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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Proposed Rulemaking Concerning Utah Code ) DOCKET NO. 25-R318-01  
§§ 54-26-101 to -901, Large-Scale Electric )  
Service Requirements ) CALPINE ENERGY SOLUTIONS,  
) LLC'S COMMENTS ON NOTICE OF  
) PROPOSED RULE

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**I. INTRODUCTION**

Calpine Energy Solutions, LLC (“Calpine Solutions”) respectfully submits to the Utah Public Service Commission (“Utah PSC” or “Commission”) its comments in response to the Commission’s Notice of Proposed Rule published on October 31, 2025 (hereafter the “Proposed Rule”).

Calpine Solutions appreciates the opportunity to submit comments on the Proposed Rule. As stated previously during the informal phase of the rulemaking process, Calpine Solutions supports Utah’s efforts, through Senate Bill 132 and this rulemaking proceeding, to introduce competitive electric supply as an option to serve large load customers in the State.

During the rulemaking proceeding, Calpine Solutions has participated in the workshops and the Commission’s technical conference, and it has submitted three sets of written comments proposing edits and revisions to various versions of the proposed rules implementing Senate Bill

132.<sup>1</sup> Calpine Solutions continues to support all of its prior recommendations in its prior comments and incorporates by reference all such prior comments and proposed revisions to the rules implementing Senate Bill 132. While certain of Calpine Solutions' recommendations have been substantively adopted in the Proposed Rule, the Proposed Rule excludes several key proposals that are necessary to ensure successful functioning of the new competitive supply option envisioned by Senate Bill 132 for new large loads in Utah. Thus, Calpine Solutions urges the Commission to reconsider all of its prior recommendations prior to finalizing the Proposed Rule.<sup>2</sup> Without restating all of Calpine Solutions' prior recommendations, these comments address three remaining issues of significant concern in the Proposed Rule: (1) Non-Discriminatory Transmission and Distribution Access; (2) Private Generation Contracts; and (3) Confidentiality and Access to Information.

## II. COMMENTS

### A. Non-Discriminatory Transmission and Distribution Access

Calpine Solutions again stresses the importance of ensuring Large-Scale Generation Providers and Large Load Customers may use the Qualified Electric Utility's transmission and distribution system on a non-discriminatory basis for the purpose of delivering energy from a Connected Generation System to the Large Load Customer.<sup>3</sup> Without clarification in the rules that

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<sup>1</sup> Calpine Solutions' Initial Comments, Docket No. 25-R318-01 (Aug. 28, 2025) (hereafter "Calpine Solutions' August 28th Comments"); Calpine Solutions' Comments on Rocky Mountain Power's Revised Proposed Rules, Docket No. 25-R318-01 (Oct. 10, 2025) (hereafter "Calpine Solutions' Oct. 10th Comments"); Calpine Solutions Final Comments, Docket No. 25-R318-01 (Oct. 24, 2025) (hereafter "Calpine Solutions' Oct. 24th Comments").

<sup>2</sup> The Proposed Rule largely tracks the proposals in the Commission's Guidance Memorandum dated October 17, 2025, which was addressed by Calpine Solutions' Oct. 24th Comments. Thus, for Calpine Solutions' position on issues not specifically addressed in these comments, the Commission should refer to Calpine Solutions' Oct. 24th Comments.

<sup>3</sup> Calpine Solutions' Oct. 24th Comments at 4-7; Calpine Solutions' Oct. 10th Comments at 4-6; Calpine Solutions' Aug. 28th Comments at 2-8.

eligible Large Load Customers may use Rocky Mountain Power’s federally jurisdictional transmission system to procure power from remotely located Connected Generation Systems, Calpine Solutions is concerned that customers attempting to do so will face delays in case-by-case inquiries and potentially adjudication before the Commission. Notably, the parties had made significant progress on this issue during the informal process. Even Rocky Mountain Power’s latest draft rules appeared to acknowledge that Large Load Customers may access and use the Company’s transmission system through its open access transmission tariff (“OATT”) on file with the Federal Energy Regulatory Commission (“FERC”), as part of the solution for a Connected Generation System. Specifically, Rocky Mountain Power’s version of proposed rules filed on October 1, 2025, stated as follows: “Transmission service for Large Load Customers shall be provided pursuant to a Transmission Provider’s Federal Energy Regulatory Commission-approved open access transmission tariff.”<sup>4</sup> Thus, as previously expressed, Calpine Solutions was surprised that the Commission’s Guidance Memo indicated that the Commission planned not to address transmission access until many months from now when it takes up the issues surrounding a Large Load Flexible Tariff,<sup>5</sup> and Calpine Solutions is likewise disappointed that the Proposed Rule omits any discussion of transmission access.

Calpine Solutions continues to recommend that these issues be fully clarified in the rules at this time, as proposed in Calpine Solutions’ latest edits to the rules,<sup>6</sup> to prevent the inevitable delays and obstacles that will occur if these foundational transmission and distribution access issues are left to be addressed on a case-by-case basis. As Calpine Solutions previously explained

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<sup>4</sup> Rocky Mountain Power’s Proposed Rules, Docket No. 25-R318-01, at Proposed R746-XX3-2(1) (Oct. 1, 2025).

<sup>5</sup> Commission’s Guidance Memo at 2.

<sup>6</sup> See Calpine Solutions’ Oct. 10th Comments at Attachment at 6-9.

and Rocky Mountain Power apparently agreed with its own proposed rule language, Senate Bill 132 evidences clear intent to enable eligible Large Load Customers and their Large-Scale Generation Providers to access and use the Qualified Electric Utility's transmission and distribution system to reach the load from a remotely located Connected Generation System.<sup>7</sup> As the law recognizes, the right to access energy from a remotely located Connected Generation System would be thwarted if there were no way to access the transmission system. No party appears to argue that access to the FERC-jurisdictional transmission system and rates should be denied under Senate Bill 132.

Given the requirements of the law and the clear intent to enable use of Connected Generation Systems that use Rocky Mountain Power's transmission system, the Commission's rules should provide the clarity proposed in comments submitted by Calpine Solutions and other parties. The only explanation provided for delay on this point appears in the Commission's Guidance Memo, which suggests that there is no requirement to include this issue in the rules at this time on the basis that use of the transmission system will only occur under a Large Load Flexible Tariff, which will be addressed later.<sup>8</sup> However, the Large Load Flexible Tariff is distinct from a Connected Generation System in the statute. In a Connected Generation System, the Large-Scale Generation Provider provides all of the customer's generation needs and may use the Qualified Electric Utility's transmission services to deliver the energy.<sup>9</sup> In contrast, a Large Load Flexible Tariff enables the customer to receive certain "components of available electric services" from the utility or may incorporate demand response into its supply arrangement.<sup>10</sup> These are

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<sup>7</sup> See Calpine Solutions' Oct. 24th Comments at 5-6.

<sup>8</sup> Commission's Guidance Memo at 2.

<sup>9</sup> Utah Code Ann. § 54-26-101(2).

<sup>10</sup> Utah Code Ann. § 54-26-101(8).

distinct concepts. Thus, the Commission should not suggest that use of the FERC-jurisdictional transmission system is confined to the Large Load Flexible Tariff or delay addressing the transmission access issue until the investigation of the Large Load Flexible Tariff. Doing so would plainly thwart the intent of Senate Bill 132 and delay the capability of eligible Large Load Customers to access alternatives to Rocky Mountain Power's generation service after the utility is unable to meet their needs within the time limits established by the legislation.

Further, the statute requires the Commission to develop transmission cost allocation rules before the end of the year,<sup>11</sup> and that requirement would make no sense if the use of the transmission system were limited to the Large Load Flexible Tariff that the statute allows to be addressed in rules after the end of the year. The transmission cost allocation rules that are included in the Proposed Rule are limited to minimal recitations of the statutory language and do not resolve the key cost allocation points as the legislation envisions. Calpine Solutions continues to recommend adoption of its proposed rules on this point, which would enable the Commission to rely on the FERC-jurisdictional rates to implement the statute.<sup>12</sup>

In sum, therefore, Calpine Solutions continues to recommend that these key transmission access issues be fully clarified in the rules to prevent the inevitable delays and obstacles that will occur if these foundational transmission and distribution access issues are left to be addressed on a case-by-case basis.

## **B. Private Generation Contracts**

As previously commented, Calpine Solutions continues to agree with other parties that the statute does not require Commission review and approval of Private Generation Contracts, which

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<sup>11</sup> Utah Code Ann. § 54-26-901(1).

<sup>12</sup> See Calpine Solutions' Oct. 10th Comments at Attachment at 6-9.

by definition regard Closed Private Generation Systems that are isolated from the grid.<sup>13</sup> The Proposed Rule includes a “limited and expedited review” procedure for Private Generation Contracts.<sup>14</sup> While Calpine Solutions appreciates the Commission’s intent to keep the review process for Private Generation Contracts limited, Calpine Solutions continues to believe that no review process at all would be preferable and has concerns with even the limited review in the Proposed Rule. The purpose of enabling such Private Generation Contracts is to enable Large Load Customers to pursue a private, on-site generation facility after the Qualified Electric Utility fails to timely reach agreement with the Large Load Customer in response to its electric service request. Imposing additional hurdles and regulatory process for the private, on-site generation arrangement contradicts the intended purpose of this potential solution and creates unnecessary delay, regulatory cost, and risk of disclosure of commercially sensitive information. If this review process will be retained, it should be further streamlined to remove certain problematic features that are likely to increase delay, cost, and risk of disclosure of commercially sensitive information.

Specifically, the Proposed Rule delegates to the Qualified Electric Utility the authority to review the proposed Closed Private Generation System’s design and opine on whether it is isolated from the grid. The Proposed Rule even requires the Large-Scale Generation Provider to obtain a declaration from the utility on this point to initiate the process for approval of its Private Generation Contract.<sup>15</sup> The Proposed Rule also appears to enable the utility to intervene in the Commission’s review process and potentially even become qualified to obtain highly confidential information related to the Closed Private Generation System and the Private Generation Contract, through the Proposed Rule’s provisions addressing Confidentiality and Access to Information (which are

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<sup>13</sup> Calpine Solutions’ Oct. 10th Comments at 3.

<sup>14</sup> Proposed Rule at R746-318-601(4).

<sup>15</sup> Proposed Rule at R746-318-601(2)(d).

discussed further below).<sup>16</sup>

The requirement to obtain the Qualified Electric Utility's declaration as to the Closed Private Generation System's isolation from the grid to initiate a proceeding before the Commission to approve the Private Generation Contract is highly problematic. The Qualified Electric Utility is in direct competition with the Large-Scale Generation Provider, which would be proposing a solution to serve the customer's load after the utility was initially unsuccessful in reaching agreeable terms with the customer. As a direct competitor to the Large-Scale Generation Provider and party that may have an interest in the alternative supply arrangement not moving forward, the Qualified Electric Utility should not be enabled to delay the private commercial arrangement through withholding of a declaration or otherwise. While the Proposed Rule creates the opportunity to litigate the Qualified Electric Utility's withholding of a declaration before the Commission, that added process will unnecessarily delay efforts to secure approvals and bring the Closed Private Generation System online. To the extent there could be some question as to whether a particular Closed Private Generation System is isolated from the grid, Senate Bill 132 charges the Commission with confirming the isolation. Delegation of that function to the Qualified Electric Utility is inappropriate and inconsistent with the statute.

Thus, Calpine Solutions recommends deletion of the requirement to obtain a declaration from the Qualified Electric Utility in support of an application for approval of a Private Generation Contract. If the review process will remain in the final rules, the process should be limited to a filing by the Large-Scale Generation Provider that certifies the Closed Private Generation System will not be electrically connected to the utility's system, and that the other statutory criteria are met. Calpine Solutions understands that the Commission may be concerned with its own staffing

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<sup>16</sup> Proposed Rule at R746-318-103(6)(a)-(b).

capabilities with respect to confirming the Closed Private Generation System’s isolation from the grid. However, if the Commission is concerned that a particular Closed Private Generation System may not be designed to be isolated from the grid, the rules could state that the Commission retains the right to apply the application fee toward retention of a qualified, independent engineering consultant to review the electrical design to confirm such isolation from the grid. Use of an independent, engineering consultant directly contracted by the Commission is preferable to delegation of this function to the Qualified Electric Utility.

In sum, unless this remaining concern with the limited review process is addressed, Calpine Solutions continues to recommend that Private Generation Contracts not be subject to Commission review and approval in a proceeding where the Qualified Electric Utility could create unreasonable delays and potentially even obtain confidential information.

### **C. Confidentiality and Access to Information**

Calpine Solutions previously understood the Commission’s Guidance Memo to express an intent that the Large-Scale Generation Providers would not be required to submit commercially sensitive information to Rocky Mountain Power,<sup>17</sup> but the Proposed Rule leaves open the possibility that Rocky Mountain Power could obtain such information. Specifically, although the Proposed Rule creates a “rebuttable presumption” that “credit terms, pricing terms, and other commercial terms related to implementing pricing and credit terms” are “regulator access only,” the Proposed Rule also enables the Qualified Electric Utility to challenge the restricted access designation and states that in such a challenge the designating party has the burden to demonstrate access should be restricted.<sup>18</sup> This is problematic and creates the risk that highly sensitive

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<sup>17</sup> Commission’s Guidance Memo at 2.

<sup>18</sup> Proposed Rule at R746-318-103(6)-(7).

information will be required to be disclosed to Rocky Mountain Power.

Under the Commission's general rules for confidential information, Rocky Mountain Power should not be able to ever obtain confidential information related to price, credit, or any other category of information that might enable it to gain a competitive advantage. The Commission's rules expressly state:

*A person, including an expert who is employed or retained by a party, may not receive confidential or highly confidential information if, in performing the person's normal job functions, the person could use the information to the competitive disadvantage of the person providing the information.*<sup>19</sup>

Much of the information related to the Large Load Contract, especially the price and credit terms but potentially other features of the commercial arrangement, could be used to Rocky Mountain Power's competitive advantage if provided to any of its employees. Rocky Mountain Power is therefore properly barred in all cases from obtaining such information under the Commission's preexisting rules. Consequently, there is no basis to enable Rocky Mountain Power to initiate a challenge proceeding to potentially obtain this information, as is contemplated in the Proposed Rule.

In sum, the Proposed Rule's "rebuttable presumption" of "regulator access only" is not strong enough, and the rule should instead clarify that "credit terms, pricing terms, and other commercial terms related to implementing pricing and credit terms" are "regulator access only" in all cases.

### **III. CONCLUSION**

Calpine Solutions appreciates the opportunity to submit these comments and recommends that the Commission adopt its recommendations before finalizing the Proposed Rule.

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<sup>19</sup> Utah Admin. Code R746-1-602(2)(a) (emphasis added).

DATED this 15th day of December, 2025.

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I CERTIFY that on December 15, 2025, a true and correct copy of the foregoing was served upon the following as indicated below:

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