

171 FERC ¶ 61,181
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

EDF Trading North America, LLC

Docket Nos. ER19-458-000
ER19-458-001

ORDER ACCEPTING FOR FILING
AMENDED FUEL COST RECOVERY APPLICATION

(Issued May 29, 2020)

1. On November 30, 2018, EDF Trading North America, LLC (EDF), acting as the Scheduling Coordinator for AES Alamitos, LLC, AES Huntington Beach, LLC, and AES Redondo Beach, LLC (collectively, AES Resources), filed a Fuel Cost Recovery Application (Initial Application) to recover the actual marginal fuel-related costs incurred by the AES Resources from July 20, 2018 to August 10, 2018 (Review Period) pursuant to section 205 of the Federal Power Act¹ and section 30.12 of the California Independent System Operator Corporation's (CAISO) tariff. On April 1, 2020, after further discussions, EDF, together with the AES Resources and CAISO, submitted proposed amendments to the Initial Application, along with a settlement agreement (Amended Application). In this order, we accept for filing the Amended Application, to become effective on the date of issuance of this order, as requested.

I. Background

2. In its Initial Application, EDF states that AES Resources include three natural gas-fired electric generation facilities located in the Los Angeles Basin, whose total nameplate capacity is 4,300 MW.² EDF notes that the AES Resources are often subject to CAISO's local market power mitigation procedures due to their location in the constrained Los Angeles Basin. EDF states that during the Review Period, CAISO

¹ 16 U.S.C. § 824d (2018).

² Application Transmittal at 4.

experienced very high demand and higher than normal gas prices.³ According to EDF, in order to comply with exceptional dispatch instructions from CAISO during the Review Period, the AES Resources incurred fuel-related costs, which they did not fully recover through CAISO market revenues.⁴

3. EDF explains that pursuant to section 39.10 of the Tariff, CAISO may dispatch the AES Resources out-of-merit through exceptional dispatch to maintain local reliability, under mitigated bids. EDF states that under mitigated bids, if either exceptional dispatch or the application of local market power mitigation procedures is imposed, the resource's bid may be replaced with the higher of the default energy bid or the competitive portion of the locational marginal price.⁵ Thus, CAISO committed the AES Resources to operate subject to mitigated default energy bids. EDF explains that the default energy bids were based on proxy fuel prices that did not reflect the actual natural gas costs incurred by the AES Resources, which EDF states amounted to a total of \$8,774,791 over the Review Period.⁶

4. EDF explains that under exceptional dispatch conditions, CAISO uses a resource's previously approved variable operation and maintenance cost, default start-up and transition costs, and a proxy fuel cost based on natural gas prices a day or two days prior to gas delivery, which EDF says can fall below the actual gas price at the time of purchase.⁷ EDF states that section 11.8 of CAISO's Tariff, which provides for uplift recovery for unrecovered bid costs including fuel, can fail to compensate resources when bid costs are computed using the default energy bid for mitigated exceptional dispatch and resources mitigated by local market power mitigation procedures. In its Initial Application EDF requests that the Commission direct CAISO, per section 30.12 of

³ *Id.* at 2.

⁴ *Id.* at 10.

⁵ *Id.* at 6.

⁶ *Id.* at 10.

⁷ EDF states that EDF Energy Services, LLC (EDFES) acts as the energy manager for AES Resources and is responsible, along with EDF, for supplying natural gas to AES Resources. EDF explains that EDF and EDFES typically purchase gas in the spot market on a day-ahead basis at the SoCal Citygate gas hub pricing point prior to next-day unit commitment in CAISO. EDF notes that trading for next-day gas closes prior to notice of resource commitment in CAISO's day-ahead market.

CAISO's Tariff,⁸ to compensate AES Resources for unrecovered fuel-related costs during the Review Period.⁹

II. Notice and Responsive Pleadings

5. Notice of the Initial Application in Docket No. ER19-458-000 was published in the *Federal Register*, 83 Fed. Reg. 63,497 (Dec. 10, 2018), with interventions and protests due on or before December 21, 2018. Northern California Power Agency, Pacific Gas and Electric Company, and California Department of Water Resources State Water Project filed timely motions to intervene. California Public Utilities Commission (CPUC) and Southern California Edison Company (SoCal Edison) submitted unopposed motions to intervene out-of-time. CAISO submitted a motion to intervene and protest, and CAISO's Department of Market Monitoring (DMM) separately filed a motion to intervene and comments. EDF filed an answer in response to protests, to which CAISO replied.

6. In its protest of the Initial Application, CAISO argues that EDF did not meet the requirements under section 30.12 of the Tariff because it did not submit sufficient documentation to support its actual fuel cost. CAISO also states that EDF's "reserving the right" to file for cost recovery under section 30.11 is moot since EDF did not notify CAISO within 30 days of the operating day of its intention to apply for cost recovery under that section.¹⁰

7. DMM notes in its comments on the Initial Application that portions of the fuel costs for which EDF seeks recovery fall under the purview of both sections 30.11 and 30.12 of CAISO's Tariff, but from DMM's perspective, EDF did not meet its burden to show that cost recovery under either section is just and reasonable.¹¹ DMM states that EDF incorrectly calculates daily market revenues in a way that inflates EDF's cost recovery from \$6.6 million to \$8.8 million, and that the Review Period included days for which CAISO's commitment cost bid caps and default energy bids did not prevent the AES Resources from recovering their actual fuel costs.¹² DMM argues that of the \$6.6 million in costs, about \$4 million correspond to units and days when EDF's reported

⁸ EDF states that it reserves the right to apply for fuel cost recovery through CAISO Tariff Section 30.11

⁹ *Id.* at 7.

¹⁰ CAISO Protest at 2-3.

¹¹ DMM Comment at 3.

¹² *Id.* at 4-5.

actual gas costs were within 10 of the gas price index used by CAISO to calculate bid caps, and therefore should not be eligible for cost recovery. DMM notes that in addition to this 10% gas price adder, commitment cost bid caps include a 25% adder, and thus, for those days, EDF's commitment cost and energy bids were not limited by CAISO's mitigation procedures. DMM concludes that EDF's potential natural gas cost recovery is approximately \$2.6 million.¹³

8. In its Answer, EDF contends that it submitted sufficient data and information and that it timely submitted to CAISO, a notice and information regarding a section 30.11 cost recovery application.¹⁴ In addition, EDF states that it corrected daily revenue calculation errors pointed out by DMM for purposes of revising its calculation of actual unrecovered fuel cost. However, EDF disagrees with DMM regarding the 10% and 25% adders to gas price index and commitment cost bid caps, arguing that adders are irrelevant to actual natural gas costs, that the AES Resources were often settled at prices below the default energy bid levels, and that DMM did not take into account emission costs or variable operating and maintenance costs.¹⁵

9. In reply, CAISO argues that the Commission cannot accept the application based on disputed facts and requests that the Commission briefly suspend the procedural schedule to allow the parties to further evaluate EDF's Initial Application.¹⁶

10. On January 25, 2019, EDF submitted a request for the Commission to hold the proceedings in abeyance to allow EDF and CAISO to exchange information and engage in discussions to resolve the dispute.¹⁷ On April 1, 2020, EDF filed an amendment to the Initial Application including additional data and the result of negotiations with CAISO in the form of a settlement agreement (Amended Application).¹⁸

¹³ *Id.* at 6.

¹⁴ EDF Answer at 4-5.

¹⁵ *Id.* at 6-7.

¹⁶ CAISO Reply at 3.

¹⁷ EDF submitted requests to defer the proceedings for additional time totaling one year in order to allow the parties to negotiate and prepare settlement documents.

¹⁸ Amended Application at 3.

III. Amended Application and Settlement

11. In the Amended Application, EDF states that it has reached agreement with the AES Resources and CAISO and resolved all issues related to the Initial Application without the need for further proceedings.¹⁹ EDF states that the data and information included in the Amended Application satisfies all of the requirements for a fuel cost recovery application under sections 30.11 and 30.12 of CAISO's Tariff, including: (1) data supporting the cost recovery application; (2) a description of the resources' participation in gas pooling arrangements; (3) a justification for cost recovery; and (4) a written explanation from CAISO regarding any market circumstances and fuel market conditions that may have contributed to under-recovery of costs during the relevant trading days.²⁰

12. EDF explains the AES Resources experienced estimated unrecovered fuel procurement costs totaling approximately \$665,396 that could not be recovered through market revenues on five days in July and August 2018, based on a comparison of proxy fuel prices and the AES Resources' actual fuel prices.²¹ EDF, CAISO, and the AES Resources agree that the actual fuel prices resulted in higher start-up costs, minimum load costs, and default energy bids than AES Resources recovered,²² and thus, CAISO has agreed to publish Recalculation Settlement Statements for the AES Resources using the estimated higher costs as part of its next available financial true-up process, which is the 33-month Recalculation Settlement Statement. EDF represents that some of the relevant adjustments have already been made during the most recent true-up, the 18-month Recalculation Settlement Statement process.²³

¹⁹ EDF requests that Commission review the changes set forth in the Settlement Agreement as an amendment to the Initial Application, consistent with the Commission precedent. *Id.* at 1-2 (citing *Southwest Power Pool, Inc.*, 158 FERC ¶ 61,090 (2017), *order denying reh'g*, 160 FERC ¶ 61,068, at PP 45 & nn.12 & 14 (2017); *Wis. Electric*, 125 FERC ¶ 61,158, at P 10 n.2 (2008); and *Devon Power LLC*, 114 FERC ¶ 61,094, at P 10 n.4 (2006)).

²⁰ Amended Application at 3.

²¹ *Id.* at 4.

²² *Id.* at 4-5.

²³ *Id.* at 5.

13. In addition to unrecovered fuel costs, EDF, CAISO, and the AES Resources determine that start-up and minimum load cost data omitted from CAISO's Master File²⁴ associated with the AES Resources created shortfalls in Exceptional Dispatch Energy settlement prices and Bid Cost Recovery settlements. The omitted data resulted in an estimated shortfall of \$1,761,341 in Exceptional Dispatch settlements due to incorrect default energy bid calculations and a \$2,947,918 shortfall in CAISO's bid cost recovery calculations. EDF, CAISO, and the AES Resources agree that these estimated shortfalls due to omitted data are inputs for generating the Recalculation Settlement Statements for AES Resources during the 33-month resettlement process or the following process. EDF, CAISO, and the AES Resources also agree that CAISO will change the relevant inputs to its financial statements software to generate the Recalculation Settlement Statements, but that CAISO does not guarantee any specific outcome.²⁵ The Amended Application requests an effective date on the date the Commission issues an order approving the Amended Application.²⁶

14. Notice of the Amended Application submitted in Docket No. ER19-458-001 was published in the *Federal Register*, 85 Fed. Reg. 19,755 (Apr. 8, 2020), with interventions and protests due on or before April 22, 2020. None was filed.

IV. Commission Determination

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, we grant the unopposed motions to intervene out-of-time filed by CPUC and SoCal Edison, given these entities' interests, the early stage of this proceeding, and the absence of undue prejudice or delay.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept EDF's Answer and CAISO's Reply because they have provided information that assisted us in our decision-making process.

²⁴ CAISO's Master File contains generator data for purposes of bidding, operations, and settlement.

²⁵ Amended Application at 7-8.

²⁶ *Id.* at 9.

B. Substantive Matters

17. We find the Amended Application to be just and reasonable and accept it for filing, to become effective on the date of issuance of this order, as requested. We find that the issues raised by CAISO and DMM in response to the Initial Application have been resolved in a manner that is agreed to by EDF, CAISO, and the AES Resources.²⁷ Specifically, we find that the relevant inputs for CAISO's settlement statements reflected in the Amended Application are just and reasonable, and consistent with sections 30.11 and 30.12 of the CAISO Tariff. Specifically, the Amended Application provides: (1) Exhibits containing data that reflect proxy and demonstrated fuel price comparisons; recalculated start-up costs, minimum load costs, and default energy bid prices; and recalculated exceptional dispatch and bid cost recovery settlement adjustments; (2) an explanation of demonstrated fuel cost data and omission errors in Article III of the Settlement; and (3) a written explanation regarding market circumstances and fuel market conditions during the Review Period in Article I of the Settlement. In addition, EDF states in its Initial Application that the AES Resources are served by EDF's SoCal Contracted Marketer Pool.²⁸ We thus conclude that the information provided satisfies the four criteria set forth in CAISO's Tariff to support an application for fuel cost recovery, and we find that the Amended Application reflects obligations of the parties to correct additional errors.

The Commission orders:

The Amended Application is hereby accepted for filing, to become effective on the date of issuance of this order, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁷ While DMM has not withdrawn its comments on the Initial Application, it has not protested or otherwise commented on the Amended Application.

²⁸ Application Transmittal at 14.