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Calpine Corporation Comments on Proposed Amendments to Regulations Related to the Definition of Appurtenant Facility

Additional submitted attachment is included below.

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California Energy Commission
Docket Unit Docket
Docket Number: 25-RULE-01
715 P Street, MS-4
Sacramento, CA 95814

RE: Docket No. 25-RULE-01-- Comments on Behalf of Calpine Corporation on Proposed Amendments to Regulations Related to the Definition of Appurtenant and Related Facilities

Dear Barbara Borkowski:

On behalf of the subsidiaries and affiliates of Calpine Corporation ("Calpine") that own and operate California Energy Commission ("CEC" or "Commission") jurisdictional facilities, we offer the following initial comments and observations on CEC Staff's proposed modifications to regulations related to the definitions of "Appurtenant facility" and "Related facility" in the Commission's regulations (20 C.C.R. § 1201).

Calpine thanks CEC Staff for its initiative and efforts to update the Title 20, Section 1201 definitions for these terms. Calpine attended the October 9, 2025 CEC Staff workshop on the proposed amendments, and appreciates Staff's encouragement for parties to discuss and provide feedback regarding these proposed modifications. Calpine also appreciates CEC Staff's acknowledgement that clarity is needed for facility owners and operators, cities and counties, and the public regarding the scope and definition of what constitutes a related facility or appurtenant facility subject to the CEC's certification jurisdiction under the Warren Alquist Act. Such clarity will also be beneficial to define the types of activities and changes to a site or CEC-certified facility that may require post-certification modifications of a CEC certification. For the purposes of these comments, Calpine considers "CEC-certified facilities" to encompass both existing generation sites certified pursuant to the Commission's traditional application for certification process and eligible facilities certified pursuant to the Commission's AB 205 opt-in application for certification process.

I. Modifications to the Defined Terms Should Not Result in Any Reclassification of the Commission's Jurisdiction for CEC-Certified Facilities with Pending Petitions for Amendments, or for Existing Facilities Not Currently Subject to the CEC's Jurisdiction.

While Calpine understands and appreciates CEC's Staff's need to provide uniformity to its application of the terms "related facility" and "appurtenant facility," Calpine is concerned that facilities with pending applications or amendments, or existing structures and equipment, may be inadvertently excluded from or swept into the revised definitions. This could cause future uncertainty for project owners, and confusion between what agency is the appropriate oversight entity.

Regardless of the outcome of this rulemaking proceeding, the CEC should include a provision that ensures all pending petitions to add or modify an appurtenant or related facility that have been submitted in good faith after consultation with the CEC should continue to be processed as such. Additionally, the Commission should clearly provide that existing devices, structures, or other facilities not currently considered a related or appurtenant facility, and thus not permitted at such, will not be reinterpreted to come within CEC's jurisdiction based any newly adopted definitions in Section 1201.

II. Proposed Modifications Must Recognize the Scope of the CEC's Authority With Respect to Geothermal Facilities.

During the workshop, comments were made concerning the inclusion of "steam lines" as a new item in the list of examples under "shared facilities." Statements at the workshop indicated that this could include geothermal steam lines "up to the first point of interconnection," and that this could be interpreted as geothermal resource transmission lines beyond the boundaries of a geothermal project site. Calpine is concerned that the proposed interpretation and implementation of the term "steam line" represents an extension of the CEC's longstanding practice, specifically delimited in statute, with regards to its limits over geothermal fields.

Public Resources Code section 25120 exempts geothermal steam facilities from the CEC's jurisdiction, stating:

> "Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

> "Thermal powerplant" does not include any wind, hydroelectric, or solar photovoltaic electrical generating facility.

This exemption is clearly incorporated in the Commission's current definition of "Related facility", which provides:

> "Related facility" means a thermal powerplant, electric transmission line, or any equipment, structure, or accessory dedicated to and essential to the operation of the thermal powerplant or electric transmission line. These facilities include, but are not limited to, transmission and fuel lines up to the first point of interconnection, water intake and discharge structures and equipment, access roads, storage sites, switchyards, and waste disposal sites. Exploratory, development, and production wells, resource conveyance lines, and other related equipment used in conjunction with a geothermal exploratory project or geothermal field development project, and, absent unusual and compelling circumstances, the thermal host of a cogeneration facility, are not related facilities. (20 C.C.R. § 1201(q).)

The Warren Alquist Act clearly exempts geothermal resource transmission lines, including steam lines, from the CEC's jurisdiction, and does not qualify that exemption to the "first point of interconnection." Accordingly, the proposed language should be revised to avoid conflicts with statute by either deleting the new inclusion of "steam" lines among the list of jurisdictional lines, or alternatively clarifying that the term includes only industrial steam lines and not geothermal steam lines.

III. Calpine Supports the Context for the Proposed Regulatory Modifications

As explained in the Commission's Notice of Staff Workshop, docketed on September 29, 2025, the purpose of its proposed regulatory changes is to:

> . . . clarify definitions that have become outdated and that do not fully reflect changes in powerplant design and technology, changes in the Public Resources Code, and changes in the way the state's electricity generation and transmission systems work and are constructed. Adding the definition of "appurtenant facility" and amending the definition of "related facility" will provide clarity regarding the scope of the CEC's certification for both applicants who seek a certification for a powerplant project or seek to amend an existing powerplant certification by adding new equipment or components to the powerplant.

Calpine interprets CEC Staff's proposed changes as an effort to harmonize the various definitions set forth in the Warren Alquist Act, by recognizing that related facilities means whatever, within CEC's jurisdiction, is proposed to be constructed and/or operated on the site. Meanwhile, the substance of the prior regulatory definition of related facilities, further modified

by these proceedings, would move to a newly defined "appurtenant facility" term. We support this reorganization but have observations and recommendations on the details.

A. The Proposed Definition for "Appurtenant Facility" Should Clearly Encompass the Items Listed for "Shared Infrastructure."

The proposed definition for "Appurtenant facility" creates a new category of "shared infrastructure" in (c)(2)(A) that is distinct, and not clearly captured within, either the term "appurtenant facility" or "related facility." Components included within the proposed term "shared infrastructure" have been traditionally defined as related facilities under the CEC's existing regulations. Thus, with the proposed modifications, the CEC's jurisdiction over the components newly characterized as "shared infrastructure" is unclear because shared infrastructure is not specifically included as either an appurtenant facility or a related facility. An appurtenant facility is proposed to include "any" equipment, structure, or accessory that is physically connected to a related facility *through* shared infrastructure. But the definition does not state that shared infrastructure is also an appurtenant facility. This creates ambiguity regarding whether the shared infrastructure items qualify as appurtenant facilities, particularly in light of the proposed modifications to the definition of "related facilities."

We anticipate that this outcome was not intended by CEC Staff. Accordingly, we suggest that the CEC add the named examples of "shared infrastructure" to the main definition of appurtenant facility and cross reference the subsection as needed.

B. Additional Proposed Revisions to the New Definition of "Appurtenant Facility"

To more clearly align the definitions in the Commission's regulations with the Warren Alquist Act, Calpine has the following observations that may require further revisions to the proposed newly defined regulatory term "appurtenant facility" and the revision to the existing definition of "related facility":

1. The phrase, "operated in coordination with", should be clarified. Calpine understands from the workshop that CEC Staff will propose language to clarify that "operated in coordination" means the facilities share common infrastructure, staff, and a security plan, for example, but are not necessarily operated as an integrated system electrically. As one example, a BESS need not be charged by the powerplant; the emphasis of "coordination" is on co-location, not necessarily operational integration. The changes reflect CEC jurisdiction over a BESS that shares common infrastructure or operational procedures, with a thermal powerplant, but is not electrically operated in coordination with the thermal plant.

2. Clarify if the reference to Section 25545 is meant to be Section 2554.3, where the definition of "covered" project is found in the Public Resources Code.

3. At the workshop, CEC Staff indicated that there may be circumstances whereby activities or other changes that occur on the site of CEC jurisdictional facility would not be CEC jurisdictional *per se*. CEC Staff should provide further guidance on this matter.

Because these clarifications could have a substantive impact on the comments Calpine would make on the proposed language, we ask that the CEC circulate revised language for further comment.

IV. Conclusion

Calpine appreciates the opportunity to provide these comments and respectfully recommends that CEC Staff conduct additional outreach regarding the proposed modifications. Further, it would be beneficial to have another informal publication of any further revisions to CEC Staff's proposed definitions based on the comments received, followed by an additional brief workshop, in advance of beginning the formal rulemaking process.

Sincerely,

CLIMATE EDGE LAW GROUP

/s/

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