

DOCKETED	
Docket Number:	23-OPT-01
Project Title:	Fountain Wind Project
TN #:	269824
Document Title:	Written Decision of the Executive Director on County of Shasta's request for dispute resolution
Description:	N/A
Filer:	Ngoc Tran
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	5/4/2026 2:35:07 PM
Docketed Date:	5/4/2026

CALIFORNIA ENERGY COMMISSION

In the Matter of Fountain Wind Project, Docket No. 23-OPT-01

Written Decision of the Executive Director on County of Shasta Request for Dispute Resolution

I. INTRODUCTION

This Decision resolves a reimbursement dispute between the County of Shasta (County) and the project applicant, Fountain Wind LLC, related to costs incurred by the County for reviewing the Fountain Wind Project (project) Opt-In certification application (23-OPT-01).

Public Resources Code section 25545.8 and California Code of Regulations, title 20, section 1878.1(e) provide that if there is a dispute over a reimbursement budget or a reimbursement invoice that cannot be directly resolved between the applicant of an Opt-In project and the local agency, the local agency or applicant shall notify the Executive Director in writing of the dispute. The Executive Director shall resolve the dispute by filing a written decision based on good cause as demonstrated by any information provided by the applicant and local agency on the merits of reimbursement.

After careful review of the record, including submissions from the County and the applicant, I issue the following decision.

II. BACKGROUND

On December 5, 2025, the County submitted a request for dispute resolution (TN 267841) to the California Energy Commission (CEC) related to costs incurred by the County in reviewing the project. On January 5, 2025, the CEC requested that the County and the project applicant provide by February 6, 2026, either a joint update that the dispute settled or indicate their respective positions on the proper amount of reimbursement for the County's review of the project and whether the following categories are reimbursable under relevant law:

1. The County's staff costs, costs of its outside counsel (Best, Best and Krieger, LLP (BBK)), and costs of its consultant (Beacon) related to reviewing the application and assessing the net economic impacts on the County from the project.
2. The County's staff costs, BBK's costs, and its consultants SHN, Enplan, and Reax's costs associated with reviewing the application and commenting on the design, construction, and operation of the facility as well as on the topics

of biological resources, land use, water supply, wildfire, alternatives, air quality and visual resources.

3. Costs related to the County's review of the Staff Assessment/ Draft Environmental Impact Report.
4. Costs related to review by MRW & Associates (MRW) of the CAISO's interconnection study, power flow analysis, power purchase agreements, and other aspects of the CAISO transmission system.
5. Costs of BBK and County staff related to the topic of Community Benefits Agreements.
6. Costs of BBK related to collecting and docketing the administrative record and hearing transcripts generated during the development of the County's amended zoning law prohibiting wind facilities.
7. Costs of BBK and MRW related to research on public convenience and necessity.
8. Costs related to the Shasta County Air Quality Management District's review of the project application.

In response to the CEC's letter, the County and the applicant were unable to settle the dispute and submitted information on their positions for costs eligible for reimbursement. The County is seeking \$285,977.16 for its review of the project. The applicant offered the County \$77,420 for reimbursement.

III. LEGAL FRAMEWORK

Under California Code of Regulations, title 20, section 1878.1, the CEC's Executive Director is empowered to resolve reimbursement disputes by filing a written decision based on good cause as demonstrated by any information provided by the applicant and local agency on the merits of reimbursement.

The Opt-In statute provides that Public Resources Code section 25538 applies to an application submitted under the Opt-In certification program. (Pub. Resources Code, § 25545.8.) With respect to cost reimbursement to a local agency, Public Resources Code section 25538 states, "Upon receiving the commission's request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the commission to reimburse the local agency for the actual and added costs of this review by the local agency..."

California Code of Regulations, title 20, section 1878.1 implements Public Resources Code section 25538 and sets the process that the CEC follows with respect to requests for reimbursement from local agencies. Section 25538 states that the CEC shall request the reimbursement fee from the project applicant.

Public Resources Code section 25519(f) orients local agencies to the categories of input most useful to the CEC, which include the design of the facility, architectural

and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility. Additionally, California Code of Regulations, title 20, section 1877(f) directs CEC staff to seek comments from the local government on the portion of the application addressing the project's overall net economic benefits.

IV. ANALYSIS

The CEC has reviewed all submitted materials and evaluated the costs sought by the County for eligibility under the relevant laws and for reasonableness. Additionally, the CEC evaluated the reasonableness of the County's claimed costs by considering several factors including, the County's familiarity with the project, whether submissions functioned as independent environmental analyses rather than requested comments reflecting local knowledge, complexity of the work, consistency with industry costs, necessity of multiple reviewers, whether the work aligned with the CEC's requested scope of comments, and whether submissions consisted of advocacy for a stated position.

The record reflects that by docketed letter submitted in 2023 (TN 253385), CEC staff explicitly advised the County that it was not being asked to undertake independent studies or extensive research. Rather, the County was asked to provide targeted input within its expertise, particularly regarding land use, special noise requirements, other local ordinances impacted by the project, or established local thresholds of significance, and to provide comments that would be instructive to staff in the preparation of the environmental impact report. Sample submissions from other jurisdictions were also provided to the County on multiple occasions to guide the expected level of detail. Notably, the sample comment letters were from public agency staff, primarily from local planning departments.

The County's submissions significantly exceeded this scope. The nature and extent of some of the work performed was not necessary to meet the CEC's request and therefore exceeds reimbursable limits under relevant law.

Based on the above considerations, I find that the following categories are consistent with Public Resources Code section 25519(f) and the CEC's regulations, and that the following amounts are reasonable and supported by good cause.

1. The County's costs related to reviewing the application and assessing the net economic impacts on the County from the project.

California Code of Regulations, title 20, section 1877(f) directs CEC staff to seek comments from the local government on the portion of the application addressing the project's overall net economic benefits. Thus, the net economic impacts on the County from the project is a category eligible for reimbursement.

This category includes two submissions filed by the County (TN 259437 and TN 260101), for which the County seeks \$69,375 in consultant costs. The first submission, TN 259437, is a five-page report evaluating the completeness of the applicant's net economic impact study. The second submission, TN 260101, is a six-page report addressing the adverse economic impacts of wildfire damage and associated increases in fire insurance costs in Shasta County attributable to the project.

The first submission is more appropriately characterized as a technical analysis rather than comments reflecting local knowledge and, as such, duplicates work performed by staff and falls outside the scope of requested input. Staff relied primarily on information contained in the second submission in preparing the Staff Assessment. The CEC also considered the length and complexity of the filings, as well as the consistency of the claimed costs with standard industry costs.

Based on these considerations, I find that a reasonable cost for the County's submissions on net economic impacts to be \$34,687.50.

2. The County's costs associated with reviewing the application and commenting on the design, construction, and operation of the facility as well as on the topics of biological resources, land use, water supply, wildfire, alternatives, and visual resources.

Under Public Resources Code section 25519(f) costs eligible for reimbursement include aspects of the design, construction, or operation of the proposed site and related facility. Thus, the County's costs for this category are eligible for reimbursement.

This category includes three submissions filed by the County (TN 259437, TN 260101, and TN 260646), for which the County seeks a total of \$188,694.66. This amount includes \$71,040 for County staff review and work, \$79,360.76 for consultants, and \$38,293.90 for legal services provided by outside counsel (BBK), including \$3,053.90 for attendance of the November 2023 Information and Scoping Meeting. The submissions include consultant reports addressing fire impacts and safety, alternatives analysis, visual impacts, and reviews of rare plant surveys and migratory birds, as well as BBK's analysis of water-related issues.

In evaluating the reasonableness of the claimed costs, the CEC considered industry rates, as well as the nature and scope of the work performed. In several instances, the County's filings are more appropriately characterized as independent environmental analyses rather than comments reflecting local knowledge, therefore duplicating staff's work and extending beyond the scope of requested input. The CEC also considered the County's familiarity with the project, including its retention of the same consultant team that supported review of the applicant's conditional use permit application. These actions should have reasonably resulted in reduced costs of review and considerably more baseline knowledge from which to generate comments on the application.

Based on these considerations, I find that the reasonable cost for the County's submissions on the design, construction, and operation of the facility as well as on the topics of biological resources, land use, water supply, wildfire, alternatives, and visual resources to be \$62,898.22.

3. Shasta County Air Quality Management District's review of the project application.

There is no dispute regarding the amount sought for the Shasta County Air Quality Management District's review of the project application. Therefore, I find that the reasonable cost for the County's review of this category to be \$2,420.

The remaining categories, specifically comments on the Staff Assessment and Draft Environmental Impact Report, CAISO's interconnection study and transmission system analysis, Community Benefits Agreements, the administrative record and hearing transcripts for the County's amended zoning law prohibiting wind facilities, and public convenience and necessity are not reimbursable because they fall outside the scope of work requested by the CEC or are not consistent with the limitations set forth in Public Resources Code sections 25519(f) and 25538 and California Code of Regulations, title 20, sections 1877(f) and 1878.1. Therefore, I find that these categories and the associated costs are not eligible for reimbursement.

V. DECISION

Based on the foregoing, and pursuant to California Code of Regulations, title 20, section 1878.1(e), I find that good cause supports reimbursement to Shasta County in the total amount of \$100,005.72. Consistent with Public Resources Code section 25538, the CEC directs the applicant to reimburse the County, within 30 days of the filing of this decision, in the amount of \$100,005.72.

This amount reflects the reasonable costs authorized under the relevant law incurred by the County in reviewing the Fountain Wind Project application.

This Decision represents a balanced application of the law, ensuring that local agencies are fairly compensated for meaningful participation while maintaining the limitations established by statute and implementing regulations.

Sincerely,



Drew Bohan
Executive Director