

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

EDF Trading North America LLC

Docket Nos. ER21-2579-000
ER25-526-000

ORDER CERTIFYING UNCONTESTED SETTLEMENT

(Issued January 2, 2025)

TO THE COMMISSION:

I. INTRODUCTION

1. On November 22, 2024, the California Independent System Operator Corporation (CAISO), on behalf of the Settling Parties,¹ filed a Settlement Agreement (Settlement) in Docket No. ER25-526-000.

2. The settlement materials include: (1) a transmittal letter; (2) the Settlement; (3) an explanatory statement (Explanatory Statement); and (4) a certificate of service. The Settlement includes a privileged Appendix A – Payment Account Designated by CXA La Paloma, a public slip sheet of Appendix A, and an associated protective agreement and nondisclosure certificate.

3. According to the Settling Parties, the Settlement resolves all issues set for hearing in the above-captioned proceeding.²

¹ The Settling Parties include the CAISO, CXA La Paloma, LLC (La Paloma), and EDF Trading North America LLC (EDF).

² Settlement at 2-3; Explanatory Statement at 1; *EDF Trading N. Am. LLC*, 186 FERC ¶ 61,174, at ordering para. (C) (2024) (Hearing Order).

4. No party filed comments opposing the Settlement. Commission Trial Staff (Trial Staff) timely filed comments in support of the Settlement.³ In accordance with Rule 602(g)(1) of the Commission's Rules of Practice and Procedure, my authority under section 375.304(c) of the Commission's regulations, and Commission practice, I certify the Settlement to the Commission as an uncontested offer of settlement.⁴

II. BACKGROUND AND PROCEDURAL HISTORY

5. EDF is the Scheduling Coordinator and also acts as the energy manager and fuel supplier for La Paloma, which owns a 1,124 MW natural gas combined cycle generator in McKittrick, California.⁵

6. On July 29, 2021, EDF, in its capacity as Scheduling Coordinator for La Paloma, filed a request to recover certain fuel costs, which EDF incurred to supply natural gas to La Paloma, but which EDF and La Paloma did not recover from the same-day market.⁶

³ Initial Comments of Commission Trial Staff in Support of Settlement Agreement, Docket Nos. ER21-2579-000 and ER25-526-000 (Dec. 12, 2024) (Trial Staff Initial Comments).

⁴ See 18 C.F.R. § 385.602(g)(1) (2024); 18 C.F.R. § 375.304(c); *see also Certification of Uncontested Settlements by Settlement Judges*, Order No. 883, 179 FERC ¶ 61,130 (2022). Note that while section 375.304(c) provides that I have delegated authority to certify an uncontested settlement, Rule 602(g) does not expressly provide for my certification of uncontested settlements to the Commission. *See* Order No. 883 at P 2 n.3; *see also Cities of Anaheim, Azusa, Banning, Colton & Riverside, Cal.*, 101 FERC ¶ 61,392, at P 12 n.8 (2002) (Order Providing Guidance on the Appropriate Procedures for Approval of Settlement) (noting that “settlement judges typically will certify to the Commission uncontested settlements,” and “their doing so is appropriate and not inconsistent with [the Commission's] regulations.”). If the Commission does not accept this certification under Rule 602, the Chief Administrative Law Judge and Commission should treat this as a report under Rule 603(g)(2). *See ISO New England Inc. Participating Transmission Owners Admin. Comm. Emera Me. et al.*, 165 FERC ¶ 63,015, at n.1 (2018).

⁵ Hearing Order, 186 FERC ¶ 61,174, at P 1; Request to Recover Fuel-Related Costs and Request for Confidential Treatment, in the Alternative Petition for Limited Waiver or for Remedial Relief, Docket No. ER21-2579-000, at 4 (July 29, 2021).

⁶ Hearing Order, 186 FERC ¶ 61,174, at PP 1, 9.

EDF procured the gas to comply with CAISO's February 15, 2021, Residual Unit Commitment of the La Paloma units 3 and 4 for operation on February 16, 2021.⁷

7. On August 19, 2021, Boston Energy Trading and Marketing LLC moved to intervene.⁸ On the same day, the CAISO filed a motion to intervene and protest challenging EDF's request for reimbursement of fuel-related costs.⁹

8. On September 20, 2021, EDF filed a notice of intent to supplement its July 29, 2021, initial filing,¹⁰ and on September 28, 2021, filed both a supplement to its initial filing and an answer to the CAISO's August 19, 2021, protest.¹¹

9. On March 23, 2023, EDF filed a request for Commission action on its July 29, 2021, initial filing.¹²

10. On March 7, 2024, the Commission issued its Hearing Order. In that order, the Commission granted EDF's request for fuel cost recovery.¹³ Although the Commission granted EDF's request for fuel cost recovery, the Commission found that the record did not contain sufficient evidence to determine the appropriate amount of recovery and established hearing and settlement procedures to determine EDF's actual, prudently

⁷ Hearing Order, 186 FERC ¶ 61,174, at PP 1, 9.

⁸ (doc-less) Motion to Intervene of Boston Energy Trading and Marketing LLC, Docket No. ER21-2579-000 (Aug. 19, 2021).

⁹ Motion to Intervene and Protest of the California Independent System Operator Corporation, Docket No. ER21-2579-000 (Aug. 19, 2021).

¹⁰ Notice of Intent to Supplement Request to Recover Fuel-Related Costs, Docket No. ER21-2579-000 (Sept. 20, 2021).

¹¹ Motion for Leave to Answer and Answer, and Supplement of EDF Trading North America, LLC, Docket No. ER21-2579-000 (Sept. 28, 2021) (Sept. 28 Motion). Along with the supplemental information included in the Sept. 28 Motion, EDF filed revised versions of Exhibits G and H, initially included in its July 29, 2021, initial filing.

¹² Request for Commission Action on Request to Recover Fuel-Related Costs, Docket No. ER21-2579-000 (Mar. 23, 2023).

¹³ Hearing Order, 186 FERC ¶ 61,174, at PP 53, 66, ordering paras. (A)–(B).

incurred recoverable fuel costs; however, the Commission held the hearing proceeding in abeyance to allow for settlement judge procedures.¹⁴

11. On March 13, 2024, in Docket No. ER21-2579-000, the Chief Judge designated me as the settlement administrative law judge.¹⁵ I convened settlement conferences on May 9, June 4, July 8, September 19, and November 20, 2024. The participants informed me on July 22, 2024, that they reached a settlement in principle and, after discussing at the November 20, 2024, settlement conference technical issues associated with the parties' filing and the Commission Secretary's acceptance of the Settlement,¹⁶ CAISO filed the Settlement on November 22, 2024.

12. On December 12, 2024, Trial Staff filed initial comments in support of the Settlement, in which Trial Staff states that the Settlement resolves all issues set for hearing and recommends that I certify the Settlement to the Commission.¹⁷ No party submitted reply comments.

III. SUMMARY OF SETTLEMENT TERMS

13. The Settlement's recitals identify the Settling Parties and summarizes the procedural and factual background of the proceeding.¹⁸

14. Section 1 provides the definitions of the terms "Execution Date" and "Effective Date" of the Settlement and specifies that terms not defined within the Settlement have the meanings set forth in the CAISO Tariff in effect at the time of the Execution Date.

15. Section 2 confirms that the Settlement resolves all issues set for hearing in Docket No. ER21-2579.

16. Section 3 provides the substantive agreement among the Settling Parties. Specifically:

¹⁴ Hearing Order, 186 FERC ¶ 61,174, at PP 63–65, ordering paras. (C)–(D).

¹⁵ Order of Chief Judge Designating Settlement Judge, Docket No. ER21-2579-000 (Mar. 13, 2024).

¹⁶ Report of Settlement Judge, Docket No. ER21-2579-000 (Nov. 21, 2024).

¹⁷ Trial Staff Initial Comments at 1.

¹⁸ Settlement at 1-2.

- Section 3.1 states that CAISO will pay, or cause to be paid, a black box settlement amount of \$528,000.00 to the account in Exhibit A to the Settlement, and that La Paloma and EDF will release all claims asserted, or could be asserted, against CAISO in this proceeding, and CAISO will release all claims asserted, or that could be asserted, in this proceeding.
- Section 3.2 provides for CAISO to allocate costs of the Settlement consistent with CAISO Tariff section 11.8.6.
- Section 3.3 provides that, within ten days of the Effective Date, CAISO will withdraw its April 8, 2024, rehearing request, subject to certain reserved legal rights.
- Sections 3.4, 3.5 and 3.6 provide various waivers, reservations and assurances necessary for the parties to effectuate and implement the Settlement.

17. Section 4 provides that the Settlement will become binding on the Settling Parties when the Commission order accepting the settlement without modification becomes final. Section 4.2 provides a process for withdrawal or preservation of the Settlement if the Commission accepts the Settlement subject to conditions or modifications.

18. Section 5 provides for the “public interest” standard of review for changes to the Settlement that the Settling Parties may seek to make. Furthermore, the Settlement imposes the ordinary just and reasonable standard with respect to changes to the Settlement that either a third party or the Commission acting *sua sponte* may seek.¹⁹

19. Sections 6 and 7 include boilerplate representations, warranties, and general terms common to most settlements filed with the Commission.

IV. COMMENTS FILED ON THE SETTLEMENT

20. On December 12, 2024, Trial Staff submitted comments in support of the Settlement. In its comments, Trial Staff opines, based on its review of “detailed information provided by the Settling Parties as part of the settlement process”, that it “believes that the Settlement is fair, reasonable, and in the public interest.”²⁰ Trial Staff also asserts that the Settlement resolves all issues set for hearing. Lastly, in response to

¹⁹ Settlement at 7.

²⁰ Trial Staff Initial Comments at 1, 7.

the four questions that the Chief Judge specified in the December 15, 2016, notice to the public,²¹ Trial Staff states that the Settlement does not impact any other cases pending before the Commission; does not involve issues of first impression; does not depart from Commission precedent; and does not seek to impose a standard of review other than the ordinary just and reasonable standard with respect to changes sought by either a third party or the Commission acting *sua sponte*.²²

21. No other participant filed initial comments on the Settlement. No one filed comments contesting the Settlement.

22. No one filed reply comments.

V. DISCUSSION

23. I find that no participant contests the Settlement, and therefore, I have no discretion other than to certify it to the Commission under Rule 602(g)(1).²³ According to the Settlement and Trial Staff, Commission approval of the Settlement would resolve all issues set for hearing in this proceeding without an evidentiary hearing.²⁴ The Settlement is the product of good faith negotiations among participants, and it is both unopposed by any participant and supported by Trial Staff.

24. Additionally, the participants represent that the Settlement does not affect other pending cases, involve issues of first impression, depart from Commission precedent, or seek to impose a standard of review other than the ordinary just and reasonable standard

²¹ Amended Notice to the Public on Information to be Provided with Settlement Agreements and Guidance on the Role of Settlement Judges, at P 2 (Dec. 15, 2016).

²² Trial Staff Initial Comments at 7.

²³ 18 C.F.R. § 385.602(g)(1) (2024) (“If comments on an offer are transmitted to the presiding officer and the presiding officer finds that the offer is not contested by any participant, the presiding officer *will* certify to the Commission the offer of settlement, a statement that the offer of settlement is uncontested, and any hearing record or pleadings which relate to the offer of settlement.”) (emphasis added).

²⁴ Settlement at 2–3; Trial Staff Initial Comments at 1, 7.

for any changes to the Settlement that might be sought by either a third party or the Commission acting *sua sponte*.²⁵


25. The Settling Parties assert that the Settlement avoids the expense and effort of protracted litigation,²⁶ and Trial Staff opines that it “believes the Settlement to be fair, reasonable, and in the public interest.”²⁷ Based on the participants’ assertions and my own observation that the participants achieved this settlement based on good faith negotiation, I recommend that the Commission find the Settlement to be fair and reasonable and in the public interest, approve the Settlement, and terminate settlement judge procedures.

VI. CERTIFYING THE SETTLEMENT

26. In accordance with Rule 602(g)(1), I find that the Settlement is uncontested, and pursuant to the authority the Commission delegated to me under section 375.304(c) of the Commission’s regulations, I certify the following documents to the Commission:

- The transmittal letter, Settlement which includes the privileged and public Appendix A and associated protective agreement and nondisclosure certificate, Explanatory Statement, and certificate of service.
- Trial Staff Initial Comments, and
- All pleadings, orders, and other documents of record in this proceeding.

SO ORDERED.

 Digitally signed by
JOEL DEJESUS
Date: 2025.01.02
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Joel deJesus
Settlement Administrative Law Judge

²⁵ Settlement at 7; Explanatory Statement at 4–5; Trial Staff Initial Comments at 1, 7.

²⁶ Explanatory Statement at 1, 7.

²⁷ Trial Staff Initial Comments at 7.