

192 FERC ¶ 61,158
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: David Rosner, Chairman;
Lindsay S. See and Judy W. Chang.

Consumers Energy Company

Docket Nos. EL25-90-000

v.

Midcontinent Independent System Operator, Inc.

United States Department of Energy

AD25-14-000

ORDER ON COMPLAINT

(Issued August 15, 2025)

1. On June 6, 2025, Consumers Energy Company (Consumers) filed a complaint (Complaint) pursuant to sections 202(c), 306, and 309 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's Rule of Practice and Procedure,² proposing revisions to the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to add a provision (Proposed Tariff Provision) to allocate the costs of keeping the J.H. Campbell generating plant (Campbell Plant) in operation, in response to the U.S. Department of Energy's (DOE) May 23, 2025 Emergency Order No. 202-25-3 (DOE Order), under section 202(c) of the FPA and section 301 of the DOE Organization Act.³

2. In this order, we grant the Complaint and find that the Proposed Tariff Provision is just and reasonable. We direct MISO to make a compliance filing, within 30 days of the date of this order, to adopt the Proposed Tariff Provision, as revised, as discussed below.

¹ 16 U.S.C. §§ 824a(c), 825e, 825h.

² 18 C.F.R. § 385.206 (2024).

³ 42 U.S.C. § 7151(b).

I. Background

A. Campbell Plant Retirement Plan

3. The Campbell Plant, located in Western Michigan, has three coal-fired units with a total summer capacity of 1,400 MW. Consumers co-owns the plant with Wolverine Power Supply Cooperative, Inc. (Wolverine), which owns a 1.89% interest in Unit 3, and Michigan Public Power Agency (MPPA), which owns a 4.80% interest in Unit 3. Consumers had planned to retire the Campbell Plant on May 31, 2025, as part of its Integrated Resource Plan filed in 2021 with the Michigan Public Service Commission (Michigan Commission) and pursuant to a settlement that resulted from that plan, which the Michigan Commission approved in 2022.⁴

B. DOE Actions

4. In the DOE Order, the Secretary of Energy determined that “an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for generation of electric energy, and other causes.”⁵ Further, the Secretary of Energy determined that issuance of the DOE Order will “meet the emergency and serve the public interest.”⁶ Therefore, the Secretary of Energy directed MISO and Consumers to “take all measures necessary to ensure that the Campbell Plant is available to operate”⁷ and directed Consumers to keep the Campbell Plant open for 90 days, i.e., until August 21, 2025.

5. The DOE Order cited a statement in the 2025 NERC Summer Reliability Assessment (Summer Assessment) that “[d]emand forecasts and resource data indicate that MISO is at elevated risk of operating reserve shortfalls during periods of high demand or low resource output.”⁸ The DOE Order stated that “the retirement of thermal generation capacity creates the potential for electricity supply shortfalls.”⁹ The DOE

⁴ Consumers Complaint at 7-8.

⁵ DOE Order at 1.

⁶ *Id.*

⁷ *Id.* at 2, ordering para. (A).

⁸ *Id.* at 1-2 (citing NERC, *Summer Reliability Assessment* 16 (May 2025), https://www.nerc.com/pa/rapa/ra/reliability%20Assessments%20DL/nerc_SRA_2025.pdf).

⁹ *Id.* at 1.

Order also cited to a statement in the Summer Assessment that the near-term period of highest capacity shortfall for MISO would occur in August. The DOE Order quoted a MISO April 2025 presentation on the Planning Resource Auction Results for Planning Year 2025-2026 as demonstrating that, for the MISO North and MISO Central regions, “new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspension/retirements and external resources.”¹⁰ The DOE Order also quoted the same presentation’s statements referring to all of MISO that, while the results “demonstrated sufficient capacity,” the summer months reflected the “highest risk and a tighter supply-demand balance” and that the results “reinforce the need to increase capacity.”¹¹

6. The DOE Order noted that several generation facilities in Michigan had retired in recent years, and specifically that, according to the U.S. Energy Information Administration, since 2020, approximately 2,700 MW of coal-fired generation capacity had been retired, and no new coal-fired facilities were planned. The DOE Order noted that Michigan’s nuclear power plants had “typically supplied” approximately 30% of in-state electricity, but supply from nuclear plants in Michigan had declined, as such plants had been decommissioned, including Big Rock Point that was shut down in 1997 and Palisades that closed in 2022 (which is scheduled to reopen, but not until late 2025).¹² The DOE Order stated that the scheduled retirement of the Campbell Plant would further decrease available dispatchable generation within MISO’s service territory, as it followed an additional 1,575 MW of natural gas and coal-fired generation that had been retired since the summer of 2024. The DOE Order also stated that, although MISO and Consumers had incorporated the planned retirement into their supply forecasts and acquired a 1,200 MW natural gas power plant in Covert, Michigan, the Summer Assessment still anticipated an “elevated risk of operating reserve shortfalls” in MISO.¹³

7. The DOE Order directed that to “[t]he extent to which MISO’s current Tariff provisions are inapposite to effectuate the dispatch and operation of the units for the reasons specified herein, the relevant governmental authorities are directed to take such action and make accommodations as may be necessary to do so.”¹⁴ The DOE Order also

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.* at 1.

¹³ *Id.* at 1-2.

¹⁴ *Id.* at ordering para. (E).

directed Consumers to “file with [this Commission] Tariff revisions or waivers necessary to effectuate [the DOE Order].”¹⁵

8. Several entities filed requests for rehearing of the DOE Order with DOE.

9. On June 13, 2025, the Secretary of Energy issued, pursuant to section 205.376 of the DOE regulations,¹⁶ a referral (DOE Referral) directing the Commission to “conduct such proceedings as it determines to be appropriate and issue a final order resolving the rate issues as discussed in [the DOE Order].”¹⁷ The DOE Referral states that, on June 10, 2025, DOE received a letter from counsel for Consumers, which stated that MISO and Consumers have not been able to reach agreement on the rate issues related to the DOE Order.¹⁸ Therefore, noting that Consumers and MISO had not been able to agree on those issues, the DOE Referral states that pursuant to section 205.376 of the DOE regulations, DOE directs the Commission to conduct appropriate proceedings and issue a final order resolving the rate issues discussed in the DOE Order.¹⁹ The DOE Referral states that “DOE is not referring to the Commission any other matters, including, but not limited to, DOE’s finding of an emergency, the prescription of conditions of service, or any other matter arising from DOE’s exercise of its authority under section 202(c).”²⁰ On June 24, 2025, the Commission issued an order in Docket No. AD25-14-000 acknowledging the referral and providing notice of the Commission’s intent to take further action in appropriate proceedings, including on pending and future filings related to rate recovery based on the Secretary of Energy’s findings in the DOE Order.²¹

II. Consumers’ Complaint

10. Consumers states that it and MISO agree that the Tariff does not have a mechanism for Consumers to recover costs incurred under the DOE Order. Consumers therefore asks the Commission to exercise its authority under FPA sections 202(c), 306,

¹⁵ *Id.* at ordering para. (F).

¹⁶ 10 C.F.R. § 205.376 (2024) (Emergency Interconnection of Electric Facilities and the Transfer of Electricity to Alleviate an Emergency Shortage of Electric Power).

¹⁷ DOE Referral at 1.

¹⁸ *Id.* at 2.

¹⁹ *Id.* at 1.

²⁰ *Id.* at 2.

²¹ *U.S. Dep’t of Energy*, 191 FERC ¶ 61,216, at P 4 (2025).

and 309 to order MISO to adopt the Proposed Tariff Provision as a cost recovery mechanism. Consumers also states that the Proposed Tariff Provision is strictly to establish a cost allocation method, and that, after the 90-day period, Consumers (and other owners of the Campbell Plant) would submit a future filing in a separate docket with the actual costs to be allocated according to the Tariff mechanism. Specifically, Consumers states that it will make a separate request to the Commission under section 202(c) for the “compensation or reimbursement” of its costs associated with running the Campbell Plant from the date of the DOE Order, net of market revenues.²²

11. Consumers asserts that the Proposed Tariff Provision meets the “just and reasonable” standard of section 202(c)(1). Consumers states that section 202(c) requires costs to be allocated based on the scope and nature of the emergency and that the DOE Order referred to the MISO North and MISO Central regions; accordingly, Consumers argues that the costs should be allocated to both the MISO North and MISO Central regions.²³ Consumers contends that, under this cost allocation, Michigan load will pay its “fair share,” but that the costs should not fall solely on Michigan, as Michigan customers are already paying for fulfilling the capacity needs of Local Resource Zone 7.²⁴

12. Consumers’ Proposed Tariff Provision specifies that it is pursuant to the DOE Order and applies to the allocation of costs (DOE Order Costs) associated with the continued availability of the Campbell Plant, from May 23, 2025, through August 21, 2025, and any extensions ordered by the Secretary of Energy. The Proposed Tariff Provision states that Consumers (on its own behalf and, as necessary, on behalf of the other owners of the Campbell Plant) will petition the Commission to approve recovery of DOE Order Costs, net of market revenues, and that the costs will be allocated among Local Resource Zones 1-7, i.e., among zones in the MISO North and MISO Central regions, to load-serving entities (LSE) on a “load ratio share” basis.

²² Consumers Complaint at 4.

²³ *Id.* at 5-6, 17-18.

²⁴ *Id.* at 6. While Consumers refers to “Zones” in the Complaint and in its Proposed Tariff Provision, we understand Consumers to refer to Local Resource Zones in the Tariff, which are used for determining locational resource requirements under MISO’s resource adequacy construct to ensure deliverability of capacity resources given constraints that limit deliverability of resources between zones. *See* MISO, FERC Electric Tariff, § II, Module A, § II (General Provisions), § 1.L (Definitions – L) (47.0.0), Local Resource Zone: “A geographic area within the Transmission Provider Region that is prescribed by the Transmission Provider . . . to address congestion that limits Planning Resource deliverability.”

13. In support of its proposal, Consumers points to a DOE section 202(c) order that referred to the Commission the matter of cost compensation related to DOE's directive that Cross-Sound Cable Company, LLC (Cross-Sound) operate its facilities to alleviate emergency conditions that DOE identified in Long Island, New York. Consumers argues that the Cross-Sound proceeding supports cost recovery for complying with a section 202(c) order, regardless of cost causation.²⁵

14. Consumers argues that the Commission's prior notice requirements, filed rate doctrine, or rule against retroactive ratemaking apply to filings or proceedings under sections 205 and 206 of the FPA, but do not apply to determinations and cost recovery under section 202(c).²⁶ Consumers argues that section 202(c) allows costs to be determined and recovered after the emergency generation or provision of jurisdictional service. Consumers maintains that section 202(c)'s contemplation of such post-hoc determinations and recovery is demonstrated in the wording of the statute, including that, after an emergency order "takes effect," there will be "supplemental" orders regarding "compensation or reimbursement."²⁷ Alternatively, Consumers requests that, if the Commission determines that an FPA section 206 proceeding is necessary, including a finding that the Tariff is unjust and unreasonable and a subsequent determination as to a just and reasonable rate, then the Proposed Tariff Provision be made effective the date of filing of the Complaint.²⁸

III. Notice and Responsive Pleadings

15. Notice of the Complaint was published in the *Federal Register*, 90 Fed. Reg. 25042 (June 13, 2025), with interventions and protests due on or before June 20, 2025.

16. Notices of intervention were filed by: the Arkansas Public Service Commission (Arkansas Commission); the Council of the City of New Orleans; the Illinois Commerce Commission (Illinois Commission); the Louisiana Public Service Commission; the Michigan Commission; the Minnesota Public Utilities Commission; the Missouri Public Service Commission; Organization of MISO States, Inc. (OMS); and the Public Utility Commission of Texas.

²⁵ Consumers Complaint at 14 (citing *U.S. Dept. of Energy*, 101 FERC ¶ 61,389, at P 3 (2002)).

²⁶ *Id.* at 13-16 (citing 16 U.S.C. §§ 824d, 824e).

²⁷ *Id.* at 16.

²⁸ *Id.* at 19.

17. Timely motions to intervene were filed by: Alliant Energy Corporate Services, Inc., on behalf of Interstate Power and Light Company and Wisconsin Power and Light Company; Ameren Services Company, on behalf of Ameren Illinois Company, Ameren Transmission Company of Illinois, and Union Electric Company d/b/a Ameren Missouri (collectively, Ameren); American Electric Power Service Corporation, on behalf of AEP Indiana Michigan Transmission Company, Inc., AEP Energy Partners, Inc., and AEP Retail Energy Partners LLC; American Municipal Power, Inc.; Association of Businesses Advocating Tariff Equity (ABATE); Calpine Corporation; Central Minnesota Municipal Power Agency d/b/a Central Municipal Power Agency/Services, Missouri Joint Municipal Electric Utility Commission d/b/a the Missouri Electric Commission, Missouri River Energy Services, and WPPI Energy; Citizens Action Coalition of Indiana, Inc.; Citizens Utility Board of Minnesota; Citizens Utility Board of Wisconsin; Clean Wisconsin; Coalition of MISO Transmission Customers; Cooperative Energy; DTE Electric Company; Ecology Center Michigan (Ecology Center); Entergy Services, LLC, on behalf of Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, and Entergy Texas, Inc. (collectively, Entergy); Environmental Defense Fund; Environmental Law and Policy Center; Exelon Corporation o/b/o Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.; Great River Energy (Great River); Illinois Citizens Utility Board; Illinois Municipal Electric Agency; International Transmission Company d/b/a *ITCTransmission* (*ITCTransmission*), Michigan Electric Transmission Company, LLC (METC), and ITC Midwest LLC (ITC Midwest) (collectively, ITC); Michigan Attorney General; Midwest Large Energy Consumers; MISO Transmission Owners;²⁹ MPPA; Natural Resources Defense Council (NRDC) and Sustainable FERC Project; NIPSCO;

²⁹ MISO Transmission Owners for this proceeding include: Ameren; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; Citizens Electric Corporation; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Cooperative Energy; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; East Texas Electric Cooperative; Entergy; Great River; GridLiance Heartland LLC; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company d/b/a AES Indiana; *ITCTransmission*; ITC Midwest; Lafayette Utilities System; METC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company LLC (NIPSCO); Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power, Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a CenterPoint Energy Indiana South); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine.

the Office of the Illinois Attorney General (Illinois Attorney General); Public Citizen, Inc. (Public Citizen); Resale Power Group of Iowa (RPGI); Sierra Club; Solar Energy Industries Association; Union of Concerned Scientists; Urban Core Collective; Vistra Corp. and Dynegy Marketing and Trade, LLC; Vote Solar; Wisconsin Electric Power Company, Wisconsin Public Service Corporation, and Upper Michigan Energy Resources Corporation; and Wolverine. Motions to intervene out of time were filed by American Clean Power Association and Basin Electric Power Cooperative.

18. On June 20, 2025, MISO submitted its answer to the Complaint.

19. Protests or comments were filed by: the Arkansas Commission and the Council of the City of New Orleans (collectively, Southern Regulators); Consumer Alliance;³⁰ Great River; Illinois Attorney General; the Illinois Commission; ITC; the Michigan Attorney General; the Michigan Commission; MPPA; NIPSCO; Public Interest Organizations;³¹ and Wolverine.

20. On June 26, 2025, OMS submitted a motion for acceptance of late-filed comments and comments. On July 3, 2025, Consumers filed a motion for leave to answer and an answer (Consumers Answer). On July 8, 2025, MPPA filed a motion for leave to answer and answer in support of the Consumers Answer (MPPA Answer).

A. MISO Answer

21. MISO agrees with Consumers that the Tariff does not currently contain a mechanism for cost allocation under these circumstances. MISO states that it does not oppose the Proposed Tariff Provision and that it will file such a schedule if directed by the Commission. MISO notes that it reserves the right to change the cost allocation mechanism “to account for existing Tariff requirements and to include other clarifications, as may be appropriate.”³²

³⁰ Consumer Alliance includes: ABATE, Coalition of MISO Transmission Customers, Midwest Large Energy Consumers, and RPGI.

³¹ Public Interest Organizations include: Citizens Action Coalition of Indiana, Inc., Citizens Utility Board of Minnesota, Citizens Utility Board of Wisconsin, Clean Wisconsin, Earthjustice, Ecology Center, Environmental Defense Fund, Environmental Law and Policy Center, Illinois Citizens Utility Board, NRDC, Public Citizen, Sierra Club, Sustainable FERC Project, Vote Solar, Union of Concerned Scientists, and Urban Core Collective.

³² MISO Answer at 5.

B. Comments, Protests, and Answers

22. Several entities state that they support the Complaint and agree with Consumers that the Tariff lacks a cost recovery mechanism for the continued operation of the Campbell Plant due to the DOE Order.³³ ITC argues that the plain language of the statute and rules applicable to this case clearly supports granting Consumers' requests to remedy these gaps in the Tariff, especially given the clear directives in the DOE Order.³⁴ Wolverine and MPPA explain that, as co-owners with Consumers of Unit 3 of the Campbell Plant, Wolverine and MPPA have a right to recover their costs for the same reasons Consumers has a right to recover its costs.³⁵ MPPA contends that, because the Campbell Plant is in MISO and will be participating in MISO's markets, Consumers' proposal for MISO to revise its Tariff to provide for the recovery of those costs is reasonable.³⁶

23. ITC, the Michigan Commission, and MPPA argue that the Proposed Tariff Provision's cost allocation is just and reasonable.³⁷ These entities assert that the cost allocation ensures that beneficiaries pay, and the cost allocation meets the Commission's cost causation principle because recovering costs from LSEs in Local Resource Zones 1-7 aligns with the DOE Order's references to resource adequacy conditions in MISO's Central and North regions.³⁸ The Michigan Commission argues that costs resulting from the DOE Order should not rest solely on Consumers' customers because any energy emergency declared in the DOE Order has not been the result of Michigan utility planning and because Consumers' customers are already paying for the suite of resources that facilitated the Campbell Plant's planned retirement.³⁹ In support, the Michigan Commission points to the retirement planning for the Campbell Plant in Consumers'

³³ ITC Comments at 2-4; Michigan Commission Comments at 2; MPPA Comments at 2; NIPSCO Comments at 2, 5; Wolverine Comments at 2.

³⁴ ITC Comments at 3-4.

³⁵ MPPA Comments at 3; Wolverine Comments at 2-3.

³⁶ MPPA Comments at 3.

³⁷ ITC Comments at 4-5; Michigan Commission Comments at 2-3; MPPA Comments at 3.

³⁸ ITC Comments at 5; Michigan Commission Comments at 8; MPPA Comments at 3.

³⁹ Michigan Commission Comments at 4-6.

Integrated Resource Plan and the related stakeholder process, as well as a Michigan statute requiring a four-year forward capacity demonstration.

24. NIPSCO requests that, independent of Consumers' specific request in this proceeding, the Commission institute a proceeding pursuant to FPA section 206 requiring MISO to show cause why the Tariff remains just and reasonable and not unduly discriminatory or preferential without a rate schedule that would be applicable to, and provide cost recovery for, any generator directed to continue operations pursuant to an order under FPA section 202(c).⁴⁰ NIPSCO contends that having a cost recovery mechanism in the Tariff would add certainty. NIPSCO notes that generation owners receiving similar orders would still have to come before the Commission to justify costs as just and reasonable.⁴¹

25. The Michigan Commission argues that, while the merits of the DOE Order are not at issue in this docket, evidence belies the notion of an energy emergency.⁴² The Michigan Attorney General opposes the Proposed Tariff Provision, arguing that the Commission should reject it under the discretion afforded the Commission under FPA section 202(c) and issue an order deferring any finding, on the basis that the Proposed Tariff Provision is premature until the rehearing requests at DOE are resolved.⁴³ The Michigan Attorney General adds that, if the Commission does not reject the Proposed Tariff Provision, the Commission should impose conditions to facilitate refunds in case the DOE Order is found to be unlawful, arguing that imposing the costs of keeping the Campbell Plant in operation violates the Tariff and the FPA if the DOE Order is later deemed unlawful. The Michigan Attorney General also asserts that, if the Commission does accept the Proposed Tariff Provision, it should limit the cost recovery to those costs from the limited scope of operation ordered by the DOE Order. The Michigan Attorney General also asserts that the Commission should impose a "clawback" mechanism to refund upgrade costs recovered under the Proposed Tariff Provision should the Campbell Plant continue to operate beyond the term of the DOE Order. The Michigan Attorney General argues that costs should be recovered region-wide, including from the MISO South region.⁴⁴

⁴⁰ NIPSCO Comments at 2, 6.

⁴¹ *Id.* at 6.

⁴² Michigan Commission Comments at 2, 6-8.

⁴³ Michigan Attorney General Protest at 2, 15-16.

⁴⁴ *Id.* at 19-21.

26. Great River and Public Interest Organizations argue that Consumers' Proposed Tariff Provision violates the Commission's cost causation principle by assigning costs to customers that do not benefit from the continued operation of the Campbell Plant.⁴⁵ Great River argues that the focus of the DOE Order is on generation retirements locally within the State of Michigan, which is entirely within MISO "Zone 7," and homes and local businesses in the areas that may be affected by curtailments or outages.⁴⁶ Great River asserts that the homes and businesses it serves in MISO Local Resource Zones 1 and 3 are located hundreds of miles away and are not "local," as they do not directly interconnect to Local Resource Zone 7 and therefore do not benefit from the continued operation of the Campbell Plant. Great River and Public Interest Organizations state that customers in MISO Local Resource Zones 1-7 do not benefit from keeping the Campbell Plant open because they have already satisfied their capacity needs for the summer.⁴⁷ Public Interest Organizations challenge Consumers' explanation that the costs should be allocated pursuant to the DOE Order's emergency declaration, noting that the DOE Order does not specifically declare an emergency in MISO Local Resource Zones 1-7. Public Interest Organizations state that the Commission cannot render a decision on the cost allocation for the Campbell Plant absent sufficient information about the nature of the emergency and the beneficiaries of the Campbell Plant.⁴⁸

27. The Illinois Attorney General, the Illinois Commission, OMS, and Consumer Alliance request that the Commission require MISO to initiate a stakeholder process related to the Proposed Tariff Provision.⁴⁹ Similarly, Great River requests that the Commission initiate a stakeholder process to the extent that the Commission does not reject Consumers' proposal to allocate costs in MISO Local Resource Zones 1-7 as opposed to allocating the costs to Consumers' load.⁵⁰ The Illinois Attorney General argues that a rate recovery mechanism is premature, as the Commission first needs to know the extent to which specific units will be running and the cost of running those

⁴⁵ Great River Protest at 1-2, 3-6; Public Interest Organizations Comments at 2-3, 3-5.

⁴⁶ Great River Protest at 4-5.

⁴⁷ *Id.* at 5-6; Public Interest Organizations Comments at 3-5.

⁴⁸ Public Interest Organizations Comments at 7-9.

⁴⁹ Consumer Alliance Comments at 2, 5, 7-8; Illinois Attorney General Comments at 3, 5-6; Illinois Commission Comments at 1, 4, 9-10, 13; OMS Comments at 3-4.

⁵⁰ Great River Protest at 7-8.

units.⁵¹ Therefore, the Illinois Attorney General asserts that the Commission should assess how the costs of running the plant align with the benefits to ratepayers via a hearing or stakeholder process. Great River states that referring the cost allocation issue for development in the MISO stakeholder process is appropriate because MISO is not the only party affected by Consumers' proposal, as shown by Consumers' request to allocate costs to LSEs across a large portion of the MISO footprint.⁵² Consumer Alliance asserts that such a stakeholder process could mirror PJM Interconnection, L.L.C.'s (PJM) initiation of a Critical Issue Fast Path accelerated stakeholder process in response to a separate DOE section 202(c) order.⁵³

28. The Illinois Commission states that, after such a stakeholder process, the Commission should set the matter for hearing to develop a record of the costs and how to allocate them so that the costs are paid by those who benefitted, which may not be the MISO Central and MISO North regions.⁵⁴ Similarly, OMS urges the Commission to direct MISO to engage with MISO states and stakeholders in determining any cost recovery or cost allocation methodologies.⁵⁵ OMS requests that, absent such direction from the Commission, the Commission should set the Complaint for hearing.

29. Consumer Alliance requests that, if the Commission forgoes such processes, then any cost recovery mechanism to be added to the Tariff should ensure that the costs are allocated on a demand basis and not on an energy basis, because the costs relate to capacity.⁵⁶ Consumer Alliance also notes that the Commission should develop broader guidance regarding cost recovery mechanisms associated with future orders issued by DOE under section 202(c). Consumer Alliance argues that certain issues compound the legal uncertainty of the DOE Order, including DOE's reliance on data that, according to Consumer Alliance, NERC recently announced was inaccurate⁵⁷, and data from the

⁵¹ Illinois Attorney General Comments at 3-5, 6-8.

⁵² Great River Protest at 8.

⁵³ Consumer Alliance Comments at 7 (citing "Education on FPA Section 202(c) and DACC Cost Allocation CIFP Day 1," PJM (June 10, 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/cifp-doe-ca/2025/20250610/20250610-item-04-critical-issue-fast-path-doe-202c-cost-allocation-presentation.pdf>).

⁵⁴ Illinois Commission Comments at 10, 11-12.

⁵⁵ OMS Comments at 3-4.

⁵⁶ Consumer Alliance Comments at 6-7.

⁵⁷ *Id.* at 3-4 (citing MISO, *Potomac Economics IMM Quarterly Report: Spring 2025* (June 10, 2025), <https://cdn.misoenergy.org/20250610> Markets Committee of the

2025-2026 MISO Planning Resource Auction and the MISO Independent Market Monitor's Spring 2025 Quarterly Report indicating that MISO does not have a capacity shortfall.

30. Southern Regulators take no position on Consumers' requested relief, the Commission's authority to grant that relief, or whether the Proposed Tariff Provision is just and reasonable, but request that any Commission order on the Complaint make clear that application of the Proposed Tariff Provision is limited to the Campbell Plant and costs incurred due to the DOE Order.⁵⁸ They also assert that costs should not be allocated to the MISO South region, and they urge the Commission to make clear that any findings on cost allocation in this proceeding do not set precedent for future DOE orders issued pursuant to section 202(c).⁵⁹

C. Answers to Comments

31. In response to arguments that the Commission should establish a hearing to determine the beneficiaries of the continued operation of the Campbell Plant, Consumers states that the Commission's acceptance of the Proposed Tariff Provision is not predicated on Consumers demonstrating cost causation or identifying the beneficiaries.⁶⁰ Consumers states that, pursuant to section 202(c), the costs of the Campbell Plant's continued operation are to be allocated in accordance with the scope of the emergency identified in the DOE Order. Consumers argues that a hearing is unnecessary because there are no material facts in dispute that would require a hearing.⁶¹ Consumers also objects to requests for a MISO stakeholder process, arguing that a stakeholder process is unwarranted because it would delay cost recovery and because the DOE Order directed

BOD Item 06 IMM Quarterly Report701555.pdf; NERC, *Statement on NERC's 2024 Long-Term Reliability Assessment* (June 17, 2025), <https://www.nerc.com/news/Pages/Statement-on-NERC%E2%80%99s-2024-Long-Term-Reliability-Assessment.aspx> (citing an adjustment in MISO's Long-Term Reliability Assessment, but also noting that the Long-Term Reliability Assessment and the Summer Assessment analyze different data)).

⁵⁸ Southern Regulators Comments at 4-5.

⁵⁹ *Id.* at 5-6.

⁶⁰ Consumers Answer at 10.

⁶¹ *Id.* at 12-13.

the Commission, and not MISO, to address the cost recovery issue.⁶² MPPA supports the Consumers Answer.⁶³

IV. Discussion

A. Procedural Matters

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

33. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant the late-filed motions to intervene given those entities' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

34. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2024), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the answers filed by Consumers and MPPA because they provided information that assisted us in our decision-making process.

B. Substantive Matters

35. As discussed below, we grant Consumers' Complaint and find the Proposed Tariff Provision is just and reasonable under FPA section 202(c). Accordingly, we direct MISO to make a compliance filing, within 30 days of the date of this order, to adopt the Proposed Tariff Provision. Furthermore, as discussed below, we direct MISO to include, as part of its compliance filing, revised language to define "load ratio share" and describe how each LSE's load ratio share will be calculated.

36. The DOE Organization Act gives the Secretary of Energy the authority pursuant to section 202(c) of the FPA that had been previously granted to the Federal Power Commission.⁶⁴ Responsibilities pursuant to section 202(c) include taking action to address an energy emergency:

⁶² *Id.* at 14.

⁶³ MPPA Answer at 1-4.

⁶⁴ 42 U.S.C. § 7151.

(c) Temporary connection and exchange of facilities during emergency

(1) ... [W]henver the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its 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 its judgment will best meet the emergency and serve the public interest.⁶⁵

Section 202(c)(1) also provides for affected parties to agree on terms, and, if that fails, then, after a hearing, terms may be prescribed as follows:

If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.⁶⁶

37. Section 205.376 of DOE's regulations provides that DOE will refer compensation issues to this Commission where parties cannot agree on terms.⁶⁷ As noted above, the Secretary of Energy referred the rate issues to this Commission on June 13, 2025.

38. The Commission's rate analysis applies the cost causation principle, which requires that "all approved rates reflect to some degree the costs actually caused by the

⁶⁵ 16 U.S.C. § 824a(c)(1). Section 202(c)(4)(A) further provides that a Commission order can be renewed, for another 90 days each time, as necessary to meet the emergency and serve the public interest. 16 U.S.C. § 824a(c)(4)(A).

⁶⁶ 16 U.S.C. § 824a(c)(1).

⁶⁷ 10 C.F.R. § 205.376.

customer who must pay them.”⁶⁸ We find that this is the relevant legal standard for evaluating whether the proposed method to allocate the costs of keeping the Campbell Plant in operation, in response to the DOE Order, is just and reasonable. Courts have explained that, to “the extent that a utility benefits from the costs of new facilities, it may be said to have ‘caused’ a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built, or might have been delayed.”⁶⁹ As a result, a cost allocation method can satisfy the cost causation principle if the Commission “has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with” the allocation of the costs.⁷⁰

39. In applying the cost causation principle here, we find that it is just and reasonable for the cost allocation method to allocate costs in accordance with the scope of the emergency as described by the DOE Order. We recognize that the parties offer different interpretations of the DOE Order on that issue. Consumers argues that the beneficiaries are the LSEs in Local Resource Zones 1-7, which the DOE Order refers to as MISO North and MISO Central.⁷¹ Great River and Public Interest Organizations challenge Consumers’ interpretation of the DOE Order, noting that LSEs in Local Resource Zones 1-7 have already met their resource adequacy requirements, such that they would not benefit from the extra capacity from the Campbell Plant.⁷² Great River asserts that a focus of the DOE Order is the impacts of generation retirements locally within the State of Michigan, which is entirely within MISO Zone 7, such that allocating costs of complying with the DOE Order beyond Consumers’ own load is not supported by the cost causation principle.⁷³ In contrast, the Michigan Attorney General argues that the DOE Order supports a MISO-wide cost allocation, including to MISO South.⁷⁴

40. We acknowledge that parties have presented different interpretations of how the DOE Order defined the geographic scope of the emergency. However, we find that the most reasonable reading of the DOE Order’s intended scope is that the emergency necessitating the continued operation of the Campbell Plant is in the MISO North and

⁶⁸ *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992).

⁶⁹ *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009).

⁷⁰ *Id.* at 477.

⁷¹ Consumers Complaint at 5-6, 17-18.

⁷² Great River Protest at 5-6; Public Interest Organizations Comments at 3-5.

⁷³ Great River Protest at 4-5.

⁷⁴ Michigan Attorney General Protest at 19-21.

MISO Central regions, i.e., Local Resource Zones 1-7. Specifically, we find that it is reasonable to interpret the DOE Order's reliance on statements in MISO's presentation on the Planning Resource Auction Results for Planning Year 2025-2026 that "new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspension/retirements and external resources"⁷⁵ in the MISO North and MISO Central regions as indicating that resource adequacy concerns for those regions were the driver for the DOE Order. Therefore, we accept Consumers' proposal to allocate the costs of keeping the Campbell Plant in operation, in response to the DOE Order, to LSEs within Local Resource Zones 1-7.

41. In response to commenters who argue that the Commission should require MISO to initiate a stakeholder process related to the Proposed Tariff Provision, we find that further process is not necessary. As described above, the most reasonable reading of the DOE Order's intended scope is that the emergency necessitating the continued operation of the Campbell Plant is in Local Resource Zones 1-7, providing sufficient basis for our accepting Consumers' proposal. Further, we also note that the instant proceeding has provided any interested stakeholder notice of Consumers' proposal and an opportunity to comment. We also reject commenters' request to delay action on the Proposed Tariff Provision until the rehearing proceeding at DOE is resolved.

42. We find that arguments against adoption of the Proposed Tariff Provision, such as that imposing the costs of keeping the Campbell Plant in operation violates the Tariff and the FPA if the DOE Order is deemed unlawful are beyond the limited scope of this proceeding and were not referred to the Commission by DOE. We also find whether the provision should include a mechanism to refund upgrade costs recovered under the Proposed Tariff Provision should the Campbell Plant continue to operate beyond the term of the DOE Order, are likewise beyond the limited scope of this proceeding. While this order approves the cost allocation methodology in the Proposed Tariff Provision, it does not approve recovery of actual costs. Pursuant to the Proposed Tariff Provision, Consumers must petition the Commission in a separate proceeding at a later date for approval to recover specific DOE Order Costs before ratepayers can be charged for such costs. Parties may raise issues related to the scope of costs prudently incurred pursuant to the DOE Order in that proceeding.⁷⁶ Parties also may take appropriate steps, such as requesting rehearing in this proceeding, to preserve arguments that if the DOE Order were to be modified, then the Commission should require refunds or otherwise revisit its

⁷⁵ DOE Order at 2.

⁷⁶ *See, e.g.*, Illinois Attorney General Comments at 3-5, 6-8; Michigan Attorney General Protest at 16-19; Southern Regulators Comments at 4-5.

approach to matters that DOE referred to the Commission in connection with the DOE Order.

43. Accordingly, we direct MISO to make a compliance filing, within 30 days of the date of this order, to adopt the Proposed Tariff Provision. However, we find that the Proposed Tariff Provision needs to be further revised to define “load ratio share” and describe how each LSE’s load ratio share will be calculated in a just and reasonable manner. In particular, the Proposed Tariff Provision does not specify what measure of load will be used (e.g., coincident peak, peak load for the duration of the DOE Order (and any extensions), some averaging method, etc.). We agree with Consumer Alliance that the costs at issue should be allocated on a demand basis for the reasons Consumer Alliance outlines above. We note that one just and reasonable method could be a load ratio share based on the forecasted Season coincident peak demand for Local Resource Zones 1-7 for the duration of the DOE Order (and any extensions) because this reasonably aligns with the emergency described in the DOE Order and the beneficiaries of the emergency energy provided by the Campbell Plant.

The Commission orders:

(A) Consumers’ Complaint is hereby granted, as discussed in the body of this order.

(B) MISO is hereby directed to file a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

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