EXHIBIT 24

PUBLIC VERSION

April 11, 2017

The Honorable James Richard Perry
Secretary of Energy
United States Department of Energy
U.S. Department of Energy
1000 Independence Ave, SW
Washington, DC 20585

Re: Request for Emergency Order Pursuant to Section 202(c) of the Federal Power Act

Dear Secretary Perry:

The Grand River Dam Authority ("GRDA"), an agency of the State of Oklahoma, hereby notifies the Department of Energy ("DOE" or "Department") of an imminent shortage of generation resources in its service area that constitutes an emergency within the meaning of Section 202(c) of the Federal Power Act ("FPA")[1] and requests that the Department invoke its emergency authority pursuant to Section 202(c) to alleviate such emergency.

This spring, because of a confluence of events that will result in the unavailability of all generation at GRDA's principal generating facility, the Grand River Energy Center ("GREC"), GRDA will face an unexpected shortage of electric generation resources to address the reactive power needs of its service area. Specifically, from April 16, 2017 to July 15, 2017 (referred to herein as the "Emergency Period"), none of the GREC's three generating units will be online due to: (i) the required closure of Unit No. 1 on April 15, 2017, pursuant to an Administrative Order issued by the Environmental Protection Agency ("EPA"); (ii) a lightning strike that seriously damaged Unit No. 2 on July 1, 2016, rendering it inoperable until August 2017; and (iii) unforeseen delays in the construction of a new generating unit (Unit No. 3) because of key supplier delays in the fabrication of essential project materials due to the August 2016 floods in Louisiana.

Without at least one of these three generating units available to generate electricity to provide reactive power needed for grid reliability during the Emergency Period, GRDA will be unable to meet the reactive power needs of its service area during any low-load, high voltage conditions that occur (hereinafter, GRDA refers to this shortage of available reactive power resources during the Emergency Period as the "Emergency"). This Emergency will require Southwest Power Pool, Inc. ("SPP"), the Reliability Coordinator for GRDA's service area, to reconfigure the transmission system to mitigate the high voltage conditions by opening high voltage transmission lines. This method to address high voltage conditions on the transmission system is not as robust an engineering solution as the ability to operate a generator to provide

[1] 16 U.S.C. § 824a(c).

ADMINISTRATION
PO Box 409, Vinita OK 74301-0409
918-256-5545, 918-256-5289 Fax

COAL-FIRED COMPLEX
PO Box 609, Chouteau OK 74337
918-824-1074, 918-825-7791 Fax

ECOSYSTEMS & EDUCATION CENTER
PO Box 70, Langley OK 74350-0070
918-782-4726, 918-782-4723 Fax

ENGINEERING & TECHNOLOGY CENTER
9933 E 16th Street, Tulsa OK 74128
918-622-2228

ENERGY CONTROL CENTER
ROBERT S. KERR DAM
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GRDA POLICE, PO Box 70, Langley OK 74350, 918-782-4726, 918-782-4723 Fax

OKLAHOMA CITY
201 NW 63rd St. Suite 305
Oklahoma City OK 73116
405-297-9963, 405-290-7631 Fax

PENSACOLA DAM, PO Box 70, Langley OK 74350, 918-782-3382 Also Fax

SALINA PUMPED STORAGE PROJECT
PO Box 609, Salina OK 74365
918-434-5920 Also Fax

TRANSMISSION HEADQUARTERS
PO Box 1128, Pryor OK 74362
918-825-0280, 918-825-9416 Fax

dynamic reactive power control; opening a transmission line offers only a static solution that poses more reliability risk to the system and does not follow good utility practice to keep the system intact.

Accordingly, GRDA hereby submits this application pursuant to FPA § 202(c) and Subpart W of Part 205 of the Department's regulations[2] for an emergency order to provide reactive power from Unit No. 1 of the GREC from April 16, 2017 to July 15, 2017 consistent with the conditions herein, in the event that Southwest Power Pool, Inc. ("SPP") determines that such generation is needed to maintain grid reliability. As explained below, GRDA is requesting that SPP have the ability to call on Unit No. 1, which would otherwise be offline but available (using natural gas igniters if necessary), only if SPP sees a need for Unit No. 1 to run to address reliability concerns relating to overvoltage conditions.

I. BACKGROUND

GRDA is an agency of the State of Oklahoma, primarily serving public power communities in Oklahoma. Approximately 70 percent of GRDA's total electric energy is generated by the Grand River Energy Center, which is located near Chouteau, Oklahoma. GREC Units No. 1 and 2 are coal-fired generating units (with natural gas-fired igniters), with generating capacities of 490 and 520 megawatts (MW), respectively.

Due in part to EPA's Mercury and Air Toxics Standards (MATS) requirements, which would have required substantial upgrades for Unit No. 1, GRDA determined to retire Unit No. 1 and to construct a new, lower-emitting, natural gas-fired generation unit (Unit No. 3). GRDA is currently in the process of constructing Unit No. 3, which is a highly efficient 495 MW natural gas combined cycle unit. When GRDA commenced construction of Unit No. 3, it was projected to come online in May 2017. To maintain grid reliability during Unit No. 3's construction, EPA issued an Administrative Order ("AO") granting GRDA a one-year extension of the compliance deadline for Unit No. 1 to comply with EPA's MATS requirements. The AO, attached hereto as Attachment A, requires Unit No. 1 to cease operation as a coal-fired unit on April 15, 2017.[3] The AO, issued under Section 113(a)(4) of the Clean Air Act, is nonrenewable.

As GRDA's principal electric generating station, the GREC plays a critical role in meeting all aspects of GRDA's electric load and in providing ancillary services, including reactive power. In particular, Unit No. 1 has traditionally played a key role in generating reactive power to provide local voltage support in GRDA's service area, particularly when Unit No. 2 has been out of service.

In 2014, SPP on six occasions requested either additional capacitive or reactive voltage support from Unit No. 1 to address voltage problems on the transmission system. During a planned maintenance outage of GREC Unit No. 2 for the period October 15, 2014 through November 4, 2014, SPP created a Temporary Operating Guide for Unit No. 1 requiring it to be

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[2] 10 C.F.R. Part 205, Subpart W (2016).

[3] Attachment A also includes an Amendment to the AO to account for increased reliance on Unit No. 1 after the lightning strike at Unit No. 2.

available for dispatch during instances of low load and high voltage. The Operating Guide, attached as Attachment B, stated that "[d]ue to the low load and high voltage in the GRDA area, GRDA Unit #1 generation will be needed. Generation needs to be online in order to ensure voltage stability until GRDA Unit #2 returns from outage."[4] Unit No. 1 was in fact called upon by SPP to provide reactive support during a substantial portion of the period Unit No. 2 was on outage. GRDA's transmission system, along with the conditions that give rise to the need to maintain the availability of Unit No. 1 to address low load, high voltage conditions, have not changed materially since SPP issued the Temporary Operating Guide.

II. APPLICATION FOR EMERGENCY ORDER

As explained below, GRDA requests that DOE determine that an emergency exists within the meaning of FPA § 202(c) with respect to the unavailability of Unit No. 1 during the Emergency Period, and order GRDA to run Unit No. 1 for the purpose of providing reactive power during the Emergency Period in the event that neither Unit No. 2 nor Unit No. 3 is online, and SPP determines that reactive power from Unit No. 1 is needed for purposes of grid reliability.

A. An Emergency Exists Because a Lightning Strike at Unit No. 2, and Unforeseeable Construction Delays at Unit No. 3, Will Leave GRDA Without the Ability to Generate Electricity for Reactive Power During the Emergency Period.

FPA § 202(c) provides that if "an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes" DOE may issue an order requiring the temporary connections of facilities, and such generation, delivery, interchange, or transmission of electric energy as it deems appropriate to best meet the emergency and serve the public interest. DOE's regulations provide additional detail about what constitutes an "emergency" for purposes of Section 202(c) at 10 C.F.R. § 205.371:

> "Emergency" . . . is defined as an unexpected inadequate supply of electric energy which may result from the unexpected outage or breakdown of facilities for the generation, transmission or distribution of electric power. Such events may be the result of weather conditions, acts of God, or unforeseen occurrences not reasonably within the power of the affected "entity" to prevent. An emergency also can result from . . . a regulatory action which prohibits the use of certain electric power supply facilities. Actions under this authority are envisioned as meeting a specific inadequate power supply situation. Extended periods of insufficient power supply as a result of inadequate planning or the failure to construct necessary facilities can result in an emergency as contemplated in these regulations. . . .

[4] *See* SPP Temporary Operating Guide, "GRDA Unit #1 Manual Commitment," Attachment B.

The unavailability of Units No. 1, 2, and 3 at the GREC during the Emergency Period constitutes an emergency within the meaning of Section 202(c) and DOE's regulations. First, without the availability of at least one of these three generating units at the GREC, GRDA will be unable to provide reactive power for local voltage support to maintain grid stability in GRDA's service area in low load, high voltage conditions. In the past, Unit Nos. 1 and 2 have traditionally met GRDA's needs for reactive power. However, these generating units will be offline during the Emergency Period, and Unit No. 3 will still be under construction and therefore not yet online. GRDA has no other means to procure or provide adequate reactive power for local voltage support in its service area during the Emergency Period. GRDA does not own, or have control over, other resources that can provide sufficient reactive power in GRDA's service area to provide adequate voltage support under low load, high voltage conditions. GRDA cannot rely on temporary generation to produce the needed reactive power because of the quantity of potential reactive power that might be needed under low load, high voltage conditions. (For instance, SPP called upon Unit No. 1 to provide more than 100 MVars of reactive power in 2016 under low load, high voltage conditions.)

Further, SPP's ability to address the reactive power needs of GRDA's service area without Unit No. 1 is limited and inadequate. SPP has the ability to reduce reactive power needs during the Emergency Period through reconfiguring its transmission system by opening transmission lines. However, this is not an optimal solution, because it would not allow SPP to maintain its system in an intact state consistent with good utility practice. Opening transmission lines is a less reliable means of addressing reactive power needs than through dynamic reactive power generation resources because of the relative reliability risk it poses; reactive power cannot be controlled as easily through system configuration as it can through dynamic resources to respond to unexpected events, and the system is more vulnerable to outages because the system is not intact. Thus, SPP's ability to address reactive power needs in GRDA's service area without Unit No. 1 is a limited and less robust method to ensure reliability.

Second, this shortage of resources to generate reactive power during the Emergency Period was unexpected and unforeseeable by GRDA, which originally expected to have Unit No. 2 available, and Unit No. 3 coming online, during the Emergency Period. However, Unit No. 2 sustained extensive damage on July 1, 2016 from a fire caused by a lightning strike, which took Unit No. 2 offline. Repairs to Unit No. 2 are ongoing and will not be completed until August 2017. This lightning strike causing the fire at Unit No. 2 was an unforeseeable act of God, the effects of which were not within the power of GRDA to prevent.[5] Likewise, Unit No. 3's commercial operation date has been delayed because of another unforeseeable act of God – the Louisiana floods of August 2016 – which delayed the ability of a key supplier to meet contractual commitments for critical materials for Unit No. 3's construction. Although GRDA planned for the shutdown of Unit No. 1 due to EPA's AO, DOE's regulations note that an emergency can result from "a regulatory action which prohibits the use of certain electric power supply facilities."[6] Collectively, the unavailability of the GREC's three generating units, each for different reasons, over the Emergency Period gives rise to a "shortage of facilities for

[5] 10 C.F.R. § 205.371.
[6] 10 C.F.R. § 205.371.

generating electric energy" within the meaning of Section 202(c) of the FPA for GRDA's service area.

B. GRDA's Shortage of Reactive Power Resources During the Emergency Period Will Imperil Grid Reliability

During low load, high voltage conditions, an inability to provide sufficient reactive power for voltage support can imperil grid reliability by allowing the grid to exceed the range of acceptable system voltage.[7] The inability to schedule sufficient reactive power can constitute a reliability standards violation, because under NERC Reliability Standard VAR-001-4.1 (Voltage and Reactive Control), transmission operators "shall schedule sufficient reactive resources to regulate voltage levels under normal and Contingency conditions."[8] A deficiency of reactive power can lead to disruption of service, because transmission facilities operating at voltages in excess of system voltage limits must be disconnected from other elements of the grid.[9] If transmission facilities operating at excessive voltages are not disconnected, the overvoltages can cause electric arcing due to insulation "flash overs," which can in turn result in physical damage to transmission facilities.[10]

GRDA's impending shortage of reactive power resources increases the risk of service disruption to GRDA's customers due to overvoltage, because the only means SPP will have to address reactive power needs is through reconfiguring the transmission system by opening a transmission line – a step that will mean the system is no longer intact. Good utility practice calls for the system to be maintained intact if possible. Without an intact system, GRDA's system will be more vulnerable to disruption of service or outages as a result of unexpected events. SPP recognized the risks presented by a lack of reactive power resources at the GREC in 2014 when Unit No. 2 was on outage by issuing its Temporary Operating Guide for Unit No. 1. SPP has reaffirmed the importance of maintaining Unit No. 1 beyond April 15, 2017 for mitigation of system voltage issues and local grid reliability in a letter of support for this request, attached hereto as Attachment C.

C. GRDA Provides Power to Significant Regions in Oklahoma, Including Customers of National Significance

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7 At low levels of electric system load, energized transmission lines may act as a capacitive load that increases system voltage.

8 NERC Reliability Standard VAR-001-4.1 (Voltage and Reactive Control), R1 ("Each Transmission Operator shall schedule sufficient reactive resources to regulate voltage levels under normal and Contingency conditions. Transmission Operators can provide sufficient reactive resources through various means including, but not limited to, reactive generation scheduling, transmission line and reactive resource switching, and using controllable load.").

9 *See* Reliability Standard TOP-008-1 (Response to Transmission Limit Violations), R3 ("The Transmission Operator shall disconnect [an] affected facility if the overload on a transmission facility or abnormal voltage or reactive condition persists and equipment is endangered.").

10 FERC Reliability Primer at 25 ("[H]igh voltages can exceed the insulation capabilities of equipment and cause dangerous electric arcs known as "flashovers." These conditions can occur when there is light loading on the system (e.g., less customer demand), causing an excess of reactive power that elevates the voltage beyond safe operating limits.").

GRDA provides electric power on its transmission system to both retail and wholesale customers. GRDA provides retail electric service to 80 industrial and commercial customers, most of which are located in the MidAmerica Industrial Park (MAIP) near Pryor. [redacted] The 9,000 acre MAIP is home to over 80 companies employing over 4,500 people. There are also urgent care, emergency and life flight services within the MAIP boundaries. On the wholesale side, GRDA's largest customer is Western Farmers Electric Cooperative (WFEC) which is responsible for supplying power to [redacted] 18 member Oklahoma distribution cooperatives. GRDA provides power directly to over 16 municipalities, including [redacted] Coffeyville, Kansas, which has a strong industrial base, and the City of Stillwater, which is primarily residential and commercial service. There are 15 hospitals with a combined 1000+ bed-capacity in these cities. GRDA also provides electricity to the Oklahoma Municipal Power Authority (OMPA). Through support of OMPA, GRDA's generation provides a portion of the electric power to an additional 35 participating cities in Oklahoma. Directly and indirectly, GRDA provides electric power support to some portion of 75 of the Oklahoma's 77 counties.

D. Information Required By Section 205.373

Herein, GRDA sets forth the information required under Section 205.373 of DOE's regulations.[11] To ensure that DOE has the information it needs to evaluate GRDA's application, GRDA is providing certain additional information that GRDA deems salient to its application.

(a) Legal Name of Applicant. The applicant is Grand River Dam Authority.

(b) Person to Whom Correspondence Should Be Addressed. Correspondence with respect to this application should be directed to:

Daniel S. Sullivan
Chief Executive Officer
Grand River Dam Authority
P.O. Box 409
Vinita OK 74301-0409
(918)256-5545
dsullivan@grda.com

[11] Certain elements of Section 205.373 address the circumstances of an applicant facing a shortage of real power and the prospect of firm customer curtailment, but do not address GRDA's emergency circumstances, which involve a shortage of reactive power generation during light load conditions. GRDA has indicated where these requirements are Section 205.373 are not applicable to GRDA's circumstances.

(c) Political Subdivision in Which GRDA Operates and Business Conducted. GRDA operates in 24 counties in Northeast Oklahoma. GRDA sells electricity to three customer classes in its service area: municipals, electric cooperatives and industries.

(d) Baseline Data.

(1) Daily peak load and energy requirements for each of the past 30 days, and projections for each day of the Emergency Period: These requirements are not applicable to GRDA's request, which contemplates relief in light load conditions. GRDA is providing information about the reactive power provided by Unit No. 1 in February 2017, the most recent month for which data is available, in Attachment D. GRDA provided reactive power pursuant to an SPP Temporary Operating Guide in the fall of 2014 period to maintain grid reliability. GRDA is providing data on the reactive power provided by Unit No. 1 during this time frame in Attachment E.

(2) All capacity and energy receipts or deliveries to other electric utilities for each of the past 30 days: Not applicable.

(**3) The status of all interruptible customers for each of the past 30 days, and anticipated status during the Emergency Period:** GRDA does not expect to interrupt any customers during the Emergency Period due to a lack of available energy. Interrupting load during the Emergency Period would exacerbate, rather than remedy, the low load, high voltage conditions that present an emergency for GRDA.

(4) All scheduled capacity and energy receipts or deliveries to other electric utilities during the Emergency Period. Not applicable.

(e) A description of the emergency situation, any contingency plan of GRDA, and the current level of implementation. The emergency situation GRDA faces is described above in Section II.A of this Application. Until GRDA can bring GREC Unit No. 2 or No. 3 online, GRDA does not have any contingency plan to provide reactive power for voltage support without Unit No. 1. As explained above in Section II.B, SPP's ability to address GRDA reactive power needs in low-load, high voltage conditions without Unit No. 1 is limited and poses increased reliability risks for GRDA's service area compared to operating Unit No. 1 for voltage support.

(f) A showing that adequate electric service to firm customers cannot be maintained without additional power transfers. Not applicable.

(g) A description of any conservation or load reduction actions that have been implemented. Not applicable. Reducing load via conservation or other load reduction actions under low load, high voltage circumstances would exacerbate, rather than mitigate, emergency overvoltage conditions.

(h) A description of efforts made to obtain additional power through voluntary means and the results of such efforts. GRDA does not have the ability to provide additional

reactive power resources to alleviate the Emergency. GRDA is required to cease operation of Unit No. 1 as a coal-fired unit after April 15, 2017 pursuant to an Administrative Order under Section 113(a)(4) of the Clean Air Act. An order issued under Section 113(a)(4) is nonrenewable, and therefore, EPA does not have authority to extend the compliance deadline in the AO and further delay compliance with MATS for Unit No. 1. Unit No. 2 is undergoing repairs as quickly as possible, but the unit will not be available during the Emergency Period. Construction on Unit No. 3 is not expected to be completed until sometime in June 2017, at the earliest, and may not be available at all during the Emergency Period.

(i) A listing of proposed sources and amounts of power necessary from each source to alleviate the emergency and a listing of any other "entities" that may be directly affected by the requested order. The only generation source that GRDA proposes to alleviate the Emergency is Unit No. 1 of the GREC. Based on historical data, GRDA expects that it could be called upon to absorb up to 120 MVar or more from the grid if called on by SPP for local voltage support in low load, high voltage conditions.

Two entities would be directly affected by GRDA's requested order. First, SPP manages grid operations for GRDA's transmission assets, and thus would be directly responsible for addressing any grid instability resulting from the Emergency. If DOE grants GRDA's request for relief herein, SPP would be able to dispatch Unit No. 1 to absorb reactive power if it determines that such generation is necessary to maintain grid reliability. Second, EPA would be directly affected, because running Unit No. 1 after April 15, 2017, would contravene the terms of EPA's AO and the Clean Air Act, which require GRDA to cease coal-fired operations at Unit No. 1 after April 15, 2017.

(j) Specific proposals to compensate the supplying "entities" for the emergency services requested and to compensate any transmitting "entities" for services necessary to deliver such power. GRDA proposes that, during the Emergency Period, it be compensated for any generation from Unit No. 1 directed by SPP pursuant to a DOE Section 202(c) Order consistent with the terms of the SPP Tariff.

(k) A showing that, to the best of the applicant's knowledge, the requested relief will not unreasonably impair the reliability of any "entity" directly affected by the requested order to render adequate service to its customers. To GRDA's knowledge, ordering reactive power generation from Unit No. 1, which is currently an SPP generating resource, will not impair the reliability of any entity.

(l) Description of the facilities to be used to transfer the requested emergency service to the applicant's system. Not applicable.

(m) A general or key map on a scale not greater than 100 kilometers to the centimeter showing, in separate colors, the territory serviced by each "entity" named in the application; the location of the facilities to be used for the generation and transmission of the requested emergency service; and all connection points between systems. This information is at attached as Attachment F.

(n) An estimate of the construction costs of any proposed temporary facilities and a statement estimating the expected operation and maintenance costs on an annualized basis. Not applicable

(o) Supplemental Information. A letter from SPP in support of GRDA's request for action under FPA Section 202(c) is attached as Attachment C.

E. Compliance with Applicable Environmental Laws Under Section 202(c)(2).

Section 202(c)(2) of the FPA provides that when DOE issues an order under Section 202(c) that results in a conflict with Federal, State, or local environmental law, DOE is required to ensure that the order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with applicable Federal, State, or local environmental law and minimizes any adverse environmental impacts.[12] Herein, GRDA is requesting authorization to generate electricity to provide reactive power support from Unit No. 1 of the GREC after April 15, 2017, which would contravene EPA's Administrative Order on MATS Compliance for Unit No. 1.[13]

To ensure compliance with the AO to the maximum extent possible and minimize environmental impacts pursuant to Section 202(c)(2), GRDA commits that, in the event DOE issues a Section 202(c) order directing the generation of reactive power from Unit No. 1 of the GREC, GRDA will generate from Unit No. 1 only when called upon by SPP pursuant to DOE's order, and will otherwise keep Unit No. 1 offline. Although Unit No. 1 must burn coal to generate reactive power, GRDA Unit No. 1 has natural gas igniters available to keep Unit No. 1 in a ready state, if necessary. This will ensure compliance with EPA's AO to the maximum extent possible given that the AO does not prohibit the use of natural gas at Unit No. 1. Because GRDA can keep Unit No. 1 ready, Unit No. 1 does not need to maintain a minimum generation level or be synchronized to the grid to be ready to respond if called upon by SPP to provide reactive power. Unit No. 1 can be brought online to generate reactive power from an offline state within 24 hours, which is within the window of notice that SPP would give GRDA to generate reactive power.

Additionally, GRDA commits to cease all generation from Unit No. 1 as soon as GREC Unit No. 3 or Unit No. 2 is brought online, in which case either unit would be able to act as a reactive power resource for GRDA.

F. Request for Designation of Critical Electrical Infrastructure Information

Pursuant to Section 215A of the FPA, GRDA requests that the Department designate the bracketed information in Section II.C as critical electrical infrastructure information protected

[12] 16 U.S.C. § 824a(c)(2).
[13] *See* Attachment A at P 31.

from disclosure under the Freedom of Information Act and other public disclosure laws.[14] The bracketed information includes information relating to the production, generation, and transmission of energy that could be useful to a person in planning an attack on critical infrastructure.[15]

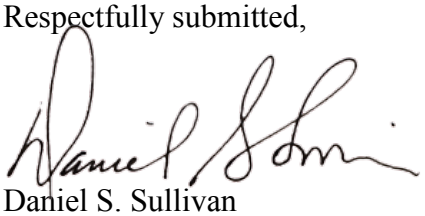
G. Requested Order

As explained herein, GRDA respectfully requests that DOE issue an emergency order directing the generation of electricity to provide reactive power from Unit No. 1 of the GREC from April 16, 2017 to (i) July 15, 2017, or (ii) the date on which GREC No. 3 or No. 2 is brought online, whichever is earlier, in the event that Southwest Power Pool, Inc. ("SPP") determines that generation from Unit No. 1 is needed to maintain grid reliability, subject to the requirements that Unit No. 1 remain offline unless requested to generate by SPP pursuant to a DOE Section 202(c) order.

III. CONCLUSION

GRDA respectfully requests that DOE take the emergency action requested herein as soon as possible to address the imminent shortage of reactive power that GRDA faces in its service area. GRDA stands ready to answer any questions that DOE may have, and to provide any additional information that DOE requires.

Respectfully submitted,



Daniel S. Sullivan
Chief Executive Officer
Grand River Dam Authority

Cc: Patricia A. Hoffman, Principal Deputy Assistant Secretary and Acting Assistant Secretary, DOE Office of Electricity Delivery & Energy Reliability

Attachments

[14] 16 U.S.C. § 824a(c)(2).

[15] *See* 18 C.F.R. § 388.113(d)(1)(i). GRDA requests the bracketed information be designated critical electric infrastructure information for as long as permissible. *See* 18 C.F.R. § 388.113(d)(1)(ii).

PUBLIC VERSION

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of April, 2017, caused copies of the foregoing documents to be served on the parties listed below by causing copies of the same to be sent via overnight delivery.

Michael Bardee
Director, Office of Electric Reliability
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Administrator Scott Pruitt
U.S. Environmental Protection Agency
Mail code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Southwest Power Pool, Inc.
c/o Lanny Nickell, Vice President, Engineering
415 North McKinley Street, Suite 140
Little Rock, AR 72205

Ronald W. Ciesiel
General Manager
Southwest Power Pool Regional Entity
201 Worthen Drive
Little Rock, AR 72223

/s/ Nathan Reese
Nathan Reese
Assistant General Counsel
Grand River Dam Authority

Attachment A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AIR ENFORCEMENT DIVISION, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE
BEFORE THE ADMINISTRATOR

In the Matter of: Grand River Dam Authority, Respondent.	Administrative Compliance Order on Consent AED-CAA-113(a)-2016-0002

ADMINISTRATIVE COMPLIANCE ORDER

A. PRELIMINARY STATEMENT

1. This Administrative Compliance Order ("Order") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 113(a) of the Clean Air Act (the "CAA" or "Act"), 42 U.S.C. § 7413(a)(3) and (4).
2. On the EPA's behalf, Phillip A. Brooks, Division Director of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, is delegated the authority to issue this Order under Section 113(a) of the Act.
3. Respondent is Grand River Dam Authority, an agency of the state of Oklahoma. Respondent is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e). Respondent owns and/or operates the Grand River Energy Center (hereafter, the "Facility"), located in the state of Oklahoma**.**
4. Respondent signs this Order on consent.

B. STATUTORY AND REGULATORY BACKGROUND

5. Section 112 of the CAA, 42 U.S.C. § 7412, authorizes the Administrator of EPA to regulate hazardous air pollutants ("HAPs") which may have an adverse effect on health or the environment.

6. Pursuant to Section 112 of the CAA, the EPA finalized National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Subpart UUUUU on December 16, 2011, 77 FR 9304 (Feb. 16, 2012) (40 C.F.R. Part 63 Subpart UUUUU), commonly known as the "Mercury and Air Toxics Standards." *Id.* (hereafter, "MATS"). The MATS adopt emission limits on mercury, acid gases and other toxic pollutants for affected coal and oil-fired electric generating utility units ("EGUs").
7. Pursuant to 40 C.F.R. § 63.9981, the MATS applies to owners or operators of coal-fired EGUs or oil-fired EGUs as defined in 40 C.F.R. § 63.10042.
8. Pursuant to 40 C.F.R. § 63.2, "owner or operator" is defined as "any person who owns, leases, operates, controls, or supervises a stationary source."
9. Section 111(a)(3) of the Act, 42 U.S.C. § 7411(a)(3), and 40 C.F.R. § 63.2 defines a "stationary source" as "any building, structure, facility, or installation which emits or may emit any air pollutant."
10. Pursuant to 40 C.F.R. § 63.2, "affected source" is defined as "the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a Section 112(c) source category or subcategory for which a Section 112(d) standard or other relevant standard is established pursuant to Section 112 of the Act."
11. Pursuant to 40 C.F.R. § 63.9982, the affected source to which the provisions of the MATS, 40 C.F.R. Part 63, Subpart UUUUU, applies is the collection of all existing coal- or oil-fired EGUs, as defined in 40 C.F.R. § 63.10042, within a subcategory, [and] … each new or reconstructed coal- or oil-fired EGU, as defined in 40 C.F.R. § 63.10042.
12. On December 16, 2011, in parallel with finalizing the MATS, the Office of Enforcement and Compliance Assurance issued a policy memorandum describing its intended approach regarding issuance of Section 113(a) administrative orders ("Orders") to sources that are unable to comply

with the MATS but that may need to operate for up to a year to address a specific and documented reliability concern. *See* The Environmental Protection Agency's Enforcement Response Policy For Use Of Clean Air Act Section 113(a) Administrative Orders In Relation To Electric Reliability And The Mercury and Air Toxics Standard (hereafter, "2011 MATS Enforcement Policy"). The 2011 MATS Enforcement Policy is limited in application to units that are critical for reliability purposes.

13. In issuing the 2011 MATS Enforcement Policy, the EPA believed that there would be few, if any, cases in which affected sources would not be able to comply with the MATS within the compliance period specified by Section 112(i)(3) of the CAA (including, as applicable, any extensions permitted under Section 112(i)(3)(B)), which has proven to be the case. Nonetheless, the EPA acknowledged that there may be isolated instances in which the deactivation or retirement of a unit or a delay in installation of controls due to factors beyond the owner's/operator's control could have an adverse, localized impact on electric reliability that could not be timely predicted or planned for with specificity. In such instances, sources could find themselves in the position of either operating in noncompliance with the MATS or halting operations and thereby potentially impacting electric reliability. Thus, although the EPA generally does not speak publicly to the intended scope of its enforcement efforts in advance of the date when a violation may occur, the Agency issued the 2011 MATS Enforcement Policy to describe the EPA's intended enforcement response in such instances and to provide confidence with respect to electric reliability. The policy is informed, as are EPA's enforcement actions in general, by the need to find an appropriate balance between critical public interests, bearing in mind the resources and process time required for any enforcement response.
14. The 2011 MATS Enforcement Policy specifies that to qualify for an Order in connection with it, an owner/operator must, in summary, provide early written notice of its compliance plans to

the Planning Authority[1] for the area in which the source is located, timely request an Order and provide notice of such request to the EPA, FERC, its Planning Authority, any state public utility or service commission, and any state, tribal or local environmental agencies, with jurisdiction over the area in which the EGU is located, and submit a complete request for an Order.

15. A complete request pursuant to the 2011 MATS Enforcement Policy must include the following elements: copies of the early notice provided to the Planning Authority; written analysis of the reliability risk, which demonstrates that operation of the unit after the MATS Compliance Date is critical to maintaining electric reliability; written concurrence with the reliability analysis by the relevant Planning Authority (or a written explanation of why such concurrence cannot be provided); copies of any written comments received from third parties in favor of, or opposed to, operation of the unit after the MATS Compliance Date; a plan to achieve compliance with the MATS no later than one year after the MATS Compliance Date; and identification of the level of operation required to avoid the reliability risk and proposed operational limits and/or work practices to minimize or mitigate emissions to the extent practicable during non-compliant operation.

16. With respect to the demonstration of reliability risk, the 2011 MATS Enforcement Policy states that the analysis provided in an Order request should demonstrate that operation of the unit after the MATS Compliance Date is critical to maintaining electric reliability, and that failure to operate the unit would: (a) result in the violation of at least one of the reliability criteria required to be filed with the Commission, and, in the case of the Electric Reliability Council of

[1] Planning Authorities are the entities tasked, under NERC reliability standards, with addressing electric reliability through grid planning. In the 2011 MATS Enforcement Policy, Planning Authority was defined as "the entity defined as such in the "Glossary of Terms Used in NERC Reliability Standards," available at: http://www.nerc.com/docs/standards/rs/Reliability_Standards_Complete_Set.pdf, or any successor term thereto approved by FERC, and includes, in relevant jurisdictions, RTOs and ISOs."

Texas, with the Texas Public Utility Commission; or (b) cause reserves to fall below the required system reserve margin.

17. Although the EPA's issuance of an Order is not conditioned upon the approval or concurrence of any entity, in light of the complexity of the electric system and the local nature of many reliability issues, for purposes of using its Section 113(a) Order authority in connection with the 2011 MATS Enforcement Policy, the EPA has sought advice in the identification and/or analysis of reliability risks, as necessary and on a case-by-case basis from reliability experts, including, but not limited to, the Federal Energy Regulatory Commission ("FERC"), Regional Transmission Operators ("RTOs"), Independent System Operators and other Planning Authorities, as EPA indicated it would do in the 2011 MATS Enforcement Policy.
18. The 2011 MATS Enforcement Policy specifically stated that an owner/operator interested in receiving a Section 113(a) administrative order pursuant to the policy should provide FERC with a copy of its complete and timely written request to the EPA.
19. On May 17, 2012, FERC issued a policy statement explaining how it intended to provide advice to the EPA on requests for an administrative order pursuant to the 2011 MATS Enforcement Policy. *See* Policy Statement of the Commission's Role Regarding the Environmental Protection Agency's Mercury and Air Toxics Standards, 139 FERC ¶ 61,131 (2012) ("FERC Policy Statement"). The FERC Policy Statement provided that the Commission will advise the EPA by submitting written Commission comments to the EPA based on the Commission's review of the information provided in an informational filing containing the copy of the request for the administrative order provided to the Commission in an AD docket. *Id.* at Paragraph 21. Further, the FERC Policy Statement indicated that the Commission's comments would provide advice to the EPA on whether, based on the Commission's review of the informational filing, there might be a violation of a Commission-approved Reliability Standard, and may also identify issues

within its jurisdiction other than a potential violation of a Commission-approved Reliability Standard. *Id.*

C. FINDINGS

20. Respondent owns and/or operates an existing coal-fired electric utility steam generating unit, as defined in 40 C.F.R. § 63.10042.
21. Respondent's operation at the Facility is subject to the MATS.
22. On November 28, 2012, Respondent received a one year extension pursuant to 40 C.F.R. 63.6(i)(4)(i)(A) from its permitting authority, extending the date by which it must comply with the MATS to April 15, 2016. *See* November 28, 2012 Letter from Steven A. Thompson, Oklahoma Department of Environmental Quality to Grand River Dam Authority.
23. On February 19, 2015, Respondent submitted a timely and complete request for an Order pursuant to the 2011 MATS Enforcement Policy to the EPA, with a copy to FERC. That request can be found in the FERC AD docket, AD15-6-000 (hereafter "Order Request").
24. Pursuant to the Order Request, Respondent seeks an Order from April 16, 2016 through April 15, 2017, on the grounds that it will not be able to comply with the MATS at Unit No. 1 of the Grand River Energy Center located near Chouteau, Oklahoma, without violating its system reserve margin of 12%, until the construction of a new, highly efficient natural gas-fired combined cycle combustion turbine (Unit No. 3) is completed as a replacement for Unit No. 1. Unit No. 3 will not be operational until shortly after April 16, 2017. *See id.*
25. More specifically, the Order Request states that Respondent, "a load serving member of the Southwest Power Pool (SPP) [Respondent's Planning Authority], states that it will be unable to meet its required reserve margin of 12 percent capacity if Unit No. 1 is retired before new Unit No. 3 becomes operational. Order Request at 6; *see also*, Southwest Power Pool, Criteria 2.1.9 (Minimum Required Capacity Margin) (revised July 29, 2014), available at

http://www.spp.org/publications/SPP%20Criteria%20&%20Appendices%20July%2029,%202014.pdf. Respondent indicates that the untimely loss of Unit No. 1 would prevent it from meeting its basic load obligations by 245 MW. *Id.* Additionally, Respondent states that Unit No. 1 has been used for local voltage support, noting that "there were six instances in 2014 where the GRDA System Operator requested either additional capacitive or reactive voltage support from Unit No. 1 to address voltage problems on the transmission system." Order Request at 7. Respondent further claims that it has "experienced problems under certain conditions obtaining firm or non-firm transmission service to deliver power purchases from outside of the GRDA balancing area" when one or both of its existing units are offline, and without an administrative order, it "is concerned that transmission constraints will make importing sufficient replacement capacity and energy very difficult." *Id.*

26. In a memorandum attached to Respondent's submission, SPP concurred with Respondent's reserve margin assessment. *See* Order Request, Attachment C (SPP January 27, 2014 Memorandum) at 2 ("[a] review of GRDA's supply adequacy without GRDA unit 15-1 indicates that the firm resources available to GRDA fall below their 12% minimum capacity margin requirement in 2016"). Additionally, SPP concurred that SPP "has observed, over the last year, the need to commit GRDA Unit 1 for relief from high voltages … [and that] SPP concurs with GRDA's assessment regarding GRDA Unit 1's criticality for reliability absent other system changes." Order Request, Attachment E (SPP February 6, 2015 Letter) at 1.

27. FERC reviewed the reliability risk presented in the request in accordance with the FERC Policy Statement and on April 16, 2015 found that "the loss of GRDA's Unit No. 1 would result in GRDA falling below the 12 percent capacity reserve requirement stipulated in SPP Criteria 2.1.9 unless GRDA is able to procure replacement capacity for the unit and associated firm transmission service," and "[a]bsent a significant change in future circumstances, [FERC's] view is that GRDA's

Unit No. 1 is needed as requested by GRDA to maintain electric reliability." *See* Commission Comments On Grand River Dam Authority's Request For EPA Administrative Order (April 16, 2015), p. 4, Docket No. AD15-6-000. Additionally, FERC notes that "the reliability of the Bulk-Power System depends in part on whether utilities meet an appropriate planning reserve margin." *Id.*

28. Respondent proposes to minimize emissions by implementing a bidding approach with SPP, in a manner consistent with the SPP Tariff and market rules, to limit the total electricity generated by Unit No. 1 while maintaining its reserve margin. *See* Order Request at 12-13. Specifically, Respondent shall bid Unit No. 1 to achieve a total annual capacity factor of not more than 50% during the period from April 16, 2016 up to April 16, 2017, which is lower than its historical operation as a base load facility of approximately 70% annual capacity. *Id.* Although the monthly capacity factor of Unit No. 1 would vary to allow Respondent to meet its reserve margin requirements throughout the period covered by this Order, Respondent states that reducing the annual capacity factor to 50% will result in approximately 30% lower total emissions during the period from April 16, 2016 up to April 16, 2017. *Id.*

D. ORDER

29. Respondent is ordered to take the actions described in this section of this Order.
30. From April 16, 2016 through April 15, 2017, Respondent shall implement a bidding approach with SPP, while maintaining Respondent's reserve margin, in a manner consistent with the SPP Tariff and market rules, to limit the total electricity generated by Unit No. 1 to achieve a total annual capacity factor of not more than 50% during the period from April 16, 2016 through April 15, 2017.
31. By 11:59 pm April 15, 2017, Respondent shall achieve full compliance with the MATS at Unit No. 1 at the Facility by permanently ceasing operation as a coal-fired unit.

32. Within 30 days of achieving full compliance with the MATS at the Facility, Respondent shall provide written notice to the EPA indicating that compliance has been achieved and the date by which is it was achieved, pursuant to the process specified in paragraph 39 of this Order.

E. OTHER TERMS AND CONDITIONS

33. Respondent admits the jurisdictional allegations contained in Sections A (Preliminary Statement) and B (Statutory and Regulatory Background) of this Order.

34. Respondent neither admits nor denies the findings in Section C (Findings) of this Order.

F. GENERAL PROVISIONS

35. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to $37,500 per day per violation, or both, as provided in Sections 113(b)(2) and 113(d)(1) of the Act, 42 U.S.C. §§ 7413(b)(2) and 7413(d)(1), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

36. Nothing in this Order shall relieve Respondent of the duty of achieving and maintaining compliance with all applicable provisions of the Act or other federal, state or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

37. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

38. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Order until the Termination Date as set out in paragraph

44 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

39. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other documentation is required to be given, it shall be directed to the individuals specified at the addresses below unless those individuals or their successors give notice of a change of address to the other party in writing:

Phillip A. Brooks
Division Director of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, US Environmental Protection Agency
Mail Code 2242A, Room 1119
1200 Pennsylvania Ave, NW
Washington, DC 20460 mail or 20004 courier (note Room 1119 on courier packages)

Anupa Ahuja
Air Enforcement Section
Mail Code 6EN-AA
US EPA Region 6
1445 Ross Ave
Dallas, TX 75202
Phone: (214)665-2701

Daniel S. Sullivan
Grand River Dam Authority
P.O. Box 409
226 West Dwain Willis Avenue
Vinita, OK 74301
Phone: (918)256-5545

Britt S. Fleming
Van Ness Feldman, LLP
1050 Thomas Jefferson Street, NW
Washington, DC 20007
Phone: (202)298-1863

All notices and submissions shall be considered effective upon receipt.

40. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.
41. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.

G. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

42. Pursuant to Section 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately upon signature by the latter of Respondent or the EPA.

H. JUDICIAL REVIEW

43. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

I. TERMINATION

44. This Order shall terminate on the earlier of the following (the "Termination Date") at which point Respondent shall operate in compliance with the Act:

    a. 11:59 pm April 15, 2017;

    b. The effective date of any determination by the EPA that Respondent has achieved compliance with all terms of this Order; or

    c. Immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AIR ENFORCEMENT DIVISION, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE
BEFORE THE ADMINISTRATOR

In the Matter of: Grand River Dam Authority, Respondent.	Administrative Compliance Order on Consent AED-CAA-113(a)-2016-0002

For United States Environmental Protection Agency, Air Enforcement Division, Office of Enforcement and Compliance Assurance:

4/16/2016
Date

[redacted]
Phillip A. Brooks
Division Director of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance,
US Environmental Protection Agency
Mail Code 2242A, Room 1119
1200 Pennsylvania Ave, NW
Washington, DC 20460 mail or 20004 courier (note Room 1119 on courier packages)

For Grand River Dam Authority:

[redacted]
Signature

April 7, 2016
Date

Printed Name: Daniel S. Sullivan
Title: General Manager/CEO
Address: P.O. Box 409, 226 West Dwain Willis Avenue, Vinita, OK 74301

CERTIFICATE OF SERVICE

I certify that the foregoing "Administrative Compliance Order" in the Matter of Grand River Dam Authority, Order AED-CAA-113(a)-2016-0002, was filed and copies of the same were mailed to the parties as indicated below.

Certified Mail

Daniel S. Sullivan
Grand River Dam Authority
P.O. Box 409
226 West Dwain Willis Avenue
Vinita, OK 74301
Phone: (918)256-5545

Britt S. Fleming
Van Ness Feldman, LLP
1050 Thomas Jefferson Street, NW
Washington, DC 20007
Phone: (202)298-1863

Eddie Terrill
Director, Air Quality Division Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

4/18/16
Date

[redacted]
Tawanna Cathey

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AIR ENFORCEMENT DIVISION, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE
BEFORE THE ADMINISTRATOR

In the Matter of: Grand River Dam Authority, Respondent.	Amendment Administrative Compliance Order on Consent AED-CAA-113(a)-2016-0002

AMENDMENT – ADMINISTRATIVE COMPLIANCE ORDER

A. PRELIMINARY STATEMENT

1. This is an amendment (the "Amendment") to the Administrative Compliance Order on Consent, AED-CAA-113(a)-2016-0002, ("Order") issued on April 16, 2016 by the U.S. Environmental Protection Agency ("EPA") to the Grand River Dam Authority ("Respondent"). A copy of the Order is attached to this Amendment as Attachment A. Unless otherwise indicated, defined terms in this Amendment have the same meaning as in the Order.

B. FINDINGS

2. From July 1, 2016 to July 2, 2016, a series of events arose from causes beyond the control of Respondent that require amendment to the terms of the Order. Specifically, during a storm, there was a lightning strike at the Facility, which resulted in a significant fire that severely damaged Unit 2 and moderately damaged Unit 1. Unit 1 returned to service on July 20, 2016. Unit 2 is not expected to return to service until after Unit 1 permanently ceases operation as a coal-fired unit on April 15, 2017.
3. As a result of Unit 2, a 520 MW unit, being out of service during the period covered by the Order, Respondent will not be able to meet the terms of operation of Unit 1 detailed in the Order without violating the reliability risks described in paragraphs 24 – 28 of the Order. To address those reliability risks, it is necessary to amend the Order to allow for increased

operation of Unit 1. During the period in July when both units were out of service, voltage support was not required and Respondent was able to make other short term power purchases to meet basic load requirements.

C. ORDER

4. Paragraph 30 of the Order is replaced with the following requirement: From April 16, 2016 through April 15, 2017, Respondent shall implement a bidding approach with SPP, while maintaining Respondent's reserve margin, in a manner consistent with the SPP Tariff and market rules, to limit the total electricity generated by Unit No. 1 to achieve a total annual capacity factor of not more than 80% during the period from April 16, 2016 through April 15, 2017.

D. GENERAL PROVISIONS

5. Unless explicitly modified in this Amendment, all provisions of the Order remain in effect.
6. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Amendment to execute and bind legally the Parties to this document.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AIR ENFORCEMENT DIVISION, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE
BEFORE THE ADMINISTRATOR

In the Matter of: Grand River Dam Authority, Respondent.

Amendment
Administrative Compliance Order on Consent
AED-CAA-113(a)-2016-0002

For United States Environmental Protection Agency, Air Enforcement Division, Office of Enforcement and Compliance Assurance:

9/14/2016
Date

[redacted]
Phillip A. Brooks
Division Director of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance,
US Environmental Protection Agency
Mail Code 2242A, Room 1119
1200 Pennsylvania Ave, NW
Washington, DC 20460 mail or 20004 courier (note Room 1119 on courier packages)

For Grand River Dam Authority:

[redacted]
Signature

Sept. 8, 2016
Date

Printed Name: Daniel S. Sullivan
Title: General Manager/CEO
Address: P.O. Box 409, 226 West Dwain Willis Avenue, Vinita, OK 74301

CERTIFICATE OF SERVICE

I certify that the foregoing "Amendment" to the Administrative Compliance Order in the Matter of Grand River Dam Authority, Amendment AED-CAA-113(a)-2016-0002, was filed and copies of the same were mailed to the parties as indicated below.

Certified Mail

Daniel S. Sullivan
Grand River Dam Authority
P.O. Box 409
226 West Dwain Willis Avenue
Vinita, OK 74301
Phone: (918)256-5545

Britt S. Fleming
Van Ness Feldman, LLP
1050 Thomas Jefferson Street, NW
Washington, DC 20007
Phone: (202)298-1863

Eddie Terrill
Director, Air Quality Division Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

_____ _____

Date Tawanna Cathey

Attachment B

Temporary Operating Guide

Title: GRDA Unit #1 Manual Commitment
System Conditions: Intact
Written by: Patrick deLassus (SPP)
Reviewed by: Kevin Sanson (SPP), Jason Smith (SPP), Terry Oxandale (SPP), Will Tootle (SPP), Jeff Wells (GRDA), Mike Stafford (GRDA)

Op-Guide: Effective on: **10/15/2014** Expires on: **11/04/2014**

I. Purpose/Background

Due to the low load and high voltage in the GRDA area, GRDA Unit #1 generation will be needed. Generation needs to be online in order to ensure voltage stability until GRDA Unit #2 returns from outage.

II. Monitoring

IDC FG #	Monitored Element	Contingent Element	Owner	Rating (MVA)
xxxxx	GRDA area (Voltage)	System Intact	GRDA	xxx

III. Mitigation

SPP BA will manually commit the GRDA Unit #1 (GRDA_UNIT_1) in order to provide relief from high voltage. Low load and high voltage are also contributing factors to this commitment. This requirement will be terminated once load levels permit.

If the generation from GRDA Unit #1 is unavailable, or otherwise unable to supply voltage support, reconfiguration plans may be needed. If reconfiguration is deemed necessary, GRDA will determine where to reconfiguration will be effective.

IV. Unit Commitment Details

RESOURCE NAME: GRDA_UNIT_1
Unit Start Time: 10/16/2014 00:00
Unit Online Time (Dispatchable):): **** Extension – Unit is Already Online ****
Unit Release Time (Shutdown): 11/04/2014 00:00 (This will be re-evaluated once GRDA_UNIT_2 returns to service.)
Commit Reason: SPP: LOCAL

The SPP RCs are not obligated to use the directions given above in the recommended order. Depending on the circumstances, the SPP RCs will make the decision on the best and most efficient option that would provide relief adequately.

Attachment C

March 1, 2017

United States Department of Energy
1000 Independence Ave, SW
Washington, DC 20585

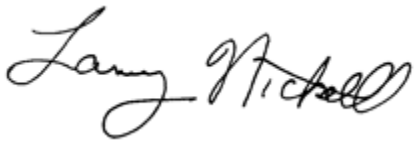
Re: Contribution of GRDA Unit 1 to local grid reliability as demonstrated by recent operating experience in SPP

Dear Sir/Madam:

The Southwest Power Pool, Inc. (SPP) Reliability Coordinator (RC) has observed, historically, the need to commit GRDA Unit 1 for relief from high voltages. In fact, the RC created a Temporary Operating Guide for the period October 15 through November 4 of 2014 stating that during a planned maintenance outage of GRDA Unit 2, GRDA Unit 1 must be available for dispatch during instances of low load and high voltage. GRDA Unit 1 was called upon to provide reactive support during the entire period of the Operating Guide. Although SPP no longer requires the Temporary Operating Guide, it nevertheless continues to believe that during future light load conditions when GRDA Unit 2 is unavailable, the commitment and dispatch of GRDA Unit 1 will be a critical resource in maintaining proper system voltage. Moreover, in the absence of GRDA Unit 2 and until GRDA Unit 3 comes online, SPP believes GRDA Unit 1 provides a valuable contribution to the local area's overall grid reliability. Based on the above, SPP concurs with GRDA's assessment regarding GRDA Unit 1's importance for reliability absent other system changes or until GRDA's Unit 2 and Unit 3 are in service.

Please do not hesitate to contact me should you have questions or would like to request additional information.

Respectfully submitted,



Lanny Nickell
Vice President, Engineering
(501) 614-3232 • Fax: (501) 482-2022 • lnickell@spp.org

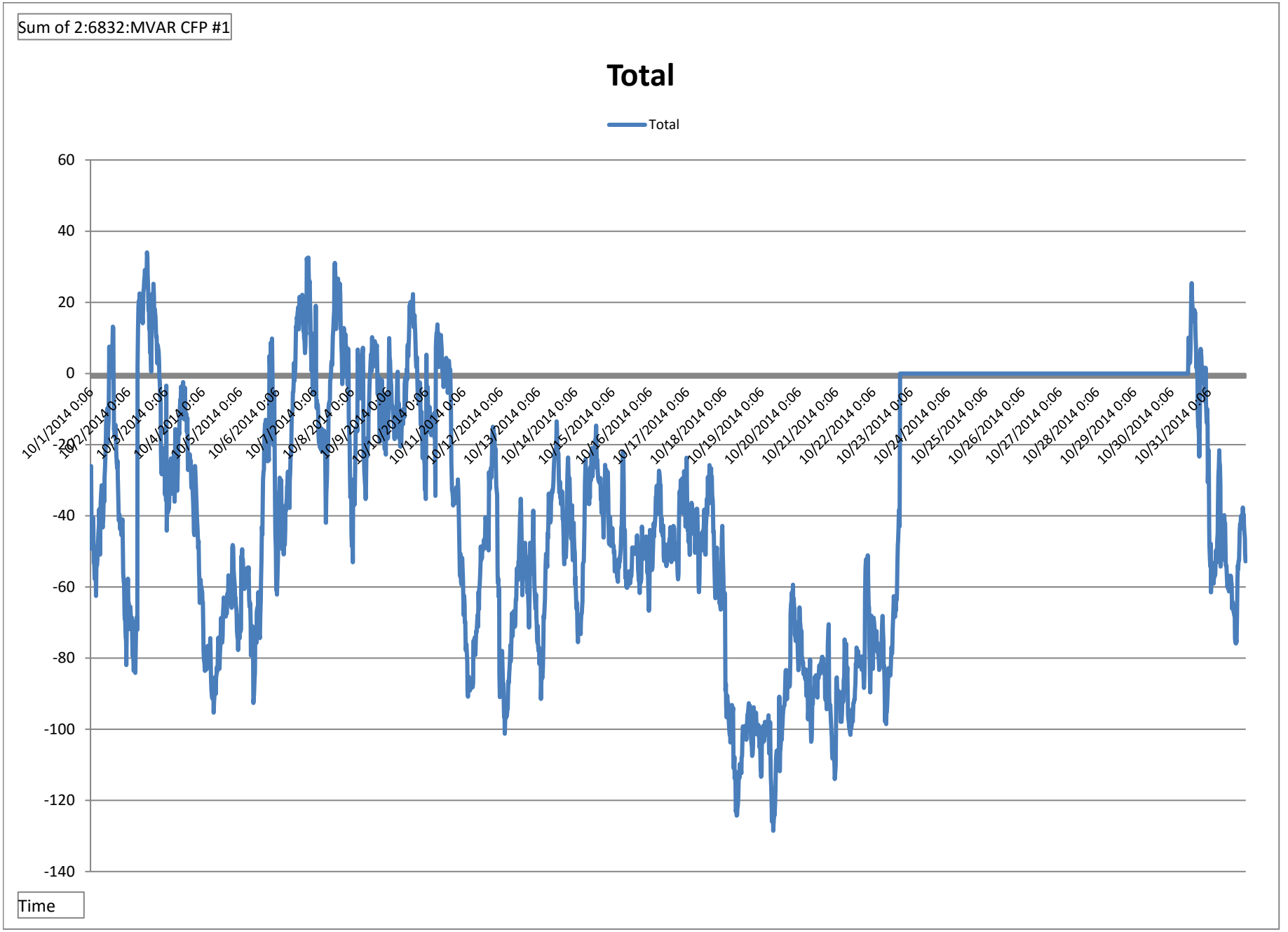
Attachment D

GRDA Unit No. 1 - Reactive Power Production in February 2017

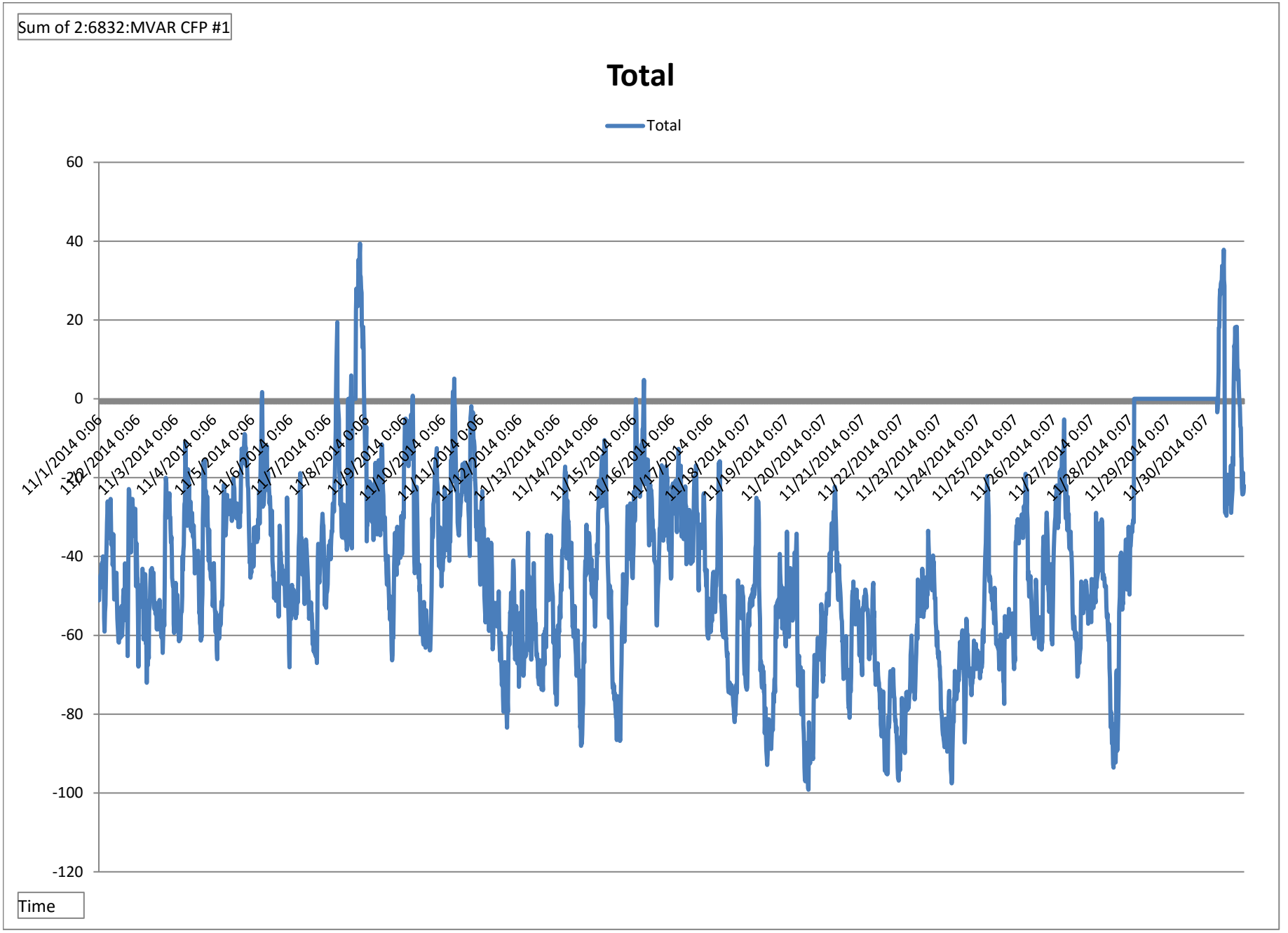


Attachment E

GRDA Unit No. 1 Reactive Power Production in October and November 2014

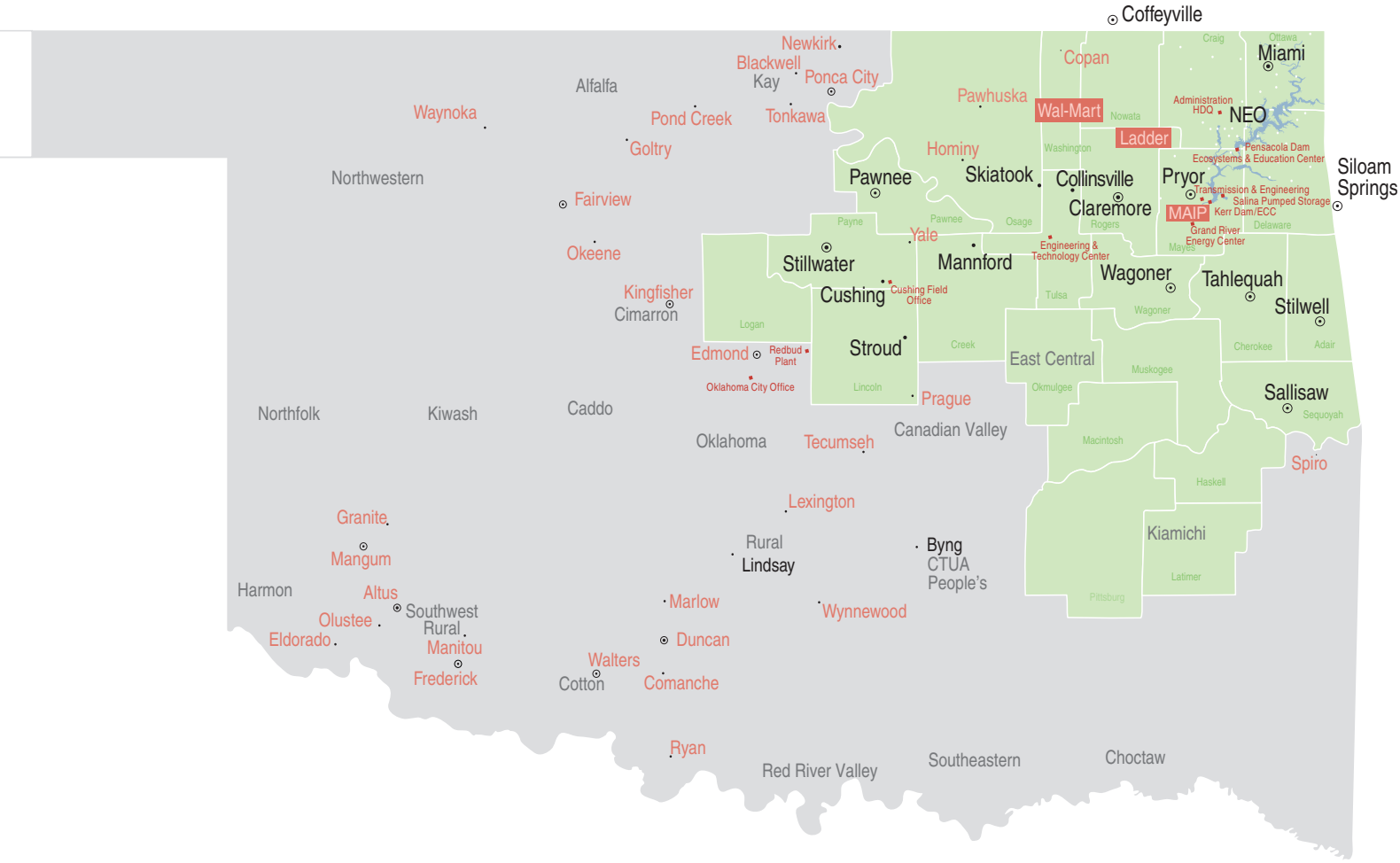


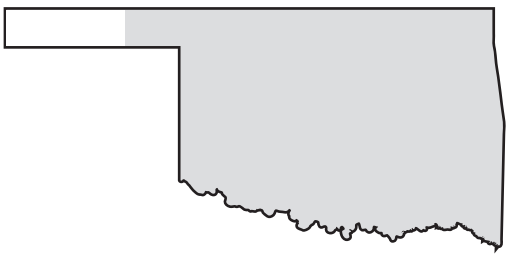
GRDA Unit No. 1 Reactive Power Production in October and November 2014



Attachment F

MAP OF CUSTOMERS AND GRDA FACILITIES





GRDA directly or indirectly provides electricity to some portion of all counties in Oklahoma except for two counties in the panhandle.

Municipal Customers - Served by GRDA in BLACK lettering; many served since 1940s.

Northeast Electric Cooperative - Represented by WHITE DOTS, served since 1946.

Industrial Customers - Represented by ORANGE BOX, Majority located in MidAmerica Industrial Park (MAIP).

Oklahoma Municipal Power Authority - Served since 1985. OMPA's customers in LIGHT ORANGE lettering.

Western Farmers Electric Cooperative - Served since 1983. WFEC's customers in GRAY lettering.

GRDA Facilities - Shown in RED lettering.

See Notes to Financial Statements, Utility Plant for additional information on capital assets.

Source: Grand River Dam Authority

EXHIBIT 25



Department of Energy
Washington, DC 20585

Order No. 202-25-6

Pursuant to the authority vested in the Secretary of Energy by section 202(c) of the Federal Power Act (FPA),[1] and section 301(b) of the Department of Energy Organization Act,[2] and for the reasons set forth below, I hereby determine that an emergency exists within the PJM Interconnection, L.L.C. (PJM) service territory due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes, and that issuance of this Order will meet the emergency and serve the public interest.

Emergency Situation

On July 21, 2025, PJM, the Regional Transmission Organization for 65 million people in thirteen states and the District of Columbia, filed a *Request for Emergency Order Under Federal Power Act, Section 202(c)* (Application) with the United States Department of Energy to preserve the reliability of the bulk electric power system.

H.A. Wagner Generating Station Unit 4 (Wagner Unit 4), a 397 MW unit located in Maryland, is constrained by an operating limit of no more than 438 hours of operation per calendar year when burning fuel oil (Operating Limit).[3] The Operating Limit is contained in a Consent Order entered into by Raven Power Ft. Smallwood, LLC, a subsidiary of Talen Energy Corporation (Talen), and the Maryland Department of the Environment (MDE), which was submitted to the Environmental Protection Agency (EPA) on January 31, 2020.[4] PJM is seeking an emergency order pursuant to section 202(c) to allow for the dispatch and operation of the unit in exceedance of its operating limit, if and when needed, over the next 90 days.[5]

As of July 21, 2025, Wagner Unit 4 has only 80 fuel burning hours remaining to operate for the duration of calendar year 2025.[6] The inability to run Wagner Unit 4 could result in adverse reliability impacts to service in the Baltimore Gas and Electric (BG&E) territory, and within PJM's service territory more broadly.[7] For the remainder of 2025, PJM anticipates the continued need to schedule Wagner Unit 4 in order to maintain reliable system operations during projected peak demand and/or increased flows on transmission facilities that are

[1] 16 U.S.C. § 824a(c).
[2] 42 U.S.C. § 7151(b).
[3] Application at 2.
[4] *Id.*
[5] *Id.* at 5.
[6] *Id.* at 8.
[7] *Id.* at 4.

required to serve the BG&E Zone.[8] PJM anticipates that it will need to dispatch Wagner Unit 4 when forecast temperatures are high, approximately around 92 degrees in the Mid-Atlantic region and forecast loads in the PJM territory are around 151,000 MW.[9] PJM assesses that if another heatwave similar to that which occurred in late June 2025 were to occur, there are insufficient run hours remaining because of the Operating Limit on Wagner Unit 4.[10] Additional circumstances that could cause the need for increased scheduling of Wagner Unit 4 include high system demand, additional transmission facility outages, and generation outages or a combination of these factors.[11]

PJM's operations in 2025 continue to rely upon Wagner Unit 4 at a rate that exceeds its 2024 rate.[12] There were, for example, 11 instances where Wagner Unit 4 ran in January to support high loads, including the new all-time PJM winter peak.[13] PJM also ran the unit once in early June and ran the unit again for 100 hours over the 5-day extreme heat event during the week of June 23, 2025.[14]

PJM has indicated that the electricity output from Wagner Unit 4, when generated beyond its Operating Limit, would be needed to avoid firm load shedding that may be required under certain system conditions or transmission limitations impacting the BG&E Zone.[15] Additionally, absent this order, in the limited circumstances when PJM is operating pursuant to its emergency procedures, PJM anticipates that residences, as well as numerous critical facilities, may lose electric service to all or parts of their facilities due to the lack of adequate generation or transmission.[16] Lastly, PJM has indicated that Talen "does not oppose" its request for relief under section 202(c) and will operate Wagner Unit 4 in accordance with this Order.[17]

Description of Mitigation Measures

PJM has indicated that it sought to modify the Operating Limit for Wagner Unit 4, but was unable to do so. The MDE and EPA have informed PJM that the process to modify a condition of the Maryland State Implementation Plan, on which the Consent Order is based, is a lengthy process that will not result in any relief in 2025.[18] PJM has thus sought to minimize the runtime of Wagner Unit 4 to date and is seeking to continue to take actions to minimize the need to call upon Wagner Unit 4 to operate in excess of its Operating Limit.[19] Specifically, PJM has updated operating procedures for committing generation in the BG&E Zone to take

[8] *Id.* at 9.
[9] *Id.* at 10.
[10] *Id.* at 9.
[11] *Id.* at 9.
[12] *Id.* at 8.
[13] *Id.* at 8.
[14] *Id.* at 8.
[15] *Id.* at 5.
[16] *Id.* at 10.
[17] *Id.* at 1-2.
[18] *Id.* at 11.
[19] *Id.* at 4.

into account unit limitations and environmental permit limits.[20] PJM is also coordinating generator and transmission outages at appropriate forecasted load levels to minimize the need to run Wagner Unit 4 to mitigate transmission limitations impacting the BG&E Zone that could result in firm load shed.[21]

PJM has provided that even with the grant of this Order pursuant to section 202(c), Wagner Unit 4 will "continue to be operated in compliance with permitted emissions limits."[22] However, as operating Wagner Unit 4 beyond its Operating Limit would violate the aforementioned Consent Order, relief under section 202(c) is still needed.

REQUEST FOR ORDER

PJM requests that the Secretary issue an Order immediately, effective July 28, 2025, for a period of 90 days authorizing Wagner Unit 4 to operate in exceedance of its Operating Limit only if certain conditions as described in PJM's application are met.[23]

ORDER

Given the responsibility of PJM to ensure maximum reliability on its system, and the ability of PJM to identify and dispatch generation necessary to meet load requirements, I have determined that, under the conditions specified below, additional dispatch of Wagner Unit 4 is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c). This determination is based on the expected electricity demand, the shortage of electric energy, the shortage of facilities for the generation of electric energy, and other causes.

Since the additional generation may result in a conflict with environmental standards and requirements, I am authorizing only the necessary additional generation on the conditions contained in this Order, with reporting requirements as described below. Therefore, to minimize adverse environmental impacts, this Order limits operation of Wagner Unit 4 to the times and within the parameters determined by PJM for reliability purposes.
Based on my determination of an emergency set forth above, I hereby order:

A. In the event that PJM determines that generation from Wagner Unit 4 is necessary to meet the anticipated electricity demand, I direct PJM to dispatch such unit and to order its operation only as needed to maintain the necessary generation. Specifically, this Order authorizes the operation of Wagner Unit 4 beyond its Operating Limit of 438 hours for calendar year 2025 when PJM:

    (i) Declares or anticipates declaring based on system conditions, a Maximum Generation Alert and/or Transmission Security Emergency (to include

[20] *Id.* at 11.
[21] *Id.* at 11.
[22] *Id.* at 4.
[23] *Id.* at 4, 9-10.

conditions impacting the reliability of transmission facilities that are required to serve the load in the BG&E Zone, or to prevent potential load shed due to transmission limitations); or

(ii) To the extent not otherwise covered by the above, schedules and dispatches Wagner Unit 4 in a manner consistent with the Settlement Agreement accepted by the Federal Energy Regulatory Commission in Docket No. ER24-1787.[24]

B. Once PJM declares that the emergency event has ended, and the respective Maximum Generation Alert has been discontinued and/or Transmission Security Emergency has ended, Wagner Unit 4 must cease operations above its Operating Limit in a manner consistent with its operating parameters.

C. If Wagner Unit 4 has been dispatched and operated in reliance on this Order, PJM shall provide the business day following the dispatch and operation, notification to the Department of Energy via AskCR@hq.doe.gov. Such notification shall include information on levels of exceedance of the annual Operating Limit.

D. While operating Wagner Unit 4 under the emergency conditions, PJM shall comply, to the maximum extent practicable, with applicable laws and regulations including the applicable orders for Wagner Unit 4. This Order does not provide relief from any obligation to pay fees or purchase offsets or allowances for emissions that occur during the emergency condition or to use other geographic or temporal flexibilities available to generators.

E. PJM shall also provide such additional information regarding the environmental impacts of this Order and its compliance with the conditions of this Order, in each case as requested by the Department of Energy from time to time.

F. This Order shall not preclude the need for Wagner Unit 4 to comply with applicable state, local, or Federal law or regulations following the expiration of this Order.

G. This Order expects PJM to comply with its commitments made regarding notifications as detailed in the "Public and Media Notifications" section on page 6 of its Application.

[24] *Id.* at 10 (specifically, Section 3.3(a) of the Settlement Agreement).

H. This Order shall be effective upon its issuance, and shall expire at 12:45 PM EDT on October 26, 2025, with the exception of the reporting requirements in paragraphs C and E and applicable compliance obligations in paragraph F. Renewal of this Order, should it be needed, must be requested before this Order expires.

Issued in Washington, D.C. at 12:45 PM EDT on this 28 day of July 2025.

Chris Wright

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Chris Wright
Secretary of Energy

cc: **FERC Commissioners**
Chairman Mark Christie
Commissioner David Rosner
Commissioner Lindsay S. See
Commissioner Judy W. Chang

EXHIBIT 26

Order No. 202-25-1

Pursuant to the authority vested in the Secretary of Energy by section 202(c) of the Federal Power Act (FPA), 16 U.S.C. § 824a(c), and section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7151(b), and for the reasons set forth below, I hereby determine that an emergency exists in Puerto Rico due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes, and that issuance of this Order will meet the emergency and serve the public interest.

The Puerto Rican electrical grid remains in a fragile state due to decades of deferred maintenance, insufficient investment, and the bankruptcy of the system owner and operator. Further, the devastating effects of Hurricanes Irma and Maria (both Category 5) in 2017, Fiona (Category 2) in 2022, and earthquakes in 2020, have significantly contributed to the grid's deterioration. Recent investments in the Puerto Rico grid have provided insignificant improvement towards augmenting reliability and security of the grid.

The result is that Puerto Rico continues to experience frequent partial or total blackouts,[1] with the latest partial blackout occurring on May 15, impacting 134,000 customers and island-wide blackout occurring on April 16, 2025, impacting all 1.4 million electric customers. Furthermore, the power quality metrics in Puerto Rico remain poor[2] (voltage and frequency regulation), affecting not only residential customers, but also industry, commerce, telecommunications, healthcare, public safety and other essential critical services.[3]

The resource adequacy issues in Puerto Rico have been exacerbated by, among other factors, the unexpected long-term outage on February 14, 2025, of Unit 1 (450 MW) at the Aguirre power plant. The number and frequency of forced outages continues to adversely affect grid operations, continuing to delay much needed planned maintenance outages. These outages are likely to lead to insufficient generation capacity to meet customer demand starting in May 2025.[4] The majority of the conventional generation fleet requires urgent maintenance and fuel conversion initiatives that cannot currently be efficiently

[1] *See, e.g.*, Puerto Rico Public Service Regulatory Board (PSRB), Consolidated Investigation Report, PSRB Case Nos. NEPR-IN-2024-002, NEPR-IN-2024-003 (Apr. 4, 2025) (outlining findings regarding significant power outages in Puerto Rico and highlighting that "Puerto Rico's electrical grid continues to face significant vulnerabilities, largely due to outdated infrastructure and insufficient maintenance practices.").
[2] A. Nassif, "Managing distribution resources: the LUMA perspective" (23PESGM4426), IEEE PES General Meeting 2023.
[3] On March 24–26, 2025, Department of Energy staff engaged with stakeholders in Puerto Rico who raised concerns regarding these issues.
[4] *Id.*

implemented, as taking the units offline for these activities would likely result in negative impacts to grid reliability.

According to the Puerto Rico Electricity System Resource Adequacy Interim Update for Summer 2025 (2025 Resource Adequacy Summer Update), without any action Puerto Rico can be expected to experience severe inadequate capacity reserves from May 2025 and extending through October 2025.[5] Any loss of a major unit in Puerto Rico is beyond the ability of the system to manage without resorting to load shedding,[6] as demonstrated on May 13, 2025, when the forced outage of the Costa Sur Unit 5 caused a load shedding event which affected 200,000 customers.[7] This also means that if "another baseload unit fails, the impact would be catastrophic: up to 135 days and 1,102 hours of load shedding."[8]

On April 2, 2025, the Governor of Puerto Rico issued an Executive Order, EO-2025-016, which declared a state of emergency with respect to Puerto Rico's electricity system.

> "I hereby declare a modification and expansion of the state of emergency concerning Puerto Rico's electric system, including—but not limited to—the transmission and distribution system, as well as the generation system and the auxiliary infrastructure required to operate Puerto Rico's electric system in a reliable and affordable manner and in compliance with applicable laws, including environmental regulations. This declaration also seeks to modernize and strengthen the system in line with our current times and circumstances."

According to the 2025 Resource Adequacy Summer Update, the restoration of at least 800MW will reduce the mean probability of Loss of Load Events from 90 to 5 and this will significantly reduce the likelihood of widespread blackouts and will make the system more resilient to generation outage events.

Given the emergency nature of the expected load stress, the responsibility of the Puerto Rico Electric Power Authority (PREPA) to ensure maximum reliability on its system, and the ability of PREPA to identify and dispatch generation necessary to meet load requirements, I have determined that, under the conditions specified below, additional dispatch of the Specified Generators, as described in the attachment "Order No. 202-25-1

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[5] 2025 Resource Adequacy Summer Update at 20.
[6] *Id*. at 27.
[7] Yaritza Rivera Clemente, "Falla en la Unidad 5 de Costa Sur provocó que cerca de 200,000 clientes se quedaran sin servicio de energía eléctrica - El Nuevo Día," https://www.elnuevodia.com/noticias/locales/notas/falla-en-la-unidad-5-de-costa-sur-provoco-que-cerca-de-200000-clientes-se-quedaran-sin-servicio-de-energia-electrica (accessed on May 14, 2025).
[8] *Supra* note 15.

Specified Generation Resources," is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c).

FPA section 202(c) requires the Secretary of Energy to ensure that any 202(c) order that may result in a conflict with a requirement of any environmental law be limited to the "hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable," be consistent with any applicable environmental law and minimize any adverse environmental impacts. Anticipated load conditions may necessitate operation of the Specified Generators.

To minimize adverse environmental impacts, this Order limits operation of dispatched units to the times and within the parameters determined by PREPA for maintaining grid reliability.

Order

Based on my determination of an emergency set forth above, I hereby order:

From May 16, 2025 to August 14, 2025, I order PREPA, or its agents, to dispatch such units from the Specified Resources as necessary to maintain grid reliability.[9]

PREPA is directed to provide the parameters described above to the Department upon implementation, and to report all dates on which the Specified Resources are operated by August 15, 2025, or the date upon which a renewal request is submitted, whichever occurs first.

The Specified Resources must operate only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts.

Renewal of this Order, should it be needed, must be requested prior to its expiration. If the conditions creating the emergency remain substantially unchanged, a renewal request should be submitted at least 14 calendar days before this Order expires.

Issued in Washington, D.C. at 2:24pm Eastern Daylight Time on this 16th day of May 2025.

[9] The private operations of (a) the transmission and distribution infrastructure; and (b) the legacy generation assets are both agents of PREPA under the corresponding Operation & Maintenance Agreements each signed with the government of Puerto Rico in 2020 and 2023, respectively.

Chris Wright
Secretary of Energy

Attachment:

Order No. 202-25-1 Specified Generation Resources

Order No. 202-25-1 Specified Generation Resources

Owner	Entity ID	Plant ID	Plant Name	Generator/Unit
Puerto Rico Electric Power Authority	15497	61146	Aguirre Plant	1
Puerto Rico Electric Power Authority	15497	61146	Aguirre Plant	2
Puerto Rico Electric Power Authority	15497	61147	Costa Sur Plant	5
Puerto Rico Electric Power Authority	15497	61147	Costa Sur Plant	6
Puerto Rico Electric Power Authority	15497	61148	Central San Juan Plant	7
Puerto Rico Electric Power Authority	15497	61148	Central San Juan Plant	9
Puerto Rico Electric Power Authority	15497	61148	Central San Juan Plant	CC5
Puerto Rico Electric Power Authority	15497	61148	Central San Juan Plant	CC6
Puerto Rico Electric Power Authority	15497	61149	Palo Seco Plant	3
Puerto Rico Electric Power Authority	15497	61149	Palo Seco Plant	4
Puerto Rico Electric Power Authority	15497	61150	Cambalache Plant	GT-1
Puerto Rico Electric Power Authority	15497	61150	Cambalache Plant	GT-2
Puerto Rico Electric Power Authority	15497	61150	Cambalache Plant	GT-3
Puerto Rico Electric Power Authority	15497	61151	Mayaguez Plant	GT-1
Puerto Rico Electric Power Authority	15497	61151	Mayaguez Plant	GT-2
Puerto Rico Electric Power Authority	15497	61151	Mayaguez Plant	GT-3
Puerto Rico Electric Power Authority	15497	61151	Mayaguez Plant	GT-4
Puerto Rico Electric Power Authority	15497	61171	Jobos	GT-1
Puerto Rico Electric Power Authority	15497	61171	Jobos	GT-2
Puerto Rico Electric Power Authority	15497	61227	Daguao	GT-1
Puerto Rico Electric Power Authority	15497	61227	Daguao	GT-2
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 1

Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 2
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 3
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 4
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 5
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 6
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 7
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 8
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 9
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation San Juan	General Electric TM2500 Emergency Generators - Unit 10
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation Palo Seco	20MW - Unit 1
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation Palo Seco	20MW - Unit 2
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation Palo Seco	25MW - Unit 1
Puerto Rico Electric Power Authority	N/A	N/A	FEMA Temporary Power Generation Palo Seco	25MW - Unit 2

EXHIBIT 27

Order No. 202-25-3

Pursuant to the authority vested in the Secretary of Energy by section 202(c) of the Federal Power Act (FPA), 16 U.S.C. § 824a(c), and section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7151(b), and for the reasons set forth below, I hereby determine that an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes, and that issuance of this Order will meet the emergency and serve the public interest.

Emergency Situation

The Midcontinent Independent System Operator (MISO) faces potential tight reserve margins during the summer 2025 period, particularly during periods of high demand or low generation resource output. The North American Electric Reliability Corporation (NERC) released its 2025 Summer Reliability Assessment on May 14, 2025. In its assessment, NERC indicated that "[d]emand forecasts and resource data indicate that MISO is at elevated risk of operating reserve shortfalls during periods of high demand or low resource output."[1] In particular, the retirement of thermal generation capacity creates the potential for electricity supply shortfalls. NERC anticipates that the near-term period of highest capacity shortfall for MISO will occur in August.[2]

Multiple generation facilities in Michigan have retired in recent years. According to the U.S. Energy Information Administration (EIA), "[s]ince 2020, about 2,700 megawatts of coal-fired generating capacity have been retired and no new coal-fired facilities are planned."[3] Additionally EIA stated, "[t]ypically Michigan's nuclear power plants have supplied about 30% of in-state electricity, but the amount of electricity generated by nuclear power plants in Michigan has declined as plants have been decommissioned."[4] The state's Big Rock Point nuclear power plant shut down in 1997 and the Palisades nuclear power plant closed in 2022. While the Palisades nuclear power plant may reopen in 2025, it will not be available during the peak demand period this summer.

The 1,560 MW J.H. Campbell coal-fired power plant in West Olive, MI, is scheduled to cease operations on May 31, 2025. Its retirement would further decrease available dispatchable generation within MISO's service territory, removing additional such generation along with the other 1,575 MW of natural gas and coal-fired generation that has retired since the summer of 2024. In 2021, Consumers announced that it planned to "speed closure" of Campbell in 2025, several years before the end of its scheduled design life.[5] Although MISO and Consumers have

[1] 2025 summer reliability assessment. (May 14, 2025). https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf
[2] *Id*.
[3] U.S. Energy Information Administration, Michigan State Energy Profile, Oct. 17, 2024, *available at*: https://www.eia.gov/state/print.php?sid=mi.
[4] *Id.*
[5] https://www.consumersenergy.com/news-releases/news-release-details/2021/06/23/consumers-energy-announces-plan-to-end-coal-use-by-2025-lead-michigans-clean-energy-transformation

incorporated the planned retirement into their supply forecasts and acquired a 1,200 MW natural gas power plant in Covert, MI, the NERC Assessment still anticipates "elevated risk of operating reserve shortfalls."

MISO's Planning Resource Auction Results for Planning Year 2025-26, released in April 2025, note that for the northern and central zones, which includes Michigan, "new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspensions/retirements and external resources." While the results "demonstrated sufficient capacity," the summer months reflected the "highest risk and a tighter supply-demand balance" and the results "reinforce the need to increase capacity."[6]

ORDER

Given the determination that an emergency exists as discussed above, the responsibility of MISO to ensure reliability of its system, and the ability of MISO to identify and dispatch generation necessary to meet load requirements, I have determined that, under the conditions specified below, additional dispatch of the Campbell Plant is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c). This determination is based on the insufficiency of dispatchable capacity and anticipated demand during the summer months, and the potential loss of power to homes and local businesses in the areas that may be affected by curtailments or outages, presenting a risk to public health and safety.

This Order is limited in duration to align with the emergency circumstances. Because the additional generation may result in a conflict with environmental standards and requirements, I am authorizing only the necessary additional generation on the conditions contained in this Order, with reporting requirements as described below.

FPA section 202(c) requires the Secretary of Energy to ensure that any 202(c) order that may result in a conflict with a requirement of any environmental law be limited to the "hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable," be consistent with any applicable environmental law and minimize any adverse environmental impacts.

Based on my determination of an emergency set forth above, I hereby order:

A. From the time this Order is issued on May 23, 2025, MISO and Consumers Energy shall take all measures necessary to ensure that the Campbell Plant is available to operate. For the duration of this order, MISO is directed to take every step to employ economic dispatch of the Campbell Plant to minimize cost to ratepayers. Following conclusion of this Order, sufficient time for orderly ramp down is permitted, consistent with industry practices. Consumers Energy is directed to comply with all orders from MISO related to the availability and dispatch of the Campbell Plant.

[6] https://cdn.misoenergy.org/2025%20PRA%20Results%20Posting%2020250428694160.pdf

B. To minimize adverse environmental impacts, this Order limits operation of dispatched units through the expiration of the Order. MISO shall provide a daily notification to the Department (via AskCR@hq.doe.gov) reporting whether the Campbell Plant has operated in compliance with the allowances contained in this Order.

C. All operation of the Campbell Plant must comply with applicable environmental requirements, including but not limited to monitoring, reporting, and recordkeeping requirements, to the maximum extent feasible while operating consistent with the emergency conditions. This Order does not provide relief from any obligation to pay fees or purchase offsets or allowances for emissions that occur during the emergency condition or to use other geographic or temporal flexibilities available to generators.

D. By June 15, 2025, MISO is directed to provide the Department of Energy (via AskCR@hq.doe.gov) with information concerning the measures it has taken and is planning to take to ensure the operational availability and economic dispatch of the Campbell Plant consistent with the public interest. MISO shall also provide such additional information regarding the environmental impacts of this Order and its compliance with the conditions of this Order, in each case as requested by the Department of Energy from time to time.

E. The extent to which MISO's current Tariff provisions are inapposite to effectuate the dispatch and operation of the units for the reasons specified herein, the relevant governmental authorities are directed to take such action and make accommodations as may be necessary to do so.

F. Consumers is directed to file with the Federal Energy Regulatory Commission Tariff revisions or waivers necessary to effectuate this order. Rate recovery is available pursuant to 16 U.S.C. § 824a(c).

G. This Order shall not preclude the need for the Campbell Plant to comply with applicable state, local, or Federal law or regulations following the expiration of this Order.

H. This Order shall be effective upon its issuance, and shall expire at 00:00 EDT on August 21, 2025, with the exception of the reporting requirements in paragraph D and applicable compliance obligations in paragraph E.

I. Issued in Washington, D.C. at 3:15:pm Eastern Daylight Time on this 23rd day of May 2025.



Chris Wright
Secretary of Energy

cc: **FERC Commissioners**
Chairman Mark Christie
Commissioner David Rosner
Commissioner Lindsay S. See
Commissioner Judy W. Chang

Michigan Public Service Commissioners
Chairman Dan Cripps
Commissioner Katherine Peretick
Commissioner Alessandra Carreon

EXHIBIT 28

Order No. 202-25-4

Pursuant to the authority vested in the Secretary of Energy by section 202(c) of the Federal Power Act (FPA), 16 U.S.C. § 824a(c), and section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7151(b), and for the reasons set forth below, I hereby determine that an emergency exists in portions of the electricity grid operated by PJM Interconnection (PJM) due to a shortage of facilities for the generation of electric energy, resource adequacy concerns, and other causes, and that issuance of this Order will meet the emergency and serve the public interest.

Emergency Situation

PJM has recently stated its system faces "growing resource adequacy concern" due to load growth, the retirement of dispatchable resources, and other factors.[1] Upcoming retirements, including the planned retirement of Unit 3 and Unit 4 of the Eddystone Generating Station in Eddystone, Pennsylvania, will exacerbate these resource adequacy issues.

PJM indicates that resource constraints could exist within the service territory under peak load conditions, stating that "available generation capacity may fall short of required reserves in an extreme planning scenario."[2] In its February 2023 assessment "*Energy Transition in PJM: Resource Retirements, Replacements & Risks,*" PJM highlights the increasing risk of reliability risk in the coming years due to the "potential timing mismatch between resource retirements, load growth and the pace of new generation entry" under "low new entry" scenarios for renewable generation.[3]

In December 2024, PJM filed revisions with the Federal Energy Regulatory Commission (FERC) to Part VII of its Open Access Transmission Tariff, known as the Reliability Resource Initiative (RRI), to address near-term resource adequacy concerns. In a February 2025 order, FERC accepted the revisions and found "the possibility of a resource adequacy shortfall driven by significant load growth, premature retirements, and delayed new entry."[4] In March 2025 congressional testimony, PJM found "a growing resource adequacy concern" due to a combination of load growth, the retirement of dispatchable resources, and other factors.[5] Through 2030, PJM anticipates reliability risk from increasing electricity demand, generator retirement outpacing new resource construction, and characteristics of resources in PJM's interconnection queue.[6]

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[1] https://www.pjm.com/-/media/DotCom/library/reports-notices/testimony/2025/20250325-asthana-testimony-us-house-subcommittee-on-energy.pdf
[2] https://insidelines.pjm.com/pjm-summer-outlook-2025-adequate-resources-available-for-summer-amid-growing-risk/
[3] https://www.pjm.com/-/media/DotCom/library/reports-notices/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx
[4] https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250211-3120
[5] https://www.pjm.com/-/media/DotCom/library/reports-notices/testimony/2025/20250325-asthana-testimony-us-house-subcommittee-on-energy.pdf
[6] Ibid.

Constellation Energy owns the Eddystone Generating Station, which includes Unit 3 and Unit 4, each of which has a nameplate capacity of 380 MW. Units 3 and 4 have a planned retirement date of May 31, 2025. The retirement of these units would further decrease available dispatchable generation within PJM's service territory.

Pursuant to Executive Order 14262, *Strengthening the Reliability and Security of the United States Electric Grid* (EO 14262), DOE is developing a methodology to identify current and anticipated reserve margins for all regions of the bulk-power system regulated by the Federal Energy Regulatory Commission. EO 14262 requires this methodology to be published by July 7, 2025, and be used to establish a protocol to identify which generation resources within a region are critical to system reliability and prevent identified generation resources from leaving the bulk-power system. DOE plans to use this methodology to further evaluate Eddystone Units 3 and 4.

ORDER

Given the emergency nature of resource adequacy concerns, the declared state of national energy emergency, the responsibility of PJM to ensure maximum reliability on its system, and the ability of PJM to identify and dispatch generation necessary to meet load requirements, I have determined that, under the conditions specified below, operational availability and economic dispatch of the aforementioned Eddystone Units 3 and 4 (Eddystone Units) is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c). This determination is based on, among other things:

- The emergency nature of the potential load stress due to aforementioned resource adequacy concerns, and the potential loss of power to homes and local businesses in the areas that may be affected by curtailments, presenting a risk to public health and safety.
- The potential shortage of electric energy, shortage of facilities for the generation of electric energy, and other causes in the region support the need for the Eddystone Units to contribute to system reliability.
- PJM's responsibility to ensure maximum reliability on its system, and, with the authority granted in this Order, its ability to identify and dispatch generation, including the Eddystone Units, necessary to meet the load demands.

This Order is limited in duration to align with the anticipated emergency circumstances. Because the additional generation may result in a conflict with environmental standards and requirements, I am authorizing only the necessary additional generation on the conditions contained in this Order, with reporting requirements as described below.

FPA section 202(c)(2) requires the Secretary of Energy to ensure that any 202(c) order that may result in a conflict with a requirement of any environmental law be limited to the "hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable," be consistent with any applicable environmental law and minimize any adverse

environmental impacts. To minimize adverse environmental impacts, this Order limits operation of dispatched units to the times and within the parameters determined by PJM for reliability purposes.

Based on my determination of an emergency set forth above, I hereby order:

A. From the time this Order is issued on May 30, 2025, PJM and Constellation Energy shall take all measures necessary to ensure that Eddystone Units are available to operate. For the duration of this order, PJM is directed to take every step to employ economic dispatch of the units to minimize cost to ratepayers. Following conclusion of this Order, sufficient time for orderly ramp down is permitted, consistent with industry practices. Constellation Energy is directed to comply with all orders from PJM related to the availability and dispatch of the Eddystone Units.

B. To minimize adverse environmental impacts, this Order limits operation of dispatched units through the expiration of the Order. PJM shall provide a daily notification to the Department (via AskCR@hq.doe.gov) reporting whether the Eddystone Units have operated in compliance with the allowances contained in this Order.

C. All operation of the Eddystone Units must comply with applicable environmental requirements, including but not limited to monitoring, reporting, and recordkeeping requirements, to the maximum extent feasible while operating consistent with the emergency conditions. This Order does not provide relief from any obligation to pay fees or purchase offsets or allowances for emissions that occur during the emergency condition or to use other geographic or temporal flexibilities available to generators.

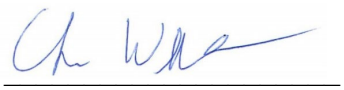
D. By June 15, 2025, PJM is directed to provide the Department of Energy (via AskCR@hq.doe.gov) with information concerning the measures it has taken and is planning to take to ensure the operational availability of the Eddystone Units consistent with the public interest. PJM shall also provide such additional information regarding the environmental impacts of this Order and its compliance with the conditions of this Order, in each case as requested by the Department of Energy from time to time.

E. In addition, PJM and Constellation Energy are directed to file with the Federal Energy Regulatory Commission any tariff revisions or waivers necessary to effectuate this order. Rate recovery is available pursuant to 16 U.S.C. § 824a(c).

F. This Order shall not preclude the need for the Eddystone Units to comply with applicable state, local, or Federal law or regulations following the expiration of this Order.

G. This Order shall be effective upon its issuance, and shall expire at 5:03 PM EDT on August 28, 2025, with the exception of the reporting requirements in paragraph D.

H. Issued in Simi Valley, California, at 5:03 PM Eastern Daylight Time on this 30th day of May 2025.



Chris Wright
Secretary of Energy

EXHIBIT 29

CLIMATE • 5 MIN READ

The Trump admin ordered a coal power plant to stay on past retirement. Customers in 15 states will foot the bill

JUN 6, 2025

By  Ella Nilsen



An aerial image of Consumer Energy's J.H. Campbell Generating Complex in Ottawa County, ...

An aging coal power plant that was supposed to shutter last week will run throughout the summer at the order of President Donald Trump's Energy Sec. Chris Wright, a

decision that could cost Midwest energy customers tens of millions of dollars.

The last-minute federal order to keep the J.H. Campbell plant operating came as a surprise to Michigan officials, including the head of the state's Public Service Commission, given it was at the tail end of a multi-year retirement process that was approved in 2022.

"The grid operator hadn't asked for this, the utility hadn't asked for this, we as the state hadn't asked for this," said Dan Scripps, chair of the Michigan Public Service Commission. "We certainly didn't have any conversations with the (Energy Department) in advance of the order, or since."

Wright's May 23 emergency order cited concerns the Midwest could face a summer electricity shortage due to a lack of available coal, gas and nuclear plants that can provide stable baseload power. But Consumers Energy, the utility that owns the coal plant, told CNN in an email it already purchased another natural gas-fired power plant to carry the load when the coal plant went offline.

Advertisement

Scripps said the cost to keep the over-60-year-old plant operating, even for 90 days, will be high, and customers in 15 states will foot the bill.

"I can say with a pretty high degree of confidence that we're looking at multiple tens of millions of dollars at the low end," Scripps said. "I think there's a range between

there and the high end of getting close to $100 million.”



It’s unclear so far what that will mean for individual electricity bills, Scripps added, given the uncertainty about final cost.

Advertisement

“For years, American grid operators have warned decommissioning baseload power sources such as coal plants would jeopardize the reliability of our grid systems, which has raised alarm bells,” Energy Department spokesperson Ben Dietderich said in a statement.

Dietderich didn’t say whether the Energy Department had conducted a cost analysis before issuing the emergency order. It’s unclear whether the department realized the company already had a plan to maintain baseload power after its closure.

Wright issued another emergency order last week to keep a Pennsylvania power plant that runs on natural gas and oil open past its May 31 retirement date.

Coal is the dirtiest fuel large plants still burn for electricity, and it's now the most expensive as renewable energy sources like solar have become increasingly cost-effective. Although natural gas is a fossil fuel and contributes significantly to warming the planet, it is still considered a cheaper and less-polluting option. Gas **generates 43%** of the country's electricity.

Advertisement

Michigan Attorney General Dana Nessel said she is considering legal action against the federal government. Nessel and energy experts said such an emergency order from the federal government is extremely rare and usually reserved for the aftermath of severe storms or natural disasters.

"This is a novel case for us," Nessel said. "We've not had to do this before."

She reiterated keeping the plant open would "significantly" raise electricity rates, saying, "The whole point of closing this plant down was to save money."



US Energy Secretary Chris Wright looks on during a House subcommittee hearing on the department's budget on Capitol Hill in Washington, DC, on May 7, 2025. *(Brendan Smialowski/AFP/Getty Images)*

More electric utilities are retiring their coal plants because they are old and especially expensive to run. In 2021, the average coal-fired power plant was 45 years old, according to a report from the Energy Information Administration.

The Energy Department’s order didn’t specify exactly how much the Michigan coal plant should run, saying it was requiring the utility to “take all measures necessary to ensure that the Campbell Plant is available to operate.”

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Scripps and energy experts said that means the coal plant would likely run continuously at a lower level throughout the summer, or until Wright's order ends. Unlike gas plants, coal plants can't be easily turned on and off with the flip of a switch and take time to ramp up and come online. The Campbell plant is so old — it has been operating since 1962 — that Michigan energy regulators feared it could not physically turn back on once it was powered off.

The utility will also have to buy more coal to keep it going. Consumers Energy said it has "arranged for new shipments of coal to keep the plant operating."

A new report from think tank Energy Innovation found the cost of coal-fired power has grown faster than inflation in the last few years — collectively costing US consumers $6.2 billion more in 2024 than it would have cost in 2021.

"Even existing coal where it has fully depreciated and been paid off, the cost of coal is more than solar and storage at this point," said Doug Lewin, a Texas based energy expert who authors the Texas Energy and Power Newsletter and host of the Energy Capital Podcast.

Advertisement

Lewin covers the energy transition in deep red Texas, where power companies are building wind, solar and battery storage at an incredible pace. Of the significant amount of new electricity added to the Texas grid in the last four years, 92% has been wind, solar and storage, Lewin said.

That has paid dividends, keeping energy prices relatively low and meeting the state's exploding power demand from air conditioning, data centers and big industry.

"All throughout the summer months, you're getting maximum solar output," Lewin said. "It's very well correlated to peak demand. For a place with massive AC load like Texas, it's fantastic."

Texas has also invested a lot in big batteries that can keep power flowing to the grid after the sun stops shining and the wind stops blowing.

Advertisement

Energy Sec. Wright, however, has panned renewables, saying they are not a reliable replacement for fossil fuels.

"There is simply no physical way that wind, solar and batteries could replace the myriad uses of natural gas," he said at Houston energy conference CERAWeek in March. "I haven't even mentioned oil or coal yet."

Read more

• **Trump EPA drafting a rule that would undo decades of progress on limiting pollution from power plants**

Advertisement

• **The jobs and tax credits that could disappear if the 'big, beautiful' bill passes the Senate**

• **A polluting, coal-fired power plant found the key to solving America's biggest clean energy challenge**

Up next



The Trump administration just ordered another retiring coal plant to stay open. It could cost ratepayers millions

3 MIN READ



The best solar generators in 2026, tested by editors

21 MIN READ



Exclusive: DHS begins slashing FEMA disaster response staff as 2026 begins

4 MIN READ

EXHIBIT 30

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended June 30, 2025

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____to_____

Commission File No.	Registrant; State of Incorporation; Address; and Telephone Number	IRS Employer Identification No.
1-9513	**CMS ENERGY CORPORATION** (A Michigan Corporation) One Energy Plaza, Jackson, Michigan 49201 (517) 788-0550	38-2726431
1-5611	**CONSUMERS ENERGY COMPANY** (A Michigan Corporation) One Energy Plaza, Jackson, Michigan 49201 (517) 788-0550	38-0442310

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
CMS Energy Corporation Common Stock, $0.01 par value	CMS	New York Stock Exchange
CMS Energy Corporation 5.625% Junior Subordinated Notes due 2078	CMSA	New York Stock Exchange
CMS Energy Corporation 5.875% Junior Subordinated Notes due 2078	CMSC	New York Stock Exchange
CMS Energy Corporation 5.875% Junior Subordinated Notes due 2079	CMSD	New York Stock Exchange
CMS Energy Corporation Depositary Shares, each representing a 1/1,000th interest in a share of 4.200% Cumulative Redeemable Perpetual Preferred Stock, Series C	CMS PRC	New York Stock Exchange
Consumers Energy Company Cumulative Preferred Stock, $100 par value: $4.50 Series	CMS-PB	New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

CMS Energy Corporation: Yes ☒ No ☐ **Consumers Energy Company:** Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

CMS Energy Corporation: Yes ☒ No ☐ **Consumers Energy Company:** Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

CMS Energy Corporation:		**Consumers Energy Company:**	
Large accelerated filer	☒	Large accelerated filer	☐
Non-accelerated filer	☐	Non-accelerated filer	☒
Accelerated filer	☐	Accelerated filer	☐
Smaller reporting company	☐	Smaller reporting company	☐
Emerging growth company	☐	Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

CMS Energy Corporation: ☐ **Consumers Energy Company:** ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

CMS Energy Corporation: Yes ☐ No ☒ **Consumers Energy Company:** Yes ☐ No ☒

Indicate the number of shares outstanding of each of the issuer's classes of common stock at July 14, 2025:

CMS Energy Corporation:	
CMS Energy Corporation Common Stock, $0.01 par value	299,335,461
Consumers Energy Company:	
Consumers Common Stock, $10 par value, privately held by CMS Energy Corporation	84,108,789

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Consumers Energy Company
Quarterly Reports on Form 10-Q to the Securities and Exchange Commission for the Period Ended June 30, 2025

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Glossary

Certain terms used in the text and financial statements are defined below.

2024 Form 10-K
Each of CMS Energy's and Consumers' Annual Report on Form 10-K for the year ended December 31, 2024

2023 Energy Law
Michigan's Public Acts 229, 230, 231, 233, 234, and 235 of 2023

ABATE
Association of Businesses Advocating Tariff Equity

ASP
Appliance Service Plan

Aviator Wind
Aviator Wind Holdings, LLC, a VIE in which Aviator Wind Equity Holdings holds a Class B membership interest

Aviator Wind Equity Holdings
Aviator Wind Equity Holdings, LLC, a VIE in which Grand River Wind, LLC, a wholly owned subsidiary of NorthStar Clean Energy, has a 51-percent interest

Bay Harbor
A residential/commercial real estate area located near Petoskey, Michigan, in which CMS Energy sold its interest in 2002

Bcf
Billion cubic feet

CCR
Coal combustion residual

CEO
Chief Executive Officer

CERCLA
Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended

CFO
Chief Financial Officer

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Clean Air Act

Federal Clean Air Act of 1963, as amended

Clean Energy Plan

Consumers' long-term strategy for delivering clean, reliable, resilient, and affordable energy to its customers; this plan was originally outlined and approved in Consumers' 2018 integrated resource plan and subsequently updated and approved through its 2021 integrated resource plan

Clean Water Act

Federal Water Pollution Control Act of 1972, as amended

CMS Energy

CMS Energy Corporation and its consolidated subsidiaries, unless otherwise noted; the parent of Consumers and NorthStar Clean Energy

CMS Land

CMS Land Company, a wholly owned subsidiary of CMS Capital, L.L.C., a wholly owned subsidiary of CMS Energy

Consumers

Consumers Energy Company and its consolidated subsidiaries, unless otherwise noted; a wholly owned subsidiary of CMS Energy

Consumers 2014 Securitization Funding

Consumers 2014 Securitization Funding LLC, a wholly owned consolidated bankruptcy-remote subsidiary of Consumers and special-purpose entity organized for the sole purpose of purchasing and owning securitization property, issuing securitization bonds, and pledging its interest in securitization property to a trustee to collateralize the securitization bonds

Consumers 2023 Securitization Funding

Consumers 2023 Securitization Funding LLC, a wholly owned consolidated bankruptcy-remote subsidiary of Consumers and special-purpose entity organized for the sole purpose of purchasing and owning securitization property, issuing securitization bonds, and pledging its interest in securitization property to a trustee to collateralize the securitization bonds

Covert Generating Station

A 1,200-MW natural gas-fueled generation station that was acquired by Consumers in 2023 from New Covert Generating Company, LLC, a non-affiliated company

Craven

Craven County Wood Energy Limited Partnership, a VIE in which HYDRA-CO Enterprises, Inc., a wholly owned subsidiary of NorthStar Clean Energy, has a 50-percent interest

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CSAPR
Cross-State Air Pollution Rule of 2011, as amended

DB Pension Plans
Defined benefit pension plans of CMS Energy and Consumers, including certain present and former affiliates and subsidiaries

DB SERP
Defined Benefit Supplemental Executive Retirement Plan

Delta Solar Equity Holdings
Delta Solar Equity Holdings, LLC, a VIE in which Grand River Solar, LLC, a wholly owned subsidiary of NorthStar Clean Energy, has a 50-percent interest

DIG
Dearborn Industrial Generation, L.L.C., a wholly owned subsidiary of Dearborn Industrial Energy, L.L.C., a wholly owned subsidiary of NorthStar Clean Energy

Dodd-Frank Act
Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

DTE Electric
DTE Electric Company, a non-affiliated company

EGLE
Michigan Department of Environment, Great Lakes, and Energy

Endangered Species Act
Federal Endangered Species Act of 1973, as amended

energy waste reduction
The reduction of energy consumption through energy efficiency and demand-side energy conservation, as established under Michigan law

EPA
U.S. Environmental Protection Agency

EPS
Earnings per share

ERP
Enterprise Resource Planning software

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Exchange Act
Securities Exchange Act of 1934

Federal Power Act
Federal Power Act of 1920

FERC
Federal Energy Regulatory Commission

FTR
Financial transmission right

GAAP
U.S. Generally Accepted Accounting Principles

Genesee
Genesee Power Station Limited Partnership, a VIE in which HYDRA-CO Enterprises, Inc., a wholly owned subsidiary of NorthStar Clean Energy, has a 50-percent interest

Good Neighbor Plan
A plan issued by the EPA which secures significant reductions in ozone-forming emissions of NOx from power plants and industrial facilities

Grayling
Grayling Generating Station Limited Partnership, a VIE in which HYDRA-CO Enterprises, Inc., a wholly owned subsidiary of NorthStar Clean Energy, has a 50-percent interest

IRS
Internal Revenue Service

IT
Information technology

J.H. Campbell
J.H. Campbell Generating Complex, a three-unit coal-fueled electric generating facility comprised of Units 1 and 2, which are wholly owned by Consumers, and Unit 3, which Consumers jointly owns with the Michigan Public Power Agency, holding a 4.80-percent interest, and Wolverine Power Supply Cooperative, Inc., holding a 1.89-percent interest, each a non-affiliated company

kWh
Kilowatt-hour, a unit of energy equal to one thousand watt-hours

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Ludington

Ludington pumped-storage plant, jointly owned by Consumers and DTE Electric

MATS

Mercury and Air Toxics Standards, which limit mercury, acid gases, and other toxic pollution from coal-fueled and oil-fueled power plants

MD&A

Management's Discussion and Analysis of Financial Condition and Results of Operations

METC

Michigan Electric Transmission Company, LLC, a non-affiliated company

MGP

Manufactured gas plant

Migratory Bird Treaty Act

Migratory Bird Treaty Act of 1918, as amended

MISO

Midcontinent Independent System Operator, Inc.

MISO Tariff

MISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff

mothball

To place a generating unit into a state of extended reserve shutdown in which the unit is inactive and unavailable for service for a specified period, during which the unit can be brought back into service after receiving appropriate notification and completing any necessary maintenance or other work; generation owners in MISO must request approval to mothball a unit, and MISO then evaluates the request for reliability impacts

MPSC

Michigan Public Service Commission

MW

Megawatt, a unit of power equal to one million watts

NAAQS

National Ambient Air Quality Standards

Natural Gas Act

Natural Gas Act of 1938

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Newport Solar Holdings

Newport Solar Holdings III, LLC, a VIE in which Newport Solar Equity Holdings LLC, a wholly owned subsidiary of Grand River Solar, LLC, a wholly owned subsidiary of NorthStar Clean Energy, holds a Class B membership interest

NorthStar Clean Energy

NorthStar Clean Energy Company, a wholly owned subsidiary of CMS Energy, formerly known as CMS Enterprises Company

NOx

Nitrogen oxides

NPDES

National Pollutant Discharge Elimination System, a permit system for regulating point sources of pollution under the Clean Water Act

NREPA

Part 201 of Michigan's Natural Resources and Environmental Protection Act of 1994, as amended

NWO Holdco

NWO Holdco, L.L.C., a VIE in which NWO Holdco I, LLC, a wholly owned subsidiary of NWO Wind Equity Holdings, LLC, holds a Class B membership interest

NWO Wind Equity Holdings

NWO Wind Equity Holdings, LLC, a VIE in which Grand River Wind, LLC, a wholly owned subsidiary of NorthStar Clean Energy, has a 50-percent interest

OBBBA

Federal One Big Beautiful Bill Act of 2025

OPEB

Other post-employment benefits

OPEB Plan

Postretirement health care and life insurance plans of CMS Energy and Consumers, including certain present and former affiliates and subsidiaries

PCB

Polychlorinated biphenyl

PPA

Power purchase agreement

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RCRA

Federal Resource Conservation and Recovery Act of 1976

Reliability Roadmap

Consumers' five-year strategy to improve its electric distribution system and the reliability of the grid; this plan was filed with the MPSC in 2023, and is an update to Consumers' previous Electric Distribution Infrastructure Investment Plan filed in 2021

ROA

Retail Open Access, which allows electric generation customers to choose alternative electric suppliers pursuant to Michigan's Public Acts 141 and 142 of 2000, as amended

SEC

U.S. Securities and Exchange Commission

securitization

A financing method authorized by statute and approved by the MPSC which allows a utility to sell its right to receive a portion of the rate payments received from its customers for the repayment of securitization bonds issued by a special-purpose entity affiliated with such utility

SOFR

Secured overnight financing rate calculated and published by the Federal Reserve Bank of New York

TAES

Toshiba America Energy Systems Corporation, a non-affiliated company

TBJH

TBJH Inc., a non-affiliated company

TCJA

Tax Cuts and Jobs Act of 2017

Term SOFR

The rate per annum that is a forward-looking term rate based on SOFR

T.E.S. Filer City

T.E.S. Filer City Station Limited Partnership, a VIE in which HYDRA-CO Enterprises, Inc., a wholly owned subsidiary of NorthStar Clean Energy, has a 50-percent interest

Toshiba

Toshiba Corporation, a non-affiliated company

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Toshiba International
Toshiba International Corporation, a non-affiliated company

UWUA
Utility Workers Union of America, AFL-CIO

VIE
Variable interest entity

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Filing Format

This combined Form 10-Q is separately filed by CMS Energy and Consumers. Information in this combined Form 10-Q relating to each individual registrant is filed by such registrant on its own behalf. Consumers makes no representation regarding information relating to any other companies affiliated with CMS Energy other than its own subsidiaries.

CMS Energy is the parent holding company of several subsidiaries, including Consumers and NorthStar Clean Energy. None of CMS Energy, NorthStar Clean Energy, nor any of CMS Energy's other subsidiaries (other than Consumers) has any obligation in respect of Consumers' debt securities or preferred stock and holders of such securities should not consider the financial resources or results of operations of CMS Energy, NorthStar Clean Energy, nor any of CMS Energy's other subsidiaries (other than Consumers and its own subsidiaries (in relevant circumstances)) in making a decision with respect to Consumers' debt securities or preferred stock. Similarly, neither Consumers nor any other subsidiary of CMS Energy has any obligation in respect of securities of CMS Energy.

This report should be read in its entirety. No one section of this report deals with all aspects of the subject matter of this report. This report should be read in conjunction with the consolidated financial statements and related notes and with MD&A included in the 2024 Form 10-K.

Available Information

CMS Energy's internet address is www.cmsenergy.com. CMS Energy routinely posts important information on its website and considers the Investor Relations section, www.cmsenergy.com/investor-relations, a channel of distribution for material information. Information contained on CMS Energy's website is not incorporated herein.

Forward-looking Statements and Information

This Form 10-Q and other CMS Energy and Consumers disclosures may contain forward-looking statements as defined by the Private Securities Litigation Reform Act of 1995. The use of "anticipates," "assumes," "believes," "could," "estimates," "expects," "forecasts," "goals," "guidance," "intends," "may," "might," "objectives," "plans," "possible," "potential," "predicts," "projects," "seeks," "should," "targets," "will," and other similar words is intended to identify forward-looking statements that involve risk and uncertainty. This discussion of potential risks and uncertainties is designed to highlight important factors that may impact CMS Energy's and Consumers' businesses and financial outlook. CMS Energy and Consumers have no obligation to update or revise forward-looking statements regardless of whether new information, future events, or any other factors affect the information contained in the statements. These forward-looking statements are subject to various factors that could cause CMS Energy's and Consumers' actual results to differ materially from the results anticipated in these statements. These factors include, but are not limited to, the following, all of which are potentially significant:

- the impact and effect of recent events, such as worsening trade relations, geopolitical tensions, war, acts of terrorism, and the responses to these events, and related economic disruptions including, but not limited to, inflation, energy price volatility, tariffs, and supply chain disruptions
- the impact of new or modified regulation by the MPSC, FERC, and other applicable governmental proceedings and regulations, including any associated impact on electric or gas rates or rate structures

- potentially adverse regulatory treatment, effects of a failure to receive timely regulatory orders that are or could come before the MPSC, FERC, or other governmental authorities, or effects of a government shutdown
- changes in the performance of or regulations applicable to MISO, METC, pipelines, railroads, vessels, or other service providers that CMS Energy, Consumers, or any of their affiliates rely on to serve their customers
- federal or executive actions, the adoption of or challenges to federal or state laws or regulations or changes in applicable laws, rules, regulations, principles, or practices, or in their interpretation, such as those related to energy policy, ROA, the Public Utility Regulatory Policies Act of 1978, infrastructure integrity or security, cybersecurity, gas pipeline safety, gas pipeline capacity, energy waste reduction, the financial compensation mechanism, the environment, regulation or deregulation, reliability, health care reforms, taxes, tax credits, accounting matters, tariffs, climate change, air emissions, renewable energy, the Dodd-Frank Act, and other business issues that could have an impact on CMS Energy's, Consumers', or any of their affiliates' businesses or financial results
- factors affecting, disrupting, interrupting, or otherwise impacting CMS Energy's or Consumers' facilities, utility infrastructure, operations, or backup systems, such as costs and availability of personnel, equipment, and materials; weather and climate, including catastrophic weather-related damage and extreme temperatures; natural disasters; fires; smoke; scheduled or unscheduled equipment outages; maintenance or repairs; contractor performance; environmental incidents; failures of equipment or materials; electric transmission and distribution or gas pipeline system constraints; interconnection requirements; political and social unrest; general strikes; the government and/or paramilitary response to political or social events; changes in trade policies, regulations, or tariffs; accidents; explosions; physical disasters; global pandemics; cyber incidents; physical or cyber attacks; vandalism; war or terrorism; and the ability to obtain or maintain insurance coverage for these events
- the ability of CMS Energy and Consumers to execute cost-reduction strategies and/or convert economic development opportunities
- potentially adverse regulatory or legal interpretations or decisions regarding environmental matters, or delayed regulatory treatment or permitting decisions that are or could come before agencies such as EGLE, the EPA, FERC, and/or the U.S. Army Corps of Engineers, and potential environmental remediation costs associated with these interpretations or decisions, including those that may affect Consumers' coal ash management or routine maintenance, repair, and replacement classification under New Source Review, a construction-permitting program under the Clean Air Act
- changes in energy markets, including availability, price, and seasonality of electric capacity and energy and the timing and extent of changes in commodity prices and availability and deliverability of coal, natural gas, natural gas liquids, electricity, oil, gasoline, diesel fuel, and certain related products
- the price of CMS Energy common stock, the credit ratings of CMS Energy and Consumers, capital and financial market conditions, and the effect of these market conditions on CMS Energy's and Consumers' interest costs and access to the capital markets, including availability of financing to CMS Energy, Consumers, or any of their affiliates

- the ability of CMS Energy and Consumers to execute their financing strategies
- the investment performance of the assets of CMS Energy's and Consumers' pension and benefit plans, the discount rates, mortality assumptions, and future medical costs used in calculating the plans' obligations, and the resulting impact on future funding requirements
- the impact of the economy, particularly in Michigan, and potential future volatility in the financial and credit markets on CMS Energy's, Consumers', or any of their affiliates' revenues, ability to collect accounts receivable from customers, or cost and availability of capital
- changes in the economic and financial viability of CMS Energy's and Consumers' suppliers, customers, and other counterparties and the continued ability of these third parties, including those in bankruptcy, to meet their obligations to CMS Energy and Consumers
- population changes in the geographic areas where CMS Energy and Consumers conduct business
- national, regional, and local economic, competitive, and regulatory policies, conditions, and developments
- loss of customer demand for electric generation supply to alternative electric suppliers, the creation of municipal utilities, increased use of self-generation including distributed generation, energy waste reduction, or energy storage
- loss of customer demand for natural gas due to alternative technologies or fuels or electrification
- the ability of Consumers to meet increased renewable energy demand due to customers seeking to meet their own sustainability goals in a timely and cost-efficient manner
- the reputational or other impact on CMS Energy and Consumers of the failure to meet the renewable or clean energy standards required by the 2023 Energy Law or to achieve or make timely progress on their greenhouse gas reduction goals related to reducing their impact on climate change
- adverse consequences of employee, director, or third-party fraud or non-compliance with codes of conduct or with laws or regulations
- federal regulation of electric sales, including periodic re-examination by federal regulators of CMS Energy's and Consumers' market-based sales authorizations
- any event, change, development, occurrence, or circumstance that could impact the implementation of the Clean Energy Plan, including any action by a regulatory authority or other third party to prohibit, delay, or impair the implementation of the Clean Energy Plan
- the ability to meet increases in electric demand associated with data centers
- the availability, cost, coverage, and terms of insurance, the stability of insurance providers, and the ability of Consumers to recover the costs of any insurance from customers
- the effectiveness of CMS Energy's and Consumers' risk management policies, procedures, and strategies, including strategies to hedge risk related to interest rates and future prices of electricity, natural gas, and other energy-related commodities
- factors affecting development of electric generation projects, gas transmission, and gas and electric distribution infrastructure replacement, conversion, and expansion projects, including

factors related to project site identification, construction material availability, quality, and pricing, tariffs, embargoes on equipment, supply chain disruptions, schedule delays, interconnection delays, availability of qualified construction personnel, permitting, acquisition of property rights, community opposition, environmental regulations, performance of contractors and counterparties, and government actions

- changes or disruption in fuel supply, including but not limited to supplier bankruptcy and delivery disruptions
- potential costs, lost revenues, reputational harm, or other consequences resulting from misappropriation of assets or sensitive information, corruption of data, or operational disruption in connection with a cyberattack or other cyber incident
- potential disruption to, interruption or failure of, or other impacts on IT backup or disaster recovery systems
- technological developments in energy production, storage, delivery, usage, and metering
- the ability to implement and integrate technology successfully, including artificial intelligence
- the impact of CMS Energy's and Consumers' integrated business software system and its effects on their operations, including utility customer billing and collections
- adverse consequences resulting from any past, present, or future assertion of indemnity or warranty claims associated with assets and businesses previously owned by CMS Energy or Consumers, including claims resulting from attempts by foreign or domestic governments to assess taxes on or to impose environmental liability associated with past operations or transactions
- the outcome, cost, and other effects of any legal or administrative claims, proceedings, investigations, or settlements
- the reputational impact on CMS Energy and Consumers of operational incidents, violations of corporate policies, regulatory violations, inappropriate use of social media, and other events
- restrictions imposed by various financing arrangements and regulatory requirements on the ability of Consumers and other subsidiaries of CMS Energy to transfer funds to CMS Energy in the form of cash dividends, loans, or advances
- earnings volatility resulting from the application of fair value accounting to certain energy commodity contracts or interest rate contracts
- changes in financial or regulatory accounting principles or policies or interpretation of principles or policies
- other matters that may be disclosed from time to time in CMS Energy's and Consumers' SEC filings, or in other public documents

All forward-looking statements should be considered in the context of the risk and other factors described above and as detailed from time to time in CMS Energy's and Consumers' SEC filings. For additional details regarding these and other uncertainties, see Part I—Item 1. Financial Statements—MD&A—Outlook and Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters and Note 2, Contingencies and Commitments; and Part I—Item 1A. Risk Factors in the 2024 Form 10-K.

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Part I—Financial Information

Item 1. Financial Statements

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CMS Energy Corporation
Consumers Energy Company
Management's Discussion and Analysis of Financial Condition and Results of Operations

This MD&A is a combined report of CMS Energy and Consumers.

Executive Overview

CMS Energy is an energy company operating primarily in Michigan. It is the parent holding company of several subsidiaries, including Consumers, an electric and gas utility, and NorthStar Clean Energy, primarily a domestic independent power producer and marketer. Consumers' electric utility operations include the generation, purchase, distribution, and sale of electricity, and Consumers' gas utility operations include the purchase, transmission, storage, distribution, and sale of natural gas. Consumers' customer base consists of a mix of primarily residential, commercial, and diversified industrial customers. NorthStar Clean Energy, through its subsidiaries and equity investments, is engaged in domestic independent power production, including the development and operation of renewable generation, and the marketing of independent power production.

CMS Energy and Consumers manage their businesses by the nature of services each provides. CMS Energy operates principally in three business segments: electric utility; gas utility; and NorthStar Clean Energy, its non-utility operations and investments. Consumers operates principally in two business segments: electric utility and gas utility. CMS Energy's and Consumers' businesses are affected primarily by:

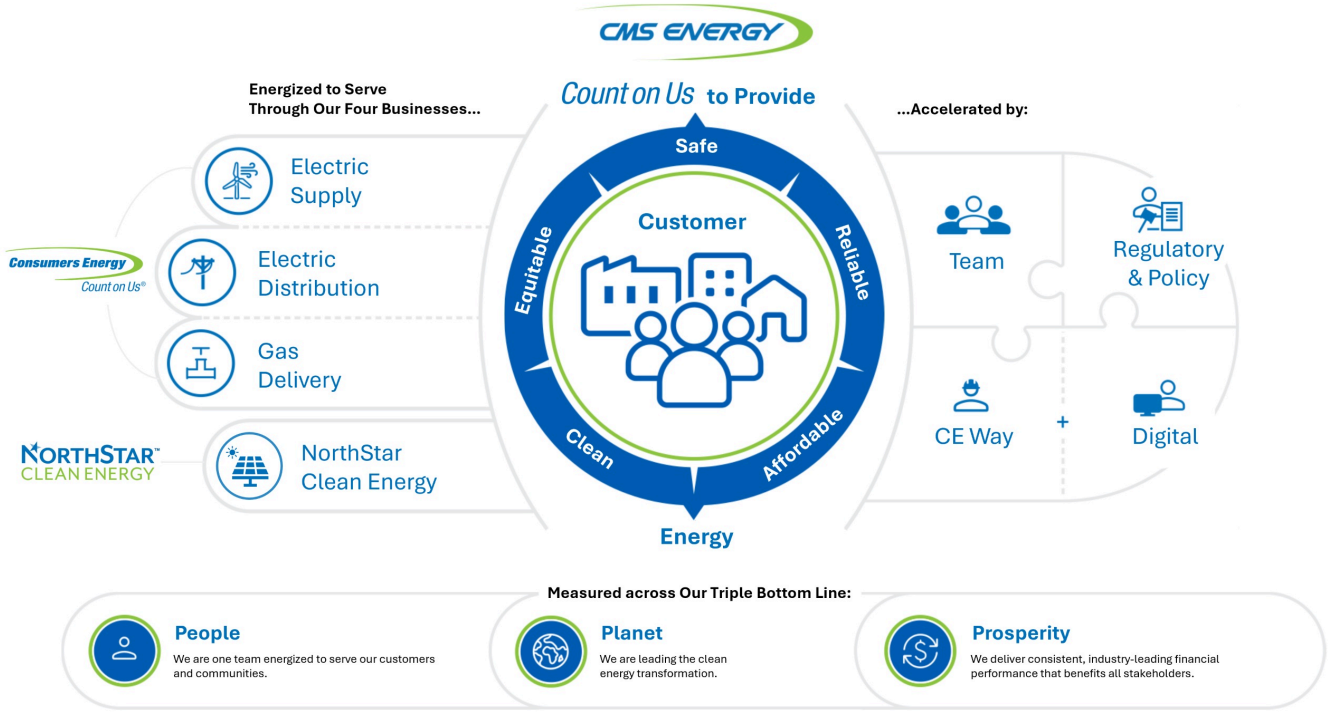
- regulation and regulatory matters
- state and federal legislation
- economic conditions
- weather
- energy commodity prices
- interest rates
- their securities' credit ratings

The Triple Bottom Line

CMS Energy's and Consumers' purpose is to provide safe, reliable, affordable, clean, and equitable energy in service of their customers. In support of this purpose, CMS Energy and Consumers couple digital transformation with the "CE Way," a lean operating system designed to improve safety, quality, cost, delivery, and employee morale.

CMS Energy and Consumers measure their progress toward the purpose by considering their impact on the "triple bottom line" of people, planet, and prosperity; this consideration takes into account not only the economic value that CMS Energy and Consumers create for customers and investors, but also their responsibility to social and environmental goals. The triple bottom line balances the interests of employees, customers, suppliers, regulators, creditors, Michigan's residents, the investment community,

and other stakeholders, and it reflects the broader societal impacts of CMS Energy's and Consumers' activities.



CMS Energy's Sustainability Report, which is available to the public, describes CMS Energy's and Consumers' progress toward world class performance measured in the areas of people, planet, and prosperity.

People: The people element of the triple bottom line represents CMS Energy's and Consumers' commitment to their employees, their customers, the residents of local communities in which they do business, and other stakeholders.

The safety of co-workers, customers, and the general public is a priority of CMS Energy and Consumers. Accordingly, CMS Energy and Consumers have worked to integrate a set of safety principles into their business operations and culture. These principles include complying with applicable safety, health, and security regulations and implementing programs and processes aimed at continually improving safety and security conditions.

CMS Energy and Consumers also place a high priority on customer value and on providing reliable, affordable, and equitable energy in service of their customers. Consumers' customer-driven investment program is aimed at improving safety and increasing electric and gas reliability.

In the electric rate case it filed with the MPSC in June 2025, Consumers updated its Reliability Roadmap, a five-year strategy to improve Consumers' electric distribution system and the reliability of the grid. The plan proposes spending through 2029 for projects designed to reduce the number and duration of power outages to customers through investment in infrastructure upgrades, vegetation management, and grid

modernization. Consumers has requested rate recovery of the investments needed to achieve the Reliability Roadmap's key objectives in its electric rate cases.

Central to Consumers' commitment to its customers are the initiatives it has undertaken to keep electricity and natural gas affordable, including:

- replacement of coal-fueled generation and PPAs with a cost-efficient and reliable mix of renewable energy, less-costly dispatchable generation sources, and energy waste reduction and demand response programs
- targeted infrastructure investment to reduce maintenance costs and improve reliability and safety
- supply chain optimization
- economic development to increase sales and reduce overall rates
- information and control system efficiencies
- employee and retiree health care cost sharing
- tax planning
- cost-effective financing
- workforce productivity enhancements

While inflationary pressures and tariffs could impact supply chain availability and pricing, CMS Energy and Consumers are taking steps to help mitigate the impact on their ability to provide safe, reliable, affordable, clean, and equitable energy in service of their customers.

Planet: The planet element of the triple bottom line represents CMS Energy's and Consumers' commitment to protect the environment. This commitment extends beyond compliance with various state and federal environmental, health, and safety laws and regulations. Management considers climate change and other environmental risks in strategy development, business planning, and enterprise risk management processes.

CMS Energy and Consumers continue to focus on opportunities to protect the environment and reduce their carbon footprint from owned generation. CMS Energy, including Consumers, has decreased its combined percentage of electric supply (self-generated and purchased) from coal by 23 percentage points since 2015. Additionally, as a result of actions already taken through 2024, Consumers has:

- reduced carbon dioxide emissions from owned generation by more than 30 percent since 2005
- reduced methane emissions by nearly 30 percent since 2012
- reduced the volume of water used to generate electricity by more than 50 percent since 2012
- reduced landfill waste disposal by more than two million tons since 1992
- enhanced, restored, or protected more than 11,700 acres of land since 2017
- reduced sulfur dioxide and particulate matter emissions by nearly 95 percent since 2005
- reduced NOx emissions by more than 86 percent since 2005
- reduced mercury emissions by more than 92 percent since 2007

In 2023, Michigan enacted the 2023 Energy Law, which among other things:

- raised the renewable energy standard from the present 15-percent requirement to 50 percent by 2030 and 60 percent by 2035; renewable energy generated anywhere within MISO can be applied to meeting this standard, with certain limitations
- set a clean energy standard of 80 percent by 2035 and 100 percent by 2040; low- or zero-carbon emitting resources, such as nuclear generation and natural gas generation coupled with carbon capture, are considered clean energy sources under this standard

- enhanced existing incentives for energy efficiency programs and returns earned on new clean or renewable PPAs
- created a new energy storage standard that requires electric utilities to file plans by 2029 to obtain new energy storage that will contribute to a Michigan target of 2,500 MW based on their pro rata share
- expanded the statutory cap on distributed generation resources to 10 percent of utility sales

Consumers filed updates to its renewable energy plan in November 2024 and plans to file updates to its Clean Energy Plan in 2026. Together, these updated plans will serve as Consumers' blueprint to meeting the requirements of the 2023 Energy Law by focusing on increasing the generation of renewable energy, deploying energy storage, helping customers use less energy, and offering demand response programs to reduce demand during critical peak times.

Consumers' Clean Energy Plan details its strategy to meet customers' long-term energy needs and was most recently revised and approved by the MPSC in 2022 under Michigan's integrated resource planning process. The Clean Energy Plan outlines Consumers' long-term strategy for delivering safe, reliable, affordable, clean, and equitable energy to its customers. This strategy includes:

- ending the use of coal in owned generation in 2025, 15 years sooner than initially planned
- purchasing the Covert Generating Station, a natural gas-fueled generating facility with 1,200 MW of nameplate capacity, allowing Consumers to continue to provide controllable sources of electricity to customers; this purchase was completed in 2023
- soliciting capacity from sources able to deliver to Michigan's Lower Peninsula, including battery storage facilities

In May 2025, before the planned closure of J.H. Campbell, the U.S. Secretary of Energy issued an emergency order under section 202(c) of the Federal Power Act requiring J.H. Campbell to continue operating for 90 days, through August 20, 2025. The order stated that continued operation of J.H. Campbell was required to meet an energy emergency across MISO's North and Central regions. Consistent with the Federal Power Act and the U.S. Department of Energy regulations, the order authorizes Consumers to obtain cost recovery at FERC. Consumers has continued to make J.H. Campbell available in the MISO market, consistent with the order, and has filed a complaint at FERC seeking a modification of the MISO Tariff to establish a mechanism for recovery and allocation of the cost to comply with this order. The U.S. Department of Energy may issue one or more subsequent orders to require the operation of J.H. Campbell past August 20, 2025. At this time Consumers cannot predict the long-term impact of this order, or similar orders and governmental actions, on the Clean Energy Plan.

Consumers' proposed updates to its renewable energy plan include:

- up to 9,000 MW of both purchased and owned solar energy resources
- the addition of up to 2,800 MW of new, competitively bid wind energy resources
- the co-location of battery energy storage with its renewable energy assets to optimize those assets

Coupled with updates to the Clean Energy Plan, these actions will enable Consumers to achieve 60-percent renewable energy by 2035 and 100-percent clean energy by 2040, and will also contribute to Consumers' achievement of the net-zero emissions goals discussed below.

Net-zero methane emissions from natural gas delivery system by 2030: Under its Methane Reduction Plan, Consumers plans to reduce methane emissions from its system by about 80 percent, from 2012 baseline levels, by accelerating the replacement of aging pipe, rehabilitating or retiring outdated infrastructure, and adopting new technologies and practices. The remaining emissions will likely be offset

by purchasing and/or producing renewable natural gas. To date, Consumers has reduced methane emissions by nearly 30 percent.

Net-zero greenhouse gas emissions target for the entire business by 2050: This goal incorporates greenhouse gas emissions from Consumers' natural gas delivery system, including suppliers and customers, and has an interim goal of reducing customer emissions by 25 percent by 2035. Consumers expects to meet this goal through carbon offset measures, renewable natural gas, energy efficiency and demand response programs, and the adoption of cost-effective emerging technologies once proven and commercially available.

Additionally, to advance its environmental stewardship in Michigan and to minimize the impact of future regulations, Consumers set the following goals for the five-year period 2023 through 2027:

- to enhance, restore, or protect 6,500 acres of land through 2027; Consumers had enhanced, restored, or protected more than 5,000 acres of land towards this goal through 2024
- to reduce water usage by 1.7 billion gallons through 2027; Consumers had reduced water usage by more than 1.3 billion gallons towards this goal through 2024
- to annually divert a minimum of 90 percent of waste from landfills (through waste reduction, recycling, and reuse); during 2024, Consumers' rate of waste diverted from landfills was 92 percent

CMS Energy and Consumers are monitoring numerous legislative, policy, and regulatory initiatives, including those related to regulation and reporting of greenhouse gases, and related litigation. While CMS Energy and Consumers cannot predict the outcome of these matters, which could affect them materially, they intend to continue to move forward with a triple-bottom-line approach that focuses on people, planet, and prosperity.

Prosperity: The prosperity element of the triple bottom line represents CMS Energy's and Consumers' commitment to meeting their financial objectives and providing economic development opportunities and benefits in the communities in which they do business. CMS Energy's and Consumers' financial strength allows them to maintain solid investment-grade credit ratings and thereby reduce funding costs for the benefit of customers and investors, to attract and retain talent, and to reinvest in the communities they serve.

For the six months ended June 30, 2025, CMS Energy's net income available to common stockholders was $500 million, and diluted EPS were $1.67. This compares with net income available to common stockholders of $480 million and diluted EPS of $1.61 for the six months ended June 30, 2024. In 2025, higher gas sales due primarily to favorable weather and electric and gas rate increases were offset partially by lower earnings at NorthStar Clean Energy and increased depreciation and property taxes, reflecting higher capital spending. A more detailed discussion of the factors affecting CMS Energy's and Consumers' performance can be found in the Results of Operations section that follows this Executive Overview.

Over the next five years, Consumers expects weather-normalized electric deliveries to increase compared to 2024. This outlook reflects strong growth in electric demand, offset partially by the effects of energy waste reduction programs. Weather-normalized gas deliveries are expected to remain stable relative to 2024, reflecting modest growth in gas demand, offset by the effects of energy waste reduction programs.

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Performance: Impacting the Triple Bottom Line

CMS Energy and Consumers remain committed to delivering safe, reliable, affordable, clean, and equitable energy in service of their customers and positively impacting the triple bottom line of people, planet, and prosperity. During the first half of 2025, CMS Energy and Consumers:

- announced the launch of "Green Giving," a program enabling the general public to contribute to renewable energy while offering financial benefits to low-income customers, along with a new Residential Renewable Energy Program, which allows customers of all income levels to subscribe and match their energy usage with renewable energy sources, supporting clean energy initiatives

- moved forward with an aggressive plan to enhance grid reliability for nearly two million homes and businesses by clearing trees along 8,000 miles of power lines and creating a modern, stronger, and more resilient power grid through infrastructure upgrades and technology investments

- announced deployment of eight state-of-the-art vehicles that will survey the company's nearly 30,000-mile gas distribution system to find methane emissions, enhancing safety and reliability for Consumers' natural gas customers

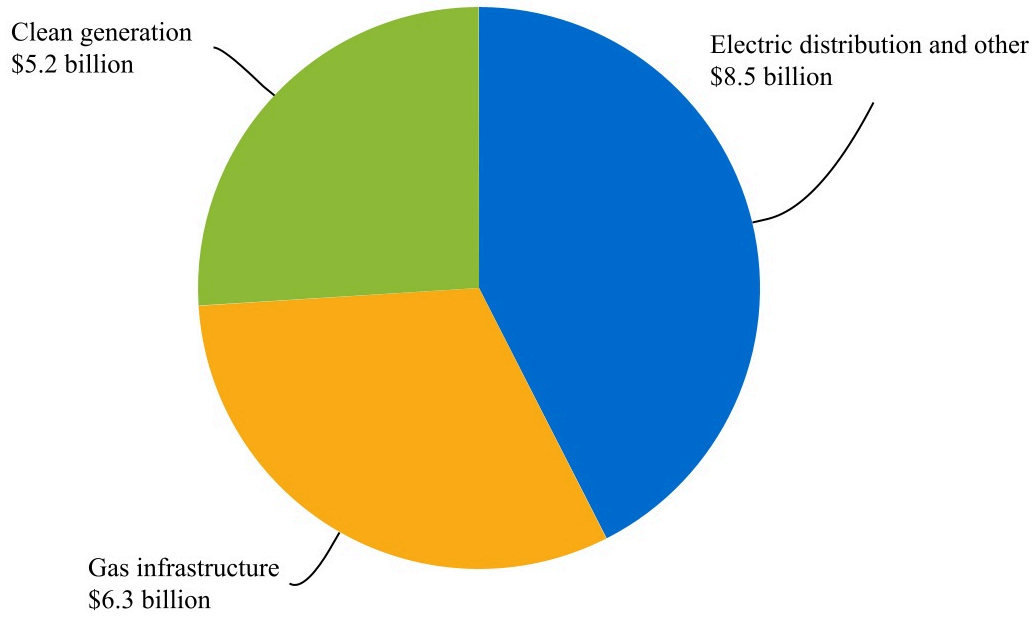
- experienced early success with the underground power line pilot program in early 2025, with pilot areas seeing 100-percent reduction in storm-related outages and improved customer satisfaction

CMS Energy and Consumers will continue to utilize the CE Way to enable them to achieve world class performance and positively impact the triple bottom line. Consumers' investment plan and the regulatory environment in which it operates also drive its ability to impact the triple bottom line.

Investment Plan: Over the next five years, Consumers expects to make significant expenditures on infrastructure upgrades, replacements, and clean generation. While it has a large number of potential investment opportunities that would add customer value, Consumers has prioritized its spending based on the criteria of enhancing public safety, increasing reliability, maintaining affordability for its customers, and advancing its environmental stewardship. Consumers' investment program, which is subject to approval through general rate case and other MPSC proceedings, is expected to result in annual rate-base growth of more than 8 percent. This rate-base growth, together with cost-control measures, should allow Consumers to maintain affordable customer prices.

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Presented in the following illustration are Consumers' planned capital expenditures through 2029 of $20.0 billion:



Of this amount, Consumers plans to spend $14.8 billion over the next five years primarily to maintain and upgrade its electric distribution systems and gas infrastructure in order to enhance safety and reliability, improve customer satisfaction, reduce energy waste on those systems, and facilitate its clean energy transformation. Electric distribution and other projects comprise $8.5 billion primarily to strengthen circuits and substations, replace poles, and interconnect clean energy resources. The gas infrastructure projects comprise $6.3 billion to sustain deliverability, enhance pipeline integrity and safety, and reduce methane emissions. Consumers also expects to spend $5.2 billion on clean generation, which includes investments in wind, solar, and hydroelectric generation resources.

Regulation: Regulatory matters are a key aspect of Consumers' business, particularly rate cases and regulatory proceedings before the MPSC, which permit recovery of new investments while helping to ensure that customer rates are fair and affordable. Important regulatory events and developments not already discussed are summarized below.

2024 Electric Rate Case: In March 2025, the MPSC issued an order authorizing an annual rate increase of $176 million, which is inclusive of a $22 million surcharge for the recovery of distribution investments made in 2023 that exceeded the rate amounts authorized in accordance with previous electric rate orders. The approved rate increase is based on a 9.90-percent authorized return on equity. The new rates became effective in April 2025.

2025 Electric Rate Case: In June 2025, Consumers filed an application with the MPSC seeking a rate increase of $460 million, made up of two components. First, Consumers requested a $436 million annual rate increase, based on a 10.25-percent authorized return on equity for the projected 12-month period ending April 30, 2027. The filing requested authority to recover costs related to new infrastructure investment primarily in distribution system reliability. Second, Consumers requested approval of a $24 million surcharge for the recovery of distribution investments made during the 12 months ended

February 28, 2025 that exceeded the rate amounts authorized in accordance with previous electric rate orders. The MPSC must issue a final order in this case before or in April 2026.

2024 Gas Rate Case: In December 2024, Consumers filed an application with the MPSC seeking an annual rate increase of $248 million based on a 10.25-percent authorized return on equity for the projected 12-month period ending October 31, 2026.In July 2025, Consumers revised its requested increase to $217 million. The MPSC must issue a final order in this case before or in October 2025.

Looking Forward

CMS Energy and Consumers will continue to consider the impact on the triple bottom line of people, planet, and prosperity in their daily operations as well as in their long-term strategic decisions. Consumers will continue to seek fair and timely regulatory treatment that will support its customer-driven investment plan, while pursuing cost-control measures that will allow it to maintain sustainable customer base rates. The CE Way is an important means of realizing CMS Energy's and Consumers' purpose of providing safe, reliable, affordable, clean, and equitable energy in service of their customers.

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Results of Operations

CMS Energy Consolidated Results of Operations

In Millions, Except Per Share Amounts

	Three Months Ended			Six Months Ended		
June 30	2025	2024	Change	2025	2024	Change
Net Income Available to Common Stockholders	$ 198	$ 195	$ 3	$ 500	$ 480	$ 20
Basic Earnings Per Average Common Share	$ 0.67	$ 0.65	$ 0.02	$ 1.68	$ 1.61	$ 0.07
Diluted Earnings Per Average Common Share	$ 0.66	$ 0.65	$ 0.01	$ 1.67	$ 1.61	$ 0.06

In Millions

	Three Months Ended			Six Months Ended		
June 30	2025	2024	Change	2025	2024	Change
Electric utility	$ 167	$ 170	$ (3)	$ 291	$ 267	$ 24
Gas utility	25	15	10	238	184	54
NorthStar Clean Energy	22	16	6	4	47	(43)
Corporate interest and other	(16)	(6)	(10)	(33)	(18)	(15)
Net Income Available to Common Stockholders	$ 198	$ 195	$ 3	$ 500	$ 480	$ 20

Presented in the following table is a summary of changes to net income available to common stockholders for the three and six months ended June 30, 2025 versus 2024:

In Millions

	Three Months Ended		Six Months Ended	
June 30, 2024		$ 195		$ 480
Reasons for the change				
Consumers electric utility and gas utility				
Electric sales	$ (3)		$ 15	
Gas sales	20		80	
Electric rate increase	35		80	
Gas rate increase, including gain amortization in lieu of rate relief	13		35	
Lower service restoration costs, net of 2025 deferred storm expense[1]	23		23	
Higher income tax expense	(19)		(38)	
Higher depreciation and amortization	(16)		(35)	
Higher interest charges	(15)		(16)	
Higher property taxes, reflecting higher capital spending	(7)		(14)	
Higher vegetation management cost	(4)		(13)	
Higher other maintenance and operating expenses	(13)		(13)	
Higher IT expenses, including early-phase ERP implementation costs	(6)		(10)	
Lower other income, net of expenses	—		(10)	
Absence of ASP revenue, net of expense, due to sale in 2024	(1)		(6)	
		$ 7		$ 78
NorthStar Clean Energy (see below for additional detail)		6		(43)
Corporate interest and other		(10)		(15)
June 30, 2025		$ 198		$ 500

[1] See Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters.

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Consumers Electric Utility Results of Operations

Presented in the following table are the detailed changes to the electric utility's net income available to common stockholders for the three and six months ended June 30, 2025 versus 2024:

In Millions

	Three Months Ended		Six Months Ended	
June 30, 2024		$ 170		$ 267
Reasons for the change				
Electric deliveries[1] and rate increases				
Rate increase, including return on higher renewable capital spending	$ 35		$ 80	
Lower revenue due primarily to lower sales volume, offset partially by sales mix	(15)		—	
Higher energy waste reduction program revenues	8		15	
Higher other revenues	12		15	
		$ 40		$ 110
Maintenance and other operating expenses				
Lower service restoration costs, net of 2025 deferred storm expense[2]	23		23	
Higher vegetation management cost	(4)		(13)	
Higher energy waste reduction program costs	(8)		(15)	
Higher IT expenses, including early-phase ERP implementation costs	(4)		(7)	
Higher other maintenance and operating expenses	(10)		(10)	
		(3)		(22)
Depreciation and amortization				
Increased plant in service, reflecting higher capital spending		(13)		(21)
General taxes				
Higher property taxes, reflecting higher capital spending		(5)		(7)
Other income, net of expenses		—		(7)
Interest charges		(10)		(11)
Income taxes				
Higher electric utility pre-tax earnings	(3)		(12)	
State deferred tax remeasurement[3]	(8)		(8)	
Lower (higher) other income taxes	(1)		2	
		(12)		(18)
June 30, 2025		$ 167		$ 291

[1] For the three months ended June 30, deliveries to end-use customers were 8.9 billion kWh in 2025 and 9.0 billion kWh in 2024. For the six months ended June 30, deliveries to end-use customers were 18.0 billion kWh in 2025 and 17.9 billion kWh in 2024.

[2] See Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters.

[3] See Notes to the Unaudited Consolidated Financial Statements—Note 7, Income Taxes.

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Consumers Gas Utility Results of Operations

Presented in the following table are the detailed changes to the gas utility's net income available to common stockholders for the three and six months ended June 30, 2025 versus 2024:

In Millions

	Three Months Ended		Six Months Ended	
June 30, 2024		$ 15		$ 184
Reasons for the change				
Gas deliveries[1] and rate increases				
Rate increase	$ 8		$ 18	
Higher revenue due primarily to the absence of 2024 unfavorable weather	21		82	
Higher energy waste reduction program revenues	2		12	
Absence of ASP business revenue[2]	(3)		(19)	
ASP gain customer bill credit[2]	(4)		(18)	
Lower other revenues	(1)		—	
		$ 23		$ 75
Maintenance and other operating expenses				
Amortization of ASP gain[2]	9		33	
Absence of 2024 ASP business expense[2]	2		13	
Higher IT expenses, including early-phase ERP implementation costs	(2)		(3)	
Higher energy waste reduction program costs	(2)		(12)	
Higher maintenance and other operating expenses	(3)		(3)	
		4		28
Depreciation and amortization				
Increased plant in service, reflecting higher capital spending		(3)		(14)
General taxes				
Higher property taxes, reflecting higher capital spending		(2)		(7)
Other income, net of expenses		—		(3)
Interest charges		(5)		(5)
Income taxes				
Higher gas utility pre-tax earnings	(5)		(19)	
State deferred tax remeasurement[3]	(4)		(4)	
Lower other income taxes	2		3	
		(7)		(20)
June 30, 2025		$ 25		$ 238

[1] For the three months ended June 30, deliveries to end-use customers were 49 Bcf in 2025 and 41 Bcf in 2024. For the six months ended June 30, deliveries to end-use customers were 184 Bcf in 2025 and 158 Bcf in 2024.

[2] In April 2024, Consumers sold its unregulated ASP business to a non-affiliated company, resulting in a $110 million gain. In July 2024, the MPSC approved the utilization of $27.5 million, or one-fourth, of the gain on the sale as an offset to the revenue deficiency in lieu of additional rate relief during the 12-month period beginning October 1, 2024, with the remaining three-fourths of the gain, or $82.5 million, to be credited to customers as a bill credit over a three-year period beginning October 1, 2024.

[3] See Notes to the Unaudited Consolidated Financial Statements—Note 7, Income Taxes.

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NorthStar Clean Energy Results of Operations

Presented in the following table are the detailed changes to NorthStar Clean Energy's net income available to common stockholders for the three and six months ended June 30, 2025 versus 2024:

In Millions

	Three Months Ended		Six Months Ended	
June 30, 2024	$	16	$	47
Reason for the change				
Lower earnings from renewable projects, reflecting timing of achieving commercial operation	$	(9)	$	(27)
Lower operating earnings, primarily due to a planned major outage at DIG		(7)		(23)
Lower (higher) other expense		2		(3)
Lower tax expense		20		10
June 30, 2025	$	22	$	4

Corporate Interest and Other Results of Operations

Presented in the following table are the detailed changes to corporate interest and other results for the three and six months ended June 30, 2025 versus 2024:

In Millions

	Three Months Ended		Six Months Ended	
June 30, 2024	$	(6)	$	(18)
Reasons for the change				
Higher interest charges	$	(17)	$	(28)
Lower other expense		5		9
Higher gain on extinguishment of debt		24		2
Lower (higher) tax expense		(22)		2
June 30, 2025	$	(16)	$	(33)

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Cash Position, Investing, and Financing

At June 30, 2025, CMS Energy had $925 million of consolidated cash and cash equivalents, which included $81 million of restricted cash and cash equivalents. At June 30, 2025, Consumers had $680 million of consolidated cash and cash equivalents, which included $81 million of restricted cash and cash equivalents.

Operating Activities

Presented in the following table are specific components of net cash provided by operating activities for the six months ended June 30, 2025 versus 2024:

		In Millions
CMS Energy, including Consumers		
Six Months Ended June 30, 2024	$	1,663
Reasons for the change		
Higher net income	$	43
Non-cash transactions[1]		43
Unfavorable impact of changes in core working capital,[2] due primarily to fluctuations in gas prices		(171)
Unfavorable impact of changes in other assets and liabilities, due primarily to higher service restoration expenditures[3] and higher deposits for electric margins		(164)
Six Months Ended June 30, 2025	$	1,414
Consumers		
Six Months Ended June 30, 2024	$	1,691
Reasons for the change		
Higher net income	$	81
Non-cash transactions[1]		(18)
Unfavorable impact of changes in core working capital,[2] due primarily to fluctuations in gas prices		(127)
Unfavorable impact of changes in other assets and liabilities, due primarily to higher service restoration expenditures[3] and higher deposits for electric margins		(148)
Six Months Ended June 30, 2025	$	1,479

1 Non-cash transactions comprise depreciation and amortization, changes in deferred income taxes and investment tax credits, and other non-cash operating activities and reconciling adjustments.

2 Core working capital comprises accounts receivable, accrued revenue, inventories, accounts payable, and accrued rate refunds.

3 See Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters.

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Investing Activities

Presented in the following table are specific components of net cash used in investing activities for the six months ended June 30, 2025 versus 2024:

	In Millions
CMS Energy, including Consumers	
Six Months Ended June 30, 2024	$ (1,246)
Reasons for the change	
Higher capital expenditures	$ (478)
Absence of proceeds from sale of ASP business in 2024	(124)
Other investing activities, primarily higher cost to retire property	(32)
Six Months Ended June 30, 2025	$ (1,880)
Consumers	
Six Months Ended June 30, 2024	$ (1,176)
Reasons for the change	
Higher capital expenditures	$ (291)
Absence of proceeds from sale of ASP business in 2024	(124)
Other investing activities, primarily higher cost to retire property	(41)
Six Months Ended June 30, 2025	$ (1,632)

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Financing Activities

Presented in the following table are specific components of net cash provided by financing activities for the six months ended June 30, 2025 versus 2024:

		In Millions
CMS Energy, including Consumers		
Six Months Ended June 30, 2024	$	124
Reasons for the change		
Higher debt issuances	$	1,745
Higher debt retirements		(408)
Lower repayments of notes payable		28
Lower issuances of common stock		(262)
Higher payments of dividends on common stock		(17)
Proceeds from sale of membership interests in VIEs		44
Other financing activities, primarily higher debt issuance costs		(41)
Six Months Ended June 30, 2025	$	1,213
Consumers		
Six Months Ended June 30, 2024	$	125
Reasons for the change		
Higher debt issuances	$	524
Higher debt retirements		(42)
Lower repayments of notes payable		28
Lower stockholder contribution from CMS Energy		(170)
Absence of return of stockholder contribution to CMS Energy in 2024		320
Higher payments of dividends on common stock		(57)
Other financing activities		(14)
Six Months Ended June 30, 2025	$	714

Capital Resources and Liquidity

CMS Energy and Consumers expect to have sufficient liquidity to fund their present and future commitments. CMS Energy uses dividends and tax-sharing payments from its subsidiaries and external financing and capital transactions to invest in its utility and non-utility businesses, retire debt, pay dividends, and fund its other obligations. The ability of CMS Energy's subsidiaries, including Consumers, to pay dividends to CMS Energy depends upon each subsidiary's revenues, earnings, cash needs, and other factors. In addition, Consumers' ability to pay dividends is restricted by certain terms included in its articles of incorporation and potentially by FERC requirements and provisions under the Federal Power Act and the Natural Gas Act. For additional details on Consumers' dividend restrictions, see Notes to the Unaudited Consolidated Financial Statements—Note 3, Financings and Capitalization—Dividend Restrictions. During the six months ended June 30, 2025, Consumers paid $416 million in dividends on its common stock to CMS Energy.

Consumers uses cash flows generated from operations, external financing transactions, and the monetization of tax credits, along with stockholder contributions from CMS Energy, to fund capital expenditures, retire debt, pay dividends, and fund its other obligations. Consumers also uses these sources of funding to contribute to its employee benefit plans.

Financing and Capital Resources: CMS Energy and Consumers rely on the capital markets to fund their robust capital plan. Barring any sustained market dislocations or disruptions, CMS Energy and Consumers expect to continue to have ready access to the financial and capital markets and will continue to explore possibilities to take advantage of market opportunities as they arise with respect to future funding needs. If access to these markets were to diminish or otherwise become restricted, CMS Energy and Consumers would implement contingency plans to address debt maturities, which could include reduced capital spending.

In 2023, CMS Energy entered into an equity offering program under which it may sell shares of its common stock having an aggregate sales price of up to $1 billion in privately negotiated transactions, in "at the market" offerings, or through forward sales transactions. As of June 30, 2025, these contracts had an aggregate sales price of $350 million, maturing through September 2026.

CMS Energy, NorthStar Clean Energy, and Consumers use revolving credit facilities for general working capital purposes and to issue letters of credit. At June 30, 2025, CMS Energy had $512 million of its revolving credit facility available, NorthStar Clean Energy had $90 million available under its revolving credit facility, and Consumers had $1.3 billion available under its revolving credit facilities.

An additional source of liquidity is Consumers' commercial paper program, which allows Consumers to issue, in one or more placements, up to $500 million in aggregate principal amount of commercial paper notes with maturities of up to 365 days at market interest rates. These issuances are supported by Consumers' revolving credit facilities. While the amount of outstanding commercial paper does not reduce the available capacity of the revolving credit facilities, Consumers does not intend to issue commercial paper in an amount exceeding the available capacity of the facilities. At June 30, 2025, there were no commercial paper notes outstanding under this program.

For additional details about these programs and facilities, see Notes to the Unaudited Consolidated Financial Statements—Note 3, Financings and Capitalization.

Certain of CMS Energy's, NorthStar Clean Energy's, and Consumers' credit agreements contain covenants that require each entity to maintain certain financial ratios, as defined therein. At June 30, 2025, no default had occurred with respect to any of the financial covenants contained in these credit agreements. Each of the entities was in compliance with the covenants contained in their respective credit agreements as of June 30, 2025, as presented in the following table:

	Limit	Actual
CMS Energy, parent only		
Debt to capital[1]	≤ 0.70 to 1.0	0.56 to 1.0
NorthStar Clean Energy, including subsidiaries		
Debt to capital[2]	≤ 0.50 to 1.0	0.11 to 1.0
Debt service coverage[2]	≥ 2.00 to 1.0	3.35 to 1.0
Pledged equity interests to aggregate commitment[2,3]	≥ 2.00 to 1.0	2.02 to 1.0
Consumers		
Debt to capital[4]	≤ 0.65 to 1.0	0.52 to 1.0

1 Applies to CMS Energy's revolving credit agreement and letter of credit reimbursement agreement.

2 Applies to NorthStar Clean Energy's revolving credit agreement.

3 The aggregate book value of the pledged equity interests under the revolving credit agreement was at least two-times the aggregate commitment under the revolving credit agreement at June 30, 2025.

4 Applies to Consumers' revolving credit agreements and letter of credit reimbursement agreement.

Outlook

Several business trends and uncertainties may affect CMS Energy's and Consumers' financial condition and results of operations. These trends and uncertainties could have a material impact on CMS Energy's and Consumers' consolidated income, cash flows, or financial position.

During 2025, the federal government has taken numerous executive actions related to tariffs and trade, alleviating regulatory burdens, and environmental regulations and enforcement, among other areas of potential impact. Many of these actions require further implementation by federal agencies and departments, and some of these actions will likely be subject to further judicial review. CMS Energy and Consumers continue to monitor these executive actions, and will continue taking steps to deliver consistently on the triple bottom line, but cannot at this time predict specific material impacts of the actions.

For additional details regarding these and other uncertainties, see Forward-looking Statements and Information; Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters and Note 2, Contingencies and Commitments; and Item 1A. Risk Factors in the 2024 Form 10-K.

Consumers Electric Utility Outlook and Uncertainties

Energy Transformation: Consumers' Clean Energy Plan details its long-term strategy for delivering safe, reliable, affordable, clean, and equitable energy to its customers. Coupled with Consumers' renewable energy plan, the Clean Energy Plan will be Consumers' blueprint to meeting the requirements of the 2023 Energy Law. Among other things, this law:

- raised the renewable energy standard from the present 15-percent requirement to 50 percent by 2030 and 60 percent by 2035
- set a clean energy standard of 80 percent by 2035 and 100 percent by 2040; low- or zero-carbon emitting resources, such as nuclear generation and natural gas generation coupled with carbon capture, are considered clean energy sources under this standard
- created a new energy storage standard that requires electric utilities to file plans by 2029 to obtain new energy storage that will contribute to a Michigan target of 2,500 MW based on their pro rata share

While Consumers' existing Clean Energy Plan, established under Michigan's integrated resource planning process, provides a path towards meeting these requirements, Consumers will file updates to the plan in 2026 to expand and solidify that path. Additionally, Consumers filed updates to its renewable energy plan in November 2024 to propose plans to meet the increased renewable energy standard. Together, these plans will enable Consumers to achieve 60-percent renewable energy by 2035 and 100-percent clean energy by 2040. Also through its Clean Energy Plan, Consumers continues to make progress on expanding its customer programs, namely its demand response, energy efficiency, and conservation voltage reduction programs, as well as increasing its renewable energy generation.

The strategy outlined in Consumers' Clean Energy Plan includes ending the use of coal in owned generation in 2025. In 2023, Consumers retired the D.E. Karn coal-fueled generating units, totaling 515 MW of nameplate capacity, and as authorized by the MPSC, issued securitization bonds to finance the recovery of and return on those units. Additionally, Consumers had planned to retire J.H. Campbell, totaling 1,407 MW of nameplate capacity, in May 2025. The MPSC authorized regulatory asset treatment for Consumers to recover the remaining book value of these units, as well as a 9.0-percent return on equity, commencing upon their planned retirement.

In May 2025, before the planned closure of J.H. Campbell, the U.S. Secretary of Energy issued an emergency order under section 202(c) of the Federal Power Act requiring J.H. Campbell to continue operating for 90 days, through August 20, 2025. The order stated that continued operation of J.H. Campbell was required to meet an energy emergency across MISO's North and Central regions. Consistent with the Federal Power Act and the U.S. Department of Energy regulations, the order authorizes Consumers to obtain cost recovery at FERC. Consumers has continued to make J.H. Campbell available in the MISO market, consistent with the order, and has filed a complaint at FERC seeking a modification of the MISO Tariff to establish a mechanism for recovery and allocation of the cost to comply with this order.

In June 2025, several third-party stakeholders, including the Michigan Attorney General, the Organization of MISO States, and a group of environmental and public interest groups, asked the U.S. Department of Energy to reconsider the emergency order. In July 2025, after the U.S. Department of Energy took no action on those requests, several parties filed petitions for review of the emergency order in federal court. The U.S. Department of Energy may issue one or more subsequent orders to require the operation of J.H. Campbell past August 20, 2025. Consumers cannot predict the likelihood or content of future orders, the result of third-party legal challenges to the order or orders, or the manner by which rate recovery will be allocated. For additional details on the emergency order, see Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters.

In order to continue providing controllable sources of electricity to customers while expanding its investment in renewable energy, Consumers purchased the Covert Generating Station, a natural gas-fueled generating facility with 1,200 MW of nameplate capacity, in 2023. Consumers has also contracted to purchase 700 MW of capacity from battery storage facilities, which will be located in Michigan's Lower Peninsula and are expected to be operational by 2028. In an April 2025 report, the MPSC Staff indicated that Consumers' share of the 2,500-MW statewide energy storage target established by the 2023 Energy Law is 817 MW.

Under its Clean Energy Plan, Consumers bids new capacity and energy competitively and proposed to own and operate all new wind capacity and approximately 50 percent of new solar capacity, with the remainder being built and owned by third parties. The actual composition of Consumers' future portfolio will reflect the results of the competitive bid process. Additionally, Consumers earns a return equal to its pre-tax weighted-average cost of capital on permanent capital structure on payments made under new clean, renewable, or energy storage PPAs with non-affiliated entities.

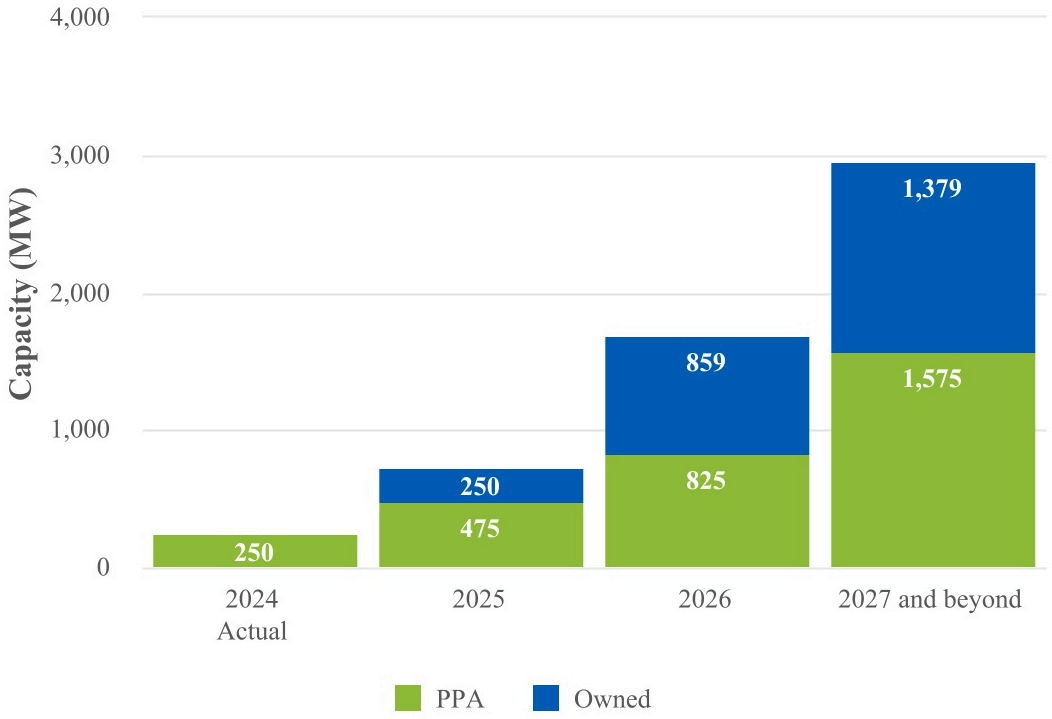
Under Consumers' existing renewable energy plan, most recently amended and approved by the MPSC in August 2024, 15 percent of the electricity supplied to customers comes from renewable energy sources. In accordance with this plan, Consumers has acquired three wind generation projects, totaling 517 MW of nameplate capacity, since 2020; the last of these projects became operational in 2023. The MPSC authorized Consumers to earn a 10.7-percent return on equity on these projects. The MPSC also approved the execution of a 20-year PPA under which Consumers will purchase 100 MW of renewable capacity, energy, and renewable energy credits from a solar generating facility that began operations in October 2024.

In November 2024, Consumers filed updates to its renewable energy plan, proposing up to 9,000 MW of both purchased and owned solar energy resources. Of this amount, 1,060 MW of projects would support Consumers' voluntary green program that provides full-service electric customers with the opportunity to advance the development of renewable energy beyond the present 15-percent requirement. Under this program, Consumers competitively solicits additional renewable energy assets based on customer applications.

In the updates to its renewable energy plan, Consumers also proposed the addition of up to 2,800 MW of new, competitively bid wind energy resources and the co-location of battery energy storage with its renewable energy assets to optimize those assets.

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Presented in the following illustration is the aggregate renewable capacity that Consumers expects to add to its portfolio through PPAs and owned generation proposed in its existing Clean Energy Plan and the updates to its renewable energy plan:



Consumers continues to evaluate the acquisition of additional capacity from intermittent resources and dispatchable, non-intermittent clean capacity resources (including battery storage resources). Any resulting contracts are subject to MPSC approval.

Electric Customer Deliveries and Revenue: Consumers' electric customer deliveries are seasonal and largely dependent on Michigan's economy. The consumption of electric energy typically increases in the summer months, due primarily to the use of air conditioners and other cooling equipment. In addition, Consumers' electric rates, which follow a seasonal rate design, are higher in the summer months than in the remaining months of the year. Each year in June, electric residential customers transition to a summer peak time-of-use rate that allows them to take advantage of lower-cost energy during off-peak times during the summer months. Thus, customers can reduce their electric bills by shifting their consumption from on-peak to off-peak times.

Over the next five years, Consumers expects weather-normalized electric deliveries to increase compared to 2024. This outlook reflects strong growth in electric demand, offset partially by the effects of energy waste reduction programs. Actual delivery levels will depend on:

- energy conservation measures and results of energy waste reduction programs
- weather fluctuations
- Michigan's economic conditions, including data center expansion; utilization, expansion, or contraction of large commercial and industrial facilities; economic development; population trends; electric vehicle adoption; and housing activity

Electric ROA: Michigan law allows electric customers in Consumers' service territory to buy electric generation service from alternative electric suppliers in an aggregate amount capped at 10 percent of

Consumers' sales, with certain exceptions. At June 30, 2025, electric deliveries under the ROA program were at the 10-percent limit. Fewer than 300 of Consumers' electric customers purchased electric generation service under the ROA program.

In 2016, Michigan law established a path to ensure that forward capacity is secured for all electric customers in Michigan, including customers served by alternative electric suppliers under ROA. The law also authorized the MPSC to ensure that alternative electric suppliers have procured enough capacity to cover their anticipated capacity requirements for the four-year forward period. In 2017, the MPSC issued an order establishing a state reliability mechanism for Consumers. Under this mechanism, if an alternative electric supplier does not demonstrate that it has procured its capacity requirements for the four-year forward period, its customers will pay a set charge to the utility for capacity that is not provided by the alternative electric supplier.

During 2017, the MPSC issued orders finding that it has statutory authority to determine and implement a local clearing requirement, which requires all electric suppliers to demonstrate that a portion of the capacity used to serve customers is located in the MISO footprint in Michigan's Lower Peninsula. In 2020, the Michigan Supreme Court affirmed the MPSC's statutory authority to implement a local clearing requirement on individual electric providers.

In 2020, ABATE and another intervenor filed a complaint against the MPSC in the U.S. District Court for the Eastern District of Michigan challenging the constitutionality of a local clearing requirement. The complaint requests the federal court to issue a permanent injunction prohibiting the MPSC from implementing a local clearing requirement on individual electric providers. In 2023, the U.S. District Court for the Eastern District of Michigan dismissed the complaint. ABATE and the other intervenor filed a claim of appeal of the Eastern District Court's decision with the U.S. Court of Appeals for the Sixth Circuit.

In January 2025, the Sixth Circuit Court of Appeals issued an opinion finding that the MPSC's imposition of a local clearing requirement on individual electric suppliers would discriminate against interstate commerce. The Court of Appeals remanded to the District Court for a determination of whether the local clearing requirement discriminated against interstate commerce and whether the MPSC's regulation survives a strict scrutiny standard, which depends on a determination of whether the local clearing requirement is the only means of achieving the state's goal of securing reliable energy supply. In January 2025, Consumers filed a petition for rehearing and en banc review with the Sixth Circuit Court of Appeals, requesting the Court to reconsider and reverse the panel's opinion. In February 2025, the Sixth Circuit Court of Appeals issued an order denying Consumers' petition for rehearing and en banc review. The case has therefore been remanded to the District Court for the Eastern District of Michigan for consideration of whether the MPSC's local clearing requirement meets the strict scrutiny standard pursuant to the Court of Appeals' decision. The remanded proceeding has begun at the Eastern District Court; there is no deadline for decision.

Hydroelectric Facilities: In February 2024, Consumers issued a request for proposals to explore the possibility of selling its 13 river hydroelectric dams located throughout Michigan. Consumers has solicited community feedback on the dams' futures, as federal operating licenses for the dams begin to expire in 2034. Consumers continues to evaluate each dam's future, options for which include, but are not limited to, renewing operating licenses, transferring ownership, or removing the facilities. In Consumers' most recent electric rate case, the MPSC approved deferred accounting treatment for costs associated with the hydroelectric dams pending resolution of this evaluation.

Electric Rate Matters: Rate matters are critical to Consumers' electric utility business. For additional details on rate matters, see Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters and Note 2, Contingencies and Commitments.

MPSC Distribution System Audit: In 2022, the MPSC ordered the state's two largest electric utilities, including Consumers, to report on their compliance with regulations and past MPSC orders governing the utilities' response to outages and downed lines. Consumers responded to the MPSC's order as directed.

Additionally, as directed by the MPSC, the MPSC Staff engaged a third-party auditor to review all equipment and operations of the two utilities' distribution systems. In September 2024, the MPSC Staff released the third-party auditor's final report on its audit of Consumers' distribution system. The report included several recommendations to improve Consumers' distribution system and associated processes and procedures. Consumers filed a response to the audit report in November 2024. In June 2025, the MPSC issued an order adopting the audit's findings and recommendations. Consumers is committed to working with the MPSC to continue improving electric reliability and safety in Michigan.

Performance-based Financial Incentives/Disincentives Mechanism: In February 2025, the MPSC issued an order establishing a mechanism through which the state's largest electric utilities, including Consumers, could realize up to $10 million each in incentives or penalties annually for meeting or failing to meet reliability benchmarks, beginning in 2026. As directed, Consumers filed proposed company-specific baseline metrics for the performance mechanism in April 2025.

2025 Electric Rate Case: In June 2025, Consumers filed an application with the MPSC seeking a rate increase of $460 million, made up of two components. First, Consumers requested a $436 million annual rate increase, based on a 10.25-percent authorized return on equity for the projected 12-month period ending April 30, 2027. The filing requested authority to recover costs related to new infrastructure investment primarily in distribution system reliability. Second, Consumers requested approval of a $24 million surcharge for the recovery of distribution investments made during the 12 months ended February 28, 2025 that exceeded the rate amounts authorized in accordance with previous electric rate orders.

Presented in the following table are the components of the requested increase in revenue:

		In Millions
Projected 12-Month Period Ending April 30		2027
Investment in rate base	$	194
Operating and maintenance costs		158
Cost of capital		77
Sales and other revenue		7
Subtotal	$	436
Surcharge		24
Total	$	460

The MPSC must issue a final order in this case before or in April 2026.

FERC Proceeding for J.H. Campbell Cost Recovery: In June 2025, Consumers filed a complaint at FERC seeking a modification of the MISO Tariff that would enable Consumers to recover the costs of complying with the U.S. Department of Energy's May 2025 emergency order requiring continued operation of J.H. Campbell. Consumers' complaint seeks a mechanism in the MISO Tariff that would allow allocation of those compliance costs across the MISO North and Central regions, consistent with the nature of the energy emergency declared in the U.S. Department of Energy order. FERC has not yet issued an order on this request. If FERC approves the request, Consumers will subsequently file a request for approval of its specific compliance costs under the approved MISO Tariff recovery mechanism.

Retention Incentive Program: In accordance with its Clean Energy Plan, and absent an extension of the May 2025 emergency order or other government order, Consumers plans to retire J.H. Campbell in 2025. In order to ensure necessary staffing at J.H. Campbell through retirement, Consumers has implemented a retention incentive program. The aggregate cost of the J.H. Campbell program through 2025 is estimated to be less than $50 million; Consumers expects to recognize $5 million of retention benefit costs in 2025. The MPSC has approved deferred accounting treatment for these costs; these expenses are deferred as a regulatory asset. For additional details on this program, see Notes to the Unaudited Consolidated Financial Statements—Note 12, Exit Activities.

Electric Environmental Outlook: Consumers' electric operations are subject to various federal, state, and local environmental laws and regulations. Consumers estimates that it will incur capital expenditures of $240 million from 2025 through 2029 to continue to comply with RCRA, the Clean Air Act, and numerous other environmental regulations. Consumers expects to recover these costs in customer rates, but cannot guarantee this result. Multiple environmental laws and regulations are subject to litigation. Consumers' primary environmental compliance focus includes, but is not limited to, the following matters.

Air Quality: Multiple air quality regulations apply, or may apply, to Consumers' electric utility.

MATS, emission standards for electric generating units published by the EPA based on Section 112 of the Clean Air Act, continue to apply to Consumers. In June 2025, the EPA issued a proposed rule to repeal changes made to the MATS rule in 2024. The company has complied, and continues to comply, with the MATS regulation and both the 2024 and 2025 versions of MATS have minimal impacts on Consumers' electric generating units. Consumers does not expect MATS to materially impact its environmental strategy.

CSAPR requires Michigan and many other states to improve air quality by reducing power plant emissions that, according to EPA modeling, contribute to ground-level ozone in other downwind states. Since its 2015 effective date, CSAPR has been revised several times. In 2023, the EPA published the Good Neighbor Plan, a revision to CSAPR. This regulation tightens emission allowance budgets for electric generating units in Michigan between 2023 and 2029 and changes the mechanism for allocating such allowances on a year-over-year basis beginning in 2026. In June 2024, the U.S. Supreme Court stayed the Good Neighbor Plan pending judicial review and, as a result, the allowance requirements for Michigan reverted back to the prior effective CSAPR ozone season rule. Regardless of the outcome of this litigation and which version of the rule applies, Consumers expects this regulation will have minimal financial and operational impact in the near and/or long term.

In 2015, the EPA lowered the NAAQS for ozone and made it more difficult to construct or modify power plants and other emission sources in areas of the country that do not meet the ozone standard. As of 2023, three counties in western Michigan have been designated as not meeting the ozone standard. Based on recent data, the EPA reclassified these counties from "moderate" to "serious" nonattainment. None of Consumers' fossil-fuel-fired generating units are located in these areas.

In March 2024, the EPA published a lower fine particulate matter NAAQS, which will likely result in newly designated nonattainment areas in Michigan starting in 2026. EGLE has proposed nonattainment areas for Kalamazoo and Wayne counties. Consumers does not have any fossil-fuel-fired generating assets in these counties and therefore does not expect this rule to have significant impacts on its existing assets or its clean energy strategy. Consumers will continue to monitor NAAQS rulemakings and litigation to evaluate potential impacts to its generating assets.

In December 2024, the EPA published a proposal to amend new source performance standards for new, modified, and reconstructed stationary combustion turbines to lower emission limits for NOx. This may

impact future gas-fueled, simple-cycle turbine projects. Consumers, in conjunction with industry stakeholder groups, submitted comments on the proposed rule and will continue monitoring this rulemaking.

Consumers continues to evaluate these rules in conjunction with other EPA and EGLE rulemakings, litigation, executive orders, treaties, and congressional actions. This evaluation could result in:

- a change in Consumers' fuel mix
- changes in the types of generating units Consumers may purchase or build in the future
- changes in how certain units are operated, including the installation of additional emission control equipment
- the retirement, mothballing, extended operation, or repowering with an alternative fuel of some of Consumers' generating units
- changes in Consumers' environmental compliance costs
- the purchase or sale of allowances

Greenhouse Gases: There have been numerous legislative, executive, and regulatory initiatives at the state, regional, national, and international levels that involve the potential regulation and reporting of greenhouse gases. Consumers continues to monitor and comment on these initiatives, as appropriate.

In April 2024, the EPA finalized its rule under Section 111 of the Clean Air Act to address greenhouse gas emissions from new combustion turbine electric generating units and existing coal-, gas-, and oil-fueled steam electric generating units. These rules do not address existing combustion turbine electric generating units. In June 2025, the EPA issued a proposed rule containing two different pathways to rescind these requirements. Consumers does not expect these proposed changes will have a significant impact on its existing gas- and oil-fueled steam electric generating assets. Consumers will continue to follow the EPA rules that address greenhouse gas emissions and will continue to evaluate potential impacts to its operations.

In 2020, Michigan's Governor signed an executive order creating the Michigan Healthy Climate Plan, which outlines goals for Michigan to achieve economy-wide net-zero greenhouse gas emissions and to be carbon neutral by 2050. The executive order aims for a 28-percent reduction below 2005 levels of greenhouse gas emissions by 2025. Consumers has already surpassed the 28-percent reduction milestone for its owned electric generation. The 2023 Energy Law codifies much of the Governor's goals. For additional details on the 2023 Energy Law, see the Planet section of the Executive Overview.

Increased frequency or intensity of severe or extreme weather events, including those due to climate change, could materially impact Consumers' facilities, energy sales, and results of operations. Consumers is unable to predict these events; however, Consumers evaluates the potential physical impacts of climate change on its operations, including increased frequency or intensity of storm activity; increased precipitation; increased temperature; and changes in lake and river levels. Consumers released a report addressing the physical risks of climate change on its infrastructure in 2022. Consumers is taking steps to mitigate these risks as appropriate.

While Consumers cannot predict the outcome of changes in U.S. policy or of other legislative, executive, or regulatory initiatives involving the potential regulation or reporting of greenhouse gases, it intends to move forward with its Clean Energy Plan, its present net-zero goals, and its emphasis on reliable and resilient electric supply. Litigation, international treaties, executive orders, federal laws and regulations

(including regulations by the EPA), and state laws and regulations, if enacted or ratified, could ultimately impact Consumers. Consumers may be required to:

- replace equipment
- install additional emission control equipment
- purchase emission allowances or credits (including potential greenhouse gas offset credits)
- curtail operations or modify existing facility retirement schedules
- arrange for alternative sources of supply
- purchase or build facilities that generate fewer emissions
- mothball, sell, or retire facilities that generate certain emissions
- pursue energy efficiency or demand response measures more swiftly
- take other steps to manage, sequester, or lower the emission of greenhouse gases

Although associated capital or operating costs relating to greenhouse gas regulation or legislation could be material and cost recovery cannot be assured, Consumers expects to recover these costs in rates consistent with the recovery of other reasonable costs of complying with environmental laws and regulations.

CCRs: In 2015, the EPA published a rule regulating CCRs under RCRA. This rule adopts minimum standards for the disposal of non-hazardous CCRs in CCR landfills and surface impoundments and criteria for the beneficial use of CCRs. The rule also sets out conditions under which some CCR units would be forced to cease receiving CCRs and related process water and to initiate closure. Due to continued litigation, many aspects of the rule have been remanded to the EPA, resulting in more proposed and final rules.

In May 2024, the EPA finalized a rule regulating legacy CCR surface impoundments and CCR management units in response to litigation that exempted inactive impoundments at inactive facilities from the 2015 CCR rule. The new rule adopts minimum standards for impoundments at electric generating facilities that became inactive before the 2015 CCR rule's effective date. During 2024, owners and operators were required to assess whether an inactive facility contains a legacy surface impoundment and then, for identified locations, proceed with the compliance schedule. Additionally, the EPA established groundwater monitoring, corrective action, closure, and post-closure care requirements for CCR surface impoundments and landfills closed prior to the effective date of the 2015 CCR rule, but that do not meet the closure technical and performance standards of the May 2024 rule. These include inactive CCR landfills that were previously exempted from regulation but that are now considered CCR management units. Owners are required to conduct an evaluation at active facilities and any inactive facilities with at least one legacy impoundment to identify CCR management units and determine an appropriate course of action (closure, groundwater treatment, etc.) for each identified unit according to established compliance milestone schedules. A direct final rule extending the compliance milestone schedule was issued by EPA. This extension does not have a material impact on Consumers' compliance strategy.

Separately, Congress passed legislation in 2016 allowing participating states to develop permitting programs for CCRs under RCRA Subtitle D. The EPA was granted authority to review these permitting programs to determine if permits issued under the proposed program would be as protective as the federal rule. Once approved, permits issued from an authorized state would serve as the basis for compliance, replacing the requirement to self-certify each aspect of the 2015 CCR rule.

Consumers, with agreement from EGLE, completed the work necessary to initiate closure by excavating CCRs or placing a final cover over each of its relevant CCR units prior to the closure initiation deadline set forth in the 2015 CCR rule. Consumers has historically been authorized to recover in electric rates costs related to coal ash disposal sites that supported power generation. Consumers has completed an

assessment of inactive facilities as required by the 2024 CCR rule, and did not identify any legacy impoundments. Consumers is continuing with evaluations related to CCR management units and 2024 CCR rule impacts on the state permit program.

Water: Multiple water-related regulations apply, or may apply, to Consumers.

The EPA regulates cooling water intake systems of existing electric generating plants under Section 316(b) of the Clean Water Act. The rules seek to reduce alleged harmful impacts on aquatic organisms, such as fish. In 2018, Consumers submitted to EGLE studies and recommended plans to comply with Section 316(b) for its coal-fueled units but has not yet received final approval.

The EPA also regulates the discharge of wastewater through its effluent limitation guidelines for steam electric generating plants. In 2020, the EPA revised previous guidelines related to the discharge of certain wastewater, but allowed for extension of the compliance deadline from the end of 2023 to the end of 2025, upon approval by EGLE through the NPDES permitting process. Consumers received such an extension for J.H. Campbell, which it plans to retire in 2025. In April 2024, the EPA released a final rule updating its effluent limitation guidelines for existing coal-fueled units. This rule regulates additional wastewater streams previously not regulated, including combustion residual leachate and legacy wastewater. Consumers has submitted timely NPDES permit applications and will be working with EGLE to incorporate applicable provisions during the permit renewal process.

Many of Consumers' facilities maintain NPDES permits, which are vital to the facilities' operations. Consumers applies for renewal of these permits every five years. Failure of EGLE to renew any NPDES permit, a successful appeal against a permit, a change in the interpretation or scope of NPDES permitting, or onerous terms contained in a permit could have a significant detrimental effect on the operations of a facility.

Protected Wildlife: Multiple regulations apply, or may apply, to Consumers relating to protected species and habitats.

Statutes like the federal Endangered Species Act, the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act of 1940 and changes to permitting may impact operations at Consumers' facilities. In February 2024, the U.S. Fish and Wildlife Service published a final rule providing for bald eagle general permits for qualifying wind farms and electric distribution systems. Consumers has received, or is pursuing, bald eagle general permits for all its wind farms. While any resulting permitting and monitoring fees and/or restrictions on operations could impact Consumers' existing and future operations, Consumers does not expect any material changes to its environmental strategy or Clean Energy Plan as a result of this rule.

Additionally, Consumers regularly monitors proposed changes to the listing status of several species within its operational area. A change in species listed under the Endangered Species Act, or under Michigan's equivalent law, may impact Consumers' costs to mitigate its impact on protected species and habitats at certain existing facilities as well as siting choices for new facilities.

Other Matters: Other electric environmental matters could have a material impact on Consumers' outlook. For additional details on other electric environmental matters, see Notes to the Unaudited Consolidated Financial Statements—Note 2, Contingencies and Commitments—Consumers Electric Utility Contingencies—Electric Environmental Matters.

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Consumers Gas Utility Outlook and Uncertainties

Gas Deliveries: Consumers' gas customer deliveries are seasonal. The peak demand for natural gas occurs in the winter due to colder temperatures and the resulting use of natural gas as heating fuel.

Over the next five years, Consumers expects weather-normalized gas deliveries to remain stable relative to 2024. This outlook reflects modest growth in gas demand, offset by the effects of energy waste reduction programs. Actual delivery levels will depend on:

- weather fluctuations
- use by power producers
- availability and development of renewable energy sources
- gas price changes
- Michigan's economic conditions, including population trends and housing activity
- the price or demand of competing energy sources or fuels
- energy efficiency and conservation impacts

Gas Rate Matters: Rate matters are critical to Consumers' gas utility business. For additional details on rate matters, see Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters and Note 2, Contingencies and Commitments.

2024 Gas Rate Case: In December 2024, Consumers filed an application with the MPSC seeking an annual rate increase of $248 million based on a 10.25-percent authorized return on equity for the projected 12-month period ending October 31, 2026. In July 2025, Consumers revised its requested increase to $217 million.

Presented in the following table are the components of the revised requested increase in revenue:

		In Millions
Projected 12-Month Period Ending October 31		2026
Investment in rate base	$	104
Operating and maintenance costs		43
Cost of capital		44
Sales/gross margin		26
Total	$	217

The MPSC must issue a final order in this case before or in October 2025.

Gas Pipeline and Storage Integrity and Safety: Consumers' gas operations are governed by federal and state pipeline safety rules, and there are robust processes and procedures in place to maintain compliance with these regulations. The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration has published various rules that revise federal safety standards for gas transmission pipelines and underground storage facilities. Consumers has implemented measures to achieve compliance with the revised rules. There are also proposed rules expanding requirements for gas distribution systems and leak detection and repair, although these rules are subject to reconsideration by the current administration. Under the proposed rules, Consumers will incur increased capital and increased operating and maintenance costs to install and remediate pipelines and to expand inspections, maintenance, and monitoring of existing pipelines and storage facilities.

Although associated capital or operating and maintenance costs relating to these regulations could be material and cost recovery cannot be assured, Consumers expects to recover such costs in rates consistent with the recovery of other reasonable costs of complying with laws and regulations.

Gas Environmental Outlook: Consumers expects to incur response activity costs at a number of sites, including 23 former MGP sites. For additional details, see Notes to the Unaudited Consolidated Financial Statements—Note 2, Contingencies and Commitments—Consumers Gas Utility Contingencies.

Consumers' gas operations are subject to various federal, state, and local environmental laws and regulations. Multiple environmental laws and regulations are subject to litigation. Consumers' primary environmental compliance focus includes, but is not limited to, the following matters.

Air Quality: Multiple air quality regulations apply, or may apply, to Consumers' gas utility.

In 2015, the EPA lowered the NAAQS for ozone and made it more difficult to construct or modify natural gas compressor stations and other emission sources in areas of the country that do not meet the ozone standard. As of 2023, three counties in western Michigan have been designated as not meeting the ozone standard. Based on recent data, the EPA reclassified these counties from "moderate" to "serious" nonattainment, which has more stringent requirements. One of Consumers' compressor stations is in a serious ozone nonattainment area. Consequently, Consumers has initiated plans to retrofit equipment at this compressor station to lower NOx emissions. Consumers will continue to monitor NAAQS rulemakings and evaluate potential impacts to its compressor stations and other applicable natural gas storage and delivery assets.

In March 2024, the EPA published a lower fine particulate matter NAAQS, which will likely result in newly designated nonattainment areas in Michigan starting in 2026. EGLE has proposed nonattainment areas for Kalamazoo and Wayne counties. Consumers has one compressor station located in Wayne County and thus will continue to monitor NAAQS rulemakings and litigation to evaluate potential impacts to the natural gas compressor station assets.

Greenhouse Gases: Some interest exists at the various levels of government in regulating greenhouse gases or their sources. Future regulations, if adopted, may involve requirements to reduce methane emissions from Consumers' gas utility operations and carbon dioxide emissions from customer use of natural gas. Consumers will continue to monitor such potential rules for impacts.

In 2020, Michigan's Governor signed an executive order creating the Michigan Healthy Climate Plan, which outlines goals for Michigan to achieve economy-wide net-zero greenhouse gas emissions and to be carbon neutral by 2050. The executive order aims for a 28-percent reduction below 2005 levels of greenhouse gas emissions by 2025. For additional details on the executive order, see Outlook—Consumers Electric Utility Outlook and Uncertainties.

Consumers is making voluntary efforts to reduce its gas utility's methane emissions. Under its Methane Reduction Plan, Consumers has set a goal of net-zero methane emissions from its natural gas delivery system by 2030. Consumers plans to reduce methane emissions from its system by about 80 percent, from 2012 baseline levels, by accelerating the replacement of aging pipe, rehabilitating or retiring outdated infrastructure, and adopting new technologies and practices. The remaining emissions will likely be offset by purchasing and/or producing renewable natural gas. To date, Consumers has reduced methane emissions by nearly 30 percent.

In 2022, Consumers also announced a net-zero greenhouse gas emissions target for its entire natural gas system by 2050. This includes suppliers and customers, and has an interim goal of reducing customer emissions by 25 percent by 2035. Consumers' Natural Gas Delivery Plan, a rolling ten-year investment

plan to deliver safe, reliable, clean, and affordable natural gas to customers, outlines ways in which Consumers can make early progress toward these goals in a cost-effective manner, including energy waste reduction, carbon offsets, and renewable natural gas supply.

Consumers has already initiated work in these key areas by continuing to expand its energy waste reduction targets and by offering gas customers the ability to offset their carbon footprint associated with natural gas use by purchasing renewable natural gas and/or carbon credits associated with Michigan forest preservation. Consumers has two renewable natural gas facilities under construction scheduled for commercial operation in late 2025. Consumers is evaluating and monitoring newer technologies to determine their role in achieving Consumers' interim and long-term net-zero goals, including biofuels, geothermal, synthetic methane, carbon capture sequestration systems, and other innovative technologies.

NorthStar Clean Energy Outlook and Uncertainties

CMS Energy's primary focus with respect to its NorthStar Clean Energy businesses is to maximize the value of generating assets representing 1,655 MW of capacity, and to pursue opportunities for the development of renewable generation projects.

Trends, uncertainties, and other matters related to NorthStar Clean Energy that could have a material impact on CMS Energy's consolidated income, cash flows, or financial position include:

- investment in and financial benefits received from renewable energy and energy storage projects, including changes to tax and trade policy
- changes in energy, capacity, and other commodity prices
- severe weather events and climate change associated with increasing levels of greenhouse gases
- changes in various environmental laws, regulations, principles, or practices, or in their interpretation
- indemnity obligations assumed in connection with ownership interests in facilities that involve tax equity financing
- representations, warranties, and indemnities provided in connection with sales of assets
- delays or difficulties in obtaining environmental permits or in constructing and developing projects, including those arising from the performance of contractors, suppliers, or other counterparties.

For additional details regarding NorthStar Clean Energy's uncertainties, see Notes to the Unaudited Consolidated Financial Statements—Note 2, Contingencies and Commitments—Guarantees.

NorthStar Clean Energy Environmental Outlook: NorthStar Clean Energy's operations are subject to various federal, state, and local environmental laws and regulations. Multiple environmental laws and regulations are subject to litigation. NorthStar Clean Energy's primary environmental compliance focus includes, but is not limited to, the following matters.

CSAPR requires Michigan and many other states to improve air quality by reducing power plant emissions that, according to EPA modeling, contribute to ground-level ozone in other downwind states. Since its 2015 effective date, CSAPR has been revised several times. In 2023, the EPA published the Good Neighbor Plan, a revision to CSAPR. This regulation tightens emission allowance budgets for electric generating units in Michigan between 2023 and 2029 and changes the mechanism for allocating such allowances on a year-over-year basis beginning in 2026. In June 2024, the U.S. Supreme Court stayed the Good Neighbor Plan pending judicial review and, as a result, the allowance requirements for Michigan reverted back to the prior effective CSAPR ozone season rule. Under the 2023 revision, NorthStar Clean Energy could incur increased costs to purchase allowances or retrofit equipment.

In March 2024, the EPA published a lower fine particulate matter NAAQS, which will likely result in newly designated nonattainment areas in Michigan starting in 2026. EGLE has proposed nonattainment areas for Kalamazoo and Wayne counties. NorthStar Clean Energy has two fossil-fuel-fired generating stations in these counties and therefore will continue to monitor NAAQS rulemaking and litigation to evaluate potential impacts to its generating assets.

In December 2024, the EPA published a proposal to amend new source performance standards for new, modified, and reconstructed stationary combustion turbines to lower emission limits for NOx. This may impact future gas-fueled, simple-cycle turbine projects. NorthStar Clean Energy will monitor this rulemaking.

For additional details regarding the ozone NAAQS, see Consumers Electric Utility Outlook and Uncertainties—Electric Environmental Outlook.

In April 2024, the EPA finalized its rule under Section 111 of the Clean Air Act to address greenhouse gas emissions from new combustion turbine electric generating units and existing coal-, gas-, and oil-fueled steam electric generating units. These rules do not address existing combustion turbine electric generating units. In June 2025, the EPA issued a proposed rule containing two different pathways to rescind these requirements. Neither pathway impacts NorthStar Clean Energy's existing facilities. NorthStar Clean Energy will continue to follow the EPA rules that address greenhouse gas emissions and will continue to evaluate potential impacts to its operations.

Many of NorthStar Clean Energy's facilities maintain NPDES permits, which are vital to the facilities' operations. NorthStar Clean Energy applies for renewal of these permits every five years. Failure of EGLE to renew any NPDES permit, a successful appeal against a permit, a change in the interpretation or scope of NPDES permitting, or onerous terms contained in a permit could have a significant detrimental effect on the operations of a facility.

Other Outlook and Uncertainties

Union Contract: The UWUA represents Consumers' operating, maintenance, construction, and customer contact center employees. In May 2025, Consumers and the UWUA ratified a new five-year contract for its operating, maintenance, and construction bargaining unit. In July 2025, Consumers and the UWUA ratified a new five-year contract with customer contact center employees. Consumers and the United Steelworkers labor union will commence negotiations for a new five-year contract for its Zeeland plant bargaining unit in August 2025. The existing contract expires on October 1, 2025.

Tax Legislation: CMS Energy and Consumers are subject to changing tax laws. In July 2025, President Trump signed into law the OBBBA. The legislation allows for the immediate expensing of domestic research and development costs and includes changes to clean energy tax credits enacted by the Inflation Reduction Act of 2022. While the OBBBA restores, and makes permanent, the 100-percent bonus depreciation deduction, it also retains a provision that allows utilities to take a full deduction of interest expense in lieu of 100-percent bonus depreciation. CMS Energy and Consumers are still evaluating the potential impacts of the OBBBA and related executive actions; however, CMS Energy and Consumers do not anticipate a material impact on their respective financial statements.

Litigation: CMS Energy, Consumers, and certain of their subsidiaries are named as parties in various litigation matters, as well as in administrative proceedings before various courts and governmental agencies, arising in the ordinary course of business. For additional details regarding certain legal matters, see Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters and Note 2, Contingencies and Commitments.

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New Accounting Standards

There are no new accounting standards issued but not yet effective that are expected to have a material impact on CMS Energy's or Consumers' consolidated financial statements.

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CMS Energy Corporation
Consolidated Statements of Income (Unaudited)

In Millions, Except Per Share Amounts

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Operating Revenue	$ 1,838	$ 1,607	$ 4,285	$ 3,783
Operating Expenses				
Fuel for electric generation	134	114	351	270
Purchased and interchange power	439	349	819	663
Purchased power – related parties	30	16	48	34
Cost of gas sold	124	66	507	417
Maintenance and other operating expenses	397	404	802	806
Depreciation and amortization	288	273	676	641
General taxes	109	102	271	257
Total operating expenses	1,521	1,324	3,474	3,088
Operating Income	317	283	811	695
Other Income (Expense)				
Non-operating retirement benefits, net	47	41	89	85
Other income	95	77	109	121
Other expense	(5)	(5)	(11)	(7)
Total other income	137	113	187	199
Interest Charges				
Interest on long-term debt	199	171	386	343
Interest expense – related parties	3	3	6	6
Other interest expense	—	5	(1)	7
Allowance for borrowed funds used during construction	(3)	(6)	(6)	(6)
Total interest charges	199	173	385	350
Income Before Income Taxes	255	223	613	544
Income Tax Expense	62	41	125	99
Net Income	193	182	488	445
Loss Attributable to Noncontrolling Interests	(8)	(16)	(17)	(40)
Net Income Attributable to CMS Energy	201	198	505	485
Preferred Stock Dividends	3	3	5	5
Net Income Available to Common Stockholders	$ 198	$ 195	$ 500	$ 480
Basic Earnings Per Average Common Share	$ 0.67	$ 0.65	$ 1.68	$ 1.61
Diluted Earnings Per Average Common Share	$ 0.66	$ 0.65	$ 1.67	$ 1.61

The accompanying notes are an integral part of these statements.

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CMS Energy Corporation
Consolidated Statements of Comprehensive Income (Unaudited)

In Millions

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Net Income	$ 193	$ 182	$ 488	$ 445
Retirement Benefits Liability				
Amortization of net actuarial loss, net of tax of $— for all periods	—	—	—	1
Other Comprehensive Income	—	—	—	1
Comprehensive Income	193	182	488	446
Comprehensive Loss Attributable to Noncontrolling Interests	(8)	(16)	(17)	(40)
Comprehensive Income Attributable to CMS Energy	$ 201	$ 198	$ 505	$ 486

The accompanying notes are an integral part of these statements.

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CMS Energy Corporation
Consolidated Statements of Cash Flows (Unaudited)

In Millions

Six Months Ended June 30	2025	2024
Cash Flows from Operating Activities		
Net income	$ 488	$ 445
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation and amortization	676	641
Deferred income taxes and investment tax credits	124	79
Other non-cash operating activities and reconciling adjustments	(144)	(107)
Changes in assets and liabilities		
Accounts receivable and accrued revenue	80	153
Inventories	34	158
Accounts payable and accrued rate refunds	24	(2)
Other current assets and liabilities	117	129
Other non-current assets and liabilities	15	167
Net cash provided by operating activities	1,414	1,663
Cash Flows from Investing Activities		
Capital expenditures (excludes assets placed under finance lease)	(1,772)	(1,294)
Proceeds from sale of ASP business	—	124
Cost to retire property and other investing activities	(108)	(76)
Net cash used in investing activities	(1,880)	(1,246)
Cash Flows from Financing Activities		
Proceeds from issuance of debt	2,449	704
Retirement of debt	(841)	(433)
Decrease in notes payable	(65)	(93)
Issuance of common stock	17	279
Payment of dividends on common and preferred stock	(331)	(314)
Proceeds from the sale of membership interests in VIEs	44	—
Other financing costs	(60)	(19)
Net cash provided by financing activities	1,213	124
Net Increase in Cash and Cash Equivalents, Including Restricted Amounts	747	541
Cash and Cash Equivalents, Including Restricted Amounts, Beginning of Period	178	248
Cash and Cash Equivalents, Including Restricted Amounts, End of Period	$ 925	$ 789
Other Cash Flow Activities and Non-cash Investing and Financing Activities		
Non-cash transactions		
Capital expenditures not paid	$ 537	$ 259

The accompanying notes are an integral part of these statements.

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CMS Energy Corporation
Consolidated Balance Sheets (Unaudited)

ASSETS

In Millions

	June 30 2025	December 31 2024
Current Assets		
Cash and cash equivalents	$ 844	$ 103
Restricted cash and cash equivalents	81	75
Accounts receivable and accrued revenue, less allowance of $30 in 2025 and $23 in 2024	924	1,049
Accounts receivable – related parties	12	14
Inventories at average cost		
Gas in underground storage	402	435
Materials and supplies	305	299
Generating plant fuel stock	29	35
Deferred property taxes	324	448
Regulatory assets	132	229
Prepayments and other current assets	140	103
Total current assets	3,193	2,790
Plant, Property, and Equipment		
Plant, property, and equipment, gross	35,962	34,932
Less accumulated depreciation and amortization	9,865	9,569
Plant, property, and equipment, net	26,097	25,363
Construction work in progress	2,750	2,098
Total plant, property, and equipment	28,847	27,461
Other Non-current Assets		
Regulatory assets	3,570	3,569
Accounts receivable	68	20
Investments	62	69
Postretirement benefits	1,705	1,627
Other	254	384
Total other non-current assets	5,659	5,669
Total Assets	$ 37,699	$ 35,920

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LIABILITIES AND EQUITY

In Millions

	June 30 2025	December 31 2024
Current Liabilities		
Current portion of long-term debt and finance leases	$ 1,125	$ 1,195
Notes payable	—	65
Accounts payable	1,139	1,085
Accounts payable – related parties	7	8
Accrued rate refunds	4	38
Accrued interest	170	156
Accrued taxes	461	654
Regulatory liabilities	93	111
Other current liabilities	197	209
Total current liabilities	3,196	3,521
Non-current Liabilities		
Long-term debt	16,781	15,194
Non-current portion of finance leases	139	112
Regulatory liabilities	4,164	4,067
Postretirement benefits	93	96
Asset retirement obligations	747	728
Deferred investment tax credit	120	122
Deferred income taxes	3,079	2,925
Other non-current liabilities	409	407
Total non-current liabilities	25,532	23,651
Commitments and Contingencies (Notes 1 and 2)		
Equity		
Common stockholders' equity		
Common stock, authorized 350.0 shares in both periods; outstanding 299.3 shares in 2025 and 298.8 shares in 2024	3	3
Other paid-in capital	5,998	6,009
Accumulated other comprehensive loss	(41)	(41)
Retained earnings	2,210	2,035
Total common stockholders' equity	8,170	8,006
Cumulative redeemable perpetual preferred stock, Series C, authorized 9.2 depositary shares; outstanding 9.2 depositary shares in both periods	224	224
Total stockholders' equity	8,394	8,230
Noncontrolling interests	577	518
Total equity	8,971	8,748
Total Liabilities and Equity	$ 37,699	$ 35,920

The accompanying notes are an integral part of these statements.

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CMS Energy Corporation

Consolidated Statements of Changes in Equity (Unaudited)

In Millions, Except Per Share Amounts

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Total Equity at Beginning of Period	$ 8,923	$ 8,506	$ 8,748	$ 8,125
Common Stock				
At beginning and end of period	3	3	3	3
Other Paid-in Capital				
At beginning of period	5,975	5,975	6,009	5,705
Common stock issued	23	16	35	297
Common stock repurchased	—	—	(12)	(11)
Adjustment for sale of membership interests in VIEs	—	—	(34)	—
At end of period	5,998	5,991	5,998	5,991
Accumulated Other Comprehensive Loss				
Retirement benefits liability				
At beginning of period	(41)	(45)	(41)	(46)
Amortization of net actuarial loss	—	—	—	1
At end of period	(41)	(45)	(41)	(45)
Retained Earnings				
At beginning of period	2,174	1,789	2,035	1,658
Net income attributable to CMS Energy	201	198	505	485
Dividends declared on common stock	(162)	(154)	(325)	(308)
Dividends declared on preferred stock	(3)	(3)	(5)	(5)
At end of period	2,210	1,830	2,210	1,830
Cumulative Redeemable Perpetual Preferred Stock, Series C				
At beginning and end of period	224	224	224	224
Noncontrolling Interests				
At beginning of period	588	560	518	581
Sale of membership interests in VIEs	—	—	78	—
Loss attributable to noncontrolling interests	(8)	(16)	(17)	(40)
Other changes in noncontrolling interests	(3)	(6)	(2)	(3)
At end of period	577	538	577	538
Total Equity at End of Period	$ 8,971	$ 8,541	$ 8,971	$ 8,541
Dividends declared per common share	$ 0.5425	$ 0.5150	$ 1.0850	$ 1.0300
Dividends declared per preferred stock Series C depositary share	$ 0.2625	$ 0.2625	$ 0.5250	$ 0.5250

The accompanying notes are an integral part of these statements.

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Consumers Energy Company
Consolidated Statements of Income (Unaudited)

In Millions

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Operating Revenue	$ 1,746	$ 1,533	$ 4,094	$ 3,630
Operating Expenses				
Fuel for electric generation	113	91	306	216
Purchased and interchange power	394	337	729	643
Purchased power – related parties	30	16	48	34
Cost of gas sold	123	66	505	416
Maintenance and other operating expenses	376	377	749	755
Depreciation and amortization	276	261	651	617
General taxes	106	99	265	251
Total operating expenses	1,418	1,247	3,253	2,932
Operating Income	328	286	841	698
Other Income (Expense)				
Non-operating retirement benefits, net	45	38	84	79
Other income	19	26	29	43
Other expense	(4)	(5)	(7)	(7)
Total other income	60	59	106	115
Interest Charges				
Interest on long-term debt	131	120	253	241
Interest expense – related parties	10	7	20	13
Other interest expense	3	3	3	5
Allowance for borrowed funds used during construction	(3)	(4)	(5)	(4)
Total interest charges	141	126	271	255
Income Before Income Taxes	247	219	676	558
Income Tax Expense	59	41	142	105
Net Income	188	178	534	453
Preferred Stock Dividends	1	1	1	1
Net Income Available to Common Stockholder	$ 187	$ 177	$ 533	$ 452

The accompanying notes are an integral part of these statements.

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Consumers Energy Company
Consolidated Statements of Comprehensive Income (Unaudited)

In Millions

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Net Income	$ 188	$ 178	$ 534	$ 453
Other Comprehensive Income	—	—	—	—
Comprehensive Income	$ 188	$ 178	$ 534	$ 453

The accompanying notes are an integral part of these statements.

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Consumers Energy Company
Consolidated Statements of Cash Flows (Unaudited)

In Millions

Six Months Ended June 30	2025	2024
Cash Flows from Operating Activities		
Net income	$ 534	$ 453
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation and amortization	651	617
Deferred income taxes and investment tax credits	66	76
Other non-cash operating activities and reconciling adjustments	(80)	(38)
Changes in assets and liabilities		
Accounts and notes receivable and accrued revenue	95	151
Inventories	33	158
Accounts payable and accrued rate refunds	59	5
Other current assets and liabilities	125	114
Other non-current assets and liabilities	(4)	155
Net cash provided by operating activities	1,479	1,691
Cash Flows from Investing Activities		
Capital expenditures (excludes assets placed under finance lease)	(1,519)	(1,228)
Proceeds from sale of ASP business	—	124
Cost to retire property and other investing activities	(113)	(72)
Net cash used in investing activities	(1,632)	(1,176)
Cash Flows from Financing Activities		
Proceeds from issuance of debt	1,123	599
Retirement of debt	(57)	(15)
Decrease in notes payable	(65)	(93)
Stockholder contribution	150	320
Return of stockholder contribution	—	(320)
Payment of dividends on common and preferred stock	(417)	(360)
Other financing costs	(20)	(6)
Net cash provided by financing activities	714	125
Net Increase in Cash and Cash Equivalents, Including Restricted Amounts	561	640
Cash and Cash Equivalents, Including Restricted Amounts, Beginning of Period	119	56
Cash and Cash Equivalents, Including Restricted Amounts, End of Period	$ 680	$ 696
Other Cash Flow Activities and Non-cash Investing and Financing Activities		
Non-cash transactions		
Capital expenditures not paid	$ 425	$ 255

The accompanying notes are an integral part of these statements.

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Consumers Energy Company
Consolidated Balance Sheets (Unaudited)

ASSETS

In Millions

	June 30 2025	December 31 2024
Current Assets		
Cash and cash equivalents	$ 599	$ 44
Restricted cash and cash equivalents	81	75
Accounts receivable and accrued revenue, less allowance of $30 in 2025 and $23 in 2024	884	1,019
Accounts and notes receivable – related parties	10	17
Inventories at average cost		
Gas in underground storage	402	435
Materials and supplies	296	291
Generating plant fuel stock	25	30
Deferred property taxes	324	448
Regulatory assets	132	229
Prepayments and other current assets	130	86
Total current assets	2,883	2,674
Plant, Property, and Equipment		
Plant, property, and equipment, gross	34,406	33,434
Less accumulated depreciation and amortization	9,600	9,310
Plant, property, and equipment, net	24,806	24,124
Construction work in progress	2,253	1,766
Total plant, property, and equipment	27,059	25,890
Other Non-current Assets		
Regulatory assets	3,570	3,569
Accounts receivable	74	26
Accounts and notes receivable – related parties	90	92
Postretirement benefits	1,586	1,514
Other	205	323
Total other non-current assets	5,525	5,524
Total Assets	$ 35,467	$ 34,088

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LIABILITIES AND EQUITY

In Millions

	June 30 2025	December 31 2024
Current Liabilities		
Current portion of long-term debt and finance leases	$ 576	$ 456
Notes payable	—	65
Accounts payable	1,029	917
Accounts payable – related parties	15	12
Accrued rate refunds	4	38
Accrued interest	140	130
Accrued taxes	522	678
Regulatory liabilities	93	111
Other current liabilities	152	185
Total current liabilities	2,531	2,592
Non-current Liabilities		
Long-term debt	11,581	10,818
Long-term debt – related parties	1,004	823
Non-current portion of finance leases	86	69
Regulatory liabilities	4,164	4,067
Postretirement benefits	68	70
Asset retirement obligations	713	694
Deferred investment tax credit	120	122
Deferred income taxes	3,148	3,053
Other non-current liabilities	354	349
Total non-current liabilities	21,238	20,065
Commitments and Contingencies (Notes 1 and 2)		
Equity		
Common stockholder's equity		
Common stock, authorized 125.0 shares; outstanding 84.1 shares in both periods	841	841
Other paid-in capital	8,324	8,174
Accumulated other comprehensive loss	(11)	(11)
Retained earnings	2,507	2,390
Total common stockholder's equity	11,661	11,394
Cumulative preferred stock, $4.50 series, authorized 7.5 shares; outstanding 0.4 shares in both periods	37	37
Total equity	11,698	11,431
Total Liabilities and Equity	$ 35,467	$ 34,088

The accompanying notes are an integral part of these statements.

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Consumers Energy Company
Consolidated Statements of Changes in Equity (Unaudited)

In Millions

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Total Equity at Beginning of Period	$ 11,656	$ 10,810	$ 11,431	$ 10,800
Common Stock				
At beginning and end of period	841	841	841	841
Other Paid-in Capital				
At beginning of period	8,324	7,759	8,174	7,759
Stockholder contribution	—	—	150	320
Return of stockholder contribution	—	—	—	(320)
At end of period	8,324	7,759	8,324	7,759
Accumulated Other Comprehensive Loss				
Retirement benefits liability				
At beginning and end of period	(11)	(15)	(11)	(15)
Retained Earnings				
At beginning of period	2,465	2,188	2,390	2,178
Net income	188	178	534	453
Dividends declared on common stock	(145)	(94)	(416)	(359)
Dividends declared on preferred stock	(1)	(1)	(1)	(1)
At end of period	2,507	2,271	2,507	2,271
Cumulative Preferred Stock				
At beginning and end of period	37	37	37	37
Total Equity at End of Period	$ 11,698	$ 10,893	$ 11,698	$ 10,893

The accompanying notes are an integral part of these statements.

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CMS Energy Corporation
Consumers Energy Company
Notes to the Unaudited Consolidated Financial Statements

These interim consolidated financial statements have been prepared by CMS Energy and Consumers in accordance with GAAP for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. As a result, CMS Energy and Consumers have condensed or omitted certain information and note disclosures normally included in consolidated financial statements prepared in accordance with GAAP. CMS Energy and Consumers have reclassified certain prior period amounts to conform to the presentation in the present period.

CMS Energy and Consumers are required to make estimates using assumptions that may affect reported amounts and disclosures; actual results could differ from these estimates. In management's opinion, the unaudited information contained in this report reflects all adjustments of a normal recurring nature necessary to ensure that CMS Energy's and Consumers' financial position, results of operations, and cash flows for the periods presented are fairly stated. The notes to the unaudited consolidated financial statements and the related unaudited consolidated financial statements should be read in conjunction with the consolidated financial statements and related notes contained in the 2024 Form 10-K. Due to the seasonal nature of CMS Energy's and Consumers' operations, the results presented for this interim period are not necessarily indicative of results to be achieved for the fiscal year.

1: Regulatory Matters

Regulatory matters are critical to Consumers. The Michigan Attorney General, ABATE, the MPSC Staff, residential customer advocacy groups, environmental organizations, and certain other parties typically participate in MPSC proceedings concerning Consumers, such as Consumers' rate cases and power supply cost recovery and gas cost recovery processes. Intervenors also participate in certain FERC matters, including FERC's regulation of certain wholesale rates that affect Consumers' power supply costs. These parties often challenge various aspects of those proceedings, including the prudence of Consumers' policies and practices, and seek cost disallowances and other relief. The parties also have appealed significant MPSC orders. Depending upon the specific issues, the outcomes of rate cases and proceedings, including judicial proceedings challenging MPSC and FERC orders or other actions, could negatively affect CMS Energy's and Consumers' liquidity, financial condition, and results of operations. Consumers cannot predict the outcome of these proceedings.

2024 Electric Rate Case: In May 2024, Consumers filed an application with the MPSC seeking a rate increase of $325 million, made up of two components. First, Consumers requested a $303 million annual rate increase, based on a 10.25-percent authorized return on equity for the projected 12-month period ending February 28, 2026. The filing requested authority to recover costs related to new infrastructure investment primarily in distribution system reliability and cleaner energy resources. Second, Consumers requested approval of a $22 million surcharge for the recovery of distribution investments made in 2023 that exceeded the rates authorized in accordance with previous electric rate orders.

In October 2024, Consumers revised its requested increase to $277 million, primarily to reflect the removal of projected capital investments associated with certain solar facilities that Consumers incorporated into its amended renewable energy plan.

In March 2025, the MPSC issued an order authorizing an annual rate increase of $176 million, which is inclusive of a $22 million surcharge for the recovery of distribution investments made in 2023 that exceeded the rate amounts authorized in accordance with previous electric rate orders. The approved rate increase is based on a 9.90-percent authorized return on equity. The new rates became effective in April 2025.

J.H. Campbell Emergency Order: In May 2025, before the planned closure of J.H. Campbell, the U.S. Secretary of Energy issued an emergency order under section 202(c) of the Federal Power Act requiring J.H. Campbell to continue operating for 90 days, through August 20, 2025. The order stated that continued operation of J.H. Campbell was required to meet an energy emergency across MISO's North and Central regions. Consistent with the Federal Power Act and the U.S. Department of Energy regulations, the order authorizes Consumers to obtain cost recovery at FERC. Consumers has continued to make J.H. Campbell available in the MISO market, consistent with the order, and has filed a complaint at FERC seeking a modification of the MISO Tariff to establish a mechanism for recovery and allocation of the cost to comply with this order. Between the start of the emergency order and June 30, 2025, the net financial impact of complying with the order was $29 million, for which recovery will be sought through FERC in a subsequent proceeding after a modification to the MISO Tariff is established.

Service Restoration Cost Deferral Application: As a result of catastrophic storms in Consumers' electric service territory, Consumers incurred significant service restoration costs during March and April 2025. In April 2025, Consumers filed with the MPSC an ex parte application requesting approval to defer, as a regulatory asset, operating and maintenance expenses associated with the storms. In June 2025, the MPSC approved the application, authorizing the deferral of these expenses for accounting purposes. At June 30, 2025, Consumers had deferred $54 million of these costs as a regulatory asset, recovery for which will be requested in a future rate case.

2: Contingencies and Commitments

CMS Energy and Consumers are involved in various matters that give rise to contingent liabilities. Depending on the specific issues, the resolution of these contingencies could negatively affect CMS Energy's and Consumers' liquidity, financial condition, and results of operations. In their disclosures of these matters, CMS Energy and Consumers provide an estimate of the possible loss or range of loss when such an estimate can be made. Disclosures stating that CMS Energy or Consumers cannot predict the outcome of a matter indicate that they are unable to estimate a possible loss or range of loss for the matter.

CMS Energy Contingencies

CMS Land retained environmental remediation obligations for the collection and treatment of leachate at Bay Harbor after selling its interests in the development in 2002. Leachate is produced when water enters into cement kiln dust piles left over from former cement plant operations at the site. In 2012, CMS Land and EGLE finalized an agreement establishing the final remedies and the future water quality criteria at the site. CMS Land completed all construction necessary to implement the remedies required by the agreement and will continue to maintain and operate a system to discharge treated leachate into Little Traverse Bay under an NPDES permit, which is valid through 2025. CMS Land submitted a renewal request in March 2025, and will continue to operate under the existing permit until a renewal is issued.

At June 30, 2025, CMS Energy had a recorded liability of $47 million for its remaining obligations for environmental remediation. CMS Energy calculated this liability based on discounted projected costs, using a discount rate of 4.34 percent and an inflation rate of 1 percent on annual operating and maintenance costs. The undiscounted amount of the remaining obligation is $59 million. CMS Energy

expects to pay the following amounts for long-term leachate disposal and operating and maintenance costs during the remainder of 2025 and in each of the next five years:

In Millions

	2025	2026	2027	2028	2029	2030
Long-term leachate disposal and operating and maintenance costs	$ 2	$ 4	$ 4	$ 4	$ 4	$ 4

CMS Energy's estimate of response activity costs and the timing of expenditures could change if there are changes in circumstances or assumptions used in calculating the liability. Although a liability for its present estimate of remaining response activity costs has been recorded, CMS Energy cannot predict the ultimate financial impact or outcome of this matter.

Consumers Electric Utility Contingencies

Electric Environmental Matters: Consumers' operations are subject to environmental laws and regulations. Historically, Consumers has generally been able to recover, in customer rates, the costs to operate its facilities in compliance with these laws and regulations.

Cleanup and Solid Waste: Consumers expects to incur remediation and other response activity costs at a number of sites under NREPA. Consumers believes that these costs should be recoverable in rates, but cannot guarantee that outcome. Consumers estimates its liability for NREPA sites for which it can estimate a range of loss to be between $4 million and $5 million. At June 30, 2025, Consumers had a recorded liability of $4 million, the minimum amount in the range of its estimated probable NREPA liability, as no amount in the range was considered a better estimate than any other amount.

Consumers is a potentially responsible party at a number of contaminated sites administered under CERCLA. CERCLA liability is joint and several. In 2010, Consumers received official notification from the EPA that identified Consumers as a potentially responsible party for cleanup of PCBs at the Kalamazoo River CERCLA site. The notification claimed that the EPA had reason to believe that Consumers disposed of PCBs and arranged for the disposal and treatment of PCB-containing materials at portions of the site. In 2011, Consumers received a follow-up letter from the EPA requesting that Consumers agree to participate in a removal action plan along with several other companies for an area of lower Portage Creek, which is connected to the Kalamazoo River. All parties asked to participate in the removal action plan, including Consumers, declined to accept liability. Until further information is received from the EPA, Consumers is unable to estimate a range of potential liability for cleanup of the river.

Based on its experience, Consumers estimates its share of the total liability for known CERCLA sites to be between $3 million and $8 million. Various factors, including the number and creditworthiness of potentially responsible parties involved with each site, affect Consumers' share of the total liability. At June 30, 2025, Consumers had a recorded liability of $3 million for its share of the total liability at these sites, the minimum amount in the range of its estimated probable CERCLA liability, as no amount in the range was considered a better estimate than any other amount.

The timing of payments related to Consumers' remediation and other response activities at its CERCLA and NREPA sites is uncertain. Consumers periodically reviews these cost estimates. A change in the underlying assumptions, such as an increase in the number of sites, different remediation techniques, the nature and extent of contamination, and legal and regulatory requirements, could affect its estimates of NREPA and CERCLA liability.

Ludington Overhaul Contract Dispute: Consumers and DTE Electric, co-owners of Ludington, entered into a 2010 engineering, procurement, and construction agreement with Toshiba International, under which Toshiba International contracted to perform a major overhaul and upgrade of Ludington. Toshiba International later assigned the contract and all of its obligations to TAES. TAES' work under the contract was incomplete, defective, and non-conforming. Consumers and DTE Electric repeatedly documented TAES' failure to perform under the contract and demanded that TAES provide a comprehensive plan to resolve those matters, including adherence to its warranty commitments and other contractual obligations. Consumers and DTE Electric engaged in extensive efforts to resolve these issues with TAES, including a formal demand to TAES' parent, Toshiba, under a parent guaranty it provided. TAES did not provide a comprehensive plan or otherwise meet its performance obligations. As a result of TAES' defaults, Consumers and DTE Electric terminated the contract.

In order to enforce their rights under the contract and parent guaranty, and to pursue appropriate damages, Consumers and DTE Electric filed a complaint against TAES and Toshiba in the U.S. District Court for the Eastern District of Michigan in 2022. TAES and Toshiba filed a motion to dismiss the complaint, along with an answer and counterclaims seeking approximately $15 million in damages related to payments allegedly owed under the parties' contract. As a co-owner of Ludington, Consumers would be liable for 51 percent of any such damages, if liability and damages were proven. The court denied the motion to dismiss filed by TAES and Toshiba. The parties are engaged in ongoing litigation pursuant to a court-ordered schedule. Consumers believes the counterclaims filed by TAES and Toshiba are without merit, but cannot predict the financial impact or outcome of this matter. An unfavorable outcome could have a material adverse effect on CMS Energy's and Consumers' financial condition, results of operations, or liquidity.

In 2023, Toshiba announced that TBJH became the majority shareholder and new parent company of Toshiba through a common stock purchase. TBJH is a subsidiary of a Japanese private equity firm. Consumers and DTE Electric continue to monitor this development, but do not believe that this affects their rights under the parent guaranty provided by Toshiba.

In 2023, the MPSC approved Consumers' and DTE Electric's jointly-filed request for authority to defer as a regulatory asset the costs associated with repairing or replacing the defective work performed by TAES while the litigation with TAES and Toshiba moves forward. Although litigation is ongoing, Consumers currently estimates that its share of repair, replacement, and other damages resulting from TAES' defective work is approximately $350 million, which may be offset in part or entirely by any potential future litigation proceeds received from TAES or Toshiba. Consumers and DTE Electric will have the opportunity to seek appropriate recovery and ratemaking treatment for amounts recorded as a regulatory asset following resolution of the litigation, including any amounts not recovered from TAES or Toshiba, but cannot predict the financial impact or outcome of such proceedings.

Consumers Gas Utility Contingencies

Consumers expects to incur remediation and other response activity costs at a number of sites under NREPA. These sites include 23 former MGP facilities. Consumers operated the facilities on these sites for some part of their operating lives. For some of these sites, Consumers has no present ownership interest or may own only a portion of the original site.

At June 30, 2025, Consumers had a recorded liability of $59 million for its remaining obligations for these sites. Consumers expects to pay the following amounts for remediation and other response activity costs during the remainder of 2025 and in each of the next five years:

In Millions

	2025	2026	2027	2028	2029	2030
Remediation and other response activity costs	$ 2	$ 7	$ 9	$ 24	$ 7	$ 1

Consumers periodically reviews these cost estimates. Any significant change in the underlying assumptions, such as an increase in the number of sites, changes in remediation techniques, or legal and regulatory requirements, could affect Consumers' estimates of annual response activity costs and the MGP liability.

Pursuant to orders issued by the MPSC, Consumers defers its MGP-related remediation costs and recovers them from its customers over a ten-year period. At June 30, 2025, Consumers had a regulatory asset of $86 million related to the MGP sites.

Guarantees

Presented in the following table are CMS Energy's and Consumers' guarantees at June 30, 2025:

In Millions

Guarantee Description	Issue Date	Expiration Date	Maximum Obligation	Carrying Amount
CMS Energy, including Consumers				
Indemnity obligations from sale of membership interests in VIEs[1]	various	various	$ 238	$ —
Indemnity obligations from stock and asset sale agreements[2]	various	indefinite	152	—
Guarantee[3]	2011	indefinite	30	—
Consumers				
Guarantee[3]	2011	indefinite	$ 30	$ —

1 These obligations arose from the sale of membership interests in Aviator Wind, Newport Solar Holdings, and NWO Holdco to tax equity investors. NorthStar Clean Energy provided certain indemnity obligations that protect the tax equity investors against losses incurred as a result of breaches of representations and warranties under the associated limited liability company agreements. These obligations are generally capped at an amount equal to the tax equity investor's capital contributions plus a specified return, less any distributions and tax benefits it receives, in connection with its membership interest. For any indemnity obligations related to Aviator Wind, NorthStar Clean Energy would recover 49 percent of any amounts paid to the tax equity investor from the other owner of Aviator Wind Equity Holdings. Additionally, Aviator Wind holds insurance coverage that would partially protect against losses incurred as a result of certain failures to qualify for production tax credits. For further details on NorthStar Clean Energy's ownership interest in Aviator Wind, Newport Solar Holdings, and NWO Holdco, see Note 11, Variable Interest Entities.

2 These obligations arose from stock and asset sale agreements under which CMS Energy or a subsidiary of CMS Energy indemnified the purchaser for losses resulting from various matters, including claims related to taxes. The maximum obligation amount is mostly related to an Equatorial Guinea tax claim.

[3] This obligation comprises a guarantee provided by Consumers to the U.S. Department of Energy in connection with a settlement agreement regarding damages resulting from the department's failure to accept spent nuclear fuel from nuclear power plants formerly owned by Consumers.

Additionally, in the normal course of business, CMS Energy, Consumers, and certain other subsidiaries of CMS Energy have entered into various agreements containing tax and other indemnity provisions for which they are unable to estimate the maximum potential obligation. CMS Energy and Consumers consider the likelihood that they would be required to perform or incur substantial losses related to these indemnities and those disclosed in the table to be remote.

Other Contingencies

In addition to the matters disclosed in this Note and Note 1, Regulatory Matters, there are certain other lawsuits and administrative proceedings before various courts and governmental agencies, as well as unasserted claims that may result in such proceedings, arising in the ordinary course of business to which CMS Energy, Consumers, and certain other subsidiaries of CMS Energy are parties. These other lawsuits, proceedings, and unasserted claims may involve personal injury, property damage, contracts, environmental matters, federal and state taxes, rates, licensing, employment, and other matters. Certain of these matters, while potentially substantial, are covered by insurance and the insurer or insurers are involved in the relevant proceedings. Further, CMS Energy and Consumers occasionally self-report certain regulatory non-compliance matters that may or may not eventually result in administrative proceedings. CMS Energy and Consumers believe that the outcome of any one of these proceedings and potential claims will not have a material negative effect on their consolidated results of operations, financial condition, or liquidity.

3: Financings and Capitalization

Financings: Presented in the following table is a summary of major long-term debt issuances during the six months ended June 30, 2025:

		Principal (In Millions)	Interest Rate (%)	Issuance Date	Maturity Date
CMS Energy, parent only					
Junior subordinated notes[1]	$	1,000	6.500	February 2025	June 2055
Term loan credit agreement		110	variable	February 2025	December 2025
Total CMS Energy, parent only	$	1,110			
NorthStar Clean Energy, including subsidiaries					
Construction financing agreement[2]	$	132	variable	February 2025	Five years after conversion date[2]
Total NorthStar Clean Energy, including subsidiaries	$	132			
Consumers					
First mortgage bonds	$	500	4.500	May 2025	January 2031
First mortgage bonds		625	5.050	May 2025	May 2035
Total Consumers	$	1,125			
Total CMS Energy	$	2,367			

[1] These unsecured obligations rank subordinate and junior in right of payment to all of CMS Energy's existing and future senior indebtedness. On June 1, 2035, and every five years thereafter, the notes will reset to an interest rate equal to the five-year treasury rate plus 1.961 percent.

[2] At completion of project construction, scheduled for the first half of 2026, these financings will convert into a term loan that will mature five years after the conversion date.

Retirements: Presented in the following table is a summary of major long-term debt retirements during the six months ended June 30, 2025:

	Principal (In Millions)	Interest Rate (%)	Retirement Date	Maturity Date
CMS Energy, parent only				
Term loan credit agreement	$ 400	variable	February 2025	September 2025
Term loan credit agreement	200	variable	February 2025	December 2025
Total CMS Energy, parent only	$ 600			
Total CMS Energy	$ 600			

CMS Energy's Purchase of Consumers' First Mortgage Bonds: CMS Energy purchased Consumers' first mortgage bonds with a principal balance of $184 million during the three and six months ended June 30, 2025 in exchange for cash of $109 million. On a consolidated basis, CMS Energy's repurchase of Consumers' first mortgage bonds was accounted for as a debt extinguishment and resulted in a pre-tax gain of $72 million for the three and six months ended June 30, 2025, which was recorded in other income on CMS Energy's consolidated statements of income. Interest expense related to the repurchased bonds was $7 million for the three months ended June 30, 2025 and $13 million for the six months ended June 30, 2025, which was recorded in interest expense - related parties on Consumers' consolidated statements of income.

CMS Energy purchased Consumers' first mortgage bonds with a principal balance of $151 million during the three months ended June 30, 2024 and $242 million during the six months ended June 30, 2024, in exchange for cash of $100 million and $169 million, respectively. On a consolidated basis, CMS Energy's repurchase of Consumers' first mortgage bonds was accounted for as a debt extinguishment and resulted in a pre-tax gain of $48 million for the three months ended June 30, 2024 and a pre-tax gain of $70 million for the six months ended June 30, 2024, which was recorded in other income on its consolidated statements of income. Interest expense related to the repurchased bonds was $4 million for the three months ended June 30, 2024 and $8 million for the six months ended June 30, 2024, which was recorded in interest expense - related parties on Consumers' consolidated statements of income.

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Credit Facilities: The following credit facilities with banks were available at June 30, 2025:

In Millions

Expiration Date	Amount of Facility	Amount Borrowed	Letters of Credit Outstanding	Amount Available
CMS Energy, parent only				
December 14, 2027[1]	$ 550	$ —	$ 38	$ 512
September 30, 2025	50	—	50	—
NorthStar Clean Energy, including subsidiaries				
May 30, 2028[2]	$ 250	$ 160	$ —	$ 90
September 25, 2025[3]	37	—	37	—
Upon completion of construction project[4]	19	—	12	7
Consumers[5]				
December 14, 2027	$ 1,100	$ —	$ 10	$ 1,090
November 18, 2025	250	—	72	178
March 31, 2028	50	—	24	26

1 There were no borrowings under this facility during the six months ended June 30, 2025.

2 Obligations under this facility are secured by certain pledged equity interests in subsidiaries of NorthStar Clean Energy; under the terms of this facility, the interests may not be sold by NorthStar Clean Energy unless there is an agreed-upon substitution for the pledged equity interests. At June 30, 2025, the net book value of the pledged equity interests was $505 million. Also under the terms of this facility, NorthStar Clean Energy may be restricted from remitting cash dividends to CMS Energy in the event of default.

3 This letter of credit facility is available to Aviator Wind Equity Holdings. For more information regarding Aviator Wind Equity Holdings, see Note 11, Variable Interest Entities.

4 The letter of credit facility is available to certain subsidiaries of NorthStar Clean Energy. The letter of credit facility will expire upon completion of project construction scheduled for the first half of 2026.

5 Obligations under these facilities are secured by first mortgage bonds of Consumers. There were no borrowings under these facilities during the six months ended June 30, 2025.

Regulatory Authorization for Financings: Consumers is required to maintain FERC authorization for financings. Any long-term issuances during the authorization period are exempt from FERC's competitive bidding and negotiated placement requirements. Its short-term authorization ends on May 2, 2026. In February 2025, FERC approved Consumers' application for authority to issue long-term debt securities. The authorization is effective February 21, 2025 through February 20, 2027.

Short-term Borrowings: Under Consumers' commercial paper program, Consumers may issue, in one or more placements, investment-grade commercial paper notes with maturities of up to 365 days at market interest rates. These issuances are supported by Consumers' revolving credit facilities and may have an aggregate principal amount outstanding of up to $500 million. While the amount of outstanding commercial paper does not reduce the available capacity of the revolving credit facilities, Consumers does not intend to issue commercial paper in an amount exceeding the available capacity of the facilities. At June 30, 2025, there were no commercial paper notes outstanding under this program.

In December 2024, Consumers renewed a short-term credit agreement with CMS Energy, permitting Consumers to borrow up to $500 million at an interest rate of the prior month's average one-month Term SOFR minus 0.100 percent. At June 30, 2025, there were no outstanding borrowings under the agreement.

NorthStar Clean Energy's Supplier Financing Program: Under a supplier financing program, NorthStar Clean Energy agrees to pay a bank that is acting as its payment agent the stated amount of confirmed invoices from participating suppliers on the original maturity dates of the invoices. The bank is required to pay the supplier invoices that have been confirmed as valid under the program in full within 135 days of the invoice date. NorthStar Clean Energy does not provide collateral or a guarantee to the bank in support of its payment obligations under the agreement, nor does it pay a fee for the service. NorthStar Clean Energy or the bank may terminate the supplier financing program agreement upon 30 days prior written notice to the other party. At June 30, 2025, obligations under this program accounted for as accounts payable on CMS Energy's consolidated balance sheets were $43 million.

Dividend Restrictions: At June 30, 2025, payment of dividends by CMS Energy on its common stock was limited to $8.2 billion under provisions of the Michigan Business Corporation Act of 1972.

Under the provisions of its articles of incorporation, at June 30, 2025, Consumers had $2.4 billion of unrestricted retained earnings available to pay dividends on its common stock to CMS Energy. Provisions of the Federal Power Act and the Natural Gas Act appear to restrict dividends payable by Consumers to the amount of Consumers' retained earnings. Several decisions from FERC suggest that, under a variety of circumstances, dividends from Consumers on its common stock would not be limited to amounts in Consumers' retained earnings. Any decision by Consumers to pay dividends on its common stock in excess of retained earnings would be based on specific facts and circumstances and would be subject to a formal regulatory filing process.

During the six months ended June 30, 2025, Consumers paid $416 million in dividends on its common stock to CMS Energy.

Issuance of Common Stock: In 2023, CMS Energy entered into an equity offering program under which it may sell shares of its common stock having an aggregate sales price of up to $1 billion in privately negotiated transactions, in "at the market" offerings, or through forward sales transactions.

Presented in the following table are details of CMS Energy's forward sales contracts under its current equity offering program at June 30, 2025:

			Forward Price Per Share	
Contract Date	Maturity Date	Number of Shares	Initial	June 30, 2025
December 16, 2024	November 27, 2025	400,581	$ 69.43	$ 69.76
February 25, 2025	May 11, 2026	757,686	70.11	70.48
March 14, 2025	June 15, 2026	551,166	72.99	73.25
June 13, 2025	April 28, 2026	1,094,643	71.70	71.80
June 16, 2025	September 16, 2026	2,150,000	69.30	69.39

Under these contracts, CMS Energy may either settle physically by issuing shares of its common stock at the then-applicable forward sale price specified by the agreement or settle net by delivering or receiving cash or shares. CMS Energy may settle the contracts at any time through their maturity dates, and presently intends to physically settle the contracts by delivering shares of its common stock.

The initial forward price in the forward equity sale contracts includes a deduction for commissions and will be adjusted on a daily basis over the term based on an interest rate factor and decreased on certain dates by certain predetermined amounts to reflect expected dividend payments. No amounts are recorded on CMS Energy's consolidated balance sheets until settlements of the forward equity sale contracts occur. If CMS Energy had elected to net share settle or net cash settle the contracts as of June 30, 2025, it would not have been required to deliver shares or pay cash.

4: Fair Value Measurements

Accounting standards define fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. When measuring fair value, CMS Energy and Consumers are required to incorporate all assumptions that market participants would use in pricing an asset or liability, including assumptions about risk. A fair value hierarchy prioritizes inputs used to measure fair value according to their observability in the market. The three levels of the fair value hierarchy are as follows:

- Level 1 inputs are unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2 inputs are observable, market-based inputs, other than Level 1 prices. Level 2 inputs may include quoted prices for similar assets or liabilities in active markets, quoted prices in inactive markets, and inputs derived from or corroborated by observable market data.
- Level 3 inputs are unobservable inputs that reflect CMS Energy's or Consumers' own assumptions about how market participants would value their assets and liabilities.

CMS Energy and Consumers classify fair value measurements within the fair value hierarchy based on the lowest level of input that is significant to the fair value measurement in its entirety.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

Presented in the following table are CMS Energy's and Consumers' assets and liabilities recorded at fair value on a recurring basis:

In Millions

	CMS Energy, including Consumers		Consumers	
	June 30 2025	December 31 2024	June 30 2025	December 31 2024
Assets[1]				
Cash equivalents	$ 87	$ 27	$ —	$ —
Restricted cash equivalents	81	75	81	75
Nonqualified deferred compensation plan assets	34	34	26	25
Derivative instruments	4	2	4	2
Total assets	$ 206	$ 138	$ 111	$ 102
Liabilities[1]				
Nonqualified deferred compensation plan liabilities	$ 34	$ 34	$ 26	$ 25
Derivative instruments	4	—	—	—
Total liabilities	$ 38	$ 34	$ 26	$ 25

[1] All assets and liabilities were classified as Level 1 with the exception of derivative contracts, which were classified as Level 2 and 3.

Cash Equivalents: Cash equivalents and restricted cash equivalents consist of money market funds with daily liquidity.

Nonqualified Deferred Compensation Plan Assets and Liabilities: The nonqualified deferred compensation plan assets consist of mutual funds, which are bought and sold only at the discretion of plan participants. The assets are valued using the daily quoted net asset values. CMS Energy and Consumers value their nonqualified deferred compensation plan liabilities based on the fair values of the plan assets, as they reflect the amount owed to the plan participants in accordance with their investment elections. CMS Energy and Consumers report the assets in other non-current assets and the liabilities in other non-current liabilities on their consolidated balance sheets.

Derivative Instruments: CMS Energy and Consumers value their derivative instruments using either a market approach that incorporates information from market transactions, or an income approach that discounts future expected cash flows to a present value amount. CMS Energy's and Consumers' derivatives are classified as Level 2 and 3.

The derivatives classified as Level 2 are interest rate swaps at NorthStar Clean Energy, which are valued using market-based inputs.

In February 2025, a subsidiary of NorthStar Clean Energy entered into floating-to-fixed interest rate swaps to reduce the impact of interest rate fluctuations associated with interest payments on certain future long-term variable-rate debt. The interest rate swaps economically hedge the future variability of interest payments on debt with a notional amount of $109 million. Gains or losses on these swaps are reported in other expense on CMS Energy's consolidated statements of income. The amount recorded in other expense was $1 million for the three months ended June 30, 2025 and $4 million for the six months ended June 30, 2025. The fair value of these swaps recorded in other non-current liabilities on CMS Energy's consolidated balance sheets totaled $4 million at June 30, 2025.

The majority of derivatives classified as Level 3 are FTRs held by Consumers. Due to the lack of quoted pricing information, Consumers determines the fair value of its FTRs based on Consumers' average historical settlements. Consumers reports derivatives associated with FTRs in other current assets on its consolidated balance sheets.There was no material activity within the Level 3 category of derivatives during the periods presented.

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5: Financial Instruments

Presented in the following table are the carrying amounts and fair values, by level within the fair value hierarchy, of CMS Energy's and Consumers' financial instruments that are not recorded at fair value. The table excludes cash, cash equivalents, short-term financial instruments, and trade accounts receivable and payable whose carrying amounts approximate their fair values. For information about assets and liabilities recorded at fair value and for additional details regarding the fair value hierarchy, see Note 4, Fair Value Measurements.

In Millions

	June 30, 2025					December 31, 2024				
		Fair Value					Fair Value			
			Level					Level		
	Carrying Amount	Total	1	2	3	Carrying Amount	Total	1	2	3
CMS Energy, including Consumers										
Assets										
Long-term receivables[1]	$ 7	$ 7	$ —	$ —	$ 7	$ 9	$ 8	$ —	$ —	$ 8
Liabilities										
Long-term debt[2]	17,901	16,678	1,981	12,768	1,929	16,386	14,876	1,018	11,952	1,906
Long-term payables[3]	8	8	—	—	8	9	9	—	—	9
Consumers										
Assets										
Long-term receivables[1]	$ 7	$ 7	$ —	$ —	$ 7	$ 9	$ 8	$ —	$ —	$ 8
Notes receivable – related party[4]	92	92	—	—	92	94	94	—	—	94
Liabilities										
Long-term debt[5]	12,151	11,067	—	9,138	1,929	11,270	9,940	—	8,034	1,906
Long-term debt – related party[6]	1,004	662	—	662	—	823	549	—	549	—
Long-term payables	3	3	—	—	3	4	4	—	—	4

1 Includes current portion of long-term accounts receivable and notes receivable of $3 million at June 30, 2025 and $4 million at December 31, 2024.

2 Includes current portion of long-term debt of $1.1 billion at June 30, 2025 and $1.2 billion at December 31, 2024.

3 Includes current portion of long-term payables of $1 million at June 30, 2025 and $2 million at December 31, 2024.

[4] Includes current portion of notes receivable – related party of $7 million at June 30, 2025 and December 31, 2024.

[5] Includes current portion of long-term debt of $570 million at June 30, 2025 and $452 million at December 31, 2024.

[6] For more information on CMS Energy's repurchases of Consumers' first mortgage bonds, see Note 3, Financings and Capitalization—CMS Energy's Purchase of Consumers' First Mortgage Bonds.

Notes receivable – related party represents Consumers' portion of the DB SERP demand note payable issued by CMS Energy to the DB SERP rabbi trust. The demand note bears interest at an annual rate of 4.10 percent and has a maturity date of 2028.

6: Retirement Benefits

CMS Energy and Consumers provide pension, OPEB, and other retirement benefits to eligible employees under a number of different plans.

Costs: Presented in the following table are the costs (credits) and other changes in plan assets and benefit obligations incurred in CMS Energy's and Consumers' retirement benefit plans:

In Millions

	DB Pension Plans				OPEB Plan			
	Three Months Ended		Six Months Ended		Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024	2025	2024	2025	2024
CMS Energy, including Consumers								
Net periodic credit								
Service cost	$ 7	$ 7	$ 13	$ 14	$ 2	$ 3	$ 4	$ 6
Interest cost	27	26	54	52	11	11	22	22
Expected return on plan assets	(57)	(59)	(114)	(118)	(28)	(29)	(56)	(58)
Amortization of:								
Net loss	2	3	5	6	1	1	2	2
Prior service cost (credit)	1	1	2	2	(8)	(8)	(17)	(16)
Settlement loss	2	2	5	5	—	—	—	—
Net periodic credit	$ (18)	$ (20)	$ (35)	$ (39)	$ (22)	$ (22)	$ (45)	$ (44)
Consumers								
Net periodic credit								
Service cost	$ 6	$ 6	$ 12	$ 13	$ 2	$ 3	$ 4	$ 6
Interest cost	25	25	51	49	11	10	21	20
Expected return on plan assets	(54)	(55)	(108)	(110)	(26)	(27)	(52)	(54)
Amortization of:								
Net loss	3	2	5	5	1	1	2	2
Prior service cost (credit)	1	1	2	2	(9)	(8)	(17)	(15)
Settlement loss	2	2	5	5	—	—	—	—
Net periodic credit	$ (17)	$ (19)	$ (33)	$ (36)	$ (21)	$ (21)	$ (42)	$ (41)

In Consumers' electric and gas rate cases, the MPSC approved a mechanism allowing Consumers to defer for future recovery or refund pension and OPEB expenses above or below the amounts used to set

existing rates. Amounts deferred will be collected from or refunded to customers over ten years. At June 30, 2025, CMS Energy, including Consumers, had deferred less than $1 million of pension credits and $5 million of OPEB credits under this mechanism related to 2025 expense. At June 30, 2024, CMS Energy, including Consumers, had deferred $9 million of pension credits and $4 million of OPEB credits under this mechanism related to 2024 expense.

7: Income Taxes

Presented in the following table is a reconciliation of the statutory U.S. federal income tax rate to the effective income tax rate from continuing operations:

Six Months Ended June 30	2025	2024
CMS Energy, including Consumers		
U.S. federal income tax rate	21.0 %	21.0 %
Increase (decrease) in income taxes from:		
State and local income taxes, net of federal effect[1]	7.4	5.3
Renewable energy tax credits	(5.8)	(5.7)
TCJA excess deferred taxes	(3.5)	(3.6)
Taxes attributable to noncontrolling interests	1.3	1.0
Other, net	—	0.2
Effective tax rate	20.4 %	18.2 %
Consumers		
U.S. federal income tax rate	21.0 %	21.0 %
Increase (decrease) in income taxes from:		
State and local income taxes, net of federal effect[1]	6.7	4.8
Renewable energy tax credits	(3.5)	(3.8)
TCJA excess deferred taxes	(2.9)	(3.2)
Other, net	(0.3)	—
Effective tax rate	21.0 %	18.8 %

[1] In June 2025, state deferred tax balances were increased by $12 million to reflect a change in Illinois tax policy that establishes nexus for Consumers. The policy change is effective for tax years beginning January 1, 2026.

State Income Tax Claim: In February 2025, CMS Energy received an adverse ruling from the Michigan Tax Tribunal in regards to the methodology of state apportionment for Consumers' electricity sales to MISO. In March 2025, CMS Energy filed an appeal with the Michigan Court of Appeals and a final decision is not expected until 2026. CMS Energy and Consumers have evaluated and concluded their uncertain tax positions associated with this matter to be sufficient as of June 30, 2025. While CMS Energy and Consumers expect the appeal to prevail, if it were to fail, the companies would be required to revise the estimated value of their state deferred tax liabilities, which could result in a material impact to their results of operations.

Tax Legislation: CMS Energy and Consumers are subject to changing tax laws. In July 2025, President Trump signed into law the OBBBA. The legislation allows for the immediate expensing of domestic research and development costs and includes changes to clean energy tax credits enacted by the Inflation Reduction Act of 2022. While the OBBBA restores, and makes permanent, the 100-percent bonus depreciation deduction, it also retains a provision that allows utilities to take a full deduction of interest expense in lieu of 100-percent bonus depreciation. CMS Energy and Consumers are still

evaluating the potential impacts of the OBBBA and related executive actions; however, CMS Energy and Consumers do not anticipate a material impact on their respective financial statements.

8: Earnings Per Share—CMS Energy

Presented in the following table are CMS Energy's basic and diluted EPS computations based on income from continuing operations:

In Millions, Except Per Share Amounts

	Three Months Ended		Six Months Ended	
June 30	2025	2024	2025	2024
Income available to common stockholders				
Income from continuing operations	$ 193	$ 182	$ 488	$ 445
Less loss attributable to noncontrolling interests	(8)	(16)	(17)	(40)
Less preferred stock dividends	3	3	5	5
Income from continuing operations available to common stockholders – basic and diluted	$ 198	$ 195	$ 500	$ 480
Average common shares outstanding				
Weighted-average shares – basic	298.5	297.9	298.4	297.2
Add dilutive nonvested stock awards	0.6	0.6	0.6	0.7
Weighted-average shares – diluted	299.1	298.5	299.0	297.9
Income from continuing operations per average common share available to common stockholders				
Basic	$ 0.67	$ 0.65	$ 1.68	$ 1.61
Diluted	0.66	0.65	1.67	1.61

Nonvested Stock Awards

CMS Energy's nonvested stock awards are composed of participating and non-participating securities. The participating securities accrue cash dividends when common stockholders receive dividends. Since the recipient is not required to return the dividends to CMS Energy if the recipient forfeits the award, the nonvested stock awards are considered participating securities. As such, the participating nonvested stock awards were included in the computation of basic EPS. The non-participating securities accrue stock dividends that vest concurrently with the stock award. If the recipient forfeits the award, the stock dividends accrued on the non-participating securities are also forfeited. Accordingly, the non-participating awards and stock dividends were included in the computation of diluted EPS, but not in the computation of basic EPS.

Forward Equity Sale Contracts

CMS Energy has entered into forward equity sale contracts. These forward equity sale contracts are non-participating securities. While the forward sale price in the forward equity sale contract is decreased on certain dates by certain predetermined amounts to reflect expected dividend payments, these price adjustments were set upon inception of the agreement and the forward contract does not give the owner the right to participate in undistributed earnings. Accordingly, the forward equity sale contracts were included in the computation of diluted EPS, but not in the computation of basic EPS. The impact to diluted EPS was de minimis.

The potentially dilutive impact from these forward equity sale contracts is reflected in diluted EPS using the treasury stock method. There will be a dilutive effect on EPS when the average market price of common stock shares is above the applicable adjusted forward sale price. Additionally, any physical settlement or net share settlement of the agreements would dilute EPS. For further details on the forward equity sale contracts, see Note 3, Financings and Capitalization.

Convertible Securities

In 2023, CMS Energy issued convertible senior notes. Potentially dilutive common shares issuable upon conversion of the convertible senior notes are determined using the if-converted method for calculating diluted EPS. Upon conversion, the convertible senior notes are required to be paid in cash with only amounts exceeding the principal permitted to be settled in shares. Accordingly, the convertible senior notes were included in the computation of diluted EPS, but not in the computation of basic EPS. The impact to diluted EPS was de minimis.

9: Revenue

Presented in the following tables are the components of operating revenue:

In Millions

Three Months Ended June 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy[1]	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	$ 1,355	$ 385	$ —	$ 1,740
Other	—	—	58	58
Revenue recognized from contracts with customers	$ 1,355	$ 385	$ 58	$ 1,798
Leasing income	—	—	34	34
Financing income	2	2	—	4
Consumers alternative-revenue programs	2	—	—	2
Total operating revenue – CMS Energy	$ 1,359	$ 387	$ 92	$ 1,838
Consumers				
Consumers utility revenue				
Residential	$ 619	$ 276		$ 895
Commercial	473	90		563
Industrial	199	10		209
Other	64	9		73
Revenue recognized from contracts with customers	$ 1,355	$ 385		$ 1,740
Financing income	2	2		4
Alternative-revenue programs	2	—		2
Total operating revenue – Consumers	$ 1,359	$ 387		$ 1,746

[1] Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of $23 million for the three months ended June 30, 2025.

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In Millions

Three Months Ended June 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy[1]	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	$ 1,221	$ 305	$ —	$ 1,526
Other	—	—	50	50
Revenue recognized from contracts with customers	$ 1,221	$ 305	$ 50	$ 1,576
Leasing income	—	—	24	24
Financing income	2	2	—	4
Consumers alternative-revenue programs	3	—	—	3
Total operating revenue – CMS Energy	$ 1,226	$ 307	$ 74	$ 1,607
Consumers				
Consumers utility revenue				
Residential	$ 547	$ 206		$ 753
Commercial	433	64		497
Industrial	174	8		182
Other	67	27		94
Revenue recognized from contracts with customers	$ 1,221	$ 305		$ 1,526
Financing income	2	2		4
Alternative-revenue programs	3	—		3
Total operating revenue – Consumers	$ 1,226	$ 307		$ 1,533

[1] Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of $13 million for the three months ended June 30, 2024.

In Millions

Six Months Ended June 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy[1]	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	$ 2,649	$ 1,432	$ —	$ 4,081
Other	—	—	115	115
Revenue recognized from contracts with customers	$ 2,649	$ 1,432	$ 115	$ 4,196
Leasing income	—	—	76	76
Financing income	5	4	—	9
Consumers alternative-revenue programs	4	—	—	4
Total operating revenue – CMS Energy	$ 2,658	$ 1,436	$ 191	$ 4,285
Consumers				
Consumers utility revenue				
Residential	$ 1,213	$ 1,007		$ 2,220
Commercial	891	329		1,220
Industrial	372	40		412
Other	173	56		229
Revenue recognized from contracts with customers	$ 2,649	$ 1,432		$ 4,081
Financing income	5	4		9
Alternative-revenue programs	4	—		4
Total operating revenue – Consumers	$ 2,658	$ 1,436		$ 4,094

[1] Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of $54 million for the six months ended June 30, 2025.

In Millions

Six Months Ended June 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy[1]	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	$ 2,350	$ 1,268	$ —	$ 3,618
Other	—	—	102	102
Revenue recognized from contracts with customers	$ 2,350	$ 1,268	$ 102	$ 3,720
Leasing income	—	—	51	51
Financing income	4	4	—	8
Consumers alternative-revenue programs	4	—	—	4
Total operating revenue – CMS Energy	$ 2,358	$ 1,272	$ 153	$ 3,783
Consumers				
Consumers utility revenue				
Residential	$ 1,072	$ 871		$ 1,943
Commercial	793	271		1,064
Industrial	330	32		362
Other	155	94		249
Revenue recognized from contracts with customers	$ 2,350	$ 1,268		$ 3,618
Financing income	4	4		8
Alternative-revenue programs	4	—		4
Total operating revenue – Consumers	$ 2,358	$ 1,272		$ 3,630

[1] Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of $29 million for the six months ended June 30, 2024.

Electric and Gas Utilities

Consumers Utility Revenue: Consumers recognizes revenue primarily from the sale of electric and gas utility services at tariff-based rates regulated by the MPSC. Consumers' customer base consists of a mix of residential, commercial, and diversified industrial customers. Consumers' tariff-based sales performance obligations are described below.

- Consumers has performance obligations for the service of standing ready to deliver electricity or natural gas to customers, and it satisfies these performance obligations over time. Consumers recognizes revenue at a fixed rate as it provides these services. These arrangements generally do not have fixed terms and remain in effect as long as the customer consumes the utility service. The rates are set by the MPSC through the rate-making process and represent the stand-alone selling price of Consumers' service to stand ready to deliver.

- Consumers has performance obligations for the service of delivering the commodity of electricity or natural gas to customers, and it satisfies these performance obligations upon delivery. Consumers recognizes revenue at a price per unit of electricity or natural gas delivered, based on the tariffs established by the MPSC. These arrangements generally do not have fixed terms and remain in effect as long as the customer consumes the utility service. The rates are set by the MPSC through the rate-making process and represent the stand-alone selling price of a bundled

product comprising the commodity, electricity or natural gas, and the service of delivering such commodity.

In some instances, Consumers has specific fixed-term contracts with large commercial and industrial customers to provide electricity or gas at certain tariff rates or to provide gas transportation services at contracted rates. The amount of electricity and gas to be delivered under these contracts and the associated future revenue to be received are generally dependent on the customers' needs. Accordingly, Consumers recognizes revenues at the tariff or contracted rate as electricity or gas is delivered to the customer. Consumers also has other miscellaneous contracts with customers related to pole and other property rentals and utility contract work. Generally, these contracts are short term or evergreen in nature.

Accounts Receivable and Unbilled Revenues: Accounts receivable comprise trade receivables and unbilled receivables. CMS Energy and Consumers record their accounts receivable at cost less an allowance for uncollectible accounts. The allowance is increased for uncollectible accounts expense and decreased for account write-offs net of recoveries. CMS Energy and Consumers establish the allowance based on historical losses, management's assessment of existing economic conditions, customer payment trends, and reasonable and supported forecast information. CMS Energy and Consumers assess late payment fees on trade receivables based on contractual past-due terms established with customers. Accounts are written off when deemed uncollectible, which is generally when they become six months past due.

CMS Energy and Consumers recorded uncollectible accounts expense of $8 million for the three months ended June 30, 2025 and $7 million for the three months ended June 30, 2024. CMS Energy and Consumers recorded uncollectible accounts expense of $20 million for the six months ended June 30, 2025 and $17 million for the six months ended June 30, 2024.

Consumers' customers are billed monthly in cycles having billing dates that do not generally coincide with the end of a calendar month. This results in customers having received electricity or natural gas that they have not been billed for as of the month-end. Consumers estimates its unbilled revenues by applying an average billed rate to total unbilled deliveries for each customer class. Unbilled revenues, which are recorded as accounts receivable and accrued revenue on CMS Energy's and Consumers' consolidated balance sheets, were $464 million at June 30, 2025 and $584 million at December 31, 2024.

Alternative-revenue Program: Under a demand response incentive mechanism, Consumers earns a financial incentive when it meets demand response targets set by the MPSC. Consumers recognizes revenue related to this program once demand response incentive objectives are complete, the incentive amount is calculable, and the incentive revenue will be collected within a 24-month period.

Consumers also accounts for its financial compensation mechanism as an alternative-revenue program. Consumers recognizes revenue related to the financial compensation mechanism as payments are made on MPSC-approved PPAs.

Consumers does not reclassify revenue from its alternative-revenue program to revenue from contracts with customers at the time the amounts are collected from customers.

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10: Reportable Segments

Reportable segments consist of business units defined by the products and services they offer. CMS Energy's and Consumers' chief operating decision-maker is the CEO. The chief operating decision-maker evaluates segment performance and profitability using net income available to CMS Energy's common stockholders. This metric provides a clear, consistent basis for analyzing the financial results of each segment and supports decision-making regarding the allocation of resources.

Resource allocation to CMS Energy's and Consumers' segments begins with the annual budgeting process, which establishes initial funding and resource levels for each segment. The budget incorporates key financial and operational inputs, including anticipated revenues, expenses, and capital requirements, aligning with CMS Energy's and Consumers' strategic objectives and regulatory obligations. The chief operating decision-maker reviews budget-to-actual variances on a monthly basis and makes interim decisions to reallocate resources among segments as needed, ensuring a timely and effective response to changing conditions. For the electric utility and gas utility segments, the chief operating decision-maker uses this assessment to determine whether the segments are achieving their regulatory authorized return on equity.

CMS Energy

The segments reported for CMS Energy are:

- electric utility, consisting of regulated activities associated with the generation, purchase, distribution, and sale of electricity in Michigan
- gas utility, consisting of regulated activities associated with the purchase, transmission, storage, distribution, and sale of natural gas in Michigan
- NorthStar Clean Energy, consisting of various subsidiaries engaging in domestic independent power production, including the development and operation of renewable generation, and the marketing of independent power production

CMS Energy presents corporate interest and other expenses, discontinued operations, and Consumers' other consolidated entities within other reconciling items.

Consumers

The segments reported for Consumers are:

- electric utility, consisting of regulated activities associated with the generation, purchase, distribution, and sale of electricity in Michigan
- gas utility, consisting of regulated activities associated with the purchase, transmission, storage, distribution, and sale of natural gas in Michigan

Consumers' other consolidated entities are presented within other reconciling items.

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In Millions

Three Months Ended June 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	$ 1,359	$ 387	$ 92	$ 1,838	$ —	$ 1,838
Operating expenses						
Power supply cost[1]	537	—	66	603	—	603
Cost of gas sold	—	123	1	124	—	124
Maintenance and other operating expenses	264	112	18	394	3	397
Depreciation and amortization	222	54	12	288	—	288
General taxes	73	33	3	109	—	109
Total operating expenses	1,096	322	100	1,518	3	1,521
Operating Income (Loss)	263	65	(8)	320	(3)	317
Other income	36	23	2	61	76	137
Interest charges	89	51	(1)	139	60	199
Income (Loss) Before Income Taxes	210	37	(5)	242	13	255
Income tax expense (benefit)	42	12	(18)	36	26	62
Income (Loss) From Continuing Operations	168	25	13	206	(13)	193
Other segment items[2]	(1)	—	9	8	(3)	5
Net Income (Loss) Available to Common Stockholders	$ 167	$ 25	$ 22	$ 214	$ (16)	$ 198
Property, plant, and equipment, gross	$ 20,761 [3]	$ 13,609 [3]	$ 1,562	$ 35,932	$ 30	$ 35,962
Total assets	21,942 [3]	13,388 [3]	2,105	37,435	264	37,699

1 Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

2 Other segment items comprise of loss attributable to noncontrolling interests and preferred stock dividends.

3 Amounts include a portion of Consumers' other common assets attributable to both the electric and gas utility businesses.

In Millions

Three Months Ended June 30, 2025	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	$ 1,359	$ 387	$ 1,746	$ —	$ 1,746
Operating expenses					
Power supply cost[1]	537	—	537	—	537
Cost of gas sold	—	123	123	—	123
Maintenance and other operating expenses	264	112	376	—	376
Depreciation and amortization	222	54	276	—	276
General taxes	73	33	106	—	106
Total operating expenses	1,096	322	1,418	—	1,418
Operating Income	263	65	328	—	328
Other income	36	23	59	1	60
Interest charges	89	51	140	1	141
Income Before Income Taxes	210	37	247	—	247
Income tax expense	42	12	54	5	59
Net Income (Loss)	168	25	193	(5)	188
Other segment items[2]	(1)	—	(1)	—	(1)
Net Income (Loss) Available to Common Stockholder	$ 167	$ 25	$ 192	$ (5)	$ 187
Property, plant, and equipment, gross	$ 20,761 [3]	$ 13,609 [3]	$ 34,370	$ 36	$ 34,406
Total assets	21,997 [3]	13,430 [3]	35,427	40	35,467

[1] Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

[2] Other segment items comprise of preferred stock dividends.

[3] Amounts include a portion of Consumers' other common assets attributable to both the electric and gas utility businesses.

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In Millions

Three Months Ended June 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	$ 1,226	$ 307	$ 74	$ 1,607	$ —	$ 1,607
Operating expenses						
Power supply cost[1]	444	—	35	479	—	479
Cost of gas sold	—	66	—	66	—	66
Maintenance and other operating expenses	261	116	24	401	3	404
Depreciation and amortization	209	51	13	273	—	273
General taxes	68	31	3	102	—	102
Total operating expenses	982	264	75	1,321	3	1,324
Operating Income (Loss)	244	43	(1)	286	(3)	283
Other income	36	23	2	61	52	113
Interest charges	79	46	—	125	48	173
Income Before Income Taxes	201	20	1	222	1	223
Income tax expense	30	5	2	37	4	41
Income (Loss) From Continuing Operations	171	15	(1)	185	(3)	182
Other segment items[2]	(1)	—	17	16	(3)	13
Net Income (Loss) Available to Common Stockholders	$ 170	$ 15	$ 16	$ 201	$ (6)	$ 195
Property, plant, and equipment, gross	$ 19,557 [3]	$ 12,638 [3]	$ 1,464	$ 33,659	$ 21	$ 33,680
Total assets	20,122 [3]	12,469 [3]	1,659	34,250	105	34,355

[1] Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

[2] Other segment items comprise of income from discontinued operations, net of tax, loss attributable to noncontrolling interests, and preferred stock dividends.

[3] Amounts include a portion of Consumers' other common assets attributable to both the electric and gas utility businesses.

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In Millions

Three Months Ended June 30, 2024	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	$ 1,226	$ 307	$ 1,533	$ —	$ 1,533
Operating expenses					
Power supply cost[1]	444	—	444	—	444
Cost of gas sold	—	66	66	—	66
Maintenance and other operating expenses	261	116	377	—	377
Depreciation and amortization	209	51	260	1	261
General taxes	68	31	99	—	99
Total operating expenses	982	264	1,246	1	1,247
Operating Income (Loss)	244	43	287	(1)	286
Other income	36	23	59	—	59
Interest charges	79	46	125	1	126
Income (Loss) Before Income Taxes	201	20	221	(2)	219
Income tax expense	30	5	35	6	41
Net Income (Loss)	171	15	186	(8)	178
Other segment items[2]	(1)	—	(1)	—	(1)
Net Income (Loss) Available to Common Stockholder	$ 170	$ 15	$ 185	$ (8)	$ 177
Property, plant, and equipment, gross	$ 19,557	$ 12,638	$ 32,195	$ 29	$ 32,224
Total assets	20,180	12,512	32,692	26	32,718

1 Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

2 Other segment items comprise of preferred stock dividends.

3 Amounts include a portion of Consumers' other common assets attributable to both the electric and gas utility businesses.

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Presented in the following tables is financial information by segment:

In Millions

Six Months Ended June 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	$ 2,658	$ 1,436	$ 191	$ 4,285	$ —	$ 4,285
Operating expenses						
Power supply cost[1]	1,083	—	135	1,218	—	1,218
Cost of gas sold	—	505	2	507	—	507
Maintenance and other operating expenses	521	228	48	797	5	802
Depreciation and amortization	443	208	25	676	—	676
General taxes	146	119	6	271	—	271
Total operating expenses	2,193	1,060	216	3,469	5	3,474
Operating Income (Loss)	465	376	(25)	816	(5)	811
Other income	63	42	3	108	79	187
Interest charges	171	99	(1)	269	116	385
Income (Loss) Before Income Taxes	357	319	(21)	655	(42)	613
Income tax expense (benefit)	65	81	(7)	139	(14)	125
Income (Loss) From Continuing Operations	292	238	(14)	516	(28)	488
Other segment items[2]	(1)	—	18	17	(5)	12
Net Income (Loss) Available to Common Stockholders	$ 291	$ 238	$ 4	$ 533	$ (33)	$ 500

[1] Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

[2] Other segment items comprise of loss attributable to noncontrolling interests and preferred stock dividends.

In Millions

Six Months Ended June 30, 2025	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	$ 2,658	$ 1,436	$ 4,094	$ —	$ 4,094
Operating expenses					
Power supply cost[1]	1,083	—	1,083	—	1,083
Cost of gas sold	—	505	505	—	505
Maintenance and other operating expenses	521	228	749	—	749
Depreciation and amortization	443	208	651	—	651
General taxes	146	119	265	—	265
Total operating expenses	2,193	1,060	3,253	—	3,253
Operating Income	465	376	841	—	841
Other income	63	42	105	1	106
Interest charges	171	99	270	1	271
Income Before Income Taxes	357	319	676	—	676
Income tax expense (benefit)	65	81	146	(4)	142
Net Income	292	238	530	4	534
Other segment items[2]	(1)	—	(1)	—	(1)
Net Income Available to Common Stockholder	$ 291	$ 238	$ 529	$ 4	$ 533

[1] Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

[2] Other segment items comprise of preferred stock dividends.

In Millions

Six Months Ended June 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	$ 2,358	$ 1,272	$ 153	$ 3,783	$ —	$ 3,783
Operating expenses						
Power supply cost[1]	893	—	74	967	—	967
Cost of gas sold	—	416	1	417	—	417
Maintenance and other operating expenses	499	256	46	801	5	806
Depreciation and amortization	422	194	24	640	1	641
General taxes	139	112	6	257	—	257
Total operating expenses	1,953	978	151	3,082	6	3,088
Operating Income (Loss)	405	294	2	701	(6)	695
Other income	70	45	8	123	76	199
Interest charges	160	94	1	255	95	350
Income (Loss) Before Income Taxes	315	245	9	569	(25)	544
Income tax expense (benefit)	47	61	3	111	(12)	99
Income (Loss) From Continuing Operations	268	184	6	458	(13)	445
Other segment items[2]	(1)	—	41	40	(5)	35
Net Income (Loss) Available to Common Stockholders	$ 267	$ 184	$ 47	$ 498	$ (18)	$ 480

[1] Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

[2] Other segment items comprise of loss attributable to noncontrolling interests and preferred stock dividends.

In Millions

Six Months Ended June 30, 2024	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	$ 2,358	$ 1,272	$ 3,630	$ —	$ 3,630
Operating expenses					
Power supply cost[1]	893	—	893	—	893
Cost of gas sold	—	416	416	—	416
Maintenance and other operating expenses	499	256	755	—	755
Depreciation and amortization	422	194	616	1	617
General taxes	139	112	251	—	251
Total operating expenses	1,953	978	2,931	1	2,932
Operating Income (Loss)	405	294	699	(1)	698
Other income	70	45	115	—	115
Interest charges	160	94	254	1	255
Income (Loss) Before Income Taxes	315	245	560	(2)	558
Income tax expense (benefit)	47	61	108	(3)	105
Net Income	268	184	452	1	453
Other segment items[2]	(1)	—	(1)	—	(1)
Net Income Available to Common Stockholder	$ 267	$ 184	$ 451	$ 1	$ 452

[1] Power supply costs comprise of fuel for electric generation, purchased and interchange power, and purchased power – related parties.

[2] Other segment items comprise of preferred stock dividends.

11: Variable Interest Entities

Consolidated VIEs: In March 2025, NorthStar Clean Energy sold a 50-percent interest in NWO Wind Equity Holdings for net proceeds of $36 million. NWO Wind Equity Holdings holds the Class B membership interest in NWO Holdco, the holding company of a 100-MW wind project located in Paulding County, Ohio. Additionally in March 2025, NorthStar Clean Energy sold a 50-percent interest in Delta Solar Equity Holdings for net proceeds of $8 million. Delta Solar Equity Holdings is the holding company of a 24-MW solar project located in Delta Township, Michigan.

NorthStar Clean Energy consolidates these and other entities that it does not wholly own, but for which it manages and controls the entities' operating activities. NorthStar Clean Energy is the primary beneficiary of these entities because it has the power to direct the activities that most significantly impact the economic performance of the companies, as well as the obligation to absorb losses or the right to receive

benefits from the companies. Presented in the following table is information about the VIEs NorthStar Clean Energy consolidates:

Consolidated VIE	NorthStar Clean Energy's ownership interest	Description of VIE
Aviator Wind Equity Holdings	51-percent ownership interest[1]	Holds a Class B membership interest in Aviator Wind
Aviator Wind	Class B membership interest[2]	Holding company of a 525-MW wind generation project in Coke County, Texas
Delta Solar Equity Holdings	50-percent ownership interest[1]	Holding company of a 24-MW solar generation project in Delta Township, Michigan
Newport Solar Holdings	Class B membership interest[2]	Holding company of a 180-MW solar generation project in Jackson County, Arkansas
NWO Wind Equity Holdings	50-percent ownership interest[1]	Holds a Class B membership interest in NWO Holdco
NWO Holdco	Class B membership interest[2]	Holding company of a 100-MW wind generation project in Paulding County, Ohio

[1] The remaining ownership interest is presented as noncontrolling interest on CMS Energy's consolidated balance sheets.

[2] The Class A membership interest in the entity is held by a tax equity investor and is presented as noncontrolling interest on CMS Energy's consolidated balance sheets. Under the associated limited liability company agreement, the tax equity investor is guaranteed preferred returns from the entity.

Earnings, tax attributes, and cash flows generated by the entities in which NorthStar Clean Energy holds a Class B membership are allocated among and distributed to the membership classes in accordance with the ratios specified in the associated limited liability company agreements; these ratios change over time and are not representative of the ownership interest percentages of each membership class. Since these entities' income and cash flows are not distributed among their investors based on ownership interest percentages, NorthStar Clean Energy allocates the entities' income (loss) among the investors by applying the hypothetical liquidation at book value method. This method calculates each investor's earnings based on a hypothetical liquidation of the entities at the net book value of underlying assets as of the balance sheet date. The liquidation tax gain (loss) is allocated to each investor's capital account, resulting in income (loss) equal to the period change in the investor's capital account balance.

Presented in the following table are the carrying values of the VIEs' assets and liabilities included on CMS Energy's consolidated balance sheets:

In Millions

	June 30, 2025	December 31, 2024
Current		
Cash and cash equivalents	$ 16	$ 18
Accounts receivable	7	4
Prepayments and other current assets	4	3
Non-current		
Plant, property, and equipment, net	993	1,024
Other non-current assets	6	3
Total assets[1]	$ 1,026	$ 1,052
Current		
Accounts payable	$ 10	$ 8
Accrued taxes	1	—
Non-current		
Non-current portion of finance leases	23	23
Asset retirement obligations	34	33
Other non-current liabilities	3	—
Total liabilities	$ 71	$ 64

[1] Assets may be used only to meet VIEs' obligations and commitments.

NorthStar Clean Energy is obligated under certain indemnities that protect the tax equity investors against losses incurred as a result of breaches of representations and warranties under the associated limited liability company agreements. For additional details on these indemnity obligations, see Note 2, Contingencies and Commitments—Guarantees.

Consumers' wholly-owned subsidiaries, Consumers 2014 Securitization Funding and Consumers 2023 Securitization Funding, are VIEs designed to collateralize Consumers' securitization bonds. These entities are considered VIEs primarily because their equity capitalization is insufficient to support their operations. Consumers is the primary beneficiary of and consolidates these VIEs, as it has the power to direct the activities that most significantly impact the economic performance of the companies, as well as the obligation to absorb losses or the right to receive benefits from the companies. The VIEs' primary assets and liabilities comprise non-current regulatory assets and long-term debt. The carrying value of the regulatory assets on Consumers' consolidated balance sheets was $609 million at June 30, 2025 and $666 million at December 31, 2024. The carrying value of securitization bonds on Consumers' consolidated balance sheets was $643 million at June 30, 2025 and $700 million at December 31, 2024.

Non-consolidated VIEs: NorthStar Clean Energy has variable interests in T.E.S. Filer City, Grayling, Genesee, and Craven. While NorthStar Clean Energy owns 50 percent of each partnership, it is not the primary beneficiary of any of these partnerships because decision making is shared among unrelated parties, and no one party has the ability to direct the activities that most significantly impact the entities' economic performance, such as operations and maintenance, plant dispatch, and fuel strategy. The partners must agree on all major decisions for each of the partnerships.

Presented in the following table is information about these partnerships:

Name	Nature of the Entity	Nature of NorthStar Clean Energy's Involvement
T.E.S. Filer City	Coal-fueled power generator	Long-term PPA between partnership and Consumers Employee assignment agreement
Grayling	Wood waste-fueled power generator	Long-term PPA between partnership and Consumers Reduced dispatch agreement with Consumers[1] Operating and management contract
Genesee	Wood waste-fueled power generator	Long-term PPA between partnership and Consumers Reduced dispatch agreement with Consumers[1] Operating and management contract
Craven	Wood waste-fueled power generator	Operating and management contract

[1] Reduced dispatch agreements allow the facilities to be dispatched based on the market price of power compared with the cost of production of the plants. This results in fuel cost savings that each partnership shares with Consumers' customers.

The creditors of these partnerships do not have recourse to the general credit of CMS Energy, NorthStar Clean Energy, or Consumers. NorthStar Clean Energy's maximum risk exposure to these partnerships is generally limited to its investment in the partnerships, which is included in investments on CMS Energy's consolidated balance sheets in the amount of $57 million at June 30, 2025 and $64 million at December 31, 2024.

12: Exit Activities

In accordance with its Clean Energy Plan, and absent an extension of the May 2025 emergency order or other government order, Consumers plans to retire J.H. Campbell in 2025. In order to ensure necessary staffing at J.H. Campbell through retirement, Consumers has implemented a retention incentive program. The terms of and Consumers' obligations under this program have not been modified. The aggregate cost of the J.H. Campbell program through 2025 is estimated to be less than $50 million. The MPSC has approved deferred accounting treatment for these costs; these expenses are deferred as a regulatory asset. For information on the emergency order associated with J.H. Campbell, see Note 1, Regulatory Matters.

As of June 30, 2025, the cumulative cost incurred and deferred as a regulatory asset related to the J.H. Campbell retention incentive program was $46 million. Amounts deferred under the program are subsequently collected from customers over three years.

Presented in the following table is a reconciliation of the retention benefit liability recorded in other liabilities on Consumers' consolidated balance sheets:

In Millions

Six Months Ended June 30	2025	2024
Retention benefit liability at beginning of period	$ 14	$ 16
Costs deferred as a regulatory asset[1]	3	3
Retention benefit liability at the end of the period[2]	$ 17	$ 19

[1] Includes $1 million for the three months ended June 30, 2025 and less than $1 million for the three months ended June 30, 2024.

[2] Includes current portion of other liabilities of $17 million at June 30, 2025 and $8 million at June 30, 2024.

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Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Management's discussion and analysis of financial condition and results of operations for CMS Energy and Consumers is contained in Part I—Item 1. Financial Statements—MD&A, which is incorporated by reference herein.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no material changes to market risk as previously disclosed in Part II—Item 7A. Quantitative and Qualitative Disclosures About Market Risk, in the 2024 Form 10-K.

Item 4. Controls and Procedures

CMS Energy

Disclosure Controls and Procedures: CMS Energy's management, with the participation of its CEO and CFO, has evaluated the effectiveness of its disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. Based on such evaluation, CMS Energy's CEO and CFO have concluded that, as of the end of such period, its disclosure controls and procedures are effective.

Internal Control Over Financial Reporting: There have not been any changes in CMS Energy's internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the last fiscal quarter that have materially affected, or are reasonably likely to affect materially, its internal control over financial reporting.

Consumers

Disclosure Controls and Procedures: Consumers' management, with the participation of its CEO and CFO, has evaluated the effectiveness of its disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. Based on such evaluation, Consumers' CEO and CFO have concluded that, as of the end of such period, its disclosure controls and procedures are effective.

Internal Control Over Financial Reporting: There have not been any changes in Consumers' internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the last fiscal quarter that have materially affected, or are reasonably likely to affect materially, its internal control over financial reporting.

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Part II—Other Information

Item 1. Legal Proceedings

CMS Energy, Consumers, and certain of their affiliates are parties to various lawsuits and regulatory matters in the ordinary course of business. For information regarding material legal proceedings, including updates to information reported under Part I—Item 3. Legal Proceedings of the 2024 Form 10-K, see Part I—Item 1. Financial Statements—Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters and Note 2, Contingencies and Commitments.

Item 1A. Risk Factors

There have been no material changes to the Risk Factors as previously disclosed in Part I—Item 1A. Risk Factors in the 2024 Form 10-K, which Risk Factors are incorporated herein by reference.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Unregistered Sales of Equity Securities

None.

Issuer Repurchases of Equity Securities

Presented in the following table are CMS Energy's repurchases of common stock for the three months ended June 30, 2025:

Period	Total Number of Shares Purchased[1]	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares That May Yet Be Purchased Under Publicly Announced Plans or Programs
April 1, 2025 to April 30, 2025	126	$ 73.63	—	—
May 1, 2025 to May 31, 2025	882	72.29	—	—
June 1, 2025 to June 30, 2025	68	69.54	—	—
Total	1,076	$ 72.27	—	—

[1] All of the common shares were repurchased to satisfy the minimum statutory income tax withholding obligation for common shares that have vested under the Performance Incentive Stock Plan. The value of shares repurchased is based on the market price on the vesting date.

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Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

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Item 6. Exhibits

CMS Energy's and Consumers' Exhibit Index

The agreements included as exhibits to this Form 10-Q filing are included solely to provide information regarding the terms of the agreements and are not intended to provide any other factual or disclosure information about CMS Energy, Consumers, or other parties to the agreements. The agreements may contain representations and warranties made by each of the parties to each of the agreements that were made exclusively for the benefit of the parties involved in each of the agreements and should not be treated as statements of fact. The representations and warranties were made as a way to allocate risk if one or more of those statements prove to be incorrect. The statements were qualified by disclosures of the parties to each of the agreements that may not be reflected in each of the agreements. The agreements may apply standards of materiality that are different than standards applied to other investors. Additionally, the statements were made as of the date of the agreements or as specified in the agreements and have not been updated. The representations and warranties may not describe the actual state of affairs of the parties to each agreement.

Additional information about CMS Energy and Consumers may be found in this filing, at www.cmsenergy.com, at www.consumersenergy.com, and through the SEC's website at www.sec.gov.

Exhibits		Description
4.1	—	153rd Supplemental Indenture dated as of May 2, 2025 between Consumers and The Bank of New York Mellon, as Trustee (Exhibit 4.1 to Form 8-K filed May 2, 2025 and incorporated herein by reference)
10.1[1, 2]	—	Annual NorthStar Clean Energy Employee Incentive Compensation Plan, as amended, effective as of May 1, 2025
31.1	—	CMS Energy's certification of the CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	—	CMS Energy's certification of the CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.3	—	Consumers' certification of the CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.4	—	Consumers' certification of the CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	—	CMS Energy's certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	—	Consumers' certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	—	Inline XBRL Instance Document
101.SCH	—	Inline XBRL Taxonomy Extension Schema
101.CAL	—	Inline XBRL Taxonomy Extension Calculation Linkbase
101.DEF	—	Inline XBRL Taxonomy Extension Definition Linkbase
101.LAB	—	Inline XBRL Taxonomy Extension Labels Linkbase
101.PRE	—	Inline XBRL Taxonomy Extension Presentation Linkbase
104	—	Cover Page Interactive Data File (the cover page XBRL tags are embedded in the Inline XBRL document)

[1] Obligations of CMS Energy or its subsidiaries, but not of Consumers.

[2] Management contract or compensatory plan or arrangement.

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Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, each registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized. The signature for each undersigned company shall be deemed to relate only to matters having reference to such company or its subsidiary.

CMS ENERGY CORPORATION

Dated: July 31, 2025 By: /s/ Rejji P. Hayes

Rejji P. Hayes
Executive Vice President and Chief Financial Officer

CONSUMERS ENERGY COMPANY

Dated: July 31, 2025 By: /s/ Rejji P. Hayes

Rejji P. Hayes
Executive Vice President and Chief Financial Officer

EXHIBIT 31

NRDC

Expert Blog

Trump Administration’s DOE Is Forcing Coal Plants to Stay Open. Michigan Is the First Target.

People in Michigan and across the Midwest will be stuck paying the cost of a nonexistent “emergency” with their health and their electric bills.

June 16, 2025



Consumer Energy's coal-fired J.H. Campbell Generating Complex in Ottawa County, Michigan | *Joel Bissell/Kalamazoo Gazette via AP*

Derrell E. Slaughter
Michigan Policy Director, Climate & Energy

Casey Roberts
Director, RTO Advocacy, Climate & Energy

The Trump administration has vowed to revive the long declining U.S. coal-fired power industry, which has become economically uncompetitive relative to proliferating cheaper, cleaner energy sources. On May 23, the U.S. Department of Energy (DOE) followed through on that vow by issuing what it termed an "emergency" order that forces Michigan's J.H. Campbell Complex plant to continue operating through the summer, despite being set to retire on June 1.

The result? Higher electricity bills for consumers and dirtier air that our families must breathe.

LEARN MORE



Why Strong Climate Action Needs a Strong Energy Department



White House Watch: Tracking Attacks on Our Environment & Health

The Campbell coal plant, which began operating on the shores of Lake Michigan in 1962, is woefully out of date, costs more to operate than other electricity generation options, and is one of the worst polluters in Michigan. That's why Consumers Energy, the Michigan utility that operates Campbell, agreed to a settlement with NRDC and other stakeholders in 2022 to shut down the plant by June 1, 2025, and replace it with newer, cheaper electric generation. It then took all the steps needed to secure that energy and shut down Campbell in an orderly fashion—all with the approval of state utility regulators and grid operators, which agreed that the plant was no longer needed on the electrical grid for adequate energy supply and reliability.

Now the DOE's unexpected order has thrown a costly and dangerous monkey wrench into this carefully planned process. The agency invoked a rarely used section of the Federal Power Act—Section 202(c)—to assert that there is a potential reliability "emergency" but offered only specious evidence for this proposition. This unprecedented decision will force Midwest customers to pay to operate an aging, inefficient plant, driving up

costs at a time when families and businesses are already struggling with high energy prices. Using federal emergency powers where no emergency exists sets a dangerous and expensive national precedent.

As Michigan Public Service Commission Chair Dan Scripps stated just days after the order, "We currently produce more energy in Michigan than needed. The unnecessary recent order from the U.S. Department of Energy will increase the cost of power for homes and businesses across the Midwest."

The Campbell order will harm Michigan ratepayers and public health

The DOE's decision to force the Campbell coal plant to remain online will not address a real problem. Instead, it will impose real costs on customers and communities in Michigan and throughout the Midwest.

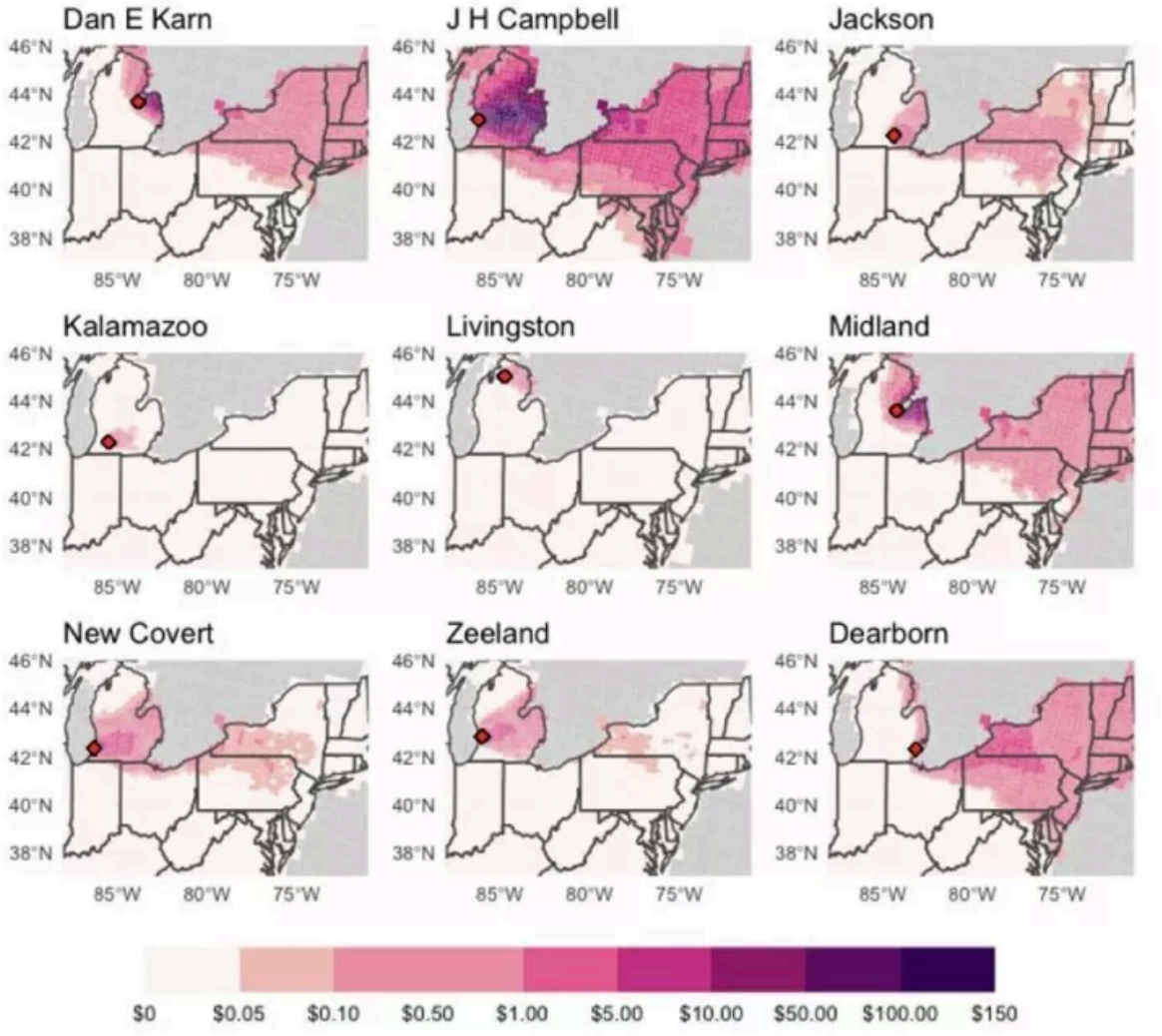
To comply with the DOE's order, Consumers Energy must now:

- Pay premium prices to purchase coal on short notice.
- Perform unplanned repairs and maintenance on a plant that was preparing for closure.
- Find and pay for adequate staffing to run the plant, after many employees already moved to other facilities or retired.

These unbudgeted costs will be passed along to Midwest electric customers. While the costs of the Campbell Section 202(c) order won't be clear until Consumers Energy files with the Federal Energy Regulatory Commission, S&P Global Market Intelligence estimates of the fixed operation and maintenance costs for the plant suggest that keeping it online just for the 90-day order could cost more than $7 million, even without accounting for the extra expenses associated with last-minute coal procurement and emergency maintenance repairs. If the plant is not dispatched economically—i.e., if it's kept running when it is more expensive than cheaper sources on the grid—the costs could be much higher. These costs come as families and businesses are already struggling with high energy prices.

Scripps has warned that the DOE order will increase costs and erase much of the savings that customers were expecting from Campbell's retirement. There is no sound reason to ask Michigan or other Midwest ratepayers to subsidize an inefficient and polluting coal plant that the state has already moved beyond.

Campbell is also one of the most polluting coal plants in the Midwest. It emits millions of tons of carbon dioxide annually, along with thousands of tons of sulfur dioxide and nitrogen oxides. These pollutants contribute to climate change and cause severe public health impacts, including asthma attacks and other respiratory illnesses. The communities surrounding Campbell will bear the brunt of this pollution, a burden they were promised would end with the plant's retirement.



Public health damages from pollution from Consumers Energy coal plants, including the J.H. Campbell Complex plant. This analysis, prepared by Dr. Kelsey Bilsback, expert witness for the Clean Energy Organizations coalition, shows per capita health impacts in dollars per 100 people, with plant locations marked in red. The coalition partners—The Environmental Law & Policy Center, Ecology Center, Union of Concerned Scientists, and Vote Solar—submitted health testimony that informed this proceeding (view testimony, PDF page 122, testimony page 18). | *Environmental Law & Policy Center*

Michigan's clean energy planning was robust and responsible

The notion that Michigan faces a reliability emergency this summer is simply false. The state, its utilities, and its regulators have spent years preparing for the Campbell plant's retirement through a deliberate, transparent, and collaborative process.

Consumers Energy's 2021 Integrated Resource Plan resulted in a landmark 2022 settlement, which NRDC and a broad coalition of Michigan stakeholders helped negotiate. The settlement committed Consumers to retire all of its coal plants by 2025, with Campbell as the largest and last. The settlement was specifically designed to maintain grid reliability while accelerating Michigan's shift to clean energy.

As part of the agreement:

- Consumers Energy purchased a 1,200 megawatt (MW) natural gas plant.
- Consumers Energy preserved its plan to add thousands of megawatts of new solar capacity through competitive solicitations.
- Consumers Energy committed to new battery storage and clean energy through an all-source solicitation.

These combined investments ensure that Michigan has sufficient, reliable, and affordable electricity without Campbell.

Challenging DOE overreach: Flimsy justifications and smarter national solutions

The DOE's order requires Consumers Energy and the Midcontinent Independent System Operator (MISO) to continue operating the Campbell plant through the summer, based on assertions that the state of Michigan lacks sufficient generation and that the MISO region faces shortages of electricity during that time. Section 202(c) of the Federal Power Act permits the department to order electricity generation if an emergency exists "by reason of a shortage of electric energy or of facilities for the generation or transmission of electric energy."

However, no credible evidence supports the claim that an energy emergency exists in Michigan or the broader MISO region.

MISO's latest Summer Readiness Assessment indicates that the region has nearly 2,400 MW of capacity above its required reserve margin, a cushion designed to ensure reliability even under extreme conditions. The DOE's order takes out of context comments from MISO that encourage the development of new generating capacity to falsely suggest an imminent state of shortfall.

Even more troubling, the order is not an isolated case. Just a week after the Campbell order, the DOE issued another Section 202(c) order at Constellation's Eddystone power plant that burns oil and gas outside of Philadelphia. That order similarly lacked evidence of a genuine emergency. These two orders are an ominous beginning of a broader Trump

administration effort to prop up fossil fuel plants under an executive order issued April 8. The DOE's quick orders—based on flimsy evidence—portend a wave of unjustified, costly emergency orders this summer.

Federal energy policy should not be manufacturing emergencies to prop up outdated fossil fuel infrastructure. The DOE has many better tools to support a reliable grid and an abundant energy supply, such as supporting the development of new transmission projects to improve regional power sharing and to interconnect new generators and energy storage resources faster. The federal government should also work to address supply chain issues that delay clean energy deployments, expand demand flexibility to reduce peak demand and enhance grid stability, and encourage large new loads, such as data centers, to build their own clean generation and avoid stressing local grids.

These are the solutions that serve the public interest—not artificially prolonging the life of aging coal plants at great public cost.

Michigan must stay the course and push back

Michigan must stand firm and continue pursuing a clean, affordable, and reliable grid that protects both ratepayers and public health. Our energy future should not be dictated by political decisions from Washington, D.C., that ignore the state's careful planning and progress.

State officials must remain focused on achieving least-cost reliability through renewables, battery storage, and transmission upgrades. These investments not only lower costs for families and businesses, but they also

reduce the pollution that disproportionately impacts low-income communities and communities of color.

Michigan leaders must also be prepared to fight back against the DOE's order:

- State agencies, the attorney general's office, and legislative leaders should continue to oppose this federal intrusion, which threatens the health of Michiganders and will raise their electricity costs.
- Michigan must make clear that decisions about its energy future belong to Michigan—not to Washington.
- The state should vigorously defend its clean energy progress and prevent Michigan ratepayers from being forced to subsidize an unnecessary and costly coal plant this summer.

Conclusion: A moment for Michigan leadership

This is a pivotal moment for Michigan to stand strong. The state has demonstrated leadership in planning a clean, reliable energy future. It must not allow federal political interference to derail this progress.

The Campbell order is a bad solution to a nonexistent problem. It imposes real financial and public health harms on Michigan residents. The order undermines state authority over electricity generation resources and sets a dangerous precedent for manufactured emergencies that disregard careful

planning by states and utilities for an affordable energy transition. The DOE should reverse this misguided order and refocus its efforts on real solutions that enhance reliability and affordability for all Americans.

RELATED ISSUES:

Fossil Fuels | Clean Air | Renewable Energy

RELATED BLOGS



EPA Declines to Limit Deadly Soot Air Pollution

December 8, 2020 • Expert Blog • United States, Washington, D.C. • Emily Davis, John Walke, Dr. Vijay Limaye

On its way out the door, the Trump Administration undermines the Clean Air Act and public health in a profound way.

EXHIBIT 32

The Department Of Energy's Resource Adequacy Report Affirms The Energy Emergency Facing The U.S. Power Grid

THE NEW REPORT REVEALS, PLANT CLOSURES AND OVERRELIANCE ON INTERMITTENT ENERGY SOURCES DRIVEN BY A RADICAL GREEN AGENDA, AND INCREASING ARTIFICIAL INTELLIGENCE DEMAND, COULD LEAD TO A SIGNIFICANT INCREASE IN U.S. POWER OUTAGES

- On July 7, 2025, the Department of Energy (DOE) released its Resource Adequacy Report, in fulfillment of a directive under President Trump's Executive Order 14262 of April 8, 2025, "Strengthening the Reliability and Security of the United States Electric Grid."
- According to DOE's findings, which are based on similar work completed by the North American Electric Reliability Corporation (NERC), the U.S. energy grid will not be able to sustain the combined impact of coal and other plant closures, an overreliance on intermittent energy sources like wind and solar, and data center growth, highlighting the urgency of increasing dispatchable energy output, which the Trump Administration has already taken steps to accomplish.
- The analysis clearly demonstrates that in the absence of robust and rapid energy policy reform that prioritizes use of America's abundant natural resources and fast infrastructure buildout, resource inadequacy will prevent development of new manufacturing in America, prohibit the re-industrialization of the US economy, drive up the cost of living for all Americans, and eliminate the potential to sustain enough data centers to win the artificial intelligence (AI) arms race.
- According to the report, the Nation's power grid is not prepared to meet the energy demand of AI, putting U.S. national security at risk by compromising both our grid stability and our ability to innovate.
    - The report estimates an additional 100 GW of new peak hour supply is needed by 2030. Of this, 50 GW of this is directly attributable to data centers.
    - Data centers can be built in 18 months, but it takes more than three times as long to add new generation required to service those data centers to the grid.
    - Load growth is accelerating at a rate not seen in decades. The energy infrastructure industry, which is accustomed to moderate to zero load growth, needs to innovate to keep up with the demand.
    - Intermittent energy sources like wind and solar will not meet reliability demands, and the planned closures of firm, reliable power sources like coal are dramatically greater than expected additions.
    - The DOE report assumes 104 GW of announced plant closures by 2030 will be met with 210 GW of new generation; however, only 22 GW of that new generation will be firm, reliable, dispatchable generation that is available 24/7.
    - According to the report, capacity is not being replaced on a one-to-one basis and this loss of capacity will lead to shortfalls during periods of low intermittent renewable power generation.
    - With current projections of generation retirements and additions, grid reliability deteriorates in all regions.

AI INNOVATION IS ACCELERATING ENERGY DEMANDS AND THE NEED FOR RELIABLE, FIRM GENERATION SOURCES

- U.S. grid operators have raised a unified alarm about an impending capacity crunch, warning about the pace and scale of explosive energy demand from data centers, increased manufacturing, and electrification.
    - At a March 25th hearing before the House Energy and Commerce Subcommittee on Energy, the Nation's top grid officials testified that the U.S. power system is under mounting strain—and without urgent reform, their ability to maintain reliable electric service will fail.
    - At the June 5th FERC technical conference on resource adequacy, NERC leadership testified that mounting resource adequacy challenges are elevating the outage risk profile across a broad swath of North America, leaving few areas untouched.
- Renewables have been subsidized while dispatchable energy sources such as coal, oil and gas, and nuclear have been minimized by environmental activism that hinders American energy production, and renewables cannot power a 24/7 AI infrastructure.
    - These sources are intermittent and cannot always match real-time demand, especially when split-second latency and uptime are critical.
    - Baseload, dispatchable power, such as from coal, oil and gas, and nuclear, is essential in grid planning.
    - According to these operators, without urgent structural reforms such as those underway under the Trump Administration, the ability to maintain reliable electric service could falter.
    - Several utilities have fast-tracked proposals for new natural gas peaker plants, while others are evaluating small modular nuclear reactors as potential solutions for delivering steady, baseload power.
    - Firm, reliable energy sources like coal, oil and gas, which the Trump Administration has already taken decisive action to support, and a rapid energy infrastructure buildout, for which the Trump Administration has already undertaken historic permitting reform to enable, are needed to ensure we can continue to supply adequate energy to meet the demands of our re-industrialization, manufacturing centers, and innovators while keeping the cost of living low for all Americans.

PRESIDENT TRUMP AND THE DEPARTMENT OF ENERGY ARE WORKING TO SECURE GRID RELIABILITY

- In April 2025, President Trump issued Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid," in order to address the surge in electricity demand.
    - The order called on the Secretary of Energy to expedite the DOE's processes for issuing 202(c) orders of the Federal Power Act, during periods of emergency grid operations.
    - The order called on the Secretary of Energy to develop a uniform methodology within 30 days, analyzing current and anticipated reserve margins for all regions of bulk power

regulated by the Federal Energy Regulatory Commission (FERC) and publish the methodology, along with any analysis it produces, on the DOE's website.

  - The order called on the Secretary of Energy to use this methodology to identify which generation resources within a region are critical to system reliability and prevent those identified generation resources from leaving the bulk-power system

- The Trump administration has already issued several 202(c) emergency orders in order to secure the U.S. power grid and prevent unnecessary power outages.
  - In May 2025, the DOE issued an emergency 202(c) order of the Federal Power Act, to the Midcontinent Independent System Operator (MISO).
    - The emergency order directed MISO, in coordination with Consumers Energy, to keep the J.H. Campbell Power Plant in West Olive, Michigan, active for operation to prevent potential power outages.
    - In June, MISO issued an Energy Emergency Alert1 (EEA1) as a result of high expected load and low wind conditions. It was able to avoid black-outs but only after running the J.H. Campell unit and after significant imports from other RTOs.
  - In May 2025, the DOE issued a 202(c) emergency order of the Federal Power Act, to the Puerto Rico Electric Power Authority (PREPA).
    - The order directed PREPA to dispatch generation units necessary to expand baseload generation on the island to maintain grid reliability and avoid a gap in generation shortfall.
  - In May 2025, the DOE issued an emergency 202(c) order of the Federal Power Act, ordering PJM Interconnection (PJM) to operate specified generation units at the Eddystone, Pennsylvania Generation Station past their planned retirement.
    - The order followed statements from PJM warming that their systems faced a "growing resource adequacy concern" due to load growth," the retirement of dispatchable resources, and other factors.
    - In June issued an Energy Emergency Alert 1 (EEA1) alert and called on the Eddystone units to run.
  - In June 2025, the DOE issued an emergency 202(c) order of the Federal Power Act to address potential power grid shortages in the Southeast U.S.
    - The order authorized Duke Energy Carolina to use specific electric generating units within the Duke Energy Carolina area to operate at their maximum generating capacity, in response to ongoing extreme weather conditions.

EXHIBIT 33

An official website of the United States government Here's how you know

Department of Energy Releases Report on Evaluating U.S. Grid Reliability and Security

The Department of Energy warns that blackouts could increase by 100 times in 2030 if the U.S. continues to shutter reliable power sources and fails to add additional firm capacity.

Energy.gov

July 7, 2025

4 min

The Department of Energy warns that blackouts could increase by 100 times in 2030 if the U.S. continues to shutter reliable power sources and fails to add additional firm capacity.

WASHINGTON— The U.S. Department of Energy (DOE) today released its Report on Evaluating U.S. Grid Reliability and Security. The report

fulfills Section 3(b) of President Trump's Executive Order, *Strengthening The Reliability And Security Of The United States Electric Grid*, by delivering a uniform methodology to identify at-risk regions and guide Federal reliability interventions.

The analysis reveals that existing generation retirements and delays in adding new firm capacity, driven by the radical green agenda of past administrations, will lead to a surge in power outages and a growing mismatch between electricity demand and supply, particularly from artificial intelligence (AI)-driven data center growth, threatening America's energy security.

"This report affirms what we already know: The United States cannot afford to continue down the unstable and dangerous path of energy subtraction previous leaders pursued, forcing the closure of baseload power sources like coal and natural gas," Secretary Wright said. "In the coming years, America's reindustrialization and the AI race will require a significantly larger supply of around-the-clock, reliable, and uninterrupted power. President Trump's administration is committed to advancing a strategy of energy addition, and supporting all forms of energy that are affordable, reliable, and secure. If we are going to keep the lights on, win the AI race, and keep electricity prices from skyrocketing, the United States must unleash American energy."

Highlights of the Report:

- **The status quo is unsustainable.** DOE's analysis shows that, if current retirement schedules and incremental additions remain unchanged, most regions will face unacceptable reliability risks within five years and the Nation's electrical power grid will be unable to meet expected demand for AI, data centers, manufacturing and industrialization while keeping the cost of living low for all Americans. Staying on the present course would

undermine U.S. economic growth, national security, and leadership in emerging technologies.

- **Grid growth must match the pace of AI innovation.** Electricity demand from AI-driven data centers and advanced manufacturing is rising at a record pace. The magnitude and speed of projected load growth cannot be met with existing approaches to load addition and grid management. Radical change is needed to unleash the transformative potential of innovation.
- **With projected load growth, retirements increase the risk of power outages by 100 times in 2030.** Allowing 104 GW of firm generation to retire by 2030—without timely replacement—could lead to significant outages when weather conditions do not accommodate wind and solar generation. Modeling shows annual outage hours could increase from single digits today to more than 800 hours per year. Such a surge would leave millions of households and businesses vulnerable. We must renew a focus on firm generation and continue to reverse radical green ideology in order to address this risk.
- **Planned supply falls short, reliability at risk.** The 104 GW of plant retirements are replaced by 209 GW of new generation by 2030; however, only 22 GW comes from firm baseload generation sources. Even assuming no retirements, the model found outage risk in several regions rises more than 30-fold, proving the queue alone cannot close the dependable-capacity deficit.
- **Old tools won't solve new problems.** Traditional peak-hour tests to evaluate resource adequacy do not sufficiently account for growing dependence on neighboring grids. At a minimum, modern methods of evaluating resource adequacy need to incorporate frequency, magnitude, and duration of power outages, move beyond exclusively analyzing peak load time periods, and develop integrated models to enable proper analysis of increasing reliance on neighboring grids.

DOE's report identifies regions most vulnerable to outages under various weather and retirement scenarios and offers capacity targets needed to restore acceptable reliability. The methodology also informs the potential use of DOE's emergency authority under Section 202(c) of the Federal Power Act.

Click here for a fact sheet on the report.

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EXHIBIT 34

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

Order No. 202-25-3B
ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING

(Issued September 8, 2025)

1. On May 23, 2025, pursuant to section 202(c) of the Federal Power Act (FPA),[1] and section 301(b) of the Department of Energy Organization Act,[2] the Secretary of Energy (Secretary) issued an order (Emergency Order) determining that "an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes . . . ."[3] In the Emergency Order, the Secretary determined that "additional dispatch of the Campbell Plant is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c)."[4] Requests for rehearing were filed by Public Interest Organizations (PIOs);[5] Michigan Attorney General Dana Nessel (Michigan AG); the States of Minnesota and Illinois (Minnesota and Illinois); and the Organization of MISO States (OMS).[6] Comments were filed by the Michigan Public Power Agency (MPPA) and the Maryland Office of People's Counsel (Maryland OPC).

2. On July 28, 2025, the Department of Energy (DOE) issued a notice of denial of rehearing by operation of law and providing for further consideration (DOE Notice). However, as provided in sections 202(c) and 313(a) of the FPA,[7] we are modifying the discussion in the Emergency Order and continue to reach the same result in this Order, as discussed below.[8]

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[1] 16 U.S.C. § 824a(c).

[2] 42 U.S.C. § 7151(b)

[3] Department of Energy Order No. 202-25-3 (May 23, 2025) (Emergency Order).

[4] *Id.* at 2.

[5] Sierra Club, Natural Resources Defense Council, Michigan Environmental Council, Environmental Defense Fund, Environmental Law and Policy Center, Vote Solar, Public Citizen, Union of Concerned Scientists, the Ecology Center, and Urban Core Collective refer to themselves collectively as Public Interest Organizations.

[6] OMS also filed a notice of clarification to identify which of its members voted in support of filing only a petition to intervene and which of its members voted in support of filing a petition to intervene and a request for rehearing.

[7] 16 U.S.C. § 824a(c); 16 U.S.C. § 825*l*(a). In the context of FPA section 202(c) orders, the DOE interprets FPA section 313's references to "the Commission" to mean the DOE.

[8] *See Allegheny Def. Project v. FERC*, 964 F.3d 1, 16-17 (D.C. Cir. 2020). The Department is not

I. Background

3. In the Emergency Order, the Secretary determined that "an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes, and that issuance of this Order will meet the emergency and serve the public interest."[9]

4. The Emergency Order provided substantial support for the Secretary's emergency determination. The Emergency Order explained that, in its 2025 Summer Reliability Assessment, the North American Electric Reliability Corporation (NERC) indicated that "[d]emand forecasts and resource data indicate that MISO is at elevated risk of operating reserve shortfalls during periods of high demand or low resource output."[10] The Emergency Order observed that multiple generation facilities in Michigan have retired in recent years, specifically identifying the closures of two nuclear plants—Big Rock Point and Palisades. The Emergency Order explained that the retirement of the Campbell Plant would further decrease the amount of available dispatchable generation in the Midcontinent Independent System Operator, Inc. (MISO) service territory, noting that a combined 1,575 MW of natural gas and coal-fired generation had retired since the summer of 2024.[11] The Emergency Order stated that MISO's 2025/2026 Planning Resource Auction results indicated that, for the North/Central sub-regions, "new capacity additions were insufficient to offset the negative impacts of accreditation, suspensions/retirements and external resources" and that, while the results "demonstrated sufficient capacity," the summer months reflected the "highest risk and a tighter supply-demand balance[;]" and the results "reinforce the need to increase capacity."[12]

5. In the Emergency Order, the Secretary determined that continued operation of the Campbell Plant is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c). This determination was based on the insufficiency of dispatchable capacity

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changing the outcome of the Emergency Order. *See Smith Lake Improvement & Stakeholders Ass'n v. FERC*, 809 F.3d 55, 56-57 (D.C. Cir. 2015).

[9] Emergency Order at 1.

[10] *Id.* (quoting *2025 Summer Reliability Assessment*, North American Electric Reliability Corporation, at 16 (May 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf (NERC 2025 Summer Reliability Assessment). The Emergency Order stated that NERC anticipates "elevated risk of operating shortfalls" notwithstanding Consumers Energy's acquisition of a 1,200 MW natural gas power plant in Covert, Michigan. *Id.* at 1-2.

[11] *Id.*

[12] *Id.* (citing MISO, *Planning Resource Auction Results for Planning Year 2025-26* (Apr. 2025). After the Emergency Order was issued, on May 29, 2025, MISO posted a corrected version of the presentation, which is available here: https://cdn.misoenergy.org/2025%20PRA%20Results%20Posting%2020250529_Corrections694160.pdf.

and an anticipated increase in demand during the summer months, resulting in a risk to public health and safety caused by the potential loss of power to homes and local businesses in areas that may be affected by curtailments or outages. The Emergency Order was limited in duration to align with the emergency circumstances. In recognition of potential conflict with environmental standards and requirements and consistent with FPA section 202(c), the Secretary placed specific conditions on the operation of this necessary additional generation.[13]

II. Discussion

1. The Secretary's Authority to Require the Campbell Plant to Continue to Operate

6. Michigan AG, PIOs, Minnesota and Illinois, and OMS argue that the Emergency Order impermissibly exceeds the Secretary's statutory authority under FPA section 202(c) in various respects.[14] For instance, Michigan AG and PIOs argue that the Emergency Order, in effect, impermissibly asserts the authority to further its policy decisions by managing issues unrelated to addressing emergencies but rather concerning resource adequacy and electric generation facilities—issues which are reserved for the states and the Federal Energy Regulatory Commission (FERC), pursuant to other provisions in the FPA.[15] Minnesota and Illinois additionally contend that the Emergency Order impermissibly intrudes on the states' authority to make plant retirement decisions.[16]

7. Minnesota and Illinois also assert that section 202(c) has been used sparingly to address retirements like the Campbell Plant, and "only when requested by the operator or local government" in the context of an emergency.[17]

8. In a related argument, OMS asserts that the Emergency Order did not adequately consult with or incorporate the findings of MISO and other relevant state regulatory bodies, which they claim have primary jurisdiction over resource planning, sitting, and cost recovery for utilities operating in their states.[18]

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[13] Emergency Order at 2-3.

[14] Michigan AG Pet. § IV.B; PIO Pet. § IV.C; Minnesota and Illinois Pet. § V.E; OMS Pet. § B.

[15] *See* Michigan AG Pet. § IV.B.i (citing 16 U.S.C. § 824(b)(1) and 16 U.S.C. §§ 824d, 824e); PIO Pet. at 44 (citing 16 U.S.C. § 824(a)); *id*. at 45 (citing *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 281 (2016)).

[16] Minnesota and Illinois Pet. at 27.

[17] *Id.* at 24.

[18] *Id.* at 30-31.

9. Minnesota and Illinois also assert that the Emergency Order, subparagraph E, impermissibly calls for state governments to assist in its execution.[19] In particular, Minnesota and Illinois claim that the Emergency Order's directive that "the relevant governmental authorities are directed to take such action"—*i.e.*, effectuate the dispatch and operation of the Campbell Plant's units—unlawfully violates the Tenth Amendment of the United States Constitution.[20]

The DOE's Determination

10. There is no dispute that the Secretary has the statutory authority under FPA section 202(c) to (1) determine that an emergency exists, and then (2) exercise his judgment to address that emergency. Rather, Petitioners claim that the Secretary exceeded that authority in directing MISO and Consumers Energy to undertake specific actions to keep the Campbell Plant in operation. As explained below, these claims have no merit.

11. Section 201(b)(1) of the FPA specifically reserves authority over "facilities used for the generation of electric energy" for the states "*except as specifically provided* in this subchapter."[21] Section 202(c) constitutes one such carve out. It grants the Secretary the "authority, either upon [the Secretary's] own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in [the Secretary's] judgment will best meet the emergency and serve the public interest." Congress thus purposely provided discretion in section 202(c) to require changes to the operation of the U.S. electricity system on a temporary basis, including changes to the operations of electric generation facilities.

12. Michigan AG and PIOs attempt to avoid this clear grant of authority by arguing that the Emergency Order addresses issues unrelated to emergencies but rather concern resource adequacy.[22] But placing a different label on the Secretary's action cannot change the fact that actions taken in the Emergency Order fall squarely within the authority granted by section 202(c). By its terms, that section specifically applies to the potential "shortage of electric energy or of facilities for the generation or transmission of electric energy," which is exactly the situation that led to the issuance of the Emergency Order. And section 202(c) specifically authorizes the Secretary to "require by order . . . such generation . . . of electric energy as in [the Secretary's] judgment will best meet the emergency and serve the public interest," which is exactly the action the Emergency Order requires.

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[19] *Id.* at 31.

[20] *Id.*

[21] 16 U.S.C. § 824(b)(1) (emphasis added).

[22] *See* Michigan AG Pet. § IV.B.i (citing 16 U.S.C. § 824(b)(1) and 16 U.S.C. §§ 824d, 824e); PIO Pet. at 44 (citing 16 U.S.C. § 824(a)); *id*. at 45 (citing *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 281 (2016)).

13. Nor is there any requirement under section 202(c), as Minnesota and Illinois and OMS suggest,[23] for the Secretary to consult with the impacted states prior to issuing a section 202(c) order. Section 103 of the DOE Organization Act requires consultation with states "where practicable."[24] In an emergency situation, it is often not practicable to consult with the states and relevant state agencies prior to taking emergency action. This point is further supported by the plain language of section 202(c), which specifically authorizes DOE to issue an emergency order "with or *without notice*."[25]

14. Finally, the argument that the Emergency Order violates the Tenth Amendment[26] is incorrect. The Emergency Order provides that "[t]he extent to which MISO's current Tariff provisions are inapposite to effectuate the dispatch and operation of the units for the reasons specified herein, the relevant governmental authorities are directed to take such action and make accommodations as may be necessary to do so."[27] Had the Emergency Order directed State governments or their instruments to take such an action, there would, of course, be a constitutional issue, grounded perhaps in regards to the 10th Amendment, but even more directly in the anti-commandeering clause. But that was not the intended endpoint, however, for the avoidance of doubt, we provide clarification that the Order does not direct State governments or their instrumentalities to take such actions.

15. Here, there is no state tariff provision which governs wholesale energy sales. DOE clarifies that the relevant authorities to which the Emergency Order refers are MISO and FERC. DOE is not requiring state governmental authorities to take any action with respect to the Emergency Order.

2. The Secretary's Authority to Determine the Existence of an Emergency

16. Michigan AG, PIOs, Minnesota and Illinois, and OMS each raise similar arguments that the Emergency Order failed to meet the legal definition of an "emergency" within the meaning of FPA section 202(c).[28] For instance, Michigan AG argues that, while section 202(c) "permits some measure of flexibility with respect to what type of events may cause the emergency, allowing for 'other causes' beyond those enumerated," it only authorizes action during extraordinary

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[23] *See, e.g.*, Minnesota and Illinois Pet. § V.E; OMS Pet. at 4.

[24] 42 U.S.C. § 7113.

[25] 16 U.S.C. § 824a(c)(1) (emphasis added).

[26] Minnesota and Illinois Pet. at 31-32.

[27] Emergency Order at 3.

[28] Michigan AG Pet. § IV.A; PIO Pet. § IV.A.1; Minnesota and Illinois Pet. § V.B; OMS Pet. §§ II.A, D.

circumstances.[29] Michigan AG,[30] PIOs,[31] and Minnesota and Illinois[32] cite to the definition of "emergency" in DOE's regulations at 10 C.F.R. § 205.371 and argue that the Emergency Order exceeded the scope of that definition. Michigan AG[33] and PIOs[34] also cite to various dictionary definitions of "emergency" to assert the same point.

17. Further, Michigan AG,[35] PIOs,[36] and Minnesota and Illinois[37] each rely on *Richmond Power and Light v. FERC*, 574 F.2d 610 (D.C. Cir. 1978), and *Otter Tail Power Co. v. Federal Power Commission*, 429 F.2d 232 (8th Cir. 1970), for the proposition that courts have interpreted section 202(c) narrowly to apply only to temporary emergencies requiring an imminent response.

The DOE's Determination

18. In enumerating emergency powers in section 202(c), Congress accorded the Secretary discretion to determine the existence of an emergency. The statute's plain text grants the Secretary authority to respond, in certain circumstances, to emergencies posing dire threats to the Nation's electric infrastructure. Specifically, the Secretary "*shall* have authority" to act "*whenever* the [Secretary] determines that an emergency exists."[38] Next, the statute sets forth three different categories of emergencies where section 202(c) action is permissible. An emergency may exist "by reason of [1] a sudden increase in the demand for electric energy, or [2] a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or [3] other causes."[39]

19. Section 202(c)(1) delegates a wide degree of latitude for the Secretary to determine the existence of an emergency, "either upon its own motion or upon complaint, with or without notice,

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[29] Michigan AG Pet. at 24.

[30] Michigan AG Pet. at 26.

[31] PIO Pet. at 28-29.

[32] Minnesota and Illinois Pet. at 22-23.

[33] Michigan AG Pet. at 25.

[34] PIO Pet. at 26.

[35] Michigan AG Pet. at 25-26.

[36] PIO Pet. 26-27.

[37] Minnesota and Illinois Pet. at 24.

[38] 16 U.S.C. § 824a(c)(1) (emphases added).

[39] *Id.* (brackets added).

hearing, or report." Beyond providing exemplar categories of where an "emergency exists," the statute is silent on any additional requirements that must be satisfied. Here, as is evident from the face of the Emergency Order, and as is consistent with section 202(c)'s text and prior DOE practice, the Secretary exercised his authority under section 202(c) and determined, in his statutory discretion and substantive expertise, that "an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes."[40]

20. The argument that the Secretary can act only when a shortage of electricity is "imminent" makes no sense in the context of his statutory authority under section 202(c) to act to address a "shortage of . . . facilities for the generation . . . of electric energy." As a general matter, some retired generation facilities generally cannot be brought back online in a matter of days. If the Secretary was required to wait until a blackout is "imminent" before addressing a shortage of generation facilities, he will be unable to take any meaningful action to address the blackout. Determining to take action before the retirement of the Campbell Plant, which was necessary to ensure that it would be available to produce electric energy to prevent blackouts in summer peak load periods, falls well within the Secretary's statutory discretion.

21. The definition of "emergency" contained in DOE's regulations at 10 C.F.R. § 205.371 does not supersede the discretion section 202(c) affords to the Secretary to "determine[] that an emergency exists." In any event, those regulations specifically provide that "[e]xtended periods of insufficient power supply as a result of inadequate planning or the failure to construct necessary facilities can result in an emergency as contemplated in these regulations." Accordingly, the Secretary's emergency determination is entirely consistent with the governing statutory requirements in section 202(c) and the DOE's regulations.

22. Similarly, the dictionary definitions cited by Michigan AG[41] and PIOs[42] are not persuasive. Those definitions cannot limit the discretion Congress expressly delegated to the Secretary in section 202(c).

23. The arguments made by Michigan AG,[43] PIOs,[44] and Minnesota and Illinois[45] based on the *Otter Tail Power* and *Richmond Power and Light* decisions likewise are misguided. *Otter Tail Power* did not limit the Secretary's section 202(c) discretion or the meaning of "emergency" because the court held that section 202(c) *did not apply* to the case. Instead, *Otter Trail Power*

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[40] *See* Emergency Order at 1.

[41] Michigan AG Pet. at 25.

[42] PIO Pet. at 26.

[43] Michigan AG Pet. at 25-26.

[44] PIO Pet. 26-27.

[45] Minnesota and Illinois Pet. at 24.

involved section 202(b) of the FPA dealing with permanent interconnection (and not an "emergency" within the meaning of section 202(c)).[46] In *Richmond Power and Light*, the Court of Appeals for the D.C. Circuit held that the Federal Power Commission (FPC) did not abuse its discretion in *declining* to invoke its emergency powers under section 202(c).[47] The court determined that the FPC had discretion to choose a temporary, voluntary program rather than issue an order pursuant to section 202(c), as the circumstance, in the FPC's discretion, did not warrant the use of emergency authority.[48]

24. A more relevant decision is *Board of Trade of the City of Chicago v. Commodity Futures Trading Commission*.[49] In that case, the Court of Appeals for the Seventh Circuit recognized the broad powers of the Commodity Futures Trading Commission (CFTC) to issue emergency actions under section 8a(9) of the Commodity Exchange Act (7 U.S.C. § 12a(9)). Through section 8a(9), the CFTC issued an emergency order for the Board of Trade to suspend trading in a certain wheat futures contracts, citing transportation and warehouse shortages and potential market manipulation.[50] In response, the Board of Trade sought an injunction against the order, arguing that no emergency existed. The district court granted a preliminary injunction, and the CFTC appealed.[51] In its decision to vacate and remand the district court's preliminary injunction, the Seventh Circuit concluded that Congress intended to grant the CFTC discretion in making emergency determinations under the Commodity Exchange Act.[52] The court reasoned: "Congress recognized that regulation of the volatile futures markets could be accomplished effectively only through the use of an expert Commission, that situations could occur suddenly for which the traditional enforcement powers would be an inadequate response, and that therefore the Commission should have emergency powers, the exercise of which is committed to the expertise and discretion of the Commission."[53] In addition, "[t]he fact that the Commission is authorized by Congress to take emergency action is, in itself, a suggestion of Congressional intent to commit

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[46] *See Otter Tail Power Co. v. Federal Power Commission*, 429 F.2d 232 (8th Cir. 1970) (*Otter Tail Power)* (rejecting petitioner's contention that "any proceedings in the instant case must be dealt with in compliance with § 202(c)").

[47] *See Richmond Power and Light v. FERC*, 574 F.2d 610 (D.C. Cir. 1978) (*Richmond Power and Light*) at 615.

[48] *Id.* at 614-15.

[49] *Board of Trade of the City of Chicago v. Commodity Futures Trading Commission*, 605 F.2d 1016, 1025 (7th Cir. 1979)

[50] *See Board of Trade of the City of Chicago v. Commodity Futures Trading Commission*, 605 F.2d 1016, 1025 (7th Cir. 1979) at 1018.

[51] *Id.* at 1019-20.

[52] *Id.* at 1023-25.

[53] *Id.* at 1025.

such actions to the Commission's discretion."[54] Given the similarities between FPA section 202(c) and section 8a(9) of the Commodity Exchange Act, the *Board of Trade* decision confirms the conclusion that Congress intended to grant the Secretary broad discretion to determine when his emergency powers should be applied to protect the public interest.[55]

25. Finally, the assertion of Minnesota and Illinois that the Emergency Order is "novel" and contravenes prior practice wherein section 202(c) was used to address retirements "only when requested" has no merit.[56] On its face, section 202(c)(1) authorizes the Secretary to act "*either upon its own motion or upon complaint*." It is undisputed that section 202(c) has been used in the past to address generation retirements. Under the statute, it is irrelevant whether a utility requested that the Secretary take this action.

26. In sum, the Secretary acted within his authority to determine the existence of an emergency and the statutory meaning of "emergency" has been satisfied here. In its 90-year history, no court has questioned the Secretary's (or, prior to its dissolution in 1977, the FPC's)[57] discretion in this respect, much less overturned the Secretary's determination that an emergency exists. The absence of such circumstances underscores the Secretary's authority as expressly delegated in the statute.

3. The Factual Basis to Support the Secretary's Emergency Determination

27. Michigan AG, PIOs, Minnesota and Illinois, and OMS also raise similar objections that there is no factual basis to support the Emergency Order, and that the Secretary is required to submit substantial evidence in support of his emergency determination.[58]

28. *First*, Michigan AG, PIOs, Minnesota and Illinois, and OMS criticize the Emergency Order's references to the 2025 NERC Summer Reliability Assessment.[59] For instance, Michigan AG claims that the Emergency Order fails to explain (1) how NERC's assessment supports an emergency finding, as NERC did not put MISO in the high-risk category; (2) why NERC's designation of "elevated" risk represents a sudden or unexpected circumstance, as MISO has been

[54] *Id.* at 1023.

[55] *See id.* at 1023-25.

[56] *See* Minnesota and Illinois Pet. at 24.

[57] The FPC was dissolved in 1977, and the FPC's functions were split between FERC and the Department, with the Secretary retaining FPA section 202(c) power.

[58] Michigan AG Pet. §§ IV.A(ii), IV.C; PIO Pet. § IV.A.2; Minnesota and Illinois Pet. § V.A; OMS Pet. § II.A.

[59] Michigan AG Pet. at 27-29, 37; PIO Pet. 32-35; Minnesota and Illinois Pet. at 19-20; OMS Pet. at 2-3. OMS also contends that NERC's long-term and seasonal assessments are unreliable and inconsistent. OMS Pet. at 3.

at this risk level or higher for years; and (3) why the "potential tight reserve margins" identified by NERC constitute an emergency, as MISO exceeded the NERC reference margin level in the 2020-2025 period.[60]

29. *Second*, Michigan AG and PIOs contend that the retirement of the Campbell Plant was not unexpected or sudden, and that generation retirement does not constitute an emergency.[61] Michigan AG further states that MISO approved the retirement of the Campbell Plant after an extensive process.[62]

30. *Third*, Michigan AG, PIOs, and Minnesota and Illinois also assert that the April 2025 MISO Planning Resource Auction does not demonstrate the existence of an emergency.[63] For example, according to Michigan AG, the Emergency Order ignored MISO's conclusion that the 2025/2026 Planning Resource Auction "demonstrated sufficient capacity at the regional, subregional and zonal levels."[64]

31. Minnesota and Illinois also contend that the Emergency Order failed to consider MISO's purported history of performance in several extreme weather events and, according to Minnesota and Illinois, MISO currently is not afflicted by any unexpected outage or extreme weather event.[65]

The DOE's Determination

32. The exigencies that Section 202(c) is designed to address necessarily require that the Secretary's determination is informed by the facts available at the time and by his sound expert judgment as to what situations constitute an emergency. The statute's express exclusion of any notice, hearing, or report requirements prior to issuance of a section 202(c) order confirms the commonsense fact that the Secretary must exercise his section 202(c) authority expeditiously and with broad discretion in responding to emergency situations.

33. In any event, the Secretary's determination that an emergency exists is supported by the factual evidence and the exercise of the Secretary's judgment. The Emergency Order identified the ongoing emergency "in portions of the Midwest region of the United States due to a shortage

[60] Michigan AG Pet. at 37.

[61] *Id.* at 30, 37; PIO Pet. 29-30.

[62] Michigan AG Pet. at 39

[63] *Id.* at 30-32, 38; PIO Pet. at 30-32; Minnesota and Illinois Pet. at 20-21.

[64] Michigan AG Pet. at 39 (citing Attachment B, MISO, Planning Resource Auction, Results for Planning Year 2025 – 2026 (April 2025) at 12).

[65] Minnesota and Illinois Pet. at 22.

of electric energy, a shortage of facilities for the generation of electric energy, and other causes."[66] Consistent with this determination, the Emergency Order explains the need to increase capacity to meet the increasingly high demands and decreasing generation output.[67]

34. In 2021, Consumers Energy announced that it planned a "speed closure" of the Campbell Plant in 2025, years before the end of its scheduled design life.[68] Specifically, the Campbell Plant was scheduled to retire on May 31, 2025, and thus would not be operational in August, the month the Secretary anticipated heightened demand on the grid.[69] In the Emergency Order, the Secretary noted that the Campbell Plant's retirement was part of an ongoing trend, which has seen 1,575 MW of natural gas and coal-fired generation retired since the summer of 2024, further decreasing the amount of dispatchable generation within MISO's service territory.[70] Although MISO and Consumers Energy have incorporated the Campbell Plant's planned retirement into their supply forecasts, as well as Consumers Energy's acquisition of an existing 1,200 MW natural gas power plant in Covert, Michigan, NERC's 2025 Summer Reliability Assessment still anticipated "elevated risk of operating reserve shortfalls."[71]

35. Michigan AG, PIOs, Minnesota and Illinois, and OMS mischaracterize the 2025 NERC Summer Reliability Assessment's designation of "elevated risk" for the MISO region. This assessment reflects NERC's determination that "resources will not be sufficient to meet operating reserves" in the event of "extreme peak-day demand with normal resource scenarios" or "normal peak-day demand with reduced resources."[72] The NERC assessment of "elevated risk" suggests that there will be significant strain on the grid in the MISO service area even in normal operating conditions. If the Secretary had waited to act until the conditions identified by NERC arose, it would have been too late for him to take any effective action.

36. Petitioners note that MISO and Consumers Energy have incorporated the Campbell Plant's planned retirement into their supply forecasts and acquired a 1,200 MW natural gas power plant in Covert, Michigan. However, NERC's 2025 Summer Reliability Assessment anticipated

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[66] *See* Emergency Order at 1.

[67] *See id.* (noting recent closures of generation facilities in Michigan and uncertain near-term future of generation from the Palisades nuclear power plant).

[68] *See Consumers Energy Announces Plan to End Coal Use by 2025; Lead Michigan's Clean Energy Transformation*, Consumers Energy (June 23, 2021), https://www.consumersenergy.com/news-releases/news-release-details/2021/06/23/consumers-energy-announces-plan-to-end-coal-use-by-2025-lead-michigans-clean-energy-transformation.

[69] Emergency Order at 1.

[70] *Id*.

[71] *Id.* (citing NERC 2025 Assessment).

[72] NERC 2025 Assessment at 10.

"elevated risk of operating reserve shortfalls" even including the Covert Plant's capacity.[73] The fact that Consumers Energy acquired this existing plant to replace the Campbell Plant did not forestall the emergency.

37. Similarly, MISO's approval of the retirement of the Campbell Plant came before NERC's 2025 Summer Reliability Assessment, which took into account increased demand projections.

38. Michigan AG, PIOs, and Minnesota and Illinois' respective criticisms[74] of the Secretary's reliance on the April 2025 MISO Planning Resource Auction ignore that MISO stated that the summer months reflected the "highest risk and a tighter supply-demand balance" and the results of the auction "reinforce the need to increase capacity."[75] In addition, the May 2025 NERC assessment referenced a Seasonal Outlook issued by the National Oceanic and Atmospheric Administration (NOAA) on April 17, 2025, which estimated that much of the Midwest had a 33%-40% chance to experience above-normal temperatures in the summer.[76] DOE also notes that a Seasonal Outlook released by the NOAA on June 19, 2025 increased this estimate to a 40%-50% chance of above-normal temperatures.[77]

39. Similarly, the argument of Minnesota and Illinois that the MISO region does not face current "extreme" weather events misses the mark.[78] The Emergency Order was based on the facts known at the time it was issued in May 2025, including the projected potential for a shortage of capacity in the summer identified by NERC. In other words, the Secretary was required to act before the shortage actually occurred. Moreover, contrary to the contentions of Minnesota and Illinois, the conditions that actually existed in the summer following issuance of the Emergency Order further confirm the ongoing emergency and sudden increased threats to energy reliability. In June 2025, MISO issued alerts affecting the Central Region on 18 days. For instance, on June 23, 2025, MISO issued an Energy Emergency Alert 1 for the North and Central Regions "[d]ue to the hot weather and high demand" during a heat dome over the eastern portion of the United States.[79] In fact, between June 11 and August 18, MISO issued dozens of alerts to manage grid

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[73] Emergency Order at 1 (citing to NERC 2025 Assessment).

[74] Michigan AG Pet. at 30-32, 38; PIO Pet. at 30-32; Minnesota and Illinois Pet. at 20-21.

[75] *Planning Resource Auction Results for Planning Year 2025-26,* MISO (Apr. 2025). (Corrected and reissued on 05/29/25) available at https://cdn.misoenergy.org/2025%20PRA%20Results%20Posting%2020250529_Corrections694160.pdf.

[76] NERC 2025 Assessment at 9.

[77] *Seasonal Outlook*, NOAA Climate Prediction Ctr., (July 17, 2025), https://www.cpc.ncep.noaa.gov/products/predictions/long_range/seasonal.php?lead=1.

[78] Minnesota and Illinois Pet. at 22.

[79] *See* MISO Energy Emergency Alert 1 (June 23, 2025),

reliability in its Central Region in response to hot weather, severe weather, high customer load, forced generation outages, and transfer capability limits. MISO issued alerts for the Central Region on at least 40 of the 69 days between June 11 and August 18.

40. In addition, the Secretary took section 202(c) action in the context of a National Energy Emergency declared by the President in the months prior to the Emergency Order. In executive orders dated January 20, 2025, and April 8, 2025, the President underscored the dire energy challenges facing the Nation due to growing resource adequacy concerns. The President recognized, in Executive Order 14156, "Declaring a National Energy Emergency," that the "United States' insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy."[80] In view of the National Energy Emergency, in Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid," the President explained that "the United States is experiencing an unprecedented surge in electricity demand driven by rapid technological advancements, including the expansion of artificial intelligence data centers and an increase in domestic manufacturing."[81] Significantly, Executive Order 14262 specifically ordered the Secretary to draw upon "all mechanisms available under applicable law, *including section 202(c) of the Federal Power Act*, to ensure any generation resource identified as critical within an at-risk region is appropriately retained as an available generation resource within the at-risk region."[82] The executive orders informed the Secretary's decision and action, in addition to the other factors outlined in the Emergency Order and this Order.

41. Grid operators, including MISO itself, have likewise acknowledged the Nation's current energy crisis. For instance, during a March 25, 2025 hearing before the House Committee on Energy and Commerce, Jennifer Curran, the Senior Vice President of Planning and Operations for MISO, testified that "the MISO region faces resource adequacy and reliability challenges due to the changing characteristics of the electric generating fleet, inadequate transmission system infrastructure, growing pressures from extreme weather, and rapid load growth."[83] Ms. Curran also described "much stronger growth [in demand for electricity] from continued electrification efforts, a resurgence in manufacturing, and an unexpected demand for energy-hungry data centers

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https://x.com/MISO_energy/status/1937172353118548150.

[80] Exec. Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025).

[81] Exec. Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025).

[82] *Id.* (emphasis added).

[83] Keeping the Lights On: Examining the State of Regional Grid Reliability Hearing Before the House Committee on Energy and Commerce, Subcommittee on Energy, 119th Cong. (Mar. 25, 2025) (statement of Ms. Jennifer Curran, Senior Vice President for Planning and Operations, Midcontinent Independent System Operator), at 5, witness-testimony_curran_eng_gridoperators_03.25.2025.pdf.

to support artificial intelligence."[84] She added, "[a] growing reliability risk is that the rapid retirement of existing coal and gas power plants threatens to outpace the ability of new resources with the necessary operational characteristics to replace them."[85]

42. Finally, DOE's assessment reveals that, if current retirement schedules and incremental additions remain unchanged, most regions—including the MISO region relevant to the Emergency Order—will face unacceptable reliability risks within five years. The action taken in the Emergency Order requiring the Campbell Plant to continue to operate before its planned retirement on May 31, 2025 addresses that risk.[86]

43. In sum, the Secretary's determination in the Emergency Order that continued operations of the Campbell Plant fully complies with section 202(c).

4. Potential Environmental Impacts

44. Michigan AG and Minnesota and Illinois raise similar arguments that the Emergency Order fails to comply with section 202(c)'s requirement to ensure that any order "to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts."[87] In particular, Michigan AG and PIOs argue that the Emergency Order fails to identify any specific criteria or conditions for ensuring compliance with environmental regulations or limiting environmental impact.[88]

The DOE's Determination

45. Section 202(c)(2) requires the Secretary to ensure that any section 202(c) order that may result in a conflict with a requirement of any environmental law or regulation to the "maximum extent practicable, [be] consistent with any applicable . . . environmental law or regulation and minimize[] any adverse environmental impacts." Contrary to Michigan AG and Minnesota and Illinois' contentions, the Emergency Order contains certain limitations to minimize the hours of operation and adverse environmental impacts. Specifically, the Emergency Order requires that "[a]ll operation of the Campbell Plant must comply with applicable environmental requirements, including but not limited to monitoring, reporting, and recordkeeping requirements, to the maximum extent feasible,"[89] and requires daily reporting from MISO on "whether the Campbell

[84] *Id.* at 6.

[85] *Id.* at 7.

[86] NERC 2025 Summer Reliability Assessment

[87] Michigan AG Pet. at 52 (citing 16 U.S.C. § 824a(c)(2)); Minnesota and Illinois Pet. at 13 (citing 16 U.S.C. § 824a(c)(2)).

[88] Michigan AG Pet. at 54-55; PIO Pet. at 47.

[89] Emergency Order at 3, Ordering Paragraph C.

Plant has operated in compliance with the allowances contained in this Order."[90] These reporting requirements provide a mechanism for the DOE to obtain information concerning any adverse environmental impacts of the Emergency Order, and DOE may modify the Emergency Order to require additional actions as the Secretary deems appropriate.

46. Michigan AG and Minnesota and Illinois argue that the Emergency Order is not tailored to respect environmental considerations, of particular concern to Michigan AG and Minnesota and Illinois are the potential environmental impacts that may be produced by the Campbell Plant. [91] Michigan AG and Minnesota and Illinois provide examples of certain conditions that in their view would, presumably, satisfy the requirements of the statute (*e.g.*, direction to optimize use of pollution control equipment or avoid operations during air quality episodes).[92] These conditions, however, are not required by statute. Congress did not prescribe in section 202(c) how the Department was to fulfill its obligations concerning consistency with environmental laws and minimization of adverse effects. Moreover, Congress recognized, by including the phrase "to the maximum extent practicable," that emergency circumstances would at times make compliance with all Federal, state, and local environmental requirements and minimization of all potential adverse environmental impacts infeasible. This phrase provides the Secretary with discretion in fulfilling its obligations under section 202(c). Accordingly, the Emergency Order's limits on duration and the conditions that authorize only the additional generation necessary and require the operation of the plant to comply with environmental laws to the maximum extent feasible, as well as the reporting requirements that allow DOE to monitor MISO's compliance with the Emergency Order and the environmental impacts such that DOE could take additional action as the Secretary deems appropriate, were sufficient to satisfy its obligation under section 202(c)(2) to ensure that the Emergency Order, to the maximum extent practicable, is consistent with applicable environmental laws and minimizes adverse environmental impacts.

5. Authority to Order Economic Dispatch

47. Michigan AG and Minnesota and Illinois assert that DOE does not have the authority under 202(c)(1) to order the utilization of economic dispatch of the Campbell Plant as a response to an emergency, and that economic dispatch is not an effective or rational measure to address resource shortages.[93] Accordingly, Michigan AG and Minnesota and Illinois contend that economic dispatch is not in the "public interest," as required under section 202(c).[94] In addition, PIOs contend that the Emergency Order's economic dispatch requirement is ambiguous and vague.[95]

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[90] *Id.*, Ordering Paragraph B.

[91] Michigan AG Pet. at 54-55; Minnesota and Illinois Mot. at 26-27.

[92] Michigan AG Pet. at 54; Minnesota and Illinois Mot. at 26-27.

[93] Michigan AG Pet. § IV.D; Minnesota and Illinois Pet. § V.G.

[94] Michigan AG Pet. At

[95] PIO Pet. at 42-43.

Michigan AG asserts that Consumers Energy can subvert the economic dispatch requirement by offering the Campbell Plant on a "must run" status.[96] Michigan AG asserts that, if this happens, the costs to ratepayers will not have been minimized.[97]

The DOE's Determination

48. As noted, section 202(c)(1) affords the Secretary discretion as to what remedy "will best meet the emergency and serve the public interest." The statute expressly delegates the decision on the appropriate remedy to the Secretary's "judgment" (similar to the express delegation to "determine[] that an emergency exists"). In the Emergency Order, the Secretary soundly exercised his judgment in directing "additional dispatch of the Campbell Plant [] necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c)."[98] "This determination [was] based on the insufficiency of dispatchable capacity and anticipated demand during the summer months, and the potential loss of power to homes and local businesses in the areas that may be affected by curtailments or outages, presenting a risk to public health and safety," as discussed above.[99]

49. The Emergency Order directs MISO and Consumers Energy to "take all measures necessary to ensure that the Campbell Plant is available to operate."[100] The Emergency Order then directs MISO "to take every step to employ economic dispatch of the [facility] to minimize [the] cost to ratepayers."[101] The DOE disagrees with arguments that economic dispatch is not effective or rational in this case. The directive regarding economic dispatch ensures that the Campbell Plant can be dispatched instead of more costly generation (if available), reducing electricity costs and serving the public interest. The directive recognizes the fact that MISO uses "a production cost modeling software that produces a unit commitment and security-constrained economic dispatch while optimizing production costs."[102] DOE clarifies, however, that to the extent operational (including safety) limitations prevent the Campbell Plant from being economically dispatched, offering the Campbell Plant on a must run basis may be necessary to ensure the units are available to operate. Under those circumstances, such operation would be consistent with

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[96] Michigan AG Pet. at 49.

[97] *Id.*

[98] Emergency Order at 2.

[99] *Id.*

[100] *Id.*, Ordering Paragraph A.

[101] *Id*.

[102] *MISO Economic Planning Whitepaper* (Oct. 3, 2024), at 3, https://cdn.misoenergy.org/MISO%20Economic%20Planning%20Whitepaper651689.pdf

minimizing the cost to ratepayers because a price taker can decrease (but cannot increase) the market price.

6. Best and Appropriate Means for Addressing the Emergency

50. The Michigan AG and PIOs raise similar arguments that the Campbell Plant is neither the best nor an appropriate means of alleviating the capacity shortfall addressed by the Emergency Order.[103] In particular, Michigan AG and PIOs argue that DOE was required to consider alternatives and evaluate other possible methods for addressing the emergency, which they argue the Emergency Order failed to do.[104] They further argue that there are alternative means by which DOE could have addressed the emergency.[105]

51. PIOs additionally argue that the Emergency Order fails to consider the various policies of the FPA.[106] Specifically, PIO's argue that the Emergency Order fails to provide a reasoned basis for its determination that additional dispatch of the Campbell Plant is necessary to best meet the emergency.[107] PIOs further contend that the Emergency Order does not examine the expense or environmental impact of running the Campbell Plant, or address how the Campbell Plant can meet the emergency.[108]

The DOE's Determination

52. The Secretary, in issuing the Emergency Order, adhered to the process established in FPA section 202(c) in exercising his judgment in directing MISO and Consumers Energy to undertake specific actions as to the Campbell Plant.[109] There is no dispute that the Secretary, as the presidentially-appointed and Senate-confirmed head of the Department (*see* 42 U.S.C. § 7131), is the appropriate individual to determine the existence of an emergency within the meaning of section 202(c) and exercise "[the Secretary's] judgment" as to what Department actions "best meet the emergency and serve the public interest."[110] As discussed above, the Secretary exercised his discretion in responding to an emergency pursuant to an express delegation of authority under

[103] Michigan AG Pet. at 41; PIO Pet. at 36-37.

[104] Michigan AG Pet. at 41; PIO Pet. at 36-37.

[105] Michigan AG Pet. at 41; PIO Pet. at 41.

[106] PIO Pet. at 37.

[107] *Id.* at 37-41.

[108] *Id.*

[109] *See generally* Emergency Order.

[110] 16 U.S.C. § 824a(c)(1).

section 202(c). Further, as explained below, there is no basis to grant rehearing to review the Secretary's exercise of his judgment in prescribing the required response to the emergency.

53. As noted above, section 202(c)(1) affords the Secretary discretion as to what remedy "will best meet the emergency and serve the public interest." The statute expressly delegates the decision on the appropriate remedy to the Secretary's "judgment" (similar to the express delegation to "determine[] that an emergency exists"). Here, the Secretary soundly exercised his judgment in directing "additional dispatch of the Campbell Plant [] necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c)."[111] "This determination [was] based on the insufficiency of dispatchable capacity and anticipated demand during the summer months, and the potential loss of power to homes and local businesses in the areas that may be affected by curtailments or outages, presenting a risk to public health and safety."[112]

54. That Petitioners have now, after the fact, identified alternatives they deem to be better and more appropriate solutions to the emergency is irrelevant. Section 202(c)(1) delegates a wide degree of latitude for the Secretary to determine the existence of an emergency and to order the means to address such emergency. It does not require the Secretary to engage in a lengthy weighing of options or explanation of the Secretary's actions prior to issuing an emergency order. Indeed, such a process would defeat the very purpose of the emergency power.

7. NEPA Concerns

55. Michigan AG claims that the Emergency Order violates the National Environmental Policy Act (NEPA), as any orders issued under section 202(c) that affect the quality of the environment are considered "major federal actions"[113] that require compliance with NEPA standards and requirements.[114] According to the Michigan AG, these requirements include the "issuance of an environmental impact statement, environmental assessment, categorical exclusion, or special environmental analysis."[115]

56. Michigan AG further asserts that in other section 202(c) orders, DOE has previously sought to comply with NEPA through categorical exclusions, such as categorical exclusion B4.4 for "power management activities," or special environmental assessments—neither of which has been undertaken nor would apply in this instance.[116] Lastly, Michigan AG argues that DOE would not be justified in seeking an extension of the Emergency Order beyond 90 days under section

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[111] Emergency Order at 2.

[112] *Id.*

[113] Michigan AG Pet. at 55-56 (citing 42 U.S.C. § 4336e(10)).

[114] *Id*. at 55-56.

[115] *Id*. at 56 (citing 10 C.F.R. § 1021.102(b)).

[116] *See id*.

202(c)(3), considering "[a]ny justification that NEPA can be sidestepped to address an emergency need fades as DOE's orders extend beyond the initial 90-day period."[117]

The DOE's Determination

57. We disagree with Michigan AG's contention that the DOE "is acting contrary to its own NEPA regulations and to its obligations under NEPA."[118] Although DOE has previously followed the procedures provided in the Department's NEPA regulations governing emergency actions, as described in 10 C.F.R. § 1021.343 (for example, by preparing a special environmental analysis after the issuance of a section 202(c) order), recent amendments to NEPA clarify that agencies are "not required to prepare an environmental document with respect to a proposed agency action if… the preparation of such document would clearly and fundamentally conflict with the requirements of another provision of law."[119] As DOE recently explained in its NEPA Implementing Procedures, "NEPA does not apply to DOE's issuance of emergency Orders pursuant to section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) because preparing an environmental document under NEPA's generally applicable provisions would clearly and fundamentally conflict with the emergency provisions in the Federal Power Act."[120]

58. As discussed above, under FPA section 202(c), Congress explicitly authorized the Secretary to "with or without . . . report" exercise certain emergency authorities. Requiring compliance with the analytic and procedural demands of preparing an environmental document under NEPA prior to issuing a section 202(c) emergency order fundamentally conflicts with the authorization for emergency action contemplated by FPA section 202(c) and the Congressional authorization to exercise such authorities without report. Accordingly, DOE has determined, in consultation with the Council on Environmental Quality, that "NEPA does not apply to DOE's issuance of emergency orders pursuant to section 202(c) . . . because preparing an environmental document under NEPA's generally applicable provisions would clearly and fundamentally conflict with the emergency provisions in the Federal Power Act."[121]

59. Furthermore, as stated above, section 202(c) specifically provides alternative measures for affording environmental protection by requiring the Secretary to ensure that any such order "to the maximum extent practicable, is consistent with any applicable Federal, state, or local

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[117] *Id*. at 57-58.

[118] *Id.* at 56.

[119] *See* 42 U.S.C. § 4336(a)(3); *see also* Fiscal Responsibility Act of 2023, Pub. L. No. 188-5, § 321(b), 137 Stat. 10, 39 (2023).

[120] *National Environmental Policy Act* (*NEPA) Implementing Procedures*, U.S. Department of Energy, 6 (June 30, 2025), https://www.energy.gov/sites/default/files/2025-06/2025-06-30-DOE-NEPA-Procedures.pdf.

[121] *See id.*

environmental law or regulation and minimizes any adverse environmental impacts."[122] Again, those environmental obligations were met through the conditions imposed via the Emergency Order's limitation on the duration of the emergency operations, authorization of only the additional generation necessary, requirement that the operation of the plant to comply with environmental laws to the maximum extent feasible, and the requirement that MISO reports to the Department on MISO's compliance with the Emergency Order and corresponding environmental impacts, if any.

8. Deprivation of Fair Notice and Adequate Record

60. PIOs claim that DOE failed to comply with its own procedures to post filings on DOE's 202(c) website within twenty-four hours of receipt, depriving the public of fair notice and a meaningful opportunity to comment.[123] According to PIOs, DOE has not posted materials related to the Emergency Order that it has received, such as "a letter from counsel for Consumers Energy, which stated that MISO and Consumers Energy have not been able to reach agreement on the rate issues relating to the May 23, 2025 Order," among other things.[124] PIOs also argue that DOE's failure to follow these procedures "deprives the public and Public Interest Organizations of fair notice and an adequate record."[125]

The DOE's Determination

61. The subject of the letter PIOs reference was certain rate issues relating to the Emergency Order, as Consumers Energy and MISO have not been able to agree on appropriate rate issues relating to Emergency Order. Because the letter pertained to rate issues, DOE referred the issues to FERC pursuant to 10 C.F.R. § 205.376, by its own letter dated June 13, 2025.[126] Moreover, the letter and other materials identified by PIOs were submitted to the Department after the Emergency Order was issued and, as a result, had no bearing on the issuance of the Emergency Order.

9. Lack of Cost Allocation and Cost Recovery Framework

62. OMS claims that the Emergency Order disclaims responsibility for cost recovery to the FERC, while directly incurring costs through the continued operation of the Campbell Plant. OMS argues that this creates legal, jurisdictional, and equity concerns, by assigning costs to those not

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[122] 16 U.S.C. § 824a(c)(2).

[123] PIO Pet. at 50.

[124] *Id*.

[125] *Id.* (citing *United States v. Nova Scotia Food Prods. Corp.*, 568 F.2d 240, 249 (2d Cir. 1977)).

[126] *See* Ltr. from DOE to FERC, *Consumers Energy Company et al. v. Midcontinent Independent System Operator, Inc.*, FERC Docket. No. EL25-90 (June 13, 2025). In its letter, DOE described the contents of the prior letter from Consumers Energy, explaining that, "[o]n June 10, 2025, DOE received a letter from counsel for Consumers which stated that MISO and Consumers have not been able to reach agreement on the rate issues relating to the [Emergency Order]." *Id.* at 2.

causing the costs or receiving the benefits.[127] Further, OMS alleges the Emergency Order violates FPA sections 205 and 206, which OMS characterizes as requiring rates to be "just and reasonable and not unduly discriminatory or preferential."[128] Lastly, OMS alleges the Emergency Order violates "Cost Causation Principles" as held by courts.[129]

63. MPPA similarly claims it must be able to recover costs incurred due to compliance with the Emergency Order and operating the Campbell Plant beyond the retirement date of May 31, 2025, considering MPPA owns 4.80% of Unit No. 3 of the Campbell Plant and is therefore responsible for a portion of its operating and maintenance costs.[130]

64. According to MPPA, any alterations to the original directive could impact its financial recovery.[131] Additionally, MPPA is an intervenor in a related FERC complaint seeking cost recovery for the Campbell Plant owners and actively supports that complaint.[132] As such, MPPA's interests are unique and not adequately represented by other parties, and it requests party status in this DOE proceeding to ensure its concerns are addressed.[133]

The DOE's Determination

65. Petitioners' arguments are misguided. FPA section 202(c) does not impose any obligation on the Secretary to address cost allocation issues on the face of an emergency order. In any event, MISO's existing tariff already establishes how the costs of all generators dispatched by MISO ordinarily are to be allocated. Nothing in the Emergency Order held otherwise.

66. To the extent that the owners of the Campbell Plant desired additional compensation beyond what MISO's existing tariff provides, FPA section 202(c)(1) provides that: "[i]f the parties affected by [an emergency order issued pursuant to section 202(c)] fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party."

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[127] OMS Pet. at 4.

[128] *Id*. at 5.

[129] *Id*.

[130] MPPA Comments at 1-2.

[131] *Id*. at 2.

[132] *Id*.

[133] *Id*.

67. Consistent with this statutory provision, DOE's regulations concerning generation of electricity to alleviate an emergency shortage of electric power address the procedures that DOE will follow when relevant entities are not able to agree on the rate issues arising from an order issued by DOE pursuant to section 202(c):

> The applicant and the generating or transmitting systems from which emergency service is requested are encouraged to utilize the rates and charges contained in approved existing rate schedules or to negotiate mutually satisfactory rates for the proposed transactions. In the event that the DOE determines that an emergency exists under section 202(c), and the "entities" are unable to agree on the rates to be charged, the DOE shall prescribe the conditions of service and refer the rate issues to the [FERC] for determination by that agency in accordance with its standards and procedures.[134]

68. On June 6, 2025, Consumers Energy filed a complaint (Complaint) pursuant to sections 202(c), 306, and 309 of the FPA and Rule 206 of FERC's Rule of Practice and Procedure, proposing revisions to the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to add a provision (Proposed Tariff Provision) to allocate the costs of keeping the Campbell Plant in operation, in response to the Emergency Order.[135] On June 13, 2025, DOE promptly issued a referral on cost allocation to FERC, pursuant to 10 C.F.R. § 205.376, in Docket Nos. EL25-90 and AD25-14.[136] The referral letter specified that "DOE is not referring to the Commission any other matters, including, but not limited to, DOE's finding of an emergency, the prescription of conditions of service, or any other matter arising from DOE's exercise of its authority under section 202(c). In an order issued August 15, 2025, in Docket Nos. EL25-90 and AD25-14, FERC granted the Complaint and determined that the Proposed Tariff Provision is just and reasonable.[137] FERC directed MISO to make a compliance filing, within 30 days of the date of the order, and to adopt the Proposed Tariff Provision.[138]

69. Thus, the cost allocation process established in the Emergency Order worked exactly as contemplated by section 202(c) and DOE's implementing regulations.

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[134] 10 C.F.R. § 205.376.

[135] *Consumers Energy Company et al. v. Midcontinent Independent System Operator, Inc.*, FERC Docket No. EL25-90 (June 6, 2025) (*citing* 16 U.S.C. §§ 824a(c), 825e, 825h, and 18 C.F.R. § 385.206 (2024) (Consumers Energy argued FPA sections 202(c) and 309 provide ample support for their request but moved for Section 206 relief in the alternative)).

[136] *See* Ltr. from DOE to FERC, *Consumers Energy Company et al. v. Midcontinent Independent System Operator, Inc.*, FERC Docket Nos. EL25-90 and AD25-14 (June 13, 2025).

[137] *See Consumers Energy Co. v. Midcontinent Independent System Operator, Inc.*, 192 FERC ¶ 61,158 (2025).

[138] *Id.* at 18.

III. Procedural Issues

1. PIOs' Request for a Stay

70. PIOs move for a stay of the Emergency Order pending resolution of judicial review. In support of their request, PIOs contend that (i) absent a stay, they will be irreparably harmed by the Emergency Order, (ii) a stay will not harm any other interested parties, and (iii) the public interest favors a stay.[139]

The DOE's Determination

71. In considering a request for a stay, agencies consider (1) whether the party requesting the stay will suffer irreparable injury without a stay; (2) whether issuing a stay may substantially harm other parties; and (3) whether a stay is in the public interest.[140]

72. By its terms, the Emergency Order terminated on August 21, 2025. Consequently, the stay request is now moot.

73. In any case, DOE finds that a stay is not warranted here because issuing a stay will substantially harm other parties and therefore is not within the public interest. Specifically, the Emergency Order was issued to address a shortage of electric energy, a shortage of facilities for the generation of electric energy in the Midwest region of the United States. As discussed above, this determination is based on the insufficiency of dispatchable capacity and anticipated demand, and the risk to public health and safety presented by the potential loss of power to homes and local businesses in areas that may be affected by curtailments or outages. Imposition of a stay undoubtedly may harm those citizens residing in the Midwest region of the United States who would face potentially critical electric energy shortages, and therefore the stay is contrary to the public interest.

2. Motions to Intervene

74. Michigan AG, PIOs, Minnesota and Illinois, MPPA, and Maryland OPC each moved to intervene in this proceeding, citing various alleged interests which may be affected by the outcome of this proceeding.[141]

The DOE's Determination

75. The motions to intervene are hereby granted for Michigan AG, PIOs, Minnesota and Illinois, and MPPA, but DOE takes no position on whether they are "aggrieved" parties for

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[139] PIO Pet. at 51-53.

[140] *Nken v. Holder*, 556 U.S. 418, 434, 436 (2010); *Ohio v. EPA*, 603 U.S. 279, 291 (2024).

[141] *See* Michigan AG Pet. at 2-3; PIO Pet. at 5-11; Minnesota & Illinois Pet. at 3-8; OMS Pet. at 1-2; Maryland OPC Comments at 1-3; MPPA Comments at 1-2.

purposes of FPA section 313.[142] The motion to intervene by Maryland OPC is denied as DOE maintains that Maryland OPC is not an "aggrieved" party for purposes of FPA section 313.[143]

* * * * *

The Emergency Order is hereby modified upon the issuance of this Order and the result sustained, as discussed in the body of this Order.

Issued at 6:40pm Eastern Daylight Time on this 8th day of September 2025.

Chris Wright

Chris Wright

Secretary of Energy

[142] *See* 16 U.S.C. § 825*l*(b) ("Any party to a proceeding under this chapter aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the United States court of appeals for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part.").

[143] *See,* Resp. in Opp'n to Maryland Office of People's Counsel Mot. to Intervene. *People of the State of Michigan v. U.S. Department of Energy*, No. 25-1162 (D.C. Cir. Sept. 4, 2025).

EXHIBIT 35

BEFORE THE
UNITED STATES DEPARTMENT OF ENERGY

In re: Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid, July 2025	Submitted via e-mail to: AskCR@hq.doe.gov August 6, 2025

Motion to Intervene and Protective Request for Rehearing by the Attorneys General of Maryland, Washington, Illinois, Michigan, Minnesota, Arizona, Colorado, Connecticut, and New York

The Attorneys General of Maryland, Washington, Illinois, Michigan, Minnesota, Arizona, Colorado, Connecticut, and New York ("the States") make this filing to raise our concerns with the Department of Energy's ("Department" or "DOE") report titled *Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid*, published July 7, 2025 ("Report"),[1] and request rehearing of the same.

Given that DOE has not yet applied the report to issue future emergency orders, the States do not concede that the Federal Power Act requires the States to request rehearing at this time.[2] Still, the States acknowledge that President Trump instructed DOE to use the methodology in this report as part of a "protocol" to issue orders pursuant to Section 202(c) of the Federal Power Act preventing the retirement of power plants identified as critical to reliability in DOE's report.[3] DOE has indicated that it intends to comply with that mandate and use this Report to "guide reliability interventions" and issue Section 202(c) emergency orders.[4] The States reserve all rights to present these objections, or any other objection or legal challenge to the Report or DOE's reliance on this report going forward. However, out of an abundance of caution and to preserve their arguments, the States also formally request rehearing of the methodology,

[1] Available at https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29_0.pdf [https://perma.cc/J2XU-2RRJ].
[2] *See* 16 U.S.C. § 825*l*.
[3] *See* Exec. Order No. 14,262, 90 Fed. Reg. 15,521 (Apr. 14, 2025).
[4] *See* U.S. DEP'T OF ENERGY, *Fact Sheet: The Department of Energy's Resource Adequacy Report Affirms The Energy Emergency Facing The U.S. Power Grid* (2025), https://www.energy.gov/sites/default/files/2025-07/DOE_Fact_Sheet_Grid_Report_July_2025.pdf [https://perma.cc/YLX7-8G7T] (explaining that DOE's methodology will be used, pursuant to the executive order, "prevent [] generation resources from leaving the bulk-power system"); Press Release, U.S. Dep't of Energy, Department of Energy Releases Report on Evaluating U.S. Grid Reliability and Security (July 7, 2025), https://www.energy.gov/articles/department-energy-releases-report-evaluating-us-grid-reliability-and-security [https://perma.cc/8TEJ-AGH6]. (stating that its "methodology also informs the potential use of DOE's emergency authority under Section 202(c) of the Federal Power Act"); Report at *vi* (explaining that DOE's standard will be used to "guide reliability interventions"), 1 (emphasizing the need for DOE's "decisive intervention" in energy markets), 10 (analyzing ERCOT because "FPA Section 202(c) allows DOE to issue emergency orders to ERCOT").

standards, and protocol identified in this Report under Section 313*l* of the Federal Power Act, 16 U.S.C. § 825*l*.

This filing details the ways in which the Report is arbitrary and why it would be unlawful to rely on it to justify future Section 202(c) orders. The States also request DOE review the Report independently before it is used in any capacity in order to address the serious errors in the analysis highlighted here.

I. Motion to Intervene

The Attorneys General of Maryland, Washington, Illinois, Michigan, Minnesota, Arizona, Colorado, Connecticut, and New York move to intervene in this proceeding pursuant to Section 313*l* of the Federal Power Act, 16 U.S.C. § 825*l*, and request that the Department of Energy grant rehearing of its July 7, 2025 report titled *Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid*.

Executive Order 14262 and DOE's own statements alongside the Report's publication indicate that it will be used to "guide reliability interventions" and justify issuance of emergency orders under Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c). The Report is deeply flawed and, if DOE is taken at its word, it will inflict significant harm on our states.

Many of the retiring resources targeted by this report are located in our states. In Washington, for example, the Transalta Centralia coal-fired power plant is scheduled to retire in December 2025. In Colorado, the Craig and Comanche coal-fired power plants are scheduled to retire by the end of the year as well and the state's remaining coal fired power plants are scheduled to retire by 2031. These retirements have been thoroughly vetted by state and regional authorities and approved only following an extensive examination of cost considerations and reliability impacts.

And even when a source is not located directly in one of our states, the ratepayer impacts of overriding a planned retirement based on the DOE Report will often be felt by our residents. That is because many of these resources operate within regional transmission systems that spread costs across all, or a portion of, their footprint. In MISO, for example, ratepayers across the ISO's north and central regions are being asked to foot the bill for the continued operation of the J.H. Campbell coal-fired power plant in Michigan pursuant to a Section 202(c) order issued by DOE in May. In just five weeks, complying with that Order has cost the plant's owner $29 million.[5] The order is expected to cost consumers close to $100 million if it expires on August 21 and is not renewed.[6]

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[5] *See* CMS Energy Corp., Quarterly Report (Form 10-Q) (Jul. 31, 2025), https://www.sec.gov/ix?doc=/Archives/edgar/data/0000201533/000081115625000071/cms-20250630.htm.

[6] Brian Dabbs, *Coal Plant Ordered to Stay Open Cost $29M to Run in 5 Weeks*, POLITICO ENERGYWIRE (Aug. 1, 2025), https://subscriber.politicopro.com/article/eenews/2025/08/01/coal-plant-ordered-to-stay-open-cost-29m-to-run-in-5-weeks-00487542.

Our states are also harmed when Section 202(c) is used to keep polluting facilities from retiring in upwind locations. Fossil-fuel power plants are large sources of ozone-forming pollution and toxic emissions that contribute to nonattainment of air quality standards in downwind states like Connecticut, New York, and Maryland. Planned retirements have the benefit of reducing this pollution and overriding those state and regional determinations based on the DOE Report will further the harm that downwind states face from upwind sources.

Moreover, the report unlawfully intrudes on the states' authority to regulate generation resources within their borders. Section 201 of the Federal Power Act clearly reserves to the states their traditional authority "over facilities used for the generation of electric energy."[7] That authority "is a matter that has traditionally rested with the states, and it should continue to rest there."[8]

Both EO 14262 and subsequent statements by DOE make clear that the report will be used to justify Section 202(c) orders going forward.[9] The States are aggrieved by the report which paints an unrealistic picture of resource adequacy to justify use of DOE emergency authority. Exercising that authority in non-emergency situations will harm ratepayers and the environment and unlawfully infringe on an area of state sovereign authority. Moreover, our states are also purchasers of retail electricity and are directly harmed by the rate impacts from these decisions.

II. Background

a. Resource adequacy is highly regulated at the state and regional levels.

Existing regulatory mechanisms govern both federal requirements for reserve margins and state resource adequacy determinations. Resource adequacy is an integral part of prudent, least-cost, utility planning in every state and region of the country.[10] DOE plays no role in the complex proceedings to determine either reserve margins or specific resource adequacy conclusions. The Report fails to grapple with the complicated task of resource adequacy planning undertaken by state utility offices and regional grid planners across the country, yet these existing procedures are a key part of the alleged resource adequacy conundrum which the DOE Report claims to address.

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[7] 16 U.S.C. § 824(b)(1).
[8] *Devon Power LLC et al.,* 109 FERC ¶ 61,154, para. 47 (Nov. 8, 2004).
[9] *See* U.S. Dep't of Energy, Order No. 202-25-4 (May 30, 2025) [https://perma.cc/PS3M-6CJA] [*hereinafter* "Eddystone Order"] (The methodology "will be used to establish a protocol to identify which generation resources within a region are critical to system reliability and prevent identified generation resources from leaving the bulk power system. . . . DOE plans to use [the July 7] methodology to further evaluate Eddystone Units 3 and 4.").
[10] *See* SYNAPSE ENERGY ECONOMICS & LAWRENCE BERKELEY NATIONAL LABORATORY, BEST PRACTICES IN INTEGRATED RESOURCE PLANNING 1-2 (Nov. 2024), https://www.synapse-energy.com/sites/default/files/IRP_Best_Practices_2024_Synapse_LBNL_24-061_1.pdf [https://perma.cc/D68F-WHWQ].

i. States directly regulate resources to ensure an adequate supply of electricity.

Most states rely on resource planning processes to ensure that adequate generation is available to meet projected demand. While some states have largely delegated this authority to the regional grid operators and rely on market-based mechanisms to ensure future demand is met, it is ultimately the state that retains regulatory authority over generation resources.[11] These state processes are transparent and iterative, relying on technical and expert analysis to ensure that adequate resources are procured in a prudent manner. The States describe just a few of the mechanisms at play in our jurisdictions as relevant examples below.

1. Arizona

Arizona, like other states, regulates the power generation, transmission, and distribution needs of the electric grid to ensure resource adequacy and reliability. This regulatory authority is established in the State's constitution. The Arizona Constitution grants the Arizona Corporation Commission ("ACC") broad authority to regulate public service corporations, including electric utilities.[12] The Arizona Constitution also empowers the ACC to set just and reasonable classifications, rates, and charges, as well as to make and enforce rules, regulations, and orders for the governance of utilities. This constitutional authority underpins the ACC's ability to establish requirements for resource planning and grid reliability.[13]

The ACC has reliability requirements in its Resource Planning and Procurement ("RPP") rules.[14] The ACC's RPP rules require load-serving entities to file and seek acknowledgement of their prospective, 15-year resource plans every three years, which include projected data for generating units and power supply systems, capital costs, environmental impacts, and cost analyses.

The most recent version of Integrated Resource Plans was authorized by the ACC on October 21, 2024,[15] which approved the power generation, transmission, and distribution acquisition plans that were submitted by Arizona Public Service,[16] Tucson Electric Power,[17] and UNS Electric.[18] The ACC requires similar data from its electric cooperatives in order to improve

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[11] 16 U.S.C. § 824(b)(1).
[12] ARIZ. CONST. art. 15, § 3.
[13] *Id.*
[14] A.A.C. R14-2-701.
[15] ACC Decision No. 79589, https://docket.images.azcc.gov/0000212120.pdf?i=1754080707112.
[16] ARIZONA PUBLIC SERVICE, *2023 Integrated Resource Plan* (Nov. 1, 2023), https://docket.images.azcc.gov/E000031965.pdf?i=1754080707112.
[17] TUCSON ELECTRIC POWER, *Tucson Electric Power 2024 Integrated Resource Plan* (Nov. 1, 2023), https://docket.images.azcc.gov/E000031960.pdf?i=1754080707112.
[18] UNS ELECTRIC, *UNS Electric 2023 Integrated Resource Plan* (Nov. 1, 2023), https://docket.images.azcc.gov/E000031961.pdf?i=1754080707112.

grid performance and reliability in rural areas of the state.[19] The decision requires technology-neutral portfolio methodologies, annual load forecast accuracy reports, and analysis of coal-fired power plant retirement timelines to enhance reliability, building on existing triannual utility analyses. It also requires sharing modeling data with stakeholders.

While one major utility in Arizona, the Salt River Project, is not subject to the ACC's jurisdiction, it has adopted its own planning and goal-setting requirements, referred to as the Integrated System Plan.[20]

2. New York

The New York Independent System Operator ("NYISO") plays a significant role in safeguarding electric grid reliability while supporting the clean energy transition.[21] As part of its biennial reliability planning process, NYISO first conducts a Reliability Needs Assessment, which examines whether New York's power grid will have enough generation, storage, and transmission capacity to meet demand over the next ten years.[22] Specifically, the Assessment uses probabilistic simulations to evaluate whether New York meets the Loss of Load Expectation (LOLE) criterion of not more than 0.1 event-days/year (equivalent to one day in ten years), which is the standard reliability criterion used by the New York State Reliability Council and the Northeast Power Coordinating Council.[23] The Assessment also evaluates how New York's environmental and energy laws—such as the Climate Leadership and Community Protection Act, which requires 100% zero-emission electricity by 2040—will affect grid reliability, especially as fossil fuel-fired power plants retire, and electricity demand increases due to building electrification and the continued growth of the electric vehicle market.[24]

Following the Reliability Needs Assessment, NYISO completes the biennial planning process by issuing a Comprehensive Reliability Plan that documents the plans for a reliable electric grid over the same ten years.[25] The Comprehensive Reliability Plan provides solutions to any shortfalls identified in the Reliability Needs Assessment, such as accelerating battery deployment, deferring certain retirements, upgrading transmission lines, or increasing demand-side participation.[26] While the 2022 Reliability Needs Assessment did not identify any actionable

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[19] ARIZONA ELECTRIC POWER COOPERATIVE, *Demand-and Supply-Side Data Filing* (Apr. 1, 2025), https://docket.images.azcc.gov/E000042810.pdf?i=1753996193952.
[20] SALT RIVER PROJECT, *Integrated System Plan* (Apr. 1, 2025), https://www.srpnet.com/grid-water-management/future-planning/integrated-system-plan.
[21] *See About Us*, NYISO, https://www.nyiso.com/about-us.
[22] *See* NYISO, 2024 RELIABILITY NEEDS ASSESSMENT (Nov. 19, 2024), https://www.nyiso.com/documents/20142/2248793/2024-RNA-Report.pdf.
[23] *Id.* at 41.
[24] *Id.* at 23-24 fig. 13.
[25] *See* NYISO, 2023–2032 COMPREHENSIVE RELIABILITY PLAN (Nov. 28, 2023), https://www.nyiso.com/documents/20142/2248481/2023-2032-Comprehensive-Reliability-Plan.pdf (following the 2022 RNA and incorporating finding and solutions from the quarterly short term reliability process).
[26] *See id.*

reliability shortfalls, the 2023–2032 Comprehensive Reliability Plan nonetheless provided a forward-looking analysis that evaluated key risk factors related to reliability, including delays in major transmission projects, winter peaking and gas shortage risks, and extreme weather.[27]

In parallel with the biennial reliability planning process, as of 2019, NYISO also conducts a quarterly short-term reliability ("STAR") process to identify reliability needs that may arise over the next five years due to various changes in the grid, such as generator deactivations, revised transmission plans, or updated electricity demand.[28] For example, NYISO's Quarter 2 2023 STAR report, published on July 14, 2023, identified the potential for electricity supply shortfalls in New York City beginning in the summer 2025 as a result of the New York State Department of Environmental Conservation's "Peaker Rule," which seeks to reduce nitrogen oxide (NO_x) emissions from simple-cycle combustion turbines that supply backup generation during peak demand.[29] Following this STAR report, NYISO sought proposed solutions from market participants and ultimately exercised its authority under the Peaker Rule to require specific peaker units to remain operational until long-term solutions—such as the Champlain Hudson Power Express line, scheduled to enter service in spring 2026, bringing 1,250 MW of hydropower to New York City—could come online.[30] NYISO incorporates any needs or shortfalls identified in the STAR process into its biennial reliability planning process.[31]

3. Connecticut

Connecticut General Statutes § 16a-3a requires that the Department of Energy and Environmental Protection ("DEEP") prepare an Integrated Resource Plan ("IRP"). An IRP is composed of an assessment of the future electric needs and a plan to meet those future needs. It is "integrated" in that it looks at both demand side (conservation, energy efficiency, etc.) resources as well as the more traditional supply side (generation/power plants, transmission lines, etc.) resources in making its recommendations on how best to meet future electric energy needs in the state. Connecticut's current IRP was completed in 2020 and updated in 2022. DEEP is currently developing the 2025 IRP, which involves planning for the next ten years.

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[27] *Id.* at 48-67.

[28] *See Short-Term Reliability Process*, NYISO, https://www.nyiso.com/short-term-reliability-process (last visited July 28, 2025); *Reliability Planning Process and Declaring a Reliability Need: Next Steps*, NYISO (July 14, 2023), https://www.nyiso.com/-/reliability-planning-process-and-declaring-a-reliability-need-next-steps.

[29] NYISO, Short-Term Assessment of Reliability: 2023 Quarter 2 (July 14, 2023), https://www.nyiso.com/documents/20142/16004172/2023-Q2-STAR-Report-Final.pdf/5671e9f7-e996-653a-6a0e-9e12d2e41740.

[30] Press Release, NYISO, *NYISO Identifies Solution to Solve New York City Reliability Need* (Nov. 20, 2023), https://www.nyiso.com/-/press-release-%7C-nyiso-identifies-solution-to-solve-new-york-city-reliability-need.

[31] *See* NYISO, 2023–2032 COMPREHENSIVE RELIABILITY PLAN, *supra* note 25, at 30–32.

4. Colorado

Colorado regulations require every investor-owned retail electric utility and wholesale electric generation and transmission cooperative operating in the state to file an energy resource plan ("ERP") with the Public Utilities Commission ("PUC") every four years.[32] ERPs must contain electric demand and energy forecasts, evaluation of existing resources, an assessment of planning reserve margins and contingency plans for the acquisition of additional resources.[33] If an ERP includes retirement of an existing coal-fired generating facility, detailed workforce transition and community assistance plans must be filed.[34]

The planning process includes a reserve margin to meet a 0.1 days per year loss of load expectation standard.[35] Utilities use this reserve margin to propose additional generation for the planning period, where necessary. Those proposals are vetted through extensive stakeholder input and consideration by the Colorado PUC and the additional generation must satisfy availability and dispatchability criteria.[36] And where generation needs arise outside of the four-year ERP process, interim ERPs and applications for certificates of public convenience and necessity can be filed to meet those needs.[37] These proceedings are transparent and iterative and conducted with technical and expert analysis of grid conditions and ratepayer impacts.

5. Illinois

Illinois ratepayers are served by two Regional Transmission Organizations ("RTO"), Midcontinent Independent System Operator, Inc. ("MISO") and PJM Interconnection, L.L.C. ("PJM"). Central and Southern Illinois are encompassed by MISO Local Resource Zone 4 and a small portion of Northwest Illinois is included in MISO Local Resource Zone 1.[38] The service area of Commonwealth Edison Company, the load serving entity for Illinois electricity customers in Northern Illinois, is encompassed by PJM's ComEd Zone.[39] The Illinois Attorney General's office represents Illinois ratepayers who have a significant interest in resource adequacy and maintaining reliable service at least possible cost that is materially affected by the outcome of this proceeding.

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[32] 4 COLO. CODE REGS. § 723-3-3603(a).
[33] 4 COLO. CODE REGS. § 723-3-3604(b-f).
[34] COLO. REV. STAT. § 40-2-125.5(4)(a)(VII).
[35] *See* Colo. Pub. Utils. Comm'n Proceeding No. 24A-0422E, HE 109 and HE 109 ZM-1; Colo. Pub. Utils. Comm'n Proceeding No. 21A-0141E, Hrg. Exh. 115, pp. 8-10.
[36] COLO. REV. STAT. § 40-2-125.5 (4)(d)(II).
[37] *Id*.
[38] *See* MISO Tariff, Attachment VV, Map of Local Resource Zone Boundaries, https://docs.misoenergy.org/miso12-legalcontent/Attachment_VV_-_MAP_of_Local_Resource_Zone_Boundaries.pdf.
[39] *See* MISO Tariff, Attachment VV, Map of Local Resource Zone Boundaries, https://docs.misoenergy.org/miso12-legalcontent/Attachment_VV_-_MAP_of_Local_Resource_Zone_Boundaries.pdf.

6. Washington

Washington electric utilities file clean energy implementation plans to the Washington Utilities and Transportation Commission once every four years with a biennial update filing at the midway point of every plan.[40] They also file long term integrated resource plans every four years.[41] For investor-owned utilities, if an integrated resource plan identifies a resource need within the next four years, the utility must file a request for proposal with the Commission for approval.[42]

7. Michigan

In Michigan, ratepayers are served primarily by MISO, with a smaller portion included within PJM. In MISO, the regulation of resource adequacy planning has both a state and federal aspect. MISO member states have a capacity obligation under the MISO tariff. MISO's resource adequacy requirements, however, are designed to be complementary to the primary role of the states in ensuring resource adequacy.[43] In Michigan, the investment decisions of utilities are regulated by the Michigan Public Service Commission ("MI PSC"). Through Michigan's state Integrated Resource Planning process, the MI PSC exercises regulatory authority over utilities in order to ensure that the utilities obtain the amounts of capacity they need to meet their obligations under the MISO tariff, and that they do so at the best value to ratepayers, and with a composition of resources that otherwise complies with state law, including environmental requirements.

Michigan's IRP statute requires electric utilities whose rates are regulated by the MI PSC to periodically file an integrated resource plan. The IRP is a projection of the utility's load obligations and a plan to meet those obligations.[44] The IRP statute directs the MI PSC to approve

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[40] *See* WASH. REV. CODE § 19.405.060; WASH. ADMIN. CODE § 480-100-640, -645; *see also* WASH. UTILS. AND TRANSP. COMM'N, *Clean Energy Implementation Plans*, https://www.utc.wa.gov/regulated-industries/utilities/energy/conservation-and-renewable-energy-overview/clean-energy-transformation-act/clean-energy-implementation-plans-ceips.

[41] *See* WASH. REV. CODE § 19.280.040 to 050; WASH. ADMIN. CODE § 480-100-620, -625; *see also* WASH. UTILS. AND TRANSP. COMM'N, *Integrated Resource Plans*, https://www.utc.wa.gov/integrated-resource-plans-irps.

[42] *See* WASH. ADMIN. CODE § 480-107-009(2), -017.

[43] *Midcontinent Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,215, 62,606 at P 13 (2020) ("approximately 90% of the load in MISO is served by vertically integrated LSEs, the vast majority of which are subject to state integrated resource planning processes. To accommodate the make-up of the MISO's footprint, MISO's proposed Tariff provisions accepted in the February 2018 Order provide that its resource adequacy requirements "are complementary to the reliability mechanisms of the states and the Regional Entities ... within the [MISO] region."); *see also id*. ("MISO's proposed Tariff language explains that the resource adequacy requirements 'are not intended to and shall not in any way affect state actions over entities under the states' jurisdiction.' In other words, unlike the centralized capacity constructs used in the Eastern RTOs/ISOs, MISO's Auction is not—*and has never been*—the primary mechanism for its [Load Serving Entities] to procure capacity."); *Midwest Indep. Transmission Sys. Operator, Inc*., 119 FERC ¶ 61,311, 62,722 at P 75 (2007) ("From the beginning . . . the Commission has recognized the role that state resource planning plays in managing the resource adequacy of [MISO]").

[44] MICH. COMP. LAWS § 460.6t(3).

a plan if the MI PSC determines that it "represents the most reasonable and prudent means of meeting the electric utility's energy and capacity needs."[45] To make that decision, the statute instructs the MI PSC to consider whether the IRP appropriately balances seven statutory factors: (i) resource adequacy and capacity to serve anticipated peak electric load, applicable planning reserve margin, and local clearing requirement; (ii) compliance with applicable state and federal environmental regulations; (iii) competitive pricing; (iv) reliability; (v) commodity price risks; (vi) diversity of generation supply; and (vii) whether proposed levels of peak load reduction and energy waste reduction are reasonable and cost effective.[46]

The IRP statute also directs the MI PSC to establish – among other things – computer modeling scenarios that must be used to analyze the costs of possible plans in an IRP, including costs associated with plant retirement dates.[47] In Consumers Energy's 2021 IRP, for example, the company conducted modeling that compared other possible retirement dates of its J.H. Campbell coal-fired power plant to a 2025 retirement and concluded that the most cost-effective retirement date was 2025.

8. Minnesota

Since 1991, Minnesota law has required each public utility to propose a set of resource options that the utility could use to meet the electricity service needs of its customers over a forecast period of 15 years.[48] The resource options include using, refurbishing and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation. The Minnesota Public Utilities Commission ("Minnesota Commission") evaluates the plan's ability to ensure reliability of utility service, keep customer's bills and utility rates as low as practicable, minimize adverse socioeconomic effects and adverse effects on the environment, and limit risk.[49] The Commission uses an extensive notice and comment process in which the utilities and stakeholders evaluate detailed modeling of demand and various resource costs. The Minnesota Commission may approve, reject or modify utility resource plans.[50] In the most recent resource plan for Minnesota's largest utility, the Minnesota Commission approved including in the resource plan a new natural-gas fired 420 MW combustion turbine plant to address peak load.[51]

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[45] MICH. COMP. LAWS § 460.6t(8)(a).
[46] *Id*.
[47] MICH. COMP. LAWS § 460.6t(1).
[48] MINN. STAT. § 216B.2422; MINN. R. ch. 7843; *see also Electric Integrated Resource Planning (IRP)*, MINN. PUB. UTILS. COMM'N, https://mn.gov/puc/activities/economic-analysis/planning/irp/ (last accessed Aug. 6, 2025).
[49] MINN. R. 7843.0600, subp. 3.
[50] MINN. STAT. § 216B.2422.
[51] MINN. PUB. UTILS. COMM'N, Dkt. No. E-002/RP-24-67; E-002/CN-23-212, Order Approving Settlement Agreement With Modifications (Apr. 21, 2025), https://www.edockets.state.mn.us/documents/%7B30F45996-0000-CF1F-80E3-5E41B2F16918%7D/download?contentSequence=0&rowIndex=3.

ii. Regional operators establish mechanisms to ensure resource adequacy and grid stability.

State primacy over resource adequacy is further complemented by the regional transmission operators. For example, MISO and PJM both have extensive processes for obtaining resource adequacy and reliability. MISO works collaboratively with its member states to ensure resource adequacy throughout its service area.[52] MISO ensures there is sufficient generation capacity through forecasting demand growth, assessing existing generation assets, and planning for new generation resources.[53] MISO accounts for state Integrated Resource Planning and also operates a capacity auction where utilities and other load-serving entities can procure the necessary generation capacity to meet projected demand. MISO's capacity market is intended to incentivize the development and maintenance of adequate generation resources.[54] MISO's annual Planning Resource Auction ("PRA") procures sufficient resources and allows market participants to buy and sell capacity via the auction.[55]

Resource adequacy within the PJM footprint is subject to an established, extensive, layered, framework of oversight and regulation. The resource adequacy contribution of each PJM electric generating plant operating is subject to ongoing, technical reviews by PJM, pursuant to its tariff, and in conformity with rules promulgated and periodic grid reliability reviews conducted by Reliability First Corporation and NERC, respectively.[56] PJM also conducts an auction, its base residual auction ("BRA"), for the procurement of capacity from generating resources.

b. Historic use of 202(c) is limited.

Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c), grants the Secretary of Energy the authority to issue orders that require the "temporary connection[]" of power plants and the "generation, delivery, interchange, or transmission of electric energy" in order to address certain emergencies "and serve the public interest."[57] The law also effectively waives compliance with "any Federal, State, or local environmental law or regulation" that would conflict with any

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[52] *System Planning*, MISO, https://www.misoenergy.org/meet-miso/about-miso/industry-foundations/grid_planning_basics/ (last visited July 30, 2025).
[53] *Id.*
[54] *Id.*
[55] *Resource Adequacy*, MISO, https://www.misoenergy.org/planning/resource-adequacy2/resource-adequacy/#t=10&p=0&s=FileName&sd=desc (last visited July 30, 2025).
[56] *See, e.g., North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom*. *Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009); Order No. 748, Final Rule, 134 FERC ¶ 61,213 (2011). FERC approved regional reliability standards applicable to PJM, developed by RFC and submitted to FERC by NERC. *Notice of Proposed Rulemaking on Plan. Res. Adequacy Assessment Reliability Standard*,133 FERC ¶ 61,066 (2010) (proposed rule for RFC); *Plan. Res. Adequacy Assessment Reliability Standard*, Order No. 747, 134 FERC ¶ 61,212 (2011) (final approval of RFC's Resource Adequacy Reliability Standard).
[57] 16 U.S.C. § 824a(c)(1).

party's obligations under such an order, but limits the length of any order that conflicts with a pollution control requirement to 90-days, with extension possible.[58]

That authority originated principally as a wartime power of what was then the Federal Power Commission. Section 202(c) was enacted in 1935, in the leadup to World War II, with the same "emergency" language that exists in the statute today, specifically to guard against energy related shortages that were viewed as hampering national security during World War I.[59] It was initially used largely to issue "interconnection" orders specifically between utilities at a time when America's electric grid was more fragmented, monopolized, and less diversified than it is today.[60] Interconnection was seen as a powerful means to increase grid reliability, but the federal government largely lacked regulatory power over the electric sector at the time.[61] The then-Federal Power Commission did not invoke its emergency authority until the United States entered World War II.[62] Section 202(c) orders were issued repeatedly during the war, primarily to order interconnection between utilities, but the provision was rarely invoked once the war ended. A number of organizational changes ensued in the decades following the War and the provision's authority eventually came to rest with the Secretary of Energy.[63]

From 2000, when the authority of Section 202(c) was "rediscovered" in response to the California Energy Crisis, through 2024, the provision was sparingly invoked to respond to true emergencies to avoid imminent widespread blackouts.[64] Most 202(c) orders issued during this period involved natural disasters or other acute power outages.[65] These emergencies included one high-profile incident near the nation's capital that led to the statute's 2015 amendment, adding the provisions explicitly waiving environmental liability due to compliance with a Section 202(c) order, leading the statute to read as it does today.[66] Orders issued during this period were typically of limited duration, lasting for a period of days to weeks.[67]

The typical process for issuing a Section 202(c) order is outlined by DOE implementing regulations at 10 C.F.R. §§ 205.370-379. In the normal course, requests for Section 202(c) orders originate with a grid operator or utility facing an acute and unforeseen emergency that normal processes and demand response mechanisms are incapable of addressing, though they may be issued by the Department unprompted as well.[68] Applications for Section 202(c) orders made by

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[58] *Id.* at § 824a(c)(3)-(4).
[59] For a deeper discussion of the history of Section 202(c), see Benjamin Rolsma, *The New Reliability Override*, 57 CONN. L. REV. 789 (2025). *See also id.* at 798-802.
[60] *Id.* at 802-804.
[61] *Id.* at 801-802.
[62] *See id.* at 803 n.82 *and accompanying text*.
[63] *Id.* at 803-04; 42 U.S.C. § 7151(b).
[64] *Id*. at 805-509.
[65] Rolsma, *supra* note 59, at 805-09, 839-42 tbl.1.
[66] *Id.* at 806-08 (citing DEP'T OF ENERGY, ORDER NO. 202-05-3 (Dec. 20, 2005)); 16 U.S.C. § 824a(c)(3)-(5).
[67] *See* Rolsma, *supra* note [x], at 839-42 tbl.1 (chronicling all Section 202(c) orders issued "after dissolution of the Federal Power Commission").
[68] *See* 10 C.F.R. § 205.370.

outside entities are to include specific details to "be considered by the DOE in determining that an emergency exists" and the appropriate intervention.[69] This information is supposed to include "[d]aily peak load and energy requirements for each of the past 30 days and projections for each day of the expected duration of the emergency," "[a] description of the situation and a discussion of why this is an emergency, … includ[ing] any contingency plan of the applicant and the current level of implementation," and "[a] description of efforts made to obtain additional power through voluntary means and the results of such efforts."[70] Section 202(c) orders bypass environmental review under NEPA and can waive pollution control requirements that would otherwise apply to the facilities.[71]

c. President Trump Declares a National Energy Emergency on his first day in office and subsequently issues EO 14262.

On January 20, 2025, his first day in office, President Trump issued Executive Order 14156 titled "Declaring a National Energy Emergency".[72] That unilateral declaration did not provide any factual support for its assertion that emergency conditions had overtaken the electricity grid.[73]

On April 8, 2025, President Trump issued Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid."[74] Section 3(b) of the executive order directs the Secretary of Energy (Secretary) to:

> develop a uniform methodology for analyzing current and anticipated reserve margins for all regions of the bulk power system regulated by the Federal Energy Regulatory Commission and shall utilize this methodology to identify current and anticipated regions with reserve margins below acceptable thresholds as identified by the Secretary of Energy.[75]

It further requires that the methodology in the Report (Methodology) "be published, along with any analysis it produces, on the Department of Energy's website within 90 days of the date of this order," or July 7, 2025.[76]

The Executive Order describes the featured role that the Report will play in future DOE actions. EO 14262 § 3 is titled "Addressing Energy Reliability and Security with Emergency Authority" and § 3(c) directs the Secretary to "establish a process by which the [Methodology],

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[69] 10 C.F.R. § 205.373.
[70] 10 C.F.R. §§ 205.373(a)-(o).
[71] *See, e.g.*, *Environmental Integrity Project v. DOE*, 471 F. Supp. 3d 132 (D.D.C. 2023).
[72] 90 Fed. Reg. 8433.
[73] *See Id*. (providing no factual support for claimed emergency). Many of the States have since joined litigation challenging that declaration. *See* Complaint, *Washington v. Trump*, NO. 2:25-cv-00869 (W.D. Wa. May 9, 2025).
[74] The EO was signed alongside Exec. Order No. 14261, Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241, 90 Fed. Reg. 15517 (Apr. 8, 2025), at a White House event with members of the coal industry.
[75] Exec. Order No. 14262, 90 Fed. Reg. 15521, 15521 (Apr. 8, 2025).
[76] Exec. Order No. 14262, 90 Fed. Reg. 15521, 15521 (Apr. 8, 2025) (referring to § 3(b)(iii)).

and any analysis and results it produces, are assessed on a regular basis, and a protocol to identify which generation resources within a region are critical to system reliability."[77] It indicates the protocol shall "include all mechanisms available under applicable law, including Section 202(c) of the Federal Power Act, to ensure any generation resource identified as critical within an at-risk region is appropriately retained as an available generation resource within the at-risk region."[78] In short, Executive Order 14262 instructs DOE to publish a methodology by July 7, 2025 that will form the basis for future exercises of its Section 202(c) authority.

d. DOE's 2025 Emergency Orders Preventing the Retirement of Fossil Fuel Power Plants.

Since January 20, 2025, the U.S. Department of Energy (DOE) has issued five emergency orders under Section 202(c) of the Federal Power Act (FPA), a sharp uptick from the less than one order per year issued on average from 2017-2024.[79] Three of these orders were largely in line with DOE's historic Section 202(c) practice – allowing units to modify their operations in response to acute risks to the grid.[80] However, in late May 2025 DOE issued a pair of Section 202(c) orders requiring facilities that were slated to retire the very next business day to remain on-line. These orders represent a marked shift in how Section 202(c) has historically been used.[81]

For example, the orders for the J.H. Campbell Generating Station in Michigan and the Eddystone Plant in Pennsylvania, both previously slated for retirement, cited general concerns about resource adequacy and not any acute emergency. In Michigan, regulators warned that the Campbell order would place upward pressure on ratepayers, particularly in Consumers Energy's service territory, where decommissioning costs were already being recovered through base rates. One Michigan regulator estimated that the costs of complying with DOE's order for 90 days would approach $100 million.[82] Consumers Energy has since disclosed that continued operation

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[77] Exec. Order No. 14262, 90 Fed. Reg. 15521, 15522 (Apr. 8, 2025) (referring to § 3).
[78] Exec. Order No. 14262, 90 Fed. Reg. 15521, 15522 (Apr. 8, 2025) (referring to § 3) (emphasis added).
[79] U.S. DEP'T OF ENERGY, *DOE Issues 202(c) Orders to PREPA for Grid Stability*, https://www.energy.gov/ceser/does-use-federal-power-act-emergency-authority.
[80] *See* Duke Energy Carolinas (Order No. 202-25-5) (allowing increased operations to support grid stability); H.A. Wagner (Order No. 202-25-6) (allowing exceedance of operational limit – but maintained compliance with pollution control requirements – to allow units to respond to demand); PREPA (Order No. 202-25-1) (requiring measures to mitigate outage risks during high load conditions)
[81] U.S. Dep't of Energy, Order No. 202-25-3 (May 23, 2025), https://www.energy.gov/sites/default/files/2025-05/Midcontinent%20Independent%20System%20Operator%20%28MISO%29%20202%28c%29%20Order_1.pdf [https://perma.cc/Q7P7-TDTX] [*hereinafter* "Campbell Order"]; Eddystone Order, *supra* note 9.
[82] *See, e.g.*, Ella Nilsen, *The Trump Admin Ordered a Coal Power Plant to Stay On Past Retirement. Customers in 15 States Will Foot the Bill*, CNN (June 6, 2025), https://www.cnn.com/2025/06/06/climate/michigan-coal-plant-energy-cost-wright.

of the plant in the first five weeks since the Order was issued has resulted in a net financial impact of $29 million.[83]

e. DOE Publishes its Methodology and Reliability Standard to Guide Future Section 202(c) "Reliability Interventions."

On July 7, 2025, DOE published a "Report on Evaluating U.S. Grid Reliability and Security," which set forth the methodology and reliability standard that the Executive Order had mandated. *See* Report at *vi* (hereinafter, "the Report"). DOE stated the methodology "will be assessed on a regular basis to ensure its usefulness for effective action among industry and government decision-makers across the United States." *Id*. Despite this statement, DOE has not explained how or when it will re-assess the methodology and, to date, has not involved the public in the creation of the methodology or offered an opportunity for public comment on the methodology.

i. DOE did not provide public notice or an opportunity for comment on the Report.

Before publishing the Report, DOE provided no public notice or request for comment on methods or reliability standards that DOE was considering. DOE did not consult with the undersigned States or, to the States' knowledge and belief, consult with any grid operator or other State on appropriate mechanisms to ensure grid reliability and grid reliability issues around the country.[84] Other than the statements in the Report, DOE has not made the underlying data or models available to allow the public to reproduce or test DOE's analysis. DOE has not requested public comment on the Report, opened any administrative proceeding to otherwise involve the public in DOE's methodology, or published the Report in the Federal Register.

DOE has confirmed, consistent with the Executive Order's mandate, that it will rely on the Report to justify future Section 202(c) orders.[85] DOE explained in the June 2025 Eddystone Order that it would use the forthcoming Report "to establish a protocol to identify which generation resources within a region are critical to system reliability and prevent identified generation resources from leaving the bulk power system[,]" including potential Section 202(c) orders extending DOE's Eddystone Order.[86] DOE also issued the Report with a "Fact Sheet,"

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[83] *See supra* notes 5-6 *and accompanying text*; NRDC, *Trump Administration's DOE Is Forcing Coal Plants to Stay Open. Michigan Is the First Target* (June 16, 2025), https://www.nrdc.org/bio/derrell-e-slaughter/trump-administrations-doe-forcing-coal-plants-stay-open-michigan-first.
[84] *See* Report at i (acknowledging lack of data from regional and utility levels).
[85] See Report at vi (explaining that DOE's standard will be used to "guide reliability interventions"), 1 (emphasizing the need for DOE's "decisive intervention" in energy markets), 10 (analyzing ERCOT because "FPA Section 202(c) allows DOE to issue emergency orders to ERCOT").
[86] Eddystone Order, *supra* note 9.

wherein DOE explained that the methodology will be used to "prevent [] generation resources from leaving the bulk-power system."[87]

ii. DOE's analysis rests on key assumptions about load growth, retirements, and capacity additions.

The Report's analysis rests on assumptions about future electricity demand (referred to as "load growth"), anticipated retirements of existing facilities ("retirements"), and future electricity generation sources (referred to as "capacity additions"). DOE made additional assumptions, some explicit and others implicit, which the States have not yet been able to fully analyze or comment on here.[88]

Regarding load growth, DOE assumes 101 Gigawatts ("GW") of new load will be added to the grid by 2030.[89] DOE projects that data centers, especially for developing Artificial Intelligence ("AI"), will add 50 GW of that new load, and other demand growth will add 51 GW. DOE appears to assume that data-center load will be "firm," meaning electricity to meet that demand must be guaranteed at all times.[90] That is in contrast to "interruptible" load for which supply can be reduced during peak periods.[91] DOE also appears to assume that all the new data centers will connect to the grid, rather than rely on "behind-the-meter" generation and that regulators and grid operators will allow every MW of new load to connect to the grid on a firm basis, even if doing so threatens the grid's reliability.[92] Based on these assumptions, DOE projects a 15% increase in load by 2030.[93]

The Report assumes 51 GW of non-data-center load, purportedly based on the NERC's 2024 ITCS projections.[94] DOE does not explain why using projections from a NERC report on inter-regional transmission is reasonable or why those projections are reliable for DOE's purposes. Additionally, NERC's 2024 projections likely already include some data center load expectations, as well as policies to encourage the electrification of transportation, heating and cooling, and other energy uses that the Trump Administration has rescinded or is planning to

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[87] U.S. DEP'T OF ENERGY, *Fact Sheet: The Department of Energy's Resource Adequacy Report Affirms The Energy Emergency Facing The U.S. Power Grid* (2025), https://www.energy.gov/sites/default/files/2025-07/DOE_Fact_Sheet_Grid_Report_July_2025.pdf [https://perma.cc/YLX7-8G7T]; *see also* Press Release, U.S. Dep't of Energy, Department of Energy Releases Report on Evaluating U.S. Grid Reliability and Security (July 7, 2025), https://www.energy.gov/articles/department-energy-releases-report-evaluating-us-grid-reliability-and-security [https://perma.cc/8TEJ-AGH6] (stating that its "methodology also informs the potential use of DOE's emergency authority under Section 202(c) of the Federal Power Act").
[88] *See generally* Report at 10-19.
[89] Report at 2-3.
[90] Report at 18.
[91] *Id.*
[92] *See id.* at 2-3, 15-18.
[93] *See* Ric O'Connell, *GridLab Analysis: Department of Energy Resource Adequacy Report* (July 11, 2025), https://gridlab.org/gridlab-analysis-department-of-energy-resource-adequacy-report/ [https://perma.cc/GN56-VLNA].
[94] *See* Report at 11.

rescind.[95] DOE apparently did not account for shifting electrification policies in its load projections.

Regarding retirements, DOE assumed 104 GW of "firm capacity" retirements by 2030, roughly three-quarters from coal-fired power plants and one-quarter gas plants.[96] *Id*. at 5; see also Report at 3, 12-13, A1-A8. DOE included approximately 50 GW of "confirmed retirements," retirements that have been formally recognized by system operators as having started the official retirement process and are assumed to retire on their expected date.[97] DOE also included approximately 50 GW of "announced retirements," which are generators that have publicly stated retirement plans but not formally notified system operators or initiated the retirement process.[98]

Regarding capacity additions, DOE took a more conservative approach. Rather than including all announced projects, DOE assumed "that only projects considered very mature in the development pipeline—such as those with signed interconnection agreements—will be built." Report at A-5. These projects, known as Tier 1 resources, are by their very nature likely to be built in the short term. As a result, DOE assumed "minimal capacity additions beyond 2026." *Id*. In addition, DOE does not appear to have modeled new transmission projects, despite their grid reliability benefits.

The Report's assumptions about load growth and electricity supply differ significantly from other forecasts.[99] As one grid reliability expert commented, DOE's report "used aggressive assumptions regarding load growth and retirements, but conservative assumptions about how much new generation capacity will be added, even assuming no new resources after 2026."[100] For example, DOE assumed 15% load growth by 2030, but the U.S. Energy Information Agency recently assumed just 6% in their "high" growth" case.[101] Other differences with the Energy

[95] *See* NERC, 2024 Long Term Reliability Assessment Report 8 (July 15, 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf [https://perma.cc/NMP4-KRN5] (discussing how "the continued adoption of electric vehicles and heat pumps is a substantial driver for demand around North America").
[96] Report at 5.
[97] *Id.* at 12; *see also* O'Connell, *supra* note 93.
[98] Report at 12.
[99] Report at 2 (noting that demand forecasts vary widely).
[100] O'Connell, *supra* note 93.
[101] U.S. Energy Information Administration, Form EIA-860 (June 11, 2025) https://www.eia.gov/electricity/data/eia860/.

Information Agency forecasts are described in the chart below:[102]

DOE Report Assumptions vs. U.S. Energy Information Administration Data:

	DOE Report	EIA 860
Load growth:	101 GW	N/A
Capacity Additions	209 GW	200 GW
Gas Capacity Additions	22 GW	35 GW
Battery Capacity Additions	31 GW	53 GW
Retirements	104 GW	52 GW

The Report also does not address actions already being taken by states, utilities, and regional grid operators to meet increased load growth or how markets are already responding to increasing demand. As GridLab explained in its analysis:

> Markets and utilities have already responded with plans to add new capacity and fast track new resources. These include PJM's Reliability Resource Initiative, which plans on adding 11 GW of new firm resources by 2030. SPP and MISO both have proposals at FERC (called ERAS) that could add another 30 GW of firm resources. Those three regional efforts alone would add roughly twice what the DOE assumed for the entire nation.[103]

iii. Based on these assumptions and DOE's resource adequacy standard, DOE concluded intervention in electricity markets is needed to prevent outages.

DOE then adopted a novel "resource adequacy standard," using a combination of non-traditional and non-standardized metrics ("Loss of Load Hours" and "Normalized Unserved Energy").[104] DOE selected the target to be achieved with each metric.[105]

DOE did not define what energy sources it considered "firm" capacity or why only those sources provide the necessary attributes for grid reliability. DOE's usage of the term in the report suggests that only coal or gas power plants count as "firm" capacity and excluded other sources that could provide similar, greater, or different levels of reliability (like batteries or transmission) from its analysis.[106]

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[102] O'Connell, *supra* note 93.
[103] *Id*.
[104] Report at 3-4.
[105] *Id.*
[106] *See, e.g.*, *id.* at 1, 32, 37.

DOE portrayed three scenarios in an attempt to assess the impact of planned retirements on resource adequacy in 2030.[107] The first scenario is "Plant Closures," which assumes that announced retirements and capacity additions "in the final stages for connection" that are "either under construction or ha[ve] received approved planning requirements" will occur.[108] The second scenario is "No Plant Closures," which has the same assumption about additions as the "Plant Closures" scenario but assumes no retirements.[109] The third scenario is "Required Build" which uses the "Plant Closures" scenario's assumptions about retirements and then artificially adds enough hypothetical perfect capacity to the system to meet DOE's new reliability standard.[110] Perfect capacity is hypothetical capacity that experiences no outages and is used in the modeling "to avoid the complex decision of selecting specific generation technologies, as that is ultimately an optimization of reliability against cost considerations."[111]

DOE then concluded, based on the above assumptions, the risk of power outages in 2030 would be 100 times higher in 2030 than it is today.[112] DOE concluded that "decisive intervention" and "robust and rapid reforms" are necessary to avoid this result and to accommodate "projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence (AI) innovation.[113] Numerous grid experts have commented on the shortcomings of this approach.[114]

III. Statement of Issues and Specification of Errors.

1. The Report is arbitrary, capricious, contrary to law, and unsupported by substantial evidence in violation of the Administrative Procedure Act and Federal Power Act because it suffers from numerous analytical, mathematical, and empirical flaws, including but not limited to the following:
    a. DOE relies on key assumptions about load growth, retirements, and capacity additions that are unreasonable and unsupported by evidence or logic.

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[107] *Id.* at 3, 5.
[108] *Id.* at 4-5.
[109] *Id.*
[110] *Id.*
[111] *Id.* at 5.
[112] *Id.* at 1.
[113] *Id.*
[114] *See, e.g.*, Jeff St. John, *Critics Fear Trump Will Use Flawed DOE Report to Push Pro-Coal Agenda*, CANARY MEDIA (July 14, 2025), https://www.canarymedia.com/articles/fossil-fuels/trump-doe-report-open-coal-plants [https://perma.cc/2T7L-3FWX]; Matthias Fripp & Brendan Pierpont, *Energy Department's Flawed Grid Study Props Up Expensive, Zombie Power Plants*, UTILITYDIVE (July 24, 2025), https://www.utilitydive.com/news/doe-grid-reliability-study-zombie-power-plants/753596/ [https://perma.cc/QH3V-KM5R]; INST. FOR POL'Y INTEGRITY, ENOUGH ENERGY: A REVIEW OF DOE'S RESOURCE ADEQUACY METHODOLOGY (July 2025), https://policyintegrity.org/files/publications/IPI_EnoughEnergy_FinalReport.pdf [https://perma.cc/WN39-K9LE].

b. DOE assumes the transmission grid will remain static over the next five years and fails to consider how new transmission projects in development will impact reliability.
c. DOE fails to define "firm power capacity" or reasonably explain why DOE apparently considers only coal and gas to be "firm power capacity" when other generation sources, energy storage, or transmission could provide similar or greater reliability attributes.
d. DOE's assumptions unreasonably presume that the market, grid operators, and state regulators will take no action in the next five years to address load growth or reliability issues, and that no alternative other than preserving aging coal and gas power plants will ensure grid reliability.
e. DOE's analysis suffers from mathematical errors, analytical flaws, and lacks sufficient data or regional input. Those flaws are amply described in the attached analysis by the Institute for Policy Integrity and are incorporated and adopted here. *See* IPI Report (attached as Ex. XX).
f. Although DOE acknowledged that data and input from states and regional entities could improve the analysis, DOE chose not to consult with those entities or seek to obtain that data.
g. DOE selected non-traditional and non-standardized resource adequacy metrics and targets to be achieved without providing a reasoned explanation for its choices, including why it selected Normalized Unserved Energy ("NUSE") and Loss of Load Hours ("LOLH") instead of other possible metrics that would provide different data, an explanation of the costs and benefits of its choices and the target to be achieved, and why a nationwide target is appropriate despite regional differences in the costs and benefits with regard to resource adequacy.
h. DOE offers no reasonable explanation how the Report could be used to identify "at-risk region[s] and guide reliability interventions" when it arbitrarily relies on geographic groupings that do no match boundaries used by utilities, balancing authority areas, transmission planning regions, regional wholesale markets, NERC regional entities, or NERC reliability coordinators to reliably operate the nation's electric grid.

These assumptions and omissions work together to arbitrarily tip the scales in favor of finding a resource adequacy risk. *See Motor Vehicles Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983); *WildEarth Guardians v. U.S. Bureau of Land Mgmt*., 870 F.3d 1222, 1237 (10th Cir. 2017); *Nat. Res. Def. Council, Inc. v. Herrington*, 768 F.2d 1355, 1391 (D.C. Cir. 1985); *see also infra* Section 4.a.

2. The Report is arbitrary, capricious, contrary to law, and unsupported by substantial evidence in violation of the Administrative Procedure and Federal Power Acts because it pursues an extra-statutory motive of preserving aging and uneconomic fossil fuel

power plants at consumer expense, which contradicts the Federal Power Act's express goal of preserving just and reasonable rates and preventing undue discrimination or preference. The Administration's energy actions, when viewed collectively, also demonstrate that DOE has prejudged the outcome of this proceeding and intended its analysis to reach only one result: preventing the retirement of fossil-fueled power plants. *See Dep't of Com. v. New York*, 588 U.S. 752, 785 (2019); *Gresham v. Azar*, 950 F.3d 93, 104 (D.C. Cir. 2020), *vacated as moot*, *Becerra v. Gresham*, 142 S. Ct. 1665 (2022). *See also infra* Section 4.a.iii-iv.

3. The Report is arbitrary, capricious, contrary to law, and unsupported by substantial evidence in violation of the Administrative Procedure and Federal Power Acts because it purports to guide emergency action under Section 202(c) of the Federal Power Act but does not describe an "emergency" within the meaning of the Federal Power Act or DOE's implementing regulations. *See* 16 U.S.C. § 824a(c)(1); 10 C.F.R. § 205.371; *Otter Tail Power Co. v. Federal Power Com.*, 429 F.2d 232, 234 (8th Cir. 1970). *See also infra* Section 4.b.

4. The Report is arbitrary, capricious, contrary to law, and unsupported by substantial evidence in violation of the Administrative Procedure and Federal Power Acts because it "fails to consider an important aspect of the problem" and fails to consider reasonable alternatives. Specifically, the Report ignores alternatives, or in some cases actively prevents viable alternatives with no explanation, such as expanding interregional transmission, batteries, renewable energy, incorporating data centers flexibly into load, and the existing resource adequacy mechanisms that are used by states and regional grid operators to assess reliability and respond to resource adequacy needs. *See State Farm*, 463 U.S. at 43. *See also infra* Section 4.a. (arbitrary and capricious) and section 4.c. (existing resource adequacy mechanisms)].

5. The Report is *ultra vires* and contrary to law in violation of the Administrative Procedure and Federal Power Acts because it intrudes upon matters reserved for the States and the Federal Energy Regulatory Commission. DOE does not possess authority to set nationwide resource adequacy standards or regulate sources of electricity generation. *See* 16 U.S.C. § 824b(1); *Whitman v. Am. Trucking Ass'ns, Inc.*, 531 U.S. 457, 468 (2001). *See also infra* Section 4.d.

6. The Report violates the Administrative Procedure Act, 5 U.S.C. 553, because it establishes a legislative rule without first providing public notice and comment. *See Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87, 99–100 (1995); *Nat'l Min. Ass'n v. McCarthy*, 758 F.3d 243 (D.C. Cir. 2014); *Children's Health Care v. Centers for Medicare & Medicaid Servs.*, 900 F.3d 1022 (8th Cir. 2018). *See infra* Section 4.e.

7. The Report is arbitrary, capricious, and contrary to law in violation of the Administrative Procedure Act because it allegedly supports issuing Section 202(c) emergency orders based on factors and procedures that conflict and are inconsistent with DOE's existing regulations. *See Emergency Interconnection of Electric Facilities*, 46 Fed. Reg. 39,984 – 39,989 (Aug. 6, 1981); 10 C.F.R. §§ 205.371 *et seq*. *See infra* Section 4.e.ii.

8. The Report is arbitrary and capricious in violation of the Administrative Procedure Act because DOE failed to acknowledge that its methodology and protocol for issuing Section 202(c) orders is inconsistent with the factors for determining when an emergency exists that DOE's regulations already set out. *See Emergency Interconnection of Electric Facilities*, 46 Fed. Reg. at 39,985; 10 C.F.R. §§ 205.371, 205.373. It is also inconsistent with DOE's previous position that emergency orders are inappropriate for long-term reliability issues and a "utility must solve long-term problems itself." 46 Fed. Reg. at 39,985; *see also* 10 C.F.R. § 205.371. Agencies act arbitrarily when they fail to display awareness that they are changing position and offer good reasons for the change in policy. *See Food & Drug Administration v. Wages & White Lion Invs*., 604 U.S. ---, 145 S. Ct. 898, 918 (2025); *see also infra* Section 4.e.

IV. Request for Rehearing

a. DOE's Report is Based on Flawed and Arbitrary Assumptions and is Unsupported by Substantial Evidence.

The Report's conclusions rest on critical assumptions about load growth, retirements, and capacity additions, but DOE did not reasonably explain how it arrived at those assumptions or support its choices with substantial evidence. At times, DOE's assumptions are internally inconsistent and arbitrarily tip the scales in favor of finding a need to prevent scheduled retirements. The Report also seems to adopt a definition of "firm capacity" that includes only fossil-fuel power plants, but does not explain why other generation sources or batteries are not also "firm capacity." DOE has also failed to make the data it relied on publicly available – rendering it impossible to fully test DOE's analysis.[115]

[115] Due to the lack of public notice or any consultation or opportunity for involvement in the DOE's development of this report, the States have not had an opportunity to fully analyze DOE's methodology. DOE also has not made the data or models it used publicly available, which would allow the States to critically assess or replicate DOE's analysis and uncover additional flaws in DOE's approach. As such, the States reserve the right to raise additional flaws with DOE's analysis and conclusions at a later date, as they continue to analyze the Report.

Agencies act arbitrarily when they base decisions on key assumptions that are irrational or unsupported.[116] Moreover, when agencies use complex models, they must publicly reveal the assumptions and data incorporated into their models and "provide a full analytical defense" of their model.[117]

i. DOE fails to reasonably explain or support its load growth assumptions

DOE assumes 15% load growth by 2030, half of which DOE assumes will serve new data centers.[118] In doing so, DOE presumes – without evidence or a rational explanation – that data center load is firm (i.e., it cannot be interrupted at peak times). That assumption is arbitrary and directly undermined by recent advances in both policy and technology.

Some policymakers are already requiring data centers to be flexible, interruptible load.[119] In Texas, for example, a new law grants ERCOT more flexibility to curtail certain data center loads in the event of a grid emergency.[120] DOE did not grapple with the impact of this law on its underlying assumptions despite the fact that curtailing such load during peak hours "could go a long way towards avoiding the DOE-identified resource adequacy problem" in ERCOT.[121]

DOE also ignores the possibility of industry reducing its demand for electricity either as a matter of policy or innovation in this rapidly developing field. NVIDIA, the foremost supplier of hardware for AI data centers, recently announced a new power supply unit that can reduce peak grid demand by up to 30%.[122] In another recent example, Google agreed to a demand response framework with two utilities that would reduce how much electricity is used by its data centers during peak hours.[123]

DOE's reliance on an inflexible assumption for data center load reflects a failure to consider how this rapidly developing industry may adapt to address its significant energy

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[116] *WildEarth Guardians v. U.S. Bureau of Land Mgmt*., 870 F.3d 1222, 1237 (10th Cir. 2017); *Hisp. Affs. Project v. Acosta*, 901 F.3d 378, 389 (D.C. Cir. 2018) (noting agencies' affirmative duty to examine key assumptions underlying their policies).
[117] *Nat. Res. Def. Council, Inc. v. Herrington,* 768 F.2d 1355, 1385 (D.C. Cir. 1985); *see also Columbia Falls Aluminum Co. v. EPA*, 139 F.3d 914, 923 (D.C. Cir. 1998).
[118] Report at 18.
[119] *See* Ex. D, Nicholas Institute Report at 25; *see also* Ex. C, IPI Report at 24
[120] S.B. No. 6 § 4, 89th Legislature (Tex. 2025) (to be enacted at Tex. Util. Code § 39.170); *See also* Ex. C, IPI Report at 26.
[121] Ex. C., IPI Report at 26.
[122] Meris Lutz, *NVIDIA addresses AI peak power demand, spikes in new rack-scale systems*, UtilityDive (July 30, 2025), https://www.utilitydive.com/news/nvidia-rack-scale-system-smooth-ai-power/756279/.
[123] Laila Kearney, *Google agrees to curb power use for AI data centers to ease strain on US grid when demand surges*, Reuters (Aug. 4, 2025), https://www.reuters.com/sustainability/boards-policy-regulation/google-agrees-curb-power-use-ai-data-centers-ease-strain-us-grid-when-demand-2025-08-04/.

demand. This renders DOE's blunt conclusions regarding resource adequacy arbitrary and capricious.[124]

The Report also adopts an unreasonably high estimate of future data center load, arbitrarily claiming it is simply adopting a "midpoint assumption." Report at 15. DOE admits that there are "wide variations" in estimates of future data center load growth, yet the agency does not appear to have conducted any actual evaluation of those estimates to determine their respective accuracy. DOE must explain why its adoption of an estimated 50 GW load growth is more reliable or likely than other projections. It cannot just pick what it calls a "midpoint" from available studies and move forward. A rational approach would involve projecting future growth under a number of scenarios. Indeed, DOE did not account for a number of factors that temper against aggressive assumptions for future data center load growth. Those factors include the fact that data center developers often make duplicative requests for service; that data center deployment is limited by the availability of chips and processing systems; that data center efficiency may increase in the future as technology develops; and that utilities are incentivized to adopt aggressive load forecasts.[125]

The Report also assumes an additional 51 GW of non-data center load growth. DOE states that it adopted this assumption from NERC's 2024 ITCS Report. But NERC's 2024 ITCS Final Report does not contain its own load growth projections.[126] DOE has not cited which NERC projections it is relying on, what data underlie those projections, or why DOE considers it reliable for purposes of setting a uniform resource adequacy standard and guiding reliability interventions. Moreover, NERC's forecasts already contain data center load expectations meaning the Report may be double counting projected future demand from data centers.[127] NERC's forecasts may also contain other assumptions that are no longer appropriate, such as demand forecasts based on federal incentives to electrify transportation that no longer exist. Additionally, as the Institute for Policy Integrity explains in its report, DOE's method for distributing load growth across the country is questionable and does not necessarily reflect actual market decisions.[128]

ii. DOE arbitrarily assumes 104 GW of retiring capacity by 2030 but only 22 GW of additions in the same time period.

The Report also assumes the retirement of 104 GW of generating capacity by 2030, an extremely aggressive estimate that cannot withstand any level of scrutiny. [129] That assumption is inconsistent with the U.S. Energy Information Administration's data from June 2025 showing

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[124] *See* Report at 17, 40; *see also* Ex. C, IPI Report at 26 ("DOE should have considered the possibility that some of the projected data center load would be flexible, especially in ERCOT").
[125] *See generally* Ex. E, London Economics International Report.
[126] Ex. A, NERC ITCS Report.
[127] Report at 17.
[128] See Ex. C, IPI report at 24; *see also* Ex. E, LEI Report at 10-14 (noting that data centers have many choices where to locate).
[129] *See* Report at 5, A-5.

only half of that capacity is actually set for retirement. [130] This projection is also flawed because it arbitrarily includes announced retirements even though those generators have not formally provided notice of their retirement or initiated the retirement process. [131] Many of these resources have, however, pushed back their actual retirement dates due to changing market conditions and the policies of the current administration.[132]

At the same time that the Report overestimates the amount of load growth and retirements by 2030, it underestimates capacity additions that can be reasonably expected to come online in that same timeframe. DOE assumes only Tier 1 projects will be built by 2030. Because Tier 1 additions are projects that are either under construction or received approved planning requirements, nearly all will be in service by 2026.[133] DOE acknowledged that the Tier 1 assumption "results in minimal capacity additions beyond 2026," Report at A-5, yet DOE did not explain why that assumption was nonetheless reasonable when forecasting conditions to 2030.

By focusing solely on Tier 1 projects, DOE excludes announced capacity additions or even capacity additions that are seeking approval to interconnect to the grid (NERC "Tier 2" projects).[134] Excluding capacity that has been requested but has not yet received approval for planning requirements does not make sense for predictions stretching out five years from now. Both common sense and history suggest that at least some of these additions will receive approval in that time.[135] DOE has thus adopted a view of generator additions that is completely at odds with its projection of generator retirements and together the approach arbitrarily tips the scales in favor of finding a resource adequacy risk.

These assumptions seem to ignore a fundamental property of market dynamics: that supply will respond to rising demand. DOE assumes that generators who have not initiated the retirement process will retire even if remaining in the market would still be economic for them. And DOE assumes that developers will refrain from building any new energy projects from 2027-2030 despite market signals that additional capacity is needed. Those assumptions are unreasonable and render the Report arbitrary and capricious.[136]

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[130] U.S. Energy Information Administration, Form EIA-860 (June 11, 2025) https://www.eia.gov/electricity/data/eia860/.
[131] *See* Report at 5, A-5.
[132] Kevin Clark, *Where coal plant retirements are happening – And what could delay them*, Power Engineering (July 14, 2025), https://www.power-eng.com/coal/plant-decommissioning/where-coal-plants-are-closing-and-what-could-delay-them/. *See also,* Joe Schulz, *We Energies will delay Oak Creek coal plant retirement by one year to 2026*, Wisconsin Public Radio (June 26, 2025), https://www.wpr.org/news/we-energies-delay-oak-creek-coal-plant-retirement-2026. See also Ex. C, IPI Report at 23-24 (explaining why DOE's retirement figure likely overstates retirements).
[133] NERC, *2024 Long-Term Reliability Assessment* at 22, 136-37 (2024), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf.
[134] *Id*.
[135] *See also* Ex. C, IPI Report at 21-22 (applying historical statistics and data to demonstrate why DOE's exclusion of Tier 2 additions is unreasonable).
[136] *See* Report at 1 (concluding that, based on its model, intervention is needed to ensure a reliable power grid and meet the AI growth requirements).

DOE also arbitrarily excludes new transmission projects from its analysis altogether. Interregional transmission improvements are known to be one of the most cost-effective ways of improving grid reliability.[137] DOE apparently assumes that the nation's transmission will remain static over the next five years, despite ongoing planning processes and reforms to increase transmission projects and the well-documented reliability benefits that more transmission can provide.[138] DOE also appears to undercount the reliability benefit of existing transmission systems in its analysis.[139] It is nonsensical to ignore the benefits of new transmission when DOE is purportedly seeking to improve the reliability of the electric grid and keep costs affordable for consumers.

iii. DOE's analysis lacks sufficient regional granularity and suffers from other analytical flaws.

DOE's analysis also suffers from mathematical errors, analytical flaws, and lacks sufficient data or regional input further highlighting the importance of leaving resource adequacy to the states. DOE itself recognized that the Report's lack of regional data was a shortcoming that undercut its conclusions. As DOE acknowledges, "[e]ntities responsible for the maintenance and operation of the grid have access to a range of data and insights that could further enhance the robustness of reliability decisions, including resource adequacy, operational reliability, and resilience."[140] Despite this admission, DOE made no attempt to consult with States or grid operators on reliability issues or to obtain this data. An agency "may not tolerate needless uncertainties in its central assumptions when the evidence fairly allows investigation and solution of those uncertainties."[141]

This lack of state and regional granularity contributes to the report's unreasonable assumptions and overstated conclusions. Rather than focus on a region-specific analysis, DOE engaged in broad approximations to allocate nationwide projections to the various regions. For example, DOE started with a nationwide estimate of 50 GW of incremental data center load, allocated it across regions using state-level growth ratios from S&P's forecast, then mapped these state-level projections to the regions used for its analysis, the NERC Transmission Planning Regions (TPRs).[54] It is also unclear how DOE accomplished this mapping, given that the referenced NERC TPRs do not perfectly map to states.[56]

Further, the Report's conclusions regarding resource adequacy are contradictory at times, even within a single region, rendering DOE's characterization of certain regions' resource adequacy arbitrary and capricious. To guide its assessments, DOE set reliability standards of "[n]o more than 2.4 hours of lost load in an individual year" and "[n]o more than an NUSE [Normalized Unserved Energy] of 0.002%."[142] In its analysis of the PJM region, the Report highlights PJM's average loss of load figure of 2.4 hours under the current system analysis, apparently to indicate resource inadequacy despite clearly not *exceeding* the threshold DOE set,

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[137] *See generally* Ex. A, NERC ITCS Report; *see also* Ex. F, GridStrategies Report at 1.
[138] *See generally* Ex. A, NERC ITCS 2024 Report (identifying areas where new transmission can significantly improve reliability); Ex. F, GridStrategies, Resource Adequacy Value of Interregional Transmission (June 2025)
[139] *See* Ex. C, IPI Report at 25.
[140] Report at i.
[141] *Nat. Res. Def. Council, Inc. v. Herrington*, 768 F.2d 1355, 1391 (D.C. Cir. 1985).
[142] Report at 4.

while also describing the region's current system as "experienc[ing] shortfalls, but … below the required threshold."[143] At the same time, the Report notes that "[f]or the current system, this analysis identifies an additional 2.4 MW of capacity to meet the NUSE target for PJM," despite the Report's summary of the PJM's modeled NUSE metric in the current system clocking in at 0.0008%, again clearly meeting the reliability threshold that DOE itself selected.[144]

The Report also fails to explain how it could be used to identify "at-risk region(s) and guide reliability interventions"[145] while relying on many geographic groupings that do not match the boundaries used by utilities, balancing authority areas, transmission planning regions, regional wholesale markets, NERC regional entities, or NERC reliability coordinators to reliably operate the nation's electric grid.

For example, the "Front Range" region in the Report includes Colorado and portions of New Mexico and Wyoming but those boundaries are geographically different from regions analyzed in NERC's reliability assessments. NERC's 2025 Summer Reliability Assessment includes Colorado, most of Wyoming, and parts of Nebraska and South Dakota in the "WECC-Rocky Mountain" region, and includes Arizona and New Mexico, most of Nevada, and small parts of California and Texas in the "WECC-Southwest" region.[146] The regional grouping used in the Report is arbitrary and inconsistent with these existing groupings.

The Report states its model is derived from NERC's Interregional Transfer Capability Study ("ITCS")[147] and asserts the subregions used in the Report, called Transmission Planning Regions ("TPRs"), "match the regional subdivisions in the NERC ITCS study, itself based on FERC's transmission planning regions."[148] However, the ITCS makes clear that FERC's transmission planning regions were altered to create the TPRs for the ITCS,[149] which was focused on transfer capability between neighboring regions and not resource adequacy. [150] The ITCS Final Report does not explain how specific footprints were determined in any detail.[151] In January 2025 comments filed with FERC in response to the ITCS report, DOE commented "[t]he subregion boundaries used in the ITCS are useful for evaluating interregional transfer capability given the chosen methodology, *but not for evaluating resource adequacy of those subregions*."[152] DOE explained the ITCS subregions do not reflect actual monitored transmission constraints, nor

[143] Report at 27 & Tbl. 8.
[144] Report at 9, 27 Tbl. 8. *See also* Ex. C, IPI Report at 20.
[145] Report at vi.
[146] NERC, *2025 Summer Reliability Assessment* at 36, 38 (May 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf.
[147] Report at 2.
[148] Report at 10 n.14.
[149] Ex. A, NERC ITCS Report at 7.
[150] Fiscal Responsibility Act of 2023, H.R. 3746, 118th Congress (2023–2024) (directing NERC to study the total transfer capability between transmission planning regions).
[151] *See* Ex. A, NERC ITCS Report at 7.
[152] Comments of the U.S. Dep't of Energy, FERC Docket No. AD25-4-000, at 6 (Jan. 17, 2025) (emphasis added).

do they accurately capture the service territories or balancing authority areas that are the footprints on which resource adequacy decisions are made.[153]

Despite DOE's earlier comments, the DOE Report fails to explain why the TPR subregions, many of which have no similarities to the regions actually used by NERC to assess reliability nor the planning regions used by entities with resource adequacy obligations, are now appropriate geographic boundaries for running resource adequacy scenarios and guiding reliability interventions. Returning to the example of the Front Range region, neither the ITCS Final Report nor the DOE Report explain why resource adequacy analysis should be done collectively for Colorado and portions of New Mexico and Wyoming, in which the load serving entities and balancing authorities plan their systems, acquire generating resources, and decide to interconnect to neighboring systems under completely separate processes. Because many of the Report's subregions are divorced from how the grid is actually planned and operated, they risk inaccurate groupings of load and available generating resources and incomplete understandings of how transmission capacity may be used in times of peak demand.

The Report suffers from other analytical shortcomings, which are amply described in the Institute for Policy Integrity's report and are expressly incorporated and adopted here.[154] As the Institute for Policy Integrity explained, DOE fails to offer a reasonable explanation for its choice of resource adequacy metrics and targets, outage thresholds, or the use of a deterministic model instead of a more accurate probabilistic model. By relying solely on weather data from recent years in a deterministic model, rather than a more statistically accurate probabilistic model, the Report "does not sufficiently account for uncertainty," weakening the strength of its modeled findings for 2030.[155]

Given the abundant shortcomings in DOE's methodology, it is unreasonable to rely on the data and analysis contained in the Report to draw any firm conclusions about the resource adequacy of any region of the United States electrical grid now or in 2030, and DOE's various findings of resource inadequacy despite these flaws is arbitrary and capricious.

iv. DOE's flawed analysis establishes an arbitrary and unlawful preference for fossil fuel plants over other methods to preserve grid reliability, contrary to the Federal Power Act.

The flawed assumptions discussed above lead to an obvious conclusion: that DOE designed the Report to satisfy the White House's goal of bailing out uneconomic and environmentally harmful power plants. DOE's report is not addressing an emergency, but seeking to prop up a coal industry that is unable to compete with cheaper and cleaner modern energy sources like wind, solar, and batteries.

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[153] *See id.* at 6-7.
[154] See Ex. C, IPI Report at 18-26
[155] *Id*. at 21.

Executive Order 14262 was signed alongside EO 14261 *Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241*. EO 14261 claims to "encourage and support our Nation's coal industry to increase our energy supply, lower electricity costs, stabilize our grid, create high-paying jobs, support burgeoning industries, and assist our allies." And President Trump's statements at the signing ceremony make clear that the two orders are intended to serve a complementary purpose. As the President said, with coal workers lining the stage behind him for a photo-op, "we're bringing back an industry that was abandoned" and "all those plants that have been closed are going to be opened."[156]

The President's Grid Reliability Order references his earlier Declaration of an Energy Emergency, *see* EO 14156 "Declaring a National Energy Emergency," which created an energy emergency based on an alleged shortage of affordable and domestic energy sources. In all orders, the President narrowly focuses on fossil fuels and specifically excludes wind, solar, or batteries from the definition of "energy." And the Administration has simultaneously taken steps to derail the wind and solar industries, revoking previously issued permits for offshore wind projects, pausing the issuance of approvals, permits, and loans for wind projects nationwide, and adding bureaucratic hurdles to the permitting process for wind and solar.[157]

To the extent that the Report advances the Administration's policy of discriminating against renewable energy, batteries, and transmission to advance the extra-statutory motive of preserving aging fossil fuel power plants at consumer expense, it is contrary to express goals of the Federal Power Act.[158] Sections 205 and 206 of the Federal Power Act require rates to be just and reasonable and not unduly discriminatory or preferential.[159] Purporting to justify Section 202(c) orders for fossil fuel plants that are not needed and ignoring other viable methods to preserve grid reliability at a lower cost for consumers is likely to result in unjust and unreasonable rates. While 202(c) permits deferral of this issue to FERC in a rate proceeding, DOE must – at minimum – consider how a streamlined and uniform methodology may impact rates and cost recovery.

Significantly, when DOE proposed in 2017 that FERC adjust its rates to compensate generation that could store 90 days of fuel on-site (i.e., coal and nuclear generation), FERC unanimously rejected that proposal.[160] FERC concluded that DOE failed to demonstrate that allowing all eligible resources to receive a special rate regardless of the specific reliability needs of that region would be a just and reasonable outcome.[161] DOE also failed to show that such a remedy "would not be unduly discriminatory or preferential" since only "certain resources [could] be eligible for the rate, thereby excluding other resources that may have resilience

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[156] Adam Burke, *Trump orders coal revival, but market favors natural gas*, NPR (April 17, 2025) https://www.npr.org/2025/04/16/nx-s1-5359013/trump-orders-coal-revival-market-favors-natural-gas.
[157] *See generally*, Complaint, New York, et al. v. Trump, et al., No. 25-cv-11221 (D. Mass., filed May 5, 2025) (describing Administration's assault on wind energy). *See also e.g.,* Department of the Interior, Secretarial Order 3437, https://www.doi.gov/document-library/secretary-order/so-3437-ending-preferential-treatment-unreliable-foreign; Department of the Interior, Secretarial Order 3438, https://www.doi.gov/document-library/secretary-order/so-3438-managing-federal-energy-resources-and-protecting.
[158] *See* FPA Sections 205 and 206; 16 U.S.C. §§ 824d, 824e.
[159] *Id*.
[160] *See* Order Terminating Rulemaking, 162 FERC ¶ 61,012, ¶ 16 (Jan. 8, 2018).
[161] *Id*.

attributes."[162] DOE's second attempt to manipulate the energy markets in favor of its preferred energy sources suffers from the same fatal flaws and its motives are contrary to the goals of the Federal Power Act.

b. The Report does not describe an "emergency" and cannot be used to justify future grid reliability interventions by DOE.

i. Common usage and regulation define "emergency" narrowly.

Section 202(c) is limited, by its own terms, to either "the continuance of any war in which the United States is engaged," or "whenever the Commission determines that an emergency exists *by reason of*" certain enumerated causes.[163] Those causes include: (1) "a *sudden* increase in the demand for electric energy," (2) "a shortage of electric energy or of facilities for the generation or transmission of electric energy," (3) a shortage of "fuel or water for generating facilities," and (4) "other causes."[164]

The relevant focus is therefore on the definition of "emergency." In 1930, just a few years before the Act's passage, Webster's New International Dictionary of the English Language defined "emergency" as a "sudden or unexpected appearance or occurrence… an unforeseen occurrence or combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency." The year before the statute was last amended, Merriam-Webster's Dictionary and Thesaurus (2014) defined "emergency" as "an *unforeseen* event or condition requiring prompt action." Thus, at all relevant times "emergency" was defined as being unexpected or unforeseen and requiring some form of exigent response.

That limited reading of Section 202(c) is bolstered by the emergency provision's immediate statutory context. Section 202(c) is preceded by Section 202(b), which grants what is now the Federal Energy Regulatory Commission the authority to issue similar interconnection orders "*after* opportunity for hearing," indicating that Congress intended to place a temporal constraint upon the emergency authority in Section 202(c), limiting it to situations not amenable to public notice and hearing.[165]

DOE's regulations implementing Section 202(c) also suggest the provision's narrow applicability to only true emergencies. [166] DOE has provided that "actions under this authority are envisioned as meeting a specific inadequate power supply situation."[167] The regulations

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[162] *Id*.
[163] 16 U.S.C. § 824a(c)(1) (emphasis added).
[164] *Id.* (emphasis added). The catchall "other causes" must still be the "reason" that an emergency exists. *Id*. *See also* Rolsma, *The New Reliability Override,* 57 U. Conn. L. Rev. at 810-13.
[165] 16 U.S.C. § 824a(b); 42 U.S.C. § 7172(a)(1)(B).
[166] *See also* 46 Fed. Reg. 39987 (Aug. 6, 1981).
[167] 10 C.F.R. § 205.371.

further define applicable emergencies to include "an *unexpected* inadequate supply of electric energy," "*unforeseen* occurrences," or "a *sudden* increase in customer demand," echoing the.[168]

In guidelines for defining "inadequate utility system fuel inventory or energy supply," the regulations further specify that the threshold for such an emergency may be met "when, combined with other conditions, the projected energy deficiency upon the applicant's system *without emergency action by the DOE*, will equal or exceed 10 percent of the applicant's then normal daily net energy for load, or will cause the applicant to be unable to meet its normal peak load requirements *based upon use of all of its otherwise available resources* so that it is unable to supply adequate electric service to its ultimate customers."[169] This definition again narrows the circumstances in which DOE may exercise its 202(c) authority to those not redressable by other means, implicating only acute or imminent power shortages where no other recourse is available.[170]

ii. The report does not point to any sudden or unforeseen circumstances.

. DOE's report does not identify any region, except ERCOT, that currently fails to meet DOE's reliability targets.[171] DOE's flawed analysis points to a failure to meet reliability targets only in 2030. An expected increase in demand that can be projected over the next five years is not an energy emergency. Those shortfalls are not "unexpected" or "imminent" so as to justify a departure from normal planning procedures. The Report is squarely focused on 2030 and does not assess resource adequacy in any of the intervening years. According to the standard set out in *Otter Tail Power Co. v. Federal Power Com.*, 429 F.2d 232, 234 (8th Cir. 1970), the shortfalls predicted by the Report are at best policy crises "which [are] likely to develop in the foreseeable future but which [do] not necessitate immediate action." In other words, the concerns may be addressable using FPA § 202(b), but certainly not FPA § 202(c).

Significantly, DOE has never before issued a 202(c) order based on such a broad and speculative increase in load demand. On the contrary, prior to 2025, DOE had only used 202(c) to delay the retirement of generation facilities on three narrow occasions, as requested by the system operator or government body, and only for as long as necessary to address the imminent emergency.[172]

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[168] *Id.* (emphasis added).
[169] 10 C.F.R. § 205.375 (emphasis added).
[170] While the regulations also state that "[e]xtended periods of insufficient power supply as a result of inadequate planning or the failure to construct necessary facilities can result in an emergency … ," the definition crucially does not allow for *projections* of such circumstances to qualify or include any qualifying terms indicating similar intent. On the face of the regulation, and consistent with reasonable interpretations of the statute, such an eligible power shortage must be sufficiently imminent to avoid reducing the inherent limitation of the word "emergency" to an absurdity. 10 C.F.R.§ 205.371.
[171] Report at 7.
[172] *See* Benjamin Rolsma, *The New Reliability Override*, 57 U. Conn. L. Rev. 789, 843-46 (2025).

iii. Reliance on the Report to justify a Section 202(c) order would be contrary to law.

Based on EO 14262 and DOE's own statements, it is evident that the Department intends to rely upon the analysis and methodology in the Report to justify future Section 202(c) orders.[173] But the Report cannot lawfully be relied upon to justify the exercise of DOE's limited emergency authority. Doing so would be contrary to law.[174]

As discussed above, the Secretary of Energy's authority under Section 202(c) of the Federal Power Act is statutorily limited to wartime or certain "emergency" situations; otherwise, similar proceedings fall under the jurisdiction of the Federal Energy Regulatory Commission through a process of notice and hearing.[175] Even taking the Report at face value, its own conclusions fail to describe anything resembling an emergency in any part of the country besides ERCOT.[176] Any conclusion that an emergency exists is undermined by the arbitrary nature of the Report's analysis.[177]

Moreover, the Report's conclusions, on their face, fail to describe an "emergency". Conclusions about resource adequacy five years in the future, in 2030, fall outside of the temporal limits of an "emergency" and are exactly the type of concern that should be dealt with through usual planning processes.[178] Any attempt by DOE to bootstrap future Section 202(c) orders to the Report would be in direct contradiction to its statutory authority to issue such orders and its own regulations implementing that authority.[179]

c. DOE failed to consider an important aspect of the problem: existing reliability mechanisms.

Agency action is arbitrary and capricious under the APA if it "fails to consider an important aspect of the problem." *Motor Vehicle Mfrs. Assn. of United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). Here, DOE has acted as if the Report exists on a blank slate of resource adequacy and reliability planning yet that could not be farther from the

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[173] *See* Report at vi; EO 14262 Sec. 3(c). In at least one Section 202(c) order issued after the publication of EO 14262 but before the release of the Report, the Department stated that it "plans to use this methodology to further evaluate" the generation units subject to that order. Order No. 202-25-4 ("Eddystone 202(c) Order") at 2 (May 30, 2025).

[174] *See* 16 U.S.C. § 824a(c); 10 C.F.R. §§ 205.370-371, 375.

[175] 16 U.S.C. §§ 824a(b)-(c); 42 U.S.C. §§ 7151(b), 7172(a)(1)(B).

[176] Report at 7 ("Analysis of the current system shows all regions except ERCOT have less than 2.4 hours of average load loss per year and less than 0.002% NUSE. This indicates relative reliability for most regions based on the average indicators of risk used in this study."); *see also* Ex. C, IPI Report at 29-31 ("Despite DOE's press statement asserting that the study's methodology can help guide [sic] 'guide Federal reliability interventions,' presumably to address the EO's [EO 14262] mandate that DOE find a way to routinize further 202(c) emergency orders, the study reports a fundamental limitation for doing so: It does not find any near-term reliability risk from current levels of resource adequacy." (footnotes omitted)).

[177] *See supra* Section 4.a.

[178] *See* Report at 8-9.

[179] 16 U.S.C. § 824a(c); 10 C.F.R. §§ 205.370-371, 375.

truth. As described above, a multilayered system of resource planning involving states and regional grid operators ensures adequate supplies and grid stability.[180]

The Report's conclusion that "absent intervention, it is impossible for the nation's bulk power system to meet the AI growth requirements while maintaining a reliable power grid and keeping energy costs low for our citizens," is undermined by this failure.[181] States across the nation are grappling with how to meet increased demand from AI data centers while maintaining grid reliability and distributing the costs of those changes in an equitable manner. Without an analysis of the existing framework for making such determinations, and ongoing efforts to adjust those systems to meet new challenges, there is no basis for DOE's conclusion that "intervention" – likely through 202(c) orders – is the only way to possibly reach those goals.[182]

d. As described in the EO, the report intrudes upon state authority.

EO 14262 directs the Secretary of Energy to rely upon the methodology disclosed in the Report to "identify current and anticipated regions with reserve margins below acceptable thresholds" and "identify which generation resources within a region are critical to system reliability."[183] The Executive Order also directs DOE to further develop a "protocol" for applying this analysis to "include all mechanisms available under applicable law, including section 202(c) of the Federal Power Act, to ensure any generation resource identified as critical within an at-risk region is appropriately retained as an available generation resource."[184] The Report is therefore foundational to the "protocol" that EO 14262 intends will direct emergency orders to override planned retirements. The Report thus directly intrudes on the States' lawful resource adequacy planning processes.

With respect to regulatory oversight for resource adequacy, section 201 of FPA, 16 U.S.C § 824(b)(1), reserves authority over generation facilities to the states. It states in pertinent part: "The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, *but shall not have jurisdiction*, except as specifically provided in this subchapter and subchapter III of this chapter, *over facilities used for the generation of electric energy* or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter."[185]

The Federal Power Act is likewise clear that federal regulatory jurisdiction over the power sector "extend[s] only to those matters which are not subject to regulation by the States."[186] With the few and specific exceptions outlined elsewhere in the statute, this jurisdiction

[180] *See Supra,* Section 2.a.
[181] Report at 1.
[182] *Id*.
[183] Executive Order 14262, §§ 3(b)-(c).
[184] *Id.* at § 3(c).
[185] *Id*. (emphasis added).
[186] 16 U.S.C. § 824(a).

does *not* extend to "facilities used for the generation of electric energy … ."[187] This statutory language places the regulation of generation resource adequacy squarely in the ambit of the states, not the federal government.[188]

States have typically exercised this authority through a combination of individual state legislative and regulatory functions as well as engaging in multistate RTOs and ISOs. Some states have retained this authority over resource adequacy in its entirety,[189] while others have directed their utilities to join RTOS/ISOs that, through their tariffs, impose resource adequacy requirements. Those RTO/ISOs also generally establish markets that allow market participants to buy and sell capacity and thereby to facilitate market entry and exit decisions based on price signals. Resource adequacy requirements in RTO/ISO tariffs have been held to be practices affecting wholesale rates subject to the jurisdiction of FERC under sections 205 and 206 of the Federal Power Act, 16 U.S.C. §§ 824d & 824e.[190]

Through these channels, states conduct the careful, calculated, long-term capacity planning that goes ignored in DOE's Report.[191] The Report utterly fails to recognize or properly account for the states' traditional and statutory role in resource adequacy planning, and as forecasted by EO 14262, the Report constitutes a central component of the federal government's proposed protocol to usurp the states' authority over this issue.

The use of emergency orders to illegally override state resource adequacy planning has been challenged on the same grounds by the Organization of MISO States, Inc. (OMS), in its Petition for Rehearing of DOE Order No. 202-25-3 (ordering continued operation of the J.H. Campbell coal-fired power plant). In its Petition, OMS noted among other points that "[t]his is the first time the DOE has invoked Section 202(c) outside a severe weather event or emergency, and for the first time, uses the power to suspend a retirement and interfere with established and vetted state and regional planning processes."[192] OMS' petition continues, "[t]his expansive use of emergency powers sets a troubling precedent, enabling interventions in routine, state-approved planning decisions without an actual crisis and risks establishing its use to circumvent normal utility, RTO, and states processes, and likely exposes ratepayers to costs that should not be borne."[193] In DOE's issuance of the Report pursuant to EO 14262, the federal government is

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[187] *Id.* § 824(b)(1).
[188] *See, e.g.*, Ashley J. Lawson, CONG. RESEARCH SERV., R47521, *Electricity: Overview and Issues for Congress*, at 7 (Feb. 14, 2025).
[189] *See Devon Power LLC et al.,* 109 FERC ¶ 61,154, P 47 (2004) ("Resource adequacy is a matter that has traditionally rested with the states, and it should continue to rest there. States have traditionally designated the entities that are responsible for procuring adequate capacity to serve loads within their respective jurisdictions.").
[190] *See Conn. Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477, 483 (D.C. Cir. 2009).
[191] *E.g.*, Report at 2-3, 5, 12-13 (relying solely on federal, EIA, and NERC estimates and failing to mention nuanced state, RTO, or ISO figures and actions).
[192] *See* Petition to Intervene and Request for Rehearing of the Organization of MISO States, Inc., Order No. 202-25-3 (filed June 23, 2025), https://www.energy.gov/sites/default/files/2025-07/Petition%20to%20Intervene%20and%20Request%20for%20Rehearing%20of%20the%20Organization%20of%20MISO%20States.pdf.
[193] *See id*. at 5; *see also id.* at 4 (challenging "Violation of the Federal Power Act and State Jurisdiction.").

attempting to establish its own rule for resource adequacy planning from which it can routinely issue illegal orders under the same flawed premise that OMS challenges in its Petition.

Lastly, Section 202(c) does not serve as a widespread grant of DOE jurisdiction over resource adequacy and capacity planning. "Congress … does not … hide elephants in mouseholes."[194] First, as described above in Part [3b], Congress assigned non-emergent questions of interconnection and transmission necessity amenable to public notice and hearing to FERC, not DOE.[195] Moreover, even this authority should not be seen as a substitute for the overarching reservation of regulatory jurisdiction over resource adequacy planning to the states.[196] No reasonable reading of the relevant statutory authorities could construe DOE's authority in 16 U.S.C. § 824a(c) as intruding on the explicit and traditional role of the states in regulating electricity generation and resource adequacy. However, all available indicators in the Report and EO 14262 evince a flawed understanding contrary to DOE's appropriate and limited role in this space, thus the Department should reconsider its findings and position on this authority.

e. DOE's Failure to Provide Public Notice and Comment on its New Standard and Methodology Violated the Administrative Procedure Act, 5 U.S.C. § 553.

Before adopting a final rule, the Administrative Procedure Act requires agencies to publish in the Federal Register a notice of proposed rulemaking and accept public comment.[197] An agency action that imposes legally binding obligations or prohibitions on regulated parties, substantially removes the agency's discretion, or would be the basis for an enforcement action for violations of those requirements, is a legislative rule that requires notice and comment.[198] Notice and comment is also required when agencies establish new standards that are not derived from an existing statute or regulation or when an agency relies on its statutorily delegated authority to establish policy.[199] Additionally, agency documents that adopt a "new position inconsistent with any of the [agency's] existing regulations" are subject to notice and comment.[200]

DOE's report creates a brand-new national standard and methodology for evaluating resource adequacy. This standard has concrete legal effects because DOE plans to enforce it via Section 202(c) emergency orders. It also is inconsistent with DOE's existing regulations, which direct DOE to issue emergency orders in very different circumstances based on different criteria than what DOE now proposes. Significantly, DOE acknowledges that its conclusions lack sufficient input from the entities responsible for operating the grid, but DOE nonetheless refused to submit the Report to notice and comment where the public could have tested DOE's assumptions and conclusions. Assuming DOE continues to comply with the Executive Order's

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[194] *Whitman v. Am. Trucking Ass'ns, Inc.*, 531 U.S. 457, 468 (2001).
[195] 16 U.S.C. § 824a(b); 42 U.S.C. § 7172(a)(1)(B).
[196] 16 U.S.C. §§ 824(a)-(b).
[197] 5 U.S.C. § 553(b)-(c).
[198] *See Nat'l Min. Ass'n v. McCarthy*, 758 F.3d 243, 251–52 (D.C. Cir. 2014).
[199] *See Children's Hosp. of the King's Daughters, Inc. v. Azar*, 896 F.3d 615, 622 (4th Cir. 2018).
[200] *Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87, 99–100 (1995).

unlawful command to use this Report to support future Section 202(c) orders, the Report and any action relying on it must be set aside for failure to provide notice and comment.

i. DOE's standard is an exercise of assumed legislative authority, and it has concrete legal effects.

Pursuant to the Executive Order, DOE established a "uniform methodology" for assessing resource adequacy across the country.[201] That methodology adopts a new "resource adequacy standard" to measure the desired level of adequacy needed for the bulk power system.[202] DOE acknowledges that it is not using the "traditional . . . criterion" for measuring resource adequacy and is relying on metrics that are "not standardized in the U.S. today."[203] Instead, DOE unilaterally adopts new metrics to evaluate resource adequacy and establishes the reliability targets that should be obtained.[204] DOE's choice of metrics and the targets to be achieved are value judgments and should be informed by economic tradeoffs and other policy considerations about what level of system reliability should be achieved and at what cost to consumers, areas where public input is essential to sound decision making.[205]

DOE also fills its methodology with value-laden policy choices around the data inputs and assumptions that determine when DOE's reliability standard is achieved. As just one example, DOE includes projected future demand from potential new AI data centers as part of its calculation of future load.[206] Those data centers have not yet been built and some may never be.[207] And, as DOE recognized, grid operators are not likely to allow those large loads to connect if doing so threatens reliability.[208] Including those potential loads in DOE's determinations of system reliability thus inherently represents a policy choice: Should present-day consumers pay to keep retiring power plants online to ensure that potential data centers can be reliably served in the future?[209]

Even assuming *arguendo* that DOE has the statutory authority to set a uniform reliability standard, place risks of future large load growth on current consumers, or engage in long-term resource adequacy planning for the entire nation, it still must involve stakeholders through notice and comment in those legislative choices. "When an agency relies on expressly delegated authority to establish policy . . . courts generally treat the agency action as legislative [] rulemaking" and require notice and comment.[210] In other words, "when Congress leaves [] a policy choice to the agency, [courts] should lean toward finding that the agency's making of that

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[201] *See* Report at *vi* (explaining that the report is "delivering the required uniform methodology to identify at-risk region(s)"); Executive Order 14262 § 3(b).
[202] Report at 3.
[203] *Id*. 3-4.
[204] *See id*.
[205] *See* Ex. C, IPI Report at ii (criticizing DOE's choice of targets as not "appropriately justified based on a cost-benefit framework, and the use of a one-size-fits-all target for the entire country ignores regional differences").
[206] *See* Report at 1-3.
[207] *See, e.g*., Ex. E, London Economics International Report; Laila Kearney and Liz Hampton, *U.S. Power Stocks Plummet as DeepSeek Raises Data Center Demand Doubts*, Reuters (Jan. 27, 2025) https://www.reuters.com/business/energy/us-power-stocks-plummet-deepseek-raises-data-center-demand-doubts-2025-01-27/.
[208] *See* Report at 14.
[209] *See also supra* Section 4.a. (discussing other arbitrary assumptions in DOE's analysis).
[210] *Children's Hosp. of the King's Daughters, Inc.*, 896 F.3d at 622.

choice requires notice and comment.[211] "Otherwise, it would be difficult to imagine what regulations *would* require notice and comment procedures."[212]

DOE's standard also has concrete legal effects because, consistent with the Executive Order, DOE will use Section 202(c) emergency orders (or the threat of Section 202(c) orders) to ensure regions meet the new standard. The Executive Order directs DOE to use this standard to "establish . . . a protocol" to identify generation resources that are critical to system reliability.[213] DOE's "protocol shall additionally" use Section 202(c) of the Federal Power Act to "ensure" those resources are retained and prevent their retirement.[214] "Protocol" means "a set of rules to be followed . . ."[215] As DOE has made clear, DOE "plans to use" this new standard to evaluate retiring coal plants and potentially issue Section 202(c) emergency orders preventing their retirement.[216]

DOE's new standard, and protocol for enforcing it, removes DOE's discretion and is intended to provide the basis for enforcement actions via Section 202(c) orders.[217] The new standard is not derived from the Federal Power Act or, as explained further below, from DOE's existing regulations, but is an entirely new method of determining resource adequacy across the country. DOE must accordingly submit its new standard and methodology to public notice and comment.[218]

ii. DOE must provide notice and comment because its standard allegedly supports issuing emergency orders based on factors that conflict with existing regulations.

DOE's Report provides new bases for issuing emergency orders that conflict with DOE's existing regulations, but DOE cannot amend those standards without first providing notice and comment.[219] DOE promulgated regulations detailing how and when it issues Section 202(c) emergency orders following public notice and comment in 1981.[220] Under DOE's current regulations, emergency orders "are envisioned as meeting a *specific* inadequate power supply situation," occasioned by "acts of God[] or unforeseen occurrences not reasonably within the

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[211] *Id*.
[212] *Id*. (quoting *N.H. Hosp. Ass'n v. Azar*, 887 F.3d 62, 70–71 (1st Cir. 2018)).
[213] Executive Order 14262 at § 3(c).
[214] *Id*.
[215] PROTOCOL, Black's Law Dictionary (12th ed. 2024).
[216] Order No. 202-25-4 at 2 (Eddystone Order). *See also* U.S. DEP'T OF ENERGY, *Fact Sheet: The Department of Energy's Resource Adequacy Report Affirms The Energy Emergency Facing The U.S. Power Grid* (2025), https://www.energy.gov/sites/default/files/2025-07/DOE_Fact_Sheet_Grid_Report_July_2025.pdf [https://perma.cc/YLX7-8G7T] (explaining that DOE's methodology will be used, pursuant to the executive order, "prevent [] generation resources from leaving the bulk-power system"); Press Release, U.S. Dep't of Energy, Department of Energy Releases Report on Evaluating U.S. Grid Reliability and Security (July 7, 2025), https://www.energy.gov/articles/department-energy-releases-report-evaluating-us-grid-reliability-and-security [https://perma.cc/8TEJ-AGH6]. (stating that its "methodology also informs the potential use of DOE's emergency authority under Section 202(c) of the Federal Power Act"); Report at *vi* (explaining that DOE's standard will be used to "guide reliability interventions"), 1 (emphasizing the need for DOE's "decisive intervention" in energy markets), 10 (analyzing ERCOT because "FPA Section 202(c) allows DOE to issue emergency orders to ERCOT").
[217] *See Nat'l Min. Ass'n v. McCarthy*, 758 F.3d 243, 251–52 (D.C. Cir. 2014).
[218] *See id*.; *Children's Hosp. of the King's Daughters, Inc. v. Azar*, 896 F.3d 615, 622 (4th Cir. 2018).
[219] *See Shalala*, 514 U.S. at 99–100.
[220] *See Emergency Interconnection of Electric Facilities*, 46 Fed. Reg. 39,984 - 39,989 (Aug. 6, 1981).

power of the affected 'entity' to prevent."[221] DOE did not intend its emergency authority to replace long-term planning by utilities: "while a utility may rely upon these regulations for assistance during a period of unexpected inadequate supply of electricity, it must solve long-term problems itself."[222]

As DOE stated then, "[t]he factors that DOE will consider in determining whether an emergency exists are specified in § 205.373."[223] Section 205.373 requires applicants to submit detailed information on "daily peak load and energy requirements for each of the past 30 days and projections for each day of the expected duration of the emergency" and make a "showing that adequate electric service cannot be maintained without additional power transfers." Applicants must also describe what "conservation or load reduction actions have been implemented" before seeking emergency relief.[224] In sum, DOE's current regulations direct a case-by-case analysis of specific, temporary shortages in particular situations, based on detailed information from an applicant.

DOE's new standard and methodology is an unprecedent expansion of the bases upon which DOE will justify Section 202(c) emergency orders, but DOE has not offered public comment on that expansion. Rather than focusing on specific showings of an imminent threat to grid stability, the report rests on DOE's analysis of "the U.S. electric grid's ability to meet future demand through 2030."[225] Rather than consider the "daily peak load and energy requirements of the past 30 days and projections for each day of the [] emergency," 10 C.F.R. § 205.373, DOE now plans to base Section 202(c) decisions on speculation over the development of artificial intelligence, re-industrialization of the U.S. economy, and other uncertain developments over the next five years.[226] Rather than consider the "scheduled . . . deliveries" during the emergency period and needs of existing firm customers, § 205.373(d),(f), DOE now proposes to find an emergency based on potential load growth for customers who do not currently, and may never, exist.[227]

Rather than allowing utilities and grid operators to solve long-term planning issues themselves, DOE now seeks to intervene in those state- and FERC-regulated processes based on its own assumptions about future load growth and electricity supply. But unlike DOE's Report, the long-term resource adequacy plans developed by utilities and grid operators are transparent and publicly-accountable processes that involve relevant stakeholders and the public.[228] DOE, on the other hand, published its analysis without critical data or insights from the entities who actually operate and maintain the electric grid.[229]

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[221] 10 C.F.R. § 205.371 (emphasis added).
[222] 46 Fed. Reg. at 39,985; *see also* 10 C.F.R. § 205.371
[223] 46 Fed. Reg. at 39,985.
[224] *Id*.; *see also* 10 C.F.R. § 205.375 (defining an inadequate energy supply as when an applicant is "unable to meet its normal peak load requirements based upon use of all its otherwise available resources.").
[225] Report at 2.
[226] Report at 2; *see also supra* Section 4.a.
[227] *See, e.g*., Ex. E London Economics International Report; Laila Kearney and Liz Hampton, *U.S. Power Stocks Plummet as DeepSeek Raises Data Center Demand Doubts*, Reuters (Jan. 27, 2025) https://www.reuters.com/business/energy/us-power-stocks-plummet-deepseek-raises-data-center-demand-doubts-2025-01-27/.
[228] *See supra* Section 2.a.
[229] Report at *i.*

Rather than considering what other "conservation or load reduction actions have been implemented" before turning to emergency relief, 10 C.F.R. § 205.373, DOE's standard ignores those possibilities altogether. Instead, DOE adopts aggressive and likely overstated assumptions of load growth and ignores whether any of that future demand could be flexibly integrated into the grid, what measures state and local regulators are taking to mitigate the impact of new data center demand on grid reliability, or other factors influencing grid reliability over the long-term.[230] DOE appears to admit that its overstated potential load growth will not *actually* lead to any grid reliability emergency, as there is no "indication that reliability coordinators would allow this level of load growth to jeopardize the reliability of the system."[231]

DOE appropriately involved the public when it initially set out the process and factors to consider for Section 202(c) orders in its 1981 rulemaking. Yet now, DOE seeks to expand the bases for Section 202(c) orders in ways that intrude on state-regulated processes and the free market, without any input from stakeholders or the public who will ultimately pay for DOE's actions. Because the methodology and protocol effectively "expand[s] the footprint [of DOE's emergency authority] by imposing new requirements, rather than simply interpreting the legal norms Congress or the agency itself has previously created" and is inconsistent with DOE's existing regulations, it is a "rule" under the APA and notice and comment is required.[232]

iii. DOE acknowledges the importance of involving the States and other actors yet fails to provide public notice and comment to test DOE's assumptions and conclusions.

DOE's failure to provide public notice and comment is prejudicial error. DOE admittedly lacks the "range of data and insights" to make robust reliability decisions that entities responsible for the maintenance and operation of the grid have access to.[233] Had the States been given adequate notice and an opportunity to comment, they could have provided more information to DOE on how existing mechanisms address grid reliability, issues with DOE's assumptions, chosen metrics, and choice of data, identified gaps in DOE's analysis and data, and other issues. Numerous grid experts have commented on shortfalls with DOE's report.[234] Given adequate notice and an opportunity to comment, the States could have obtained their own expert analysis and potentially raised even more issues with DOE's proposed standard and methodology than what time permitted the States to raise here.

DOE has previously acknowledged the importance of involving States and the public in these questions. When DOE initially established regulations governing how and when it would

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[230] *See, e.g.*, Ex. D, Nicholas Institute Report; Jason Plautz, *State lawmakers grapple with energy demand for data centers*, E&E News (Mar. 3, 2025) https://www.eenews.net/articles/state-lawmakers-grapple-with-energy-demand-for-data-centers/; Washington Office of the Governor, *Gov. Bob Ferguson Signs Executive Order Establishing a Data Center Workgroup* (Feb. 4, 2025) https://governor.wa.gov/news/2025/governor-bob-ferguson-signs-executive-order-establishing-data-center-workgroup.

[231] Report at 14.

[232] *Children's Health Care v. Centers for Medicare & Medicaid Servs.*, 900 F.3d 1022, 1025 (8th Cir. 2018); *see also Shalala*, 514 U.S. at 99–100.

[233] Report at *i*

[234] *See, e.g.*, Jeff St. John, *Critics fear Trump will use flawed DOE report to push pro-coal agenda*, Canary Media (July 14, 2025), https://www.canarymedia.com/articles/fossil-fuels/trump-doe-report-open-coal-plants; Matthias Fripp and Brendan Pierpont, Opinion, *Energy Department's flawed grid study props up expensive, zombie power plants*, UtilityDive, https://www.utilitydive.com/news/doe-grid-reliability-study-zombie-power-plants/753596/.

issue emergency orders, DOE consulted with the Federal Energy Regulatory Commission and state officials.[235] DOE also explained that "[t]he DOE intends to utilize any available State and local expertise in resolving an emergency."[236] Indeed, DOE's organizational statute *requires* it to consult with States "[w]henever any proposed action by the Department conflicts with the energy plan of any State."[237] And States are already taking actions to address reliability issues and load growth in their jurisdictions.[238] DOE's refusal to collaborate with States or meaningfully involve other stakeholders here is inexplicable, conflicts with DOE's organizational statute, and the APA.

V. Conclusion

The State's request for rehearing should be granted and DOE should withdraw or otherwise amend the subject Report following public vetting through notice and comment proceedings. In the meantime, DOE cannot rely on the challenged report to support the exercise of its 202(c) authority. Doing so would be arbitrary and capricious and otherwise contrary to law and impose significant harm on our States.

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[235] 46 Fed. Reg. at 39,985.
[236] *Id*.
[237] 42 U.S.C. § 7113; *see also* 16 U.S. Code § 824h (encouraging federal-state collaboration).
[238] Jason Plautz, *State lawmakers grapple with energy demand for data centers*, E&E News (Mar. 3, 2025) https://www.eenews.net/articles/state-lawmakers-grapple-with-energy-demand-for-data-centers/; Washington Office of the Governor, *Gov. Bob Ferguson Signs Executive Order Establishing a Data Center Workgroup* (Feb. 4, 2025) https://governor.wa.gov/news/2025/governor-bob-ferguson-signs-executive-order-establishing-data-center-workgroup.

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