

November 22, 2021

**VIA EMAIL**

Mr. Peter Allen, Assistant General Counsel (Interim)  
Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
[Peter.allen@cpuc.ca.gov](mailto:Peter.allen@cpuc.ca.gov)  
[resolutioncommentspge@cpuc.ca.gov](mailto:resolutioncommentspge@cpuc.ca.gov)

*Re: Comments of Calpine Corporation and Geysers Power Company, LLC on the SED  
Incident Investigation Report for the Kincade Fire and Draft Resolution SED-6*

Dear Mr. Allen:

Pursuant to Rule 14.5 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure and the November 2, 2021 letter accompanying Draft Resolution SED-6 ("Draft Resolution"), Calpine Corporation and its indirect, wholly-owned subsidiary Geysers Power Company, LLC ("GPC") (collectively, "Calpine") submit the following comments on the Draft Resolution.

The Draft Resolution has two attachments: (1) the Safety and Enforcement Division ("SED") Incident Investigation Report for the Kincade Fire ("SED Report"), which summarizes the SED investigation of the Kincade Fire and identifies alleged violations by Pacific Gas and Electric Company ("PG&E") of the California Public Utilities Code and the Commission's General Orders; and (2) the Administrative Consent Order and Agreement of the SED and PG&E Regarding the 2019 Kincade Fire Pursuant to Resolution M-4846 ("Settlement Agreement").

Calpine generally agrees with the Draft Resolution and believes that it is accurate. However, Calpine respectfully requests that the Commission correct two factual errors in the SED Report and Settlement Agreement which concern GPC's ownership of the geothermal facilities and distribution lines which were involved in the Kincade Fire. The specific changes are described below and also set forth in Appendix A.

### **A. Requested Modification of the SED Report**

Section III(A) of the SED Report summarizes the timeline of the Kincadee fire incident. The SED Report states that: “At 11:10 hours, PG&E notified GPC that distribution lines 1144 and 1146 would be de-energized.”<sup>1</sup>

The above statement is not accurate, because GPC is the owner and operator of distribution lines 1144 and 1146, and thus GPC was the entity responsible for de-energizing those lines upon PG&E’s request at the time of the incident. As currently worded, the statement in the SED Report implies that PG&E was the owner of distribution lines 1144 and 1146, that PG&E de-energized the lines, and/or that PG&E then informed GPC of the de-energization.

To avoid any potential confusion, GPC requests that this statement be modified to clarify that PG&E requested that GPC de-energize the lines, and that GPC complied with that request, de-energizing its entire distribution system by 14:28 hours. This correction is consistent with the November 20, 2019 GPC response to CPUC data request SED-001-Kincadee Fire-Geysers Power, which is the evidence that the SED Report cites in footnote 9.

### **B. Requested Modification of the Settlement Agreement**

The first Stipulated Fact in Section II(A) of the Settlement Agreement states in relevant part: “Calpine owns and operates geothermal power plants at The Geysers geothermal field located along the Sonoma and Lake County border.”<sup>2</sup>

This statement is partially inaccurate and misleading. In fact, GPC is the owner and operator of the Geysers geothermal facilities, and GPC is an indirect, wholly-owned subsidiary of Calpine.

Calpine recognizes the difficulties associated with amending the Settlement Agreement, because it would require approval of both PG&E and SED as the settling parties. As an alternative to amending the Settlement Agreement itself, Calpine would be amenable to the Commission addressing this factual misstatement within the “Findings and Conclusions” section of the Draft Resolution rather than in the Settlement Agreement. Specifically, as shown in Appendix A, Calpine requests that the Draft Resolution be modified to clarify that Geysers Power Company, LLC, an indirect, wholly-owned subsidiary of Calpine, owns and operates geothermal power plants at The Geysers.

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<sup>1</sup> SED Report at 7.

<sup>2</sup> Settlement Agreement at 1-2.

CPUC Safety and Enforcement Division

November 22, 2021

Page 3

For the reasons set forth above, Calpine respectfully requests that the SED Report and Draft Resolution be modified prior to their approval by the Commission.

Sincerely,

/s/

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Patrick Ferguson

DAVIS WRIGHT TREMAINE LLP

Attorneys for Calpine Corporation and Geysers Power Company, LLC

cc: Service List for Draft Resolution SED-6 (I.15-08-019 and R.18-10-007).

Meredith Allen, meae@pge.com

Alyssa Koo, atk4@pge.com

Joel Crane, jp39@pge.com

**Appendix A**  
**Proposed Revisions to Draft Resolution SED-6**

**Proposed changes to SED Report:**

Section III (A) “Timeline Summary of the incident” should be modified as follows:

On October 23, 2019, at 08:24 hours, PG&E notified GPC, a subsidiary of Calpine Corporation, that a Public Safety Power Shutoff (PSPS) event would begin between 12:00 hours and 14:00 hours of the same day. At 11:10 hours, PG&E requested that notified GPC that distribution lines 1144 and 1146 would be de-energized, and GPC complied with that request, de-energizing its entire distribution system by 14:28 hours.<sup>9</sup> Although PG&E de-energized the selected distribution lines near the

**Proposed changes to Draft Resolution:**

The Draft Resolution’s “Findings and Conclusions” should be modified by adding the following:

1. Resolution M-4846 authorized Commission staff to negotiate and propose an Administrative Consent Order to resolve an enforcement matter, subject to review and consideration by the Commission.
2. SED and PG&E have engaged in settlement negotiations and, consistent with Resolution M-4846 and the Enforcement Policy, have memorialized their proposed settlement in the attached Administrative Consent Order and Agreement.
3. Based on comments received from Calpine Corporation and Geysers Power Company, LLC, the first stipulated fact in the Agreement is clarified as follows: Geysers Power Company, LLC, an indirect, wholly-owned subsidiary of Calpine Corporation, owns and operates geothermal power plants at The Geysers.
3. 4. SED and PG&E have agreed that the attached Administrative Consent Order and Agreement resolves all issues related to SED’s investigations of and any enforcement action SED might have brought related to or arising from the 2019 Kincade Fire.
4. 5. The agreed-upon fines and remedial actions appropriately resolve all issues related to SED’s investigations and any enforcement action SED may have brought, are reasonable in light of the circumstances, consistent with the law, and in the public interest.