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DOCKET
05-DATA-1

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California Energy Commission
Docket Unit
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

RE: Docket No. 05-DATA-1, Data Collection Regulations Workshop

Calpine appreciates this opportunity to comment on the "Staff-Proposed Changes to the California Energy Commission's Regulations on Data Collection and Related Matters". Calpine Corporation is a major North American power company delivering clean, reliable and fuel-efficient power to its customers in 21 U.S. States and three Canadian Provinces. Calpine owns and operates 22 gas-fired power plants with electrical output greater than 20 MW and 19 geothermal power plants in the state of California, and additionally operates an Energy Service Provider (ESP) in the state which would be affected by these proposed regulation changes.

Calpine has reviewed the April 2006 proposed regulation changes and believes these increased reporting proposals will require numerous hours of staff time and substantial financial investment by its facilities with no corresponding benefits to the public. The Commission's data collection authority under Public Resource Code 25320 (b)(2) is limited. Specifically, the Commission shall "*Require a person to submit only information that is reasonably relevant and that the person can either be expected to acquire through his or her market activities, or possesses or controls.*" It is our contention that substantial investments of time and resources by the regulated community are not part of the Legislative intent for the Commission's collection of data. We respectfully request that the Commission carefully consider and provide justification as to the public purposes of data collection, the relevancy of the requested information, and its availability from other public sources to avoid duplication of reporting. Calpine's specific comments are as follows.

1. Sections 1304(a)(2)(B)4. and 1304(a)(2)(C)4.

Calpine recommends that the CEC delete Sections 1304(a)(2)(B)4. and (C)4. The proposed requirements mandate that generators submit the monthly average price paid for natural gas. CEC staff can determine the value of the natural gas directly by utilizing the daily price, which for NP15 would be PG&E Citygate plus local distribution charges.

2. Section 1304 (a)(3)(A)1.

Section 1304(a)(3)(A)1. requests that the emission factors for various criteria pollutants and carbon dioxide be submitted to the CEC on an annual basis. It further requires that all emission factors must be based on source test data, the permit limit, or a published emission factor. Based on air permit requirements, Calpine determines its emissions for criteria pollutants in various ways. For most facilities, the oxides of nitrogen and carbon monoxide emissions are based on continuous emissions monitoring systems. Oxides of sulfur are primarily based on fuel analysis. Non-methane, non-ethane volatile organic compounds and particulate matter less than 10 microns are determined based on source testing, and carbon dioxide is based on an emission factor. In the absence of source test data from an individual site, consistent with industry standards, Calpine often uses data from a similar site to estimate the emissions rather than a published emission factor.

Calpine does not object to providing the emissions factors to the CEC; however, Calpine requests that these factors be consistent with data submitted to other regulatory agencies. This Section should be revised to permit the generation of emission factors based on data supplied to the air district or EPA, source test data, or best engineering judgment.

In addition, Calpine operates several geothermal assets; the phrase “...*in units of pounds of emission per million British thermal units of fuel burned*” implies that these sections only apply to power plants that utilize combustion. This should be made clear so that non-combustion sources do not provide confusing data to the Commission.

The language of Section 1304(a)(3)(A)1. should be revised as follows:

1. Emissions Factors. Owners of power plants with a generating capacity of one megawatt and greater shall submit emission factors associated with each prime mover for oxides of nitrogen, oxides of sulfur, non-methane non-ethane volatile organic compounds, carbon monoxide, particulate matter that is less than 10 microns in diameter, particulate matter that is less than 2.5 microns in diameter and carbon dioxide in units of pounds of emission per million British thermal units of fuel burned for all combustion generating units. All emission factors must be based on either (i) the most recent source test available, and including the source test reference method or, (ii) in the absence of a source test, must be based on the permitted limit or, (iii) in the absence of a permitted limit, be based on an identified, reasonably representative published general emission factor or (iv) an emission factor based on best engineering judgment.

3. **Section 1304(a)(3)(B)1.**

The data requested in Section 1304(a)(3)(B)1.b., c., and d. may be unavailable at most facilities. Most facilities maintain records of total water use from each water source but do not meter use to each water consumption process at the facility. Installation of meters for each power plant water process would be cost prohibitive. Where possible, Calpine would substitute estimates, based on calculations, in lieu of installed metering.

The language of Section 1304 (a)(3)(B)1. should be revised to add the following new subsection, Subsection 1304(a)(3)(B)1.f.:

f. Where water metering devices and technologies are not currently required by law, owners of power plants shall use best efforts to estimate such water usage, based on calculations, in lieu of installed metering.

4. **Section 1304(a)(3)(B)2.**

Calpine does not object to providing the information contained in this section on water and wastewater discharges if it is reasonably available. The information requested in Section (3)(B)2.b., d. and e. may or may not be metered at each individual plant. For example, wastewater streams such as sanitary sewage are normally not metered and therefore could not be reported.

The language of Section 1304 (a)(3)(B)2. should be revised to add the following new subsection, Subsection 1304(a)(3)(B)2.g.:

g. Where water metering devices and technologies are not currently required by law, owners of power plants shall use best efforts to estimate such water and waste water discharges, based on calculations, in lieu of installed metering.

5. **New Section 1304(a)(3)(B)4.: Geothermal Exemption**

Geothermal power plants utilizing water derived from condensed geothermal reservoir steam should be excluded from the reporting under Section 1304(a)(3)(B)1. because these waters are injected back into the geothermal reservoir to become steam again. Furthermore, the use of these geothermal fluids has no impact to water supplies in the State.

Similarly, geothermal plants should be excluded from the requirements of Section 1304(a)(3)(B)2. because for the geothermal power plants, plant waste water and spent geothermal fluids are injected back into the geothermal reservoir under Waste Discharge Orders issued by California Regional Boards and permits issued by the Division of Oil

Gas and Geothermal Resources. This injection replenishes the geothermal fluids and should not be confused with other types of discharges requested under this section. Geothermal power plant discharges to replenish the geothermal reservoir should be excluded from reporting under this section.

In order to recognize these exclusions for geothermal power plants, the language of Section 1304 (a)(3)(B) should be revised to add the following new subsection, Subsection 1304(a)(3)(B)4.:

4. The requirement of subsections 1304(a)(3)(B)1. and 1304(a)(3)(B)2. shall not apply to geothermal power plants.

6. Section 1304(a)(3)(C)

The information requested in Section 1304(a)(3)(C)1. for biological resources would be submitted in any Application for Certification or Amendment process conducted by the CEC. This information is also typically generated as part of the CEQA process for non-CEC jurisdictional projects. The addition of this language to the IEPR reporting process seems redundant and duplicative for projects approved by the Commission.

Subsections 1304(a)(3)(C)1.a.-c. should either be deleted in their entirety or amended to exempt CEC jurisdictional projects as follows:

- (C) Environmental information related to biological resources.
1. Except for those projects certified by the commission, Owners of power plants constructed or expanded since 1969~~6~~ and which have a generating capacity of one megawatt and greater shall submit the following information about the construction effects on wildlife habitats, and state and federally-listed wildlife and plant species:

Further, the Commission should avoid redundancy by allowing owners to provide documentation demonstrating CEQA compliance. A new subsection should be added as follows:

- d. In lieu of the information requested in subsections 1304(a)(3)(C)1.a.-c., owners of power plants may submit to the commission copies of the environmental impact reports, mitigated negative declaration, negative declaration, or other appropriate documentation demonstrating compliance with CEQA.

The proposed revisions are important because 1304(a)(3)(C)1.a.-c. would result in unnecessary expense. If, for example, owners are required to generate data only in the

specific protocol and format prescribed in the proposed regulations, there would be significant cost associated with generating this new information, given the lack of flexibility in methodology. Moreover, 1304(a)(3)(C)1.b.-c. are vague, asking for subjective descriptions of habitat “affected.”

Similarly, the information requested in Section 1304(a)(3)(C)2.a., an annual report of the mortality of terrestrial, avian and aquatic wildlife, exceeds the data collection authority provided the Commission under Public Resource Code 25320 (b)(2). The Commission shall “*Require a person to submit only information that is reasonably relevant and that the person can either be expected to acquire through his or her market activities, or possesses or controls.*” The effect that each individual power plant has on a listed or endangered species cannot be determined without extensive biological surveys or studies. For example, the primary species of concern for some of our South Bay projects was the Bay Checker Spotted Butterfly. The issue of concern was Nitrogen Oxide deposition affecting the habit and therefore affecting the species. It would be impossible to determine the mortality rate of butterflies due to the operation of the power plants without engaging in a significant study program. Since the possible impact on threatened or endangered species is very site specific, the requirement to conduct these types of surveys and gather this information should be done through the siting or CEQA process and should not be mandated by regulation.

With the exception of Section 1304(a)(3)(C)2.d., the remaining provisions of Section 1304(a)(3)(C)2. should be deleted.

7. Section 1304(a)(3)(D)

To the extent that the information sought by this Section is privileged, confidential, proprietary, a trade secret or otherwise protected, disclosure would cause the disclosing party harm and potentially expose the owner to unfair business advantage if it were published or used for evaluation in a report. To the extent that the information sought by this Section is not privileged, confidential, proprietary, a trade secret, or otherwise protected, it can be obtained by the commission from other public sources. This Section should be deleted.

Section 1306(b) Electric LSE Reports

The information requested in this section has recently been addressed by the CPUC in Decision 05-10-042, Opinion on Resource Adequacy Requirements, issued on October 27, 2005. In that decision, the CPUC established reporting requirements for LSEs and required that copies of the reports be provided to the CEC. The CEC should rely on that information and not impose new requirements on LSEs at this time. In particular, Section 1306(b)(2) Commodity Price Estimates should be deleted in its entirety for ESPs. This is highly sensitive proprietary information that would cause unfair business advantage if it were published or used for evaluation in a report.

Sections 1345, 1346 and 1347

Again, the information requested in these sections is being addressed in CPUC Proceeding R.05-12-013, and to the extent that reporting requirements have already been established in that proceeding, the CEC should ensure that its reporting requirements are consistent with those of the CPUC. Furthermore, the CEC should rely on LSE's reports that are required to be filed as a result of that proceeding. With regard to the 20 year demand forecast proposed for LSE's in Section 1345 and the 20 year resource plan proposed in Section 1347, Calpine notes that the CPUC expects to issue a scoping memo for Phase 2 of the proceeding in July 2006 which will address multi-year resource adequacy requirements. Calpine recommends that the CEC wait for the results of that phase of the proceeding to establish long-term reporting requirements for non-utility LSEs.

Section 1348

ESPs should be exempted from this entire section. ESPs operate in a competitive marketplace and it is unrealistic to expect these entities to provide realistic forecasts of their wholesale and retail energy prices or a historical and forecasted breakdown of their cost structures. This information is highly sensitive proprietary information that would cause unfair business advantage if it were published or used for evaluation in a report.

Calpine appreciates this opportunity to submit these comments on the "Staff-Proposed Changes to the California Energy Commission's Regulations on Data Collection and Related Matters" and appreciates the opportunity to be a part of the rule-making process. If you have any questions please call me at 925-570-0849.

Sincerely,



Barbara McBride
Director, Safety, Health and Environment
Calpine Corporation
Western Power Region