# NCPA Comments on Revised PRR 1122

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Thank you for this additional opportunity to comment on Proposed Revision Request 1122. While NCPA appreciates the improvements CAISO has made to this PRR in response to stakeholder comments, NCPA believes that the current proposal is still too restrictive and may unnecessarily limit the ways in which generator owners can maintain the reliability of their units. NCPA reiterates its concern that CAISO is proposing a significantly more restrictive formulation in the BPM language than exists in the Tariff. NCPA therefore recommends that CAISO: (1) deny PRR 1122, and (2) address the root causes of the problem through a stakeholder process.

If CAISO does proceed with this PRR, it should further expand the examples of situations in which it may be reasonable to submit a forced outage with substantially similar characteristics as a rejected planned outage. As with the previous version, the current proposed language still ignores the fact that once an outage is approved and schedules are set, the specialized experts in high demand may not be able to reschedule planned work for days or months if their window of availability is missed, and by that time it could be too late for a unit in need of significant work. When these scheduling issues arise, conversion of a planned outage to a forced outage may be necessary to complete the work when the specialized staff is available.

Also, the revised PRR still implies that resubmitting a planned outage as a forced outage, on its own, is a potential Tariff or rules violation. NCPA strongly disagrees. As we explained in our previous comments, Tariff Section 9.3.10.6 identifies ten different factors that should be considered when determining if a forced outage was the result questionable behavior. While, the recent rejection of a planned outage for a resource may, when combined with other factors, be an indication that an operator has submitted a forced outage to gain some benefit, those other factors, such as evidence that an operator has been deceptive or that the operator’s submission of a forced outage would benefit the operator in some way that is detrimental to the market as a whole, should be present before investigating that operator for violations would be appropriate. FERC considers the purpose of an entity’s actions as a critical factor in determining whether conduct is fraudulent. See Order No. 670, 114 FERC ¶ 61,047, P 50 (2006) (fraud includes actions taken “for the purpose of impairing, obstructing, or defeating a well-functioning market”); Coaltrain Energy, L.P., 155 FERC ¶ 61,204, P 5 (2016) (“Respondents’ OCL Trades were manipulative because they were executed for the sole or primary purpose of targeting and garnering MLSA payments.”). When an entity submits a forced outage for operational or maintenance reasons, and accepts any RAAIM penalties associated with that outage, that entity should not be investigated without additional indicia Tariff or rules violations.

NCPA would also like to restate concerns that a late transmission outage submitted by a PTO may unjustly subject a generator to a FERC inquiry. Consider, for example, a resource owner that knows that its transmission provider intends to declare a transmission outage that will impact its resource. The resource owner might plan to do maintenance on its unit during the transmission outage, but could not submit that planned outage until after the transmission provider commits to a date and submits its transmission outage to CAISO. Since the resource owner has no control over when the transmission provider submits an outage, the resource owner properly must delay reporting of its planned outage until the dates are certain and that must not qualify as inappropriate behavior.

Ultimately, the Tariff requires CAISO to report a Forced Outage to FERC only after “CAISO determines that [the] Forced Outage may have been the result of gaming or other questionable behavior by the Operator.” The PRR does not go far enough to specify how CAISO will make that determination. Developing such guidelines would require a stakeholder process, not a mere BPM change, to ensure that CAISO is appropriately identifying questionable behavior without unnecessarily reporting questionable behavior to FERC.

NCPA respectfully requests that CAISO deny PRR 1122. Instead, CAISO should review its outage process and modify it such in a way that will result in fewer rejections of planned outages, thereby addressing this issue at its root cause and providing win-win solutions for both CAISO and its business associates. At a minimum, however, CAISO must allow for instances when an outage is necessary for the long-term viability and availability of the unit.