



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

March 1, 2010

Ms. Kimberly Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: NERC Notice of Penalty regarding CalPeak Power Panoche LLC
FERC Docket No. NP10-_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding CalPeak Power Panoche LLC (CPPA),² NERC Registry ID NCR05053,³ in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).⁴

On March 2, 2009, after receiving notice of an upcoming audit, CPPA self-reported a violation of PRC-005-1 R2.1⁵ to Western Electricity Coordinating Council (WECC) because it did not have evidence that it maintained and tested its Protection System devices within defined intervals as required by CPPA's maintenance and testing program. This Notice of Penalty is being filed with the Commission because, based on information from WECC, CPPA does not dispute the violation of PRC-005-1 R2.1 and the proposed twenty thousand dollar (\$20,000) penalty to be assessed to CPPA. Accordingly, the violation identified as NERC Violation Tracking

¹ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (2008). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A).

² CalPeak is the parent company of CPPA and CalPeak Power Vaca Dixon LLC, NERC Registry ID # NCR05054. A confirmed violation for the Vaca Dixon facility is addressed in a separate Notice of Penalty (NOC-374) that is being concurrently filed with this instant Notice of Penalty..

³ Western Electricity Coordinating Council (WECC) confirmed that CPPA was included on the NERC Compliance Registry as a Generation Owner on June 17, 2007. As a Generation Owner, CPPA is subject to the requirements of Reliability Standard PRC-005-1.

⁴ See 18 C.F.R. § 39.7(c)(2).

⁵ CPPA also self-reported its non-compliance with Reliability Standard PRC-005-1 R1.1. In the Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS), WECC determined that CPPA had an alleged violation of PRC-005-1 R1, NERC Tracking Identification Number WECC200901318. However, CPPA requested, and WECC approved a Self-Report retraction for PRC-005-1 R1.1. CPPA submitted the violation retraction form to the WECC Compliance Member Portal on June 30, 2009. CPPA demonstrated, in its *Generation Maintenance and Testing Program* document, dated January 31, 2009, that it included all required components, including the basis for maintenance and testing intervals for such components.

Identification Number WECC200901319 is a Confirmed Violation, as that term is defined in the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Notice of Confirmed Violation and Proposed Penalty or Sanction (NOCV) issued on September 17, 2009, by WECC. The details of the findings and basis for the penalty are set forth herein. This Notice of Penalty filing contains the basis for approval of this Notice of Penalty by the NERC Board of Trustees Compliance Committee (BOTCC). In accordance with Section 39.7 of the Commission's Regulations, 18 C.F.R. § 39.7 (2007), NERC provides the following summary table identifying the Reliability Standard at issue in this Notice of Penalty.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
WECC	CalPeak Power Panoche LLC	NOC-373	WECC200901319	PRC-005-1	2/2.1	High ⁶	20,000

The purpose of Reliability Standard PRC-005-1 is to ensure all transmission and generation Protection Systems⁷ affecting the reliability of the bulk power system (BPS) are maintained and tested.

PRC-005-1 R2 requires a Generation Owner that owns a generation Protection System, such as CPPA, to provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Entity on request (within 30 calendar days). Specifically, the documentation of the program implementation shall include: (R2.1) evidence Protection System devices were maintained and tested within the defined intervals and (R2.2) date(s) each Protection System device was last tested/maintained. PRC-005-1 R2.1 has a "High" Violation Risk Factor (VRF).

On December 30, 2008, WECC notified CPPA that an off-site Compliance Audit was being scheduled for March 5, 2009. Included in the notice was a request for a copy of CPPA's Protection System maintenance and testing documentation. CPPA conducted an internal audit on February 18, 2009, after receiving WECC's notice, and discovered that its Protection System testing interval data was incomplete and could not be provided to WECC upon request within the 30 calendar days as required by the Reliability Standard. In addition, CPPA discovered that it

⁶ During a final review of the standards, subsequent to the March 23, 2007 filing of the Version 1 VRFs, NERC identified that some standards requirements were missing VRFs. One of these was PRC-005-1 R2.1. On May 4, 2007, NERC assigned PRC-005-1 R2.1 a "High" VRF. In the Commission's June 26, 2007 Order on Violation Risk Factors, the Commission approved the PRC-005-1 R2.1 "High" VRF as filed. Therefore, the "High" VRF was in effect from June 26, 2007. PRC-005-1 R2 has a "Lower" VRF and its sub-requirements have "High" VRFs.

⁷ The NERC Glossary of Terms Used in Reliability Standards, updated April 20, 2009, defines Protection System as "Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry."

did not have evidence that it maintained and tested its Protection System devices within defined intervals. In reviewing historical data CPPA determined it did not have evidence it maintained and tested its Protection System within its defined intervals, and therefore could not provide such evidence upon WECC's request

On March 2, 2009, CPPA submitted a Self-Report dated February 18, 2009, for a possible violation of PRC-005-1 R2.1 because it could not provide documentation of its Protection System maintenance and testing program and the implementation of that program to WECC, upon request, within 30 calendar days.

On March 5, 2009, WECC conducted an off-site Compliance Audit of CPPA's Generator Owner function. During the audit, the WECC Audit Team (Audit Team) reviewed CPPA's *RCP-NEERC-PRC-005*, dated December 17, 2008, *Reliability Compliance Manual for Standard PRC-005*, dated January 31, 2009, test results (conducted at various times throughout 2001), and a maintenance schedule showing that CPPA last tested its Protection System devices in 2001. Although CPPA's Protection System devices were due for testing in 2005, CPPA could not provide evidence that the maintenance and testing had been completed within defined intervals for more than 50%, but less than or equal to 75%, of the applicable devices. After its review, the Audit Team determined that CPPA had a possible violation of PRC-005-1 R2.1 and forwarded CPPA's Self-Report and the Audit Team's findings to the WECC Enforcement Department (Enforcement) for its review and consideration.

Enforcement reviewed CPPA's Self-Report and the Audit Team's findings and confirmed that a violation occurred because CPPA did not have a complete record of its maintenance and testing intervals and, therefore, could not provide this record to WECC within 30 calendar days. WECC determined that CPPA's failure to have maintenance and testing intervals for Protection System devices creates an increased risk of system inoperability and can pose a moderate risk to the reliability of the BPS. However, CPPA could provide the date it last tested each device and had evidence that it tested some of its devices within defined intervals. CPPA owns a single 49 MW generator. For these reasons, WECC determined this violation did not pose serious or substantial risk to the reliability of the BPS. but it did not rise to a serious or substantial risk because XXX.

Enforcement determined that the violation duration for PRC-005-1 R2.1 to be from June 18, 2007, the date the Standard became enforceable, until May 15, 2010, when CPPA is scheduled to complete its Mitigation Plan.

WECC's Determination of Penalty

WECC assessed a penalty of twenty thousand dollars (\$20,000) for the referenced violation. In reaching this determination, WECC considered the following factors:

1. CPPA self-reported the violation;
2. the violation was CPPA's first violation of PRC-005-1 R2.1;
3. CPPA was cooperative throughout the compliance process;
4. there was no evidence of any attempt by CPPA to conceal the violation;

5. there was no evidence that CPPA's violation was intentional; and
6. the violation did not cause a serious or substantial risk to the reliability of the BPS, as discussed above.

Therefore, WECC determined that, in this instance, the penalty amount of twenty thousand dollars (\$20,000) is appropriate and bears a reasonable relation to the seriousness and duration of the PRC-005-1 R2.1 violation.

Status of Mitigation Plan⁸

CPPA's Mitigation Plan to address PRC-005-1 R2.1 was submitted to WECC on March 13, 2009, with a completion date of May 15, 2010. The Mitigation Plan was accepted by WECC on July 10, 2009, and approved by NERC on July 21, 2009. The Mitigation Plan is designated as MIT-09-1822, and was submitted as non-public information to FERC on July 21, 2009, in accordance with FERC orders.

The Mitigation Plan requires CPPA to: (1) perform testing of all applicable Generation System Protection devices; (2) properly document the testing; and (3) follow the recommended intervals as established by the interconnection agreement and IEEE 1547 in the future. Additionally, CPPA was to complete 10% of its total Protection System testing by May 15, 2009, verify documentation and schedule the next round of testing by August 15, 2009, complete 50% of total testing by November 15, 2009, verify documentation and schedule the next round of testing by February 15, 2010,⁹ and then complete 100% of total Protection System device testing by May 15, 2010.

The Mitigation Plan is on schedule to be completed by May 15, 2010.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed¹⁰

Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,¹¹ the NERC BOTCC reviewed the NOCV and supporting documentation on February 10, 2010. The NERC BOTCC approved the assessment of a twenty thousand dollar (\$20,000) financial penalty against CPPA based upon WECC's findings and determinations, the NERC BOTCC's review of the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the violation at issue.

⁸ See 18 C.F.R. § 39.7(d)(7).

⁹ The Mitigation Plan incorrectly states that CPPA was going to verify the documentation and schedule the next round of protection system device testing by February 15, 2009, instead of February 15, 2010.

¹⁰ See 18 C.F.R. § 39.7(d)(4).

¹¹ *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

In reaching this determination, the NERC BOTCC considered the following:

1. The violation was self-reported;
2. The violation is the first violation of PRC-005-1 R2.1 or any other NERC Reliability Standard by CPPA;
3. WECC reported CPPA was cooperative throughout the compliance process;
4. There was no evidence of any attempt by CPPA to conceal the violation;
5. There was no evidence that CPPA's violation was intentional; and
6. The violation did not put bulk power system reliability at serious or substantial risk, as discussed above.

For the foregoing reasons, the NERC BOTCC believes that the proposed twenty thousand dollar (\$20,000) penalty amount is appropriate for the violation and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the bulk power system.

Pursuant to Order No. 693, the penalty will be effective upon expiration of the thirty (30) day period following the filing of this Notice of Penalty with FERC, or, if FERC decides to review the penalty, upon final determination by FERC.

Attachments Included as Part of the Notice of Penalty

The attachments included as part of this Notice of Penalty are the following documents and material:

- a) CPPA's Self-Report dated February 18, 2009, and submitted March 2, 2009, included as Attachment a;
- b) CPPA's response to the Notice of Alleged Violation and Proposed Penalty or Sanction dated June 24, 2009, included as Attachment b; and
- c) CPPA's Mitigation Plan designated as MIT-09-1822 for PRC-005-1 R2.1 submitted March 13, 2009, included as Attachment c.

A Form of Notice Suitable for Publication¹²

A copy of a notice suitable for publication is included in Attachment d.

¹² See 18 C.F.R. § 39.7(d)(6).

Notices and Communications

Notices and communications with respect to this filing may be addressed to the following:

<p>Gerald W. Cauley* President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, N.J. 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Louise McCarren* Chief Operating Officer Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6868 (801) 582-3918 – facsimile Louise@wecc.biz</p> <p>Constance White* Vice President of Compliance Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6885 (801) 883-6894 – facsimile CWhite@wecc.biz</p> <p>Steven Goodwill* Associate General Counsel Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6857 (801) 883-6894 – facsimile SGoodwill@wecc.biz</p>	<p>Rebecca J. Michael* Assistant General Counsel Holly A. Hawkins* Attorney North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, D.C. 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net holly.hawkins@nerc.net</p> <p>Christopher Luras* Manager of Compliance Enforcement Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6887 (801) 883-6894 – facsimile CLuras@wecc.biz</p> <p>Tom Wertz* Vice President CalPeak Power Panoche LLC 7500 College Blvd., Suite 650 Overland Park, KS 66210 (913) 754-5744 (913) 754-5701 – facsimile TWertz@tyrenergy.com</p> <p>*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.</p>
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Conclusion

NERC respectfully requests that the Commission accept this Notice of Penalty as compliant with its rules, regulations and orders.

Respectfully submitted,

Gerald W. Cauley
President and Chief Executive Officer
David N. Cook
Vice President and General Counsel
North American Electric Reliability Corporation
116-390 Village Boulevard
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(609) 452-9550 – facsimile
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/s/ Rebecca J. Michael
Rebecca J. Michael
Assistant General Counsel
Holly A. Hawkins
Attorney
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Suite 990
Washington, D.C. 20005-3801
(202) 393-3998
(202) 393-3955 – facsimile
rebecca.michael@nerc.net
holly.hawkins@nerc.net

cc: CalPeak Power Panoche LLC
Western Electricity Coordinating Council

Attachments

Attachment a

**CPPA's Self-Report dated February 18, 2009,
and submitted March 2, 2009**



CONFIDENTIAL

Compliance Violation Self-Reporting Form

Please complete an **individual** Self-Reporting Form for each NERC Reliability Standard that indicates any level(s) of non-compliance and submit via the WECC Compliance Web Portal File Upload

Registered Entity Name: NCR05053 CalPeak Panoche, LLC

Contact Name: Jeff Paul

Contact Phone: 619-726-2348

Contact email: jeff.paul@calpeak.com

Date noncompliance was discovered: 02-18-2009

Date noncompliance was reported: 02-18-2009

Standard Title: Transmission and Generator Protection System Maintenance and Testing

Standard Number: PRC-005

Requirement Number(s)¹: **1.1, 2.1**

How was the noncompliance found? (e.g. Routine Readiness Evaluation, Self-evaluation, Internal Audit, etc.)

Internal Audit Review

Describe the cause of non-compliance:

1.1: After review, a 2006 Plan was incomplete for all components NERC/WECC listed in the Standard; a new updated Plan has been developed (in late January 2009), 2.1: After review, it was noted that Interval test data was incomplete for all components WECC listed in the Standard and not available; due in part to a change in ownership, testing is scheduled to be completed in 2009, meeting a self imposed implementation test plan of three years since the change of ownership.

Describe the reliability impact of this non-compliance:

None believed, as some testing was performed, testing via new revised plan for all necessary listed components will be completed in 2009.

¹ Violations are on a per requirement basis.

Expected date of Mitigation Plan submittal: After review of this form, submittal can be done directly or by March 18, 2009.

Attachment b

CPPA's response to the Notice of Alleged Violation and Proposed Penalty or Sanction dated June 24, 2009



7365 Mission Gorge Road, Suite C, San Diego, CA 92120-1273
Tel: 619.229.3770 Fax: 619.229.7616

June 24, 2009

Toni Sharp
Senior Compliance Enforcement Analyst
Western Electricity Coordinating Council
615 Arapen Drive, Suite 210
Salt Lake City, Utah 84108-1262

Re: Notice of Alleged Violation and Proposed Penalty or Sanction: CalPeak Power Panoche, LLC ("CPPA"), NERC Compliance Registry ID #: NCR05053
NERC Violation Tracking Identification Numbers:
WECC200901318, WECC200901319
WECC Tracking Identification Numbers:
CPPA_WECC20091458, CPPA_WECC20091459

(Reliability Standard Violated - PRC-005-1)

Dear Ms. Sharp,

This letter is in response to the Notice of Alleged Violation and Proposed Penalty or Sanction, WECC200901318 and WECC200901319 and is intended to inform WECC that CalPeak Power Panoche, LLC ("CPPA") (i) **contests both the Alleged Violation and the Proposed Penalty or Sanction with regard to WECC200901318** and will clarify its position below and (ii) **agrees with or does not contest the Alleged Violation and Proposed Penalty or Sanction with regard to WECC200901319**, and has already submitted and begun implementation of a mitigation plan to correct the violation and its underlying causes. A copy of the mitigation plan and time line for completion to correct the violation of standard PRC-005-1_R2 which was previously submitted to WECC has been attached to this letter for your convenience.

With regard to the Notice of Alleged Violation and Proposed Penalty or Sanction, **WECC200901318**, concerning Requirement 1 of NERC Reliability Standard PRC-005, CPPA believes a review of the factual history will be helpful in explaining why CPPA believes it is required to contest the Alleged Violation and Proposed Penalty or Sanction as not appropriate.

The Compliance Violation Self-Reporting Form submitted by CPPA on February 18, 2009, pertaining to Requirement 1, contained the statement that "... a 2006 Plan was incomplete for all components NERC/WECC listed in the Standard". This statement was not intended to mean that the 2006 CalPeak Protection Systems Plan was incomplete; rather we meant to convey that not all components listed in the Reliability Standard were covered under it. The remaining maintenance and testing items (i.e. Station Batteries) were being maintained and tested and monitored in the CPPA Preventative Maintenance (PM) Work Order System. All required component items and their intervals for testing and maintenance and the basis for such intervals were listed as required in the CalPeak Generation Maintenance and Testing Program dated January 31, 2009 ("GMT Program"). Further, Requirement 1.1 was inadvertently listed together with Requirement 2.1 in the submittal of the Violation Self Reporting Form while only Requirement 2.1 should have been included. We understand that this information likely contributed to the initial view regarding whether CPPA was in violation of Requirement 1 of PRC-005. We regret any confusion that may have occurred prior to our audit, however we must emphasize that this matter was correctly resolved pursuant to the audit of March 5, 2009 to the WECC Audit Team's satisfaction that CPPA was not in violation of Requirement 1.

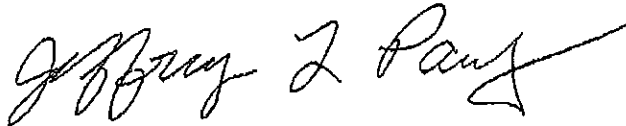
For example, CPPA submitted the appropriate GMT Program, described above, as part of its Audit Documentation of March 5, 2009 for Protective Relays, Communication Systems, Voltage and Current Transformers, Station Batteries and DC Control Circuits primarily per ANSI/NETA MTS-2007 Standards (similar to IEEE 1547), listed in the Audit documents as: "Standard for Maintenance Testing Specifications for Electrical Power Distribution Equipment (InterNational Electric Testing Association)". The Plan was accepted by the WECC Audit Team as there was no mention during the Audit, or in the Audit Report, of any concerns or issues related to it. The auditors made no mention of a violation at the conclusion of their review. A general discussion was held on the maintenance and testing program intervals. WECC concluded that the Self Reported Violation and submission of a Mitigation Plan for Requirement 2 was proper. Further, the Audit Report indicated that "No new violations were found at this audit". The appropriate GMT Program has been attached to this document for your convenience.

As a result of the Audit, CPPA inquired in an email to Domenic Darling, Compliance Data Analyst of WECC, as to the procedure for withdrawal of the Self Reported Violation Form erroneously filed regarding Requirement 1 of PRC-005 (please see attached email string with Domenic Darling). In his email dated March 23, 2009, Mr. Darling instructed CPPA to submit a Violation Retraction Form, which CPPA filed with WECC on April 3, 2009 (please see attached).

In conclusion, CPPA states that it erroneously filed a Self Reported Violation Form (retracted April 3, 2009) and that it did in fact have documentation of its maintenance and testing program as required by PRC-005 R. 1. CPPA further submits that its maintenance and testing program documentation was accepted by WECC pursuant to its audit on March 5, 2009. For these reasons, CPPA believes it has demonstrated an appropriate basis for its contest of the Alleged Violation and Proposed Penalty or Sanction, WECC200901318, concerning Requirement 1 of NERC Reliability Standard PRC-005.

Jeffrey Paul is the authorized representative of CPPA (see contact information below), should WECC have any questions regarding this matter.

Respectfully,



Jeffrey L. Paul
General Manager/Plant Manager
CalPeak Power, LLC
7365 Mission Gorge Road, Suite C
San Diego, CA 92120
Office: (619) 229-3770 x302
Cell: (619) 726-2348
jeff.paul@calpeak.com

Cc: Tom Wertz
Ignacio Ibarguren
JJ Fair
Jim Fitzpatrick
Jeff Kremer
Jack Jackson
File

Attachments

- CalPeak GMT Program
- Email Correspondence of Jeff Paul to Domenic Darling (March 2009)
- Violation Retraction Form for Panoche
- Mitigation Plan for Panoche

Attachment c

CPPA's Mitigation Plan designated as MIT-09-1822 for PRC-005-1 R2.1 submitted March 13, 2009



Mitigation Plan Submittal Form

New ☒ or Revised ☐

Date this Mitigation Plan is being submitted: 03-13-2009

If this Mitigation Plan has already been completed:

- Check this box ☐
- Provide the Date of Completion of the Mitigation Plan:
- Evidence supporting full compliance must be submitted along with this Mitigation Plan Submittal Form

Section A: Compliance Notices & Mitigation Plan Requirements

- A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Attachment A - Compliance Notices & Mitigation Plan Requirements" to this form. **Review Attachment A and check this box ☒ to indicate that you have reviewed and understand the information provided therein.** This Submittal Form and the Mitigation Plan submitted herein are incomplete and cannot be accepted unless the box is checked.

Section B: Registered Entity Information

- B.1 Identify your organization:

Registered Entity Name: CalPeak Power Panoche LLC
 Registered Entity Address: 43699 West Panoche Road, Firebaugh,
 CA. 93622-9720
 NERC Compliance Registry ID: NCR 05053

- B.2 Identify the individual in your organization who will be the Entity Contact regarding this Mitigation Plan. Please see Section 6.2 of the WECC Compliance Monitoring and Enforcement Program (CMEP) for a description of the qualifications required of the Entity Contact.¹

Name: Jeff Paul

¹ A copy of the WECC CMEP is posted on WECC's website at <http://www.wecc.biz/documents/library/compliance/manuals/Att%20A%20-%20WECC%20CMEP.pdf>. Registered Entities are responsible for following all applicable WECC CMEP procedures. WECC strongly recommends that registered entities become familiar with the WECC CMEP and its requirements, as they may be amended from time to time.



Western Electricity Coordinating Council

Title: General Manager
 Email: jeff.paul@calpeak.com
 Phone: 619-726-2348



Section C: Identity of Alleged or Confirmed Reliability Standard Violations Associated with this Mitigation Plan

This Mitigation Plan is associated with the alleged or confirmed violation(s) of the reliability standard/requirements listed below:

C.1 Standard: PRC-005-1
[Identify by Standard Acronym (e.g. FAC-001-1)]

C.2 Requirement(s) violated and violation dates:
[Enter information in the following Table]

NERC Violation ID # [if known]	WECC Violation ID # [if known]	Requirement Violated (e.g. R3)	Violation Risk Factor	Alleged or confirmed Violation Date ^(*) (MM/DD/YY)	Method of Detection (e.g. audit, self-report, investigation)
		R2.1		06-17-2007	Self-report

(*) Note: The Alleged or Confirmed Violation Date shall be: (i) the date the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date upon which WECC has deemed the violation to have occurred. Please contact WECC if you have questions regarding which date to use .

C.3 Identify the cause of the alleged or confirmed violation(s) identified above:

In reviewing historical data (evidence of protection system devices maintenance and testing within the defined intervals), confirmation of that data from previous ownership (new ownership began on 05-26-2006) was not completely available. The date of 06-17-2007 was the registration date for NERC/WECC. The new ownership is committed to follow the recommended intervals as established by the interconnection agreement and IEEE 1547, and the plan noted below.
 [Provide your response here; additional detailed information may be provided as an attachment as necessary]



Western Electricity Coordinating Council



C.4 **[Optional]** Provide any relevant additional information regarding the alleged or confirmed violations associated with this Mitigation Plan:

Self Reporting Violation submitted and approved.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Section D: Details of Proposed Mitigation Plan

Mitigation Plan Contents

D.1 Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violations identified above in Part C.2 of this form:

As noted, the new ownership is committed to follow the recommended intervals as established by the interconnection agreement and IEEE 1547, and as noted in the CalPeak/NAES Generation Maintenance and Testing Program Plan for NERC-PRC-005 presented during the WECC Audit of March 5, 2009.
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Check this box ☐ and proceed to Section E of this form if this Mitigation Plan, as set forth in Part D.1, has already been completed; otherwise respond to Part D.2, D.3 and, optionally, Part D.4, below.

Mitigation Plan Timeline and Milestones

D.2 Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the alleged or confirmed violations associated with this Mitigation Plan corrected: Complete by 5-15-2010.



D.3 Enter Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

Milestone Activity	Proposed Completion Date* (milestones cannot be more than 3 months apart)
Complete 10% (of total) of Testing	5-15-2009
Verify documentation and schedule next round of protection system device testing	8-15-2009
Complete 50% (of total) of Testing	11-15-2009
Verify documentation and schedule next round of protection system device testing	2-15-2009
Complete 100% (of total) of Testing	5-15-2010

(*) Note: Implementation milestones should be no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. As set forth in CMEP section 6.6, adverse consequences could result from failure to complete, on a timely basis, all required actions in this Mitigation Plan, including implementation of milestones. A request for an extension of the completion date of any milestone or of the Mitigation Plan must be received by WECC at least five (5) business days before the relevant milestone or completion date.

[Note: Provide your response here; additional detailed information may be provided as an attachment as necessary]

Additional Relevant Information (Optional)

D.4 If you have any relevant additional information that you wish to include regarding the Mitigation Plan, milestones, milestones dates and completion date proposed above you may include it here:

N/A

[Provide your response here; additional detailed information may be provided as an attachment as necessary]



Section E: Interim and Future Reliability Risk

Check this box ☐ and proceed and respond to Part E.2, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.

Abatement of Interim BPS Reliability Risk

- E.1 While your organization is implementing the Mitigation Plan proposed in Part D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are known, reasonably suspected or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

Risks: minimal.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Prevention of Future BPS Reliability Risk

- E.2 Describe how successful completion of the Mitigation Plan as laid out in Part D of this form will prevent or minimize the probability that your organization will incur further violations of the same or similar reliability standards requirements in the future:

Minimal probability of other reliability standards violations.
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

- E.3 Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Part D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Part C.2, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

As noted, the new ownership is committed to follow the recommended intervals as established by the interconnection agreement and IEEE 1547.



Section F: Authorization

An authorized individual must sign and date this Mitigation Plan Submittal Form. By doing so, this individual, on behalf of your organization:

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to WECC for acceptance by WECC and approval by NERC, and
- b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
 1. I am Jeff Paul, General Manager of CalPeak Power LLC.
 2. I am an officer, employee, attorney or other person authorized to sign this Mitigation Plan on behalf of CalPeak Power LLC.
 3. I understand CalPeak Power's obligations to comply with Mitigation Plan requirements and WECC or ERO remedial action directives and I have reviewed the WECC and ERO documents related to these obligations, including, but not limited to, the WECC CMEP and the NERC Rules of Procedure.
 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
 5. CalPeak Power LLC agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by WECC and approved by NERC.

Authorized Signature:


(Electronic signatures are acceptable; see CMEP Section 3.0)

Name (Print): Jeff Paul

Title: General Manager, CalPeak Power LLC

Date: 02-18-2009



Section G: Comments and Additional Information

You may use this area to provide comments or any additional relevant information not previously addressed in this form.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Section H: WECC Contact and Instructions for Submission

Please direct any questions regarding completion of this form to:

Mike Wells, Sr. Compliance Engineer

Email: mike@wecc.biz

Phone: (801) 883-6884

For guidance on submitting this form, please refer to the "*WECC Compliance Data Submittal Policy*". This policy can be found on the Compliance Manuals website as Manual 2.12:

<http://www.wecc.biz/wrap.php?file=/wrap/Compliance/manuals.html>



Attachment A – Compliance Notices & Mitigation Plan Requirements

- I. Section 6.2 of the WECC CMEP sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
 - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
 - (2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
 - (3) The cause of the Alleged or Confirmed Violation(s).
 - (4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
 - (5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).
 - (6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
 - (7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
 - (8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission.
 - (9) Any other information deemed necessary or appropriate.
 - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.
- II. This submittal form may be used to provide a required Mitigation Plan for review and approval by WECC and NERC.



Western Electricity Coordinating Council



- III. The Mitigation Plan shall be submitted to the WECC and NERC as confidential information in accordance with Section 9.3 of the WECC CMEP and Section 1500 of the NERC Rules of Procedure.
- IV. This Mitigation Plan form may be used to address one or more related Alleged or Confirmed Violations of one Reliability Standard. A separate Mitigation Plan is required to address violations with respect to each additional Reliability Standard, as applicable.
- V. If the Mitigation Plan is approved by WECC and NERC, a copy of the Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- VI. Either WECC or NERC may reject a Mitigation Plan that it determines to be incomplete or inadequate. If the Mitigation Plan is rejected by either WECC or NERC, the Registered Entity will be notified and required to submit a revised Mitigation Plan.
- VII. In accordance with Section 7.0 of the WECC CMEP, remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

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Milestone Update Form

All Mitigation Plans that extend beyond three (3) months are required to have implementation milestones. All Mitigation Plans that have approved milestones require a status update every three (3) months. Please use this Milestone Update Form and submit via the WECC Compliance Web Portal File Upload.

Registered Entity Name: CalPeak Power Panoche LLC, NCR 05053

Contact Name: Jeff Paul

Contact Phone: 619-229-3770 x302

Contact Email Address: jeff.paul@calpeak.com

Date Milestone Update Submitted: **03-13-2009**

Standard Title: Transmission and Generation Protection System Maintenance and Testing

Standard Number: PRC-005-1

Requirement Number(s)¹: **R2**

Please provide details of the milestone activity and the progress that has been made.

Milestone Activity	Milestone Progress Notes	Milestone Completion Date*
Complete 10% (of total) of Testing	Completed	5-15-2009
Verify Documentation and Schedule next round of Protection System Device Testing	Outage Scheduled with CAISO – November 2009, Protection Testing Documents Developed	8-15-2009
Complete 50% (of total) of Testing	Being planned for above outage schedule	11-15-2009
Verify Documentation and Schedule next round of Protection System Device Testing	As necessary	2-15-2009
Complete 50% (of total) of Testing	As necessary	5-15-2010

(*)Note: Implementation milestones no more than three (3) months apart are permissible only for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.

¹ Violations are reported at the level of requirements, sub requirements are not necessary.
WECC Compliance Monitoring and Enforcement Program

Are additional documents or information attached: X Yes ☐ No

Additional Notes or Comments:

Currently at the second level of Milestone completion, as noted above.

**CONFIDENTIAL**

Milestone Update Form

All Mitigation Plans that extend beyond three (3) months are required to have implementation milestones. All Mitigation Plans that have approved milestones require a status update every three (3) months. Please use this Milestone Update Form and submit via the WECC Compliance Web Portal File Upload.

Registered Entity Name: CalPeak Power Panoche LLC, NCR 05053

Contact Name: Jeff Paul

Contact Phone: 619-229-3770 x302

Contact Email Address: jeff.paul@calpeak.com

Date Milestone Update Submitted: **11-11-2009**

Standard Title: Transmission and Generation Protection System Maintenance and Testing

Standard Number: PRC-005-1

Requirement Number(s)¹: **R2**

Please provide details of the milestone activity and the progress that has been made.

Milestone Activity	Milestone Progress Notes	Milestone Completion Date*
Complete 10% (of total) of Testing	Completed	5-15-2009
Verify Documentation and Schedule next round of Protection System Device Testing	Completed	8-15-2009
Complete 50% (of total) of Testing	Completed	11-15-2009
Verify Documentation and Schedule next round of Protection System Device Testing	Review in Progress	2-15-2009
Complete 100% (of total) of Testing	As necessary	5-15-2010

(*)Note: Implementation milestones no more than three (3) months apart are permissible only for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.

¹ Violations are reported at the level of requirements, sub requirements are not necessary.
WECC Compliance Monitoring and Enforcement Program

Are additional documents or information attached: Yes ☒ No

Additional Notes or Comments:

Currently completed the third level of Milestone completion (>50% of Testing), as noted above.

Attachment d

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

CalPeak Power Panoche LLC

Docket No. NP10-____-000

NOTICE OF FILING
March 1, 2010

Take notice that on March 1, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding CalPeak Power Panoche LLC in the Western Electricity Coordinating Council region.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary