BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

Federal Power Act Section 202(c) Emergency Order: Orlando Utilities Commission Regarding the Stanton Energy Center	Order No. 202-26-42

Exhibit to
Motion to Intervene and Request for Rehearing and Stay of
Public Interest Organizations

EXHIBIT 70

OUC DAILY REPORT TO DOE

Daily Notification Report

June 6, 2026

Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1000
Attn: AskCR@hq.doe.gov

Re: Emergency Order No. 202-26-26 Under Section 202(c) of the Federal Power Act

Reporting Entity: Orlando Utilities Commission
NERC Region: FRCC
Reporting Period: 06/05/2026 12:00 a.m. – 11:59 p.m.
Primary Contact: Carlos L. Woody, Chief Legal Officer
Office: (407) 434-2162
Cell: (407) 406-3787
Email: cwoody@ouc.com

1. Executive Summary

This report is submitted in compliance with the conditions specified in the aforementioned emergency order.

2. Emergency Order No. 202-26-26 Compliance

Stanton Unit 1 has operated in compliance with the allowances contained in this Order.

3. Certification

I certify that the information contained in this report is accurate to the best of my knowledge and belief and is submitted in compliance with Emergency Order No. 202-26-26.

/s/Carlos L. Woody
Carlos L. Woody
Chief Legal Officer

BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

Federal Power Act Section 202(c) Emergency Order: Orlando Utilities Commission Regarding the Stanton Energy Center	Order No. 202-26-42

Exhibit to
Motion to Intervene and Request for Rehearing and Stay of
Public Interest Organizations

EXHIBIT 71

ORDER II

Department of Energy
Washington, DC 20585

Orlando Utilities Commission
Regarding the Stanton Energy Center

Order No. 202-26-42

Pursuant to the authority vested in the Secretary of Energy (Secretary) by section 202(c) of the Federal Power Act (FPA),[1] and section 301(b) of the Department of Energy (DOE or the Department) Organization Act,[2] and for the reasons set forth below, I hereby determine that an emergency exists within the SERC Reliability Corporation (SERC)–Florida Peninsula assessment area due to a sudden increase in demand for electric energy, or a shortage of electric energy or facilities for the generation or transmission of electric energy, and other causes. Issuance of this Order will meet the emergency and serve the public interest.

BACKGROUND

The Stanton Energy Center (Stanton) is an electric generating facility in Orlando, Florida. Stanton Unit 1 (464.5 MW)[3] is a coal-fired generator owned[4] and operated by the Orlando Utilities Commission (OUC). Unit 1 began operations in July 1987.[5] The OUC Board of Commissioners had approved the retirement of Unit 1 by 2025,[6] and OUC anticipated placing Stanton Unit 1 in an "extended cold shutdown" in June 2026.[7] OUC expects to make a determination as to Stanton Unit 2 by year's end based on an Integrated Resource Plan currently underway.

---

[1] 16 U.S.C. § 824a(c).

[2] 42 U.S.C. § 7151(b).

[3] U.S. Energy Info. Admin., *Preliminary Monthly Elec. Generator Inventory (based on Form EIA-860M as a supplement to Form EIA-860*), https://www.eia.gov/electricity/data/eia860m/ (choose "June 2026") [hereinafter EIA, *Form EIA-860M*]. Stanton also includes a second coal-fired generation unit, Unit 2 (464.5 MW), as well as two natural gas-fired combined cycle generation units, Unit B (129.8 MW) and Unit B1 (203.2 MW).

[4] nFront Consulting LLC, *Orlando Utils. Comm'n: 2026 Ten-Year Site Plan*, at 2–3, https://www.floridapsc.com/pscfiles/website-files/pdf/Utilities/Electricgas/TenYearSitePlans/2026/Orlando%20Utilities%20Commission.pdf [hereinafter nFront, *OUC 2026 Ten-Year Site Plan*].

[5] EIA, *Form EIA-860M*, *supra* note 3.

[6] *See, e.g.*, Michelle Lynch, *Fla. Mun. Elec. Ass'n, OUC's Bd. of Comm'rs moves to retire Unit 1 coal plant by no later than 2025* (Dec. 15, 2021), https://www.flpublicpower.com/news/oucs-board-of-commissioners-moves-to-retireunit-1-coal-plant-by-no-later-than-2025.

[7] *See* nFront, *OUC 2026 Ten-Year Site Plan*, *supra* note 4, at 6–2. It likely would be difficult for the coal-fired unit to resume operations once retired. Specifically, practical issues, such as employment, contracts, and permits, may greatly increase the

Order No. 202-26-26, which was issued pursuant to FPA section 202(c) on June 4, 2026, required that Stanton Unit 1 continue to be available to operate for 90 days, through September 1, 2026. That order was based on my determination that emergency conditions existed within the SERC Reliability Corporation (SERC)–Florida Peninsula assessment area.

Specifically, I determined that there was a potential shortage of electric energy and a shortage of facilities for the generation of electric energy.[8] I stated that the potential loss of power to homes and local businesses presents a risk to public health and safety.[9] I determined that continued operation of the Stanton Unit 1 was necessary to best meet the emergency and serve the public interest.[10]

In its 2025 Long-Term Reliability Assessment (2025 LTRA), released in January 2026, the North American Electric Reliability Corporation (NERC) notes that the SERC–Florida Peninsula assessment area is currently at a "Normal Risk" for long-term energy adequacy.[11] Nevertheless, the 2025 LTRA highlights that within the SERC–Florida Peninsula assessment area projections for resource and transmission growth lag behind what is needed to support new data centers and other large loads that drive escalating demand forecasts.[12] Additionally, the 2025 LTRA maintains that new data centers for artificial intelligence and the digital economy account for most of the projected increase in North American electricity demand over the next 10 years.[13] As of April 2026, eight data centers are planned for construction in Florida.[14] Total peak demand in Florida is expected to increase from 48,628 MW in 2025/2026 to 54,931 MW in 2034/2035.[15]

---

timeline for resumption of operations during the period they are needed. Moreover, if OUC were to begin disassembling the unit or other related facilities, the associated challenges would be greatly exacerbated. The costs and time of decommissioning a coal plant are extensive, and restarting such decommissioned plants would presumably cost the same as decommissioning in dollars and time, if not more. Thus, continuous operation is required in such cases so long as the Secretary determines a shortage exists and is likely to persist. *See* Jennifer Lessick et al., *Bus. Models for Coal Plant Decommissioning*, at 9–12 (Aug. 2021), https://www.osti.gov/servlets/purl/1821476.

[8] *See, e.g.*, *PJM Interconnection, L.L.C.*, Order No. 202-26-24, at 10 (May 21, 2026).

[9] *Id*.

[10] *Id.*

[11] N. Am. Elec. Reliability Corp., *2025 Long-Term Reliability Assessment*, at 23 (Jan. 2026), https://prod.nerc.com/globalassets/our-work/assessments/nerc_ltra_2025.pdf.

[12] *Id.* at 6.

[13] *Id.* at 9.

[14] *See* Skyler Seets & Kaitlyn Radde, *Most new data centers in the U.S. are coming to rural areas*, PEW RESEARCH CENTER (Apr. 13, 2026), https://www.pewresearch.org/?p=299017.

[15] *See* Fla. Reliability Coordinating Council, Inc., *2025 Reg'l Load & Res. Plan FRCC-MS-PL-642 Version: 1*, at 6 (2025), https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2025/FRCC_RLRP.pdf.

The 2025 LTRA also notes that, with "the heavy dependence on natural gas in the SERC–Florida Peninsula subregion, fuel diversity could become an area of future concern."[16] Further, the 2025 LTRA states that:

> [t]he growing penetration of renewable energy means that SERC and the SERC–Florida Peninsula entities will need to continue to monitor the resource adequacy studies and the impact that renewable resources will have. As solar generation continues to grow, the need to ensure the availability of quick start generating units to meet the ramp in demand will increase.[17]

OUC resource adequacy concerns were most recently demonstrated during Winter Storm Fern, when OUC requested two section 202(c) emergency orders to preserve the reliability of the bulk electric power system due to anticipated unusually high load forecasts from unusual cold weather conditions throughout the entire state of Florida: (i) one application for 2.7 GW of specified resources (generating units)[18] and (ii) a second application for 55 MW of back-up generators.[19] As a result, DOE issued two 202(c) emergency orders to OUC from January 31 through February 6, 2026: (i) Order No. 202-26-11 for specified resources[20] and (ii) Order No. 202-26-15 for back-up generators.[21] OUC leveraged the 202(c) orders to meet demand during the extreme cold weather conditions. Stanton Unit 1 produced 66,230 MWh between January 31 and February 6, 2026.[22] The back-up generating units reported over 400 hours of run-time under the respective Order.

According to OUC, customer demand was projected to exceed record-breaking thresholds for OUC on Sunday, February 1, 2026, and again on Monday, February 2, 2026, and maybe throughout the following week.[23] OUC had projected that it may not have

---

[16] *See* NERC, *LTRA*, *supra* note 9, at 116.

[17] *Id.*

[18] Application, ex. A (Specified Resources) (Jan. 31, 2026).

[19] Application, ex. A (Backup Generators) (Jan. 31, 2026).

[20] *Orlando Utils. Comm'n*, Order No. 202-26-11 (Jan. 31, 2026).

[21] *Orlando Utils. Comm'n*, Order No. 202-26-15 (Jan. 31, 2026).

[22] *See* U.S. Env't Prot. Agency, *CAMPD (Clean Air Markets Program Data)*, https://campd.epa.gov/data/custom-data-download (choose "Emissions" from "Data Type" dropdown; then choose "Daily Emissions" from "Data Subtype" dropdown; then choose "Unit (No Aggregation)" from the "Aggregation" dropdown; then click "Apply"; then click "Time Period" button and enter "January 31, 2026" as "Start Date" and February 6, 2026 as "End Date"; then click "Facility" and select "Curtis H. Stanton Energy Center"; then click "Apply Filter"; then click "Preview Data").

[23] Letter from Clint Bullock, Gen. Manager & CEO, Orlando Utils. Comm'n, to The Honorable Chris Wright, Sec'y, Dept. of Energy (Jan. 31, 2026) (requesting emergency order under FPA section 202(c)), https://www.energy.gov/documents/ouc-202c-application-backup-generators.

sufficient generation available to meet the unusually high demand and may be forced to curtail load in order to maintain the security and reliability of the grid.[24] In January 2026, Stanton Units 1 and 2 produced a total of 249,473 MWh from coal-fired generation.[25]

CONTINUING EMERGENCY CONDITIONS

The emergency conditions that necessitated the issuance of Order No. 202-26-26 continue, both in the near and long term. The production of electricity from Stanton Unit 1 continues to be critical to maintain reliability in the SERC–Florida Peninsula assessment area.

According to NERC's 2026 Summer Reliability Assessment, the SERC–Florida Peninsula is a summer-peaking assessment area.[26] In its 2026 Summer Reliability Assessment, NERC further notes that "[t]emperature and precipitation forecasts for the coming summer show a higher likelihood of hotter-than-normal temperatures in the U.S. South . . . ."[27] For the SERC–Florida Peninsula, the anticipated reserve margin is projected to be 25.8%; however, the anticipated reserve margin drops to 13.6% in the event of "higher demand, outages, [or] derates in extreme conditions."[28]

NERC released its 2026 State of Reliability (SOR) on June 24, 2026. In the SOR, NERC identifies worsening reliability concerns tied to large-load integration and localized operating stress. In its technical discussion of major system events, NERC states "shoulder seasons have become increasingly challenging for [bulk power system] operators to manage, resulting in several recent instances of pre-contingent load shedding."[29] The SOR also finds large load growth is increasing reliability risk and states that "data center and computational loads continued emerging as a major reliability consideration due to their scale, speed of development, and unique operational characteristics."[30]

DOE Order No. 202-26-26 was preceded by executive orders issued by President Donald J. Trump on January 20, 2025, and April 8, 2025, which underscored the dire energy challenges facing the Nation due to growing resource adequacy concerns. President Trump declared a national energy emergency in Executive Order No. 14156,

---

[24] *Id.*

[25] EIA, *Form EIA-923 detailed data with previous form data (EIA-906/920)*, *Page 4: Generator Data* (May 2026), https://www.eia.gov/electricity/data/eia923/.

[26] N. Am. Elec. Reliability Corp., *2026 Summer Reliability Assessment*, at 28 (May 2026), https://www.nerc.com/globalassets/our-work/assessments/nerc_sra_2026.pdf.

[27] *Id.* at 4.

[28] *Id* at 10.

[29] N. Am. Elec. Reliability Corp., *2026 State of Reliability: Tech. Assessment of 2025 Bulk Power Sys. Performance*, at 5 (June 24, 2026), https://nerc.com/globalassets/programs/rapa/pa/nerc_sor_2026_technical_assessment.pdf.

[30] *Id.* at vii.

"Declaring a National Energy Emergency," in which he determined that the "United States' insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy."[31] The Executive Order adds: "Hostile state and non-state foreign actors have targeted our domestic energy infrastructure, weaponized our reliance on foreign energy, and abused their ability to cause dramatic swings within international commodity markets." In the subsequent Executive Order No. 14262, "Strengthening the Reliability and Security of the United States Electric Grid," President Trump emphasized that "the United States is experiencing an unprecedented surge in electricity demand driven by rapid technological advancements, including the expansion of artificial intelligence data centers and increase in domestic manufacturing."[32]

Further, the Department of Energy detailed the myriad challenges affecting the Nation's energy systems in its July 2025 "Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid," which was issued pursuant to the President's directive in Executive Order No. 14262. The Department concluded that, "[a]bsent decisive intervention, the Nation's power grid will be unable to meet projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence (AI) innovation."[33]

Pursuant to section 202(c)(4)(B) of the FPA, the Department has consulted with the primary Federal agency with expertise in the environmental interest protected by the laws or regulations that may conflict with this Order. The agency did not submit additional conditions for inclusion in this Order.

ORDER

FPA section 202(c)(1) provides that whenever the Secretary determines "that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy," then the Secretary has the authority "to require by order . . . such generation, delivery, interchange, or transmission of electric energy as in [his] judgment will best meet the emergency and serve the public interest."[34] This statutory language constitutes

---

[31] Exec. Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025), https://www.federalregister.gov/documents/2025/01/29/2025-02003/declaring-a-national-energy-emergency.

[32] Exec. Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025), https://www.federalregister.gov/documents/2025/04/14/2025-06381/strengthening-the-reliability-and-security-of-the-united-states-electric-grid.

[33] DOE, *Res. Adequacy Rep.: Evaluating the Reliability & Sec. of the U.S. Elec. Grid* (July 7, 2025), https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29.pdf.

[34] Although the text of FPA section 202(c) grants this authority to "the Commission," section 301(b) of the Department of Energy Organization Act transferred this authority to the Secretary of the Department of Energy. *See* 42 U.S.C. § 7151(b).

a specific grant of authority to the Secretary to require the operation of Stanton Unit 1, when the Secretary has determined that such continued operation will best meet an emergency caused by a sudden increase in the demand for electric energy or a shortage of generation capacity, or a shortage of electric energy or facilities for generation or transmission of electric energy.

As described above, the conditions resulting from the increasing demand and shortage of electric energy from the premature retirement of Stanton Unit 1 will continue on in the near term and are also likely to continue in subsequent years. This could lead to the loss of power to homes and businesses in the areas affected by curtailments or power outages, presenting a risk to public health and safety.

I have determined that, to best meet the emergency arising from increased demand, determined shortage, and other causes, and to serve the public interest under FPA section 202(c), Stanton Unit 1 shall be made available for operation through November 30, 2026.

Based on my determination of an emergency set forth above, I hereby order:

A. From September 2, 2026, OUC shall take all measures necessary to ensure that Stanton Unit 1 is available to operate.[35] Following the conclusion of this Order, sufficient time for orderly ramp down is permitted, consistent with industry practices.

B. To minimize adverse environmental impacts, this Order limits operation of Stanton Unit 1 to the times and within the parameters as determined by OUC pursuant to paragraph A. OUC shall provide a daily notification to the Department (via AskCR@hq.doe.gov) reporting whether Stanton Unit 1 has operated in compliance with this Order.

C. All operations of Stanton Unit 1 must comply with applicable environmental requirements, including, but not limited, to monitoring, reporting, and recordkeeping requirements, to the maximum extent feasible while operating consistent with the emergency conditions. This Order does not provide relief from any obligation to pay fees, or purchase offsets or allowances for emissions that occur during the emergency conditions, or to use other geographic or temporal flexibilities available to generators.

D. By September 16, 2026, OUC is directed to provide the Department (via AskCR@hq.doe.gov) with information concerning the measures it has taken and is planning to take to ensure the operational availability of Stanton Unit 1 consistent with this Order. OUC shall also provide such additional information regarding the

[35] According to OUC, neither Florida Municipal Power Pool (FMPP) in its role as the Balancing Authority nor Florida Reliability Coordinating Council (FRCC) in its role as the Reliability Coordinator directs OUC to operate Stanton 1 in a manner similar to organized markets.

environmental impacts of this Order and its compliance with the conditions of this Order, as requested by the Department of Energy from time to time.

E. OUC is directed to file with the Federal Energy Regulatory Commission any tariff revisions or waivers to effectuate this Order, as needed. Rate recovery is available pursuant to 16 U.S.C. § 824a(c).

F. This Order shall not preclude the need for Stanton Unit 1 to comply with applicable state, local, or Federal law or regulations following the expiration of this Order.

G. Because this Order is predicated on the shortage of facilities for generation of electric energy and other causes, Stanton Unit 1 shall not be considered a capacity resource.

H. This Order shall be effective from September 2, 2026, through November 30, 2026, with the exception of applicable compliance obligations in paragraph D.

I. OUC is directed to provide the Department at least fifteen days' prior notice in writing before any anticipated change in operational status, or as soon as practicable if an unexpected change in status of Stanton Unit 2 occurs.

Issued in Washington, D.C. on this 1st day of September 2026.

Chris Wright

Chris Wright
Secretary of Energy

cc: **Federal Energy Regulatory Commission**
Chairman Laura V. Swett
Commissioner David Rosner
Commissioner Lindsay S. See
Commissioner Judy W. Chang
Commissioner David A. LaCerte

Florida Public Service Commission
Chairman Gabriella Passidomo Smith
Commissioner Gary F. Clark
Commissioner Mike La Rosa
Commissioner Bobby Payne
Commissioner Ana Ortega

BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

Federal Power Act Section 202(c) Emergency Order: Orlando Utilities Commission Regarding the Stanton Energy Center	Order No. 202-26-42

Exhibit to
Motion to Intervene and Request for Rehearing and Stay of
Public Interest Organizations

EXHIBIT 72

ORDER I REHEARING REQUEST

United States of America
Before the
United States Department of Energy

Order No. 202-26-26

Motion to Intervene and Request for Rehearing and Stay of
Environmental Defense Fund, Florida Rising, and Sierra Club (collectively, "Public Interest Organizations")

I. Introduction

On June 4, 2026, the Secretary of Energy, on behalf of the Department of Energy (collectively the "Department" or "DOE"), issued an order pursuant to Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c) ("section 202(c)") instructing the Orlando Utilities Commission (OUC) to "take all measures necessary to ensure that" the Stanton Energy Center's coal-fired Unit 1, in Orlando, Florida ("Stanton 1") "is not placed in extended cold shutdown and is available to operate" until September 1, 2026. U.S. Dep't of Energy, Order No. 202-26-26 (Jun. 4, 2026) (attached as Ex. 1 at 6) [hereinafter the "Order"]. Prior to the issuance of the Order, OUC was preparing to transition Stanton Unit 1 to a state of "extended cold shutdown by the end of May 2026." Ex. 5 at 2-3 (PUC 2026 TYSP).

But DOE officials knew—because OUC had just told them—that even in an "extended cold shutdown" Stanton 1 would "be capable of being brought on-line to be operational as needs may arise." Ex. 6 (OUC Response to DOE RFI). And DOE also knew that, even without any of Stanton 1's capacity, OUC would have reserve margins in excess of the 15 percent planning threshold through *2031*. *Id.* But now, with DOE's order in hand, OUC is running Stanton 1 even more than before, needlessly generating air pollution that will harm Petitioners' members' health and economic costs that are likely to be borne by Florida ratepayers.

Moreover, the Order fails to provide any evidence that an emergency exists within the meaning of section 202(c). The Order notes the potential for increases in demand, primarily from data centers, but this does not qualify as a "sudden increase in demand" that constitutes an emergency. And far from providing evidence that there is a shortage of generation or transmission, the Order notes that the Southeast Reliability Coordinator (SERC) Florida Peninsula region is at "normal risk." Order at 2.

Thus, as explained below, not only has DOE responded to an "emergency" outside the scope of its statutory authority and not only is that supposed emergency flatly contradicted by the evidence on which DOE itself relies, but the remedy DOE ordered is wholly wasteful—giving OUC leave to take steps to remain available that are unnecessary to being available.

The Department should grant rehearing and rescind this costly, harmful, unnecessary, and unlawful order. The Order is based on a profoundly incorrect understanding of the handful of sources it selectively quotes, including most starkly its reliance on a NERC Long Term Risk Assessment that fails to provide any evidence of an emergency. Those sources, and the Order itself, do not support the Order's claim of a resource adequacy emergency in OUC's territory or the SERC-Florida Peninsula assessment area.

The Order also fails to grapple with Stanton 1's unsuitability to the supposed emergency. The Order never explains why Stanton will "best meet" the supposed gap between supply of and demand for electricity driven by a surge in data center development in other parts of the state. Even if there were such a gap—which there is not—and even if such a long-term shortfall were an "emergency" for purposes of 202(c)—which it is not—the Department remained obligated to impose conditions that "will best meet the emergency and serve the public interest," 16 U.S.C. §

824a(c)(1), and to limit the plant's operations to only those hours necessary to meet the emergency, *id.* § 824a(c)(2). DOE did not do so.

On top of all these failures, the Order makes no effort to limit the significant environmental and public health harms caused by burning coal at the plant, despite explicit instruction from Congress to do so. Stanton 1 harms its neighbors—the same Floridians that decided to close the plant. The Department has, moreover, thus far done all this behind closed doors, without any of the public process that the National Environmental Policy Act (NEPA) demands before an agency undertakes a major federal action like the Order at issue here.

At its heart, the Order represents an effort to replace the market- and state-led planning process provided by statute with an ill-advised and misinformed exercise in federal command-and-control. That effort disserves the public and violates the law. The Order must be rescinded.

II. Statement of Issues and Specification of Error

As explained in Section V below, the PIOs submit the following statement of issues and specifications of error:

1. The Order is contrary to law because it fails to establish the existence of an emergency under section 202(c) or the Department's regulations implementing section 202(c). The statutory text, legislative history, judicial construction and DOE's regulations all confirm that an "emergency" is an occurrence that is sudden, unexpected and requiring immediate action. The Order introduces no facts that would satisfy that definition. 16 U.S.C. § 824a(c); 10 C.F.R. § 205.371; *Richmond Power and Light v. FERC*, 574 F.2d 610, 615 (D.C. Cir. 1978); *Otter Tail Power Co. v. Fed. Power Comm'n.*, 429 F.2d 232, 233-34 (8th Cir. 1970).

2. The Order fails to present substantial evidence for its emergency determination and fails to exercise reasoned decision-making by ignoring critical facts and shortcomings in its analysis. *See*, *e.g.*, 16 U.S.C. § 824a(c); 10 C.F.R. § 205.373; 16 U.S.C. § 825*l*(b) (factual assertions in orders under the Federal Power Act must be supported by substantial evidence); *E.g.*, *Emera Maine v. FERC*, 854 F.3d 9, 22 (D.C. Cir. 2017) (order under the Federal Power Act must reflect "a principled and reasoned decision supported by the evidentiary record" (quotation marks omitted)); *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection

between the facts found and the choice made); *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962) (an "agency must make findings that support its decision, and those findings must be supported by substantial evidence").

3. The Order exceeds DOE's statutory authority because DOE has no authority to apply section 202(c) to a municipal utility. Section 201(f) of the Federal Power Act, 16 U.S.C. § 824(f), bars application of Section 202(c) to an entity, like OUC, that is wholly owned by a "political subdivision of a State." *Transmission Agency of N. California v. FERC*, 495 F.3d 663, 674 (D.C. Cir. 2007); *Sw. Power Admin. v. FERC*, 763 F.3d 27, 33 (D.C. Cir. 2014).

4. Even if the emergency described by the Order did exist—it does not—the Department has not demonstrated a reasoned basis for its determination that additional dispatch of Stanton is necessary to "best meet the emergency and serve the public interest." 16 U.S.C. § 824a(c); 10 C.F.R. § 205.373; *DHS Sec'y v. Regents of the Univ. of Cal.*, 591 U.S. 1 (2020); *Entergy Corp. v. Riverkeeper, Inc.*, 556 U.S. 208 (2009); *Allentown Mack Sales & Service, Inc. v. NLRB*, 522 U.S. 359 (1998); *Motor Vehicle Mfrs. Ass'n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *NAACP v. Fed. Power Comm'n*, 425 U.S. 662 (1976); *Gulf States Utils. Co. v. Fed. Power Comm'n*, 411 U.S. 747 (1973); *Otter Tail Power Co. v. United States*, 410 U.S. 366 (1973); *California v. Fed. Power Comm'n*, 369 U.S. 482 (1962); *Pa. Water & Power Co. v. Fed. Power Comm'n*, 343 U.S. 414 (1952); *Nat'l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200 (D.C. Cir. 2013); *Chamber of Com. of the U.S. v. Secs. & Exch. Comm'n*, 412 F.3d 133 (D.C. Cir. 2005); *Sierra Club v. Env't. Prot. Agency*, 353 F.3d 976, 980 (D.C. Cir. 2004); *Wabash Valley Power Ass'n, Inc. v. FERC*, 268 F.3d 1105 (D.C. Cir. 2001).

5. The Department has unlawfully failed to ensure that the Order compels generation only during hours necessary to meet the emergency and serve the public interest, that operations are consistent with any applicable environmental laws to the maximum extent practicable, and that any adverse environmental impacts are minimized. 16 U.S.C. § 824a(c)(2); *Fla. Power & Light Co. v. FERC*, 88 F.3d 1239 (D.C. Cir. 1996); *City of New Orleans v. FERC*, 67 F.3d 947 (D.C. Cir. 1995).

6. The Order violates the National Environmental Policy Act because it fails to assess the environmental consequences of a major federal action significantly affecting the human environment. National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq*.

III. Motion to Intervene

The Public Interest Organizations move to intervene in this proceeding and thereby to become parties for purposes of Section 313*l* of the Act, 16 U.S.C. § 825*l*. As further discussed below, each of the Public Interest Organizations has interests that may be directly and substantially affected by the outcome of this proceeding. Each party may therefore intervene in this proceeding.

DOE Rehearing Procedures; *see also* 18 C.F.R. § 385.215. Each of the Public Interest Organizations also demonstrates a concrete injury arising from the Order that is redressable by a favorable outcome. Each organization is therefore aggrieved by the Department's Order and may properly apply for rehearing. *See* Federal Power Act, § 313(a), 16 U.S.C. § 825*l*(a); *Wabash Valley Power Ass'n, Inc. v. FERC*, 268 F.3d 1105, 1112 (D.C. Cir. 2001); *NextEra Energy Res. v. ISO New Eng., Inc.*, 157 FERC ¶ 61,059, at P 5 (2016).

A. Environmental Defense Fund

The Environmental Defense Fund ("EDF") is a nonprofit membership organization with hundreds of thousands of members nationwide, including more than sixteen thousand members in Florida, whose mission is to build a vital Earth for everyone by preserving the natural systems on which all life depends. Guided by expertise in science, economics, law, and business partnerships, EDF seeks practical and lasting solutions to address environmental problems and protect human health, including in particular by addressing pollution from the power sector. On behalf of its members, EDF works with partners across the private and public sectors to engage in utility regulatory forums at the federal level and throughout the United States to advocate for policies that will create an affordable, reliable, and low pollution energy system. The Order harms EDF members because it will result in increased pollution that will impact the health of people and nature and because it will increase energy costs for EDF members in the OUC region.

B. Florida Rising

Florida Rising is a grass-roots, membership-based organization advocating for climate justice in Florida. Driven by its over 1,200 members, Florida Rising organizes across the state to ensure that Florida's energy policy at the local and state level puts frontline communities at the center and brings about a just transition to a clean, safe, and healthy future for everyone. Florida

Rising has participated in the Florida Public Service Commission proceedings, including as an intervenor seeking greater energy efficiency goals for OUC, to further their mission. Approximately 125 members of Florida Rising live near the Stanton plant, and dozens of members pay utility bills to OUC. Florida Rising also has hundreds of members who live near the Orlando area and pay utility bills to neighboring utilities. In preventing Stanton 1's retirement, the Order harms Florida Rising's members by increasing pollution from the coal-fired unit and increasing their electricity rates.

C. Sierra Club

Sierra Club has a demonstrated organizational commitment to reducing pollution and harm from coal-fired power plants, including OUC's Stanton facility. Sierra Club's Beyond Coal Campaign seeks to reduce the pollution currently being produced by coal-fired power plants such as Stanton, and to reduce energy bills by ensuring that ratepayers do not fund the cost of continuing to operate uneconomic coal units. To those ends, Sierra Club has long engaged in advocacy relating to Stanton's operations and retirement trajectory. Sierra Club was heavily involved in OUC's 2020 Electric Integrated Resource Plan, which resulted in the municipal utility's decision to retire Stanton.

Stanton is owned by OUC, which serves electric customers throughout the Orlando metropolitan area. Sierra Club has members and staffers who receive electricity service from OUC and who will be directly affected by the Order. For example, Sierra Club has approximately 35,000 members in Florida, many of which receive electricity from OUC. The Order harms Sierra Club members' financial interests because they will likely have to pay the costs associated with complying with the Order and continuing to operate Stanton.

In addition, Sierra Club has members who live, work, and/or recreate in areas of Central Florida affected by air pollution from Stanton. The Order will harm Sierra Club members' aesthetic, health, and environmental interests by leading to increased air emissions that will pollute scenic areas, harm human health, and impair air quality. These harms fall squarely within the interests Sierra Club seeks to protect through its advocacy and litigation

IV. Background

A. The Stanton Plant's Planned Retirement

The Orlando Utilities Commission is a municipal utility serving the city of Orlando, St. Cloud, and parts of unincorporated Orange and Osceola counties. Ex. 5 (OUC 2026 TYSP). OUC operates the Stanton Energy Center, a 3,280-acre site 12 miles from Orlando that contains two coal-fired units, Stanton Units 1 and 2, as well as two gas-fired units, Units A and B, and necessary supporting facilities. Stanton Unit 1, the Unit at issue in this Order, was placed in commercial operation on July 1, 1987. *Id.* at 2-3.

In 2020, OUC completed a comprehensive Electric Integrated Resource Plan, intended to guide OUC's resource planning through the next 30 years. Ex. 8 (OUC EIRP).[1] In that plan, OUC determined that it would convert the two coal-fired Stanton Units, Unit 1 and Unit 2, from coal to natural gas in 2025 and 2026. *See id.* In September 2021, OUC purchased the Osceola Generating Station ("OGS"). With OGS in place, OUC instead planned to place Stanton Unit 1, its oldest coal-fired power plant, into extended cold shutdown by the end of May 2026, rather than convert that unit to natural gas. Ex. 5 at 1-1. OUC concluded that the OGS Plant is a superior resource for

[1] *See* Ex. 5 at 6-1

OUC's needs because it has "three separate turbines, known in the industry as 'peakers,' which can turn on and off quickly as opposed to the larger, Stanton Unit 1 turbine that requires more fuel and takes many hours to turn on. OGS can power up in just minutes." *Id*.

As of January 1, 2026, OUC owned 100 percent of Stanton Unit 1, which provided approximately 453 MW of capacity to the OUC system. In its 2026 Ten Year Site Plan, filed with the Florida PSC in April 2026, OUC explained that it "anticipates placing Stanton Unit 1 into extended cold shutdown by the end of May 2026." *Id.* at 2-3.

On April 8, 2026, Alex Fitzsimmons, Acting Under Secretary and Director of the Office of Cybersecurity, Energy Security, and Emergency Response at the Department sent an inquiry to OUC requesting information regarding the Stanton Energy Center. *See* Ex. 9 (DOE 4.8.26 Letter). On April 22, 2026, OUC responded with its answers. *See* Ex. 6. In its response, OUC explained that it had previously considered retiring Stanton 1. *Id*. at 2. But "OUC has since determined the best course of action is to place Stanton Energy Center Unit 1 into extended cold shutdown by May 2026. While in extended cold shutdown, Stanton Energy Center Unit 1 will be maintained in a manner such that the unit would be capable of being brought on-line to be operational as needs may arise." *Id*.

OUC further explained that it retained sufficient capacity, without the capacity provided by Stanton 1, to exceed its 15 percent reserve margin through 2031. *Id*.

B. Multiple Authorities Protect Resource Adequacy

In Florida, the Florida Public Service Commission (PSC) ensures that Florida utilities maintain adequate generation resources to meet demand. It does so through its review of Ten Year Site Plans, which large utilities must submit every two years. *See* Fla. Stat. § 186.801; Fla. Admin. Code R. 25-22.071(1). The PSC has established a minimum planned reserve margin criterion of

15 percent for the purposes of sharing responsibility for grid reliability. Fla. Admin. Code R. 25-6.035(1). OUC has adopted the 15 percent minimum reserve margin requirement as its planning criterion. Other utilities have adopted even more conservative reserve margins as their planning criterion. *See e.g.,* Ex. 11, at 15 (FPL 2026 TYSP) (adopting a 20 percent reserve margin, as well as a generation reserve margin and a loss of load probability).

The PSC reviews Ten-Year Site Plans and determines whether the plans are "suitable" or "unsuitable." The PSC's review is based on ten statutory factors:

> (a) The need, including the need as determined by the commission, for electrical power in the area to be served.
> (b) The effect on fuel diversity within the state.
> (c) The anticipated environmental impact of each proposed electrical power plant site.
> (d) Possible alternatives to the proposed plan.
> (e) The views of appropriate local, state, and federal agencies, including the views of the appropriate water management district as to the availability of water and its recommendation as to the use by the proposed plant of salt water or fresh water for cooling purposes.
> (f) The extent to which the plan is consistent with the state comprehensive plan.
> (g) The plan with respect to the information of the state on energy availability and consumption.
> (h) The amount of renewable energy resources the utility produces or purchases.
> (i) The amount of renewable energy resources the utility plans to produce or purchase over the 10-year planning horizon and the means by which the production or purchases will be achieved.
> (j) A statement describing how the production and purchase of renewable energy resources impact the utility's present and future capacity and energy needs.

Fla. Stat. § 186.801(2).

In November 2025, the PSC issued its most recent review of Florida's utilities' Ten-Year Site Plans. Ex. 12 (Review of the 2025 Ten Year Site Plans of Florida's Electric Utilities). In its review, the PSC found "all 10 reporting utilities' 2025 TYSPs to be suitable for planning purposes." *Id*. at 9. That included OUC specifically. *See* Ex. 12 at 95. OUC's Ten Year Site Plan showed reserve margin forecasts above OUC's 15% margin planning target for every year out to 2034. *See id.* at 99. Resource adequacy is also overseen by the Florida Reliability Coordinating

Council (FRCC), which publishes an annual Regional Load and Resource Plan. *See* Ex. 13 (FRCC, 2025 Regional Load & Resource Plan FRCC-MS-642: 2025). That annual plan evaluates anticipated load and generation growth over the subsequent decade. In the most recent plan, FRCC estimates Summer and Winter peak regional capacity to meet or exceed the 15% reserve margin for every year and season out to 2034. *See id.* at 40.

At the Federal level, the North American Electric Reliability Corporation ("NERC") is the Electric Reliability Organization responsible for developing mandatory reliability standards, subject to FERC's review and approval. NERC also annually assesses seasonal and long-term reliability of the bulk power system and monitors system performance. In January 2026, NERC issued its 2025 Long Term Reliability Assessment (LTRA). Ex. 14 at 23 (2025 LTRA). The LTRA is a long-term assessment—over ten years—of the grid's reliability. It includes an assessment of the North American grid as a whole as well as region- and subregion- specific assessments. The LTRA characterizes the SERC region, Florida Peninsula subregion, as being at "normal risk," the *lowest* of NERC's risk categories, for the entirety of the 2026 – 2030 period.

In May 2026, shortly before DOE issued the Order, NERC published its 2026 Summer Reliability Assessment. Ex. 15 (2026 SRA). That report "evaluates generation resource and transmission system adequacy as well as energy sufficiency to meet projected summer peak demands and operating reserves" over the June-September period. *Id*. at 1. Despite being a "summer peaking" system, the Florida subregion presented no reliability issues in NERC's assessment. Rather, NERC found that "[t]here is an adequate demand and capacity outlook, with minimal year-over-year changes and no significant operational risks." *Id.* at 28. Florida, NERC concluded, has "strong resource adequacy, with projected reserve margins (~26%) well above the 15% reference margin." *Id.*

C. The Florida Grid is Conservatively Managed Across Multiple Balancing Authorities

Florida is served by 57 electric utilities, including four investor-owned utilities, 35 municipal utilities, and 18 rural electric cooperatives. Ex. 12 at 7. Florida utilities largely serve their own customers' demand (plus a significant reserve margin) with resources that they build and operate. *See id.* at 38-39. As a result, little inter-utility trading has been necessary to meet demand: As of 2024, less than 5% of generation was traded via "interchange," and that percentage is expected to fall through 2034. *See, e.g.*, Ex. 12 at 44. OUC is not an outlier in this respect. *See id.* at 98 (showing 0% of 2024 and 0% of projected 2034 generation via interchange). However, trading among balancing areas could be used to meet immediate emergency needs, in the event that were necessary. In fact, OUC has noted that it "maintains interchange agreements with other utilities in Florida to provide electrical energy during normal and emergency conditions" for precisely this reason.

D. Florida Data Center Law

On May 7, 2026, Governor Ron DeSantis signed into law SB 484, a bill intended to, among other things, prevent the cost of data centers' electricity needs from being passed along to Florida ratepayers. Ex. 16 (DeSantis Press Release on SB 484). The law requires that public utilities establish large-load tariffs that ensure that "each large load customer bears its own full cost of service and that such cost is not shifted to the general body of ratepayers." Fla. Stat. § 366.043(3)(a). The law requires Florida's public utilities to file, by October 1, 2026, a compliant tariff for the PSC's approval. *Id.* § 366.043(8). While the bill does not apply to municipal utilities like OUC, *see id.* § 366.02(8) (defining public utility), Governor DeSantis has made clear that he sees the bill as part of a larger policy push to make sure ratepayers "should not pay one more red cent for electricity because of a hyperscale data center." Ex. 10 (YouTube, Governor DeSantis

Signs Law to Protect Floridians from Subsidizing Data Centers). Moreover, the bill would apply to any neighboring investor owned utilities that might interconnect new data center load.

E. DOE's Historical Use of Section 202(c)

In the past, the Department has used section 202(c) sparingly. The Department has used this authority only in response to concrete, particularized emergencies, and subject to limitations to ensure that the Department's reach extends no further than necessary to address the emergency at hand.

Between the enactment of the Department of Energy Organization Act in 1977, Pub. L. No. 95-91, and the end of 2024, the Department appears to have used section 202(c) only nineteen times, not counting amendments and extension orders.[2] DOE's first usage of section 202(c) came in response to the California Energy Crisis in 2000. Ex. 17 (DOE Order Pursuant to Section 202(c) of the Federal Power Act (Dec. 14, 2000).[3] That order was followed by two others directing the operation of the Cross-Sound Cable, a submarine transmission line connecting New York and Connecticut that was complete but that had been delayed from entering service due to

---

[2] To be sure, the Federal Power Commission issued orders during World War II and the Korean War, some of which were of significant duration. But it is not how long an order remains in place that determines whether an emergency exists, but whether the conditions giving rise to an emergency necessitate the urgent action that section 202(c) authorizes. And the war-era section 202(c) orders provide no support for DOE's action here, as the FPC frequently cited "sudden" or "unexpected" near-term increases in demand. *See, e.g.*, *Niagara Falls Power Co*., 2 F.P.C. 461, 462 (1941) ("Our studies indicated an immediate need for additional 25-cycle power to supply essential defense industries . . . ."); *Conn. Light & Power Co*., 3 F.P.C. 869, 870-71 (1942) ("unusual" needs caused by state of war); *Fla. Power & Light Co.*, 3 F.P.C. 712 (1942) ("sudden and constantly increasing demand for electric energy"). Or they established that specific, near-term shortages of power would be addressed by a particular order. *See, e.g.*, *S.C. Power Co.,* 2 F.P.C. 1060, 1061 (1941) (specifying quantities of power to be delivered to operate a particular electric furnace for war-time manufacturing); *Duke Power Co*., 2 F.P.C. 1055, 1056 (1941) (requiring delivery of particular quantities of additional energy to serve needs at specified aluminum production facilities); *Crisp Cnty. Power Comm'n v. Ga. Power Co*., 35 F.P.C. 629, 630-31 (1966) (identifying seven outages that occurred in past year in that county system due to identified shortages).

[3] Section 202(c) was used by the Federal Power Commission prior to the Department of Energy Organization Act's creation of DOE. Those uses were generally limited to orders directing interconnection as a result of discrete and sudden emergencies or war.). *See* Ex 33 at 822 (Rolsma, The New Reliability Override, 57 U. Conn. L. Rev. 789 (2025)).

environmental permitting issues. *See* Ex. 7 (DOE Order No. 202-02-1); Ex. 18 (DOE Order No. 202-03-01).

But by far the most common usage – comprising 13 of 19 instances – has been in response to extreme weather events such as hurricanes,[4] extreme cold,[5] and extreme heat.[6] In each of these weather-driven cases, the exercise of emergency power was requested by the relevant system operator, the responsible utility, or both. And in each, DOE carefully limited its remedy to ensure that generation facilities were only ordered to run in circumstances necessary to address the emergency and in a manner so as to minimize any conflict with environmental requirements.[7] DOE also limited the duration of those orders to the minimum period necessary to address the emergency, often shorter than 10 days.[8]

Prior to 2025, DOE had used section 202(c) on three occasions to delay the retirement of generation facilities.[9] These cases had key features in common. In each: (i) the order was requested by a system operator or governmental body; (ii) the generation facility had ceased or would soon cease operation due to an inability to comply with environmental laws; (iii) the request aimed to address a concrete and particularized emergency threatening an imminent loss of load; and, (iv) DOE tailored its order to go no further than necessary to address the emergency.

---

[4] *See* Ex. 19 (DOE Order No. 202-05-01) and Ex. 20 (DOE Order No. 202-05-02) (response to Hurricane Rita); Ex. 21 (DOE Order No. 202-08-1) (Hurricane Ike); Ex. 22 (DOE Order No. 202-20-1) (Hurricane Laura); Ex. 23 (DOE Order No. 202-24-1) (Hurricane Milton).
[5] *See* Ex. 24 (DOE Order No. 202-21-1)); Ex. 25 (DOE Order No. 202-22-3)); Ex. 26 (DOE Order No. 202-22-4).
[6] *See* Ex. 27 (DOE Order No. 202-20-2) (responding to extreme heat in California); Ex. 28 (DOE Order No. 202-21-2) (responding to extreme heat, wildfires and drought in California); Ex. 29 (DOE Order No, 202-22-1) and Ex. 30 (DOE Order No. 202-22-1) (responding to extreme heat, wildfires and drought in California).
[7] *See supra* notes 33-37.
[8] *Id*.
[9] Nor did the DOE's predecessor agency, the Federal Power Commission, use section 202(c) to delay retirement of any generation units between the section's enactment in 1935 and the formation of DOE in 1977. *See* Ex. 33 at 843–46).

The first such instance came in 2004, when the District of Columbia's Public Service Commission requested an order directing the continued operation of a power plant located in Alexandria, Virginia, owned by the Mirant Corporation (Mirant). After its state regulator found the plant to be out of compliance with its air permit, Mirant abruptly announced that the plant would close. Ex. 34, at 1 (DOE Order No. 202-05-3) (explaining that Mirant provided emissions information to its state regulator on August 19, 2005, the regulator demanded immediate action that same day, and Mirant decided to cease operations on August 24). The D.C. Public Service Commission, supported by the local utility, PEPCO, explained that the Mirant facility directly powered downtown D.C. and that, without it, critical federal infrastructure faced an immediate unacceptable risk of blackout. *Id*. at 2. Before acting on the request, the Department commissioned an analysis from the Oak Ridge National Laboratory that confirmed the threat that the plant's closure would pose to reliability in D.C. *Id*. at 3–4. Based on that study, and based on the severity of the harm that could result from a prolonged power outage to downtown D.C., the Department issued an order directing the continued operation of the Mirant facility. *Id*. at 5–8. The Department took pains, however, to limit its order to go no further than necessary to address the emergency. The Department directed Mirant to maintain the facility's capacity to respond when needed, but only ordered it to run when one or both of the 230 kV transmission lines serving downtown D.C. were out of service. *Id*. at 10–11.

Twelve years later, in 2017, the Department received a request from the Grand River Dam Authority (GRDA), an Oklahoma state agency, to direct the continued operation of Unit No. 1 at the Grand River Energy Center. GRDA explained that the Grand River Energy Center was needed to provide dynamic reactive power support to the local grid, a fact confirmed by the region's Reliability Coordinator, the Southwest Power Pool (SPP). GRDA explained, however, that it was

at imminent risk of being unable to provide reactive power without action from DOE. Unit No.1, the subject of the request, had been ordered to close by an Administrative Order of the Environmental Protection Agency. Unit No. 2 had been struck by lightning and was under repair. And, construction of the new Unit No. 3 had been delayed because flooding in Louisiana interfered with the fabrication of essential project materials. Ex. 35 (Letter of Request of Grand River Dam Authority). The Department granted GRDA's request, ordering Unit No. 1 to remain in operation for 90 days or until Unit No. 2 or Unit No. 3 were brought online, whichever came first. Ex. 36, at 2 (DOE Order No. 202-17-1). The Department strictly limited its remedy, directing GRDA only to provide "dynamic reactive power support and not real power generation, and only when called upon by SPP for reliability purposes." *Id*.

Later that year, the Department received a pair of requests from PJM and Dominion Virginia (Dominion) to direct the continued operation of Units 1 and 2 of the Yorktown Power Station. PJM and Dominion explained that, based on PJM load flow studies, these units were necessary to prevent uncontrolled power disruptions and shedding of critical loads in the North Hampton Roads area east of Richmond. Ex. 37, at 1 (DOE Order No. 202-17-1). DOE issued an order directing Dominion to maintain operation at the two units, but to dispatch those units "only when called upon by PJM for reliability purposes." *Id*. at 2. DOE later extended the order several times due to the delayed completion of the transmission line needed to resolve the reliability issue. In doing so, DOE cited the "imminent" risk of load-shedding in the North Hampton Roads area absent extension of the order. Ex. 38 (DOE Order No. 202-17-4 Summary of Findings). In its extension order, the Department continued to limit dispatch of the units only when called upon by PJM for reliability purposes and, further, directed PJM and Dominion to exhaust available

resources, including demand response and behind-the-meter generation resources, prior to operating the units.

F. Executive Order 14262 and the White House Strategy to Prop Up the Coal Industry

Over the past year and a half, the White House and the Department have sought to radically transform how section 202(c) of the Federal Power Act is applied, departing in almost every material respect from the longstanding approach described above. As shown below, the Order cannot be understood intelligibly as a response to a discrete event or emergency akin to past orders under section 202(c). Rather, it can only be understood as part of a long-term and multi-part strategy to preserve coal and other fossil fuel generation under the guise of grid reliability concerns.

On April 8, 2025, President Trump issued Executive Order 14262, *Strengthening the Reliability and Security of the United States Electric Grid*. 90 Fed. Reg. 15521 (Apr. 8, 2025). Executive Order 14262 states that it is intended to help address the national energy emergency declared in the earlier-issued Executive Order 14156, *Declaring a National Energy Emergency*. *Id.* Executive Order 14262 was issued concurrently with three other executive actions aimed at supporting the coal industry that were announced at a White House political event explicitly focused on that objective.[10] This event, and the related Executive Order, are one of several in a series of public actions by the Administration aimed at reversing coal plant retirements and promoting fossil fuel generation.

Executive Order 14262 directs DOE to, among other things, streamline and expedite the issuance of emergency orders under section 202(c), specifically in order to "safeguard the

---

[10] *Trump Signs Orders Aimed at Reviving a Struggling Coal Industry*, N.Y. TIMES (Apr. 8, 2025); Exec. Order No.14261, Reinvigorating Americans Beautiful Clean Coal Industry and Amending Exec. Order No. 14241, 90 Fed. Reg. 15517 (April 14, 2025); Exec. Order No. 14260, Protecting American Energy from State Overreach, 90 Fed. Reg. 15513 (April 14, 2025); Proclamation No. 10914, Regulatory Relief for Certain Stationary Sources To Promote American Energy, 90 Fed. Reg. 16777 (April 21, 2025).

reliability and security of the United States' electric grid during periods when the relevant grid operator forecasts a temporary interruption of electricity supply [that] is necessary to prevent a complete grid failure." Exec. Order 14262, Sec. 3(a). It also directs DOE to take a subsequent series of actions related to national resource adequacy, including mandating:

- the development of a uniform methodology for assessing reserve margins and identifying "at-risk" regions;
- establishment of a process by which the developed methodology and any analysis results are regularly assessed; and,
- establishment of a protocol to identify generation resources within a region that are critical to system reliability, a mechanism under section 202(c) to ensure such generation resources are appropriately retained and, for resources over 50MW, are prevented from leaving the bulk-power system or converting their source of fuel. Exec. Order 14262, Sec. 3(b), (c).

Executive Order 14262 is premised on an allegedly dire need to meet "existing capacity challenges" and the "unprecedented surge in electricity demand" that are placing "a significant strain on our Nation's electric grid" with "reliable supply of energy from all available electric generation sources." In this way, it builds on the earlier-issued Executive Order 14156, *Declaring a National Energy Emergency*. Exec. Order 14262, Sec. 2. But a broader look at the Administration's energy policy makes clear that this Executive Order, and DOE's section 202(c) implementing orders, like the Order aimed at propping up the Stanton plant, are, in fact, part of a pattern in which the Administration has expansively invoked emergency powers, including eleven national emergencies since taking office less than 18 months ago,[11] to achieve long-standing

[11] *See* Ex. 40 (Brennan Center, List of Declared National Emergencies Under the National Emergencies Act).

political objectives, rather than respond to genuine, unforeseen crises. These actions are among a series of efforts by the Administration to reverse coal plant retirements and promote fossil fuel generation, including DOE's recent use of $425 million of Defense Production Act funds to subsidize uneconomic coal plants. Ex. 41 (DOE, Energy Dept to Use Defense Production Act Funding to Expand Coal Capacity).

The Administration's claim of grid reliability concerns is further undermined by its simultaneous efforts to disrupt the deployment of new, lower-cost electric generating capacity to help meet the very resource adequacy "crisis" it claims to be motivating DOE's extraordinary exercise of emergency power. Over the past year, the Administration has taken a variety of actions to actively slow deployment of wind and solar energy, despite the fact that these resources generally are among the fastest, lowest cost tools available to meet new electric demand. Ex. 42 (DOE, Clean Energy Resources to Meet Data Center Electricity Demand). This has included subjecting these resources to substantial additional political review;[12] adopting new policies to put a thumb on the scale against deployment of these resources on federal land,[13] or in highway corridors;[14] and making it more difficult for these resources to claim tax credits.[15] Perhaps most stark has been the issuance of stop work orders halting the completion of new, largely-constructed energy projects,[16] thereby disrupting their ability to provide hundreds of megawatts of electric generating capacity that their regions are counting on to meet the very increases in demand

[12] Ex. 43 (DOI, Memo from Deputy Chief of Staff Gregory Wischer).
[13] Ex. 44 (DOI, Order No. 3438).
[14] Ex. 45 (DOT, Biden-Buttigieg Ignored the Dangers of Wind Turbines Near Railroads & Highways).
[15] Exec. Order 14315 § 3(a) (directing the Secretary of Treasury to "strictly enforce the termination of the clean electricity production and investment tax credits"); Ex. 46 (IRS Notice 2025-42).
[16] Ex. 47 (Orsted, Revolution Wind Receives Stop-Work Order from US DOI BOEM; *see also* Ex. 48 (Utility Dive, Trump administration to revoke approval for 2.2-GW Maryland Offshore Wind).

allegedly motivating the Administration's section 202(c) activities. Ex. 49 (ISO Newswire, Statement on Revolution Wind Stop Work Order).

On July 7, 2025, the Department published its "*Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid"* pursuant to EO 14262. Ex. 50, Attachment R (DOE, Resource Adequacy Report: Evaluating the Reliability and Security of the US Electric Grid) [hereinafter "RAR"]. The stated purpose of the *Resource Adequacy Report* was "to evaluate both the current state of resource adequacy as well as future pressures resulting from the combination of announced retirements and large load growth." *Id.* at i. The *Resource Adequacy Report* also acknowledges that a central mandate under EO 14262 is "the development of a uniform methodology for analyzing current and anticipated reserve margins across regions of the bulk power system regulated by the Federal Energy Regulatory Commission (FERC)." *Id.* at vi. DOE further states that the *Resource Adequacy Report* is intended to "guide reliability interventions." *Id.* at vi. Despite the *Resource Adequacy Report's* ambition to establish a new mechanism of resource adequacy planning, DOE provided no public notice or request for comment on the methods or reliability standards DOE may have considered. The result of that flawed process is a report riddled with errors, including flawed and unexplained assumptions for load growth projections and resource retirements and additions.[17] The *Resource Adequacy Report* also does not address actions already being taken by states, utilities, and regional grid operators to meet increased load growth or how markets are already responding to increasing demand.[18]

---

[17] The Report itself even admits that it is lacking in information held by "entities responsible for the maintenance and operation of the grid," which "could further enhance the robustness of reliability decisions." *Id.* at i.

[18] *See* Ex. 51 (GridLab, Analysis: DOE Resource Adequacy Report) (explaining that: "[m]arkets and utilities have already responded with plans to add new capacity and fast track new resources…. [t]hese include PJM's Reliability Resource Initiative, which plans on adding 11 GW of new firm resources by 2030. SPP and MISO both have proposals at FERC (called ERAS) that could add another 30 GW of firm resources…. [t]hose three regional efforts alone would add roughly twice what the DOE assumed for the entire nation.").

Nevertheless, despite this array of assumptions biased towards identifying resource adequacy shortfalls, the *Resource Adequacy Report* found in its model of current system conditions, that the SERC region Florida Peninsula subregion, of which OUC is a part, "performed adequately," with the lowest available category of "mean average [loss of load hours]". Ex. 50 at 30 (showing SERC-FL with only 0-1 LOLH). In other words, the Department found that currently there is no resource adequacy shortfall in Florida.

V. Request for Rehearing

A. The Order Exceeds the Department's Authority Because the Department Has Not Demonstrated, and Cannot Demonstrate, an Emergency Necessitating Continued Operation of Stanton 1

Pointing only to national energy trends, general claims of increasing electricity demand in Florida as a result of data centers, and a misreading of NERC's Long-Term Reliability Assessment and 2026 Summer Reliability Assessment, DOE claims that "conditions . . . will continue on in the near term *and are also likely to continue in subsequent years*" which "*could* lead to the loss of power to homes and local businesses." Order at 5. The Order exceeds the Department's authority because neither the current facts identified by DOE, nor the alleged prospect of a *years-long possibility* of a generalized loss of power to homes and local businesses, constitute an emergency within the meaning of section 202(c).

1. Section 202(c) Only Authorizes the Department to Respond to Specific, Imminent, and Temporary Events Necessitating Immediate Response

Section 202(c) of the Federal Power Act allows the Department to order "the generation . . . of electric energy" only "[d]uring the continuance of any war in which the United States is engaged," or if "the [Department] determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy or of fuel or water for generating facilities, or other

causes." 16 U.S.C. § 824a(c)(1). That provision's fundamental textual requirement—an "emergency"—limits the Department's authority to immediate, unexpected circumstances that call for an immediate action by the Department: An emergency is "an unforeseen combination of circumstances or the resulting state that calls for *immediate* action." Emergency, Merriam Webster's Dictionary (11th ed. 2009) (emphasis added).[19] And the statute's use of the present tense—"exists"—demands, at a minimum, that the emergency be imminent and certain rather than distant and contingent. *See also* 16 U.S.C. § 824a(c) (empowering Department only "during" an existing emergency).

The remainder of section 202(c) underscores the exigency inherent in the governing term "emergency": the authority granted by section 202(c) is, in the first instance, a war-time power. 16 U.S.C. § 824a(c) (beginning with "[d]uring the continuance of any war in which the United States is engaged"); *see Jarecki v. G.D. Searle & Co.,* 367 U.S. 303, 307 (1961) (noting that statutory terms should be interpreted in the context of nearby parallel terms "in order to avoid the giving of unintended breadth to the Acts of Congress"). An "emergency" under the statute is limited to specific causes of similar urgency: "a *sudden* increase in the demand for electric energy," for example. 16 U.S.C. § 824a(c) (emphasis added); *see Richmond Power &Light v. FERC*, 574 F.2d 610, 615 (D.C. Cir. 1978) (holding that section 202(c) "speaks of 'temporary' emergencies, epitomized by wartime disturbances"); S. Rep. No. 74-621, at 49 (1935) (explaining that section

[19] 3 Oxford English Dictionary 119 (1st ed. 1913) (defining emergency similarly as "a state of things *unexpectedly* arising, and urgently demanding *immediate* action" (emphasis added)); Black's Law Dictionary 654 (3d ed. 1933) (defining emergency similarly as "sudden unexpected happening; an unforeseen occurrence or condition; . . . a sudden or unexpected occasion for action; *exigency; pressing necessity*" (emphasis added)); *see also* Ex. 33 at 812 n.147 (noting that dictionaries have given the term "emergency" the "same meaning for many years").

202(c) provides "temporary power designed to avoid a repetition of the conditions during the last war, when a serious power shortage arose").[20]

Section 202(c) is further limited to actions addressing temporary shortfalls in supply—it provides no power to address far-off concerns that the ordinary planning mechanisms, left with the states, can accommodate, or to implement long-term policy preferences, including preferences for particular sources or fuels. The statute "is aimed at situations in which demand for electricity exceeds supply and not at those in which supply is adequate but a means of fueling its production is in disfavor." *Richmond Power & Light*, 574 F.2d at 615. Nor, more fundamentally, does section 202(c) allow the Department to override a state or utility's choice of the appropriate mix of generation. *Emergency Interconnection of Electric Facilities and the Transfer of Electricity to Alleviate an Emergency Shortage of Electric Power,* 46 Fed. Reg. 39,984, 39,985 (Aug. 6, 1981) (recognizing that the Department cannot, via section 202(c), "replace prudent utility planning and system expansion"); *see also Hughes v. Talen Energy Mktg., LLC,* 578 U.S. 150, 154 (2016) (noting the "States' reserved authority . . . over in-state 'facilities used for the generation of electric energy'" (quoting 16 U.S.C. § 824(b)(1)); *Citizens Action Coal. of Ind., Inc. v. FERC*, 125 F.4th 229, 238 (D.C. Cir. 2025) ("[T]he States retain authority to choose their preferred mix of energy generation resources"); *Conn. Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477, 481 (D.C. Cir. 2009) (upholding FERC's approval of capacity requirements because they do not interfere with the right of "[s]tate and municipal authorities . . . to require retirement of existing generators," to prefer "environmentally friendly units," or "to take any other action in their role as regulators of generation facilities without direct interference from the Commission").

---

[20] While Congress amended Section 202(c) in 2015, it did not alter the Department's basic grant of emergency authority; it only addressed occasions on which a Department order might produce a conflict with other laws. *See* H.R. Rep. No. 114-357 (2015).

But the Order rests significantly on a claim that there is a generalized, years-long *possibility* of power outages. *See* Order at 5 ("conditions. . . are also likely to continue in subsequent years" which "*could* lead to the loss of power to homes and local businesses"). Retaining the Stanton plant on the basis provided in the Order would require disregarding the imminence, temporal, and exigency limits that define the "emergencies" to which the Secretary may respond. That interpretation would transform a bounded emergency authority into an unprecedented power with economy-wide significance. The Supreme Court has "expressed reluctance" to countenance such a reading, even for statutes that ostensibly permit agency actions responding to a Presidentially declared national emergency. *See Learning Res., Inc. v. Trump*, 607 U.S. 229, 242 (2026) (Roberts, C.J., concurring). Under such an interpretation, the Secretary could—as he has here—substitute his sole judgment for that of local, state, and federal regulators regarding long-term resource adequacy—"unconstrained by the significant procedural limitations" such regulators are subject to, id. at 640, and in a way that "intrudes into an area that is the particular domain of state law," *Ala. Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, 594 U.S. 758, 764 (2021) (per curiam). "In light of the breadth, history, and constitutional context of that asserted authority, [DOE] must identify clear congressional authorization to exercise it." *Learning Res*., 607 U.S. at 237 (majority opinion). But DOE has not.

The wider statutory context further reinforces section 202(c)'s tightly limited scope. First, the preceding subsections 202(a) and (b) provide cabined authority (exercised by FERC, rather than the Department) to "direct a public utility . . . to establish physical connection[,] . . . sell energy to or exchange energy" with other persons, under normal, non-emergency conditions. 16 U.S.C. § 824a(a)–(b). Those subsections establish specific standards and procedural requirements for such non-emergency orders. *Id.* Section 202(c) removes many of those requirements—but does

so only during wartime or similarly extreme circumstances. *Id.* § 824a(c); *see Otter Tail Power Co. v. Fed. Power Comm'n*, 429 F.2d 232, 234 (8th Cir. 1970) (holding that section 202(c) "enables the Commission to react to a war or national disaster," while section 202(b) "applies to a crisis which is likely to develop in the foreseeable future"). That structure establishes a clear divide between quotidian energy-system management (even where necessary to avert a non-imminent shortage) governed by section 202(b), and unusual, unforeseeable emergencies governed by section 202(c).

Second, Section 215 of the Federal Power Act, added in 2005, separately addresses non-imminent reliability planning: It provides for federal reliability standards subject to discrete procedures and timeframes, and with specified enforcement mechanisms. *See generally* 16 U.S.C. § 824o. As the D.C. Circuit has recognized, the portion of the Federal Power Act that predates that section—which includes section 202(c)—did not provide the federal government with the power to enforce requirements designed to ensure broad, long-term reliability. *Alcoa Inc. v. FERC,* 564 F.3d 1342, 1344 (D.C. Cir. 2009) (noting that prior to the Energy Policy Act of 2005, "the reliability of the nation's bulk-power system depended on participants' voluntary compliance with industry standards"). Congress added a comprehensive scheme, in Section 215, including separate and tightly cabined procedures to address non-imminent reliability concerns; that scheme precludes expanding section 202(c)'s "emergency" authority to encompass those same concerns. S*ee FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132–33 (2000) (noting that when interpreting broad statutory terms, courts should be particularly attentive to whether "Congress has spoken subsequently and more specifically to the topic at hand"). Reading section 202(c) to provide such authority would bypass the limits and procedures that Congress enacted in Section 215; upset the careful balance that section strikes between federal, state, and private power; and

override Congress' calibrated choice of enforcement mechanisms. *See Cal. Indep. Sys. Operator. Corp. v. FERC*, 372 F.3d 395, 401–02 (D.C. Cir. 2004) ("Congress's specific and limited enumeration of [agency] power" over a particular matter in one section of the Federal Power Act "is strong evidence that [separate section] confers no such authority on [agency].").

The Department's longstanding regulations to implement section 202(c) confirm those textual and contextual limitations. They define an "emergency" as "an unexpected inadequate supply of electric energy" resulting from "the unexpected outage or breakdown of facilities," which may result from "weather conditions, acts of God, or unforeseen occurrences not reasonably within the power of the affected 'entity' to prevent." 10 C.F.R. § 205.371. Anticipated customer demand can be an emergency only upon "a *sudden* increase" in such demand. *Id.* (emphasis added); 46 Fed. Reg. at 39,985–86 (stating that the regulation defines "emergency" such that the Department may provide "assistance [to a utility] during a period of unexpected inadequate supply of electricity," but cannot "solve long-term problems"). Those examples reflect the limited nature of the emergencies encompassed by section 202(c): unusual, unforeseen, and unexpected events, with immediate and substantial consequences. The Department's implementing regulations further confirm that section 202(c) does not permit the Department to use "emergency" orders to commandeer long-term planning: That "a shortage of electric energy is projected" to result from economic factors, or utility decision-making, is not an emergency absent an "*imminent*" "inability to supply electric service." 10 C.F.R. § 205.371 (emphasis added). They confirm that section 202(c) authorizes orders "meeting a *specific* inadequate power supply situation"—it does not allow the Department to act merely because it believes that other parties have undertaken "inadequate planning." *Id.* (emphasis added). And the regulations recognize that inadequate energy supply can form the basis of an emergency only where existing resources are "unable to meet . . . *normal* peak

load requirements"—not where they merely fall short of extreme or abnormal projections—and only where those requirements cannot be met through "use of all . . . otherwise available resources." 10 C.F.R. § 205.375 (emphasis added). DOE's regulations discussing the circumstances under which "inadequate planning" could be part of an emergency determination further emphasize that DOE has long understood section 202(c) to be a temporary tool to address imminent consequences of any such planning challenges, not replacement for or opportunity for DOE to second guess the normal planning process: "In such cases, the impacted 'entity' will be expected to make firm arrangements to resolve the problem until new facilities become available, so that a continuing emergency order is not needed." 10 C.F.R. § 205.371.[21]

2. There Is No Factual Basis Supporting the Department's Emergency Finding

The Order musters little evidence to support its emergency finding. But the evidence on which it relies supports neither a short-term nor a long-term emergency within the meaning of section 202(c).

i. NERC's 2025 LTRA does not support an emergency finding

The Order highlights NERC's 2025 Long-Term Reliability Assessment as the principal piece of evidence supporting its emergency finding. But the 2025 LTRA fails to provide any evidence of an emergency. Indeed, the analysis and conclusions in the 2025 LTRA flatly contradict the Department's assertion that an emergency exists in Florida:

First, as its name indicates, NERC's LTRA is a *long-term* assessment. It offers projections over a ten-year period, which state regulators, utilities and other responsible actors may use to

[21] Moreover, DOE's Order fails to follow this requirement, given that OUC has already made "firm arrangements" to replace the power from Stanton Unit 1.

inform their long-term planning. Ex. 14 at 5. The 2025 LTRA is not intended to offer evidence of emergency conditions requiring immediate action, and indeed it offers no such evidence with respect to Florida.

Second, the Order brushes aside the fact that the 2025 LTRA characterizes the SERC region, Florida Peninsula subregion as being at "normal risk" for the entirety of the 2026 – 2030 period. "Normal risk" is the *lowest* of NERC's risk categories. Of the 23 assessment areas in the 2025 LTRA, NERC designated 13 as being as either at "High" or "Elevated" risk at some point over the 2026 – 2030. *Id*. at 8. Not only does the 2025 LTRA not demonstrate an emergency in Florida, it demonstrates that Florida is in a better position than the majority of regions across North America.

Third, the Order ignores the 2025 LTRA's analysis showing no reliability risk in Florida even over a period of years. After a detailed assessment of the Florida region, NERC concludes: "The Florida Peninsula subregion generally maintains a strong reliability outlook, with no other significant emerging reliability issues identified at this time." *Id*. at 118. The LTRA supports this conclusion with its reliability modeling results. NERC's LTRA uses two metrics for estimating reliability risks: Loss of-load hours (LOLH) and expected normalized unserved energy (NEUE). For both metrics, the 2025 LTRA shows that the Florida area has a value of zero (i.e. no expected outages) for each of the two years assessed, 2027 and 2029. *Id*. at 14. With respect to anticipated reserve margin, the 2025 LTRA projects a value of 27.4% for Florida in 2026. *Id*. This value declines slightly over the 2026-2030 period, but remains well above the 15% reference margin level, indicating, "no present concerns regarding resource adequacy due to reserve margin deficiencies." *Id*. at 114. Ultimately, and perhaps most significantly for this Order, the LTRA

concludes that "The [Florida] subregion is not anticipating any negative impacts on reliability from retirements." *Id*. at 117.

Fourth, the Order falsely asserts that the LTRA found Florida to have inadequate resources to meet data center and other demand growth. After brushing aside the LTRA's "normal risk" finding, the Order asserts: "Nevertheless, the 2025 LTRA highlights that within the SERC–Florida Peninsula assessment area projections for resource and transmission growth lag behind what is needed to support new data centers and other large loads that drive escalating demand forecasts." Order at 2. The page cited in the Order (page 6) makes no such claim. The relevant passage on page 6, from the Executive Summary states: "In the 2025 LTRA, NERC finds that 13 of 23 assessment areas face resource adequacy challenges over the next 10 years. Projections for resource and transmission growth lag what is needed to support new data centers and other large loads that drive escalating demand forecasts." Ex. 14 at 6. The second sentence, which tracks the claim in the Order, may be a reference to conditions in the 13 assessment areas noted in the previous sentence, or it may be a reference to conditions in the Nation as a whole. But it certainly does not, as the Order falsely claims, "highlight" conditions in Florida.

Fifth, the Order quotes a statement in the LTRA that, in light of "heavy dependence on natural gas in the SERC–Florida Peninsula subregion, fuel diversity could become an area of future concern." Ex. 1 at 2 (citing Ex. 14 at 116). An issue that "could become an area of future concern" does not substantiate the existence of an "emergency" under any definition. Moreover, the Order declines to note the measures that entities in Florida have taken to mitigate this risk, including requirements to hold firm pipeline capacity and the fact that approximately 55–57% of natural gas generation in the state has alternate fuel capability. Ex. 14 at 117. Nor, of course, does the Order acknowledge that the LTRA's observation regarding fuel diversity in no way disturbed its

conclusions that the region "maintains a strong reliability outlook" and "is not anticipating any negative impacts on reliability from retirements."

Sixth, the Order quotes a statement in the LTRA that: "As solar generation continues to grow, the need to ensure the availability of quick start generating units to meet the ramp in demand will increase." Order at 2-3 (citing Ex. 14 at 116). Even if this statement indicated that the need for quick start generating units poses an emergency in Florida (which for the reasons provided above it certainly does not), that need would not support the Order. Quick start resources are generally batteries, combustion turbines and hydro turbines. *See* Ex. 52. Coal-fired power plants, such as Stanton, are among the slowest resources on the grid to start. *Id.* Indeed, the fact that Stanton "takes many hours to turn on" was a specific reason cited by OUC for retiring the resource and replacing it with the OGS Plant. Ex. 5 at 1-1.

ii. NERC's 2026 Summer Reliability Assessment disproves the existence of an emergency

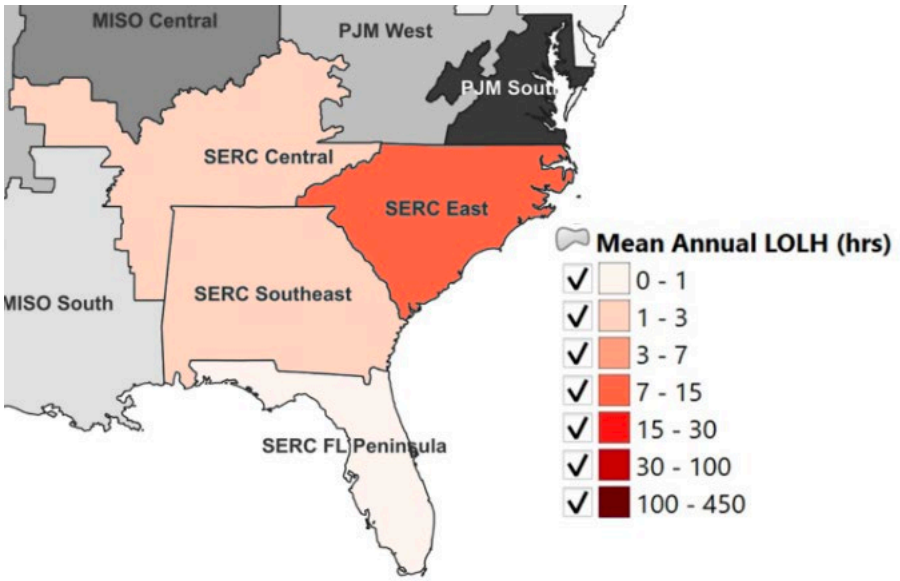
The Order quotes from NERC's 2026 Summer Reliability Assessment, Order at 4, but fails to acknowledge its findings with respect to reliability in Florida. NERC's annual Summer Reliability Assessment, published in May, covers the upcoming four-month (June–September) summer period; that is, the period covered by the Order. Ex. 15 at 1. Like the 2025 LTRA, the 2026 Summer Reliability Assessment characterized the SERC Florida Peninsula as "normal risk," the lowest risk category available, which it characterizes as "Sufficient operating reserves expected." *Id.* at 3. Moreover, the analysis in the 2026 Summer Reliability Assessment indicates no risk at all to the Florida area over the period of the Order. The Assessment stated: "No EUE or LOLH materialized within SERC-Florida Peninsula across all simulations, which resulted in an implied LOLE of approximately zero. These results indicate that available resources are sufficient to meet projected demand under modeled conditions." *Id.* at 13.

The Order refers to the 2026 Summer Reliability Assessment to highlight its finding that: "For the SERC–Florida Peninsula, the anticipated reserve margin is projected to be 25.8%; however, the anticipated reserve margin drops to 13.6% in the event of "higher demand, outages, [or] derates in extreme conditions." Order at 4 (citing Ex. 15 at 10). But this finding illustrates the strength of the reliability situation in Florida, not a weakness. But this finding illustrates the strength of the reliability situation in Florida, not a weakness. What this figure says is that, in a scenario where multiple stressors are applied at once—higher demand, outages and derates in extreme conditions—Florida still maintains an ample reserve margin of 13.6%, only slightly below its reference reserve margin of 15%. Reserve margins are designed to reflect a "buffer" to ensure sufficient generation during periods of extreme demand and/or unexpected outages. The finding thus indicates that even in those sorts of extreme conditions the extra "excess" capacity of the reserve margin is more than sufficient to cover operating needs. Indeed, the strength of Florida's system in relation to a variety of extreme events and conditions is likely one reason for NERC's finding that "across all simulations" the two reliability metrics registered risks of approximately zero.

iii. DOE's Resource Adequacy Report contradicts the emergency finding in the Order

DOE's own Resource Adequacy Report also contradicts the Order's emergency determination. In the Order, DOE cites generalized language from the Report's executive summary. *See* Order at 4. But the Order ignores the Report's Florida-specific analysis, which is flatly inconsistent with the Order's emergency finding. The Resource Adequacy Report offered two analyses, a "current system" model and a 2030 model. In the current system model, the Report found strong reliability conditions for all regions of the country except ERCOT. Ex. 50 at 7. In other words, the Resource Adequacy Report found no current reliability issues in Florida. For the

2030 model, the Report found that even in a "plant closure" scenario, available generation in Florida would exceed demand by more than 20GW in 2030. *See id.* at 30-31. The Report found that the SERC Florida subregion, "performed adequately," that no additional capacity would be needed in in the Florida subregion of SERC, and that, in the 2030 model, Florida had the lowest possible level of mean annual loss of load hours:



Source: DOE Resource Adequacy Report at 30.[22]

iv. Data centers that may be built in Florida do not pose an emergency

Another claim in the Order intended to substantiate the existence of an emergency is the purported gap between anticipated demand growth driven by data centers and generation and transmission growth through 2035. *See* Order at 2. But even if there were such a gap—which there

[22] The figure reproduced from DOE's Resource Adequacy Report shows the average annual loss of load hours (LOLH) in each region. As DOE explains elsewhere in the Report, LOLH "helps assess how frequently and for how long the power system is likely to experience insufficient supply, providing a picture of reliability in terms of time." Ex. 50 at 3. The figure above shows DOE's expectation that Florida will experience less than 1 loss-of-load hour per year. The Resource Adequacy Report's standard for a reliable system is an annual LOLH of less than 2.4. *See id* at 4.

is not—and even if such a long-term shortfall were an "emergency" for purposes of 202(c)—which it is not—the Department has failed to explain how data center demand is causing such a shortfall.

First, large loads like data centers must apply to the local utility, such as OUC, for interconnection. This process can take years and, in any event, does not conclude until the interconnecting utility determines that it has sufficient generation and transmission capacity available to serve the new large load while maintaining reliability on its system. Thus, when large loads enter the interconnection process faster than they can be served, the consequence is not an energy shortfall; the consequence is a backlogged queue of load requests. That means new loads must wait to come online, *not* that businesses and homes lose power.

Second, the Order makes no attempt to demonstrate that *any* data center is likely to be developed in OUC's service territory. DOE points to a single report concluding (without evidentiary support itself) that eight data centers are planned for construction in Florida as a whole. Order (citing Ex. 53 (Pew Report). But DOE makes no attempt to substantiate any relevant details of those supposed planned data centers, including their size, location within the state, expected completion date, and likelihood of completion. Nor does the Order suggest that Stanton 1 would be used to support demand in other balancing authority regions. And given the strong demonstrated desire of utilities in Florida to develop their own generation resources and the limited trading across balancing areas, it very likely would not. A vague, generalized nod to a nationwide data center boom does not offer substantial evidence of a data center-fueled electricity shortage in OUC's service territory or its neighboring regions. [23]

---

[23] The Order makes no attempt to explain how data center development in Florida is exceptional. Indeed, the report cited by DOE in the Order asserts the opposite: Florida is among the large states with the fewest number of planned data centers. For example, that there are currently 754 data centers planned across the South as a whole, but only 8 in Florida. *See* Ex. 53.

Third, the Order does not address whether those data centers have built, will build, or will financially support the building of the generation and transmission infrastructure that may be needed to serve their demand. Given the requirement of SB 484 that each utility establish a large-load tariff that ensures that "each large load customer bears its own full cost of service and that such cost is not shifted to the general body of ratepayers," Fla. Stat. § 366.043(3)(a), any assessment of a potential "emergency" caused by new data centers in Florida must reasonably, at least, evaluate such a possibility. While SB 484 does not, by its terms, require new generation or apply to OUC, if any of these eight data centers will be located in a public utility service territory, that utility will have to take steps to prevent cost-shift, which almost by definition would require development of new resources (or the un-mothballing of existing resources) paid for by such data centers. There is no reason to think that DOE's section 202(c) order is needed to fill a capacity gap.

Further, the Order ignores Florida's broader policy judgment that data center-driven load growth must not impose additional costs on ordinary customers.[24] There is no reason to think that DOE's section 202(c) order is needed to fill a capacity gap. Further, the Order ignores Florida's broader policy judgment that data center-driven load growth must not impose additional costs on ordinary customers. The Order is at odds with that policy: it compels OUC to keep Stanton online for the purpose of serving data center load. And because the Order does not ensure the costs for Stanton Unit 1 will be paid for by the unidentified data centers that create the purported need, it will result in precisely the type of cost-shifting the Florida Legislature intended to prevent. By forcing OUC's ratepayers to bear the operational and compliance costs associated with continued

[24] *See generally* Ex. 10.

Stanton operation, the Order disregards Florida's articulated intent to protect ratepayers from subsidizing it.

v. DOE's 202(c) Orders for Winter Storm Fern Do Not Support This Emergency Determination

The Order points to two recent 202(c) orders that the Department issued at OUC's request during Winter Storm Fern as evidence of "resource adequacy concerns" underlying the "emergency" identified here. Order at 3 (citing Ex. 55 (OUC 202(c) Application) and Ex. 54 (OUC 202(c) Application – Backup Generators)). But those orders were justified based on an entirely different set of stated conditions: "severe and widespread impacts across multiple regions of the United States, including extreme cold temperatures, freezing precipitation, high winds, disruptions to electric generation and transmission systems, natural gas supply constraints, and increased demand for electric and water services." Ex. 55 at 2. The result of the "extreme cold" in OUC's region was "record-breaking" projected demand over the following two-day period. *Id.*

An extraordinary, discrete event, causing an imminent and unforeseen surge in demand requiring specific resources to generate in excess of their permitted levels is precisely the kind of urgent, limited emergency to which 202(c) authorizes the Department to respond. The orders issued to OUC in response to its requests during Winter Storm Fern are consistent with DOE's longstanding, pre-2025 practice. *See supra* § IV.E. But the difference between those orders and this one could not be starker. The Order at issue here does not respond to OUC's request, does not address an urgent, imminent need, does not respond to an unforeseen circumstance, and does not direct a narrowly tailored response. The comparison to the Fern orders only highlight the extraordinary nature of the Order at issue here.

The emergency finding plainly cannot be grounded in the fact that emergency conditions existed during Winter Storm Fern. For one thing, Winter Storm Fern was a *winter* storm; the Order

at issue here applies to the May-September period. And despite the fact that OUC's is a summer-peaking system, NERC's SRA shows there is no risk of resource inadequacy during this summer period. Ex. 15 at 28. Further, the very nature of an emergency like the one that occurred during Winter Storm Fern is that it is extraordinary. Only the combination of "unusually high demand" caused by extreme cold coupled with reduced generation due to "system conditions and limitations in their environmental permits" produced the circumstances necessitating emergency intervention.

The Order cannot be defended as a precaution against future extreme weather-related emergencies. The Order never makes this argument. It does not frame the emergency as the risk of potential shortages during hypothetical future winter storms. Rather, the purported emergency event is conditions caused by anticipated load growth out to 2036. *See* Order at 2. In any event, as the Order recognizes, Florida is a summer-peaking system;[25] it therefore has substantial excess capacity during the winter months. *See* Order at 4 (citing Ex. 15 at 28).

Commandeering a utility's resource-adequacy planning on a decade-long scale for large loads like data centers bears no relation to the kind of imminent, immediate emergency that OUC and the Department confronted in Winter Storm Fern. That OUC sought a section 202(c) order covering its entire fleet of resources as a prophylactic measure in advance of an extraordinary winter storm does not mean that each of those resources must be maintained indefinitely. OUC itself, which requested the Fern order, could have delayed the Stanton 1 retirement but chose not to.

---

[25] So, too, is OUC's system. *See* Ex. 5 at 4-7.

vi. The Order contradicts President Trump's Ratepayer Protection Pledge and Florida Law Governing Data Center Cost Allocation

On March 4, 2026, the White House and a group of private sector companies released the "Ratepayer Protection Pledge." The first commitment of the Pledge states that the companies will "build, bring, or buy the new generation resources and electricity needed to satisfy their new energy demands, paying the full cost of those resources." Ex. 56 (Ratepayer Protection Pledge). The Order blatantly disregards that commitment. The Order justifies keeping the Stanton 1 facility operational on the grounds that it will be needed to meet data center demand. Order at 2. But the costs of the Order will not be paid by the companies that build or use data centers. Rather, the Order simply instructs OUC to recover its costs through a FERC-jurisdictional tariff, Order at 6 Para. E. In other words, the costs of this Order are likely to be paid for by Orlando families and businesses, or socialized across Florida ratepayers, with no regard for the commitments in the President's Ratepayer Pledge.

The Order also ignores a recent and pertinent amendment to Florida law. SB 484 is intended, among other things, to prevent the cost of data centers' electricity needs from being passed along to Florida ratepayers. Ex. 16. To that end, it requires that public utilities establish large-load tariffs that ensure that "each large load customer bears its own full cost of service and that such cost is not shifted to the general body of ratepayers." Fla. Stat. § 366.043(3)(a). The law requires Florida's public utilities to file by October 1, 2026, a compliant tariff for the PSC's approval. *Id*. § 366.043(8).

While the law does not apply to municipal utilities like OUC, *see id.* § 366.02(8) (defining public utility), it nevertheless bears directly on the supposed emergency the Order purports to address. Consistent with SB 484, data centers in most of Florida will be able to access the grid only insofar as they contract with a public utility pursuant to that utility's approved large-load

tariff. And those tariffs, properly implemented, will require that such data centers bear their own costs—i.e., the costs of new generation and transmission required to serve those loads.

The Order makes no effort to explain how data centers required to pay for their own generation and transmission could possibly impose a strain on the existing supply/demand balance—let alone such an extreme strain as to constitute an energy shortfall "emergency."

vii. The Concerns Described in the Order Are Insufficiently Specific and Certain to Meet the Statutory Definition of an Emergency.

The Order is unreasoned, not based on substantial evidence, and otherwise contrary to law and regulation because it fails to provide any specific determination of the energy emergency that purportedly exists, and instead relies on vague and generalized assertions. The Order fails to provide any specific determinations as to the amount of claimed shortfall, as to the time period that the claimed shortfall exists, and as to whether the claimed shortfall is for energy or capacity or both.

First, the Order does not provide a specific, quantitative determination of the shortage of electricity that allegedly exists. The Order does not say, for instance, whether the alleged shortage is for 1 megawatt, 100 megawatts, or 1000 megawatts. The Department does not even provide a range for the alleged shortage.

Second, the Order does not specify over what time period an energy emergency exists. The Order lasts for 90 days, but most or all of the Order's discussion of evidence for the claimed shortfall pertains to time periods much further in the future.

Third, the Order is not clear as to whether the purported shortfall is for energy, capacity, or both. In the electric utility industry, there is a fundamental distinction between energy and capacity. Energy refers to the electricity produced over a given period of time, such as kilowatt-hours or megawatt-hours. Meanwhile, capacity refers to the maximum output a facility can

provide, under specific conditions, and at an instant in time. The distinction between energy and capacity runs throughout the electricity industry, informing how contracts are structured (e.g., different payments for energy versus capacity) and how markets are organized (e.g., there are separate energy and capacity markets). The Order is not clear on whether the Department believes that there is a shortfall in energy, capacity, or both.

In relying on generalized assertions and failing to identify the information above, the Order is unreasoned. *Ariz. Pub. Serv. Co. v. United States*, 742 F.2d 644, 649 n.2 (D.C. Cir. 1984) ("[M]ere conjecture and abstract theorizing offered in a vacuum are inadequate to satisfy us that the agency has engaged in reasoned decisionmaking."). The Order is also inconsistent with the Department's applicable regulations, which provide that "[a]ctions under this authority are envisioned as meeting a specific inadequate power supply situation." 10 C.F.R. § 205.371.

Finally, the declaration of a "national energy emergency" by the President is not itself evidence of an "emergency" for purposes of 202(c). Whatever role EO 14262 may have had in informing the Secretary's decision to issue the May 23 Order, it does not provide "substantial evidence" to support the Secretary's determination. The Department may determine how it takes evidence,[26] and the Department may of course take policy direction from the President. But EO 14262 does not provide particularized facts supporting its conclusory statements about a national shortage of energy, and section 202(c) does not allow the Department to substitute the White House's say-so for "substantial evidence." *Amerijet Int'l, Inc. v. Pistole*, 753 F.3d 1343, 1350 (D.C. Cir. 2014) ("conclusory statements will not do; an 'agency's statement must be one of *reasoning.'"*) (*quoting Butte Cnty., Cal. v. Hogen*, 613 F.3d 190, 194 (D.C. Cir. 2010)); *cf. Consol. Edison Co. of New York v. N.L.R.B.,* 305 U.S. 197, 230 (1938) ("substantial evidence" standard

[26] *See* 16 U.S.C. § 825g.

requires "more than a mere scintilla," and statutory provision allowing evidence inconsistent with rules of evidence "does not go so far as to justify orders without a basis in evidence having rational probative force").

B. The Department Lacks Statutory Authority to Apply Section 202(c) to a Municipal Utility

Section 202(c), 16 U.S.C. § 824a(c), falls within subchapter II of the FPA, 16 U.S.C. §§ 824 *et seq*., and thus is subject to the exclusion for municipal utilities contained in Section 201(f) of the Act, 16 U.S.C. § 824(f). That exclusion provides, in pertinent part:

> No provision in this subchapter shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State . . . or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

The U.S. Court of Appeals for the District of Columbia Circuit has explained: "The implication of this [exclusion] is clear: subsections of subchapter II do not apply to governmental entities (including municipalities) unless a provision expressly provides . . . such authority." *Transmission Agency of N. Cal. v. FERC*, 495 F.3d 663, 674 (D.C. Cir. 2007).

The D.C. Circuit has further explained that a "provision" of the subchapter means "a "clause in a statute," not an entire section. *See Sw. Power Admin. v. FERC*, 763 F.3d 27, 33 (D.C. Cir. 2014) (quoting Black's Law Dictionary 1345 (9th ed.2009)). In that case, the court held that FPA section 215(e), which authorizes monetary penalties for violation of the reliability standards, could not be applied to an entity listed in section 201(f) on the basis that section 215(b)(1), which requires compliance with the standards, does specifically reference 201(f) entities. *Id*.

Section 202(c) contains no express reference to municipalities or to section 201(f) entities in general. Nor did Congress place Section 202(c) on the list of provisions that it chose to shield

from the full reach of the section 201(f) exemption. *See* 16 U.S.C. § 824(b)(2) (listing 15 provisions of the FPA that apply by their terms notwithstanding Section 201(f)). Therefore, section 202(c) does not "apply to" nor may it be "deemed to include" municipal utilities. 16 U.S.C. 824(f). Moreover, where Congress saw fit to include municipalities, in section 202(d), it named them specifically; a choice it did not make in section 202(c).

By applying section 202(c) to Stanton, which is wholly owned by OUC, a municipal utility, and by directing OUC to take certain specified actions, Order at 6 ("OUC shall take all measures necessary to ensure that Stanton Unit 1 is not placed in extended cold shutdown and is available to operate"), the Order exceeds the Department's statutory authority and should be immediately withdrawn. The Department has no power to act except on the basis of its statutory authority.

C. Even if There Were a Short-Term Need—Which There is Not—the Order Does Not Comply with the Statutory Command to Set Terms that Best Meet the Emergency and Serve the Public Interest.

1. Section 202(c)(1) Only Authorizes the Department to Require Generation that Best Meets the Emergency and Serves the Public Interest.

Section 202(c)(1) demands the Department only impose requirements that (i) "best" (ii) "meet the emergency and" (iii) "serve the public interest." 16 U.S.C. § 824a(c)(1).

The term "best" demands a comparative judgment that there are no better alternatives. The word "best" is inherently a comparative term and means "that which is 'most advantageous.'" *Entergy Corp. v. Riverkeeper, Inc.*, 556 U.S. 208, 218 (2009) (*quoting* Webster's New International Dictionary 258 (2d ed.1953)); *cf. Sierra Club v. Env't. Prot. Agency*, 353 F.3d 976, 980, 983–84 (D.C. Cir. 2004) (explaining that statutory "best available control technology" requirement demands sources in a category clean up emissions to the level that peers have shown can be achieved). Consequently, the Department must, at minimum, consider alternatives and

evaluate whether and to what extent a given alternative addresses the emergency and serves the public interest, including deficiencies associated with the alternative.

And as part of exercising reasoned decision-making, the Department must consider alternatives. It need not consider every conceivable alternative, but it must consider alternatives within the ambit of the existing policy as well as alternatives which are significant and viable or obvious. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020); *Motor Vehicle Manufs. Ass'n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 51 (1983); *Nat'l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 215 (D.C. Cir. 2013). Intervenors and the public may also introduce information that requires the Department to evaluate alternatives and reconsider its decision to impose or maintain a requirement. *See, e.g.*, *Chamber of Com. of the U.S. v. SEC*, 412 F.3d 133, 144 (D.C. Cir. 2005) (evaluating agency failure to consider alternative raised by dissenting Commissioners and introduced by commenters); *cf.* 10 C.F.R. § 205.370 (stating ability to cancel, modify, or otherwise change an order). To be sure, the nature and extent to which the Department must consider alternatives depends on the emergency. An emergency that truly requires the Department to act within hours, for instance, permits a more abbreviated consideration than an emergency for which the Department has days to decide.

The Department's regulations and practice identify relevant alternatives for its consideration. The regulations specify information the Department shall consider in deciding to issue an order under Section 202(c), and require an applicant for a 202(c) order to provide the information. 10 C.F.R. § 205.373. The specified information includes "conservation or load reduction actions," "efforts . . . to obtain additional power through voluntary means," and "available imports, demand response, and identified behind-the-meter generation resources selected to minimize an increase in emissions." 10 C.F.R. § 205.373(g)–(h); Ex. 26 at 5.

The Department may then only choose the best alternative. The best alternative is the one that is most advantageous for meeting the stated emergency and serving the public interest.

The statutory command to take only measures that serve the public interest, including with respect to environmental considerations, further constrains the Department's authority. The public interest element demands that the Department advance, or at least consider, the various policies of the Federal Power Act. *Cf. Wabash Valley Power Ass'n*, 268 F.3d at 1115 (interpreting the "consistent with the public interest" standard in Section 203 of the Federal Power Act); *see Gulf States Utils. Co. v. FPC*, 411 U.S. 747, 759 (1973); *California v. FPC*, 369 U.S. 482, 484–86, 488 (1962). Primary policies of the Federal Power Act include protecting consumers against excessive prices; maintaining competition to the maximum extent possible consistent with the public interest; and encouraging the orderly development of plentiful supplies of electricity at reasonable prices. *NAACP v. FPC*, 425 U.S. 662, 670 (1976) (orderly development); *Otter Tail Power Co. v. United States*, 410 U.S. 366, 374 (1973) (maintaining competition); *Pa. Water & Power Co. v. FPC*, 343 U.S. 414, 418 (1952) (excessive prices). And because Section 202(c) expressly protects environmental considerations, these are part of the public interest element too. See *NAACP*, 425 U.S. at 669 ("[T]he words 'public interest' . . . . take meaning from the purposes of the regulatory legislation.").

2. *The Order Fails to Impose Requirements that Best Meet the Claimed Emergency and Serve the Public Interest.*

The supposed emergency identified in the Order is a purported gap between anticipated demand growth driven by data centers and resource and transmission growth through 2035. *See* Order at 2. But even if there were such a gap—which there is not—and even if such a long-term shortfall were an "emergency" for purposes of 202(c)--which it is not—the Department remained

obligated to impose conditions that "will best meet the emergency and serve the public interest." 16 U.S.C. § 824a(c)(1). DOE shirked that obligation entirely.

The Department made no attempt to demonstrate that *any* data center is likely to be developed in OUC's service territory. DOE points to a single report concluding (without evidentiary support itself) that eight data centers are planned for construction in Florida.[27] But DOE makes no attempt to substantiate any relevant details of those supposed planned data centers, including their size, location within the state, expected completion date, and likelihood of completion. And given the relatively limited trading among utilities in Florida, DOE also made no attempt to demonstrate that retention of Stanton would be used to address any supposed (and also unsubstantiated) needs of neighboring utilities.

Nor does the Order consider whether those data centers have contracted with, or will contract with, new generation and transmission infrastructure. A few weeks before the Order, Florida enacted SB 484, which substantially alters the legal regime applicable to data center development. The law requires that public utilities—like Florida Power & Light or Duke Energy Florida—establish large-load tariffs that ensure that "each large load customer bears its own full cost of service and that such cost is not shifted to the general body of ratepayers." Fla. Stat. § 366.043(3)(a). The law requires Florida's public utilities to file by October 1, 2026, a compliant tariff for the PSC's approval. *Id.* § 366.043(8).

So, to the extent data centers planned for Florida will be built in areas served by public utilities, those data centers will take service under new, large-load tariffs that require the data center to bear "its own cost of service." How exactly utilities and data centers will comply with that requirement remains to be seen, but Florida law, properly implemented, requires that the cost

---

[27] Order at 2 (citing Ex. 13 at 6).

of service not fall on ratepayers. The demands of reasoned decisionmaking required DOE to consider how Florida's data center law is likely to bear on future data center development. Failure to account for that significant factor was arbitrary and capricious.

Further, the Order does not evaluate why Stanton Unit 1 is a poor fit to meet the claimed emergency. The weaknesses and dangers of coal-burning facilities like Stanton are profound. Coal-burning facilities cannot meet modern energy demands and actually pose reliability risks themselves.

Cold snaps, heat waves, and storms have all exposed coal's fragility during grid stress events. Reliability is not just about being dispatchable, it's about delivering performance under stress. Coal plants struggle to do that consistently. For coal plants to truly meet the constant demands of data centers, they would need to run at high-capacity factors and avoid major outages, all of which fly in the face of current performance trends. If a large coal plant trips offline while supporting a cluster of data centers, the sudden loss of supply could lead to cascading failures across the grid. This is because generation must equal load at all times, datacenter or no datacenter. As a result, relying on coal plants to support these high-density digital loads doesn't enhance reliability, it endangers it. And it's not a matter of *if* the coal plant will fail, but *when*.[28]

The Department avers that it is concerned with reliability yet puts forward no analysis to address the likelihood that it is actually creating the (otherwise unproven) problem it is supposedly trying to address. This ostrich-like approach to record evidence and public evidence is not reasoned decision-making. *Butte Cnty., Cal. v. Hogen*, 613 F.3d 190, 194 (D.C. Cir. 2010); *cf. Ky. Mun.*

---

[28] *See* Ex. 3 (RMI Analysis of Coal Plants' Threats to Reliability at 2-3).

Energy Agency v. FERC, 45 F.4th 162, 177 (D.C. Cir. 2022) (rejecting "ostrich-like approach" to agency decision-making).

The Order asserts that it is necessary to avoid "practical issues" that would arise once Stanton 1 is retired. Order at 1 n.7. But the *status quo ante* absent the Order was *not* Stanton 1's imminent retirement. As DOE understood, OUC planned to keep Stanton 1 in a state of "cold shutdown," from which it could have been made available. Ex. 6. So, whatever practical issues might, in other cases, make it difficult for a retired coal plant to resume operations following retirement simply do not apply in this case—as DOE knew. DOE nowhere explains how *any* action, beyond what OUC was already planning, would be necessary to maintaining Stanton 1 as a resource available to return to service, should conditions demand it.

The Order points to projections of demand growth from "new data centers and other large loads." Order at 2. Even assuming *arguendo* the Department has authority under Section 202(c) to address that claimed circumstance (it does not), coal plants' "always-on nature" and "rigidity" are "a poor match for the dynamic and often unpredictable nature of data center demand." Ex. 3 at PDF 3 (RMI Analysis of Coal Plants' Threats to Reliability).[29] "[L]arge, voltage-sensitive loads like data centers require flexible, responsive grid solutions, not slow-ramping generators that can take 12 or more hours to come online." *Id*. at PDF 3 (relying on NERC). In short, the Order fails to examine inherent mismatch between the problem it diagnoses and the mandate it imposes. This is not reasoned decision-making.

---

[29] *See also* Ex. 57 at 3 (Energy Innovation Report) (explaining that data center loads "are not 24/7 blocks. Instead, they are choppy, with swings of hundreds of megawatts over short intervals, undermining assumptions of steady baseload behavior and potentially affecting the stability of the grid if safeguards are not put in place"); *see also* Ex. 58 at 16 (NARUC Coal Report) (discussing typical coal plants' startup and cycling costs); Ex. 59 at 26 (IEA Flexibility Report) (discussing coal plant start-ups).

Finally, the Order makes no effort to explain how ordering OUC to "to provide the Department at least fifteen days' prior advance notice in writing before any change in operational status or otherwise of Stanton Unit 2 occurs" serves, at all, an emergency supposedly met by mandating Stanton 1's continued operation. Order at 7. The Department has not made a determination that Stanton Unit 2 is necessary to best meet any emergency. Given that, DOE has not explained how it can invoke section 202(c) to order performance of any action regarding Stanton Unit 2. To the extent an emergency justifies continued operations of Stanton 1, DOE's authority extends only as far as Stanton 1. Extending the Department's power grab to Stanton 2 cannot plausibly meet the supposed emergency. *See* Order at 6.

D. The Order Fails to Provide the Conditions Necessary to Override Environmental Requirements Under Section 202(c)(2).

Where an order may conflict with environmental laws, Section 202(c)(2) requires the Department to "ensure:" (1) that it compels "generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest;" (2) that operations are "to the maximum extent practicable . . . consistent with any applicable Federal, State or local environmental laws;" and (3) that it minimizes any adverse environmental impact, regardless of the facility's compliance (or non-compliance) with environmental standards. 16 U.S.C § 824a(c)(2). The Order here violates all three of those statutory obligations—a failure with especially severe consequences given the pollution produced by the Stanton Plant.

1. *Legal Framework: Section 202(c) Further Limits the Department's Authority and Mandates Affirmative Steps to Maximize Environmental Compliance and Minimize Environmental Harm Where the Order "May Result in a Conflict" with a Federal, State, or Local Environmental Law or Regulation.*

The Federal Power Act obligates the Department to include precautions in a Section 202(c) Order where the order "may result in a conflict" with environmental laws or regulations. This is a forward-looking inquiry with a low threshold.[30]

The word "may" in this context denotes a mere possibility, not a certainty. This is especially apparent when matched against the term "shall" used in Section 202(c)(2) and the other provisions added to Section 202(c) at the same time. *See* Fixing America's Surface Transportation Act of 2015, Pub. L. No. 114-94, 129 Stat. 1312 § 61002 (codified at 16 U.S.C. § 824a). Congress' use of the two disparate terms must be given effect. *See, e.g.*, *Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 172 (2016) (discussing significance of the words "may" and "shall" in the same statutory provision).

Moreover, the consequences need not be "noncompliance" or "violation" of environmental law, both of which are terms Congress also used in 2015 adding other provisions to Section 202(c). A potential "conflict" suffices. *Cf. Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372–73 (2000) (explaining that courts find "conflict" in the preemption context where, for instance, a law or order "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress"). Taken together, anytime a Department order creates circumstances that might obstruct the accomplishment or execution of environmental laws or regulations, Section 202(c)(2) imposes duties on the Department to maximize compliance with the law and minimize adverse environmental effects.

---

[30] If actual noncompliance with environmental laws and regulations occurs to carry out the order, the statute provides a safe harbor. 16 U.S.C. § 824a(c)(3).

Congress adopted the requirements of Section 202(c)(2) to address environmental issues arising in response to emergencies on the grid. Congress was well aware of environmental issues stemming from 202(c) orders when it imposed the requirements in Section 202(c)(2). *See, e.g.*, Ex. 33 at 807–09 (discussing prior incidents of tension between environmental requirements and responses to emergencies on the grid, and congressional hearings addressing the matter as part of the passage of Section 202(c)(2)). Congress struck a reasonable balance requiring that environmental concerns not be left by the wayside while the Department responds to actual emergencies. Rather than requiring the Department to engage in a probing review of environmental laws and permits at all levels of our federalist system before acting, Congress set a low threshold for imposition of the mandatory Section 202(c)(2) duties to minimize conflicts with state environmental laws and environmental harms flowing from a Section 202(c) order.

2. The Order May Result in a Conflict with a Federal, State, or Local Environmental Law or Regulation.

Here, the Department implicitly acknowledges the possible conflict. The Order is limited to a 90-day duration. Order at 5. That temporal limitation exists only for a section 202(c) order that may result in a conflict with environmental requirements. 16 U.S.C. § 824a(c)(4). The Order also imposes the 90-day duration "[t]o minimize adverse environmental impacts." Order at 6.

The Order may result in a conflict with—and appears to undermine—a core assumption underlying Florida's state implementation plan to reduce haze pollution, rendering that plan inadequate to meet Florida's Clean Air Act obligations. The Clean Air Act requires Florida to develop and obtain EPA approval of a state air quality implementation plan describing how Florida will implement and enforce the Clean Air Act's haze pollution reduction mandates. 42 U.S.C. § 7401. In October 2021, the Florida Department of Environmental Protection submitted to EPA for approval a revision of its SIP for the period from 2019-2028. Ex. 60 (FL DEP Letter to US EPA

re Regional Haze Plan for Second Implementation Period). EPA approved Florida's state implementation plan to make reasonable progress toward reducing haze pollution by 2028. Florida's SIP assumed declining coal generation, consistent with OUC's publicly announced and board-approved retirement of Stanton Unit 1—a retirement that FDEP itself acknowledged in its SIP comment responses created an obligation to reassess plan adequacy if "anticipated emissions reductions do not occur." Ex. 61 (Florida DEP Response to Public Comments). By compelling that Stanton "not be placed in cold shutdown" and instead remain "available to operate: , the 202(c) order ensures that those anticipated reductions will not occur for at least the duration of the order, generating precisely the emissions trajectory divergence that FDEP's own SIP record identifies as triggering a mandatory adequacy review and potential SIP revision.

3. The Order Lacks the Conditions Required by Section 202(c).

i. The Order Fails to Require Generation Only During Hours Necessary to Meet the Purported Emergency.

The law requires the Department to "ensure" that it "requires generation . . . only during hours necessary to meet the emergency and serve the public interest." 16 U.S.C. § 824a(c)(2). And the emergency nominally described by the Order is "the combination of increasing demand and shortage" that "could lead to the loss of power to homes and local businesses in the areas affected by curtailments or power outages, presenting a risk to public health, and safety." Order at 5. Thus, Stanton Unit 1 may be compelled to operate only when there is an actual risk of a "loss of power to homes and local businesses."

The Order's terms fail to ensure that OUC does not generate electric energy from Stanton when other resources are available to prevent the claimed emergency, placing the Department in

breach of its obligation to "ensure" that it "requires generation . . . only during hours necessary to meet the emergency and serve the public interest." 16 U.S.C. § 824a(c)(2). This is because the Order fails to provide *any* limitations on when generation from Stanton is required. The absence of such limitations differentiates the Order from Section 202(c) orders issued before 2025, *see, e.g.*, Ex. 38 at 9 ("authorizing operation of" units subject to emergency order "only when called upon . . . for reliability purposes," according to "dispatch methodology" approved by the Department), and even certain orders issued by this Department after the December Order.[31]

DOE's failure to impose the limits required by law has led OUC to run Stanton 1 even more than it previously operated. In the year leading up to the Order, Stanton 1 generated, on average, 181 MW per hour. *See* Ex. 65 (SEC 1 Gross Generation). But since the Order, Stanton 1's generation has increased to an hourly average of 242MW. *See* Ex. 39 at ¶ 42 (Grace Hauser Affidavit). Comparing the same period year to year reveals an even starker increase. In the period since the Order—June 4, 2026 to June 23, 2026—Stanton 1 has produced an hourly average 46% higher compared to the same period in the year prior. *See id.* at ¶ 43.

With DOE's impermissibly vague directives, which fail to ensure limited operation under section 202(c), OUC has taken the liberties of operating Stanton Unit 1 however and whenever *OUC* deems necessary. In doing so, DOE has impermissibly delegated DOE's discretion and responsibility onto a private entity. "Federal lawmakers cannot delegate regulatory authority to a

---

[31] *See* Ex. 62 (DOE Order No. 202-26-01) (authorizing specified entities "to direct [certain] backup generation resources . . . to operate as a last resort before declaring an Energy Emergency Alert (EEA) 3 (i.e., before firm load interruption) or during an EEA 3"); Ex. 63 (DOE Order No. 202-26-01A) authorizing specified entities "to direct [certain] backup generation resources . . . to operate after ERCOT deploys all available market services, except for frequency responsive services, before declaring an Energy Emergency Alert (EEA) 3 (i.e., before firm load interruption) or during an EEA 3"); *cf.* Ex. 64 (DOE Order No. 202-26-03)("In the event that ISO-NE determines that generation from the Specified Resources is necessary to meet the electricity demand that ISO-NE anticipates in its service territory, I direct ISO-NE to dispatch such unit or units and to order their operation only as needed to maintain reliability.").

private entity. To do so would be 'legislative delegation in its most obnoxious form.'" *Ass'n of Am. R.R. v. U.S. DOT*, 721 F.3d 666, 670 (D.C. Cir. 2013), *vacated on other grounds and remanded sub nom. DOT v. Ass'n of Am. R.R.*, 575 U.S. 43 (2015).

ii. The Order Fails to Ensure Maximum Practicable Consistency with Environmental Rules and to Minimize Adverse Environmental Impacts.

Second, the Order fails to ensure that the Stanton Plant operates, "to the maximum extent practicable," in conformity with applicable environmental rules. 16 U.S.C. § 824a(c)(2). The Order paraphrases the statutory text—that "operations of Stanton Unit 1 must comply with applicable environmental requirements . . . to the maximum extent feasible," but fails to specify *who* bears that responsibility or *what* such operation entails. Order at 6. It imposes no further conditions beyond requiring OUC to "pay fees or purchase offsets or allowances for emissions." *Id.* The direction to "comply . . . to the maximum extent feasible" is, as a result, wholly unenforceable; the Order provides no basis for the Department, or anyone else, to determine whether the plant is in fact complying or who might face the consequences of any failure to do so.[32] As such, the Order does not meet the Department's statutory obligation to "*ensure*" the maximum feasible compliance with applicable environmental standards. 16 U.S.C. § 824a(c)(2) (emphasis added).

The most definitive way to maximize consistency with state and federal environmental laws and regulations would be to reduce Stanton's generation to zero and allow OUC to instead put Stanton in the cold shutdown it had planned.

---

[32] *See* Ex. 2 (requiring, *inter alia,* reporting of "number and actual hours each day" of operation "in excess of permit limits or conditions," and information describing how generators met requirement to comply with environmental requirements to maximum extent feasible).

In addition, the Order fails to "minimize[] any adverse environmental impacts." 16 U.S.C. § 824a(c)(2). That mandate is textually and substantively distinct from the Department's (also unfulfilled) obligation to ensure maximum practicable compliance with environmental standards. *Id.*

The Order instead states: "To minimize adverse environmental impacts, this Order limits operation of Stanton Unit 1 to the times and within the parameters as determined by OUC pursuant to paragraph A." But "paragraph A" in no way constrains OUC in determining how to operate Stanton Unit 1. All it requires is that OUC take "all necessary measures to ensure Stanton Unit 1 is not placed in extended cold shutdown and is available to operate."

Again, the effect of these commands is that DOE has authorized OUC to operate Stanton Unit 1 however and whenever *OUC* deems necessary. *See supra* § V.D.3.i.

E. The Department Violated NEPA

Orders issued under section 202(c) are major federal actions subject to NEPA.[33] Such orders direct federal interventions that may affect environmental conditions. The direction to continue operation of Stanton Unit 1 is unquestionably a major action that significantly affects the environment. Continued operation of Stanton Unit 1 will result in significant increases of air and water pollution compared to a scenario in which Stanton 1 was put in cold shutdown as planned.[34]

For any DOE action affecting the quality of the environment, DOE must comply with NEPA—including through issuance of an environmental impact statement, environmental assessment, categorical exclusion, or special environmental analysis. *See* 10 C.F.R. § 1021.102(b).

---

[33] 42 U.S.C. § 4336e(10) (defining a "major federal action" as one in which the agency carrying out such action determines subject to substantial Federal control and responsibility.").
[34] See *infra* § VI.A.

DOE has not taken, or even initiated, any such action. As such, it is acting contrary to its own NEPA regulations and to its obligations under NEPA.

DOE has previously sought to comply with NEPA for section 202(c) orders through categorical exclusions or special environmental assessments. Neither have been undertaken in this instance. Moreover, neither would be applicable here.

DOE has previously pointed to categorical exclusion B4.4 for "power management activities." Appendix B to Part 1021, Title 10, B4.4 Power Marketing Services and Activities. However, that categorical exclusion is applicable only "provided that the operations of generating projects would remain within normal operating limits." *Id.* Here, the Order authorizes Stanton Unit 1 to operate beyond its normal permitted limits. Consequently, neither categorical exclusion B4.4, nor any other available exclusion, applies.

More recently, DOE has, on certain occasions, relied on emergency provisions that can excuse agencies from preparing environmental documents before taking such actions,[35] and instead prepared after-the-fact Special Environmental Analyses in the event that an order results in a significant affect on the environment.[36] However, these instances involved sudden emergencies that provided DOE substantially less notice compared to the months or years of advance warning DOE received regarding Stanton Unit 1's scheduled retirement. In this case, DOE acted in response to circumstances known well in advance: the long-scheduled retirement of Stanton Unit 1. Given considerable lead time, DOE had ample opportunity to prepare, at a

---

[35] *See* 10 C.F.R. § 1021.343(a); 40 C.F.R. § 1506.12.
[36] *See* Ex. 66 (DOE, Air Quality and Environmental Justice Memorandum (2021); Ex. 67 (DOE, Special Environmental Analysis for Actions Taken Under DOE Emergency Orders re Operation of Potomac River Generating Station in VA).

minimum, an EA prior to issuing its Order. DOE's failure to initiate any environmental review thus lacks justification.

VI. Request for Stay

Public Interest Organizations further move the Department for a stay of the Order until the conclusion of judicial review. 18 C.F.R. § 385.212. The Department has the authority to issue such a stay under the Administrative Procedure Act and should do so where "justice so requires." 5 U.S.C. § 705. In deciding whether to grant a request for stay, agencies consider (1) whether the party requesting the stay will suffer irreparable injury without a stay; (2) whether issuing a stay may substantially harm other parties; and (3) whether a stay is in the public interest. *Nken v. Holder*, 556 U.S. 418, 434, 436 (2010); *Ohio v. EPA*, 603 U.S. 279, 291 (2024); *see, e.g.*, *Midcontinent Indep. Sys. Operator, Inc.,* 184 FERC ¶ 61,020, at P 41 (2023); *ISO New Eng. Inc.*, 178 FERC ¶ 61,063, at P 13 (2022), *rev'd on other grounds sub nom. In re NTE Conn., LLC*, 26 F.4th 980, 987–88 (D.C. Cir. 2022).

Injuries under this standard must be actual, certain, imminent, and beyond remediation. *Mexichem Specialty Resins, Inc. v. EPA*, 787 F.3d 544, 555 (D.C. Cir. 2015); *Wis. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985); *ANR Pipeline Co.*, 91 FERC ¶ 61,252, at 61,887 (2000); *City of Tacoma*, 89 FERC ¶ 61,273, at 61,795 (1999) (recognizing that, absent a stay, options for "meaningful judicial review would be effectively foreclosed"). Financial injury is only irreparable where no "adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation." *Wis. Gas Co.*, 758 F.2d at 674 (*quoting Va. Petroleum Jobbers Ass' n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958)); *see also In re NTE Conn., LLC*, 26 F.4th 980, 991 (D.C. Cir. 2022). Environmental injury, however, "can seldom be adequately remedied by money damages and is often permanent or at least of long duration, *i.e.*, irreparable.

If such injury is sufficiently likely, therefore, the balance of harms will usually favor the issuance of an injunction to protect the environment." *Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545 (1987).

Under those standards, a stay of the Order is appropriate.

A. Intervenors are Irreparably Harmed by the Order

The Order mandates that Stanton 1 forgo its plans to enter a state of "extended cold shutdown" and instead demands that it remain available, through what it contemplates as "continuous operation . . . so long as the Secretary determines a shortage exists and is likely to persist." Order at 2 n.7. As discussed above, the Order leaves entirely to OUC's discretion what operations are necessary to remain available. DOE's abdication of its responsibilities to impose limits required by law has led OUC to run Stanton 1 even more than before.[37] Stanton 1 is causing, and will continue to cause, increased air pollution, irreparably harming the PIOs' members. As noted above, Stanton 1 is a coal-fired power plant, which, in its current condition, has a maximum capacity of 453 MW. To produce that electricity, Stanton 1 combusts coal, which results in the emission of tons of SO_2, NOx, and PM 2.5—all air pollutants harmful to human health. *See* Ex. 68 (EPA SO2 and NOX eGRID Data). As a result of the Order, Stanton 1 is continuing operations; absent the Order, it would be shuttered and would not emit any harmful pollutants. *See* Ex. 70 (OUC Daily Report to DOE) ("Stanton Unit 1 has operated in compliance with the allowances contained in this Order."). The generation resources that would make up for Stanton 1's absence, by contrast, are all but certain to be cleaner than Stanton. Accordingly, the effect of the Order is to significantly pollute Florida's air.

---

[37] *See* Ex. 65 (comparing June 2025 gross-generation data with June 2026 gross-generation data reveals an increase in generation of 78%).

The air pollution emitted by Stanton 1 is causing, and will continue to cause, harms to public health in Florida. According to analysis performed by EDF using U.S. EPA's COBRA tool, and U.S. EPA's Clean Air Markets Program Data, the harms from a year of Stanton 1's continued operation include $189.5 to $296.5 million (2023 USD) in harms to human health. Ex. 39 at ¶ 31-32. As a rough approximation, the effects from continued use of the plant for the three-month period of the Order would be one quarter the effects of a year-long closure—i.e., increased asthma symptoms for Florida residents and hundreds of lost school days and work days. *Id.* Such environmental harms, "by [their] nature, can seldom be adequately remedied by money damages." *Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545 (1987).

These harms are "actual," "certain," "imminent," and "beyond remediation." *See Mexichem Specialty Resins, Inc. v. EPA*, 787 F.3d 544, 555 (D.C. Cir. 2015). A stay of the Order is necessary to prevent these harms.

B. A Stay Would Not Result in Harm to Any Other Interested Parties.

No other interested parties would be harmed by a stay. The issuance of a stay would not harm end-use electricity consumers because the lack of an actual emergency means that a stay would not disrupt the provision of electricity. *See supra* sections III.B–C, IV.A. Furthermore, because OUC has already planned for the closure of Stanton 1, a stay would only have the effect of relieving OUC of the administrative, compliance, and planning burdens imposed by the Order. *See, e.g.*, Order. On the balancing of equities, there is therefore no meaningful countervailing harm that would follow from a stay.

C. A Stay is in the Public Interest Given the Significant Evidence Demonstrating There is No Factual or Legal Support for This Order, and the Harm it Produces to the Broader Public.

There is no public interest served by the Order, and a stay will only benefit the public. First, the Order exceeds the Department's authority; it has provided no reasonable grounds to

substantiate any near-term or imminent shortfall in electricity supply that would justify Stanton 1's continued operation. *See League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (noting "there is a substantial public interest 'in having governmental agencies abide by the federal laws that govern their existence and operations'") (quoting *Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 1994)). Second, the Order overrides Florida's exercise of its "authority to choose [its] preferred mix of energy generation resources." *Citizens Action*, 125 F.4th at 238. And third, it would protect the broader public—beyond Public Interest Organizations and their members—from the onerous costs, and dangerous pollution, produced by unnecessary operation of the Stanton Plant.

VII. Conclusion

For the reasons set forth above, the undersigned Public Interest Organizations respectfully request that the Department grant intervention; grant rehearing and rescind the Order (and any renewals of the Order); and stay the Order.

Filed on July 02, 2026

Submitted by:

/s/ Adam Kurland
Adam Kurland
Attorney, U.S. Clean Energy
Ted Kelly
Lead Counsel, U.S. Clean Energy
555 12th Street, N.W., Suite 400
Washington, DC 20004
(202) 572-3317
akurland@edf.org
tekelly@edf.org

Counsel for Environmental Defense Fund

/s/ Jennifer Yun
Jennifer Yun
Michael Lenoff
1250 I St. NW, Fourth Floor
Washington, DC 20005
(202) 667-4500
jyun@earthjustice.org
mlenoff@earthjustice.org

Counsel for Florida Rising

/s/ Jonah Baskin
Jonah Baskin
Associate Attorney
Isabella Ariza
Staff Attorney
Environmental Law Program
50 F Street NW, Eighth Floor
Washington, DC 20001
(202) 556-3917
jonah.baskin@sierraclub.org
isabella.ariza@sierraclub.org

Matthew Gerhart
Senior Attorney
1536 Wynkoop St., Suite 200
Denver, CO 80202
(303) 454-3346
matt.gerhart@sierraclub.org

Counsel for Sierra Club

[Attachment: Index of Exhibits]

Index of Exhibits

No.	Exhibit Name	Document Name	URL
1	DOE Stanton Order	DOE, Order No. 202-26-26 (Jun. 4, 2026)	https://www.energy.gov/documents/doe-emergency-order-no-202-26-26
2	DOE Order No. 202-22-4	DOE, Order No. 202-22-4 (Dec. 24, 2022)	https://www.energy.gov/sites/default/files/2022-12/PJM%20202%28c%29%20Order.pdf
3	RMI Analysis of Coal Plants' Threats to Reliability	Gabriella Tosado, Ashtin Massie & Joe Daniel, *Reality Check: We Have What's Needed to Reliably Power the Data Center Boom, and It's Not Coal Plants*, RMI (Aug. 12, 2025)	https://rmi.org/reality-check-we-have-whats-needed-to-reliably-power-the-data-center-boom-and-its-not-coal-plants/
4	DOE Order No. 202-17-4 Summary of Findings	Summary of Findings DOE Order No. 202-17-4 (Sep. 14, 2017)	https://www.energy.gov/sites/default/files/2017/09/f36/Order%20202-17-4%20Summary%20of%20Findings.pdf
5	OUC 2026 TYSP	Orlando Utilities Commission 2026 Ten-Year Site Plan (Apr. 2026)	https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2026/Orlando%20Utilities%20Commission.pdf
6	OUC Response to DOE RFI	Orlando Utilities Commission Response to DOE Information Request for Stanton Energy Center (Apr. 22, 2026)	https://drive.google.com/file/d/1GW_1ICVRSmRyWGwSgk3hi9GlhiG4VFnX/view?usp=sharing
7	DOE Order No. 202-02-1	DOE, Order No. 202-02-1 (Aug. 16, 2002)	https://www.energy.gov/sites/default/files/202%28c%29%20order%20202-02-1%20August%2016%2C%202002%20-%20CSC.pdf

No.	Exhibit Name	Document Name	URL
8	OUC EIRP	Orlando Utilities Commission 2020 Electric Integrated Resource Plan Report (Nov. 2020)	https://oucroadmap.com/wp-content/uploads/2020/11/Siemens_OUC-2020-EIRP-Draft-Report_11.09.2020.pdf
9	DOE 4.8.26 Letter	Dept. of Energy, Letter re Information Request for Stanton Energy Center (Apr. 8, 2026)	https://drive.google.com/file/d/1-NFADj9TUXW-tkABq5R7pnILdYlVvvlV/view?usp=sharing
10	YouTube, Governor DeSantis Signs Law to Protect Floridians from Subsidizing Data Centers	YouTube, Governor DeSantis Signs Law to Protect Floridians from Subsidizing Data Centers	https://www.youtube.com/watch?v=GWwGlaE3yO4 (link, as well as archive .mp4 file, sent to DOE)
11	FPL 2026 TYSP	Florida Public Service Commission Ten Year Power Plant Site Plan 2026-2035 (Apr. 2026)	https://www.fpl.com/content/dam/fplgp/us/en/about/pdf/ten-year site-plan.pdf
12	Review of the 2025 Ten Year Site Plans of Florida's Electric Utilities	Florida Public Service Commission Review of the 2025 Ten Year Site Plans of Florida's Electric Utilities (Nov. 2025)	https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2025/Review.pdf
13	FRCC, 2025 Regional Load & Resource Plan, FRCC-MS-PL-642	Florida Reliability Coordinating Council, Inc., 2025 Regional Load & Resource Plan FRCC-MS-PL-642	https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2025/FRCC_RLRP.pdf

No.	Exhibit Name	Document Name	URL
14	2025 LTRA	North American Electric Reliability Corporation, 2025 Long-Term Reliability Assessment (Jan. 2026)	https://www.nerc.com/globalassets/our-work/assessments/nerc_ltra_2025.pdf
15	2026 SRA	North American Electric Reliability Corporation, 2026 Summer Reliability Assessment (May 2026)	https://www.nerc.com/globalassets/our-work/assessments/nerc_sra_2026.pdf
16	DeSantis Press Release on SB 484	Governor Ron DeSantis Signs Law To Protect Floridians From Subsidizing Data Centers, Executive Office of Governor Ron DeSantis (May 7, 2026)	https://www.flgov.com/eog/news/press/2026/governor-ron-desantis-signs-law-protect-floridians-subsidizing-data-centers.
17	DOE Order Pursuant to Section 202(c) of the Federal Power Act (Dec. 14, 2000)	DOE Order Pursuant to Section 202(c) of the Federal Power Act (Dec. 14, 2000)	https://www.energy.gov/documents/202c-order-december-14-2000-californiapdf
18	DOE Order No. 202-03-01	DOE, Order No. 202-03-01 (Aug. 14, 2003)	https://www.energy.gov/documents/202c-order-202-03-1-august-14-2003-cscpdf
19	DOE Order No. 202-05-01	DOE Order No. 202-05-1 (Sept. 28, 2005)	https://www.energy.gov/documents/202c-order-202-05-1-september-28-2005-centerpoint-energypdf
20	DOE Order No. 202-05-02	DOE Order No. 202-05-2 (Sept. 30, 2005)	https://www.energy.gov/documents/202c-order-202-05-2-september-30-2005-txu-electricpdf

No.	Exhibit Name	Document Name	URL
21	DOE Order No. 202-08-1	DOE Order No. 202-08-1 (Sept. 14, 2008)	https://www.energy.gov/sites/prod/files/202%28c%29%20order%20202-08-1%20September%2014%2C%202008%20-%20CenterPoint%20Energy.pdf
22	DOE Order No. 202-20-1	DOE Order No. 202-20-1 (Aug. 27, 2020)	https://www.energy.gov/sites/prod/files/2020/08/f77/EXEC-2020-003381%20-%20Order%20202-20-1%20Signed%20by%20Secretary%20Brouillette%20dtd%2082....pdf
23	DOE Order No. 202-24-1	DOE Order No. 202-24-1 (Oct. 9, 2024)	https://www.energy.gov/sites/default/files/2024-10/Duke%20202%28c%29%20Order_100924%20FINAL_JMG%20signed.pdf
24	DOE Order No. 202-21-1	Department of Energy Order No. 202-21-1 (Feb. 14, 2021)	https://www.energy.gov/documents/doe-202c-emergency-order-ercot-02142021pdf
25	DOE Order No. 202-22-3	DOE Order No. 202-22-3 (Dec. 23, 2022)	https://www.energy.gov/sites/default/files/2022-12/Department%20of%20Energy%20Order%20No.%20202-22-3signed.pdf
26	DOE Order No. 202-22-4	DOE, Order No. 202-22-4 (Dec. 24, 2022)	https://www.energy.gov/sites/default/files/2022-12/PJM%20202%28c%29%20Order.pdf
27	DOE Order No. 202-20-2	Department of Energy Order No. 202-20-2 (Sept. 6. 2020)	https://www.energy.gov/oe/articles/federal-power-act-section-202c-caiso-september-2020?nrg_redirect=454296
28	DOE Order No. 202-21-2	Department of Energy Order No. 202-21-2 (Sept. 10, 2021)	https://www.energy.gov/documents/caiso-202c-order
29	DOE Order No. 202-22-1	Department of Energy Order No. 202-22-1 (Sept. 2, 2022)	https://www.energy.gov/sites/default/files/2022-09/Order%20202-22-1%20final.pdf

No.	Exhibit Name	Document Name	URL
30	DOE Order No. 202-22-1 Amendments	Amendment Number 1 to Order No. 202-22-1	https://www.energy.gov/sites/default/files/2022-09/CAISO%20202%28c%29%20Modification%20Order.pdf
31	DOE Order No. 202-22-2	Department of Energy Order No. 202-22-2 (Sept. 4, 2022)	https://www.energy.gov/sites/default/files/2022-09/Order%20202-22-2%20Final%20for%20BANC%20.pdf
32	DOE Order No. 202-22-2 Amendments	Amendment Number 1 to Order No. 202-22-2	https://www.energy.gov/sites/default/files/2022-09/Amendment%20No.%201%20to%20Order%20202-22-2%20sb%20A_S3%20Hogan.pdf
33	Rolsma, *The New Reliability Override,* 57 U. Conn. L. Rev. 789 (2025)	Benjamin Rolsma, *The New Reliability Override*, 57 U. Conn. L. Rev. 789 (2025).	https://digitalcommons.lib.uconn.edu/cgi/viewcontent.cgi?article=1629&context=law_review
34	DOE Order No. 202-05-3	Department of Energy Order No. 202-05-3 (Dec. 20, 2005)	https://www.energy.gov/documents/202c-order-202-05-3-december-20-2005-mirant-corporationpdf
35	Letter Request of Grand River Dam Authority	Grand River Dam Authority Request for Emergency Order Pursuant to Section 202(c) of the Federal Power Act (Apr. 11, 2017)	https://www.energy.gov/sites/default/files/2017/05/f34/GRDA%20public%20202%28c%29%20letter.pdf
36	DOE Order No. 202-17-1	Department of Energy Order No. 202-17-1 (Apr. 14, 2017)	https://www.energy.gov/documents/oklahomapdf-0
37	DOE Order No. 202-17-2	Department of Energy Order No. 202-17-2 (Jun. 16, 2017)	https://www.energy.gov/sites/prod/files/2017/08/f35/Order%20Number%20202-17-2_0_0.pdf

No.	Exhibit Name	Document Name	URL
38	DOE Order No. 202-17-4 Summary of Findings	Summary of Findings DOE Order No. 202-17-4 (Sep. 14, 2017)	https://www.energy.gov/sites/default/files/2017/09/f36/Order%20202-17-4%20Summary%20of%20Findings.pdf
39	Grace Hauser Affidavit	Affidavit of Grace Marie Hauser to DOE; Order No. 202-26-30 (Jul. 2, 2026)	https://drive.google.com/file/d/1j85obI-CY0a7yVflzK-_vVlJvp60JmRp/view?usp=sharing
40	Brennan Center, List of Declared National Emergencies Under the National Emergencies Act	Brennan Center for Justice, Declared National Emergencies Under the National Emergencies Act (Published May 17, 2019; Updated Jun. 24, 2026)	https://www.brennancenter.org/our-work/research-reports/declared-national-emergencies-under-national-emergencies-act
41	DOE, Energy Dept to Use Defense Production Act Funding to Expand Coal Capacity	U.S. DOE, Energy Department to Use Defense Production Act Funding to Expand Coal Capacity at 13 Plants and Build Export Infrastructure (Jun. 4, 2026)	https://www.energy.gov/articles/energy-department-use-defense-production-act-funding-expand-coal-capacity-13-plants-and
42	DOE, Clean Energy Resources to Meet Data Center Electricity Demand	U.S. DOE, Clean Energy Resources to Meet Data Center Electricity Demand	https://www.energy.gov/gdo/clean-energy-resources-meet-data-center-electricity-demand
43	DOI, Memo from Deputy Chief of Staff Gregory Wischer	U.S. Dep't of Interior, Memorandum from Gregory Wischer, Deputy Chief of Staff – Policy, to Assistant Secretaries, Bureau and Office Heads (July 15, 2025)	https://www.doi.gov/media/document/departmental-review-procedures-decisions-actions-consultations-and-other

No.	Exhibit Name	Document Name	URL
44	DOI, Order No. 3438	U.S. Dept't of Interior, Order No. 3438, Managing Federal Energy Resources and Protecting the Environment (Aug. 1, 2025)	https://www.doi.gov/document-library/secretary-order/so-3438-managing-federal-energy-resources-and-protecting
45	DOT, Biden-Buttigieg Ignored the Dangers of Wind Turbines Near Railroads & Highways	U.S. Dep't of Transportation, President Trump's Transportation Secretary Sean P. Duffy: Biden-Buttigieg Ignored the Dangers of Wind Turbines Near Railroads & Highways, Put Climate Religion Ahead of Safety (July 29, 2025)	https://www.transportation.gov/briefing-room/president-trumps-transportation-secretary-sean-p-duffy-biden-buttigieg-ignored
46	IRS Notice 2025-42	IRS, Part III – Administrative, Procedural, and Miscellaneous; Beginning of Construction Requirements for Purposes of the Termination of Clean Electricity Production Credits and Clean Electricity Investment Credits for Applicable Wind and Solar Facilities Notice 2025-42	https://www.irs.gov/pub/irs-drop/n-25-42.pdf
47	Orsted, Revolution Wind Receives Stop-Work Order from US DOI BOEM	Orsted, Revolution Wind receives offshore stop-work order from US Department of the Interior's Bureau of Ocean Energy Management (Aug. 22, 2025)	https://orsted.com/en/company-announcement-list/2025/08/revolution-wind-receives-offshore-stop-work-order--145387701

No.	Exhibit Name	Document Name	URL
48	Utility Dive, Trump administration to revoke approval for 2.2-GW Maryland Offshore Wind	Diana DiGangi, Trump administration to revoke approval for 2.2-GW Maryland Offshore Wind, Utility Dive (Aug. 27, 2025)	https://www.utilitydive.com/news/trump-maryland-offshore-wind-revoke-approval-ocean-city/758717/
49	ISO Newswire, Statement on Revolution Wind Stop Work Order	ISO Newswire, ISO-NE statement on Revolution Wind stop work order	https://isonewswire.com/2025/08/25/iso-ne-statement-on-revolution-wind-stop-work-order/
50	DOE, Resource Adequacy Report: Evaluating the Reliability and Security of the US Electric Grid	U.S. Dep't of Energy, Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid (July 7, 2025); (RAR)	https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29.pdf
51	GridLab, Analysis: DOE Resource Adequacy Report	Ric O'Connell, *GridLab Analysis: Department of Energy Resource Adequacy Report*, GridLab.org, July 11, 2025	https://gridlab.org/gridlab-analysis-department-of-energy-resource-adequacy-report/
52	EIA, About 25% of US Power Plants Can Start Up Within an Hour	Energy Information Administration, About 25% of U.S. power plants can start up within an hour, (Nov. 19, 2020)	https://www.eia.gov/todayinenergy/detail.php?id=45956
53	Pew Report	Skyler Seets and Kaitlyn Radde, Most new data centers in the U.S. are coming to rural areas (Apr. 13, 2026)	https://www.pewresearch.org/short-reads/2026/04/13/most-new-data-centers-in-the-us-are-coming-to-rural-areas/
54	OUC 202(c) Application – Backup Generators	Orlando Utilities Commission Request for Emergency Order Under Section 202(c) of the Federal Power Act (Jan. 31, 2026)	https://www.energy.gov/documents/ouc-202c-application-backup-generators

No.	Exhibit Name	Document Name	URL
55	OUC 202(c) Application	Orlando Utilities Commission Request for Emergency Order Under Section 202(c) of the Federal Power Act (Jan. 31, 2026)	https://www.energy.gov/documents/ouc-202c-application
56	Ratepayer Protection Pledge	White House, Ratepayer Protection Pledge (Mar. 4, 2026)	https://www.whitehouse.gov/releases/2026/03/ratepayer-protection-pledge/
57	Energy Innovation Report	Eric G. Gimon, Senior Fellow, Energy Innovation, *Dodging the Firm Fixation for Data Centers and the Grid* (Nov. 2025)	https://energyinnovation.org/wp-content/uploads/Dodging-the-Firm-Fixation-for-Data-Centers-and-the-Grid.pdf
58	NARUC Coal Report	National Association of Regulatory Utility Commissioners, Recent Changes to U.S. Coal Plant Operations and Current Compensation Practices (Jan. 2020) (excerpt)	https://www.osti.gov/servlets/purl/1869928
59	IEA Flexibility Report	C. Henderson, International Energy Agency, Increasing the flexibility of coal-fired power plants (Sept. 2014) (excerpt)	https://usea.org/sites/default/files/092014_Increasing%20the%20flexibility%20of%20coal-fired%20power%20plants_ccc242.pdf
60	FL DEP Letter to US EPA re Regional Haze Plan for Second Implementation Period	Florida DEP, Letter to US EPA re Florida SIP Submittal: Regional Haze Plan for the Second Implementation Period (Oct. 8, 2021)	https://floridadep.gov/sites/default/files/SIP%202021-01%20Final%20Submittal%20Letter_Regional%20Haze.pdf
61	Florida DEP Response to Public Comments	Appendix 1-5 Florida DEP Division of Air Resource Management; Response to Public	https://floridadep.gov/sites/default/files/Appendix%20I-5%20Response%20to%20Public%20Comments.pdf

No.	Exhibit Name	Document Name	URL
		Comments Regional Haze Second Implementation Period	
62	DOE Order No. 202-26-01	U.S. Department of Energy's January 24, 2026 Emergency Order No. 202-26-01	https://www.energy.gov/documents/order-no-202-26-01-ercot
63	DOE Order No. 202-26-01A	U.S. Department of Energy's January 25, 2026 Amended Emergency Order No. 202-26-01a	https://www.energy.gov/documents/amended-order-no-202-26-01a
64	DOE Order No. 202-26-03	U.S. Department of Energy's January 25, 2026 Emergency Order No. 202-26-03	https://www.energy.gov/documents/order-no-202-26-03-iso-ne
65	SEC Gross Generation	SEC Unit 1 Gross Generation (5/1/25 - 6/23/26) (Obtained through publicrecords request to OUC)	https://docs.google.com/spreadsheets/d/1ymrNE_IfD7YZnwDXGuMWxhdqjIfTFD6f/edit?gid=942297345#gid=942297345
66	DOE, Air Quality and Environmental Justice Memorandum (2021)	DOE, Air Quality and Environmental Justice Analysis Memorandum (Oct. 1, 2021)	https://www.energy.gov/sites/default/files/2022-01/sea-05-ercot-air-quality-and-ej-analysis-2021-07-21.pdf
67	DOE, Special Environmental Analysis for Actions Taken Under DOE Emergency Orders re Operation of Potomac River Generating Station in VA	DOE, Special Environmental Analysis for Actions Taken Under U.S Department of Energy Emergency Orders Regarding Operation of the Potomac River Generating Station in Alexandria Virginia (2006)	https://www.energy.gov/sites/default/files/nepapub/nepa_documents/RedDont/SEA-04-2006.pdf

No.	Exhibit Name	Document Name	URL
68	EPA SO2 and NOX eGRID Data	EPA SO2 and NOx eGrid Data (Jun. 12, 2025)	https://www.epa.gov/system/files/documents/2025-06/egrid2023_data_rev2.xlsx (.xlsx file sent to DOE)
69	EPA PM2.5 eGrid Data	EPA PM2.5 eGrid Data	https://www.epa.gov/system/files/documents/2024-06/egrid-draft-pm-emissions.xlsx (.xlsx file sent to DOE)
70	OUC Daily Report to DOE	Orlando Utilities Commission Daily Notification Report (Jun. 14, 2026)	https://drive.google.com/file/d/1Kf14RPv-PpupDhbfQzDJ-yuhBmvATW3h/view?usp=sharing