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Rebuttal To Net Economic Benefit

Additional submitted attachment is included below.



Opposing The Presumption Of Net Positive Economic Benefit For The Corby Battery Energy Storage System Project

California Energy Commission
715 P Street
Sacramento, CA 95814

Re: Corby Battery Energy Storage System Project, Docket No. 24-OPT-05 Comments
Rebutting the Presumption of Net Positive Economic Benefit to Solano County

Dear Chair and Commissioners:

We submit these comments on the Draft Staff Assessment for the Corby Battery Energy Storage System Project. These comments address Sections 7 and 10.4, including Section 10.4, "Net Positive Economic Benefit to the Local Government," at page 10-7. I specifically rebut staff's proposed conclusion that the project "results in an overall net positive economic impact to Solano County." Public Resources Code section 25545.9 bars certification unless the Commission affirmatively finds an overall net positive economic benefit to the local government that would otherwise have permitting authority. The current record does not support that finding.

Summary of Position

The Staff Assessment identifies possible economic activity, but it does not show a net benefit to Solano County. It relies on gross tax estimates, temporary construction activity, and general spending categories without proving that benefits will remain local or exceed local costs. The presumption of net positive benefit has therefore been rebutted by the record gaps identified below.

Legal Standard

Public Resources Code section 25545.9 requires a finding that construction or operation will create an overall net positive economic benefit to the local government that would otherwise have permitting authority. Possible benefits may include employment growth, housing development, infrastructure and environmental improvements, assistance to schools and public safety agencies, and property, sales, and use tax revenues.

That presumption is rebuttable. It cannot substitute for evidence showing that local benefits exceed local burdens. The Commission should not rely on the presumption where the record does not quantify local costs, verify local revenues, or require enforceable local benefits.

Section 10.4, at page 10-7, states that staff is unaware of information rebutting the presumption and therefore recommends a finding of net positive economic impact. These comments provide that rebuttal information: unverified tax assumptions, temporary and potentially non-local jobs, unquantified fire and emergency-response costs, agricultural and property-tax-base impacts, and no enforceable local community benefits.

Grounds for Rebuttal

1. Staff overlooked Solano County's existing rebuttal evidence in TN 260461.

Section 10.4 does not say staff weighed contrary evidence and found it unpersuasive. It says staff is "*unaware*" of information in the record rebutting the presumption. That premise is incorrect. **Solano County filed comments on December 4, 2024, TN 260461**, headed "**Comment 1: Inadequate Preliminary Information Demonstrating Overall Net Positive Economic Benefit to the County.**" Those comments directly challenged the same two Application sections staff relies on: sections 1.1.5.6 and 4.14.3.3.

Solano County's TN 260461 comments identified several defects: employment growth was negligible because most jobs were temporary construction jobs; the sales and use tax estimates were unclear and depended on where purchases were booked; the applicant had not identified the headquarters, purchasing, or billing location for Corby BESS LLC and NorthBay Interconnect LLC; the County requested point-of-sale commitments or an equivalent guaranteed payment; and the application failed to analyze displacement of approximately 59.7 acres of productive agricultural land, impacts to neighboring property values, and impacts to public safety agencies.

Because TN 260461 is not cited in the Staff Assessment, staff's statement that it is unaware of rebuttal information is unsupported. The Commission should require staff to address Solano County's comments directly before relying on the rebuttable presumption or making the required net-positive-benefit finding.

2. The claimed benefits are generalized and largely unsupported by project-specific local evidence.

Section 7 says the project would provide benefits "typical for a large-scale industrial project with an extended construction period." That is not a project-specific showing. The assessment does not say how many construction jobs will go to Solano County residents, how much payroll will stay in the County, which local vendors will be used, or what enforceable local hiring or procurement commitments exist.

Without that evidence, construction activity should not be counted as a reliable local benefit. Major BESS components, including battery cells, racks, transformers, and inverters, are commonly made or procured outside the host county. Unless the applicant proves that major taxable transactions will be allocated to Solano County, the claimed local sales-tax benefit may be far smaller than stated.

3. Temporary construction benefits do not establish long-term employment growth.

The Staff Assessment acknowledges that post-construction staffing would be minimal. That undercuts any claim of meaningful long-term employment growth. Temporary construction jobs do not establish a net local benefit unless the applicant commits to local hiring, local apprenticeships, and local workforce participation.

Specialized BESS contractors may also come from regional or non-local labor pools. Without a binding local hire agreement or equivalent condition, construction wages may leave Solano County while the County absorbs disruption and public-service demands.

4. One-time construction revenues do not offset decades of operational risk.

The Staff Assessment also appears to rely heavily on one-time construction activity and associated sales or use tax revenues. One-time revenues should not be treated as offsetting decades of operational risk unless the analysis compares them on a lifecycle basis. Temporary construction spending may be exhausted long before the County and affected agencies must maintain specialized readiness, respond to incidents, monitor compliance, review ownership transfers, evaluate decommissioning obligations, and address end-of-life site restoration or battery-disposal issues.

5. The tax revenue discussion does not show a net benefit to Solano County.

Section 7 reports about \$18.2 million in construction sales and use tax revenue, including about \$3.4 million accruing to the County, and about \$70.5 million in operational property-tax revenue over the project life. These are gross figures. The assessment does not show the net share retained by Solano County, the Dixon Fire Protection District, schools, or other affected agencies after allocation to 75 taxing entities. It also does not verify point-of-sale allocation, use-tax treatment, exemptions, pass-throughs, assessed value, or depreciation assumptions.

Gross revenue is not the same as net economic benefit. The record should show annual revenues by agency, one-time versus recurring revenues, and all public costs over the project life, including emergency preparedness, fire protection, law enforcement, road impacts, inspections, administration, hazardous-materials coordination, and decommissioning oversight.

Staff's own analysis confirms the problem. The reported sales, use, and property-tax amounts may be legitimate revenues to list, but they are not a net fiscal analysis. The Commission must deduct project-created costs before finding a net positive economic benefit.

The Staff Assessment also recognizes added fire-protection demands and relies on project funding, equipment, training, and additional staffing associated with Dixon Fire Department response. If those measures are needed, their costs must be counted before staff concludes that the project is a net economic benefit to Solano County.

Section 7 says property-tax revenue would help offset potential fire-response and law-enforcement costs. That admission shows why a net analysis is required. The public-benefit discussion should disclose that Section 7 does not calculate the fiscal benefit remaining after mitigation, training, equipment, staffing, and other public-safety obligations are deducted.

6. The Draft Staff Assessment does not account for local public safety and emergency response costs.

Section 7 says property-tax contributions would help offset potential fire-response and law-enforcement costs. That is not enough. The question is whether the project creates an overall net positive economic benefit to Solano County. A BESS facility may require specialized training, hazardous-materials equipment, pre-incident planning, law-enforcement coordination, evacuation planning, extended response capacity, standby capability, and post-incident monitoring. The Staff Assessment does not quantify those costs or require enforceable funding sufficient to cover them.

The Commission should require binding conditions that fully fund fire, law enforcement, public health, emergency management, emergency communications, training, equipment, and response planning caused by the project. Without full reimbursement, the project may shift costs and risks to local taxpayers while claiming generalized fiscal benefits.

7. WORKER SAFETY-10 does not fund Station 82 or fire staffing.

The Staff Assessment states: “The project also would require additional staffing for DFD to add a new fire company to staff station 82 to avoid increased response time to an emergency within DFD’s jurisdiction, which would create financial hardship for the DFD. Implementation of COC WORKER-SAFETY-10 would ensure that DFD receives funding for station 82 to help reduce the fire protection demands placed on DFD to a less-than-significant level.”

That statement conflicts with the actual condition. WORKER SAFETY-10, as described in Section 4.4 at PDF page 173, requires only that the project owner purchase and provide DFD a drone capable of detecting toxic air contaminants, including NO₂, CO, and HF, with visual inspection capability, and provide funds for updated software, routine maintenance, and replacement if necessary for the life of the project. Staff’s own summary at Section 4.4, PDF page 162, describes the condition as requiring the project owner to supply DFD a drone and yearly maintenance for that drone. The condition does not require funding for Station 82, an incremental fire company, staffing, personnel, or long-term standby capacity. If Staff intends to rely on added fire-station or fire-company capacity to support the net-benefit finding, the Commission must either adopt an enforceable condition funding that capacity for the life of the project, indexed and financially secured, or disclose the burden as unmitigated and include its cost in the net fiscal analysis.

8. Thermal runaway fire risk is a foreseeable operational cost, not a remote contingency.

A net economic benefit analysis must treat thermal runaway, toxic off-gassing, multi-day fire response, evacuation coordination, air monitoring, traffic control, mutual aid, and post-incident oversight as foreseeable operational costs if the project’s own hazard analysis shows such events could occur during the facility’s operating life. These costs are not speculative externalities; they are part of the cost of operating a large BESS facility near local communities and must be priced before staff can conclude that the project creates a net benefit to Solano County.

If thermal runaway or off-gassing events are reasonably foreseeable over the project’s life, the Staff Assessment should not evaluate them only as safety incidents addressed by emergency planning. It should also evaluate their fiscal consequences: fire-district

staffing, hazardous-materials response, emergency communications, evacuation and shelter-in-place management, law-enforcement traffic control, public-health coordination, air monitoring, equipment replacement, training, mutual-aid depletion, and administrative oversight. Those costs should be deducted from claimed tax and employment benefits in the Section 10.4 net-benefit finding.

9. No condition requires no-fault reimbursement of actual emergency response costs.

The Staff Assessment does not identify any condition requiring the project owner to reimburse Solano County, DFD, or other responding agencies for the actual costs of responding to a thermal runaway event. The phrase “cost recovery” does not appear in the Staff Assessment, and Health and Safety Code section 13009 is not cited. The only County fiscal condition, COC SOCIO-1, discussed in Section 5.11 at PDF page 784, requires a one-time Solano County Public Facilities Fee. That is a capital charge to the County, not incident-response reimbursement, and it is not payable to any fire agency.

Health and Safety Code section 13009 does not fill the gap. It is fault-based and applies only where a person negligently or unlawfully sets a fire, allows a fire to be set, allows a fire to escape, or fails to correct a properly noticed hazard. A thermal runaway caused by a cell defect or other non-negligent equipment failure may not trigger recovery. In practice, a responding agency would have to prove fault through civil litigation before recovering its costs.

Solano County’s own BESS ordinance confirms the missing fiscal protection. Ordinance ZT-25-02, as described in the Staff Assessment at Section 5.8, PDF page 674, requires BESS facility owners to reimburse Solano County and emergency response agencies, including fire agencies, for all costs associated with a thermal runaway event, with root-cause-analysis costs borne by the owner. Even if Public Resources Code section 25545.1(b)(1) supersedes the ordinance for certification purposes, the ordinance remains evidence of the host government’s determination that no-fault reimbursement is necessary to prevent the project from becoming a net fiscal loss.

The Commission should adopt a condition requiring no-fault reimbursement of all incident-response, evacuation, air-monitoring, traffic-control, mutual-aid, cleanup-oversight, and root-cause-analysis costs incurred by every responding agency. That obligation should be secured by a letter of credit or equivalent financial assurance.

10. Environmental and grid-reliability benefits are not substitutes for the required local economic finding.

Section 7 also cites statewide environmental and reliability benefits, including renewable-energy integration, reduced curtailment, and support for California clean-

energy goals. Those benefits may matter elsewhere, but they do not prove a local economic benefit to Solano County. They should not be counted under Section 25545.9 unless the record shows concrete local fiscal value.

11. The assessment omits opportunity costs and impacts on existing local land uses.

A net analysis must also consider what Solano County gives up. If the project converts productive agricultural land or limits agricultural operations, the analysis should account for lost farm income, supplier spending, agricultural employment, related local services, and the long-term value of preserving farmland. It should also evaluate whether safety concerns, visual impacts, or land-use conflicts could suppress nearby property values and reduce the local tax base over the project's operating life.

12. The agricultural conservation easement is not an economic benefit to Solano County.

COC LAND-1 requires 122.4 acres of agricultural conservation easements for 40.8 acres converted in the County. That easement requirement should not be counted as an economic benefit to Solano County. By Staff's own criteria, the mitigation land must already be viable for agriculture, already have adequate water, and not already be protected by a conservation easement. The easement therefore does not add new agricultural production, new agricultural employment, new supplier spending, or new tax base to the County.

Staff describes the easements as substitute resources, not replacement farmland. A conservation easement restricts land that is already producing; it does not put converted project acreage back into production or replace the dollars of agricultural output the project removes. County agricultural output after the project is the same existing protected acreage, minus the converted project acreage, plus no new production. The Commission should therefore exclude the 122.4-acre conservation easement from the benefit side of the Section 10.4 net-benefit analysis.

13. There is no financial assurance for decommissioning, site restoration, or battery disposal.

No condition of certification requires security for decommissioning, site restoration, or battery disposal. COM-15 requires a Final Closure Plan and Cost Estimate no less than one year before permanent facility closure and states that the project owner remains liable for contingency planning and closure costs. But liability is not financial assurance. The Staff Assessment does not identify any bond, surety, escrow, letter of credit, or other secured funding mechanism for closure.

The same Staff Assessment uses secured financial assurance elsewhere. COC BIO-20 requires security for an unfinished habitat obligation in the amount of \$910,550, or the applicable cost estimate, in the form of an irrevocable letter of credit or other approved security before site mobilization. That requirement shows the Commission has the authority, instrument, and procedure to secure mitigation obligations. The Staff Assessment uses that mechanism for habitat mitigation but not for closure, site restoration, or battery disposal.

An unsecured closure obligation can become a fiscal burden on Solano County if the owner defaults, becomes insolvent, or abandons the facility. That risk belongs on the cost side of the Section 10.4 net-benefit analysis. The risk is heightened because the applicant is not NextEra itself. The Staff Assessment identifies North Bay Interconnect, LLC and Corby Energy Storage, LLC as wholly owned subsidiaries of NextEra Energy Resources, but the record does not identify a parent guarantee or other credit support from any NextEra entity. The obligor that matters is whoever owns or operates these LLCs near the end of the project life.

COM-10 does not solve that problem. It requires written notice before a change in ownership or operational control, but it does not require CPM approval, a showing of financial capacity, a written assumption of all conditions, or reposting of security. Staff's narrative cannot substitute for enforceable condition language. If control of the project changes before closure, Solano County could face an unsecured closure obligation with no confirmed creditworthy obligor.

Nor is money required when the risk is created. COM-15 is triggered no less than one year before permanent closure, while the project is expected to operate for approximately 30 years. That means closure costs may not be estimated until roughly year 29, after decades of operation, potential ownership transfers, and possible changes in battery-disposal and recycling markets. By contrast, Solano County's ordinance requires assurance by the start of full commercial operation, and BIO-20 requires security before site mobilization. The Commission should move the closure-cost estimate to before site mobilization and require financial assurance before commercial operation, with salvage or recycling value credited only if supported by a binding, assignable contract.

14. The Commission should not rely on applicant-provided fiscal estimates without independent verification.

The cited tax and employment figures appear to come from the applicant's Opt-In Application. Before relying on them, the Commission should require independent verification of equipment sourcing, point-of-sale allocation, assessed value, depreciation, tax allocation formulas, construction workforce residence, local

procurement, and public-service costs. The analysis should be released for public review before the Commission makes the required finding.

15. The Community Benefits Plan must contain enforceable local commitments, not aspirational statements.

Any Community Benefits Plan must provide direct, measurable, enforceable local benefits. Aspirational statements, voluntary contributions, or broad regional programs do not establish a net positive economic benefit to Solano County. To count, benefits must be legally binding, locally targeted, independently valued, and enforceable over the project life.

16. The net-benefit analysis fails to value the Solano County protections superseded by certification.

Section 25545.9(a) asks what certification means for the local government that would have had permitting authority. Answering that question requires identifying what certification takes from Solano County. The Staff Assessment notes that certification supersedes applicable local statutes, ordinances, and regulations, but it does not value the local protections that would be lost or adopt equivalent certification conditions.

Solano County Ordinance No. 2025-1864 (ZT-25-02) includes protections that the conditions of certification do not replace. These include bankruptcy insurance in the form of a bridge policy; financial assurance through a bond, parent-company guarantee, or irrevocable letter of credit; restoration of recently farmed land to a condition conducive to agricultural production; written assumption of all project, site-plan, and decommissioning obligations by a successor owner or operator; and manufacturer responsibility for recovery and recycling of battery cells at decommissioning.

The Staff Assessment does not replace these safeguards with equivalent conditions. More fundamentally, if the County process would have prohibited front-of-the-meter storage in the A-40 district where the project is located, certification removes both the County's siting prohibition and the safeguards that would have accompanied any lawful siting. Those lost protections are part of the counterfactual required by Section 25545.9(a). The Commission should identify each superseded protection, value it, and either adopt an equivalent condition or expressly find, based on substantial evidence, that Solano County remains net-positive without it.

17. Approval of Corby must be evaluated with cumulative BESS development, community benefits, and property-value effects.

The Staff Assessment should evaluate Corby in the context of other proposed battery storage projects in Solano County, including the battery projects identified in its own

alternatives discussion. If approval of Corby helps establish transmission, interconnection, land-use, or regulatory precedent for additional storage projects, then the cumulative burden on local fire protection, emergency response, agricultural land, public services, and surrounding property values must be addressed before staff finds a net positive economic benefit.

The concern is not whether every queued or proposed battery project will be approved. The concern is that Corby may be the first step in a larger local storage buildout, and the Staff Assessment cannot isolate the claimed benefits of one project while ignoring the cumulative costs that similar projects may impose on the same County, fire agencies, road network, agricultural land base, and nearby communities.

This cumulative context also matters for the Community Benefits Plan and property values. A one-project benefit package may be inadequate if certification contributes to a cluster of BESS facilities near the same communities or infrastructure. The Commission should require staff to identify the omitted Solano County battery projects, explain whether they were included in the cumulative analysis, evaluate cumulative effects on local fiscal burdens and property values, and ensure that any community benefits are scaled to the cumulative burden placed on Solano County.

18. The Staff Assessment does not disclose or analyze property-value impacts.

I do not claim a quantified property-value diminution, and property values alone may not determine the Section 25545.9(a) finding. The defect is disclosure. The Staff Assessment does not address property-value impacts or assessed-value effects even though they are relevant to the net economic benefit analysis. Economic effects are not themselves environmental effects under CEQA Guidelines section 15131(a), but the Section 25545.9(a) finding is not a CEQA significance finding. It requires an economic assessment of whether Solano County is net-positive.

Solano County specifically requested this analysis in its December 4, 2024 comments, TN 260461, Comment 14, stating that the application should include a study of potential property-value impacts and proposed compensation for projected declines attributable to the facility. The Staff Assessment does not cite that letter and does not address the requested analysis. Staff should disclose the omission, analyze potential assessed-value and property-tax-base effects, and explain whether compensation or a community-benefit condition is needed.

Requested Revisions and Findings

I respectfully request that the Commission revise the Draft Staff Assessment and decline to rely on the rebuttable presumption unless the record contains substantial evidence of an overall net positive economic benefit to Solano County. The Staff Assessment should not deem the economic demonstration satisfied under applicable opt-in requirements, including 20 CCR section 1877(f), unless the record verifies point-of-sale tax allocation, local hiring, local procurement, community benefits, and net fiscal impacts. At minimum, the Commission should require:

1. A project-specific fiscal impact analysis identifying gross and net annual revenues by local recipient agency.
2. A full accounting of public costs, including thermal runaway and toxic off-gassing response, fire, law enforcement, emergency management, hazardous-materials coordination, emergency communications, air monitoring, evacuation or shelter-in-place management, road impacts, inspections, administration, mutual-aid demands, decommissioning, site restoration, battery disposal, and closure oversight.
3. Independent verification of applicant tax and employment assumptions, including point-of-sale, use-tax allocation, exemptions, pass-throughs, depreciation, and assessed-value assumptions.
4. Disclosure of the share of construction jobs, payroll, equipment procurement, and vendor spending expected to accrue to Solano County residents and businesses.
5. Binding local hiring, apprenticeship, and procurement commitments to the extent lawful and enforceable.
6. Binding conditions requiring community benefits, emergency response funding, specialized training and equipment, reimbursement of all project-related local government costs, no-fault reimbursement of all incident-response, evacuation, air-monitoring, traffic-control, mutual-aid, cleanup-oversight, and root-cause-analysis costs, and, if relied on by Staff, funding for Station 82 or an incremental fire company for the life of the project, indexed and financially secured.
7. A CLOSURE-1 condition requiring an independent decommissioning, site-restoration, and battery-disposal cost estimate before site mobilization and financial assurance before commercial operation, with salvage or recycling value credited only if supported by a binding, assignable contract.
8. Amendments to COM-10 requiring CPM approval before any transfer of ownership or operational control, written assumption of all conditions by the incoming owner or operator, a showing of financial capacity, and reposting or replacement of all required security.
9. An analysis of agricultural revenue loss, opportunity costs, property-value effects, land-use impacts, and a finding that the 122.4-acre conservation easement is not

counted as an economic benefit unless the record shows it creates new, local economic value.

10. A finding that statewide environmental or grid-reliability benefits are not being counted as local economic benefits unless converted into concrete, local, fiscal benefits to Solano County.
11. Identification and valuation of each Solano County protection superseded by certification, including bankruptcy insurance, financial assurance, agricultural restoration, successor-owner assumption, manufacturer responsibility for battery recovery and recycling, and any local siting prohibition or equivalent safeguard.
12. A cumulative net-benefit analysis that includes other Solano County battery storage projects identified in the Staff Assessment, evaluates cumulative effects on fire protection, emergency response, agricultural land, public services, property values, and community benefits, and explains whether approval of Corby would contribute to or facilitate broader BESS development.
13. Disclosure and analysis of potential property-value, assessed-value, and property-tax-base effects, including a response to Solano County's TN 260461, Comment 14 request for a property-value study and potential compensation.

Conclusion

For these reasons, staff's proposed finding in Section 10.4, "Net Positive Economic Benefit to the Local Government," at page 10-7, that the project "results in an overall net positive economic impact to Solano County" is not supported by substantial evidence. Staff's conclusion rests on the premise that no rebuttal information exists, even though Solano County's TN 260461 comments directly challenged the same application sections staff relies on. The record identifies gross tax and temporary employment projections, but it does not complete a net fiscal analysis that deducts local costs, fiscal losses, foreseeable thermal runaway and toxic off-gassing response costs, fire-staffing and Station 82 obligations, lack of no-fault cost recovery, agricultural opportunity costs, undisclosed property-value and assessed-value effects, cumulative BESS-development burdens, unsecured decommissioning, site-restoration, and battery-disposal obligations, lost County protections superseded by certification, or the absence of enforceable local community benefits.

The Commission should therefore find that the rebuttable presumption has been rebutted. Before certification, the Commission should require staff to address Solano County's comments, complete and circulate an independent net economic impact analysis, identify and value the local protections displaced by certification, analyze cumulative BESS-development and property-value effects, and adopt enforceable conditions for local benefits, emergency-response reimbursement, fire-company funding if relied on, closure security, successor-owner obligations, and equivalent local

safeguards. Unless the record shows that Solano County's local benefits exceed its local costs, losses, and risks, the Commission cannot make the finding required by Public Resources Code section 25545.9(a).

Respectfully submitted,

Keep Vacaville Safe