

**UNITED STATES OF AMERICA
BEFORE THE
UNITED STATES DEPARTMENT OF ENERGY**

Federal Power Act Section 202(c))	
Emergency Order: Midcontinent)	Order No. 202-25-7
Independent System Operator)	

**LIMITED REQUEST FOR CLARIFICATION OF
CONSUMERS ENERGY COMPANY**

Consumers Energy Company (“Consumers Energy” or “Company”) submits this limited request for clarification of Order No. 202-25-7,¹ issued by the United States Secretary of Energy (“Secretary”) on August 20, 2025, pursuant to section 202(c) of the Federal Power Act (“FPA”),² and section 301(b) of the Department of Energy Organization Act.³

The August Order directs Consumers Energy to “take all measures necessary to ensure that the [J.H. Campbell Generating Plant (‘Campbell Plant’)] is available to operate” until the Order expires on November 19, 2025.⁴ Ordering paragraph G states that “*the Campbell Plant shall not be considered a capacity resource.*”⁵ Because certain Public Interest Organizations have taken the position that this language would prohibit Consumers Energy from entering into certain short-term capacity-related transactions that could allow the Company to defray the costs of complying with the Order, the Company is seeking clarification that the quoted language from Ordering Paragraph G does not in fact bar such transactions. That clarification, if granted, will further the Order’s directive of retaining the Campbell Plant while minimizing costs to ratepayers. Absent such

¹ U.S. Dep’t of Energy, Order No. 202-25-7 (Aug. 20, 2025) (“August Order” or “Order”).

² 16 U.S.C. § 824a(c).

³ 42 U.S.C. § 7151(b).

⁴ August Order at Ordering Paragraphs A and H.

⁵ *Id.* at Ordering Paragraph G (emphasis added).

clarification, the Company believes it is barred from exploring such potential transactions that could help offset the costs of the Campbell Plant's continued operation.

I. BACKGROUND

A. *The Secretary's Emergency Orders*

On May 23, 2025, the Secretary issued Order No. 202-25-3,⁶ declaring that an emergency exists within parts of the service territory of the Midcontinent Independent System Operator, Inc. ("MISO") and ordering Consumers Energy to "take all measures necessary to ensure that the Campbell Plant is available to operate" through the duration of the May Order (i.e., until August 21, 2025).⁷ The May Order did not include any language like that found in Ordering Paragraph G of the August Order.⁸

The Secretary's August Order states that the "emergency conditions that led to the issuance of [the May Order] continue, both in the near and long term,"⁹ and that "continued additional dispatch of the Campbell Plant is necessary to best meet the emergency and serve the public interest under FPA section 202(c)."¹⁰ The Order requires MISO and Consumers Energy to "take all measures necessary to ensure that the Campbell Plant is available to operate."¹¹ And, as noted above, it states that "the Campbell Plant shall not be considered a capacity resource."¹²

⁶ U.S. Dep't of Energy, Order No. 202-25-3 at 2 (May 23, 2025) ("Order No. 202-25-3" or "May Order").

⁷ *Id.* at Ordering Paragraphs A and H.

⁸ *Id.*; see U.S. Dep't of Energy, Referral to the Federal Energy Regulatory Commission, Docket Nos. EL25-90-000, *et al.*, at 1 (filed June 13, 2025) ("Because the [May Order] is predicated on the shortage of facilities for the generation of electric energy and other causes, such as resource adequacy concerns, the Campbell plant shall not be counted as a capacity resource.").

⁹ August Order at 2.

¹⁰ *Id.* at 7.

¹¹ *Id.* at Ordering Paragraph A.

¹² *Id.* at Ordering Paragraphs A and G.

On September 8, 2025, certain self-styled “Public Interest Organizations” filed a Motion to Intervene and Request for Rehearing and Stay of the August Order.¹³ Among other arguments, the Public Interest Organizations assert that the Department of Energy “lacks jurisdiction to disallow treatment of Campbell as a capacity resource.”¹⁴ The Public Interest Organizations describe the impact of the language in Ordering Paragraph G as follows:

During the pendency of this Order, the principal effect of this provision will be to remove Campbell’s ability to provide replacement capacity in the event one of the resources that cleared the auction suffers a catastrophic outage or is otherwise suspended, retired, or shut down for more than 31 days in a season. . . . *Eliminating this compensation pathway will increase the financial cost of the Order, by removing a potential income stream that might have offset Campbell’s extremely high operational costs, and by forcing any other region that is impacted by an unexpected plant closure to look for potentially more expensive alternatives for replacement capacity.*¹⁵

The Public Interest Organizations make a number of other arguments regarding the relevant language in Ordering Paragraph G, including that it “prevents MISO from following its own tariff.”¹⁶

¹³ Motion to Intervene and Request for Rehearing and Stay of Sierra Club, et al., Order No. 202-25-7 (filed Sept. 8, 2025), <https://earthjustice.org/wp-content/uploads/2025/09/public-interest-organizations-request-for-rehearing-of-order-202-25-7-1.pdf> (“Public Interest Organizations Rehearing Request”). The “Public Interest Organizations” include Sierra Club, Natural Resources Defense Council, Michigan Environmental Council, Environmental Defense Fund, Environmental Law and Policy Center, Vote Solar, Union of Concerned Scientists, the Ecology Center, and Urban Core Collective.

¹⁴ *Id.* at 79.

¹⁵ *Id.* at 81 (emphasis added) (internal citations omitted).

¹⁶ *Id.* at 79.

B. MISO's Resource Adequacy Construct

MISO's Resource Adequacy construct includes a number of different features and requirements.¹⁷ As relevant here, Capacity Resources are subject to certain performance requirements,¹⁸ including a requirement for Market Participants that own a Capacity Resource that cleared Zonal Resource Credits ("ZRCs") in the Planning Reserve Auction ("PRA") to offer a specific level of energy into the Day-Ahead Energy Market ("Must-Offer Requirement").¹⁹ In addition, pursuant to MISO's "greater than 31-day rule," if a Capacity Resource is unable to meet the applicable performance requirements for cleared ZRCs for more than 31 days due to full or partial planned outages during the season in which the ZRCs cleared, the Market Participant must replace the cleared ZRCs or pay a Capacity Replacement Non-Compliance Charge.²⁰ If a resource

¹⁷ Capitalized terms not otherwise defined herein have the meaning set forth in the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff ("MISO Tariff"). *See* MISO – FERC Electric Tariff, <https://etariff.ferc.gov/TariffBrowser.aspx?tid=1162>. The MISO Tariff defines "Capacity Resources" as "The Generation Resources, Demand Response Resource- Type I, Demand Response Resource-Type II, Dispatchable Intermittent Resources, External Resources, Intermittent Generation, or Electric Storage Resources that are available to meet Demand." *Id.*, Module A, 1.C, Definitions - C (73.0.0). "A Generation Resource is a Generator within the MISO Balancing Authority Area or an External Resource that is Pseudo-tied into the MISO Balancing Authority Area and that (i) is registered to participate in the Energy and Operating Reserve Markets, (ii) is capable of supplying Energy, Capacity, Operating Reserve, Up Ramp Capability, Down Ramp Capability, and/or Short-Term Reserve, (iii) is capable of complying with the Transmission Provider's Setpoint Instructions and (iv) has the appropriate metering equipment installed." *Id.*, 1.G, Definitions – G (41.0.0).

¹⁸ *See generally*, MISO, Resource Adequacy Business Practices Manual, BPM 11-011-r31 (effective Feb. 21, 2025), § 6 (Performance Requirements), <https://misoenergy.org/legal/rules-manuals-and-agreements/business-practice-manuals/> ("BPM-011-r31").

¹⁹ *Id.* § 6.1 (Must Offer Requirement).

²⁰ MISO Tariff Module E-1, 69A.3.1.h, Retirement, Suspension, ICAP Deferral and Replacement (42.0.0) ("If a Planning Resource for which a Market Participant converts Seasonal Accredited Capacity into ZRCs is unable to meet the applicable performance requirements for the cleared ZRCs as described in Section 69A.5 for greater than thirty-one (31) Days in total due to full or partial Generator Planned Outage during the Season of the Planning Year in which the ZRCs cleared, such Market Participant must replace the cleared ZRCs with uncleared ZRCs to transfer the performance requirements applicable to the Planning Resource. If a Market Participant does not replace such ZRCs associated with a Planning Resource, a Capacity Replacement Non-Compliance Charge will be assessed as determined below in this Section"); and, 69A.5, Capacity Resource Must Offer and Performance Requirements (37.0.0) ("Any such Capacity

was not entered into the PRA, it may still obtain uncleared ZRCs that can be used to replace cleared ZRCs under limited circumstances outlined in MISO’s Business Practice Manual.²¹ Uncleared ZRCs may be sold through short-term bilateral transactions to third-parties to meet their replacement ZRC needs.²²

II. REQUEST FOR CLARIFICATION

Consumers Energy respectfully asks the Secretary to clarify that Ordering Paragraph G does not bar the Campbell Plant from selling replacement capacity, so that it has the opportunity to earn additional market revenues that could offset the costs of continued operation.

There is good reason for the August Order to address the status of the Campbell Plant as it relates to MISO’s Capacity Resource rules: Because the Campbell Plant is being retained pursuant to FPA section 202(c), notwithstanding its plans to retire, it is appropriate to specify that the Campbell Plant (1) is *not being required to serve as a Capacity Resource* by virtue of the August Order’s directive to ensure the Campbell Plant remains “available to operate” for the duration of the August Order; and (2) is not subject to the performance requirements that apply to a Capacity Resource. Consumers Energy agrees that the August Order does not, and should not, impose any Capacity Resource obligations on Campbell. Ordering Paragraph G effectuates that result.

Resource with full or partial Generator Planned Outages that exceeds thirty-one (31) Days during any Season will be deemed not to have met its performance requirement for any Days greater than thirty-one (31) Days and must replace ZRCs in accordance with Section 69A.3.1.h”); *see also* BPM-011-r31 § 6.4.1 (describing “greater than 31 day rule”).

²¹ BPM-011-r31, Section 6.4.5, On Ramping New Resource Mid-Planning Year for ZRC Replacement. Among other criteria, a resource may be eligible to receive uncleared ZRCs in the middle of the Planning Year if the Independent Market Monitor confirms that the resource did not withhold capacity from an auction, the resource is within the MISO Commercial Model, has completed applicable testing, and is commercially operable as of the date of replacement.

²² MISO Tariff Module E-1, §§ 69A.3.1.h

As noted above, the Public Interest Organizations have expressed the view that the language in Ordering Paragraph G has a broader effect—including to prohibit the Company from selling replacement capacity from the Campbell Plant.²³ That view, if accepted, would bring Ordering Paragraph G into tension with *another* directive in the August Order—the directive in Ordering Paragraph A to “minimize costs to ratepayers.”²⁴ The Company believes that it might have an opportunity during the term of the August Order to enter into one or more short-term transactions to sell replacement capacity from the Campbell Plant to a third-party Market Participant or otherwise utilize replacement capacity to offset Campbell Plant operating costs.²⁵ If Consumers Energy has the opportunity to enter into one or more such short-term transactions, any associated revenue could serve to offset the costs of complying with the August Order—costs that ultimately will be allocated through the new MISO Tariff schedule that FERC recently ordered MISO to file.²⁶ However, absent clarification regarding the intent behind Ordering Paragraph G, and confirmation that such short-term replacement capacity transactions would not violate the August Order, Consumers Energy does not intend to enter into such transactions.

Consumers Energy does not presume that the Department intended to prohibit such sales, which could reduce costs for consumers and would be fully consistent with the Department’s broader goals (especially given the short-term nature of such sales). But because of the ambiguity in the August Order, and because the reading pressed by the Public Interest Organizations is at least colorable, Consumers Energy is not able to enter into such transactions absent clarification

²³ See Public Interest Organizations Rehearing Request at 81.

²⁴ August Order at Ordering Paragraph A.

²⁵ Any such sales would be subject to all applicable FERC regulations and MISO Tariff requirements unless the Company seeks and obtains specific waivers.

²⁶ *Consumers Energy Company v. Midcontinent Indep. Sys. Operator, Inc.*, 192 FERC ¶ 61,158 (2025).

regarding the intent behind Ordering Paragraph G and confirmation that such short-term replacement capacity transactions would not violate the August Order.

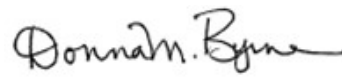
For the foregoing reasons, Consumers Energy respectfully requests clarification as to whether sales of replacement capacity from the Campbell Plant would violate the August Order.

Respectfully submitted,

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Dated: September 19, 2025