

UNITED STATES DEPARTMENT OF ENERGY

Midcontinent Independent System Operator

Order No. 202-25-9

**MOTION TO INTERVENE AND PETITION FOR REHEARING
OF THE STATES OF MINNESOTA AND ILLINOIS**

Pursuant to section 202(c) of the Federal Power Act, 16 U.S.C. §§ 824a(c), 8251, the States of Minnesota and Illinois (“the States”) move to intervene and apply for rehearing of the Department of Energy’s (“DOE”) November 18, 2025, Order No. 202-25-9 (“Campbell Order III,” Ex. A)¹ directing the Midcontinent Independent System Operator (“MISO”) and Consumers Energy Company (“Consumers Energy”) to take all measures necessary to ensure that the coal-burning J.H. Campbell Plant (“Campbell Plant”) in West Olive, Michigan “is available to operate” and “to take every step to employ economic dispatch of the Campbell Plant to minimize cost to ratepayers.” The Campbell III Order is in effect from 00:00 Eastern Standard Time (“EST”) on November 19, 2025, and expires at 00:00 EST on February 17, 2026.² This is the third in a series of orders directing MISO to take the same actions for the same facility and based on the same alleged statutory authority and factual circumstances.

The States have an interest in and are aggrieved by Campbell Order III. *FDA v. R.J. Reynolds Vapor Co.*, 606 U.S. 226, 232–36 (2025) (defining an “adversely affected or aggrieved”

¹ All Exhibits are lettered and attached.

² This petition is being submitted to DOE’s AskCR <askcr@hq.doe.gov> account as DOE instructs.

party within the APA as “anyone even ‘arguably within the zone of interests to be protected or regulated by the statute . . . in question.’” (quoting *Ass’n of Data Processing Svc. Orgs. v. Camp*, 397 U. S. 150, 153 (1970))).

The Campbell III Order continues the pattern established by two prior DOE Orders numbered 202-25-3 (“Campbell I”) and 202-25-7 (“Campbell II”) that also directed MISO and Consumers Energy to keep the Campbell Plant available to provide economic dispatch from its planned retirement date of June 1, 2025, through November 18, 2025.

The States requested rehearing of the Campbell I and II Orders and described the applicable facts, with record support, in those challenges. Exs. B-C (nested exhibits omitted). Campbell III is almost identical to Campbell II, which in turn extended Campbell I. Because the legal and factual issues here directly overlap and repeat the same matters previously raised, the States hereby incorporate by reference the petitions for rehearing of the Campbell I and II Orders, including all arguments, exhibits, and other referenced materials, and reassert them as grounds for rehearing of the Campbell III Order.

The States will be adversely affected by the Campbell III Order in the same ways they were harmed by the Campbell I and II Orders, but Campbell III also compounds and increases those harms through ongoing, cumulative emissions and related impacts. The negative effects on the States were described in the prior challenges and are hereby incorporated by reference.³

³ The harms include economic harm to ratepayers in the States who are saddled with the increased costs associated with operating the inefficient, coal-burning Campbell Plant, the environmental harms of operating the coal plant, and the harm caused by usurping the States’ role in planning resource adequacy and generation.

The Campbell III Order compounds the errors of the prior orders for all of the reasons set forth in the States' Petitions for Rehearing filed June 23, 2025 (Campbell I) and September 19, 2025 (Campbell II).

As with the Campbell I and II Orders, the Campbell III Order should be rescinded because it lacked reasoned decisionmaking, exceeded DOE's authority, was not rationally tailored to meet the purported emergency, and demonstrated impermissible prejudgment of the relevant issues.

In addition to the grounds laid out in the requests for rehearing on the Campbell I and II Orders, Consumers Energy Company filed its most recent 10-Q and 8-K reports with the Securities and Exchange Commission on October 30, 2025. Consumers Energy reported that for the period from May 23, 2025 through September 30, 2025, the costs of keeping Campbell online were \$164 million, but the plant made only \$84 million in revenue from the sale of its output, netting an \$80 million loss. Exs. D (summary of contents), E (copy of 10-Q). Specifically,

During the initial emergency order period, the net financial impact of compliance was \$53 million after applying MISO revenues of \$67 million. For the second emergency order period through September 30, 2025, the net financial impact of compliance was \$27 million after applying MISO revenues of \$17 million.

Ex. E. at 62. Consumers Energy concluded that it would seek to recover the \$80 million in net losses from ratepayers through FERC tariff proceedings. *Id.* These real-world figures confirm that the plant cannot be effectively used for "economic dispatch" because it is uneconomical and runs at a loss when operated as the Campbell III Order requires. They also confirm that operating Campell plant as ordered has not and will not "minimize cost to ratepayers" where net losses will be charged to them. Thus, the Consumers Energy SEC filings demonstrate that the Campbell III Order cannot be fulfilled according to its own terms. Ex. A at 8.

In addition to the Exhibits (A through E) attached to this request for rehearing, DOE is already in possession of the exhibits the States submitted in support of their petitions for rehearing of the Campbell I and II Orders. The States are not resubmitting those same documents since they are incorporated by reference into the record for this petition. If DOE needs additional copies of any documents, please contact any of the signatories to this request.

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Dated: December 18, 2025

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