

**REPLY BRIEF ON BEHALF OF
THE CITIES OF ANAHEIM, AZUSA, BANNING, COLTON,
PASADENA, AND RIVERSIDE, CALIFORNIA
ON APPEAL OF PROPOSED REVISION REQUEST 1122**

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I. ARGUMENT

PRR 1122 adopted revisions to the Outage Management BPM implementing a new policy treating as the submission of false or misleading information maintenance outages later submitted as forced outages (“planned-to-forced outages”) for a legitimate purpose.¹ The ISO Answering Brief² fails to support the revisions made through PRR 1122.

A. The ISO Does Not Identify Any Tariff Provision That Prohibits Planned-to-Forced Outages.

While the ISO claims that “PRR 1122 merely provides market participants notice about existing obligations under the tariff,”³ it fails to point to any Tariff provision prohibiting re-submission of maintenance outage requests in the seven-day forced outage window or rendering that re-submission false or misleading. The ISO points only to Section 9.3.10.6, which does not support the change in PRR 1122. Section 9.3.10.6 states that the ISO “shall consider” if it “had recently rejected a request for an Outage for . . . the Generating Unit experiencing the Forced Outage” when determining “that any Forced Outage may have been the result of gaming or other questionable behavior by the Operator.”⁴ This provision does not support the far more expansive language in PRR 1122, which states “[r]esubmitting the outage could be viewed as submitting ‘false or misleading information’ . . . and/or taking an outage not authorized by the ISO” PRR 1122 flips the language in 9.3.10.6 on its head, creating a presumption that submission of a planned-to-forced outage by itself is false or misleading, rather than one factor used to consider whether such a submission may signal that gaming (*e.g.*, taking outages to manipulate market

¹ The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (the “Six Cities”) submitted an appeal of PRR 1122 on April 15, 2019.

² See California ISO Answering Brief – PRR 1122 Appeal (filed Jan. 6, 2020) (“ISO Answering Brief”).

³ ISO Answering Brief at 8.

⁴ See ISO Tariff, Section 9.3.10.6.

prices) has occurred. Further, the ISO's position is inconsistent with BPM provisions that expressly contemplate the option to proceed with maintenance requests in the forced outage window.⁵

Further, the seven-day cut-off period for submitting a maintenance outage⁶ is not supported by the definition of "Forced Outage"⁷ and results in outages arbitrarily being classified as maintenance or forced based on timing alone. An entity may know that planned maintenance needs to occur within a set time frame due to reliability concerns, but that outage may not be classified as forced unless it is submitted close in time to the outage. If that outage was previously submitted as a maintenance outage and is later rejected, the ISO may consider its re-submission false or misleading information due solely to the revised characterization as a forced outage. Classifying outages as forced based solely on timing ignores that certain maintenance outages may be imminently necessary despite being planned in advance, and these outages will need to be re-submitted as forced (subject to ultimate approval by the ISO).

B. General Prohibitions Against the Submission of False Information Do Not Support PRR 1122.

Information that is not, in fact, false, cannot by itself support a violation of Section 35.41(b) of FERC's regulations regarding the submission of false information. It is unreasonable for the ISO to label transparent communication as false or misleading. Indeed, FERC precedent

⁵ See, e.g., BPM for Outage Management v. 21, §§ 2.4, 4.1, 11.1.5, and BPM for Reliability Requirements, v. 46, § 9.3.3 (relevant language included in [Appendix A](#)).

⁶ See ISO Answering Brief at 3 ("[T]he timing cut-off between a maintenance outage and a forced outage is eight days; a forced outage is an outage that could not have been submitted with more than seven days' notice before the day on which the outage starts.")

⁷ The definition of "Forced Outage" contemplates timing based on factoring an outage into the Day-Ahead Market or Real-Time Market bidding processes. See ISO Tariff at Appendix A, Definition – "Forced Outage" ("An Outage for which sufficient notice cannot be given to allow the Outage to be factored into the Day-Ahead Market or RTM bidding processes"). Section 6.1.4 of the BPM for Market Operations makes clear that outages can be reflected in the Day-Ahead Market optimization until at least 72 hours prior to the Trading Day. See [Appendix A](#).

applying Section 35.41(b) of FERC's regulations confirms that violations generally are based on actual false statements or omissions.⁸

FERC's order in *Deutsche Bank*⁹ does not support the ISO's claim that submission of true and accurate information by itself can violate the rule against submission of false or misleading information. First, *Deutsche Bank* is an Order approving a Stipulation and Consent Agreement, which is not precedential.¹⁰ Second, *Deutsche Bank* involved materially different circumstances than those contemplated by PRR 1122. Deutsche Bank's actions were part of a scheme to manipulate the value of its CRRs. Deutsche Bank classified transactions as wheeling despite their failure to satisfy clearly stated Tariff requirements, and it did so with the intent to benefit its CRR position.¹¹

PRR 1122, on the other hand, allows the ISO to simply presume that submitting a planned-to-forced outage is false or misleading, without meaningful regard for why those actions were taken, without support in the Tariff, and without any actual false or misleading statements. A resource does not have the option to request a maintenance outage within the seven-day forced outage window as a non-"forced" maintenance outage. The classification of an outage as

⁸ See, e.g., *J.P. Morgan Ventures Energy Corp.*, 141 FERC ¶ 61,131, at PP 35, 37 (2012) (finding violations of section 35.41(b) where JP Morgan made false assertions, false statements, and omissions in communications with the CAISO DMM and FERC); *City Power Marketing, LLC*, 152 FERC ¶ 61,012, at P 216 (2015) (City Power made misleading statements and omitted material information to [Office of Enforcement] Staff regarding the existence of certain material evidence" thus violating section 35.41(b)).

⁹ *Deutsche Bank Energy Trading, LLC*, 142 FERC ¶ 61,056 (2013).

¹⁰ See, e.g., *Procedures for Disposition of Contested Audit Matters*, Order No. 675, 114 FERC ¶ 61,178, at P 32 (2006), *order on reh'g and clarification*, Order No. 675-A, 115 FERC ¶ 61,189 (2006) (finding that, "[u]nless the Commission expressly states it is making findings that apply to other parties . . . a [FERC] order approving an uncontested audit report [is] not binding on entities other than the audited person . . . and does not have precedential value," and noting that an "uncontested audit report is similar to a stipulation and consent agreement to the extent that the audited person consents to the contents of the audit report"); and *United Municipal Distributors Group v. FERC*, 732 F.2d 202, at n.8 (D.C. Cir. 1984) ("The Commission's approval of an uncontested settlement has no precedential value as settled practice.")

¹¹ See *Deutsche Bank*, 142 FERC ¶ 61,056 at P 13 ("In both instances, the physical transactions were intended to, and did, benefit the CRR position").

“forced” is made by the ISO based solely on its seven-day cut off – not by any false statements made by a market participant.

It is also nonsense to suggest that re-submitting a request for a maintenance outage would violate the rule against taking an outage without approval of the ISO if the ISO *does not disallow the re-submitted outage*. The ISO has authority up to the day an outage begins to disallow an outage. For this same reason, PRR 1122 is not necessary for operational reasons. There is no operational risk to reliability in light of the ISO’s continuing authority to disallow any outage, but there *are* operational and reliability risks if entities are foreclosed for no good reason from re-submitting planned maintenance outages, resulting in the risk that a generator may be unavailable at a later time when it is needed if the outage cannot be rescheduled quickly.

C. The ISO’s Argument that PRR 1122 Does Not Alter the ISO’s Authority to Report Suspected Misconduct is Misplaced.

The ISO’s authority to refer matters to FERC should be exercised reasonably and consistent with clearly stated tariff requirements. Referrals based solely on the timing of requests to implement outages for legitimate purposes will impose unnecessary burdens on market participants and FERC, create perverse incentives to delay submission of outage requests, and/or increase operational risks by forcing the delay of maintenance that in fact could have been accommodated when requested.

Appendix A – Text of Relevant Tariff and BPM Provisions

CAISO Tariff Provisions

9.3.10.6 Review of Forced Outages.

With respect to Forced Outages of Generating Units that result in a reduction in maximum output capability that lasts fifteen (15) minutes or longer of 40 MW or more below the value registered in the Master File and ten (10) percent of the value registered in the Master File, Operators, and where applicable, Eligible Customers, Scheduling Coordinators, UDCs and MSS Operators promptly shall provide information requested by the CAISO to enable the CAISO to review the changes made to the maximum output capability or Forced Outages submitted by the Operator or Scheduling Coordinator and to prepare reports on Forced Outages. If the CAISO determines that any Forced Outage may have been the result of gaming or other questionable behavior by the Operator, the CAISO shall submit a report describing the basis for its determination to FERC. The CAISO shall consider the following factors when evaluating the Forced Outage to determine if the Forced Outage was the result of gaming or other questionable behavior by the Operator: 1) if the Forced Outage coincided with certain market conditions such that the Forced Outage may have influenced market prices or the cost of payments associated with Exceptional Dispatches; 2) if the Forced Outage coincided with a change in the Bids submitted for any units or resources controlled by the Operator or the Operator’s Scheduling Coordinator; 3) if the CAISO had recently rejected a request for an Outage for, or to ShutDown, the Generating Unit experiencing the Forced Outage; 4) if the timing or content of the notice of the Forced Outage provided to the CAISO was inconsistent with subsequent reports of or the actual cause of the Outage; 5) if the Forced Outage or the duration of the Forced Outage was inconsistent with the history or past performance of that Generating Unit or similar Generating Units; 6) if the Forced Outage created or exacerbated Congestion; 7) if the Forced Outage was extended with little or no notice; 8) if the Operator had other alternatives to resolve the problems leading to the Forced Outage; 9) if the Operator took reasonable action to minimize the duration of the Forced Outage; or 10) if the Operator failed to provide any information or access to the generating facility requested by the CAISO within a reasonable time.

Appendix A Definition – “Forced Outage”

An Outage for which sufficient notice cannot be given to allow the Outage to be factored into the Day-Ahead Market or RTM bidding processes.

BPM for Outage Management

Version 21

Excerpts from Sections 2.4, 4.1, and 11.1.5

2.4 High Level Process Overview

This section provides a high level overview of the ISO's outage coordination process for the operations horizon, which includes the Long-Range, Short-Range, and Real-Time outage processes.

* * *

➤ Short-Range Outage Planning

- Each Participating Generator and Participating TO amends their maintenance plan by notifying the ISO through the ISO's outage management system of any known changes to a Generating Unit or Transmission Facility 5 full business days in advance of the Reliability Coordinator's Short-Range outage submission requirement.
- a. To meet Reliability Coordinator outage submission requirements, the ISO runs daily feasibility outage analysis on a weekly rolling basis and:
 - i. Implements market constraints
 - ii. Calculates ETC's for scheduling imports
 - iii. Performs RA impact analysis (the Reliability Requirements BPM discusses this in detail).
 - iv. Validates congestion due to outages
- b. Approved Outages are sent to the Reliability Coordinator
- c. Outages meeting the Short-Range submission deadlines are classified as ISO Planned outages
- d. Outages that do not meet the Short-Range submission deadline are classified as:
 - v. ISO Planned if submitted more than 8 days in advance of the outage start day and approved by the ISO. Such an outage, however, is unlikely to receive Reliability Coordinator approval in time to proceed as planned.
 - vi. ISO Forced if submitted 8 days or less in advance of the outage start day.

All Transmission System Equipment Outages that could significantly affect CRR's must be submitted 30 days prior to the month the outage is to begin.

NOTE: Refer to Section 8 for "Significant Facilities" definition.

➤ **Real-Time Outage Horizon**

- To meet the Reliability Coordinator’s outage submission requirements, the ISO runs daily feasibility outage analysis on a 4 day rolling basis for Maintenance Outages submitted up to one calendar day prior to the Reliability Coordinator’s OPA lockdown time.
 - Outage plans are updated and analysis performed for Outages submitted from D+3 through real-time.
- In analyzing Real-Time outages, the ISO:
 - Implements market constraints
 - Calculates ETC’s for scheduling imports
 - Evaluates reliability impacts on exported market cases and bids
- Approved Outages are sent to the Reliability Coordinator.
- Outages are designated as ISO Forced Outages.

* * *

4.1 Generation Planned and Forced Outage Reporting

The Scheduling Coordinator for a Participating Generator, Participating Intermittent Resource, Generating Unit, System Unit, Physical Scheduling Plant, Proxy Demand Resource, Reliability Demand Response Resource, Non-Generation Resource, Participating Load, or other resource subject to the outage management requirements of Section 9 must submit a new Maintenance Outage or a revision to an Approved Maintenance Outage to ISO for approval when the Scheduling seeks to schedule a new Maintenance Outage or revise an Approved Maintenance Outage. Such an Outage request must be submitted to the ISO via the OMS application no less than eight days prior to the start date of the proposed Outage as specified in ISO Tariff Section 9.3.6.3.1. As described in Section 5, Long-Range Planning of Maintenance Outages, Participating Generators are asked to submit their request well in advance, to allow them to be analyzed with other proposed outages in the ISO’s long-range planning process and to allow coordination with the Reliability Coordinator’s separate outage approval process. Waiting until the tariff-defined deadline jeopardizes the likelihood that the ISO and the Reliability Coordinator will be able to evaluate the outage in time. Although not a tariff requirement, Scheduling Coordinators are advised to submit outage requests with the ISO’s long-range and short-range planning processes in mind

For Generators, requests for an Outage must specify the following:

- **Generating Unit or System Unit name and Location Code**

- MW capacity available
 - Provide limitations to availability for the resource at the aggregate, project or plant level, and also at the individual unit level for a unit de-rate greater than 50 MW.
- Scheduled start and finish time/date for the Maintenance Outage
- Nature of work to be performed. OMS nature of work categories are defined in this BPM.
- Provide limitations to availability for each type of certified resource ancillary service.
- Emergency Return; time required to terminate the Outage and restore the Generating Unit to normal capacity
- Note the required system outage boundaries to facilitate the equipment outage.

A request for a Maintenance Outage that is submitted seven days or less prior to the start date for the Outage shall be classified as a Forced Outage.

* * *

11.1.5 Outage approval criteria for RA resources

Planned Outage approval in the long range or short range Outage process for generation resources is dependent upon resource satisfying any Planned Outage Substitution Obligation. If resource has a Planned Outage Substitution Obligation during the Resource Adequacy month due to RA shortage or Local Reliability issues and generator chooses not to Substitute the RA unit then ISO may cancel an approved Outage.

	Submittal Timeline	Approval Criteria	Substitution Obligation
RA Maintenance Outage With Substitution	No more than 45 days prior to RA month and no less than eight days prior to outage start date	Outage not likely to have a detrimental effect on reliable operation of the grid or facilities of a connected entity	Substitution capacity no less than MW of capacity on outage
RA Maintenance Outage Without Substitution	No more than 45 days prior to RA month and no less than eight days prior to outage start date	Outage not likely to have a detrimental effect on reliable operation of the grid or facilities of a connected entity; and outage will not result in insufficient RA capacity during outage period	No

Off-Peak Opportunity Outage	No more than 45 days prior to RA month and no less than eight days prior to outage start date	Outage not likely to have a detrimental effect on reliable operation of the grid or facilities of a connected entity; and outage scheduled during off-peak hours	No
Short-Notice Opportunity Outage	7 days or less prior to the outage start date	Outage not likely to have a detrimental effect on reliable operation of the grid or facilities of a connected entity; and outage will not result in insufficient RA capacity during outage period	Forced outage not subject to RAAIM
Forced Outages	7 days or less prior to the outage start date	Outage not likely to have a detrimental effect on efficient use and reliable operation of the grid or facilities of a connected entity	Forced outage subject to RAAIM depending on nature of work

BPM for Reliability Requirements

Version 46
Section 9.3.3

9.3.3 Nature of Work Attributes for Forced Outages

The table below describes which nature of work attribute for an outage requires RA substitution.

Outage Type	Nature of Work/Opportunity Status	Is substitution required?
Forced	Ambient Due to Temperature	Y
Forced	Ambient Not Due to Temperature	N
Forced	Ambient due to Fuel insufficiency	Y
Forced	AVR/Exciter	Y
Forced	Environmental Restrictions	Y
Forced	Short term use limit reached	N
Forced	Annual use limit reached	N*
Forced	Monthly use limit reached	N*
Forced	Other use limit reached	N*
Forced	ICCP	Y
Forced	Metering/Telemetry	Y
Forced	New Generator Test Energy	N
Forced	Plant Maintenance	Y
Forced	Plant Trouble	Y
Forced	Power System Stabilizer (PSS)	Y
Forced	Ramp Rate	Y
Forced	RTU/RIG	Y
Forced	Transitional Limitation	Y
Forced	Transmission Induced	N
Forced	Technical Limitations not in Market Model	N
Forced	Unit Supporting Startup	Y
Forced	Unit Testing	N
Forced	Off Peak Opportunity	N
Forced	Short Notice Opportunity	N
Forced	RIMS testing	Y
Forced	RIMS Outage	Y

Note:

- a. Monthly use limit reached nature of work will exempt the resource from RAAIM for the rest of the month.

- b. Annual use limit reached nature of work will get a RAAIM exemption for the RA month where the outage was submitted. If shown as RA for the following month then the resource is not exempt from RAAIM and has to provide substitution to avoid potential RAAIM penalty.
- c. Other use limit reached nature of work will get a RAAIM exemption for the RA month where the outage was submitted. If shown as RA for the following month then the resource is not exempt from RAAIM and has to provide substitution to avoid potential RAAIM penalty.

Market Operations BPM

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Section 6.1.4

6.1.4 Outage Information

Outage information may be submitted up to 12 months in advance of the Trading Day.

Three days before the Trading Day, the DAM (via the outage management system application) is ready to process Outage information for the DAM applications:

- Planned transmission Outage requests received 45 days in advance
- Review for possible adverse impacts on the CAISO Controlled Grid and CAISO Balancing Authority Area
- Planned Generating Unit Outage requests received 72 hours in advance for all types of units
- Review for possible adverse impacts on the CAISO Balancing Authority Area
- Approve or deny the requests.
- Outages over-ride Bids. If outage results in a more restrictive range in supplying Energy and providing Ancillary Services, the more restrictive range is used in market applications in performing Scheduling.
- Create the Outage schedule to be used by the market applications

For resources, outage information may be submitted for the following limitations:

- Resource is offline
- Resource is unable to provide Regulation
- Resource has more restrictive minimum and maximum operating limits than is recorded in the Master File.
- Resource has a different ramp rate than what was bid in.