

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

Federal Power Act Section 202(c) Emergency Order:            )  
Northern Indiana Public Service Company LLC and            )        Order No. 202-25-12  
Midcontinent Independent System Operator, Inc.            )        via AskCR@hq.doe.gov

**MOTION TO INTERVENE AND REQUEST FOR REHEARING OF  
THE ILLINOIS COMMERCE COMMISSION**

Pursuant to 16 U.S.C. § 825l,<sup>1</sup> the applicable rules of procedure,<sup>2</sup> and processes set forth by the U.S. Department of Energy (“DOE”),<sup>3</sup> the Illinois Commerce Commission (ICC) respectfully submits this Motion to Intervene and Request for Rehearing of the DOE Order No. 202-25-12, issued December 23, 2025, pursuant to Section 202(c) of the Federal Power Act (the “Schahfer Order”), in the above-captioned proceeding. The Schahfer Order directs the Midcontinent Independent System Operator, Inc. (“MISO”) to continue operation of Northern Indiana Public Service Company LLC’s (“NIPSCO”) R.M. Schahfer Generating Station Units 17 and 18 (“Schahfer plant” or “Schahfer Units 17 and 18”).<sup>4</sup>

**I. STATEMENT OF INTEREST AND MOTION TO INTERVENE**

The ICC is charged with the duty of effectively and comprehensively regulating public utilities to advance the “health, welfare and prosperity of all Illinois citizens,” which requires “the provision of adequate, efficient, reliable, environmentally safe and least-cost public utility services at prices which accurately reflect the long-term cost of such services and which are equitable to all citizens.”<sup>5</sup> Therefore, the ICC has a direct and substantial interest in this proceeding, as the

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<sup>1</sup> Section 313(a) of the Federal Power Act, 16 U.S.C. § 825l(a).

<sup>2</sup> 18 C.F.R. §§ 385.203, 385.214, 385.713.

<sup>3</sup> U.S. Department of Energy, DOE’s Use of Federal Power Act Emergency Authority, <https://www.energy.gov/ceser/does-use-federal-power-act-emergency-authority> (accessed December 31, 2025).

<sup>4</sup> U.S. Department of Energy, Order No. 202-25-12 (December 23, 2025 (“Schahfer Order”), <https://www.energy.gov/documents/order-number-202-25-12-schahfer>).

<sup>5</sup> 220 ILCS 5/1-102.

Schahfer Order affects resource adequacy, state-jurisdictional planning and cost oversight (both cost allocation and cost recovery impacts), wholesale energy markets, grid operations, and system reliability in Illinois. The Schahfer Order's implications for rate recovery, system planning, and federal-state coordination over resource decisions directly affect the jurisdiction and responsibilities of the ICC and its ratepayers. Accordingly, the ICC has interests that may be directly and substantially affected by the outcome of this proceeding and, therefore, may intervene in this proceeding.<sup>6</sup> The ICC respectfully requests that the DOE grant its Motion to Intervene and the ICC be recognized as a party in this proceeding.

## **II. BACKGROUND**

Schahfer is an electric generating facility located in Jasper County, Indiana. Schahfer is owned and operated by NIPSCO and consists of two coal-fired generation units, Unit 17 (345 megawatts ("MW")) and Unit 18 (345 MW), with a combined nameplate capacity of approximately 690 MW. Schahfer Units 17 and 18 began commercial operations in the mid-1970s.<sup>7</sup> Both units have been subject to long-term retirement planning and were scheduled for retirement in December 2025 consistent with NIPSCO's state-reviewed integrated resource plans.<sup>8</sup> The Schahfer Order was issued on December 23, 2025. It orders MISO and NIPSCO to take all measures necessary to ensure the Schahfer Units 17 and 18 are available to operate until March 23, 2026.<sup>9</sup> One of the units, Unit 18, is on forced outage and does not expect new turbine blades to be ready for Schahfer

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<sup>6</sup> 18 C.F.R. § 385.214.

<sup>7</sup> Schahfer Order at 1.

<sup>8</sup> *Id.*

<sup>9</sup> Schahfer Order at 4-5.

until March or May 2026.<sup>10</sup> The statute allows operations orders of only 90 days, with the option to extend.<sup>11</sup> The units were planned to retire in December 2025.<sup>12</sup>

### **III. REQUEST FOR REHEARING**

Pursuant to 16 U.S.C. § 825I,<sup>13</sup> the applicable rules of procedure,<sup>14</sup> and processes set forth by the U.S. Department of Energy (“DOE”),<sup>15</sup> the ICC requests rehearing of the Schahfer Order.

#### **A. DOE’s Claims are Not Substantiated, and The Facts Do Not Justify the DOE’s Declaration of an Emergency.**

DOE’s order rests on a claim of “emergency conditions” that are not supported by regional data, Midcontinent Independent System Operator (“MISO”) assessments, or state-reviewed resource plans. The Schahfer Order fails to establish, based on a dependable and comprehensive reliability assessment, that an emergency condition exists in the MISO footprint that warrants the continued operation of Schahfer Units 17 and 18. The Schahfer Order references the North American Electric Reliability Corporation’s (“NERC”) 2024 Long Term Reliability Assessment (“LTRA”), the MISO Planning Resource Auction, MISO’s Attributes Roadmap, the OMS-MISO Survey, as evidence for the existence of an emergency situation and the need for the continued operation of the Schahfer Units 17 and 18.<sup>16</sup> However, the OMS-MISO Resource Adequacy Survey, MISO’s 2025/2026 Planning Resource Auction, MISO’s on-going readiness assessments,

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<sup>10</sup> Indiana Utility Regulatory Commission, 2025 Winter Reliability Forum (Jan. 14, 2025) at 58:44 comments of Brian McCaul, NIPSCO VP of Elec. Gen., <https://youtu.be/bCzALF4V45M>,

<sup>11</sup> 16 U.S.C. § 824a(c)(4)(A).

<sup>12</sup> Schahfer Order at 1.

<sup>13</sup> Section 313(a) of the Federal Power Act, 16 U.S.C. § 825I(a).

<sup>14</sup> 18 C.F.R. §§ 385.203, 385.214, 385.713.

<sup>15</sup> U.S. Department of Energy, DOE’s Use of Federal Power Act Emergency Authority, available at: <https://www.energy.gov/ceser/does-use-federal-power-act-emergency-authority> (accessed December 31, 2025).

<sup>16</sup> Schahfer Order at 1-3.

and NIPSCO’s plans all do not indicate a regional reliability emergency, shortfall, or an unmet reliability criterion that justifies reversal of a planned and approved resource retirement.<sup>17</sup>

The OMS-MISO Survey in Table 1 below depicts MISO’s member-planned resource addition outlook. This view shows how MISO members expect to meet their future capacity needs through 2031, and not just ‘getting by’ – but with 11.4 gigawatts (“GW”) of excess capacity and another 3.8 GW of potential resources; for a total of a 15.2 GW *excess* capacity beyond seasonal reliability targets.<sup>18</sup> The data used by the DOE<sup>19</sup> as a basis for its emergency order shows that the capacity surplus in the MISO region may be tightening – *only* if you look at how many resources were built historically (over a time period with *less* demand for new generation resources and retirement replacements than now) – in lieu of looking forward at what is actually planned by the utilities in MISO and these utilities’ obligations to serve load reliability. And even if the net decrease in capacity identified by the DOE were true, DOE’s finding of an emergency is still flawed. There is no “emergency” related to resource adequacy, because MISO continues to have *excess* capacity throughout its territory.

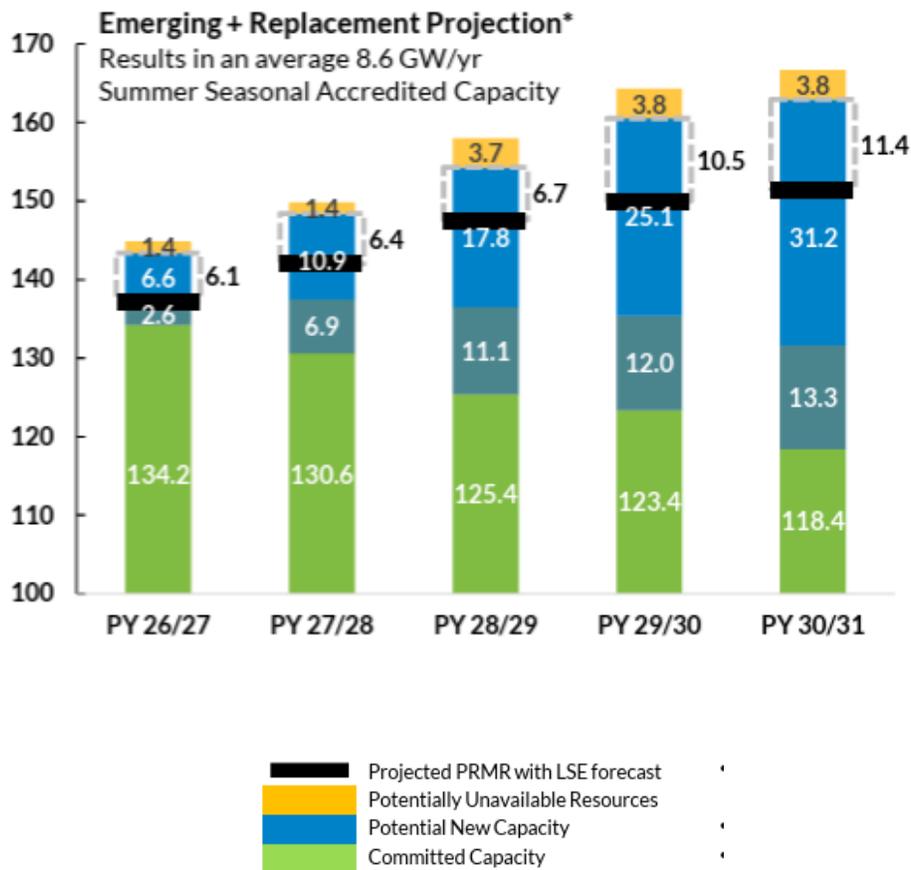
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<sup>17</sup> On December 9, 2024, NIPSCO submitted its 2024 Integrated Resource Plan (“IRP”) to the Indiana Utility Regulatory Commission, which continued NIPSCO’s commitment to the retirement and shut down of Schahfer Units 17 and 18 by the end of 2025. The 2024 IRP also detailed NIPSCO’s plan to replace the retired capacity at Schahfer with 14 approved renewable energy projects – several of which are already in service. *See* NIPSCO 2024 IRP, available at: <https://www.in.gov/iurc/files/NIPSCO-2024-Integrated-Resource-Plan-Document.pdf>.

<sup>18</sup> OMS & MISO, *2025 OMS-MISO Survey Results* (June 6, 2025), <https://cdn.misoenergy.org/20250606%20OMS%20MISO%20Survey%20Results%20Workshop%20Presentation702311.pdf>, at slide 7.

<sup>19</sup> Schahfer Order at 1-3.

**Table 1: 2025 OMS-MISO Survey: Member Planned Additions, Summer Resource Adequacy Outlook<sup>20</sup>**



In the DOE’s November 19, 2025, Order No. 202-25-9 (“Campbell Order”) relating to the J.H. Campbell Generating Plant (“Campbell Plant”) in Michigan, the DOE utilized similar and equally flawed reasoning as it does here.<sup>21</sup> Despite continuing to operate and add capacity, the Campbell Plant’s additional capacity cannot be counted in any assessment for capacity. The emergency order specifically excludes the units from being considered capacity and the short

<sup>20</sup> OMS & MISO, 2025 OMS-MISO Survey Results (June 6, 2025), <https://cdn.misoenergy.org/20250606%20OMS%20MISO%20Survey%20Results%20Workshop%20Presentation702311.pdf>, at slide 7.

<sup>21</sup> U.S. Dept. Of Energy Order No. 202-25-9 (Nov. 18, 2025), <https://www.energy.gov/sites/default/files/2025-11/Order%20No%202022-25-9.pdf>.

duration of the orders means that they cannot be considered available for the MISO capacity auction. Thus, it is adding capacity, and the MISO Central region is paying for that capacity, but the market supply and prices are not able to reflect that excess capacity.

As in the proceeding related to the Campbell Plant, the current record misapplies NERC's assessments in light of regional energy and capacity outlooks, disregards state regulatory approvals of retirements and replacement resources, overlooks MISO's own reliability tools, and conflates energy-risk metrics with capacity-based planning frameworks. MISO conducted and approved the retirement of Schahfer Units 17 and 18 through its normal reliability study process.<sup>22</sup> No near-term reliability need was identified. The relevant state agencies reviewed NIPSCO's resource plans providing replacement capacity and transition timing consistent with the retirement date and found no concerns.

The Schahfer and Campbell Orders and others including Culley<sup>23</sup> and Craig,<sup>24</sup> demonstrate a recurring pattern; DOE invokes emergency authority without demonstrating an emergency.

## **B. The Schahfer Order Violates the Federal Power Act and Tramples on State Jurisdiction.**

The Schahfer Order does not adequately incorporate the findings of MISO, NIPSCO, the Indiana Utility Regulatory Commission, or other state regulatory bodies, who have primary jurisdiction over integrated resource planning, siting, and cost recovery for utilities operating in their states. Similarly, the Schahfer Order failed to consider MISO assessments in which Indiana, MISO, and other MISO-states use to coordinate and inform seasonal risks and operational

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<sup>22</sup> On June 22, 2023, Northern Indiana Public Service Company, LLC ("NIPSCO") submitted a Notice of Planned Participation under 40 CFR – Steam Electric Power Generating Point Source Category.

<sup>23</sup> U.S. Department of Energy, Order No. 202-25-14 (Dec. 23, 2025) ("Culley Order"), <https://www.energy.gov/documents/order-number-202-25-13-culley>.

<sup>24</sup> U.S. Dept. Of Energy Order No. 202-25-14 (Dec 30, 2025); ("Craig Order")

<https://www.energy.gov/documents/federal-power-act-section-202c-craig-order-no-202-25-14>.

concerns and reliability impacts. Annually, MISO hosts summer and winter readiness workshops, which examine weather forecasts, generation estimates, and transmission issues for the season ahead.<sup>25</sup> These workshops evaluate expected conditions, identify potential limitations and develop plans to address them, and allow MISO to coordinate with its members.<sup>26</sup> DOE failed to consider that MISO approved the retirement of the Schahfer Units 17 and 18 through its formal study process<sup>27</sup> or that NIPSCO's IRP planned for this retirement.<sup>28</sup> DOE also fails to distinguish between planning uncertainties and concerns versus operational emergencies. For example, DOE Order points to the supply constraints for gas turbines,<sup>29</sup> which impacts new gas generation that was not planned for and thus have supplies only recently or not yet ordered.<sup>30</sup> These delays are not impacting predictions in the next year of what comes online, because these plants were not intended to come online in the next year. Further reviewing the article DOE cites, it underscores the importance of planning uncertainties and why the market needs time to adjust. The article states there is wide variability, from 1 to 7 years, of when supplies are promised,<sup>31</sup> and this does not account for how the market might respond to increased demand for more gas turbines through

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<sup>25</sup> MISO, Seasonal Readiness Webpage, <https://www.misoenergy.org/engage/committees/seasonal-readiness/>; 2025-26 Winter Readiness Workshop (Oct 29, 2025),

<https://cdn.misoenergy.org/20251029%20Winter%20Readiness%20Workshop%20Presentation723831.pdf>.

<sup>26</sup> 2025-26 Winter Readiness Workshop (Oct 29, 2025),

<https://cdn.misoenergy.org/20251029%20Winter%20Readiness%20Workshop%20Presentation723831.pdf>, at slide 25.

<sup>27</sup> “On February 1, 2023, NIPSCO submitted and amended Attachment Y to MISO to move the suspension of Schahfer Units 17 and 18 from May 31, 2023, to December 31, 2025. After being reviewed for power system reliability impacts as provided for under Section 38.2.7 of MISO’s Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”), the suspension of Schahfer Units 17 and 18 may suspend without the need for generators to be designated as System Support Resource (“SSR”) units as defined in the Tariff.” Approved February 3<sup>rd</sup>. 2023. Northern Indiana Public Service Co., Schahfer 2024 Annual Progress Report — ELG Rule 2028 Subcategory 2 (June 4, 2024), [https://www.nipsco.com/docs/librariesprovider11/rates-and-tariffs/elg/schahfer-2024-annual-progress-report--elg-rule-2028-subcategory.pdf?sfvrsn=b4f8f251\\_1](https://www.nipsco.com/docs/librariesprovider11/rates-and-tariffs/elg/schahfer-2024-annual-progress-report--elg-rule-2028-subcategory.pdf?sfvrsn=b4f8f251_1) (visited Jan. 16, 2026).

<sup>28</sup> NIPSCO, 2024 Integrated Resource Plan (Dec. 9, 2024).

<sup>29</sup> Schahfer Order at 3.

<sup>30</sup> *See generally*, S&P Global, US Gas-Fired Turbine Wait Times as Much as Seven Years; Costs Up Sharply (May 2025), <https://www.spglobal.com/commodity-insights/en/news-research/latest-news/electric-power/052025-us-gas-fired-turbine-wait-times-as-much-as-seven-years-costs-up-sharply>.

<sup>31</sup> *Id.*

increasing supply. This type of uncertainty is a good example of why longer assessments are needed of resource adequacy, energy, and even supply constraints. Taking emergency actions, like the one DOE orders here, based on such assessments are a poor fit for the uncertainties raised in a long term planning outlook.

The Schahfer Order also imposes economic-dispatch-like obligations<sup>32</sup> creates cost-allocation inconsistencies similar to those in Campbell - where capacity costs approached \$80 million so far and were socialized across Zones 1–7 – and injects regulatory uncertainty that undermines cooperative federalism by bypassing state resource plans process, MISO’s validated resource adequacy processes, and state jurisdiction over siting, retirement, and replacement resources.

The Schahfer Order ignores states’ rights to regulate generation, and tramples the principles of cooperative federalism, and long-standing practices including the 2024, FERC Policy on State-Federal Collaboration, undermining the federal-state regulatory balance.<sup>33</sup>

**C. DOE’s Insufficient and Unsubstantiated Declaration of Need, as well as its Arbitrary and Capricious Conflicting Justifications for Doing So, Renders any Resulting Cost Allocation and Recovery Framework Unjust and Unreasonable in Violation of the Federal Power Act.**

The DOE expressly avoids the need to address the obvious consequence of the Schahfer Order, the need for cost-recovery and allocation and directs NIPSCO to file with FERC.<sup>34</sup> DOE’s approach contradicts its own statements in its letter that initiated FERC’s Large Load Advanced Notice of Proposed Rulemaking (“ANOPR”).<sup>35</sup> In the letter, DOE identified data-center-driven

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<sup>32</sup> Schahfer Order at 5.

<sup>33</sup> See Federal Energy Regulatory Commission, Order Establishing the Federal and State Current Issues Collaborative, 186 FERC ¶ 61,189 Docket No. AD24-7-000 (Mar. 21, 2024).

<sup>34</sup> Schahfer Order at 6.

<sup>35</sup> Letter from Chris Wright, Secretary of Energy, to David Rosner et. al, FERC Chairman and Commissioners, Oct. 23, 2026, Secretary of Energy’s Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal Regarding the Interconnection of Large Loads Pursuant to the Secretary s Authority Under Section 403 of the Department of Energy Organization Act (DOE Large Load Letter),

load growth as a core driver of capacity concerns, yet DOE’s emergency actions assign no cost responsibility to the load growth causing the supposed reliability need.<sup>36</sup> This internal inconsistency is arbitrary and capricious under the Administrative Procedures Act.<sup>37</sup>

The Schahfer Order compounds the cost impacts of prior Section 202(c) orders by requiring continued operation of aging (and *still on forced outage and unusable*), high-cost units without any cap, transparency, or defined endpoint. The order also rejects and dismisses all considerations of ‘need’ that are historically examined at the state level during routine and standard review processes, including: evaluation of unit size compared to need, type of fuel source and costs, timing to align with system need, and cost of unit compared to alternatives to ensure ratepayer protection and value.<sup>38</sup> Finally, these costs will ultimately be recovered through state cost-recovery mechanisms, such as fuel clauses, that are subject to limited state prudence review. Due to the order and FERC’s decisions in Campbell,<sup>39</sup> those costs will be distributed across a broad base of ratepayers (MISO Zones 1-7) rendering the cumulative and ongoing nature of the costs less visible.

**D. Use of Section 202(c) Here Is Unduly Broad and Further Conflates Resource Adequacy and Operational Reliability.**

The Schahfer Order relies on an overly broad and baseless interpretation of what constitutes an “emergency” under Section 202(c), invoking federal authority absent any immediate or demonstrated reliability shortfall, and here, begins to reframe the ability to declare an emergency through non-immediate events based on assessments that forecast over multiple years that are meant help MISO, states, and developers plan over a longer time frame. In the Schahfer Order, it

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<sup>36</sup> DOE Large Load Letter at 2.

<sup>37</sup> See 5 U.S.C. § 706 (the Administrative Procedure Act prohibits agency actions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”).

<sup>38</sup> 16 U.S.C. § 824a(b) (2023).

<sup>39</sup> *Consumers Energy Co. vs. Midcontinent Independent System Operator*, 192 FERC ¶61,158 (2025).

is unclear when the emergency begins and what and when might end it.<sup>40</sup> Such preemptive action risks undermining the credibility of future emergency orders, distorting market signals, and eroding the statutory balance between federal and state authority. In the Schahfer Order, the DOE ventures into what is clearly state jurisdictional planning time horizon, that is meant to allow sufficient time to identify, manage, and mitigate any new ‘longer-term’ capacity risks. The planning for Schahfer closures is a good example of the regulatory coordination, between MISO, states, especially Indiana, and the generator’s owner NIPSCO. The DOE failed to recognize the new generation replacing capacity of the Schahfer.<sup>41</sup> NIPSCO plans include fourteen approved renewable energy projects, including wind, solar, and solar plus battery storage resources, as part of our “Your Energy, Your Future” transition plan to replace the capacity lost when retiring the Schahfer units.<sup>42</sup> According to NIPSCO’s 2024 IRP “[t]wo of these wind projects were placed in service in 2020. An additional wind project was placed into service in 2021. A fourth wind project as well as NIPSCO’s first set of solar projects, were placed into service in 2023...NIPSCO also expects a new Gas Peaking resource to come online by the end of 2027 to provide flexibility and reliability to customers and the system.”<sup>43</sup> DOE misstates the basis for capacity need and bypasses state jurisdiction over IRPs, siting, and replacement-resource approval processes thereby unduly burdens the entire region with unnecessary costs. This expansive use of emergency powers sets a troubling precedent, enabling intervention in routine, state planning decisions without an actual

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<sup>40</sup> See generally Schahfer Order.

<sup>41</sup> NiSource Inc., Property, Plant, and Equipment (R18.htm), in Quarterly Report on Form 10-Q for the quarter ended June 30, 2021, SEC Accession No. 0001111711-21-000029, at R18.htm, <https://www.sec.gov/Archives/edgar/data/1111711/000111171121000029/R18.htm> (html) (visited Jan. 16, 2026)

<sup>42</sup> See *N. Ind. Pub. Serv. Co., Progress Underway, Your Energy, Your Future (Future)*, NIPSCO, <https://www.nipsco.com/future#progress> (last visited Jan. 16, 2026).

<sup>43</sup> *Northern Indiana Public Service Co., 2024 Integrated Resource Plan* (Dec. 9, 2024), <https://www.in.gov/iurc/files/NIPSCO-2024-Integrated-Resource-Plan-Document.pdf> (“A total of ~2,100 MW have been approved by the Commission and will be placed in-service between now and 2028: ~1,700 of renewable projects and the 400 MW gas peaker...”).

crisis; and risks establishing its use to circumvent normal utility, regional transmission organizations, and states processes, and exposes ratepayers to costs that should not exist.

For these reasons, DOE's findings are arbitrary and capricious, exceed statutory authority, and cannot lawfully support continued operation of Schahfer Units 17 and 18.

#### **IV. CONCLUSION**

For the reasons set forth above, the Commission respectfully requests that DOE grant this Motion to Intervene and Request for Rehearing of the Schahfer Order.

Respectfully submitted,

*/s/Christine F. Ericson*

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ILLINOIS COMMERCE COMMISSION

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