

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

Midcontinent Independent System	)	
	)	
Operator, Inc.	)	Order No. 202-25-3
	)	

**PETITION TO INTERVENE AND REQUEST FOR REHEARING OF  
THE ORGANIZATION OF MISO STATES, INC.**

Pursuant to 16 U.S.C. § 825l and the procedures set forth by the U.S. Department of Energy (“DOE”),<sup>1</sup> the Organization of MISO States, Inc. (“OMS”) respectfully submits this Petition to Intervene and Request for Rehearing in the above-referenced proceeding regarding the continued operation of Consumers Energy Company’s (“Consumers Energy”) J.H. Campbell Generating Facility (“Campbell Plant”) pursuant to DOE’s May 23, 2025 Order under Section 202(c) of the Federal Power Act (the “DOE Order”).<sup>2</sup>

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

OMS is a non-profit, self-governing organization representing the collective interests of 15 state utility regulators, the New Orleans City Council, and the Canadian province of Manitoba in the Midcontinent Independent System Operator, Inc. (“MISO”) region and serves as the regional state committee for the MISO region.<sup>3</sup> OMS coordinates regulatory oversight among its members, makes recommendations to MISO, the MISO Board of Directors, the Commission, and other relevant government entities, and intervenes in proceedings before the Federal Energy Regulatory

---

<sup>1</sup> U.S. Department of Energy, DOE 202(c) Order Rehearing Procedures, available at: <https://www.energy.gov/ceser/doe-202c-order-rehearing-procedures> (accessed June 23, 2025).

<sup>2</sup> U.S. Department of Energy, Order No. 202-25-3, at 2 (May 23, 2025) (“DOE Order”).

<sup>3</sup> The Michigan Public Service Commission (“Michigan Commission”) is a member of OMS and regulates Consumers Energy’s retail rates and resource decisions. In 2022, the Michigan Commission approved Consumers Energy’s Integrated Resource Plan, which proposed May 31, 2025 retirement date for the Campbell Plant.

Commission (“FERC”) and other administrative and judicial bodies to express the positions of OMS members.

OMS has a direct and substantial interest in this proceeding as the DOE Order affects resource adequacy within the MISO footprint, state-jurisdictional planning and cost oversight (both cost allocation and cost recovery impacts), wholesale energy markets, grid operations, and system reliability across the MISO footprint. The DOE Order’s implications for rate recovery, system planning, and federal-state coordination over resource decisions directly affect the jurisdiction and responsibilities of OMS member commissions. As such, OMS respectfully requests that the DOE grant its Petition to Intervene and be recognized as a party in this proceeding.

## **II. REQUEST FOR REHEARING**

OMS moves for rehearing of the DOE Order on the following grounds:

### **A. Lack of Demonstrated Justification for an Emergency Situation**

The DOE Order fails to establish, based on a dependable and comprehensive reliability assessment, that an emergency condition exists in the MISO footprint warranting the continued operation of the Campbell Plant through August 21, 2025. The DOE Order invokes the North American Electric Reliability Corporation’s (“NERC”) 2025 Summer Reliability Assessment<sup>4</sup> as its primary evidence for the existence of an Emergency Situation and the need for the continued operation of the Campbell Plant. However, the OMS-MISO Resource Adequacy Survey, MISO’s 2025/2026 Planning Resource Auction, MISO’s summer readiness assessment, and Consumers Energy’s plans all do not indicate a regional reliability emergency, shortfall or an unmet reliability criterion that justifies reversal of a planned and approved resource retirement. On the contrary, the

---

<sup>4</sup> NERC 2025 Summer Reliability Assessment (May 2025), available at: [https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC\\_SRA\\_2025.pdf](https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf) (last accessed June 19, 2025).

studies and available information show the opposite. In particular, MISO’s 2025/2026 PRA cleared *beyond* the reliability target ensuring sufficient reserves to meet peak demand and other times of potential system risk.

Additionally, the NERC Long Term Reliability Assessment (“LTRA”) and seasonal assessments have limited use due to the inconsistent data collection methods between RTOs, unverified data inputs, and dubitable evaluation metrics. At their core, the NERC LTRA and seasonal assessments are undependable because they lack stakeholder input and verification. The NERC LTRA and seasonal assessments have been called into question over the past several years, as the assessments have gained traction and increased use; questions from MISO, multiple states, and most recently, MISO’s Independent Market Monitor (“IMM”) – Dr. David Patton of Potomac Economics. Dr. Patton shared concerns directly with FERC at the June 2025 Resource Adequacy Technical Conference and directly to the MISO Markets Committee of the Board of Directors in Minneapolis on June 10, 2025. After further investigation, NERC found mismatched data for its 2024 LTRA, down-rated MISO’s risk from “high” to “elevated” in the immediate years, and advised additional effort will be made to validate data with MISO and the Midwest Reliability Organization.<sup>5</sup> More accurate, timely, and relevant information was and is available and was not expressly reviewed or contemplated by the DOE Order, and no avenue exists to allow this more relevant information to be considered by DOE.

---

<sup>5</sup> NERC, Statement on NERC’s 2024 LTRA (June 17, 2025), available at: <https://www.nerc.com/news/Pages/Statement-on-NERC%E2%80%99s-2024-Long-Term-Reliability-Assessment.aspx>.

**i. Violations of Law**

- Federal Power Act 202(c), 16 U.S.C. 824a(c) requiring that an emergency exists due to a sudden increase in demand, shortage of electricity, or other causes threatening adequacy of service.
- Arbitrary and Capricious Action under the Administrative Procedures Act (5 U.S.C. § 706) due to the reliance on the unverified and inconsistent NERC data, using it for a purpose unintended or applicable, failure to consider more accurate and recent regional data, no mechanisms to revisit the decision based on events or actions within the 90-day period.

**B. Violation of the Federal Power Act and State Jurisdiction**

The DOE Order did not adequately consult with or incorporate the findings of MISO, Consumers Energy, the Michigan Commission, or other state regulatory bodies, who have primary jurisdiction over integrated resource planning, siting, and cost recovery for utilities operating in their states. Similarly, the DOE Order failed to consider the MISO summer assessment in which Michigan, MISO, and other MISO-states use to coordinate and inform seasonal risks and operational concerns and reliability impacts. This failure undermines the federal-state regulatory balance, is a violation of the Federal Power Act, the cooperative federalism principles, and long-standing practices including the FERC Policy on State-Federal Collaboration.

**i. Violation of Law**

- Federal Power Act 201(b), 16 U.S.C. § 824 reserves the authority over generation, siting, resource adequacy, and retail rates to the states; the DOE order bypasses states-planning and decision-making authority and ratemaking.
- Cooperative Federalism Doctrine: DOE unilaterally intrudes into state authority without required consultation or respect for jurisdictional boundaries.

### **C. Lack of Cost Allocation and Cost Recovery Framework**

The DOE Order explicitly disclaims responsibility for cost recovery to FERC, while directly incurring costs through its requirements, through the continued operation of a costly and potentially uneconomic generating units. This creates legal, jurisdictional, and equity concerns, in unjust and unreasonable ways by assigning costs to those not causing the costs or receiving the benefits.

#### **i. Violation of Laws**

- Federal Power Act Sections 205, 206 require rates must be just and reasonable and not unduly discriminatory or preferential; as the need for the facility does not exist, no cost allocation mechanism meeting these standards is possible.
- Cost Causation Principles held by courts

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

The DOE's order relies on an overly broad and speculative interpretation of what constitutes an "emergency" under Section 202(c), invoking federal authority absent any immediate or demonstrated reliability shortfall. This 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. This expansive use of emergency powers sets a troubling precedent, enabling intervention 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.

Such preemptive action risks undermining the credibility of future emergency orders, distorting market signals, and eroding the statutory balance between federal and state authority.

**i. Violation of Law:**

- Federal Power Act Section 202 is intended for temporary emergency orders, in response to immediate reliability threats – severe storms such as hurricanes, extreme heat or cold, or other short-term, short-duration events. Here, the DOE Order extends to a non-emergency for the full term authorized by the section, without substantiation for the need for the facility nor measures that could self-terminate the DOE Order, as is typically the case.
- Violation of the Administrative Procedures Act (5 U.S.C. § 706) in misusing a statutory authority beyond its intended scope and in doing so, encroaching on established state jurisdiction as provided for in the Federal Power Act.

**E. Relief Requested**

OMS respectfully requests that the DOE:

- Grant this Petition to Intervene.
- Grant Rehearing on the May 23, 2025 DOE Order.
- Vacate or revise the May 23, 2025 DOE Order unless or until a demonstrable reliability need is established through an open, stakeholder-informed, and coordinated process.

**III. CONCLUSION**

OMS submits these Comments because a majority of OMS members that participated in the vote on this filing supported this Petition to Intervene and Request for Rehearing.<sup>6</sup> This should not be construed to mean that all OMS members agree with all comments above. Individual OMS members reserve the right to file separate comments. In recognition of such, the following members voted in support of this filing:

---

<sup>6</sup> The Minnesota Department of Commerce is an Associate Member of OMS and supports this Petition to Intervene.

Illinois Commerce Commission  
Indiana Utility Regulatory Commission  
Iowa Utilities Commission  
Kentucky Public Service Commission  
Michigan Public Service Commission  
Minnesota Public Utilities Commission  
New Orleans City Council  
Public Service Commission of Wisconsin

The Arkansas Public Service Commission, the Louisiana Public Service Commission, the Mississippi Public Service Commission, the Missouri Public Service Commission, the North Dakota Public Service Commission, the South Dakota Public Utilities Commission, and the Public Utility Commission of Texas abstained from the vote on this filing.

The Manitoba Public Utilities Board and the Montana Public Service Commission did not participate in the vote on this filing.

Respectfully submitted,

/s/ Brad J. Pope  
Brad Pope  
Legal and Regulatory Director  
Organization of MISO States  
811 E. Washington Ave., Suite 400  
Madison, WI 53703  
[brad@misostates.org](mailto:brad@misostates.org)

/s/ Tricia DeBleeckere  
Tricia DeBleeckere  
Executive Director  
Organization of MISO States  
811 E. Washington Avenue, Ste. 400  
Madison, WI 53703  
[tricia@misostates.org](mailto:tricia@misostates.org)

Dated: June 23, 2025