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Comment Received From: Wendy Breckon
Submitted On: 12/4/2024
Docket Number: 24-OPT-05

Comment Opposing Approval of Corby BESS opt-in Application

I have attached my complete comments in a word document. Here are my comments:

CEC does not have jurisdiction to Permit the project and the Corby BESS Project Opt-in Application Should be Denied because it is Incomplete:
a. CEC does not have jurisdiction to issue a certificate or otherwise permit the project
By applying for the BESS permit with the CEC, the Corby project is essentially getting a â€œsecond bite at the appleâ€ by circumventing local procedure and jurisdiction. This project application is currently before the Solano County Board of Supervisors, and was placed on hold pending the issuance of County regulations of BESS facilities. The County is currently working on regulations that balance community interests with industry interests. The legislature, when drafting AB 205, did not intend for BESS projects to choose both local and state permitting processes. Instead, if the County is reviewing an application, the State is precluded from obtaining Project approval in a new forum and the Commission has no jurisdiction to act on the application. It is obligated to deny the identical application due to its lack of jurisdiction. In the alternative, the CEC should consider the Corby project application as pending until the litigation over the CECâ€™s jurisdiction in a similar case is resolved. See Pit River Tribe, et al. v. California Energy Commission, Case No. 23CV-0203737 (filed Nov. 28, 2023) (challenging the Commissionâ€™s jurisdiction over the Fountain Wind Project after prior local government denial).

Please note that the Objection in the Compass project involving San Juan Capistrano states, in relevant part, as follows:
â€œThe California Legislature did not intend to allow an applicant for an AB 205 eligible project to circumvent the prior denial of a local government with land use authority. Rather, the Legislature intended a project applicant to choose to either avail itself of local government discretionary authority or opt into the Commissionâ€™s â€œopt-inâ€ certification process â€œin lieu of,â€ or instead of, the local governmentâ€™s approval process. Furthermore, it is questionable whether AB 205 was properly enacted when the bill proceeded through a budget trailer bill process as urgency legislation and whether the adoption process and application of AB 205 to the Project unlawfully usurps local government discretionary authority.â€
Similarly, the Legislature did not intend a project applicant to use BOTH the local and the State permit processes. Instead, the applicant must choose. Simultaneous review of the Project would be wasteful by duplicating review and consuming the resources of the various state and local agencies to evaluate the same matters. Simultaneous reviews would invite manipulation by the Applicant leading to overlapping agency evaluations, inconsistent determinations, and forum shopping. â€œThe entire concept of opt-in is absurd if a project can avail itself of local review and then during such review, or thereafter, turn around and choose to be subject to another approval process. There is

absolutely no precedent or analogous federal or state law scheme of an â€œopt-inâ€ permitting system or a similar system of preemption where an applicant can remove itself from the review of one agency and avail itself of another agencyâ€™s jurisdiction for the same application and approval.â€ Quote from Objection of San Juan Capistrano concerning the Compass project application with CEC. In summary, the Corby application is not ripe for review because rather than making a choice of forum, County vs. CEC, it has chosen both forums. Thus, the CEC has no jurisdiction to review the Corby application.

b. Foreseeable Harm caused by Lithium-Ion Storage systems Is Not Adequately Considered

Lithium-Ion Battery Storage systems are known to catch fire in a chemical reaction called "thermal runway". These fires create hazmat conditions, cause evacuations and often burn for several days at a time. Just recently, in 2024 a lithium-ion battery storage system in Otay Mesa, CA burned for 14 days. See 90 lithium-ion battery incidents at https://storagewiki.epri.com/index.php/BESS_Failure_Incident_Database. The following harms occur from fire caused at these facilities.

â€¢ Ejection of toxic gas (for example, hydrogen cyanide), shrapnel and/or particulates (violent cell venting)
â€¢ Hazmat conditions and fires burn at extremely high temperatures
â€¢ Smoke affecting sensitive groups
â€¢ Potential toxic run-off to creek or waterway
â€¢ Creation of Brownfields (toxic sites)
â€¢ Freeway shut-downs and decreased economic productivity when roads are blocked off and people are shut-in to their homes and businesses. See e.g., https://www.cbsnews.com/sanfrancisco/news/tesla-moss-landing-power-storage-facility-fire-shuts-down-highway-1-residents-told-shelter-in-place/
â€¢ Ties up first responders and resources for days at a time
â€¢ Injured firefighters

As a result of thermal runway, firefighters have been injured. For example, on April 19, 2019, In Surprise, Arizona, one male career Fire Captain, one male career Fire Engineer, and two male career Firefighters received serious injuries as a result of cascading thermal runaway within a 2.16 MWh lithium-ion battery energy storage system (ESS) that led to a deflagration event. See https://efaidnbmnnnibpcajpcglclefindmkaj/https://fsri.org/sites/default/files/2021-07/Four_Firefighters_Injured_In_Lithium_Ion_Battery_ESS_Explosion_Arizona_0.pdf. In addition, community members are at risk and freeways are closed when thermal runway occurs in BESS facilities. See for example, https://www.cbsnews.com/sanfrancisco/news/tesla-moss-landing-power-storage-facility-fire-shuts-down-highway-1-residents-told-shelter-in-place/

The application does not address the lack of a County plan for a BESS Lithium-ion fire, the lack of sufficient fire fighting equipment and resources, how toxics or hazardous waste will be safely handled, or an emergency plan to protect people from the consequences of thermal- runway. We note that the applicantâ€™s brief conversation with the Dixon Fire Department, where it is unknown whether that Fire Department has

any experience or knowledge with lithium-ion battery fires, is irrelevant and does not provide sufficient evidence that the surrounding community is prepared to address the risks associated with this proposed project.

c. Harm to Community has not been considered
The BESS facilities have noise levels that are considered hazardous (See NFPA attachment), and due to the risk of fire and toxic air, communities have been organizing against BESS facilities. See e.g. RESIDENTS FEAR FIRE AND TOXIC GASSES FROM PROPOSED ESCONDIDO CLEAN ENERGY BATTERY SITE | East County Magazine. As a result of a BESS in a community, property values decrease, people move away, and the risk is the creation of blighted, disadvantaged community. In Vacaville, California, alone, energy companies are planning to locate three to four mega-BESS facilities. This cost has not been taken into account. Who will want to live here? Why shouldn't the local community have their elected officials decide if this major change in their community should be permissible rather than politically appointed commissioners with no ties to the community?

RESIDENTS FEAR FIRE AND TOXIC GASSES FROM PROPOSED ESCONDIDO CLEAN ENERG...

Firefighters in Solano County are generally ill-equipped to deal with a lithium-ion battery explosion or fire that emits toxic gasses. This is not a usual hazardous waste event. Equipment and training needs would need to be explored in detail as well as costs to the municipality. The bottom line is that BESS facility should be far from sensitive receptors, including schools, hospitals and residential areas due to the potential toxin exposure during an incident.

d. Harm to the Environment has not been considered
As mentioned above, assumptions need to be reevaluated. The alleged need to create many BESS mega- storage facilities on agricultural land and other open space, is a threat to the environment. In this case, they are proposing construction on prime agricultural land that is recognized by the State and County as such. Due to foreseeable thermal run-way at these facilities, toxics are released into the surrounding air, water, and land. The cost for fighting the fire and cleaning-up hazardous waste has not been taken into account in assuming these facilities are a public benefit. Furthermore, when the LLC that owns the BESS goes out of business, there is often no plan for decommissioning the facilities. The removal of the very heavy lithium-ion batteries is dangerous, and there can be the need to do hazardous waste clean-up. For example, the Moss-Landing BESS is considered a Superfund site. Finally, the Department of Defense has discovered that BESS facilities can be cyber-attacked, and weaponized by heating the batteries. For further information, see attachment, "Risks of Lithium-ion Battery Energy Storage Systems (BESS)". The Bottom line is that Lithium-ion BESS facilities should not be placed on prime agricultural land where that land and the surroundings could be impacted by toxic water and/or land contamination in the event of

a thermal runway incident.

d. Market Manipulation and Proof of Negligible Benefit of Battery Storage Facilities
Please read the attached LA Times article, "Solar power glut boosts California electric bills. Other states reap the benefits."
This article highlights how California ratepayers and taxpayers are being overcharged and scammed by California's energy sector. California ratepayers pay roughly twice the national average for energy, and "when batteries are added to solar facilities, the cost is twice as expensive as solar alone." (Quote from Andrew Chien, a computer science professor at the University of Chicago).
Another concerning statement in the article from "Officials in the governor's office" who issued a statement saying the curtailments are often because of "congestion on transmission lines, rather than a statewide oversupply of power." Thus, adding more battery storage facilities will only cause more congestion of the transmission lines.
California is making so much solar energy that large commercial operators "are increasingly forced to stop production" and even pay other states to take excess energy.
The article states that "In the last 12 months, California's solar farms have curtailed production of more than 3 million megawatt hours of solar energy..." This is enough to power 518,000 homes in California per year and worth roughly $1 billion dollars.
Furthermore, the amount of energy we waste each year is increasing at an alarming rate. California ratepayers have essentially paid for curtailed energy that goes to ratepayers in Arizona, Washington, and New Mexico. Federal taxpayers then pay for credits when the energy goes on the grid.
There are also serious concerns that battery storage will facilitate market manipulation with regard to trading of energy stored in batteries (which is supposed to be deployed at night). Market manipulation is enriching those that trade in energy, and hurting the middle class and poor in California communities. The energy trading market is largely hidden from the public. The entire purpose of battery storage facilities appears to be storing renewable energy to manipulate the market. When the transmission lines are congested, energy traders make more money and ratepayers pay more. Thus, the industry is incentivized to build more storage.
"Last year, prices plunged to negative $145 per megawatt-hour or below as the sun was shining...then the sun sets. And power prices can spike to $50, $100 or far more."
Therefore, there's a real concern for market manipulation for prices of energy that is stored by batteries since that stored energy is used after the sun sets (i.e., night time).
That means green energy paid for by California electricity customers is sent away, lowering bills for residents of other states. Arizonaâ€™s largest public utility reaped $69 million in savings last year by buying from the market California created to get rid of its excess solar power. The utility returned that money to its customers as a credit on their bills. Also reaping profits are electricity traders, including banks and hedge funds. The increasing oversupply of solar power has created a situation where energy traders can buy the excess at prices so low they become negative, said energy consultant Gary Ackerman, the former executive director of the Western Power Trading Forum. That means the solar plant is paying the traders to take it. â€œThis is all being underwritten by California ratepayers,â€ Ackerman said.
In order to create enough battery storage to soak up the wasted 3 million megawatt

hours of curtailed energy, irreparable harm to the environment and communities would occur all across the state. Using the project specifications of the NextEra Corby project (which intends to build a 300 megawatt hour facility on 40 acres of prime agricultural land) - the State would need to build battery storage on over 625 square miles of land! (3,000,000/300*40acres = 400,000 acres - 400,000 acres is equivalent to 625 square miles). This is in addition to the miles of solar projects increasingly taking up wildlife habitat and farmland.
The California ratepayers and taxpayers should not be further burdened by market manipulation due to energy trading and BESS facilities, and a thorough study of this issue should occur before further harm is caused. The State Auditor should be requested to investigate battery storage facilities that received state grants/funding or other government incentives for any waste, fraud or abuse.
In addition, this project will not benefit the surrounding community because the project applicant has a contract with San Franciscoâ€™s PUC for the sale of its energy. Given the above analysis involving market manipulation, there is no proven community benefit to the City of Vacaville, the County, its ratepayers and taxpayers associated with this project. Accordingly, the application is incomplete.

I appreciate your consideration of my concerns, and please feel free to contact me at wbreckon7@yahoo.com should you have any questions or wish to discuss the above.
Sincerely,

Wendy Breckon, Vacaville Resident
Attachment: Solar glut boosts California power bills â€” other states reap the benefits - Los Angeles Times (2) (2).pdf 13.5MB

Attachment: Risks of Lithium Battery Energy Storage Systems (1) (1).pdf 1.2MB

Additional submitted attachment is included below.

December 4, 2024 Comments on the Opt-in Application for the Corby BESS project

By Wendy Breckon

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