's industry, lithium recovery, is in an Emerging Strategic Industry, and, therefore, 75 points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 1,334 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 76 points, which exceeds the 20-point threshold.

⁴ Unemployment rates are based on data available in December 2021.

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- A. Fiscal Benefits (1,008 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales and use taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$1,836,944, resulting in a Fiscal Benefits score of 1,008.
- B. Environmental Benefits (76 points).** The Project is anticipated to result in \$138,939 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 76 points. These benefits derive from the capacity of lithium batteries in zero-emissions vehicles to store energy, which offsets the use of fossil fuels and carbon dioxide emissions from internal combustion engine vehicles.
- C. Additional Benefits (250 points).** Applicants may earn additional points for their Total Score. The Applicant received 250 additional points.
- 1. Production Jobs (30 of 75 points).** The Applicant anticipates the Project will support a total of 27 production-related jobs at its Facility. CAEATFA estimates that approximately 3.41 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
 - 2. Construction Jobs (30 of 75 points).** The Applicant anticipates the Project will support a total of 20 construction jobs at its Facility. CAEATFA estimates that approximately 2.53 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
 - 3. Unemployment (50 of 50 points).** The Applicant's Project is located in Imperial County, which has an average annual unemployment rate of 17.3%. When compared to the statewide average annual unemployment rate of 7.9%, the Project location earned the Applicant 50 points.
 - 4. Research and Development Facilities (25 of 25 points).** The Applicant has verified that it has a facility located in California that performs research and development functions related to lithium recovery from geothermal brine and lithium carbonate production.
 - 5. Workforce Partnerships (25 of 25 points).** The Applicant has a partnership with Imperial Valley College for the purpose of training workers for lithium recovery operations.
 - 6. Industry Cluster (25 of 25 points).** The industry associated with this Application has been identified by Lithium Valley Commission as a strategic cluster of the region of the Project's location.

7. **Benefits and Fringe Benefits (25 of 25 points)**. The Applicant states it provides medical, health, dental, vision, bonuses, retirement contributions, profit sharing, education reimbursement, employee discounts, and paid leave benefits to its employees, earning the Applicant 25 points.

8. **Emerging Strategic Industry (40 of 40 points)**. The Project's industry, lithium recovery, is in an Emerging Strategic Industry, earning the Applicant 40 points.

LEGAL QUESTIONNAIRE

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

CAEATFA FEES

In accordance with CAEATFA regulations,⁵ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$85,738.12.

RECOMMENDATION

Staff recommends the approval of Resolution No. 22-SM020-01 for BHE Renewables, LLC, and its subsidiaries Magma Power Company, BHER Minerals, LLC, and CE Generation, LLC's purchase of qualifying tangible personal property in an amount not to exceed \$21,434,530 anticipated to result in an approximate STE value of \$1,821,935.

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

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH BHE RENEWABLES, LLC, AND ITS
SUBSIDIARIES MAGMA POWER COMPANY, BHER MINERALS, LLC,
AND CE GENERATION, LLC**

June 21, 2022

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

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

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

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

WHEREAS, the Applicant has stated the Project has an estimated cost not to exceed \$21,434,530 over a period of three (3) years; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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