

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Application to Recover Fuel)	
Procurement Costs of)	
EDF Trading North America LLC)	Docket No. ER21-2579

**MOTION TO INTERVENE AND PROTEST
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (CAISO) files this protest in response to the July 29, 2021, filing of EDF Trading North America LLC (EDF). In its role as Scheduling Coordinator for units 3 and 4 of the La Paloma generating facility, EDF requests after-the-fact reimbursement of fuel-related costs it states it did not recover from the bid cost recovery mechanism on the February 16, 2021, trading day.¹ EDF requests waivers of the CAISO tariff to the extent necessary for the Commission to consider this request. The CAISO does not object to these limited waivers, which are necessary given the CAISO's filed rate. Assuming the Commission grants the necessary waivers, the CAISO requests that the Commission set this matter for evidentiary hearings and authorize parties to conduct appropriate discovery.

I. Motion to Intervene

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California with its principal place of business at 250 Outcropping Way,

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the CAISO tariff, and references to specific sections, articles, and appendices are references to sections, articles, and appendices in the current CAISO tariff and as revised or proposed in this filing, unless otherwise indicated.

Folsom, California 95630. The CAISO operates under its Commission-approved tariff. Through its filing in this docket, EDF requests payment pursuant to provisions of the CAISO tariff, the costs of which would be allocated to CAISO market participants. The CAISO has a substantial and direct interest in this proceeding. Because no other party can represent the CAISO's interests in the proceeding adequately, the CAISO's intervention is in the public interest and should be granted.

II. BACKGROUND

A. Reference Level Calculations

The CAISO energy markets employ a three-part bid structure in which generators submit separate bid components for the following costs: (1) start-up; (2) minimum load; and (3) energy above minimum load. The CAISO refers to the first two elements (*i.e.*, start-up and minimum load costs) collectively as commitment costs, and it refers to the third element generally as the energy bid.

To mitigate market power and promote market efficiency, the CAISO places upper limits on commitment cost bids and energy bids. The CAISO calculates resource-specific default commitment cost bids on a daily basis. These default values represent an upper limit on what a resource can bid. The CAISO calculates default commitment cost bids on a formula that accounts for a resource's registered parameters, with a 25 percent "headroom" adder. Most relevant to this proceeding, the formula includes daily gas price index information to account for a resource's gas costs. Energy bids face a hard cap of \$2,000/MWh and where market power mitigation triggers, the CAISO mitigates the energy offer to a resource-specific default energy bid. Similar to default commitment cost bids, the CAISO calculates default energy bids on a

daily basis per a formula that accounts for a resource's parameters, although default energy bids have a ten percent "headroom" adder. Again, a critical input to the default energy bid formula is the updated gas price index information. The CAISO refers to default commitment cost bids and default energy bids collectively as "reference levels."

B. Changing Reference Level Calculations through the Commitment Costs and Default Energy Bid Enhancements Initiative

The CAISO has recognized that gas market volatility can create cases where the price index information it uses to calculate reference levels will not reflect a generator's actual gas procurement costs. Before February 15, 2021, under the then-effective CAISO tariff section 30.11, scheduling coordinators could submit an after-the-fact cost recovery filing with the Commission. On February 15, the CAISO implemented tariff amendments arising from its Commitment Costs and Default Energy Bid Enhancements (CCDEBE) initiative. CCDEBE added options for generators to request reference level updates before the market run (new tariff section 30.11) and after-the-fact cost recovery approved by either the CAISO or the Commission (new tariff section 30.12).

Under the new tariff section 30.11, the CAISO processes reference level change requests within reasonableness thresholds automatically, subject to later audit. The CAISO processes requests that exceed the reasonableness thresholds once it reviews the justification for the request and concludes that "the submitted information supports a change in the Reference Level."² Generators must make such manual reference level change requests by 8:00 AM for these changes to be included in any market processes executed on that day.³

² CAISO tariff section 30.11.4.3.

³ CAISO tariff section 30.11.4.2.

Under the new tariff section 30.12, scheduling coordinators may request uplift payments for fuel costs they did not recover through the bid cost recovery mechanism and that resulted from a reference level change request not approved by the CAISO under section 30.11. Scheduling coordinators may request approval of these requests from either the CAISO or the Commission. The scheduling coordinator must notify the CAISO within 30 business days after the trading day either of its request for the CAISO to approve the uplift payment or of its intent to request Commission approval of the uplift payment. If the scheduling coordinator elects for the CAISO to consider the request and the CAISO rejects the request, the scheduling coordinator then has 90 business days from the date the CAISO rejected the request to file for Commission approval. A scheduling coordinator may forego CAISO review of its after-the-fact request and, within 90 business days of the trading day, submit its cost recovery request directly to the Commission.

C. Implementing the Commitment Costs and Default Energy Bid Enhancements Initiative

The CAISO implemented its CCDEBE tariff provisions on February 15. The planned implementation window was between October 1, 2020, and January 31, 2021. The CAISO scheduled implementation for January 28, 2021, but on January 29, the CAISO issued a market notice informing stakeholders that additional validation and testing was necessary. As a result, the CAISO delayed implementation until on or before February 24. Faced with high and volatile gas prices caused in part by extreme winter weather, the CAISO expedited the necessary testing. On February 14, the CAISO issued a market notice indicating that it would provide the new CCDEBE

functionalities to market participants on February 15 to be effective for market processes for the February 16 trading day.⁴ The tariff provisions provided market participants with new flexible cost gas cost recovery options in the face of market conditions in which they would need these new opportunities.

D. EDF's Fuel Cost Recovery Requests

Units 3 and 4 at the La Paloma generating facility received an award from the residual unit commitment (RUC) process run on February 15 for the February 16 trading day. EDF states that La Paloma failed to recover its full start up and minimum load costs through the CAISO's bid cost recovery process for these RUC dispatches.

Although February 16 was a Tuesday, it was the first business day following a three-day weekend for the Presidents' Day holiday. Market conditions as of Friday February 12 were the basis for gas price indices the CAISO used for market processes occurring during the holiday weekend. As reflected in a CAISO report posted on May 10, 2021, the CAISO observed high natural gas prices during the period around the President's Day weekend in February 2021. These high prices appear to have resulted from extreme weather conditions in Texas and the Midwest United States. EDF claims that due to these market conditions the gas costs La Paloma incurred to meet its dispatch for the February 16 trading day far exceeded the costs assumed through the CAISO's bid cost recovery processes. Indeed, these are the gas market conditions that led the CAISO to accelerate its implementation of CCDEBE.

On February 17, EDF requested the CAISO approve an uplift payment under

⁴ <http://www.caiso.com/Documents/CommitmentCost-DefaultEnergyBidEnhancementsPhase1-DeploymentEffective-TradeDate21621.html>

section 30.12.4. The CAISO rejected the request the same day, explaining that, per section 30.12.1, it permitted after-the-fact recovery only for “amounts in a Reference Level Change Request that were not approved pursuant to Section 30.11.” Because EDF did not request a reference level change before the market ran, it was ineligible. On July 29, the 114th business day following CAISO rejection of EDFs requested uplift payment, EDF filed a request to recover fuel-related costs under CAISO tariff section 30.12. EDF states that the materials it submitted as part of its July 29 filing demonstrate sufficiently that it has incurred costs not recovered through the bid cost recovery processes.

Citing alleged flaws in the CAISO processes, EDF also questions whether the CCDEBE tariff revisions actually became effective on February 15. In the alternative, EDF argues that the evidence it has presented also justifies cost recovery under the old version of section 30.11, which permitted uplift payments tied to unrecovered fuel procurement costs caused by default commitment costs set too low. As a second alternate approach to cost recovery, EDF requests a general waiver from the CAISO tariff “to compensate La Paloma for just and reasonable fuel costs.”⁵ As a third alternate request for cost approval, EDF requests that the Commission consider the requested uplift payment pursuant to the Commission’s authority under section 309 of the Federal Power Act to “to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the” Act’s provisions.⁶

⁵ July 29 filing at 25.

⁶ 16 U.S.C. § 825h.

III. PROTEST

The Commission should not accept EDF's request as just and reasonable based on the record before it.

EDF has failed to fulfill two basic prerequisites under the tariff to receive an uplift payment under tariff section 30.12.5. First, section 30.12 permits uplift payments only for "amounts in a Reference Level Change Request that were not approved pursuant to Section 30.11." EDF did not request a reference level change before the market ran and therefore is ineligible. Second, the tariff requires a scheduling coordinator submit a request under section 30.12.5 within 90 business days after the CAISO rejects a request under section 30.12.4. EDF submitted this request on the 114th business day after the CAISO rejected the request. These requirements are key elements of the filed rate and overall CCDEBE processes, and are in the tariff for important reasons. Nevertheless, in this narrow and unique circumstance the CAISO does not object to the Commission granting waivers to overcome these deficiencies.⁷ However, if the Commission does not grant such waivers, it must reject EDF's request.

Assuming the Commission grants the waivers, the Commission still cannot approve EDF's request on the record before it. The substantive inquiry before the Commission is: *Did EDF fail to recover fuel costs through the bid cost recovery mechanism because of the limits imposed on its commitment cost bids?*⁸ Based on the

⁷ The CAISO's lack of opposition to a waiver extends only to the question of EDF's failure to request a reference level change or file within the 90-business-day deadline. The CAISO does not support consideration of the overall issue of compensation through a waiver or through the Commission's section 309 authority. The CAISO has tariff provisions to address the core of EDF's request and it is a collateral attack on the CAISO's CCDEBE filing, and the Commission's order approving that proposal, to consider the compensation issue outside of the tariff provisions designed to address the exact issue EDF has put before the Commission.

⁸ Section 30.12.1 permits "additional uplift payment to cover a resource's actual fuel costs or fuel-

information EDF provided in its filing, the Commission cannot answer this inquiry. More information is required for the CAISO and the Commission to validate EDF's request.

EDF's filing offers a calculation for its unrecovered costs based on calculated natural gas purchase costs adjusted for natural gas burns at its resource, less revenues received from the CAISO market for Trading Day February 16, 2021. The CAISO is reviewing the documents underlying EDF's calculation. The CAISO will require time and possibly additional discovery to validate that EDF's calculation reflects actual cost incurred less the revenues EDF received from the CAISO markets. The Commission should not accept EDF's filing without allowing time for sufficient review.

The CAISO and other potential parties also need to validate that EDF bid La Paloma units 3 and 4 up to their commitment cost caps. Allowing scheduling coordinators to seek after-the fact cost recovery when they bid the units below the cap for minimum load costs would create an inappropriate incentive to submit artificially low bids and then seek after the fact cost recovery. In its application, EDF did not demonstrate that it bid up to the unit's commitment cost caps or that its bids reflected prevailing natural gas prices. The Commission should not accept EDF's filing without allowing parties time to validate that EDF submitted commitment costs bids at the cap calculated for the resources based on prevailing gas prices.

EDF's request refers to La Paloma units 3 and 4 being subject to an involuntary commitment in the RUC for the February 16 trading day.⁹ In reviewing EDF's

equivalent costs associated with Start-Up Bid Costs, Minimum Load Bid Costs, Transition Bid Costs, and Energy Bid Costs used in the Bid Cost Recovery mechanism," whereas the prior section 30.11 permitted a Commission filing if a scheduling coordinator "incurs but cannot recover through the Bid Cost Recovery process any actual marginal fuel procurement costs that exceed [] the limit on Bids for Start-Up Costs [or] Minimum Load Costs"

⁹ EDF filing at 2 and 23.

submission, the CAISO has struggled to understand how these units were committed involuntarily. The CAISO's records indicate both units were RA resources for February 2021. In exchange for compensation as RA resources, RA resources must bid into the day-ahead market, of which RUC is a part.¹⁰ La Paloma's purported "involuntary" commitment merely appears to be the natural result of its voluntary choice to provide RA capacity. The CAISO also cannot determine how the alleged involuntary nature of the RUC commitment affects the requested uplift payment. Further discovery will permit the CAISO to gain a better understanding of, among other things, the sense in which the commitment was involuntary and how that should affect EDF's potential cost recovery.

Finally, EDF's filing devotes substantial attention to imbalance penalties. CAISO tariff section 30.12.1 states directly that "Scheduling Coordinators may not request additional uplift payments under this section to cover costs associated with gas company imbalance penalties." Notwithstanding this direct statement in the tariff, it appears EDF is arguing it may recover gas imbalance penalties. Further discovery will allow the CAISO to determine if EDF seeks to recover costs for which the CAISO tariff prohibits recovery.

¹⁰ CAISO tariff section 40.6.1 (providing general day-ahead availability requirements for RA Resources).

IV. COMMUNICATIONS

In accordance with Rule 203(b)(3) of the Commission's Rules of Practice and Procedure,¹¹ the CAISO respectfully requests that service of all pleadings, documents, and all communications regarding this proceeding be addressed to these individuals:

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(see next page)

¹¹ 18 C.F.R. § 385.203(b)(3).

V. CONCLUSION

The CAISO requests the Commission find that EDF has not demonstrated that its request is just and reasonable and set this matter for hearing.

Respectfully submitted,

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Dated: August 19, 2021

CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 19th day of August, 2021.

/s/ Martha Sedgley
Martha Sedgley