

UNITED STATES DEPARTMENT OF ENERGY

Midcontinent Independent System Operator

Order No. 202-26-16

**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”) February 17, 2026, Order No. 202-26-16 (“Campbell Order IV,” Ex. A)<sup>1</sup> 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 IV Order is in effect from February 17, 2026, until May 18, 2026.<sup>2</sup> This is the fourth 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 IV. *FDA v. R.J. Reynolds Vapor Co.*, 606 U.S. 226, 232–36 (2025) (defining an “adversely affected or aggrieved” party within the APA as “anyone even ‘arguably within the zone of interests to be protected or

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<sup>1</sup> All Exhibits are lettered and attached.

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

regulated by the statute . . . in question.” (quoting *Ass’n of Data Processing Svc. Orgs. v. Camp*, 397 U. S. 150, 153 (1970))).

The Campbell IV Order continues the pattern established by three prior DOE Orders numbered 202-25-3 (“Campbell I”), 202-25-7 (“Campbell II”), 202-25-9 (“Campbell III”) 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 February 17, 2026.

The States requested rehearing of the Campbell I, II, and III Orders and described the applicable facts, with record support, in those challenges. Exs. B–D (nested exhibits omitted). Campbell IV is almost identical to Campbell III, which extended 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, II, and III Orders, including all arguments, exhibits, and other referenced materials, and reassert them as grounds for rehearing of the Campbell IV Order.

The States will be adversely affected by the Campbell IV Order in the same ways they were harmed by the Campbell I, II, and III Orders, but Campbell IV 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.<sup>3</sup>

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<sup>3</sup> 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 IV 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), September 19, 2025 (Campbell II), and December (Campbell III).

As with the Campbell I, II, and III Orders, the Campbell IV 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, II, and III Orders, Consumers Energy Company filed its most recent 10-K report with the Securities and Exchange Commission on February 10, 2026. Ex. E. Consumers Energy reported:

In January 2026, Consumers filed a request at FERC seeking recovery of the net financial impact of complying with the May 2025 emergency order, which was \$42 million after applying MISO revenues of \$78 million. This filing encompasses recovery sought by the joint owners of J.H. Campbell.

For the second emergency order period through December 31, 2025, the net financial impact of compliance was \$93 million after applying MISO revenues of \$77 million. Consumers will seek recovery of these compliance costs at a later date, consistent with rate recovery sought for the May 2025 emergency order. The ultimate financial impact remains subject to the outcome of the FERC proceeding and any future guidance or interpretation.

Ex. E at 117–18. In total, DOE's orders in Campbell I and Campbell II cost ratepayers in MISO a total of \$135 million. 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 Orders I–IV require. They also confirm that operating Campbell 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 10.

Finally, although the Campbell IV order purports to rely on emergency weather alerts related to Winter Storm Fern, the States' prior submissions have already put DOE on notice that such alerts are of limited value for supporting an emergency declaration. *See* Ex. C at 27. That is because alerts are commonplace, have been used for decades, and have never before required declaring a Section 202(c) emergency. The purpose of the alerts is to put system-wide resources on notice that they may be needed. They do not indicate an emergency that would require invoking Section 202(c), especially considering the availability of other system operators to meet any additional need. Rather, DOE's shifting reliance on seasonal alerts shows that the alerts are merely post-hoc justifications for prior orders used to accomplish DOE's goal of commandeering regional resource-planning. Even if such alerts were relevant, it is telling that there were no actual shortfalls, brownouts, or blackouts during Winter Storm Fern that would have required the specific additional capacity from J.H. Campbell versus other more cost-effective and less-polluting alternatives. Thus, the Campbell IV Order's discussion of Winter Storm Fern does not identify any particular need for which operating the Campbell Plant would have been an appropriate or even reasonable response, much less one that "best-meets" the purported emergency.

DOE is already in possession of the exhibits the States submitted in support of their petitions for rehearing of the Campbell I, II, and III 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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