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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Propose Rulemaking Concerning Utah Code	)	DOCKET NO. 25-R318-01
§§ 54-26-101 to -901, Large-Scale Electric	)	
Service Requirements	)	CALPINE ENERGY SOLUTIONS,
	)	LLC'S RESPONSE COMMENTS
	)	REGARDING REVISIONS TO
		RULES

I. INTRODUCTION

Calpine Energy Solutions, LLC ("Calpine Solutions") respectfully submits its response comments in the above-captioned rulemaking to the Utah Public Service Commission ("Utah PSC" or "Commission"). These response comments are limited to the transmission access issue, and Calpine Solutions stands by its prior comments on other issues still under consideration.

From the start of this rulemaking, Calpine Solutions has recommended that the Commission's rules include provisions that will ensure large-scale generation providers and large load customers may effectively deliver energy from a remotely located connected generation system to the large load customer. Without the ability to deliver the energy on a non-discriminatory basis, it may prove impossible to utilize the newly enacted legislation to use a large-scale generation provider's remotely located generation facility (or facilities) to serve the needs of the large load customer—thus significantly limiting the options available to serve the large load

customer. Thus, Calpine Solutions appreciates the Commission's invitation for further comment on this issue and appreciates the opportunity to respond to the comments filed by Rocky Mountain Power, the Division of Public Utilities, and the Office of Consumer Services.

In response to other parties' comments on transmission access issues, Calpine Solutions separately addresses the two distinct alternatives for delivery of energy from the remotely located connected generation system to the large load customer: (a) unbundled retail transmission occurring under PacifiCorp's Open Access Transmission Tariff ("OATT")¹; and (b) the so-called "buy-through" alternative, which relies on bundled delivery to the customer. As explained below, Calpine Solutions continues to recommend that the Commission take further action to enable these alternative mechanisms for delivering energy from a remotely located connected generation system owned or controlled by a large-scale generation provider.

II. COMMENTS

A. Unbundled Retail Transmissions Under the OATT

As Calpine Solutions has explained, PacifiCorp's existing OATT on file with the Federal Energy Regulatory Commission ("FERC") does not provide any Utah-specific terms for unbundled retail transmissions under Senate Bill 132, leaving potentially ambiguous how such service may be obtained. As explained below, Calpine Solutions continues to recommend that Commission should clarify that it expects the Company to offer such unbundled retail transmission service to the large-scale generation provider or the large load customer, and that it expects the Company to make, and periodically update, the necessary revisions to its OATT to achieve the

¹ Calpine Solutions understands Rocky Mountain Power to be a business unit of PacifiCorp, and that PacifiCorp has a single OATT governing transmission service in both its west balancing authority and its east balancing authority, inclusive of the Rocky Mountain Power business unit's operations.

objectives of Senate Bill 132.

First, it is important to start with the key point that the parties agree that Utah's Senate Bill 132 is a state law that triggers the right to unbundled retail transmission under FERC's Order No. 888.² Although agreement on this point was not entirely clear earlier in the rulemaking, Rocky Mountain Power confirms this point in its latest comments. Rocky Mountain Power cites the PacifiCorp OATT's definition of "Eligible Customer" which states that a customer may become eligible for unbundled retail transmission service by one of two mechanisms: (1) "pursuant to a state requirement that the Transmission Provider offer the transmission service;" or (2) "pursuant to a voluntary offer of such service by the Transmission Provider."³ Rocky Mountain Power confirms:

The Act, and rules the Commission adopts under it, are precisely the type of state-law action the first pathway contemplates. When the Commission's rules obligate the Company to provide non-discriminatory delivery of energy from a Connected Generation System to a Large Load Customer's load – including the unbundled transmission component of that delivery – the Commission's rule itself functions as the "state requirement that the Transmission Provider offer the transmission service" referenced in the OATT's Eligible Customer definition.⁴

That point of agreement alone—made only in response to the Commission's notice soliciting additional comments—is significant because the parties appear to all agree that Senate Bill 132 intends to enable use of FERC-jurisdictional unbundled retail transmissions to reach a large-scale generation provider's connected generation system. Thus, the right to use the OATT to make unbundled retail transmission to eligible Utah large load customers appears to be clear.

² See Calpine Energy Solutions, LLC's Initial Comments at 3-6, Docket No. 25-R318-01 (Aug. 28, 2025) (providing legal background on unbundled retail transmissions).

³ PacifiCorp OATT at § 1.25, available at: <https://www.oasis.oati.com/ppw/index.html>.

⁴ Rocky Mountain Power's Responsive Comments at 3-4, Docket Nos. 25-R318-01 & 24-035-43 (Aug. 20, 2026).

The point of disagreement that remains is whether the existing PacifiCorp OATT adequately implements that right or whether amendments to PacifiCorp's OATT would better facilitate the unbundled retail access required by Utah law. Rocky Mountain Power maintains that because the "Eligible Customer" provisions of the OATT are triggered, there is nothing left to clarify in its OATT: "At that point, the affected Large Load Customers become Eligible Customers under PacifiCorp's existing OATT by its tariff's own terms, without the Commission reaching, remediating, or otherwise acting upon the OATT itself, and without any need for a substantive OATT amendment at FERC."⁵ Similarly, the Division of Public Utilities and the Office of Consumer Services suggest that this Commission has no role in ensuring that the OATT works seamlessly with the intent of Utah law. However, those comments overlook the Commission's role in ensuring that appropriate revisions are made to the OATT.

As Calpine Solutions has previously explained, because not all states have retail choice programs, FERC's pro forma OATT does not necessarily include all terms and conditions that may be necessary to implement a specific state's retail access program. FERC has explained "we will generally expect unbundled retail wheeling customers to take service under the same FERC tariff that applies to wholesale customers[,] but "if the unbundled retail wheeling occurs as part of a state retail access program, it may be appropriate to have a separate retail transmission tariff to accommodate the design and special needs of such programs."⁶ FERC has also stated that it "will defer to state requests for variations from the FERC wholesale tariff to meet these local concerns, so long as the separate retail tariff is consistent with the Commission's open access policies and

⁵ *Id.* at 4.

⁶ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission on Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, 61 Fed. Reg. 21,540, at 21,627 (May 10, 1996).

comparability principles reflected in the tariff prescribed by [FERC’s open access rules.]”⁷ Thus, enabling a specific state’s retail access program may require revisions to the incumbent utility’s OATT, and FERC would look to the affected state agency—here, the Utah PSC—to assist with development of the appropriate terms of the OATT to implement the unbundled retail transmission. Notably, the Office of Consumer Services cites off-point authority predating FERC’s issuance of Order No. 888.⁸ Arguments that the Utah PSC has no role in shaping the terms of unbundled retail access overlook Order No. 888’s statements to the contrary and are therefore misplaced.

To illustrate this point further, after Oregon enacted a state law enabling PacifiCorp’s Oregon non-residential customers to obtain retail access to alternative generation resources, PacifiCorp filed an amendment to its OATT to enable unbundled retail transmission, which is currently located in the PacifiCorp OATT’s Attachment M.⁹ Notably, Oregon regulations expressly directed PacifiCorp to amend the OATT to the extent necessary to implement Oregon’s retail access law stating as follows: “If adherence to this rule requires FERC approval of tariff or contract provisions, the electric company must petition FERC for the approval of the tariff or

⁷ *Id.*

⁸ See Office of Consumer Service’s Comments at 3, Docket Nos. 25-R318-01 & 24-035-43 (Aug. 20, 2026) (citing *State of Utah v. Federal Energy Regulatory Commission*, 691 F.2d 444, 446 (10th Cir. 1982); *Com. of Mass. Dept. of Public Utilities v. United States*, 729 F.2d 886, 889 (1st Cir. 1984)). It also cites *Xcel Energy Operating Companies*, 109 FERC ¶ 61,072 (2004), but while that decision establishes that a state cannot *mandate* that FERC adopt amendments to the OATT, it nevertheless approved revisions to a utility’s OATT to implement a state’s unique procurement policy. *Id.* at P 43.

⁹ See *PacifiCorp*, 98 FERC ¶ 61,224, at 61,881-61,885 (Feb. 28, 2002), *reh’g den.*, 99 FERC ¶ 61,259 (June 3, 2002) (approving Oregon-specific retail access provisions in OATT); *PacifiCorp*, Letter Order, FERC Docket No. ER19-564-000 (Feb. 6, 2019) (approving revisions to OATT Attachment M to “to clarify certain process and requirements for Oregon Direct Access customers”); see also PacifiCorp’s OATT, Attachment M, available at: <https://www.oasis.oati.com/ppw/index.html>.

contract provisions in a timely manner.”¹⁰ The PacifiCorp OATT Attachment M’s provisions applicable to retail access in Oregon demonstrate the types of issues that can be clarified with respect to unbundled retail access in a particular state. It clarifies issues related to the eligibility criteria and a summary of applicable charges. Importantly, the PacifiCorp OATT Attachment M’s Oregon retail access provisions clarify that either the end-use retail customer or the third-party supplier (referred to as an “electricity service supplier” in Oregon) may be the transmission customer. This type of clarity facilitates use of the OATT to make unbundled retail transmissions by reducing the need for case-by-case negotiations and potential disputes. While it is possible, as Rocky Mountain Power suggests, that a large load customer and its large-scale generation provider may be able to work through the details of how unbundled retail transmission will work under Utah’s Senate Bill 132 in the absence of any specific guidance in PacifiCorp’s OATT, the better path forward may be to develop specific provisions in the OATT that clarify key points.

The Division of Public Utilities’ comments ask for description of what “specific kinds of delays” might occur without further clarification in the PacifiCorp OATT.¹¹ It is difficult to predict all potential sources of disagreement or misunderstanding. However, one specific delay that appears possible to occur would be the delay resulting from a disagreement over which party may be a transmission customer. The prospective large-scale generation provider may submit a request to PacifiCorp for unbundled retail transmission service, but face delay and potential dispute, if PacifiCorp’s response is that it will only offer such service to the end-use large load customer.

¹⁰ Ore. Admin. Rule 860-038-0590(4); *see also id.* at (2) (“An [electricity service supplier] may request transmission service, distribution service or ancillary services under standard Commission tariffs and FERC-approved tariffs. The electric company must coordinate the filings of these tariffs to ensure that all retail and direct access consumers are offered comparable services at comparable prices.”); *id.* at (3)(c) (“The electric company must address such energy imbalance obligations in its proposed FERC tariffs.”).

¹¹ Division of Public Utilities’ Comments 5, Docket Nos. 25-R318-01 & 24-035-43 (Aug. 20, 2026).

Rocky Mountain Power’s comments state only the “Large Load Customer” could be an “Eligible Customer” in Utah under its existing OATT.¹² It remains unclear whether the Company agrees that the large-scale generation provider in Utah may instead be an Eligible Customer under OATT and what showing would be necessary to become eligible as the customer—despite the fact that Calpine Solutions raised this issue over a year ago in the rulemaking.¹³ Without clarification in the OATT, like that appearing in PacifiCorp’s OATT Attachment M addressing Oregon retail access, this could lead to a lengthy dispute or delay.

For the reasons set forth above, Calpine Solutions has attached proposed revisions containing only the key points of clarification necessary for this Commission’s rules. The proposed edits are similar to key provisions included in Oregon’s direct access rules applicable to Rocky Mountain Power’s sister business unit in Oregon, Pacific Power.¹⁴ The proposed rule revisions would clarify that the Commission expects Rocky Mountain Power not to grant preference or priority to existing or prospective large load customers taking generation service from Rocky Mountain Power and that the large-scale generation provider or the large load customer may take unbundled retail transmission under the OATT, which the Company must amend to the extent necessary to facilitate such unbundled retail transmissions.

Additionally, as noted in Calpine Solutions’ initial comments, this Commission retains jurisdiction over any distribution-level delivery even where the OATT applies to the unbundled retail transmission.¹⁵ While it may be unlikely that large loads covered by Senate Bill 132 would

¹² See Rocky Mountain Power’s Responsive Comments at 3-4, Docket Nos. 25-R318-01 & 24-035-43 (Aug. 20, 2026).

¹³ Calpine Energy Solutions, LLC’s Initial Comments at 8, Docket No. 25-R318-01 (Aug. 28, 2025).

¹⁴ See Ore. Admin. Rule §§ 860-038-0260(7) & 860-038-0590.

¹⁵ Calpine Energy Solutions, LLC’s Initial Comments at 3, Docket No. 25-R318-01 (Aug. 28, 2025).

utilize the distribution system for such deliveries, it would be prudent for the Commission to address this issue in its rules. The Commission should express its expectation that Rocky Mountain Power will not frustrate such use of the distribution system to the extent necessary to facilitate delivery of energy from the large-scale generation provider to the customer and will not give preference or priority to existing or prospective large load customers taking generation service from Rocky Mountain Power. The Division of Public Utilities commented that such state-jurisdictional distribution service would be taken under a contract and not a tariff.¹⁶ Thus, in the attached rule edits, Calpine Solutions has removed suggestion that there would be a state-jurisdictional distribution tariff that appeared in the prior proposed revisions to the rules.

In sum, the proposed rule revisions attached hereto would help ensure that Utah customers' newly created retail access right is not frustrated by denial of reasonable and non-discriminatory use of Rocky Mountain Power's transmission system. To the extent that the Commission agrees with the Division of Public Utilities that certain provisions would be better placed in a tariff than in the rules,¹⁷ Calpine Solutions does not necessarily object to that approach so long as Rocky Mountain Power is directed to file such a tariff.

B. Buy-Through Transactions

Next, the Division of Public Utilities comments on Calpine Solutions' recommendation that the Commission take steps to facilitate so-called "buy-through" transactions, stating that it opposes this proposal subject to further stakeholder input and response to its questions on this issue.¹⁸ Calpine Solutions appreciates the opportunity to further clarify this issue.

¹⁶ Division of Public Utilities' Comments at 6, Docket Nos. 25-R318-01 & 24-035-43 (Aug. 20, 2026)

¹⁷ *See id.*

¹⁸ *Id.* at 7-8.

First, Calpine Solutions agrees with the Division of Public Utilities that the “buy-through” framework entails a bundled delivery of energy subject to state-jurisdictional rates and terms of transmission and distribution delivery service. An example of this type of “buy-through” option is Arizona Public Service Company’s Alternative Generation Rate Rider AG-X (or the “AG-X” program). Under the AG-X program, the customer contracts with a “generation service provider” to deliver the competitively supplied energy to the utility’s system in a wholesale transaction, and the utility takes title to the energy and delivers it to the customer under state-jurisdictional transmission and distribution charges billed to the customer.¹⁹ The “buy-through” model is distinct from unbundled retail transmissions by the large load customer or the large-scale generation provider because under the “buy-through” transaction, Rocky Mountain Power would take title to the delivered electricity at the boundary of its system and deliver it to the customer as a bundled product. The large-load customer or the large-scale generation provider is the transmission customer under the PacifiCorp OATT in the *unbundled* retail transmissions (discussed in the prior section), whereas Rocky Mountain Power is the transmission customer under the PacifiCorp OATT in the buy-through’s *bundled* transmission. Accordingly, the buy-through transaction would not require any changes to the PacifiCorp OATT because the load would remain as a network retail load of PacifiCorp/Rocky Mountain Power, as the transmission customer, under the OATT, just like any other bundled retail customer.

Second, Calpine Solutions agrees that the “buy-through” transaction may not be a specifically required type of transaction that Senate Bill 132 mandates the Commission must

¹⁹ Arizona Public Service Company’s AG-X Rate Rider is available at: https://www.aps.com/-/media/APS/APSCOM-PDFs/Utility/Regulatory-and-Legal/Regulatory-Plan-Details-Tariffs/Business/Rate-Riders/agxAlternativeGenerationGeneralServiceExperimental.pdf?sc_lang=en

implement. However, this buy-through model has been successfully used in other states and was supported by other parties in this rulemaking.²⁰ One key benefit of this model, as opposed to utility-owned generation used to serve large load customers, is that the buy-through should serve to isolate the significant generation costs to serve to the customer and thus limit the risk of cost shifts of such generation costs to other customers. The Commission would be within its regulatory authority to require Rocky Mountain Power to facilitate such buy-through transactions as part of its implementation of Senate Bill 132.

Finally, Calpine Solutions agrees that further feedback from Rocky Mountain Power is necessary before this option can be implemented. Ultimately, because Rocky Mountain Power would be the purchaser of the energy through a wholesale power purchase agreement, the buy-through model requires additional cooperation from the utility to facilitate the transaction on the customer's behalf. In other jurisdictions, the buy-through arrangement is facilitated by a tariff defining the utility's requirements and expectations for such generation resources. Thus, while amendment of the rules is one way to encourage buy-through transactions, the Commission could also develop a generally applicable tariff or policy guidance to facilitate such transactions.

III. CONCLUSION

Calpine Solutions appreciates the opportunity to submit these comments and recommends that the Commission adopt the recommendations herein.

²⁰ See NRG Energy & Tracts' Opening Comments at 6-7, Docket No. 25-R318-01 (Aug. 28, 2025) (noting that this model is used in Arizona and Ohio).

DATED this 4th day of September, 2026.

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Addendum—Transmission Rule Amendment

R746-318-301. Transmission Access and Allocation of Transmission Costs.

(1) Each qualified electric utility must provide access to transmission, distribution and ancillary services to the extent necessary to deliver power from a connected generation system to an eligible large load customer. A qualified electric utility may not give preference or priority in transmission and distribution pricing, transmission and distribution access, or access to, pricing of, or provision of ancillary services, to itself or its affiliate relative to persons or entities requesting transmission or distribution access to serve an eligible large load customer.

(2) A large-scale generation provider or a large load customer may request unbundled retail transmission service and applicable ancillary services under the Federal Energy Regulatory Commission-approved tariffs and may request any necessary distribution services that are state-jurisdictional pursuant to these rules. If adherence to this rule requires Federal Energy Regulatory Commission approval of tariff or contract provisions, the qualified electric utility must petition the Federal Energy Regulatory Commission for the approval of the tariff or contract provisions in a timely manner.

~~(+)~~ (3) To the fullest extent allowable under applicable federal law and regulations, each interconnection and transmission-related study and any identified interconnection upgrades, transmission upgrades, network upgrades, distribution system upgrades, and system upgrades a qualified electric utility or large-scale generation provider will incur or pay to provide service to a large load customer shall be directly assigned to the large load customer.

~~(+)~~ (4) If a large load customer will be provided transmission service using a project that was previously identified as a part of the qualified electric utility's long-term transmission plan, the large load customer's share of project costs will be assigned to the large load customer giving consideration to the size of the project, project scope, the proportion of the project's transmission capacity the large load customer will use, and any impact on the transmission plan.

~~(+)~~ (5) To carry out this policy, an application for Commission approval of a large load contract that includes large load customer transmission costs shall provide:

(a) evidence sufficient to allow the Commission to determine whether each incremental transmission cost is allocated to the large load customer, including:

(i) a description of costs for transmission upgrades associated with providing service to a large load customer;

(ii) a description of how the addition of the applicant's use will impact the qualified electric utility's transmission system, including:

(A) the projected increase in electricity demand from the large load customer,

(B) the transmission upgrades needed to meet the large load customer's transmission service needs;

(iii) an explanation of if and how the qualified electric utility proposes to recover from ratepayers any transmission costs that are in excess to, and should not be directly assigned to, the large load customer; and

(iv) a description of how each incremental cost allocated to the large load customer can reasonably be expected to be recovered from the large load customer given the duration of the large load contract and any contractually required security or guarantees.

~~(+)~~ (6) To determine whether the large load customer bears each incremental cost attributable to receiving the requested electric service, the Commission may consider the following

non-exclusive list of factors:

(a) the timing and extent of the relevant generation resources, distribution system upgrades, and any other costs that would not occur absent the large load contract;

(b) the extent to which the large load contract will change the costs, timing, and efficacy of any project that was already planned; and

(c) how each of these factors might affect rate base and customer rates.

CERTIFICATE OF SERVICE

I CERTIFY that on September 4, 2026, a true and correct copy of the foregoing was served upon the following as indicated below:

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