

**BEFORE THE NEVADA ENERGY ACTING COMMISSIONER  
NEVADA RENEWABLE ENERGY AND  
ENERGY EFFICIENCY AUTHORITY**

<b>In the Matter of the Application of:</b>	)	
	)	
<b>ORNI 39, LLC.</b>	)	<b>Application Filing No. 10-10006G</b>
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

A hearing was held before the Nevada Energy Acting Commissioner of the Nevada Renewable Energy and Energy Efficiency Authority (Acting Commissioner) on May 11, 2011 regarding Application Filing Number 10-10006G. At the hearing, applicant ORNI 39, LLC (ORNI 39) was represented by Scott Scherer of Holland & Hart. The Acting Commissioner was advised by Louis Ling. Based upon ORNI 39's presentation at the hearing, the Acting Commissioner makes the following findings of fact, conclusions of law, and order in this matter.

**FINDINGS OF FACT**

1. At the hearing of the matter, ORNI 39 presented the testimony of Paul Thomsen, Director of Policy and Business Development, and Eyal Hen, Controller. The Acting Commissioner admitted into evidence as Exhibit 1 a packet that contained six subparts: (A) Notice of Public Hearing, dated May 4, 2011; (B) ORNI 39, LLC Pre-Application filed with the Nevada Energy Commissioner on March 26, 2010; (C) ORNI 39 McGinness Hills Application (revised/redacted) as filed with the Nevada State Office of Energy on April 26, 2011; (D) Energy Related Tax Incentive Fiscal Note as required by NRS 701A.375-1(a) by the Budget Division of the State of Nevada Department of Administration, received on April 14, 2011; (E) Fiscal Impact Renewable Energy Partial Abatement of Sales/Use and Property Taxes as required by NRS 701A. 375-1(b) by the State of Nevada Department of Taxation, received on April 7, 2011. At

April 7, 2011. At the hearing, ORNI 39 presented the written testimony of Mr. Thomsen which was accepted into evidence and the oral testimony of Mr. Thomsen and Mr. Hen. Based upon the testimony of the witnesses and the evidence presented, the Acting Commissioner finds the following to be the facts in this matter.

2. ORNI 39 is a wholly-owned indirect subsidiary of Ormat Nevada, Inc. ORNI 39 is a Nevada LLC with its primary office located in Reno, Nevada.

3. On March 26, 2010, ORNI 39 submitted its Pre-application in this matter.

4. On April 26, 2011, ORNI 39 submitted its Application seeking partial abatement of sales and use taxes for the construction of a geothermal power generation facility that would be located on 7,580 acres of land leased from the Bureau of Land Management in Lander County, Nevada (Application Filing Number (AFN) 10-10006G). The Application described a geothermal power generation facility that would generate 43 megawatts (MW) nameplate that would be sold to NV Energy for a period of 20 years pursuant to a power purchase agreement.

5. At the hearing and in his written testimony, Mr. Thomsen testified that ORNI 39 was properly licensed and qualified to do business in Nevada; that ORNI 39 had obtained and intended to maintain all of the required licenses and permits to operate the ORNI 39 facility; that ORNI 39 had received all necessary approvals for the ORNI 39; that the ORNI 39 facility would have a nameplate rating of 43 MW and was anticipated to produce 30 MW net; that ORNI 39 had entered into a 20-year power purchase agreement with NV Energy by which NV Energy would purchase all the power produced by the ORNI 39 facility; that the ORNI 39 facility was anticipated to be completed and operational in the first quarter of 2012; that the capital investment of the project will be approximately \$164,000,000.00; and that the project included the construction and installation of a transmission line by which the facility would be connected to the power distribution grid. In his oral testimony, Mr. Thomsen also added some additional

information, including: the total construction payroll would be at least \$7,700,000; that the total number of qualifying construction employees in quarter 2 of the construction would be at least 104; that the average hourly wage for qualifying construction employees would be \$41.05 per hour; and that Lander County had approved the project for the sales and use tax abatements but had not approved (on a 3-2 vote) the project for a partial abatement of property taxes.

6. The Acting Commissioner took notice that the statewide average hourly rate as determined by the Department of Employment, Training, and Rehabilitation (hereinafter "DETR") for fiscal year 2011 was \$19.93. Thus 110% of the wage for fiscal year 2011 was \$21.92, and 150% of the wage for fiscal year 2011 was \$29.90.

7. The Fiscal Impact statement produced on April 7, 2011 by the Department of Taxation shows the following estimated figures regarding the sales and uses taxes related to the ORNI 39 facility:

Total Amount Abated (Year 1)	\$4,800,600.00
Total Amount Abated (Year 2)	\$67,500.00
Total Amount Abated (Years 3)	\$67,500.00
<b>TOTAL AMOUNT ABATED</b>	<b>\$4,935,600.00</b>
Total Impact on Local Government (Year 1)	\$2,667,000.00
Total Impact on Local Government (Year 2)	\$37,500.00
Total Impact on Local Government (Year 3)	\$37,500.00
<b>TOTAL IMPACT ON LOCAL GOVERNMENT</b>	<b>\$2,742,000.00</b>
Total Local School Support Tax Gain	\$2,654,490.00

8. The Fiscal Note produced by the Budget Division shows that the State General Fund will be impacted for a total of \$2,229,823.00 in sales and use taxes abated over the period of the abatement (2011 through 2014).

9. Synthesizing the figures in evidence in this matter, the total estimated benefit pursuant to NRS 701A.365(1)(f) to the state and local governments in Nevada is \$186,693,616.00 and the total estimated amount of sales and use taxes abated in this matter is \$4,935,600.00. Thus, the benefits to the state and local governments in Nevada exceed the total amount of abated taxes. The estimated benefits and amounts abated over the applicable periods of abatement are calculated as follows:

Financial Benefits

Capital Investment in the Facility	\$164,000,000.00
Sales and Use Taxes Collected After Abatement	\$2,742,000.00
Construction Payroll	\$7,700,000.00
Operational Payroll (20 years @ \$612,580.80 per year):	\$12,251,616.00
<b>TOTAL BENEFITS OVER ABATEMENT PERIODS</b>	<b>\$186,693,616.00</b>

Amounts Abated

Total Sales and Use Taxes Abated (3 Years)	\$4,935,600.00
<b>TOTAL TAXES ABATED</b>	<b>\$4,935,600.00</b>

10. That all of the evidence discussed in the preceding paragraphs was supported by the substantial, reliable, and probative evidence taken from the record as a whole produced at the hearing of this matter.

**CONCLUSIONS OF LAW**

1. The Acting Commissioner has the jurisdiction and authority to adjudicate this matter because the Application is within the scope of NRS 701A.300 through 701A.390 and the Acting Commissioner is required by law to hold the hearing in this matter pursuant to NRS 701A.360(5).

2. The substantial, reliable, and probative evidence in the record of this matter shows that ORNI 39's Application for the construction and operation of the ORNI 39 facility satisfies the following statutory requisites:

(a) NRS 701A.320(1)(a) – The primary source of energy to operate the ORNI 39 facility will be the facility itself, thus meeting the statutory standard.

(b) NRS 701A.320(1)(b) – The ORNI 39 facility will generate 43 MW nameplate, thus exceeding the statutory standard.

(c) NRS 701A.320(2) – The ORNI 39 facility is not located on residential property, thus meeting the statutory standard.

(d) NRS 701A.360(2) – The ORNI 39 facility is not owned, operated, leased, or controlled by a government agency, thus meeting the statutory standard.

(e) NRS 701A.365(1)(a)(1) – The ORNI 39 facility is anticipated to be operational for at least 20 years, thus exceeding the statutory standard.

(f) NRS 701A.365(1)(b) – The ORNI 39 facility has all the necessary state and local permits and licenses to operate, thus meeting the statutory standard.

(g) NRS 701A.365(1)(c) - No funding for the ORNI 39 facility is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefore, except any private activity bonds as defined in 26 U.S.C. §141, thus meeting the statutory standard.

(h) NRS 701A.365(1)(e)(1) – The construction of the ORNI 39 facility will employ 104 full-time employees during the second quarter of construction of which most or all will be Nevada residents, thus exceeding the statutory standard.

(i) NRS 701A.365(1)(e)(2) – The capital investment in the ORNI 39 facility is estimated to be \$164,000,000.00, thus exceeding the statutory standard.

(j) NRS 701A.365(1)(e)(3) – The average hourly wage paid to the operational employees of the ORNI 39 facility will be approximately \$24.54, which is more than 110% of the average hourly wage set by DETR of \$21.92, thus exceeding the statutory standard.

(k) NRS 701A.365(1)(e)(4) – The average hourly wage paid to the construction employees on the ORNI 39 facility will be approximately \$41.05, which is more than 150% of the average hourly wage set by DETR of \$29.90, thus exceeding the statutory standard.

(l) NRS 701A.365(1)(e)(4)(I) and (II) – The health insurance provided to the construction employees on the ORNI 39 facility was represented to allow for the coverage of the dependents of the employees and will meet or exceed the standards established by the Acting Commissioner, thus meeting the statutory standard.

(m) NRS 701A.365(1)(f) – The benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the ORNI 39 facility in this State exceeds the loss of tax revenue that will result from the abatement, thus meeting the statutory standard.

(n) NRS 701A.370(1)(a)(3) – The abatement granted by this Order will not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722, thus meeting the statutory standard.


(o) NRS 701A.370(1)(b)(1)(III) – The abatement granted by this Order will not apply during any period in which the ORNI 39 facility is receiving another abatement or exemption from local sales and use taxes, thus meeting the requirement of the statute.

### **ORDER**

Based upon the foregoing, the Acting Commissioner orders that ORNI 39's Application Filing No. 10-10006G related to the construction and operation of the ORNI 39 facility is hereby **GRANTED**. ORNI 39 and the Acting Commissioner may execute an Abatement Agreement as soon as practicable that will satisfy the requisites of NRS 701A.300 through NRS 701A.390.

ORNI 39's sales and use tax abatement will terminate three years from the effective date of the Abatement Agreement. ORNI 39's property tax abatement will terminate 20 years from the effective date of the Abatement Agreement.

SIGNED this 16 day of May, 2011.

  
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STACEY CROWLEY  
Acting Nevada Energy Commissioner  
Nevada Office of Energy