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Comments on Proposed Rulemaking for Opt-In Certification Program

Additional submitted attachment is included below.

California Wind Energy Association

November 10, 2026

California Energy Commission
Docket No. 26-OIR-04
715 P Street
Sacramento CA 95814

Submitted via e-commenting portal

Re: Comments on Proposed Rulemaking for Opt-In Certification Program

The California Wind Energy Association (CalWEA) appreciates this opportunity to comment on the proposed rulemaking for the Opt-In Certification Program, including the proposed Express Terms showing changes to the Code of Regulations as discussed at the November 2, 2026, workshop.

As noted on the Commission's Opt-In Certification Program webpage, the purpose of this program is to offer developers an optional pathway to submit project applications and to "facilitate faster deployment of clean and renewable technologies to help achieve the state's climate goals." CalWEA's comments on the proposed "emergency regulations," as well as our suggestions for creating process efficiencies, are consistent with that purpose. The regulations should be as reasonable and clear as possible to keep permitting costs and timelines in check.

Community Benefits Agreements

Proposed section 1879.5(d) provides that "The commission shall consider the number of agreements and diversity of benefits to be provided to local communities when considering whether to approve the project." The expectations are unclear: how many agreements are required, and what is meant by "diversity" of benefits (e.g., types of recipients, types of benefits)? The suggestion is that more agreements are better; however, local circumstances will vary, and more agreements do not necessarily mean greater community benefit. Moreover, requiring more agreements for their own sake will increase transaction costs and could spark controversy. Similarly, a diversity of benefits does not necessarily provide more or preferable benefits than a smaller number of larger, or broadly shared, benefits. For example, a single CBA negotiated with the local government(s) in whose

jurisdiction(s) the project would be built can ensure that projects benefit local communities and enable a diversity of or widely shared benefits.

Therefore, Commission should clarify that one qualifying agreement may satisfy Public Resources Code section 25545.10 and that neither the absence of multiple agreements nor the absence of multiple categories of benefits may, itself, support denial of an application. A single agreement may provide diverse or broadly shared benefits without multiplying counterparties and transaction costs.

Regarding the proposed minimum funding amounts in proposed section 1879.5(c) of $2,500/MW (nameplate) for energy generation projects and $550/MWh (nameplate) for energy storage projects (with the amounts combined for hybrid projects), an agreement or agreements providing these amounts in the aggregate should be deemed sufficient with respect to the funding amount. Such a finding will set a standard that will facilitate CBA negotiations. We note that CBAs are in addition to the substantial local taxes and jobs that clean energy projects provide.

Applicants should be permitted to file a public version redacting information for which confidential treatment is sought, together with an unredacted version submitted under the Commission's confidentiality procedures. Information not granted confidential status would remain public. Confidentiality is appropriate since projects and circumstances vary. CBAs that work in one community or one project may not work in others.

Application Completeness

Completeness requests under Public Resources Code section 25545.4(b) should be limited to information required by section 1877 and Appendix B. Any follow-up completeness request should identify the specific missing requirement and explain why the applicant's prior response did not satisfy it. After completeness, any request under section 25545.4(d) should explain why the information is reasonably necessary to complete the Staff Assessment.

Post-Certification Changes

CalWEA supports proposed sections 1882(d) and (e), under which staff approves a project change when no subsequent or supplemental environmental document is required, subject to a 14-day objection supported by facts rather than speculation. The Commission should retain this language.

Laws, Ordinances, Regulations, and Standards (LORS) Conformance Process

SB 254 amended Public Resources Code section 25545.8 so that opt-in proceedings are no longer subject to the conformity findings previously required by section 25523(d), including conformity with local standards and ordinances. Proposed section 1879(a)(2) should clarify that local requirements may inform CEQA analysis and project-specific mitigation, but do not constitute independent certification prerequisites or give local regulations a de facto veto over an otherwise eligible project. The CEC should

independently evaluate the underlying environmental conditions and potential project impacts, rather than treating nonconformance with local regulations as dispositive.

Early Termination

CalWEA recognizes the Commission's interest in providing an orderly off-ramp for an application that is demonstrably incapable of proceeding. Proposed section 1877.5(e), however, uses undefined standards—including "timely," "significant impediment," "reasonable time," and "any other factors deemed relevant"—and contains no express notice, opportunity-to-cure, response, or written-findings requirements. It also treats circumstances outside an applicant's control, such as federal right-of-way processing and interconnection delays, as potential grounds for termination without requiring a project-specific showing that the facility cannot proceed.

Before the Executive Director files an early-termination request, staff should provide written notice identifying the factual and legal basis, allow the applicant a reasonable opportunity to respond, cure the asserted deficiency, or request suspension, and consider whether the delay is controlled by a federal agency, CAISO, a utility, or another third party. The Commission should terminate an application only upon written findings, supported by the record, that the identified impediment more likely than not renders the project undevelopable despite a reasonable opportunity to cure.

An entitlement displaced by the Commission's in-lieu permitting jurisdiction should not be treated as an "entitlement necessary for project construction or operations" under section 1877.5(e)(1)(i).

Subpoenas, Witnesses, Discovery

CalWEA is not clear on the purpose of this proposal. The Commission can ask for whatever it needs through data requests. This seems too similar to the AFC process, when the AB 205 opt-in process was intended to be quicker and simpler than the AFC process.

Reimbursement of Local Agencies

The Commission should make clear that local agencies should not retain expert consultants to comment on applications unless staff expressly request specialized work and the costs are included in an approved budget. Local agencies should rely on Commission staff documents and provide comments based on local CEQA thresholds or code provisions.

A local agency should be required to file a proposed budget on a specific timeline to qualify for reimbursement.

Battery Energy Storage Matters

Because wind projects may co-locate with battery storage projects, CalWEA is very concerned about the proposed application materials for battery storage but will defer to related comments from other clean energy trade organizations, including the California Energy Storage Alliance and Terra-Gen, at this stage in the process.

Sincerely,



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