

185 FERC ¶ 61,060
 UNITED STATES OF AMERICA
 FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
 James P. Danly, Allison Clements,
 and Mark C. Christie.

AES Alamos, LLC
 AES Redondo Beach, LLC

Docket No. IN23-15-000

ORDER APPROVING STIPULATION AND CONSENT AGREEMENT

(Issued October 24, 2023)

1. The Commission approves the attached Stipulation and Consent Agreement (Agreement) between the Office of Enforcement (Enforcement), and AES Alamos, LLC and AES Redondo Beach, LLC (collectively, AES). This Order is in the public interest because it resolves on fair and equitable terms Enforcement's investigation under Part 1b of the Commission's regulations, 18 C.F.R. Part 1b (2022). The Investigation addressed whether AES, through the submission of inaccurate Physical Maximum (Pmax) values for eight of its electric generating resources located in Southern California (the Resources), as shown below in Table A, violated California Independent System Operator (CAISO) Tariff section 4.6.4, CAISO Tariff section 37.3.1.1, and 18 C.F.R. sections 35.41(a) and (b).

TABLE A

Resource	Resource ID
Alamos 3	ALAMIT_7_UNIT 3
Alamos 4	ALAMIT_7_UNIT 4
Alamos 5	ALAMIT_7_UNIT 5
Alamos 6	ALAMIT_7_UNIT 6
Redondo 5	REDOND_7_UNIT 5
Redondo 6	REDOND_7_UNIT 6
Redondo 7	REDOND_7_UNIT 7
Redondo 8	REDOND_7_UNIT 8

2. AES agrees to: (a) pay \$2.97 million in disgorgement to CAISO to be distributed *pro rata* to network load; (b) pay a civil penalty of \$3.03 million to the United States Treasury; and (c) be subject to compliance monitoring as provided more fully below. AES stipulates to the facts in Section II of the Agreement but neither admits nor denies the alleged violations in Section III of the Agreement.

I. Facts

3. AES Corporation is the ultimate parent company of AES. AES Corporation is a publicly traded diversified global energy company that indirectly owns electric generation, transmission, and other facilities in the United States and internationally, including the Resources. AES Corporation owns and operates a portfolio of generation of approximately 32,300 MW.

5. AES is a strategic business unit of AES Corporation and owned and operated the Resources during the Relevant Period (June 2018 to May 2020).¹ As of 2022, AES was one of the largest generation operators in California, with an installed gross capacity of 3,799 MW. AES is composed of three once-through cooling power plants, two combined cycle gas-fired generation facilities, and an interconnected battery-based energy storage facility.

6. During the Relevant Period, the Resources were contracted through Resource Adequacy Purchase Agreements (RAPAs). Under the RAPAs the Resources provided resource adequacy capacity. The Resources were not obligated to produce or sell any energy to the RAPA counterparty but were required to bid energy into the CAISO market. AES received Resource Adequacy (RA) payments for providing capacity to the CAISO market.

7. This Investigation was opened following an August 2019 referral from the CAISO Department of Market Monitoring (DMM), which alleged that in May 2018 AES submitted to CAISO inaccurate Master File parameters for twelve resources operated by AES located in Southern California. The Master File contains the operating and technical characteristics for resources, which CAISO uses for bidding, operation, dispatch, and settlement. One of the parameters is Pmax, which is the applicable CAISO-certified maximum operating level of a generating unit.

8. CAISO conducted Pmax tests in the spring of 2019 to determine whether most of the Resources were able to reach their Master File Pmax levels in preparation for the upcoming high-load summer months in Southern California. In August 2019 the CAISO DMM informed Enforcement that Alamitos Units 3, 4, 5, 6, and Redondo Unit 7 failed to reach their Pmax values as submitted to CAISO in the Master File during summer readiness tests conducted in May 2019 and exceptional dispatches occurring in July 2019.

9. Under CAISO guidelines, Pmax test performance is based on the highest 30-minute average MW a resource can reach during the testing timeframe.² In the instances identified in the August 2019 referral by the DMM, after receiving instructions from

¹ Two units, Alamitos Unit 6 and Redondo Unit 7, were retired during the Relevant Period.

² CAISO Resource Testing Guidelines section 3.2.2.1.

CAISO to reach their Master File Pmax, Alamos Units 3, 4, 5, 6, and Redondo Unit 7 each were unable to do so and subsequently submitted a de-rate outage card, thereby informing CAISO that the unit had reduced capacity resulting from one or more physical elements.

10. The eight Resources listed in Table A were physically unable to reach and/or maintain their Master File Pmax value for a 30-minute interval at any time during the Relevant Period when they were dispatched by CAISO up to their Pmax.

11. The differentials between: (a) the Master File Pmax value submitted by AES; and (b) the actual Pmax value for the Resources as determined by the Resource's highest 30-minute average MW any time during the Relevant Period, are as follows:

TABLE B

Resource	Pmax MW Deficiency
ALAMIT 7 UNIT 3	2.30
ALAMIT 7 UNIT 4	1.97
ALAMIT 7 UNIT 5	27.73
ALAMIT 7 UNIT 6	14.58
REDOND 7 UNIT 5	0.95
REDOND 7 UNIT 6	0.39
REDOND 7 UNIT 7	29.00
REDOND 7 UNIT 8	14.88
TOTAL	91.80

12. During the Relevant Period, AES sold RA contracts for the Resources up to their Master File Pmax values and, in some cases, financially benefitted from RA payments for capacity the Resources could not physically provide.

13. AES fully cooperated with Enforcement during the Investigation.

II. Violations

14. Enforcement determined that AES violated CAISO Tariff sections 4.6.4 and 37.3.1.1, and 18 C.F.R. sections 35.41(a) and (b).

15. Enforcement determined that AES violated CAISO Tariff section 4.6.4, Identification of Generating Units, which requires that, "All information provided to the CAISO regarding the operational and technical constraints in the Master File shall be accurate and actually based on physical characteristics of the resources"³ Enforcement determined that this violation consisted of the Resources' failure to reach their Master File Pmax value, which demonstrates that the Master File Pmax values were

³ CAISO Tariff section 4.6.4 dated Oct. 1, 2016.

not “accurate or actually based on the physical characteristics of the resources.”

16. Enforcement determined that AES violated CAISO Tariff section 37.3.1.1, Expected Conduct, which states, “Market Participants must submit Bids for Energy, RUC Capacity and Ancillary Services and Submissions to Self-Provide an Ancillary Service from resources that are reasonably expected to be available and capable of performing at the levels specified in the Bid, and to remain available and capable of so performing based on all information that is known to the Market Participant or should have been known to the Market Participant at the time of submission.” Enforcement determined that this violation consisted of AES regularly bidding a Resource’s full Master File Pmax into the CAISO day-ahead and real-time energy markets and being financially compensated for RA capacity even though the Resources could not “reasonably [be] expected to be available and capable of performing at the levels specified in the Bid, and to remain available and capable of so performing.”

17. Enforcement determined that AES violated 18 C.F.R. § 35.41(b), Communications, which provides that, “A Seller must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercises due diligence to prevent such occurrences.” Enforcement determined that this violation consisted of AES’s submission of Master File Pmax values to CAISO that were not accurate and its failure to exercise due diligence to ensure that the submitted Pmax values reflected the actual physical capacity of the Resources.

18. Enforcement determined that AES violated 18 C.F.R. § 35.41(a), Unit Operation, which states that, “Where a Seller participates in a Commission-approved organized market, Seller must operate and schedule generating facilities, undertake maintenance, declare outages, and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable market.” Enforcement determined that this violation consisted of AES’s registration of inaccurate Master File Pmax values, bidding up to the Resources’ Master File Pmax value in CAISO’s energy markets, and selling capacity through RA contracts that the Resources could not reasonably provide in violation of the CAISO Tariff.

III. Stipulation and Consent Agreement

19. Enforcement and AES have resolved the Investigation by means of the attached Agreement.

20. AES stipulates to the facts set forth in Section II of the Agreement, but neither admits nor denies the violations set forth in Section III of the Agreement.

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21. AES agrees to: (a) pay \$2.97 million in disgorgement to CAISO to be distributed *pro rata* to network load; (b) pay a civil penalty of \$3.03 million to the United States Treasury; and (c) be subject to compliance monitoring as provided in the Agreement.

IV. Determination of Appropriate Sanctions and Remedies

22. In recommending the appropriate remedy, Enforcement considered the factors described in the Revised Policy Statement on Penalty Guidelines,⁴ including the fact that AES cooperated with Enforcement during the investigation.

23. The Commission concludes that the Agreement is a fair and equitable resolution of the matters concerned and is in the public interest, as it reflects the nature and seriousness of the conduct and recognizes the specific considerations stated above and in the Agreement.

24. The Commission also concludes that AES's civil penalty is consistent with the Revised Policy Statement on Penalty Guidelines.⁵

25. The Commission directs AES to make the civil penalty and disgorgement payments as required by the Agreement within ten days of the Effective Date of the Agreement.

26. The Commission directs CAISO to distribute the disgorgement funds as set forth in the Agreement.

27. The Commission directs AES to comply with the provisions in the Agreement requiring it to submit compliance monitoring reports for two years with a third year at Enforcement's discretion.

The Commission orders:

The attached Stipulation and Consent Agreement is hereby approved without modification.

By the Commission.

(SEAL)

Debbie-Anne A. Reese,
Deputy Secretary.

⁴ *Enforcement of Statutes, Orders, Rules and Regulations*, 132 FERC ¶ 61,216 (2010).

⁵ *Id.*

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

AES Alamitos, LLC
AES Redondo Beach, LLC

Docket No. IN23-15-000

STIPULATION AND CONSENT AGREEMENT

I. INTRODUCTION

1. The Office of Enforcement (Enforcement) of the Federal Energy Regulatory Commission (Commission) and AES Alamitos, LLC and AES Redondo Beach, LLC (collectively, AES) enter into this Stipulation and Consent Agreement (Agreement) to resolve a nonpublic, preliminary investigation (the Investigation), conducted by Enforcement pursuant to Part 1b of the Commission’s regulations, 18 C.F.R. Part 1b (2022). The Investigation addressed whether AES, through the submission of Physical Maximum (Pmax) values for eight of its electric generating resources (Resources), as shown below in Table A, violated the California Independent System Operator (CAISO) Tariff, sections 4.6.4 and 37.3.1.1, and the Commission’s regulations, 18 C.F.R. sections 35.41(a) and (b).

TABLE A

Resource	Resource ID
Alamitos 3	ALAMIT 7 UNIT 3
Alamitos 4	ALAMIT 7 UNIT 4
Alamitos 5	ALAMIT 7 UNIT 5
Alamitos 6	ALAMIT 7 UNIT 6
Redondo 5	REDOND 7 UNIT 5
Redondo 6	REDOND 7 UNIT 6
Redondo 7	REDOND 7 UNIT 7
Redondo 8	REDOND 7 UNIT 8

2. AES stipulates to the facts in section II but neither admits nor denies the alleged violations in section III. AES agrees to: (a) pay \$2.97 million in disgorgement to CAISO to be distributed *pro rata* to network load; (b) pay a civil penalty of \$3.03 million to the United States Treasury; and (c) be subject to compliance monitoring as provided more fully below.

II. STIPULATIONS

3. Enforcement and AES hereby stipulate and agree to the following facts:
4. AES Corporation is the ultimate parent company of AES. AES Corporation is a publicly traded diversified global energy company that indirectly owns electric generation, transmission, and other facilities in the United States and internationally, including the Resources. AES Corporation owns and operates a portfolio of generation of approximately 32,300 MW.
5. AES is a strategic business unit of AES Corporation and owned and operated the Resources during the Relevant Period (June 2018 to May 2020).¹ As of 2022, AES was one of the largest generation operators in California, with an installed gross capacity of 3,799 MW. AES is composed of three once-through cooling power plants, two combined cycle gas-fired generation facilities, and an interconnected battery-based energy storage facility.
6. During the Relevant Period, the Resources were contracted through Resource Adequacy Purchase Agreements (RAPAs). Under the RAPAs the Resources provided resource adequacy capacity. The Resources were not obligated to produce or sell any energy to the RAPA counterparty but were required to bid energy into the CAISO market. AES received Resource Adequacy (RA) payments for providing capacity to the CAISO market.
7. This Investigation was opened following an August 2019 referral from the CAISO Department of Market Monitoring (DMM), which alleged that in May 2018 AES submitted to CAISO inaccurate Master File parameters for twelve resources operated by AES located in Southern California. The Master File contains the operating and technical characteristics for resources, which CAISO uses for bidding, operation, dispatch, and settlement. One of the parameters is Pmax, which is the applicable CAISO-certified maximum operating level of a generating unit.
8. CAISO conducted Pmax tests in the spring of 2019 to determine whether most of the Resources were able to reach their Master File Pmax levels in preparation for the upcoming high-load summer months in Southern California. In August 2019 the CAISO DMM informed Enforcement that Alamitos Units 3, 4, 5, 6, and Redondo Unit 7 failed to reach their Pmax values as submitted to CAISO in the Master File during summer readiness tests conducted in May 2019 and exceptional dispatches occurring in July 2019.
9. Under CAISO guidelines, Pmax test performance is based on the highest 30-minute average MW a resource can reach during the testing timeframe.² In the instances

¹ Two units, Alamitos Unit 6 and Redondo Unit 7, were retired during the Relevant Period.

² CAISO Resource Testing Guidelines section 3.2.2.1.

identified in the August 2019 referral by the DMM, after receiving instructions from CAISO to reach their Master File Pmax, Alamitos Units 3, 4, 5, 6, and Redondo Unit 7 were each unable to do so and subsequently submitted a de-rate outage card, thereby informing CAISO that the unit had reduced capacity resulting from one or more physical elements.

10. The eight Resources listed in Table A were physically unable to reach and/or maintain their Master File Pmax value for a 30-minute interval at any time during the Relevant Period when they were dispatched by CAISO up to their Pmax.

11. The differential between: (a) the Master File Pmax value submitted by AES; and (b) the actual Pmax value for the Resources as determined by the Resource’s highest 30-minute average MW any time during the Relevant Period, are as follows:

TABLE B

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12. During the Relevant Period, AES sold RA contracts for the Resources up to their Master File Pmax values and, in some cases, financially benefitted from RA payments for capacity the Resources could not physically provide.

13. AES fully cooperated with Enforcement during the Investigation.

III. VIOLATIONS

14. Enforcement has determined that AES violated the following sections of the CAISO Tariff and the Commission’s regulations.

15. Enforcement has determined that AES violated CAISO Tariff section 4.6.4, Identification of Generating Units, which requires that, “All information provided to the CAISO regarding the operational and technical constraints in the Master File shall be accurate and actually based on physical characteristics of the resources. . . .”³

³ CAISO Tariff section 4.6.4 dated Oct. 1, 2016.

Enforcement determined that this violation consisted of the Resources' failure to reach their Master File Pmax value, which demonstrates that the Master File Pmax values were not "accurate or actually based on the physical characteristics of the resources."

16. Enforcement has determined that AES violated CAISO Tariff section 37.3.1.1, Expected Conduct, which states, "Market Participants must submit Bids for Energy, RUC Capacity and Ancillary Services and Submissions to Self-Provide an Ancillary Service from resources that are reasonably expected to be available and capable of performing at the levels specified in the Bid, and to remain available and capable of so performing based on all information that is known to the Market Participant or should have been known to the Market Participant at the time of submission." Enforcement determined that this violation consisted of AES regularly bidding a Resource's full Master File Pmax into the CAISO day-ahead and real-time energy markets and being financially compensated for RA capacity even though the Resources could not "reasonably [be] expected to be available and capable of performing at the levels specified in the Bid, and to remain available and capable of so performing."

17. Enforcement has determined that AES violated 18 C.F.R. § 35.41(b), Communications, which provides that, "A Seller must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercises due diligence to prevent such occurrences." Enforcement determined that this violation consisted of AES's submission of Master File Pmax values to CAISO that were not accurate and its failure to exercise due diligence to ensure that the submitted Pmax values reflected the actual physical capacity of the Resources.

18. Enforcement has determined that AES violated 18 C.F.R. § 35.41(a), Unit Operation, which states that, "Where a Seller participates in a Commission-approved organized market, Seller must operate and schedule generating facilities, undertake maintenance, declare outages, and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable market." Enforcement determined that this violation consisted of AES's registration of inaccurate Master File Pmax values, bidding up to the Resources' Master File Pmax value in CAISO's energy markets, and selling capacity through RA contracts that the Resources could not reasonably provide in violation of the CAISO Tariff.

IV. REMEDIES AND SANCTIONS

19. For purposes of settling any and all claims, civil and administrative disputes and proceedings arising from or related to AES's submission of revised Master File values to CAISO in May 2018, AES agrees with the facts as stipulated in section II of this Agreement but neither admits nor denies the violations in section III of the Agreement. AES further agrees to undertake obligations set forth in the following paragraphs.

A. Disgorgement and Civil Penalty

20. AES shall pay \$2.97 million in disgorgement to CAISO to be distributed *pro rata* to network load, and a civil penalty of \$3.03 million to the United States Treasury by wire transfer within ten days of the Effective Date of this Agreement, as defined herein.

B. Compliance

21. AES shall make an annual compliance monitoring report to Enforcement for two years following the Effective Date of this Agreement. The first report shall be submitted no later than thirty days after the first anniversary of the Effective Date. The second annual compliance monitoring report shall be submitted one year from the date of the first report. Within six months following the receipt of the second annual report, Enforcement may require the submission of semi-annual compliance monitoring reports for an additional year.

22. Each compliance monitoring report shall: (1) identify any known violations of the CAISO Tariff or Commission regulations during the applicable period, including a description of the nature of the violation and what steps were taken to rectify the situation; (2) describe all compliance measures and procedures related to compliance with the CAISO Tariff and Commission regulations that AES instituted or modified during the applicable period; and (3) describe all CAISO and Commission-related compliance training that AES administered during the applicable period regarding its offering of resources into the CAISO market, including the dates such training occurred, the topics covered, and the procedures used to confirm which personnel attended. Each compliance monitoring report shall also include an affidavit executed by an officer of AES stating that it is true and accurate to the best of his/her knowledge. Upon request by Enforcement, AES shall provide to Enforcement documentation supporting the contents of its reports.

V. TERMS

23. The "Effective Date" of this Agreement shall be the date on which the Commission issues an order approving this Agreement without material modification. When effective, this Agreement shall resolve the matters specifically addressed herein that arose on or before the Effective Date as to AES and any affiliated entity, and their respective agents, officers, directors, or employees, both past and present.

24. Commission approval of this Agreement without material modification shall release AES and forever bar the Commission from holding AES, any affiliated entity, any successor in interest, and their respective agents, officers, directors, or employees, both past and present, liable for any and all administrative or civil claims arising out of the conduct covered by the Investigation, including conduct addressed and stipulated to in this Agreement, which occurred on or before the Agreement's Effective Date.

25. Failure by AES to make the required civil penalty and disgorgement payments, or

to comply with the compliance reporting obligations agreed to herein, or any other provision of this Agreement, shall be deemed a violation of a final order of the Commission issued pursuant to the Federal Power Act (FPA), 16 U.S.C. § 792, *et seq.*, and may subject AES to additional action under the enforcement provisions of the FPA.

26. If AES does not make the required civil penalty and disgorgement payments described above within the time agreed by the parties, interest shall begin to accrue at the rates specified at 18 C.F.R. § 35.19a(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above and any other enforcement action and penalty that the Commission may take or impose.

27. This Agreement binds AES and its agents, successors, and assignees. This Agreement does not create any additional or independent obligations on AES, or any affiliated entity, its agents, officers, directors, or employees, other than the obligations identified in this Agreement.

28. The signatories to this Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer, or promise of any kind by any member, employee, officer, director, agent or representative of Enforcement or AES has been made to induce the signatories or any other party to enter into the Agreement.

29. Unless the Commission issues an order approving the Agreement in its entirety and without material modification, the Agreement shall be null and void and of no effect whatsoever, and neither Enforcement nor AES shall be bound by any provision or term of the Agreement, unless otherwise agreed to in writing by Enforcement and AES.

30. In connection with the civil penalty provided for herein, AES agrees that the Commission's order approving the Agreement without material modification shall be a final and unappealable order assessing a civil penalty under section 316A(b) of the FPA, 16 U.S.C. § 825o-1(b). AES waives findings of fact and conclusions of law, rehearing of any Commission order approving the Agreement without material modification, and judicial review by any court of any Commission order approving the Agreement without material modification.

31. This Agreement can be modified only if in writing and signed by Enforcement and AES, and any modifications will not be effective unless approved by the Commission.

32. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity, and accepts the Agreement on the entity's behalf.

33. The undersigned representative of AES affirms that he or she has read the Agreement, that all of the matters set forth in the Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Agreement is entered into by Enforcement in express reliance on those

representations.

34. This Agreement may be executed in duplicate, each of which so executed shall be deemed to be an original.

Agreed to and Accepted:

JANEL
BURDICK

Digitally signed by
JANEL BURDICK
Date: 2023.09.26
08:47:48 -04'00'

Janel Burdick
Director, Office of Enforcement
FERC

Date: 9/26/2023



Mark Miller
President and CEO
AES Redondo Beach LLC
and AES Alamitos LLS

Date: 9/25/23

Document Content(s)

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