

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

***Request to Approve an Extension of the
15% Purchase Requirement Timeframe¹***

**Blue Mountain Electric Company LLC
Application No. 22-SM001**

Tuesday, December 12, 2023

Prepared By: *Katrina Walters-White, Program Analyst*

SUMMARY

Applicant – Blue Mountain Electric Company LLC

Location – Wilseyville, Calaveras County

Industry – Biomass Processing and Fuel Production

Project – New Biomass Processing and Fuel Production (Alternative Source)

Total Amount Qualified Property Approved– \$17,030,696

Estimated Sales and Use Tax Exclusion Amount at Approval² – \$1,447,609

Amount of Time Requested –

- Requesting a six (6) month extension, until June 21, 2024, for the 15% purchase requirement timeframe (two (2) years from the date of initial CAEATFA Board approval)

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Sales and Use Tax Exclusion Program's statutes and regulations.

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

REQUEST

On June 21, 2022, the CAEATFA Board approved a sales and use tax exclusion (“STE”) for Blue Mountain Electric Company LLC (the “Applicant”) for the purchase of up to \$17,030,696 in Qualified Property to build a new biomass processing and fuel production facility (the “Project”). The Regulatory Agreement (“Agreement”) provided the Applicant with 18 months from the date of CAEATFA Board approval to purchase or execute purchase orders for at least 15% of the total Qualified Property amount approved.³

As of October 2023, the Applicant has not used the STE to make purchases of Qualified Property. The Applicant is requesting to extend the 15% purchase requirement timeframe by six months to accommodate additional time needed to obtain Project funding.

The Board can extend the 15% purchase requirement timeframe upon a finding of extraordinary circumstances and that an extension is in the public interest and advances the purposes of the STE Program.⁴

According to the Applicant, the onset of the Project has been delayed until the Applicant is able to secure capital funding. As market conditions continue to fluctuate, the Applicant has had to conduct additional engineering work to ensure it won’t exceed the Project budget. The Applicant states the additional work was not required for past projects and will not add to the total cost of the Project. The Applicant expects to obtain funding by the end of December 2023.

THE APPLICANT

Blue Mountain Electric Company LLC is a California limited liability company that was formed in 2017. The Applicant is headquartered in California and located in one of the most fire threatened regions of the Central Sierra. The Applicant states the Project property was purchased by the Calaveras Water District, which now serves as the Applicant’s landlord.

The Applicant received authorization from the Sierra Nevada Conservancy on March 2, 2022, for a Resilient Communities Grant in the amount of \$400,000.

The major shareholders (10.0% or greater) of the Applicant are:

Gregory Stangl (50%)
Phoenix Biomass Energy, Inc. (50%)

The company officers of the Applicant are:

Gregory Stangl, Managing Member

³ California Code of Regulations Title 4, Division 13, Section 10035(b)(1)

⁴ California Code of Regulations Title 4, Division 13, Section 10035(b)(1)(A)

THE PROJECT

The Applicant received an STE to develop a 3 MW bioenergy facility in Wilseyville that will convert local forest biomass into syngas and biochar using a gasification process. By doing so, the Applicant will be able to reduce open burning of forestry waste. According to the Applicant, the Project's gasification technology will bake the woodchips to create syngas, and the waste heat from the syngas production will be reused in the drying process of its incoming feedstock. The syngas will power a 3 MW engine that will produce electricity to sell back to the grid to Pacific Gas and Electric. Biochar is the residual byproduct of the gasification process and is a low energy content, high fixed carbon solid that will then be sold for use in soil amendments or as activated carbon for water and other filtration applications.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture syngas; the Qualified Property also includes a portion of the power generation equipment used to power the facility. The Project's equipment will consume approximately 15 percent of the total amount of available energy generated from syngas combustion; therefore, 15 percent of the power generation equipment is eligible for a sales and use tax exclusion. However, 85 percent of the power generation equipment is not included in this Application, as it represents the proportion of available energy in the form of electricity that will be sold to PG&E.

15% PURCHASE REQUIREMENT TIMEFRAME EXTENSION REQUEST

The Applicant has requested that the 15% purchase requirement timeframe be extended from December 21, 2023, to June 21, 2024, in order to accommodate delays in obtaining funding.

Staff Evaluation

Staff took into consideration the adverse effect caused by the coronavirus pandemic, which not only impacted the Applicant's industry, but market conditions as well. According to the Applicant, the onset of the Project has been delayed until the Applicant is able to secure capital funding. As market conditions continue to fluctuate, the Applicant has had to conduct additional engineering work to ensure it does not exceed the dedicated budget. The Applicant was able to overcome the financial burden of the economy conditions and ensure the Project's success by applying for a USDA REAP Loan Guaranty and for Climate Catalyst Funding (CCF). The Applicant has a commitment letter from the bank as well as a mezzanine lender. The Applicant will have secured the funding needed to accelerate the purchasing of Qualified Property by the end of December 2023.

Based on this information, Staff believes these are extraordinary circumstances, and that extending the 15% purchase requirement timeframe will allow for the Project to be completed, and is, therefore, in the public interest and advances the purposes of the STE Program.

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 STE Program regulations,⁵ the Applicant has paid an additional fee of \$1,500 because extending the 15% purchase requirement timeframe qualifies as a modification to the Applicant's Agreement.

RECOMMENDATION

Staff recommends that the Board approve the Applicant's request to extend the 15% purchase requirement timeframe by six months to June 21, 2024, as the Applicant has demonstrated extraordinary circumstances, and it is in the public interest and advances the purposes of the STE Program.

Attachments

Attachment A: Blue Mountain Electric Company LLC's letter requesting waiver (September 15, 2023)

Attachment B: Blue Mountain Electric Company LLC's staff summary at the time of approval

⁵ California Code of Regulations Title 4, Division 13, Section 10036(c)(1)(A)

**RESOLUTION APPROVING AN EXTENSION OF
BLUE MOUNTAIN ELECTRIC COMPANY LLC’S 15% PURCHASE
REQUIREMENT TIMEFRAME UNDER THE REGULATORY AGREEMENT**

December 12, 2023

WHEREAS, on June 21, 2022 the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”), a public instrumentality of the State of California, approved a Sales Tax Exclusion (“STE”) in the amount of \$17,030,696 of Qualified Property for **Blue Mountain Electric Company LLC** (the “Applicant”); and

WHEREAS, within 18 months of approval by the Authority, the Applicant must purchase or execute purchase orders for at least 15% of the total amount of Qualified Property listed in the approval resolution (STE Program regulations Section 10035(b)(1)); and

WHEREAS, upon a finding of extraordinary circumstances and that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that the Applicant must purchase or execute purchase orders for at least 15% of the total amount of Qualified Property within 18 months of Application approval (STE Program regulations Section 10035(b)(1)(A)); and

WHEREAS, the Applicant has requested a waiver of the requirement to purchase or execute purchase orders for at least 15% of the Qualified Property amount within 18 months due to unexpected delays in the Project timeline, extending the term by six (6) months to June 21, 2024; and

WHEREAS, the Applicant has demonstrated extraordinary circumstances as to why it cannot meet the 18-month 15% purchase requirement timeframe; and

WHEREAS, granting the waiver will allow the Project to proceed and the state to receive the anticipated environmental and economic benefits that justified the initial approval of the Project in accordance with the law, thereby advancing both the public interest and the purposes of the Program.

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

Section 1. The Authority finds these are extraordinary circumstances and that it is in the public interest and advances the purposes of the Program to extend the Applicant’s deadline to meet the 15% purchase requirement to June 21, 2024.

Section 2. This resolution shall take effect immediately upon its passage.

**Attachment A: Blue Mountain Electric Company LLC's Letter Requesting Waiver
(September 15, 2023)**



15 September 2023

RE: Request for Extension of Agreement Terms: Application No. 22-SM001

CAEATFA

I am writing on behalf of Blue Mountain Electric Company LLC to formally request an extension of our agreement terms, specifically regarding the requirement to execute purchases totaling at least 15% of our qualified property by December 21, 2023, as outlined in Section 6.A.

As of September 14, 2023, Blue Mountain Electric Company has not made any purchases in fulfillment of this agreement. This delay is primarily attributed to the project's current funding status, which has yet to reach the point where we can proceed with the acquisition of qualified property. The evolving economic landscape, especially in the wake of the post-Covid era, has necessitated a more extensive phase of engineering work than initially anticipated, deviating from the standards set by prior projects.

The rationale behind this comprehensive engineering effort is to meticulously assess project costs and ensure a precise understanding of the project's financial requirements. On a positive note, we are in the final stages of reaching financial close, and we expect to receive the notice to proceed with the project by November 2023. Once we receive this notice, we will expedite the purchase of qualified property; however, we anticipate that we may not meet the 15% target by the stipulated deadline of December 21, 2023.

Our project timeline currently indicates that construction will conclude 18 months after receiving the notice to proceed, placing us in June 2025. This timeframe aligns with the initial terms of the Regulatory Agreement.

In conclusion, we respectfully request an extension of an additional six months to fulfill the requirement of purchasing 15% of our qualified property. This extension is vital to the success of our project, particularly in light of the escalating project costs. We kindly request the board's approval for this extension, which we believe will be of great benefit to the project.

Thank you for your understanding and consideration of this request. Please do not hesitate to reach out should you require any additional information or clarification.

Todd Machado

Todd Machado, Operations Manager

Attachment B: Blue Mountain Electric Company LLC’s Staff Summary at the Time Approval

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Resolution No. 22-SM001-01

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

Request to Approve Project for a Sales and Use Tax Exclusion¹

**Blue Mountain Electric Company LLC
Application No. 22-SM001**

Tuesday, June 21, 2022

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – Blue Mountain Electric Company LLC

Location – ~~Wilseyville~~, Calaveras County

Industry – Biomass Processing and Fuel Production

Project – New Biomass Processing and Fuel Production (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$17,030,696	\$1,447,609

Estimated Net Benefit ³	Dollar Value	Points Earned
Estimated Fiscal Benefits	\$1,719,760	1,188
Estimated Environmental Benefits	\$2,938,804	2,030
Additional Benefits	N/A	90
Total	\$4,658,564	3,308
Estimated Quantifiable Net Benefit	\$3,210,955	

Competitive Criteria Score – 145

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

Blue Mountain Electric Company LLC (the “Applicant”) is a California limited liability company that was formed in 2017. The Applicant is headquartered in California and located in one of the most fire threatened regions of the Central Sierra. The project that is up for consideration was initially led by the Calaveras Healthy Impact Product Solutions (“CHIPS”), a 501(c)(3) organization that will co-locate with the Applicant and serve as its landlord.

The Applicant received authorization from the Sierra Nevada Conservancy on March 2, 2022, for a Resilient Communities Grant for \$400,000.

The major shareholders (10.0% or greater) of the Applicant are:

Gregory Stangl (50%)
Phoenix Biomass Energy, Inc. (50%)

The company officers of the Applicant are:

Gregory Stangl, Managing Member

THE PROJECT

The Applicant is developing a 3 MW bioenergy facility in Wilseyville that will convert local forest biomass into syngas and biochar using a gasification process (the “Project”). By doing so, the Applicant will be able to reduce open burning of forestry waste. According to the Applicant, the Project’s gasification technology will bake the woodchips to create syngas, and the waste heat from the syngas production will be reused in the drying process of its incoming feedstock. The syngas will power a 3 MW engine that will produce electricity to sell back to the grid to Pacific Gas and Electric. Biochar is the residual byproduct of the gasification process and is a low energy content, high fixed carbon solid that will then be sold for use in soil amendments or as activated carbon for water and other filtration applications.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture syngas; the Qualified Property also includes a portion of the power generation equipment used to power the facility. The Project’s equipment will consume approximately 15 percent of the total amount of available energy generated from syngas combustion; therefore, 15 percent of the power generation equipment is eligible for a sales and use tax exclusion. However, 85 percent of the power generation equipment is not included in this Application, as it represents the proportion of available energy in the form of electricity that will be sold to PG&E.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Building Improvements and Construction Materials	\$1,666,534
Utilities, Electrical, Sewer and Water Equipment	\$2,447,066
Process Equipment	\$12,917,096
Total	<u>\$17,030,696</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, Project activities have started as of July 2020, and it is in the process of obtaining detailed engineering for construction. The Applicant states its bid packs are expected to be issued by fall of 2022, with the gasifier being ordered by September 2022. Project construction will begin between summer and fall of 2022 and is anticipated to be completed by the end of 2023.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant states that the Calaveras County Planning Department approved the Project in November 2021 and filed a Mitigated Negative Declaration. The Applicant has been approved for its conditional use permit, Renewables Portfolio Standards Eligibility Certificate, CEQA and Health Risk Assessment.

COMPETITIVE CRITERIA SCORE

The Applicant received 145 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points)**. The Application has a Project that produces an Alternative Source product, component, or system, and, therefore, 100 points are awarded.
2. **Unemployment (0 of 50 points)**. The Applicant's Project is located in Calaveras County, which has an average annual unemployment rate of 5.8%.⁴ When compared to the statewide average annual unemployment rate of 7.89%, the Project location earned the Applicant zero points.
3. **Job Creation (30 of 75 points)**. The Applicant anticipates the Project will support a total of 14 production-related jobs at its Facility. CAEATFA estimates that approximately two 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 Unemployment rates are based on data available in December 2021.

4. **California Headquarters (15 of 15 points)**. The Applicant has a California Corporate Headquarters, and, therefore, 15 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 (0 of 75 points)**. The Project's industry is not in an Emerging Strategic Industry, and, therefore, zero points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 3,308 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 2,030 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (1,188 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 \$1,719,760 resulting in a Fiscal Benefits score of 1,188.
- B. **Environmental Benefits (2,030 points)**. The Project is anticipated to result in \$2,938,804 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 2,030 points. These benefits derive from the production of syngas, which offsets the need for use of fossil fuel.
- C. **Additional Benefits (90 points)**. Applicants may earn additional points for their Total Score. The Applicant received 90 additional points.
 1. **Production Jobs (30 of 75 points)**. The Applicant anticipates the Project will support a total of 14 production-related jobs at its Facility. CAEATFA estimates that approximately two 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.

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2. **Construction Jobs (35 of 75 points)**. The Applicant anticipates the Project will support a total of 24 construction jobs at its Facility. CAEATFA estimates that approximately four 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 35 points.
3. **Unemployment (0 of 50 points)**. The Applicant's Project is located in Calaveras County, which has an average annual unemployment rate of 5.8%. When compared to the statewide average annual unemployment rate of 7.89%, the Project location earned the Applicant zero points.
4. **Benefits and Fringe Benefits (25 of 25 points)**. The Applicant states it provides medical, health, dental and vision benefits, bonuses, a pension plan, retirement contributions, employee discounts, and paid leave benefits to its employees, earning the Applicant 25 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 \$68,122.78.

RECOMMENDATION

Staff recommends the approval of Resolution No. 22-SM001-01 for Blue Mountain Electric Company LLC's purchase of qualifying tangible personal property in an amount not to exceed \$17,030,696 anticipated to result in an approximate STE value of \$ 1,447,609.

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

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH
BLUE MOUNTAIN ELECTRIC COMPANY LLC**

June 21, 2022

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **Blue Mountain Electric Company 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 \$17,030,696 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).

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

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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.