UNITED STATES OF AMERICA
Department of Energy
Washington, DC 20585

TransAlta Centralia Generation LLC Order No. 202-25-11C
Regarding the Centralia Generating Station

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING

(Issued June 10, 2026)

1. On December 16, 2025, pursuant to section 202(c) of the Federal Power Act (FPA),[1] and section 301(b) of the Department of Energy (DOE) Organization Act,[2] the Secretary of Energy (Secretary) issued an order determining that "an emergency exists within the Western Electricity Coordinating Council (WECC) Northwest assessment area 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 "to best meet the emergency arising from increased demand, determined shortage, and other causes, and serve the public interest under FPA section 202(c), Centralia Unit 2 shall be made available for operation."[4]

2. On January 13, 2026, a request for rehearing was filed by the State of Washington (Washington State), and on January 14, 2026, a request for rehearing was filed by Public Interest Organizations (PIOs).[5] On February 19, 2026, DOE issued a notice of denial of rehearing by operation of law and providing for further consideration.[6] On March 13,

[1] 16 U.S.C. § 824a(c).

[2] 42 U.S.C. § 7151(b).

[3] DOE Order No. 202-25-11 (Dec. 16, 2025) (Emergency Order).

[4] *Id.* at 3.

[5] Sierra Club, NW Energy Coalition, Washington Conservation Action, Climate Solutions, Public Citizen, and Environmental Defense Fund refer to themselves collectively as Public Interest Organizations.

[6] DOE Order No. 202-25-11A (Feb. 19, 2026) (DOE Notice).

2026, DOE issued an Amended Emergency Order.[7] Today, as provided in sections 202(c) and 313(a) of the FPA,[8] DOE is modifying the discussion in the Emergency Order and Amended Emergency Order and continues to reach the same result in this Order, as discussed below.[9]

I. Background

3. TransAlta Centralia Generation (Centralia) is an electric generating facility in Centralia, Washington. Centralia is owned and operated by TransAlta Centralia Generation LLC (TransAlta). Centralia consists of one remaining coal-fired generation unit, Unit 2, with a nameplate capacity of 729.9 MW.[10] Unit 2 began operations in 1973 and was slated to cease operations in December 2025.

4. In the Emergency Order, the Secretary determined that "an emergency exists within the [WECC] Northwest assessment area 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."[11] The Secretary therefore directed TransAlta to "take all measures necessary to ensure that Centralia Unit 2 is available to operate" at the direction of either the Bonneville Power Administration (BPA) or the California Independent System Operator Corporation Reliability Coordinator West (CAISO).[12]

5. On March 13, 2026, DOE issued a clarification modifying the Emergency Order's directive, replacing BPA and CAISO with Gridforce Energy Management, LLC (in its role

[7] DOE Order No. 202-25-11B (Mar. 13, 2026) (Amended Emergency Order).

[8] 16 U.S.C. §§ 824a(c), 825*l*(a). In the context of FPA section 202(c) orders, DOE interprets FPA section 313's references to "the Commission" to mean DOE. *See* 42 U.S.C. § 7151(b); *see also* 10 C.F.R. §§ 205.370 to 205.379 (2025).

[9] *See Allegheny Def. Project v. FERC*, 964 F.3d 1, 16–17 (D.C. Cir. 2020). DOE is not 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).

[10] U.S. Energy Info. Admin., *Form EIA-860, Schedule 3: Generator Data (2024) (2024 Form EIA-860)*, https://www.eia.gov/electricity/data/eia860/.

[11] Emergency Order at 1.

[12] *Id.* at 3, Ordering Paragraph A.

as Balancing Authority) and Southwest Power Pool Western RC (in its role as the Reliability Coordinator).[13]

6. The Emergency Order provided substantial support for the Secretary's emergency determination. In the Emergency Order, the Secretary reiterated that the North American Electric Reliability Corporation (NERC) 2025–2026 Winter Reliability Assessment (NERC 2025–2026 Winter Assessment) found that the WECC Northwest region "is at elevated risk during periods of extreme weather," that "[e]xternal assistance may not be available during region-wide extreme winter conditions," and that "[w]inter peak demand for the area is forecast to be 2.9 GW higher (9.3%) compared to last year."[14] The Secretary further noted that Energy + Environmental Economics (E3) determined in a September 2025 report (E3 Report) that "[a]ccelerated load growth and continued retirements create a resource gap beginning in 2026 and growing to 9 GW by 2030," that "the region faces a power supply shortfall in 2026," and that "[t]imely development of all resources is extremely challenging due to permitting and interconnection delays, federal policy headwinds, and cost pressures."[15]

7. As discussed further below, the Emergency Order also had observed that, in 2025, President Donald Trump issued executive orders which underscored the severity of the current energy emergency in the United States.[16] In this respect, the Secretary noted DOE's July 2025 Resource Adequacy Report, which was prepared specifically in response to Executive Order No. 14262, "Strengthening the Reliability and Security of the United States Electric Grid."[17] The July 2025 Resource Adequacy Report detailed that the United

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[13] Amended Emergency Order at 4. The only substantive changes in the amendment were to Reliability Coordinator and Balancing Authority. As such, both the Emergency Order and Amended Order are collectively referred to herein as the Emergency Order. Citations apply to both, but, for ease of reference, citations will be to the Emergency Order.

[14] *Id.* at 1.

[15] *Id.*

[16] *Id.* at 2 (citing Exec. Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025), https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-the-reliability-and-security-of-the-united-states-electric-grid/; Exec. Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025) (declaring a national energy emergency), https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/.

[17] DOE, *Res. Adequacy Rep. Evaluating the Reliability & Sec. of the U.S. Elec. Grid* (July 2025) (Resource Adequacy Report), https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29.pdf; *see also* Exec. Order No. 14262, § 3(b) (mandating the development

States' power grid will be "unable to meet projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence [ ] innovation."[18]

8. The Secretary's expert determination was based on the fact that increasing electricity demand, coupled with accelerated retirements of generation facilities continuing in the near term as well as subsequent years would result in risk to public health and safety caused by the potential loss of power to homes and businesses in areas that may be affected by curtailments or outages. In view of this evidence, the Secretary therefore determined that continued availability of Centralia Unit 2 to operate is necessary to best meet the emergency and serve the public interest for purposes of FPA section 202(c). 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 authorized only the necessary additional generation on specified conditions.[19]

II. Discussion

1. The Secretary's Authority to Determine the Existence of an "Emergency"

9. PIOs and Washington State each raise similar arguments that the Emergency Order fails to meet the legal definition of an "emergency" within the meaning of FPA section 202(c).[20] Washington State and PIOs similarly argue that, while FPA section 202(c) permits action in response to 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," the provision is limited to circumstances that are both imminent and unforeseen.[21] Washington State and PIOs cite to various dictionary definitions of "emergency" to assert the same point.[22] PIOs and Washington State also each similarly

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of a uniform methodology for analyzing current and anticipated reserve margins across regions of the bulk power system regulated by the Federal Energy Regulatory Commission (FERC)).

[18] Emergency Order at 3 (quoting Resource Adequacy Report at 1).

[19] *Id.* at 3–4.

[20] Washington State Pet. at 44–50; PIOs Pet. at 36–43.

[21] Washington State Pet. at 44–45; PIOs Pet. at 36–38; *see also* 16 U.S.C. § 824a(c)(1).

[22] *See* Washington State Pet. at 45; PIOs Pet. at 36–37.

assert that the Emergency Order contravenes DOE's historic use of FPA section 202(c) to address natural disasters and specific, imminent, and unexpected shortages, and that prior to 2025, DOE had never issued a FPA section 202(c) order to prevent the retirement of a generation facility absent a request by the related system operator or utility.[23] Washington State and PIOs each rely on *Richmond Power and Light v. FERC* and *Otter Tail Power Co. v. Federal Power Commission* for the proposition that courts have interpreted FPA section 202(c) narrowly to apply only to temporary emergencies requiring an imminent response.[24]

DOE's Determination

10. The Secretary has the statutory authority under FPA section 202(c) to determine that an emergency exists and exercise his judgment to address such an emergency. The statute's plain text grants the Secretary authority to respond to threats to the Nation's electric infrastructure. Specifically, the Secretary "*shall* have authority" to act "*whenever* the [Secretary] determines that an emergency exists."[25] Next, the statute sets forth three different categories of emergency 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."[26]

11. Pursuant to FPA section 202(c)(1), the Secretary has the authority to determine the existence of a statutory emergency, "either upon [his] own motion or upon complaint, with or without notice, hearing, or report."[27] Beyond providing categories of when 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 the text of FPA section 202(c) and prior DOE practice,[28] the Secretary exercised his

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[23] *See* PIOs Pet. at 42–43; Washington State Pet. at 47–48.

[24] Washington State Pet. at 49–51 (citing *Richmond Power & Light v. FERC*, 574 F.2d 610 (D.C. Cir. 1978); *Otter Tail Power Co. v. Fed. Power Comm'n*, 429 F.2d 232 (8th Cir. 1970); PIOs Pet. at 41–42 (same).

[25] 16 U.S.C. § 824a(c)(1) (emphases added).

[26] *Id.*; *see also* H.R. Rep. No. 113-86, at 2 (2013) (House Committee on Energy and Commerce Report on then-proposed amendment to FPA section 202(c), which observed that "[r]eliability-related emergencies are not limited to bad weather, natural disasters, or terrorist attacks").

[27] 16 U.S.C. § 824a(c)(1).

[28] *See, e.g.*, *Puget Sound Power & Light Co.*, 6 F.P.C. 320, 1947 WL 1048 (1947)

authority under FPA section 202(c) and determined, in his statutory discretion and substantive expertise, that "an emergency exists within the WECC Northwest assessment area due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes."[29]

12. The argument that the Secretary can act only when a blackout is "imminent" does not comport with the statutory authority conferred by FPA section 202(c). The word imminent does not appear in FPA section 202(c). Further, the Secretary acted in response to the imminent shutdown of Centralia on December 31, 2025. Were the Secretary to be required to wait until a blackout is "imminent" before addressing a shortage of generation facilities, his ability to take meaningful action under FPA section 202(c) to prevent the blackout would be gravely impaired. The imminent shutdown of Centralia required immediate action. Once a power plant like Centralia shuts down, it cannot feasibly be brought back online in response to a severe weather event or other circumstances requiring maximum generation.[30] Section 202(c) must be interpreted in the context of the electric energy industry. It can take months, if not years, to remedy a shortage of facilities for the generation of electric energy once a shortage is identified. For example, in 2024, the time from interconnection request to the beginning of commercial operations for the typical completed project was 55 months.[31] This fact that it can take years to remedy shortages of electric energy is squarely recognized in DOE's implementing regulations for FPA section 202(c), in effect since 1981, which define the term "emergency" to include "[e]xtended periods of insufficient power supply as a result of inadequate planning or the failure to construct necessary facilities."[32] Furthermore, the definition of "emergency" contained in DOE's regulations at 10 C.F.R. § 205.371—which generally provide guidance to applicants seeking FPA section 202(c) relief—does not supersede the statutory discretion FPA section 202(c) affords to the Secretary to *sua sponte* "determine[] that an

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(in which the Federal Power Commission (FPC, the predecessor of DOE) used FPA section 202(c) to prevent an anticipated power shortage despite noting that the current power supply was adequate).

[29] Emergency Order at 1.

[30] *Id*. at 2 n.11.

[31] Lawrence Berkeley Nat'l Lab'y, *Characteristics of Power Plants Seeking Transmission Interconnection as of the End of 2024*, at 47 (Dec. 2025), https://emp.lbl.gov/sites/default/files/2025-12/Queued%20Up%202025%20Edition%20-%2012.15.2025.pdf.

[32] 10 C.F.R. § 205.371 (2025); *accord Emergency Interconnection of Elec. Facilities & the Transfer of Elec. to Alleviate an Emergency Shortage of Elec. Power*, 46 Fed. Reg. 39984–01 (Aug. 6, 1981).

emergency exists."[33] Accordingly, the Secretary's emergency determination is entirely consistent with the governing statutory requirements in FPA section 202(c) and DOE's regulations.

13. Similarly, the dictionary definitions cited by Washington State and PIOs are not persuasive.[34] Those dictionary definitions cannot limit the broad discretion Congress expressly delegated to the Secretary in FPA section 202(c). Moreover, the leading legal dictionary in 1935, when the FPA was enacted, variously defined the term "emergency" to include "a perplexing contingency or complication of circumstances," as well as a "relatively permanent condition of insufficiency of service or of facilities resulting in social disturbance or distress."[35] The fact that dictionary definitions in existence at the time FPA section 202(c) was drafted and ratified acknowledge that emergencies may be of varying duration further undercuts Petitioners' selective reliance on their preferred definitions.

14. The arguments made by Washington State and PIOs based on the *Otter Tail* and *Richmond Power & Light* decisions are likewise misguided.[36] *Otter Tail* did not limit the Secretary's FPA section 202(c) discretion or the meaning of "emergency" because the court held that section 202(c) *did not apply* to the case.[37] Instead, *Otter Tail* involved section 202(b) of the FPA and not an "emergency" within the meaning of section 202(c).[38] In *Richmond Power & Light*, the Court of Appeals for the D.C. Circuit merely held that the Federal Power Commission (FPC) did not abuse its discretion in *declining* to invoke its emergency powers under section 202(c).[39] The court determined that the FPC had discretion to choose a temporary, voluntary program rather than issue an order pursuant to FPA section 202(c), as the circumstance, in the FPC's discretion, did not warrant the use of emergency authority.[40]

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[33] 16 U.S.C. § 824a(c)(1).

[34] Washington State Pet. at 45.

[35] *Emergency*, BLACK'S LAW DICTIONARY 654 (3d ed. 1933).

[36] *See, e.g.*, Washington State Pet. at 49–51; PIOs Pet. at 41–42.

[37] *See Otter Tail*, 429 F.2d at 234.

[38] *See id.* (rejecting petitioner's contention that "any proceedings in the instant case must be dealt with in compliance with § 202(c)").

[39] *See Richmond Power & Light*, 574 F.2d at 614–15.

[40] *Id*.

15. A more relevant decision is *Board of Trade of Chicago v. Commodity Futures Trading Commission*.[41] In that case, the Court of Appeals for the Seventh Circuit recognized the broad power 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)).[42] Through section 8a(9), the CFTC issued an emergency order for the Board of Trade to suspend trading in certain wheat futures contracts, citing transportation and warehouse shortages and potential market manipulation.[43] In response, the Board of Trade sought an injunction against the order, arguing that no emergency existed.[44] The district court granted a preliminary injunction, and the CFTC appealed.[45] 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.[46] 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."[47] 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 such actions to the Commission's discretion."[48] 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 in FPA section 202(c) to determine when his emergency powers should be applied to protect the public interest.[49]

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[41] *Bd. of Trade of Chicago v. Commodity Futures Trading Comm'n*, 605 F.2d 1016, 1025 (7th Cir. 1979) (*Board of Trade*).

[42] *Id*.

[43] *See id.* at 1018–19.

[44] *Id.* at 1019.

[45] *Id.* at 1019–20.

[46] *Id.* at 1023–25.

[47] *Id.* at 1025.

[48] *Id.* at 1023.

[49] *See id.* at 1023–25.

16. Congressional intent to empower the Secretary with broad discretion to determine when emergency conditions exist is further bolstered by the fact that, despite amending portions of the broader statute in 2015, Congress elected to leave the operative "emergency" language of FPA section 202(c) undisturbed. That year, Congress modified the statute to limit the duration of emergency orders that may conflict with environmental laws or regulations to 90 days.[50] Congress also mandated that, prior to renewal of a FPA section 202(c) order, DOE was to consult with the primary federal agency with expertise in the environmental interest protected by the law or regulation implicated.[51] However, it is notable that Congress did not restrict the number of times DOE could renew an emergency order. Likewise, Congress did not amend or constrain the definition of "emergency."[52] This decision affirms longstanding interpretations of the term "emergency" by the FPC and DOE and ratifies their prior use of FPA section 202(c) emergency authority.[53]

17. Moreover, DOE's 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."[54] Similarly, the fact that many previous FPA section 202(c) emergency orders lasted for years, or were even of indefinite duration, undermines Petitioners' assertions that use of this power must be limited to short-term emergencies. As such, longstanding precedent reinforces the conclusion that the scope of permissible action under FPA section 202(c) encompasses measures to address long-term structural problems, not simply responses to imminent and unexpected events—which is precisely the type of action the Secretary directed in the Emergency Order. DOE's regulations and established practice thus affirm the breadth of the Secretary's authority under FPA section 202(c) to order such generation that will, in his judgment, "best meet the emergency and serve the public interest."[55]

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[50] 16 U.S.C. § 824a(c)(4)(A).

[51] *Id.* § 824a(c)(4)(B).

[52] H.R. Rep. No. 113-86 at 5–6 (2013) (legislative history showing Congressional awareness of the *Mirant Corp.* order before 2015 amendments).

[53] *See Lorillard v. Pons*, 434 U.S. 575, 580 (1978) (noting that "Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change").

[54] 10 C.F.R. § 205.371.

[55] 16 U.S.C. § 824a(c)(1).

18. 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)[56] judgment in this respect. This history is consistent with the breadth of the Secretary's authority as expressly delegated in the statute.

2. The Secretary's Authority to Require Centralia Unit 2 to Remain Available to Operate

19. Washington State and PIOs argue that the Emergency Order impermissibly exceeds the Secretary's statutory authority under FPA section 202(c) in various respects.[57] For instance, Washington State argues that the Emergency Order, in effect, impermissibly asserts the authority to further DOE's policy decisions by managing issues unrelated to addressing imminent emergencies including future energy needs, generalized supply concerns, or an alleged preference for coal-fired generation.[58]

20. Similarly, PIOs and Washington State contend that, in enacting FPA section 215,[59] Congress established a "circumscribed scheme" of federal action for addressing long-term reliability concerns in careful balance with the states, federal regulators, and other stakeholders.[60] PIOs and Washington State assert that DOE's use of FPA section 202(c) to address long-term reliability concerns (and not, as PIOs say, imminent or unexpected threats) would effectively bypass the framework Congress provided under FPA section 215.[61]

21. Washington State further argues that the Emergency Order is unlawful because DOE never provided the public notice or an opportunity to comment, as purportedly required by the Administrative Procedure Act (APA).[62] Specifically, Washington State

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[56] The FPC was dissolved in 1977, and the FPC's functions were split between FERC and DOE, with the Secretary retaining FPA section 202(c) power.

[57] *See, e.g.*, Washington State Pet. § VI.B; PIOs Pet. at 38–40.

[58] *See* Washington State Pet. § VI.B.

[59] 16 U.S.C. § 824o.

[60] PIOs Pet. at 38–40; Washington State Pet. at 53.

[61] *See* Washington State Pet. § VI.B (citing 16 U.S.C. §§ 824(a), (b)(1), 824o, 824a(c), 825*l*); PIOs Pet. at 38–39 (citing 16 U.S.C. § 824o(i)-(j)).

[62] Washington State Pet. at 55–56 (citing 5 U.S.C. § 553–557).

contends that DOE changed its FPA section 202(c) practice in response to Executive Order No. 14262,[63] which, as noted above, directed DOE to establish a new methodology and "protocol" to use FPA section 202(c) to prevent retirement of power plants in "at-risk regions."[64] Washington State further asserts that DOE now issues FPA section 202(c) orders based on this new methodology, projections of long-term needs, and generalized statements about energy trends—and with the intent to renew them on a prolonged, indefinite basis—without having subjected that methodology to public notice and comment, in violation of 5 U.S.C. § 553.[65]

DOE's Determination

22. There is no dispute that the Secretary has the statutory authority under FPA section 202(c) to (1) determine that an emergency exists and (2) exercise his judgment to address that emergency. Rather, Washington State and PIOs claim that the Secretary exceeded that authority in certain respects. As explained below, Washington State's and PIOs' respective claims are not persuasive.

23. FPA section 201(b)(1) specifically reserves authority over "facilities used for the generation of electric energy" for the states "*except as specifically provided* in this subchapter."[66] Section 202(c) constitutes one such exception. 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."[67] Congress thus purposely provided discretion in FPA section 202(c) to require changes to the operation of electric generation facilities to meet the emergency.

24. Washington State and PIOs attempt to avoid this clear grant of authority by arguing that the Emergency Order addresses issues unrelated to emergencies and instead concerns the issue of resource adequacy and long-term reliability.[68] But placing a different label on the Secretary's action cannot change the fact that actions taken in the Emergency Order

[63] *See* Exec. Order No. 14262, § 3(b).

[64] *Id.* at 55.

[65] *Id.* at 55–56.

[66] 16 U.S.C. § 824(b)(1) (emphasis added).

[67] *Id.* § 824a(c)(1).

[68] *See, e.g.*, Washington State Pet. § VI.B; PIOs Pet. at 38–40.

fall squarely within the authority granted by FPA section 202(c). By its terms, FPA section 202(c) may be invoked to address a 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.[69] The Secretary also is authorized 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,"[70] which is exactly the action the Emergency Order requires.

25. Moreover, DOE's 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."[71] As such, this provision reinforces the conclusion that FPA section 202(c) may be used to address emergencies caused by long-term structural problems, not simply imminent and unexpected events—which is precisely what the Secretary did with the Emergency Order. DOE regulations thus implement the broad grant of discretion FPA section 202(c) affords to the Secretary to "determine[] that an emergency exists."[72]

26. Contrary to the assertions of PIOs and Washington State, the Secretary is not taking action to address matters otherwise delegated to the states or the FERC, nor is he exceeding his statutory authority under FPA section 202(c). Specifically, due to "inadequate planning" and "the failure to construct necessary facilities,"[73] the Secretary took action to address the emergency in the WECC Northwest assessment area. As described in the Emergency Order, the resource crisis in the WECC Northwest region arises, among other reasons, from the mismatch between resource retirements, such as Centralia Unit 2, and accelerated load growth.[74] "[P]rojects for new capacity . . . make only small contributions to meeting resource adequacy needs,"[75] exacerbating the emergency. If not for the Emergency Order, Centralia Unit 2 would have retired on December 31, 2025, further

[69] 16 U.S.C. § 824a(c)(1).

[70] *Id*.

[71] 10 C.F.R. § 205.371.

[72] 16 U.S.C. § 824a(c)(1).

[73] *See* 10 C.F.R. § 205.371 ("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.").

[74] Emergency Order at 3.

[75] *Id.* at 1.

decreasing the available dispatchable generation within the WECC Northwest region and deepening the reliability crisis. The actions directed by the Emergency Order thus preserve the reliability of the grid until new generation resources can be added and are entirely consistent with the governing statutory requirements in FPA section 202(c) and its implementing regulations.

27. Furthermore, contrary to Washington State's contentions, DOE's FPA section 202(c) orders are not in conflict with the APA.[76] Washington State's argument rests on the flawed premise that DOE has adopted a new "methodology" or "protocol" for exercising its FPA section 202(c) authority.[77] The Secretary's exercise of his emergency authority under FPA section 202(c) in the Emergency Order is consistent with the same statutory framework and implementing regulations that have long governed DOE's use of that authority. DOE has not promulgated any new rule subject to 5 U.S.C. § 553's notice-and-comment requirements or adopted any new binding procedures governing the exercise of FPA section 202(c) authority. Rather, the Secretary applied the existing statutory standard—determining that "an emergency exists" and ordering the remedy that, in his judgment, "will best meet the emergency and serve the public interest"—to the specific facts and circumstances presented here.[78] For these reasons, Washington State's reliance on 5 U.S.C. § 553—an APA provision that governs *proposed rulemakings*—is unavailing.

3. The Factual Basis to Support the Secretary's Emergency Determination

28. Washington State and PIOs raise similar arguments that there is no factual basis to support the Emergency Order and that the Secretary is required to set forth substantial evidence in support of his emergency determination.[79] Washington State and PIOs contend that the Emergency Order misreads and misrepresents NERC's 2025–2026 Winter Assessment and the E3 Report, asserting that neither document supports a finding of an emergency within the meaning of FPA section 202(c).[80] Washington State and PIOs also criticize the Emergency Order's discussion of and the purported methodology used in DOE's July 2025 Resource Adequacy Report.[81] Washington State and PIOs similarly

[76] Washington State Pet. at 55–56.

[77] *Id.* at 7, 55.

[78] 16 U.S.C. § 824a(c)(1).

[79] *See, e.g.*, Washington State Pet. at 56–69; PIOs Pet. at 49–63.

[80] *See* Washington State Pet. at 58–62; PIOs Pet. at 50–56.

[81] *See* Washington State Pet. at 62–65; PIOs Pet. at 58.

assert that President Trump's executive actions responding to the Nation's ongoing energy crisis also are not sufficient evidence of an emergency within the meaning of FPA section 202(c).[82]

29. PIOs further argue that DOE failed to consider contrary evidence—including BPA's own resource adequacy projections, DOE's recent export authorizations, Washington State utility regulators' November 2025 findings, the Washington Department of Commerce's December 2025 report to the state legislature, WECC's 2024 Western Assessment of Resource Adequacy (2024 Western Assessment), and the E3 presentation author's subsequent commentary.[83] PIOs contend that such sources suggest that the WECC Northwest region has adequate resources to meet demand this winter without Centralia Unit 2.[84]

DOE's Determination

30. The exigencies that FPA 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 FPA section 202(c) order confirms that the Secretary is authorized to exercise his FPA section 202(c) authority expeditiously and with broad discretion in responding to emergency situations.

31. In any event, the Secretary's determination that an emergency exists is supported by substantial factual evidence and the exercise of the Secretary's judgment. When reviewing an order under the FPA, the Secretary's findings "as to the facts, if supported by substantial evidence, shall be conclusive."[85]

32. As discussed above, in the Emergency Order the Secretary identified the ongoing emergency in the WECC Northwest region "due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes."[86] The Secretary further observed that "the emergency conditions resulting from increasing demand and accelerated retirement of generation facilities will continue in the near term and are also likely to

[82] *See* Washington State Pet. at 57–58; PIOs Pet. at 57–58.

[83] PIOs Pet. at 53–56, 58–63.

[84] *Id.*

[85] 16 U.S.C. § 825*l*(b).

[86] Emergency Order at 1.

continue in subsequent years."[87] As such, the Secretary found that this emergency "could lead to the potential loss of power to homes, businesses, and facilities critical to the national defense in the areas that may be affected by curtailments or power outages, presenting a risk to public health and safety."[88] Consistent with the Secretary's determination, the Emergency Order explains the need to increase capacity—specifically, through the continued availability to operate Centralia Unit 2—to meet increasingly high demands and decreasing generation output.[89]

33. As noted, the Secretary's determination was based on several different facts discussed in the Emergency Order and summarized here. First, NERC's 2025–2026 Winter Assessment found that the WECC Northwest region is at "Elevated Risk during Extreme Weather," that balancing authorities "are likely to require external assistance during extreme winter weather that causes thermal plant outages and adverse wind turbine conditions for area internal resources," and that "[e]xternal assistance may not be available during region-wide extreme winter conditions."[90] That NERC assessment further noted that "[w]inter peak demand for the area is forecast to be 2.9 GW higher (9.3%) compared to last year."[91]

34. Second, the E3 Report found that "[a]ccelerated load growth and continued retirements create a resource gap beginning in 2026 and growing to 9 GW by 2030," that "the region faces a power supply shortfall in 2026," and that "[t]imely development of all resources is extremely challenging due to permitting and interconnection delays, federal policy headwinds, and cost pressures."[92] Washington State and PIOs contend that the E3 Report does not support a finding of an emergency because the identified shortfall is

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[87] *Id.* at 3.

[88] *Id*.

[89] *See id*. at 1.

[90] NERC, *NERC 2025–2026 Winter Reliability Assessment*, at 6 (Nov. 2025), https://www.nerc.com/globalassets/our-work/assessments/nerc_wra_2025.pdf.

[91] *Id.*

[92] Wash. Utils. & Transp. Comm'n, *Res. Adequacy & the Energy Transition in the Pac. Nw.: Phase 1 Results*, at 2 (Sep. 22, 2025) (E3 Report), https://www.utc.wa.gov/sites/default/files/2025-10/Revised%20V3%20E3%20Presentation%20RA%20Study%20September%2022%20WA%20RA%20Meeting.pdf; *see also id.* (listing E3's study sponsors, which include certain "regional utilities and generation owners").

modest and can be addressed through imports.[93] These arguments are unpersuasive. The E3 Report's finding of a resource gap beginning in 2026—even accounting for in-development resources—confirms the existence of a shortage of facilities for the generation of electric energy within the meaning of FPA section 202(c).

35. Third, the Emergency Order referenced DOE's July 2025 Resource Adequacy Report. The Emergency Order noted that DOE's analysis concludes that "[a]bsent decisive intervention, the Nation's power grid will be unable to meet projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence [ ] innovation."[94] Further, DOE notes a July 2025 report prepared by the Council of Economic Advisers entitled, *The Economic Benefits of Unleashing American Energy* (CEA Report).[95] The CEA Report highlighted rapid energy demand increases due to data centers,[96] while noting that "utilities can delay retirement of existing baseload capacity until a sufficient amount of reliable new generation and storage capacity comes online."[97]

36. Fourth, the Emergency Order noted that the Secretary's FPA section 202(c) actions as to the Centralia Unit 2 were preceded by President Trump's historic executive actions concerning this Nation's energy supply crisis. In particular, in Executive Order No. 14262 President Trump emphasized 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."[98] As the President explained, this substantial increase in electricity demand, "coupled with existing capacity challenges, places a significant strain on our Nation's electric grid."[99] Notably, Executive Order No. 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

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[93] Washington State Pet. at 60–62; PIOs Pet. at 53–56.

[94] Emergency Order at 3; July 2025 Resource Adequacy Report, at 1.

[95] *See* Council of Econ. Advisers, *The Econ. Benefits of Unleashing Am. Energy* (July 2025), https://www.whitehouse.gov/research/2025/07/the-economic-benefits-of-unleashing-american-energy/.

[96] *Id.* at 2–6.

[97] *Id.* at 8–9.

[98] Exec. Order No. 14262, § 1.

[99] *Id.*

critical within an at-risk region is appropriately retained as an available generation resource within the at-risk region."[100]

37. President Trump likewise recognized, in Executive Order No. 14156 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."[101] In declaring such emergency, including pursuant to the National Emergencies Act,[102] the President specifically ordered the heads of executive departments to "identify and exercise any lawful emergency authorities available to them . . . to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources."[103] One such "lawful emergency authorit[y]" is the Secretary's FPA section 202(c) power. The executive orders informed the Secretary's decision and action, in addition to the other factors outlined in the Emergency Order and this Order.

38. The evidence discussed in the Emergency Order demonstrated capacity concerns within the WECC Northwest region, with increasing tightening due to continued load growth, premature retirements, and uncertain new entries.[104] The Secretary exercised his discretion in determining that these conditions constituted an emergency necessitating FPA section 202(c) action. As noted above, Washington State and PIOs maintain that this evidence does not show the existence of an imminent emergency. But if the Secretary had allowed the planned retirement of Centralia Unit 2 on December 31, 2025, that generating unit would have never been available to address the ongoing emergency in the WECC Northwest region. In other words, the Secretary was required to act before the shortage actually occurred. Accordingly, based on the evidence available, the Secretary exercised his judgment and issued the Emergency Order.

39. In addition, the recent decision in *National Wildlife Federation v. National Marine Fisheries Service* 01-0640, with respect to the District Court for the District of Oregon's grant of a preliminary injunction under the Endangered Species Act (ESA), may exacerbate the emergency.[105] On October 14, 2025, plaintiffs filed a motion for preliminary injunction

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[100] *Id.* § 3(c)(i) (emphasis added).

[101] Exec. Order No. 14156, § 1.

[102] 50 U.S.C. §§ 1601–1651.

[103] Exec. Order No. 14156, § 2.

[104] Emergency Order at 1–3.

[105] *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.* (*NWF*), No. 3:01-cv-640-

which, if granted as proposed, would have extremely negative impacts to BPA's ability to provide an adequate, efficient, economical and reliable power supply and reliable transmission to the Pacific Northwest in accordance with its statutory obligations.[106] As ultimately granted on March 2, 2026, the Preliminary Injunction[107] will significantly reduce the level of power generation, which may negatively impact the reserve carrying capacity and decrease generation flexibility that is required to support system stability. The injunction will force the federal power system into an inflexible operational space that may increase the frequency of power emergencies and risk system reliability, which could harm human health and safety.[108]

40. With respect to the additional sources cited by PIOs, the Secretary considered the totality of the evidence available at the time of the Emergency Order and exercised his expert judgment accordingly. The sources cited by PIOs do not, individually or collectively, negate the Secretary's emergency determination. In fact, these sources further support the Secretary's findings in the Emergency Order.

41. For instance, PIOs cite WECC's 2024 Western Assessment as evidence that the WECC region has adequate resources. But the 2024 Western Assessment identifies demand-at-risk hours in the NW-Northwest subregion, even under the most optimistic scenario in which all planned resource additions come online as scheduled.[109] Under the more likely scenarios—in which only 95%, 85%, or 55% of planned additions materialize

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SI, 2026 WL 524540 (D. Or. Mar. 2, 2026).

[106] *See* Nat'l Wildlife Fed'n, Mot. Prelim. Inj., ECF No. 2526, No. 3:01-cv-640-SI (filed D. Or. Oct. 14, 2025); State of Oregon, Mot. Prelim. Inj., ECF No. 2530, No. 3:01-cv-640-SI (filed D. Or. Oct. 14, 2025); *id.*, Proposed Order, ECF No. 2530-2, No. 3:01-cv-640-SI (filed D. Or. Oct. 14, 2025); Nez Perce Tribe, Mot. In Support of Proposed Order, ECF No. 2536, No. 3:01-cv-640-SI (filed D. Or. Oct. 14, 2025); State of Washington, Mot. Prelim. Inj., ECF No. 2533, No. 3:01-cv-640-SI (filed D. Or. Oct. 14, 2025); Yakama Nation, Mot. Prelim. Inj., ECF No. 2537, No. 3:01-cv-640-SI (filed D. Or. Oct. 14, 2025).

[107] *See* NWF, Am. Prelim. Inj. Order, ECF No. 2674, No. 3:01-cv-640-SI (D. Or. Mar. 2, 2026). The U.S. Government's appeal of this ruling is pending. *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.,* Appeal, No. 26-1899 (filed 9th Cir. Mar. 30, 2026).

[108] *See* Rachel Dibble Decl., No. 3:01-cv-640-SI, ECF No. 8.2, at 186–212, *NWF v. NMFS*, No. 26-1899 (9th Cir. Apr. 7, 2026).

[109] PIOs Ex. 1-92 (WECC 2024 Western Assessment of Resource Adequacy), at 2.

on time—demand-at-risk hours in the NW-Northwest subregion increase substantially, with risk spreading to additional subregions across the Western Interconnection.[110]

42. In addition, PIOs contend that the Washington Agencies' resource adequacy meeting summaries demonstrate that the WECC region has sufficient resources.[111] However, the meeting summaries acknowledge that "'normal risk' is not the same as 'no risk,'"[112] and further caution that, if significant new electricity usage materializes and extreme weather continues, "the grid could face reliability challenges."[113] The Washington Agencies further warn that, absent generation capacity additions by 2030, the WECC region would face "a resource gap equivalent to the current electricity requirements of the State of Oregon, approximately 9 gigawatts."[114] Moreover, the Washington Agencies' December 2025 winter preparedness summary acknowledges that the Pacific Northwest region generally faces an "elevated risk" of operating reserve/energy shortfalls during region-wide cold snaps.[115] Such findings are consistent with the Secretary's emergency determination within the WECC Northwest assessment area.

43. Even so, the Secretary has an independent statutory authority to consider the evidence and determine whether an emergency exists under FPA section 202(c). The Secretary did so here. When reviewing an order under the FPA, the Secretary's findings "as to the facts, if supported by substantial evidence, shall be conclusive."[116] The Emergency Order has met this threshold by citing evidence that reveals rising electricity demand coupled with a decrease in the availability of dispatchable generation. The Secretary's determination is entitled to deference as an exercise of expert judgment within the scope of his express statutory authority.

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[110] *Id.* at 2–8.

[111] PIOs Ex. 1-89 (Washington Agencies Resource Adequacy Meeting Summaries), at 1.

[112] *Id.*

[113] *Id.* at 2.

[114] *Id.*; *see also* Emergency Order at 1 (stating that "[a]ccelerated load growth and continued retirements create a resource gap beginning in 2026 and growing to 9 GW by 2030" (quoting E3 Report at 2)).

[115] PIOs Ex. 1-89 (Washington Agencies Resource Adequacy Meeting Summaries), at 16, 20.

[116] 16 U.S.C. § 825*l*(b).

44. Furthermore, PIOs' contention that DOE's authorizations[117] of electricity exports under FPA section 202(e) contradict the Secretary's emergency determination under FPA section 202(c) is without merit. FPA sections 202(e) and 202(c) operate under distinct regulatory frameworks, each with different statutory purposes, standards, and criteria. DOE's exercise of these distinct statutory authorities is under separate provisions of the FPA, where action in accordance with each is informed by its own set of considerations, is not contradictory.

45. Additionally, as DOE has explained in recent export authorization orders, the existing reliability framework ensures that exports cannot compromise the sufficiency of supply or the operational reliability of the domestic transmission system.[118] NERC Reliability Standard IRO-001-4 requires that "[e]ach Reliability Coordinator shall act to address the reliability of its Reliability Coordinator Area via direct actions or by issuing Operating Instructions," including the suspension of exports if that electric energy is needed to support the regional power grid.[119] Reliability Standard EOP-011-4 also requires each Balancing Authority to develop, maintain, and implement Operating Plans to mitigate capacity and energy emergencies within its Balancing Authority Area.[120] These reliability safeguards ensure that, during periods of grid stress—precisely the conditions that the Emergency Order is designed to address—exports would be curtailed or suspended as necessary to preserve the reliability of the domestic system. In other words, FPA section 202(e) export authorizations are necessarily subject to, and operate consistently with, the reliability imperatives underlying emergency action pursuant to FPA section 202(c).

46. Furthermore, many of DOE's export authorizations, including those cited by PIOs and Washington State, are issued to power marketers that do not own generation resources, do not have franchised service areas, and do not have native load obligations.[121] Such

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[117] PIOs Pet. at 58–59.

[118] *See, e.g.*, *H.Q. Energy Servs. (US) Inc.*, Order No. EA-182-F, at 8 (Jan. 14, 2026), https://www.energy.gov/sites/default/files/2026-02/EA-182-F_HQEnergyServicesUSInc_Order.pdf ("Specifically, the reliability coordinator has the authority to suspend exports if the electric energy would be needed to support the regional power grid.").

[119] *See* NERC Reliability Standard IRO-001-4, at 1, https://www.nerc.com (search "Reliability Standard IRO-001-4"; then select "IRO-001-4").

[120] *See* NERC Reliability Standard EOP-011-4, at 3, https://www.nerc.com (search "Reliability Standard EOP-011-4"; then select "EOP-011-4").

[121] *See, e.g.*, *Rsch. Power Corp.*, Order No. EA-365-C (Oct. 21, 2025),

entities purchase and sell electricity in the wholesale market; their export transactions do not withdraw power from load-serving obligations or diminish the generation capacity available to serve domestic demand. Accordingly, DOE's continued authorization of electricity exports under FPA section 202(e) is fully consistent with the Secretary's emergency determination under FPA section 202(c), and the Secretary reasonably exercised his judgment in issuing the Emergency Order.

47. The evidence subsequently available further confirms the Secretary's exercise of sound discretion and judgment in issuing the Emergency Order. In January 2026, NERC released its 2025 Long-Term Reliability Assessment (2025 LTRA),[122] which independently corroborates the resource adequacy emergency in the WECC Northwest assessment area. The 2025 LTRA classifies WECC Northwest as a High-Risk area—NERC's highest risk classification—beginning in 2029.[123] NERC further found that peak load in the WECC Northwest area is forecast to increase by 6.6 GW (19%) over the next 10 years, driven primarily by data center growth, and that planned resource additions—predominantly solar, battery, and wind—provide an expected on-peak winter capacity contribution of only 3.2 GW, a fraction of projected demand growth.[124] The recent increase in demand for electricity stands in sharp contrast to the period between 2005 and 2020, when demand grew at an average rate of 0.1%.[125] More broadly, the 2025 LTRA found that 13 of 23 North American assessment areas face resource adequacy challenges over the next 10 years, and that "[p]rojections for resource and transmission growth lag what is needed to support new data centers and other large loads that drive escalating demand forecasts."[126] The 2025 LTRA thus provides substantial, independent confirmation that

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https://www.energy.gov/sites/default/files/2025-11/EA-365-C%20Research%20Power%20Corporation%20-%20Export%20Authorization%20Order.pdf; *Macquarie Energy LLC*, Order No. EA-479-A (July 11, 2025), https://www.energy.gov/sites/default/files/2025-08/EA-479A%20Macquarie%20Energy%20LLC%20Export%20Authorization%20Order.pdf.

[122] NERC, *Long-Term Reliability Assessment* (Jan. 2026), https://www.nerc.com/globalassets/our-work/assessments/nerc_ltra_2025.pdf.

[123] *Id.* at 19.

[124] *Id.*

[125] U.S. Energy Info. Admin., *After More than a Decade of Little Change, U.S. Elec. Consumption Is Rising Again* (May 13, 2025), https://perma.cc/X62V-VN4L.

[126] *Id.* at 6.

the conditions underlying the Secretary's emergency determination are real, material, and worsening.

4. Whether the Emergency Order Interferes with Competitive Markets

48. Washington State contends that the Emergency Order impermissibly undermines competitive markets to the detriment of consumers and reliability.[127] Specifically, Washington State argues that the Emergency Order, Executive Order No. 14156, and Executive Order No. 14262 together advance an unlawful energy policy that overrides capacity and energy markets to force private entities to continue operating uneconomic units they would otherwise decommission.[128] Washington State further argues that the Emergency Order will cause immediate disruption to the Northwest energy market by potentially forcing the curtailment of hydropower resources in favor of coal-fired generation.[129]

49. Washington State also contends that the Emergency Order will cause long-term disruption to the Northwest energy market by delaying TransAlta's planned conversion of Centralia Unit 2 from coal to natural gas—a conversion that Washington State asserts is integral to the region's long-term resource planning and that utilities have determined to be the best means of meeting the region's future energy needs.[130]

50. Lastly, Washington State contends that Centralia's status as a merchant plant renders the Emergency Order commercially unworkable and, in any event, incapable of delivering the reliability benefit the Secretary asserts. Washington State argues that there are effectively no willing purchasers for Centralia's coal-fired output, and therefore any directive to keep Centralia Unit 2 available to operate would, as a practical matter, result in the plant standing idle at ratepayer expense, with its output unable to reach the very customers the Emergency Order purports to protect.[131]

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[127] Washington State Pet. at 83–94.

[128] *Id.* at 83–88.

[129] *Id.* at 89–92.

[130] *Id.* at 92–94.

[131] *Id.* at 82–83, 93–94.

DOE's Determination

51. Washington State's assertions are unavailing. The Secretary determined that an emergency exists and ordered the remedy that "will best meet the emergency and serve the public interest."[132] FPA section 202(c) contains no requirement for the Secretary to mitigate the impacts on competitive markets. 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").[133]

52. In any event, Washington State's assertion that the Emergency Order will destabilize the market is speculative and unfounded. With respect to hydropower, the Emergency Order does not direct the curtailment of any hydroelectric resources. The Emergency Order requires only that Centralia Unit 2 be made available to operate at the direction of the applicable Balancing Authority or Reliability Coordinator. Those entities retain full discretion to dispatch resources in accordance with applicable reliability standards and economic dispatch principles. The Emergency Order does not mandate that Centralia Unit 2 displace existing generation; rather, it ensures that the plant remains available as a reliability backstop during periods when hydropower output is constrained, for example, during drought conditions or periods of peak demand that exceed available hydropower capacity.

53. In addition, DOE notes that Centralia Unit 2 is situated within the Columbia River Basin. Recent litigation concerning the protection of certain endangered fish species resulted in preliminary injunctive relief that increases spill requirements at Columbia River Basin dams, thereby further limiting the hydropower generation capacity available from those facilities.[134] To the extent that court-ordered limitations on dam operations reduce the available hydropower capacity on the system, the continued availability of Centralia Unit 2 as a dispatchable generation resource becomes all the more essential to maintaining reliability in the WECC Northwest region.

54. With respect to market structure, DOE specified that Centralia Unit 2 shall not be considered a capacity resource.[135] This ensures that the Emergency Order will not

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[132] 16 U.S.C. § 824a(c)(1).

[133] *Id.*

[134] *See supra* note 107.

[135] Emergency Order at 4, Ordering Paragraph H; Washington State Pet. § V; *see also* PIOs Pet. at 73 (noting "[t]he Order does not indicate what 'capacity resource' means in this context and who is governed by this direction and toward what end").

"destabilize" the market or otherwise interfere with the development of new generation resources.

55. Additionally, Washington State's contention that the Emergency Order will delay TransAlta's planned coal-to-natural-gas conversion is similarly misplaced. According to Washington State, if such a conversion occurs, Centralia Unit 2 would not resume operations as a natural gas facility until 2028.[136] However, given the ongoing emergency in the WECC Northwest assessment area, Centralia Unit 2's generation is needed now. Consequently, the Secretary exercised his discretion under FPA section 202(c) to address a present shortage of electric energy and generation facilities. Washington State's acknowledgment that Centralia's natural-gas generation would not commence until at least 2028 underscores the gap in dispatchable resources in the WECC region, which the Emergency Order is designed to address.[137]

56. Further, Washington State's contention that Centralia Unit 2's merchant status renders the Emergency Order commercially unworkable is without merit. Nothing in the Emergency Order or in applicable law prohibits TransAlta from operating and selling power generated by Centralia Unit 2. To the contrary, the Emergency Order directs "TransAlta [to] take all measures necessary to ensure that Centralia Unit 2 is available to operate," and further directs the BPA "to facilitate transmission service, as needed, to effectuate [the] Order."[138] The Emergency Order also provides that "TransAlta is directed to file with the Federal Energy Regulatory Commission tariff revisions or waivers to effectuate this Order, as needed," and that "[r]ate recovery is available pursuant to 16 U.S.C. § 824a(c)."[139] Taken together, these provisions establish the operational, transmission, and commercial framework necessary for Centralia Unit 2's output to reach the market. Furthermore, FPA section 202(c)(3) provides that acts or omissions taken in compliance with a section 202(c) order "shall not be considered a violation" of "any Federal, State, or local environmental law or regulation," thereby affording TransAlta, the applicable Balancing Authority, and the Reliability Coordinator the necessary legal protections to effectuate the Emergency Order.[140]

57. Additionally, Washington State's assertion that regional coal phase-out policies eliminate willing purchasers ignores the reality that once electric energy is placed on the

[136] Washington State Pet. at 76.

[137] *See id.*

[138] Emergency Order at 3, 4, Ordering Paragraphs A, F.

[139] *Id.* at 4, Ordering Paragraph E.

[140] 16 U.S.C. § 824a(c)(3).

transmission grid, it is fungible and may be purchased by any market participant; the source of generation does not restrict the pool of potential buyers at the wholesale level. There is a vibrant and liquid wholesale electricity market in the Western Interconnection, and if Centralia Unit 2 is operational, its output can be transmitted and marketed through existing market mechanisms. For instance, TransAlta has a publicly documented history of marketing power from the facility and retains the ability to transact at the Mid-Columbia (Mid-C) trading hub, one of the principal wholesale electricity trading points in the Western Interconnection, and to enter into bilateral short-term sales arrangements with willing counterparties.[141] TransAlta may also sell power to BPA or other market participants on a bilateral or market basis.[142]

58. As noted above, the WECC Northwest region faces documented resource adequacy challenges, including elevated risk during periods of extreme weather and a projected power supply shortfall beginning in 2026. Contrary to Washington State's contentions, the Secretary's action in requiring the continued availability of Centralia Unit 2 serves to preserve reliability and protect consumers from the risk of curtailments and outages that would otherwise result from the accelerated retirement of dispatchable generation resources in the region.

5. Best and Appropriate Means for Addressing the Emergency

59. Washington State and PIOs raise similar arguments that Centralia Unit 2 is neither the best nor an appropriate means of alleviating the capacity shortfall addressed by the Emergency Order.[143] Washington State and PIOs contend that DOE failed to consider Centralia Unit 2's operational shortcomings in determining that it represents the best means of addressing the emergency.[144] Washington State and PIOs similarly contend that DOE was required to consider alternatives and evaluate other possible methods for addressing

[141] *See, e.g.*, TransAlta, *2025 Annual Report*, at M1–M30, https://transalta.com/investors/results-reporting/.

[142] *See* Exec. Order No. 14386, 91 Fed. Reg. 7393 (Feb. 11, 2026) (Strengthening United States National Defense With America's Beautiful Clean Coal Power Generation Fleet), https://www.whitehouse.gov/presidential-actions/2026/02/strengthening-united-states-national-defense-with-americas-beautiful-clean-coal-power-generation-fleet/.

[143] Washington State Pet. at 71–75; PIOs Pet. 63–70.

[144] Washington State Pet. at 74–75; PIOs Pet. 66–69.

the emergency, which Washington State and PIOs argue the Emergency Order failed to do.[145]

60. Washington State and PIOs similarly criticize the Emergency Order for directing Centralia's operation either to BPA, in its role as Balancing Authority, or to CAISO, in its role as Reliability Coordinator.[146] Washington State and PIOs contend that these entities do not, in fact, manage the generator and lack the authority to direct its operation.[147]

DOE's Determination

61. The Secretary, in issuing the Emergency Order, adhered to the process established in FPA section 202(c) in exercising his judgment by directing BPA and CAISO, later replaced by Gridforce Energy Management, LLC, as Balancing Authority, and Southwest Power Pool Western RC, as Reliability Coordinator, to undertake specific actions as to Centralia Unit 2.[148] The Secretary, as the presidentially appointed and Senate confirmed head of DOE,[149] is the appropriate individual to determine the existence of an emergency within the meaning of FPA section 202(c) and exercise "[the Secretary's] judgment" as to what remedy will "best meet the emergency and serve the public interest."[150] As discussed above, the Secretary exercised his discretion in responding to an emergency pursuant to an express delegation of authority under FPA 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.

62. As noted above, FPA section 202(c)(1) affords the Secretary discretion as to what remedy "will best meet the emergency and serve the public interest."[151] Similarly, the fact that FPA section 202(c)(1) permits the Secretary to issue emergency orders "upon [his] own motion . . . with or without notice, hearing, or report" reinforces the wide breadth of

[145] *See* Washington State Pet. at 71–73; PIOs Pet. 65–66.

[146] Washington State Pet. at 70–71; PIOs Pet. 69–70.

[147] *Id.*

[148] *See generally* Emergency Order.

[149] *See* 42 U.S.C. § 7131.

[150] 16 U.S.C. § 824a(c)(1).

[151] *Id*.

his discretionary authority.[152] 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").[153] The statute does not contain any requirement to consider and evaluate in writing any alternative means for addressing the emergency.[154] Here, the Secretary soundly exercised his judgment in determining that "continued operation [of Centralia Unit 2] will best meet an emergency caused by a sudden increase in the demand for electric energy or a shortage of generation capacity."[155]

63. PIOs and Washington State offer alternatives that PIOs deem to be better and more appropriate solutions to the emergency.[156] But the Secretary's determination need not consider, or reconsider, this after-the-fact analysis. FPA section 202(c)(1) authorizes the Secretary to determine the existence of an emergency and to order the means to address such an 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 the emergency order. Indeed, such a process would defeat the very purpose of the statutory emergency power to act expeditiously and within the judgment of the Secretary.

6. Potential Environmental Impacts

64. Washington State and PIOs contend that the Emergency Order fails to comply with FPA 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."[157] In particular Washington and PIOs argue that, absent clear temporal limitations on Centralia Unit 2's

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[152] *Id.*

[153] *Id*.

[154] PIOs' assertion (*see* PIOs Pet. at 63–64) that the Secretary must consider a wide range of possible means of addressing an emergency relies on a DOE regulation that sets forth rules for *applications* for emergency orders. 10 C.F.R. § 205.373. That regulation is not applicable here because the Secretary issued the Emergency Order upon his own initiative.

[155] Emergency Order at 3.

[156] Washington State Pet. § VI.D.2; PIOs Pet. § V.B.2–3.

[157] 16 U.S.C. § 824a(c)(2); Washington State Pet. at 77–79; PIOs Pet. at 74–78.

operational status, the Emergency Order will be in direct conflict with state and federal environmental laws.[158]

65. Moreover, PIOs claim that the Emergency Order lacks sufficiently detailed dispatch and reporting instructions, which they contend are necessary to prevent TransAlta from "generat[ing] electric energy from Centralia when other resources are available."[159] PIOs argue that the Emergency Order does not specify mitigation measures to alleviate environmental impacts, and therefore does not ensure conformity with environmental regulations "to the maximum extent practicable."[160]

DOE's Determination

66. FPA 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."[161] In addition, FPA section 202(c)(2) requires the Secretary to ensure that any directed action that may result in a conflict with a requirement of any environmental law or regulation be limited to the "hours necessary to meet the emergency and serve the public interest."[162]

67. Washington State and PIOs argue that the Emergency Order does not adequately limit the operating hours of Centralia Unit 2 to those necessary to meet the emergency, and that the Emergency Order does not identify sufficient conditions to minimize adverse environmental impacts.[163] These arguments are not valid. The Emergency Order expressly provides that, "[t]o minimize adverse environmental impacts, this Order limits operation of Centralia Unit 2 to the times and within the parameters established in paragraph A."[164] Moreover, the applicable Balancing Authority and Reliability Coordinator retain full discretion to dispatch Centralia Unit 2 only as necessary to address reliability needs within the WECC Northwest assessment area. The Emergency Order further requires that "[a]ll

[158] Washington State Pet. at 77–79; PIOs Pet. at 74–78.

[159] PIOs Pet. at 79.

[160] *Id.*

[161] 16 U.S.C. § 824a(c)(2).

[162] *Id.*

[163] Washington State Pet. at 77–79; PIOs Pet. at 74–78.

[164] Emergency Order at 3–4, Ordering Paragraph B.

operations of Centralia Unit 2 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."[165] In addition, the Emergency Order requires TransAlta to provide daily notifications to DOE reporting whether Centralia Unit 2 has operated consistently with the Emergency Order and in compliance with applicable environmental requirements.[166] These conditions provide a mechanism for DOE to monitor compliance and obtain information concerning any adverse environmental impacts of the emergency operations, and DOE may modify the Emergency Order to require additional actions as the Secretary deems appropriate within his judgment and in view of the declared emergency. The Emergency Order further specifies that it "does not provide relief from any obligation to pay fees or purchase offsets or allowances for emissions that occur during the emergency condition."[167]

68. DOE notes that 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 infeasible.[168] Furthermore, the FPA provides that any "omission or action [taken to comply with an order issued under FPA section 202(c)] shall not be considered a violation of such environmental law or regulation."[169] To the extent that continued availability to operate or dispatch the Centralia Unit 2 creates compliance challenges under those requirements, TransAlta is directed to comply with applicable environmental requirements to the maximum extent feasible while continuing to fulfill the terms of the Emergency Order.

7. NEPA Concerns

69. Washington State claims that the Emergency Order violates the National Environmental Policy Act (NEPA), as any orders issued under FPA section 202(c) that affect the quality of the environment are considered "major federal action[s]" that require compliance with NEPA standards and requirements.[170] According to Washington State,

[165] *Id.*, Ordering Paragraph C.

[166] *Id.*, Ordering Paragraph B.

[167] *Id.*, Ordering Paragraph C.

[168] 16 U.S.C. § 824a(c)(2).

[169] 16 U.S.C. § 824a(c)(3).

[170] Washington State Pet. at 97 (citing 42 U.S.C. § 4336e(10)).

these requirements include the development of "an environmental impact statement, or . . . an environmental assessment."[171]

70. Washington State further asserts that in other FPA 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 in this instance.[172]

DOE's Determination

71. Contrary to Washington State's contention, DOE has not "unjustifiably violate[d] NEPA."[173] NEPA does not apply "where compliance would be inconsistent with other statutory requirements."[174] Preparing an environmental document under NEPA's generally applicable provisions would be inconsistent with the emergency provisions in the FPA, which explicitly authorize the Secretary to exercise certain emergency authorities "with or without notice, hearing, or report."[175] Requiring compliance with the analytic and procedural burdens of preparing an environmental document under NEPA prior to issuing a FPA section 202(c) emergency order is inconsistent with the congressional authorization to exercise such emergency authority without report and would render the emergency relief statute a nullity.

72. Moreover, Congress enacted specific environmental compliance requirements for emergency orders. Specifically, the FPA requires that any emergency order that may result in a conflict with a Federal, State, or local environmental law or regulation must be limited to the "hours necessary to meet the emergency," must be consistent with applicable environmental laws "to the maximum extent practicable," and must minimize "any adverse environmental impacts."[176] Additionally, an emergency order that may result in a conflict with an environmental law or regulation is capped at 90 days and only may be renewed after consultation with the primary Federal agency with expertise in the

[171] *Id*.

[172] *Id.* (citing 10 C.F.R. pt. 1021, app. B).

[173] *Id.* at 98.

[174] 42 U.S.C. § 4332(C).

[175] 16 U.S.C. § 824a(c)(1).

[176] *Id.* § 824a(c)(2).

environmental interest protected by law.[177] These statutory directives provide the governing framework for addressing environmental compliance for an emergency order issued under FPA section 202(c), and the FPA statutory scheme controls. NEPA review would be inconsistent with the FPA statutory requirements, thus the FPA displaces the need for NEPA review.

73. While DOE previously followed the steps provided in DOE's NEPA regulations governing emergency actions, as described in the prior 10 C.F.R. § 1021.343 (for example, by preparing a special environmental analysis after the issuance of a FPA section 202(c) order), those regulations have been revised.[178] DOE is using its NEPA Implementing Procedures and is not bound by its prior approach. NEPA states 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."[179] 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) of the [FPA] (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 [FPA]."[180]

74. In addition, by including the phrase "to the maximum extent practicable," Congress recognized 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 illustrates Congressional intent to subordinate environmental concerns to ensure an adequate supply of electric energy, providing DOE with discretion to fulfill its obligations under section 202(c). Accordingly, the Emergency Order's limits on duration, the conditions that authorize only the additional generation necessary, and the requirement that operation of the Centralia Unit complies with environmental laws to the maximum extent feasible, as well as the reporting

[177] *Id.* § 824a(c)(4).

[178] *See* 10 C.F.R. § 1021.343; Revision of Nat'l Env't Pol'y Act Implementing Procs., 90 Fed. Reg. 29,676 (July 3, 2025).

[179] Fiscal Responsibility Act of 2023, Pub. L. No. 188-5, § 321(b), 137 Stat. 10, 39 (2023).

[180] DOE, *Nat'l Env't Pol. Act* (*NEPA) Implementing Procs.*, at 6 (June 30, 2025), https://www.energy.gov/sites/default/files/2025-06/2025-06-30-DOE-NEPA-Procedures.pdf.

requirements that allow DOE to monitor compliance with the Emergency Order, were sufficient to satisfy the Secretary's obligation under FPA section 202(c)(2).

75. DOE's environmental obligations were met through the conditions imposed via the Emergency Order's limitation on the duration of the emergency operations, the authorization only of the additional generation necessary, the requirement that operation of Centralia Unit 2 comply with environmental laws to the maximum extent feasible, and TransAlta's obligation to report to DOE on its compliance with the Emergency Order and corresponding environmental impacts, if any. Preparation of a NEPA environmental document would be inconsistent with issuing an emergency order under FPA section 202(c), preparing a NEPA environmental document would clearly and fundamentally conflict with the requirements of FPA section 202(c), and FPA section 202(c) displaces the need for NEPA review.

III. Procedural Issues

1. Request for Stay

76. PIOs and Washington State each move for a stay of the Emergency Order pending resolution of judicial review.[181] In support of their request, PIOs and Washington State contend that (1) absent a stay, they will be irreparably harmed by the Emergency Order, (2) a stay will not harm any other interested parties, and (3) the public interest favors a stay.[182]

DOE's Determination

77. In considering a request for a stay, agencies consider whether: (1) the party requesting the stay will suffer irreparable injury without a stay; (2) issuing a stay may substantially harm other parties; and (3) a stay serves the public interest.[183]

78. By their terms, the Emergency Order and Amended Emergency Order terminated on March 13, 2026.[184] Consequently, the stay request is now moot.

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[181] Washington State Pet. § VII; PIOs Pet. § VI.

[182] *Id.*

[183] *See Nken v. Holder*, 556 U.S. 418, 434–36 (2009); *Ohio v. Env't Prot. Agency*, 603 U.S. 279, 291 (2024).

[184] Emergency Order at 4, Ordering paragraph I; Amended Emergency Order at 5, Ordering paragraph I.

79. Addressing the requested stay on the merits, a stay is not warranted here based on a broader consideration of the equities at issue. First, Washington State and PIOs fail to present any evidence of substantial and irreparable harm. A stay would substantially harm other stakeholders and is therefore not within the public interest. Specifically, the Emergency Order was issued to address a shortage of electric energy and a shortage of facilities for the generation of electric energy in portions of the electric grid operated by WECC Northwest. As discussed above, this determination is based on the potential load stress due to resource adequacy concerns and the potential loss of power to homes and local businesses that may be affected by curtailments or outages, which presents a risk to public health and safety. Imposition of a stay would also harm those citizens residing in the WECC Northwest region who would face potentially critical electric energy shortages. The balance of equities thus favors denial of a stay.

2. Motions to Intervene

80. On January 13, 2026, Washington State filed a motion to intervene and request for rehearing. On January 14, 2026, PIOs also filed a motion to intervene and request for rehearing. PIOs and Washington State each cite various alleged interests which may be affected by the outcome of this proceeding.[185] Avista Corporation filed a motion to intervene on February 13, 2026.

DOE's Determination

81. The motions to intervene in this administrative proceeding are hereby permissively granted for PIOs, Washington State and Avista, but DOE takes no position on whether Parties are "aggrieved" for purposes of FPA section 313.[186]

* * * * *

The Emergency Order is hereby modified upon the issuance of this Order and the result sustained, as discussed in the body of this Order.

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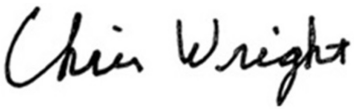
[185] Washington State Pet. § III; PIOs Pet. § III.

[186] *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.").

Issued on this 10th day of June 2026.



Chris Wright
Secretary of Energy