UNITED STATES DEPARTMENT OF ENERGY

Midcontinent Independent System Operator	Order No. 202-26-22

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), 825l, the States of Minnesota, Illinois, and Wisconsin ("the States") move to intervene and apply for rehearing of the Department of Energy's ("DOE") May 19, 2026, Order No. 202-26-22 ("Campbell V Order," 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 V Order is in effect from May 19, 2026, until August 16, 2026.[2] This is the fifth 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 V Order. *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

[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.

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

The Campbell V Order continues the pattern established by four prior DOE Orders numbered 202-25-3 ("Campbell I"), 202-25-7 ("Campbell II"), 202-25-9 ("Campbell III"), and 202-26-16 ("Campbell IV") 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 May 18, 2026.

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

The States will be adversely affected by the Campbell V Order in the same ways they were harmed by the Campbell I, II, III, and IV Orders, but Campbell V 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 V Order compounds the errors of the prior orders for all of the reasons set forth in the Petitions for Rehearing filed by the States of Minnesota and Illinois on June 23, 2025 (Campbell I), September 19, 2025 (Campbell II), December 18, 2025 (Campbell III), and March 19, 2026 (Campbell IV).

As with the Campbell I, II, III, and IV Orders, the Campbell V 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.

DOE's use of section 202(c) to require coal plants to remain generally available is novel. Ex. B at 11, 26–27, 34–35. Recent scholarship confirms that the executive branch has a long history of relying on experts to regulate the power grid, which it has abandoned in its attempt to take over long-term planning through emergency orders like the ones at issue here. Ex. F (Klass Essay). DOE's exercise of emergency authority to require outdated energy sources to operate is not only novel, it relies on fundamental misunderstandings of what constitutes an emergency and uses that misunderstanding to saddle ratepayers with the cost of inefficient energy production. *Id.* at 25.

The Campbell V Order misapprehends NERC's 2025 Long-Term Reliability Assessment (LTRA) to reach its findings. Ex. A at 5. As a starting point, the LTRA categorizes MISO as "normal" risk—the lowest risk designation—for 2026, and only "elevated" risk in 2027.[4] Ex. G. Further, the Order's description of the LTRA's long-term MISO forecasts omits reference to the large amounts of resources planned to be added in MISO pursuant to the "recently approved

[4] NERC's "elevated risk" designation in no way signifies an emergency condition, falls below the highest risk designation of "high risk," and is far from unusual.

Expedited Resource Addition Study (ERAS) process" that "is expected to result in additional resources in the MISO system beginning in 2028 that are not included in the model for the 2025 LTRA." *Id.* at 8. The assessment further provides the following context and explanation as to how it considers those resources in the context of its other evaluations:

> The timing of FERC's approval of MISO's ERAS process in July meant that the generator additions that MISO plans as part of that process were not included in the resource adequacy modeling for the 2025 LTRA. ERAS is already expected to result in considerable new resource additions to the MISO system in the near term. The additional summer on-peak capacity from ERAS is expected to grow to over 20 GW by summer 2030. These expedited resource additions are expected to reduce the shortfall risk identified in this year's ProbA. Furthermore, the timing of the ERAS additions would mitigate an identified winter ARM shortfall if the approximately 8.6 GW of winter on-peak capacity anticipated by 2028–29 reaches operation as projected. The latest ERAS projects, along with current load forecasts and resource projections as of July 2026, will be included in the input data for the 2026 LTRA . . . .

Id. at 16.

The LTRA likewise concludes that "if ERAS projects come in as currently planned, the projected reserve margin shortfall would be eliminated." *Id.* at 15. Even without the planned ERAS resources, the LTRA estimates only that MISO would "fall below reserve margin targets to become a high-risk area beginning [in the end of] 2028." *Id*. This would not be a sudden or unexpected emergency during the period of the Orders.[5] Thus, not only does the Order omit the finding of merely "normal" risk during the period of the Order—which in itself rebuts any

[5] The Campbell V Order also purports to rely on winter-specific data and events. Ex. A at 6. The period governed by the Order is May 19, 2026, through August 16, 2026, and the Order identifies no risk of winter events, much less those requiring a potential emergency response, during that time period.

"emergency" designation—the Order arbitrarily ignores key evidence from the LTRA contradicting the Department's assertions as to long-term planning.

Finally, as DOE acknowledges, there is a surplus of capacity anticipated for Summer 2026. Ex. A at 6. And while DOE cites the NERC 2025 Summer Reliability Assessment, nowhere does it mention FERC's 2026 Summer Energy Market and Electric Reliability Assessment, which anticipates a 6% increase to MISO's 2025 capacity and identifies no anticipated energy shortfalls. Ex. H at 24. Indeed, FERC's presentation materials demonstrate MISO is not at elevated risk for Summer 2026. Ex. I at 8.

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