

NOT YET SCHEDULED FOR ORAL ARGUMENT

No. 25-1159
(Consolidated with 25-1160 and 25-1162)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

THE PEOPLE OF THE STATE OF MICHIGAN,
Petitioner,
v.
U.S. DEPARTMENT OF ENERGY, AND CHRIS WRIGHT, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF ENERGY,
Respondents.

ON PETITION FOR REVIEW OF FINAL ORDER OF THE
DEPARTMENT OF ENERGY

**INITIAL OPENING BRIEF OF
PUBLIC INTEREST ORGANIZATION PETITIONERS**

Gregory E. Wannier (DC Cir. 55920)
Sanjay Narayan (DC Cir. 48545)
Elena Saxonhouse (DC Cir. 56639)
Sierra Club Environmental Law
Program
2101 Webster St., Suite 1300
Oakland, CA 94612
(415) 977-5646
greg.wannier@sierraclub.org
sanjay.narayan@sierraclub.org
elena.saxonhouse@sierraclub.org

Counsel for Sierra Club

Benjamin Chagnon (DC Cir. 65850)
Jennifer Yun (DC Cir. 66550)
Michael Lenoff (DC Cir. 66374)
Earthjustice
1001 G St. NW, Suite 1000
Washington, DC 20001
(202) 745-5210
bchagnon@earthjustice.org
jyun@earthjustice.org
mlenoff@earthjustice.org

*Counsel for Sierra Club and
Urban Core Collective*

Caroline Reiser (DC Cir. 62319)
Natural Resources Defense Council
1152 15th St. NW, Suite 300
Washington DC, 20005
(202) 717-8341
creiser@nrdc.org

Gavin McCabe (DC Cir. 53966)
Natural Resources Defense Council
40 W. 20th St., 11th Floor
New York, NY 10011
(212) 727-4529
gmccabe@nrdc.org

Simi Bhat (DC Cir. 55968)
Karen Chen
Natural Resources Defense Council
111 Sutter St., 21st floor
San Francisco, CA 94104
(415) 875-6110
sbhat@nrdc.org
kchen@nrdc.org

*Counsel for Natural Resources Defense
Council*

Lauren Piette (DC Cir. 66519)
Sameer Doshi (DC Cir. 64549)
Earthjustice
311 S. Wacker Dr., Suite 1400
Chicago, IL 60606
(312) 500-2193
lpiette@earthjustice.org
sdoshi@earthjustice.org

Christine Powell (DC Cir. 64908)
Earthjustice
180 Steuart St., #194330
San Francisco, CA 94105
(415) 217-2035
cpowell@earthjustice.org

*Counsel for Sierra Club and
Urban Core Collective*

Howard A. Learner (DC Cir. 61779)
Bradley Klein
Environmental Law & Policy Center
35 East Wacker Dr., Suite 1600
Chicago, IL 60601
T: (312) 673-6500
hlearner@elpc.org
bklein@elpc.org

Katherine S. Duckworth
Environmental Law & Policy Center
1008 Floral Ave. SE
East Grand Rapids, MI 49506
T: (312) 673-6500
kduckworth@elpc.org

*Counsel for the Environmental Law &
Policy Center, Ecology Center, Union
of Concerned Scientists, and Vote
Solar*

Danielle C. Fidler (DC Cir. 62486)
Francis W. Sturges, Jr. (DC Cir.
64964)
Veronica Saltzman (DC Cir. 64096)
Clean Air Task Force
114 State St., 6th Floor
Boston, MA 02109
(617) 624-0234
dfidler@catf.us
fsturges@catf.us
vsaltzman@catf.us

*Counsel for Michigan Environmental
Council*

Tomás Carbonell (DC Cir. 54320)
Ted Kelly
Environmental Defense Fund
555 12th St. NW, #400
Washington, DC 20004
(919) 449-4600
tcarbonell@edf.org
tekelly@edf.org

*Counsel for Environmental Defense
Fund*

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

A. Parties

Petitioners:

25-1159: The People of the State of Michigan.

25-1160: Sierra Club, Natural Resources Defense Council, Michigan Environmental Council, Environmental Defense Fund, Environmental Law and Policy Center, Vote Solar, Union of Concerned Scientists, Ecology Center, and Urban Core Collective.

25-1162: The State of Minnesota and the State of Illinois.

Respondents:

25-1159: U.S. Department of Energy and Chris Wright in his official capacity as Secretary of the U.S. Department of Energy.

25-1160: U.S. Department of Energy and Chris Wright in his official capacity as Secretary of the U.S. Department of Energy.

25-1162: U.S. Department of Energy and Chris Wright in his official capacity as Secretary of the U.S. Department of Energy.

Respondent-Intervenor: Midcontinent Independent System Operator, Inc.

Amici:

Consumers Energy Company.

Institute for Policy Integrity at New York University School of Law.

B. Rulings under review

The petitioners in Case Nos. 25-1159, 25-1160, and 25-1162 seek review of three orders from the U.S. Department of Energy and Secretary Chris Wright:

1. *Midcontinent Indep. Sys. Op., Inc., and Consumers Energy Co.*, Order No. 202-25-3, dated May 23, 2025;

2. Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration, *Midcontinent Indep. Sys. Op., Inc. and Consumers Energy Co. Regarding the J.H. Campbell Generation Facility*, Order No. 202-25-3A, dated July 28, 2025; and

3. Order Addressing Arguments Raised on Rehearing, *Midcontinent Indep. Sys. Op., Inc. and Consumers Energy Co. Regarding the J.H. Campbell Generation Facility*, Order No. 202-25-3B, dated September 8, 2025.

C. Related cases

The petitions for review in Case Nos. 25-1159, 25-1160, and 25-1162 have not previously been before this Court or any other court. Case Nos. 25-1198, 25-1202, and 25-1254 (consolidated) pending in this Court arise from a renewal of the

order issued by the Department of Energy and Secretary Chris Wright at issue in the instant set of petitions. Case No. 25-1285 pending in this Court is also related to this set of petitions because it arises from a Federal Energy Regulatory Commission order on a complaint filed by Consumers Energy Company in response to the same order challenged in these petitions.

TABLE OF CONTENTS

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES	iv
TABLE OF CONTENTS.....	vii
TABLE OF AUTHORITIES	ix
GLOSSARY OF ABBREVIATIONS	xiv
INTRODUCTION	1
JURISDICTIONAL STATEMENT	3
ISSUES PRESENTED.....	3
STATUTES AND REGULATIONS.....	4
STATEMENT OF THE CASE.....	4
A. The Federal Power Act provides the federal government only limited authority to regulate electricity generation and the grid.	4
B. States, grid operators, and utility companies coordinate to deliver a reliable supply of electricity.	9
C. Petitioners and Consumers Energy worked for years to replace Campbell with safer, cheaper, and more reliable energy.	11
D. Regulators predicted adequate capacity in summer 2025 in MISO regions.	14
E. The Department blocks Campbell’s retirement with a Section 202(c) emergency order.....	15
SUMMARY OF THE ARGUMENT	18
STANDING	19
STANDARD OF REVIEW	22
ARGUMENT	22
I. The Department Acted Unlawfully by Compelling Generation Without Demonstrating an Emergency under Section 202(c).....	22

A. The Department violated Section 202(c) by using it to address long-term resource adequacy concerns.	23
1. Section 202(c) reaches only imminent shortfalls, not long-term resource adequacy concerns.	23
2. The Department’s arguments for rejecting Section 202(c)’s limits fail.	31
B. The record reflects no near-term electricity shortfall.	33
1. The Order reflects the Department’s fundamental mischaracterization of resource adequacy and is illogical on its own terms.	34
2. The Department ignored concrete evidence of resource adequacy that contradicts the Department’s conclusion.	40
II. The Order Fails to Meet Section 202(c)’s Limits on the Generation the Department Can Order Under an Emergency.	42
A. The Department’s conclusion that operating an ailing coal-fired plant best meets the emergency is arbitrary and capricious.	42
B. The Department has not limited generation to hours necessary to meet the emergency and to minimize environmental impacts.	45
III. These Petitions Are Not Moot.	47
CONCLUSION	49
CERTIFICATE OF COMPLIANCE	52
CERTIFICATE OF SERVICE	53

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Alcoa Inc. v. FERC</i> , 564 F.3d 1342 (D.C. Cir. 2009).....	28
<i>Am. Freedom Def. Initiative v. Wash. Metro. Area Transit Auth.</i> , 901 F.3d 356 (D.C. Cir. 2018).....	48
<i>Am. Rivers v. FERC</i> , 895 F.3d 32 (D.C. Cir. 2018).....	20, 21
<i>Bangor Hydro-Elec. Co. v. FERC</i> , 78 F.3d 659 (D.C. Cir. 1996).....	34
<i>Bd. of Trade of the City of Chi. v. CFTC</i> , 605 F.2d 1016 (7th Cir. 1979)	32
<i>Cal. Indep. Sys. Operator v. FERC</i> , 372 F.3d 395 (D.C. Cir. 2004).....	27, 28
<i>City & Cnty. of San Francisco v. FERC</i> , 24 F.4th 652 (D.C. Cir. 2022).....	43, 46
<i>Clean Wisconsin v. EPA</i> , 964 F.3d 1145 (D.C. Cir. 2000).....	20
<i>Conn. Dep’t of Pub. Util. Control v. FERC</i> , 569 F.3d 477 (D.C. Cir. 2009).....	29
<i>Crowley Gov’t Servs. v. GSA</i> , 143 F.4th 518 (D.C. Cir. 2025).....	47
<i>Ctr. for Biological Diversity v. EPA</i> , 56 F.4th 55 (D.C. Cir. 2022).....	20
<i>Dist. Hosp. Partners, L.P. v. Burwell</i> , 786 F.3d 46 (D.C. Cir. 2015).....	41
<i>Dubin v. United States</i> , 599 U.S. 110 (2023).....	25

<i>Earthworks v. Interior</i> , 105 F.4th 449 (D.C. Cir. 2024).....	20
<i>Entergy Corp. v. Riverkeeper</i> , 556 U.S. 208 (2009).....	42
<i>Env't Action v. FERC</i> , 996 F.2d 401 (D.C. Cir. 1993).....	21
<i>FCC v. Consumers' Research</i> , 606 U.S. 656 (2025).....	48
<i>FDA v. Brown & Williamson Tobacco Corp.</i> , 529 U.S. 120 (2000).....	28
<i>Fed. Trade Comm'n v. Bunte Bros.</i> , 312 U.S. 349 (1941).....	30
<i>FERC v. Elec. Power Supply Ass'n</i> , 577 U.S. 260 (2016).....	4, 5, 6
<i>Genuine Parts Co. v. EPA</i> , 890 F.3d 304 (D.C. Cir. 2018).....	40
<i>Humane Soc'y v. EPA</i> , 790 F.2d 106 (D.C. Cir. 1986).....	49
<i>Institutional S'holder Servs. v. SEC</i> , 142 F.4th 757 (D.C. Cir. 2025).....	24, 32
<i>Kimball Wind, LLC v. FERC</i> , 140 F.4th 496 (D.C. Cir. 2025).....	22
<i>Loper Bright Enters. v. Raimondo</i> , 603 U.S. 369 (2024).....	24, 30, 31, 34, 44
<i>Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.</i> , 463 U.S. 29 (1983).....	22, 42, 44
<i>Nat'l Shooting Sports Found. v. Jones</i> , 716 F.3d 200 (D.C. Cir. 2013).....	40
<i>New York v. FERC</i> , 535 U.S. 1 (2002).....	5

<i>Ohio v. EPA</i> , 603 U.S. 279 (2024).....	43
<i>Otter Tail Power Co. v. Fed. Power Comm’n</i> , 429 F.2d 232 (8th Cir. 1970)	26, 27
<i>Pac. Gas. & Elec. Co. v. FERC</i> , 113 F.4th 943 (D.C. Cir. 2024).....	22, 24
<i>Pierre-Noel v. Bridges Pub. Charter Sch.</i> , 113 F.4th 970 (D.C. Cir. 2024).....	48
<i>In re Pub. Emps. for Env’t Resp.</i> , 957 F.3d 267 (D.C. Cir. 2020).....	21
<i>Pub. Util. Comm’n of Cal. v. FERC</i> , 236 F.3d 708 (D.C. Cir. 2001).....	48
<i>Ralls Corp. v. Comm. on Foreign Inves. in U.S.</i> , 758 F.3d 296 (D.C. Cir. 2014).....	48
<i>Richmond Power & Light of City of Richmond v. FERC</i> , 574 F.2d 610 (D.C. Cir. 1978).....	26, 32, 44
<i>S. Carolina Pub. Serv. Auth. v. FERC</i> , 762 F.3d 41 (D.C. Cir. 2014).....	25
<i>Sacramento Mun. Util. Dist. v. FERC</i> , 616 F.3d 520 (D.C. Cir. 2010).....	5
<i>Safari Club Int’l v. Jewell</i> , 842 F.3d 1280 (D.C. Cir. 2016), and (2)	47
<i>Sierra Club v. EPA</i> , 926 F.3d 844 (D.C. Cir. 2019).....	19
<i>Sinclair Wyoming Ref. Co. LLC v. EPA</i> , 114 F.4th 693 (D.C. Cir. 2024).....	34, 39
<i>Trump v. Mazars USA, LLP</i> , 39 F.4th 774 (D.C. Cir. 2022).....	47
<i>Whitman v. Am. Trucking Ass’n</i> , 531 U.S. 457 (2001).....	29

<i>Wisconsin Pub. Power v. FERC</i> , 493 F.3d 239 (D.C. Cir. 2007).....	9
---	---

Statutes

5 U.S.C. § 706(2)(A).....	22
5 U.S.C. § 706(2)(C).....	22
16 U.S.C. § 824(a).....	5, 29
16 U.S.C. § 824(b).....	5, 29
16 U.S.C. § 824(b)(1).....	5, 29
16 U.S.C. § 824a.....	33
16 U.S.C. § 824a(a).....	6, 27
16 U.S.C. § 824a(b).....	6, 27
16 U.S.C. § 824a(c).....	3, 4, 25, 27
16 U.S.C. § 824a(c)(1).....	2, 7, 18, 19, 22, 24, 25, 26, 27, 42, 44
16 U.S.C. § 824a(c)(2).....	7, 19, 29, 42, 45, 46
16 U.S.C. § 824a(c)(3).....	29
16 U.S.C. § 824a(c)(4).....	7, 29, 47
16 U.S.C. § 824a(c)(5).....	3, 32
16 U.S.C. § 824o.....	8, 9, 33
16 U.S.C. § 824o(d).....	8
16 U.S.C. § 824o(d)(1).....	28
16 U.S.C. § 824o(d)(2).....	28
16 U.S.C. § 824o(e).....	8, 28
16 U.S.C. § 824o(i)(2).....	8, 28
16 U.S.C. § 825l(a).....	3, 48

16 U.S.C. § 825l(b)	3, 16, 48
42 U.S.C. § 7151(b)	6
42 U.S.C. § 7192(a).....	3
Code of Federal Regulations	
10 C.F.R. § 205.371	30, 31
Federal Register	
46 Fed. Reg. 39984 (Aug. 6, 1981).....	30
89 Fed. Reg. 38508 (May 7, 2024)	46
Executive Orders	
Executive Order No. 14,261 (Apr. 8, 2025)	44
Executive Order No. 14,262 (Apr. 8, 2025)	39, 44
Executive Order No. 14,156 (Jan. 20, 2025)	39
Prior 202(c) Orders	
Order No. 202-17-4 (Sept. 14, 2017)	46
Order No. 202-22-4 (Dec. 24, 2022).....	8
Order No. 202-24-1 (Oct. 9, 2024)	8
Other Authorities	
3 Oxford English Dictionary (1st ed. 1913)	24
Ben Rolsma, <i>The New Reliability Override</i> , 57 Conn. L. Rev. 789 (2025)	8, 25
S. Rep. No. 74-621 (1935).	7, 26, 27
S. Rep. No. 109-78 (2005).....	8
Webster’s New International Dictionary of the English Language (1930).....	24

GLOSSARY OF ABBREVIATIONS

EPA	Environmental Protection Agency
FERC	Federal Energy Regulatory Commission
MISO	Midcontinent Independent System Operator
NERC	North American Electric Reliability Corporation

INTRODUCTION

In 2022, the owner of the aging J.H. Campbell coal-fired power plant in Michigan, its state regulator, and its regional grid operator all agreed that the plant should retire. Over four years, they worked together to ensure that cheaper, cleaner generation sources would replace (indeed, exceed) the plant's production. And for four years, members of the community surrounding the plant looked forward to the day that Campbell's pollution—estimated to cause more than 30 premature deaths and hundreds of millions of health costs *each year*—would end.

But right before Campbell's retirement, the Department of Energy invoked Section 202(c) of the Federal Power Act, an emergency provision, to block Campbell's closure and compel its continued operation. The Department initially justified that action by claiming a short-term electricity shortage in summer 2025. Three months later, when denying Petitioners' rehearing request, the Department shifted gears, disputing that Section 202(c) limits its discretion to addressing imminent shortages and asserting long-term concerns about grid reliability as an additional justification for the order. The Department has cited those long-term concerns to renew the order well past summer 2025.

There is no Section 202(c) emergency. As a threshold matter, the Department's interpretation of Section 202(c) is wrong. Section 202(c) places meaningful limits on the Department's discretion, permitting it to compel

generation only where an “emergency exists”—that is, to prevent an imminent, unexpected shortage of electricity. 16 U.S.C. § 824a(c)(1). The Federal Power Act addresses long-term grid reliability elsewhere, in provisions that withhold federal authority to exercise command-and-control authority over the grid. The Department therefore may not use Section 202(c) to address long-term grid reliability concerns.

The Department’s only claim of imminent crisis—a supposed summer 2025 shortage—fails because the record reflects no such shortage. As the Department recognized, both Campbell’s owner and grid operator obtained “sufficient capacity” for the summer, JA____[DOE0001_2], a finding that is irreconcilable with the Department’s claimed emergency. The few sources the Department cites to establish an emergency undermine its claim.

Even if there had been an emergency, the Department still blew past Section 202(c)’s limits on generation by requiring Campbell to operate even when unnecessary to meet the Department’s claimed emergency.

The Court should declare the order and its justifications unlawful and set it aside, notwithstanding the nominal expiration of the order. The Department has now twice renewed the order, each time repeating the same errors presented here. The Court can and should put an end to the Department’s continued abuse of its

authority, which has imposed millions of dollars in unnecessary costs and pollution on residents of Michigan and the Midwest.

JURISDICTIONAL STATEMENT

This petition challenges orders issued pursuant to Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c): Order No. 202-25-3 (May 23, 2025), JA____[DOE0001], as modified on rehearing by Order No. 202-25-3B (Sept. 8, 2025), JA____[DOE0016].

The Court has jurisdiction over these orders. *See* 16 U.S.C. §§ 824a(c)(5), 825l(b); 42 U.S.C. § 7192(a). Petitioners were parties below, are aggrieved by these orders, and timely sought rehearing on June 18, 2025. JA____, ____ - ____ [DOE0016_1,23-24]; 16 U.S.C. § 825l(b). Their request for rehearing was denied by operation of law 30 days later, 16 U.S.C. § 825l(a); *see* Order No. 202-25-3A (July 28, 2025), JA____[DOE0015], and Petitioners timely petitioned for review in this Court on July 24, 2025. The Department issued its rehearing order on September 8, 2025. JA____[DOE0016]. These petitions are not moot. *See infra* § III.

ISSUES PRESENTED

1. Whether the Department exceeded its authority under Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c), by justifying Campbell's forced operation based on purported long-term concerns.

2. Whether the Department failed to engage in reasoned decisionmaking to establish an emergency under Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c).
3. Whether the Department's conclusion that Campbell's continued operation "will best meet the emergency" is arbitrary and capricious. 16 U.S.C. § 824a(c).
4. Whether the Department violated Section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c), by ordering generation beyond the "hours necessary to meet the emergency" and without "minimiz[ing] any adverse environmental impacts."
5. Whether these petitions present a live controversy.

STATUTES AND REGULATIONS

The addendum (ADD) contains relevant statutes and regulations.

STATEMENT OF THE CASE

A. The Federal Power Act provides the federal government only limited authority to regulate electricity generation and the grid.

The Federal Power Act governs federal regulation of electricity. Before the Act, "state and local agencies oversaw nearly all generation, transmission, and distribution of electricity." *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 265-66 (2016). The Act filled a regulatory gap relating to interstate commerce, while

“maintain[ing] a zone of exclusive state jurisdiction.” *Id.* at 266; *see New York v. FERC*, 535 U.S. 1, 6 (2002). The Act thus extends federal authority “only to those matters which are not subject to regulation by the States,” 16 U.S.C. § 824(a), such as interstate transmission and sale of electric energy, *id.* § 824(b). The result is a dual structure for addressing the creation, management, and reliability of the electric grid, with the states taking the lead and the federal government playing a circumscribed role on issues the states lack authority to address.

This fundamental division of labor applies to regulating “resource adequacy,” which is “the availability of an adequate supply of generation [or other resources] to support safe and reliable operation of the transmission grid.” *Sacramento Mun. Util. Dist. v. FERC*, 616 F.3d 520, 526 (D.C. Cir. 2010) (cleaned up). Because resource adequacy is primarily a function of the “generation of electric energy,” over which the federal government does not have “jurisdiction” except where otherwise “specifically provided,” 16 U.S.C. § 824(b)(1), responsibility for ensuring resource adequacy resides primarily with states, grid operators, and utilities.

This backdrop is reflected in the two sections of the Act that directly address the federal government’s limited involvement over grid reliability: Section 202 encourages the voluntary creation and coordination of the grid while allowing the

federal government to step in when there is an emergency, and Section 215 establishes nationwide standards for reliability.¹

Section 202 establishes a three-tiered framework for federal involvement over grid coordination. Under the first tier, Section 202(a) allows the federal government to pursue “an abundant supply of electric energy” but only by facilitating “*voluntary* interconnection and coordination of facilities for the generation, transmission, and sale of electric energy.” 16 U.S.C. § 824a(a) (emphasis added). Under this light-touch approach, market-based mechanisms for ensuring sufficient supply have become the norm. *See Elec. Power Supply Ass’n*, 577 U.S. at 267-68.

When this voluntary mechanism fails, the second tier, Section 202(b), allows the federal government to *require* utilities to sell or exchange energy with other facilities, but only upon application of “any State commission or of any person engaged in [those activities].” 16 U.S.C. § 824a(b). Still, the government has “no authority to compel the enlargement of generating facilities for such purposes.” *Id.*

The final tier, Section 202(c), exists as a backstop mechanism that allows the federal government to address emergencies. Enacted in 1935 in response to a

¹ The Federal Energy Regulatory Commission (FERC) and the Department share responsibility for administering the Federal Power Act. FERC has responsibility for most aspects of Sections 202 and 215, while the Department has authority under Section 202(c). 42 U.S.C. § 7151(b).

“serious power shortage” during World War I, Section 202(c) is “appropriately limited” to addressing wartime shocks and other “similar crises” like “[d]rought and other natural emergencies.” S. Rep. No. 74-621, at 19, 49 (1935). Section 202(c) thus provides that the government may compel, among other things, generation of electricity, but only “[d]uring the continuance of any war in which the United States is engaged,” and, outside of wartime, when the agency determines that a like “emergency exists 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.” 16 U.S.C. § 824a(c)(1).

Because compelling generation is a drastic remedy, Congress expressly limited federal authority even when an emergency does exist. The federal government can order only the generation that “will best meet the emergency and serve the public interest.” *Id.* When Congress revisited Section 202(c) in 2015, it further restricted the Department’s authority when an order “may result in a conflict with . . . environmental law or regulation.” *Id.* § 824a(c)(2). In those circumstances, generation can occur (1) “only during hours necessary to meet the emergency and serve the public interest”; (2) for up to 90 days; and (3) while “minimiz[ing] any adverse environmental impacts.” *Id.* §§ 824a(c)(2), (4).

During the twentieth century, Section 202(c) was used “sparingly” outside of wartime shortages. Ben Rolsma, *The New Reliability Override*, 57 Conn. L. Rev. 789, 803 (2025). More recently, Section 202(c) orders have addressed imminent shortages lasting a few days, primarily during natural disasters such as winter storms and hurricanes, and upon request by a grid operator or utilities. *See* Order No. 202-22-4 (Dec. 24, 2022), <https://perma.cc/FDQ2-57KU> (winter storms); Order No. 202-24-1 (Oct. 9, 2024), <https://perma.cc/V8JL-K5VE> (Hurricane Milton); Rolsma, 57 Conn. L. Rev. tbl. 1 (collecting orders).

Section 215, added in 2005, modestly expands the limited federal authority to regulate the long-term reliability of the grid. 16 U.S.C. § 824o. This provision displaced a voluntary system of grid reliability standards with mandatory, nationwide reliability standards that would be developed and enforced by a federally certified, but independent, entity called an Electric Reliability Organization. *Id.* § 824o(d), (e); *see also* S. Rep. No. 109-78, at 48 (2005). But the standards cannot be enforced by ordering generation facilities to operate, 16 U.S.C. § 824o(e), and Section 215 specifically disallows requiring the “construction of additional generation” or “enforc[ing] compliance” with “adequacy” standards. *Id.* § 824o(i)(2).

B. States, grid operators, and utility companies coordinate to deliver a reliable supply of electricity.

Exercising their authority retained under the Federal Power Act, states, grid operators, and utilities safeguard short-term and long-term resource adequacy through comprehensive planning and implementation of reliability standards. They also balance the impacts of generation on host communities and ratepayers.

Here, Michigan is the state with primary authority for regulating resource adequacy of utilities within the state, including whether power plants may retire. *See* States Br. § Statement.A.

Grid operators play an equally essential role. *See Wisconsin Pub. Power v. FERC*, 493 F.3d 239, 246-48 (D.C. Cir. 2007); JA____ - ____ [DOE0010_194-195]. The Midcontinent Independent System Operator (MISO) is a regional grid operator whose territory includes Michigan and stretches from Montana down to Louisiana, organized into zones 1 through 10. JA____ [DOE_0004_12]. MISO ensures resource adequacy by meeting both industry standards and those of the North American Electric Reliability Corporation (NERC), the independent Electric Reliability Organization certified under Section 215. *See* 16 U.S.C. § 824o; JA____ [DOE0010_194].

To do so, MISO regularly measures whether available generation can meet demand. Each year, MISO runs thousands of simulations based on weather and facility data to identify the circumstances that would most stress the system.

JA____-____[DOE0008_8-9]; JA____-____[DOE0009_262-317]. MISO then uses those studies and demand forecasts from entities that supply electricity to end-users (“load-serving entities”) to determine the generating capacity needed to meet each upcoming season’s projected peak demand. JA____-____[DOE0008_10-11]; JA____[DOE0009_312-315]. This target includes a “reserve margin,” a buffer of generating capacity to account for potential emergencies, such as unexpected power outages or demand increases. JA____-____[DOE0008_10-11]; JA____[DOE0009_316]. For example, if the MISO region’s projected peak demand were 100 gigawatts and MISO’s target reserve margin were 7%, the total capacity requirement would be 107 gigawatts. The reserve margin analysis aims to achieve the industry-standard goal of no more than one “loss of load event” (*e.g.*, an involuntary blackout from demand exceeding supply) per decade. JA____-____[DOE0008_8-11]; JA____[DOE0009_316].

MISO then apportions this capacity requirement across all load-serving entities. JA____[DOE0008_11]. To meet their requirements, load-serving entities may participate in MISO’s annual Planning Resource Auction. JA____-____[DOE0008_10-11]. If supply is plentiful, MISO may procure excess capacity even beyond its target reserve margin.

MISO also uses a host of tools to address unexpected swings in demand or supply in real time. JA____-____[DOE0008_12-13]. As relevant here, MISO’s

“Max-Gen event” alert protocol addresses potential shortages through increasingly stringent measures that boost generation or reduce usage. First, MISO sends an alert to facility operators to suspend optional maintenance or other activities that reduce power output. JA ____ - ____ [DOE0009_128-130]; JA ____ [DOE0008_12]. MISO then issues a potential shortfall warning, reducing electricity exports and preparing for imports. JA ____ [DOE0009_133-135]; JA ____ [DOE0008_12-13]. If these measures are insufficient, MISO proceeds through ten steps labeled “1a” through “5,” turning on backup generators (step 1a), using demand response resources (*i.e.*, paying consumers not to use power at certain times, step 1a), importing from neighboring regions (step 2c), and so on. JA ____ - ____, ____ - ____ [DOE0009_136-148,161-162]; JA ____ [DOE0008_12-13]. Only on the final step, step 5, does any involuntary blackout occur. JA ____, ____ [DOE0009_148,162]; JA ____ [DOE0008_13]. Between 2009 and June 2024, MISO documented only two events beyond step 3, none of which were in Campbell’s region. JA ____ - ____ [DOE0009_96-119].

C. Petitioners and Consumers Energy worked for years to replace Campbell with safer, cheaper, and more reliable energy.

For just over a half-century, emissions from the Campbell coal plant have been harming the health of residents downwind of the facility—from Michigan to Maine—and preventing nearby residents from enjoying the surrounding Lake Michigan beaches, parks, and their own backyards. Each year, Campbell emits

around one hundred thousand pounds of air toxics, hundreds of pounds of particulate matter, many millions of pounds of nitrogen oxides and sulfur dioxide, and over ten billion pounds of carbon dioxide. JA____[DOE0007_12] (collecting EPA data); *see also* JA____-____[DOE0008__1216-1219]. Campbell emits more sulfur dioxide and particulate matter than any other plant in Consumers' generation fleet. JA____-____[DOE0008__1216-1219]. Campbell also uses approximately one billion gallons of water per day from Lake Michigan while discharging contaminated wastewater, including toxic metals, back into the lake. JA____[DOE0008_43]; JA____[DOE0007_13]. And burning coal at Campbell creates coal ash; the plant site holds roughly 6.2 million cubic yards of toxic ash. JA____[DOE0010_226].

That pollution's human costs are staggering. Campbell's emissions are deadly: Their respiratory and cardiovascular harms are estimated to cause 36-81 premature deaths and \$389-\$879 million in health impact costs annually, according to 2021 expert testimony based on EPA and independent peer-reviewed scientific models. JA____-____[DOE0008_1221-1222]. The community around Campbell is particularly socioeconomically vulnerable and exposed to more adverse environmental effects—like water pollution and proximity to toxic waste dumps—than most of the rest of the state. JA____[DOE0007_13]; JA____[DOE0008_1228-1229].

Campbell's aging units are increasingly unreliable and costly to maintain. Two of its three units are beyond their typical operational life, JA____, ____ [DOE0008_37,383], and all three units have suffered unexpected breakdowns during recent years, with outage rates well above the national average for coal-burning units. JA____ - ____ [DOE0008_26-27]. This means Campbell is also expensive to maintain. In 2021, Consumers projected that retiring Campbell in 2025 would save ratepayers \$365 million just in avoided capital expenditures and major maintenance costs. JA____ - ____ [DOE0008_678-679].

Petitioners spent years advocating to replace Campbell with cheaper, cleaner, and more reliable energy. In 2021, Consumers began its resource planning proceeding, during which Petitioners asked it to retire Campbell and replace it with other generation sources. In 2022, the Michigan Public Service Commission approved a settlement agreement—joined by many of Petitioners here—that set Campbell's May 31, 2025 retirement date. JA____ - ____ [DOE0008_190-225].

The Michigan Commission rejected concerns that Campbell's retirement would threaten resource adequacy. *See* States Br. § Statement.B. With good reason: The settlement bolstered Consumers' resource adequacy by replacing Campbell's 1,560 megawatts with the New Covert gas plant (1,176 megawatts), extending operations of two oil- and gas-fired units at the Karn plant (784 megawatts), and committing to add battery storage and hundreds of megawatts of new solar energy

generation. JA____, _____, _____, _____, _____-_____,

_____[DOE0008_125,135,187,196,198-199,205]. In all, Consumers' capacity increased by hundreds of megawatts. MISO likewise approved the retirement.

JA_____[DOE0009_40]; States Br. § Statement.B.

At that point, Consumers transitioned from Campbell to the cheaper, cleaner, and more reliable New Covert and Karn plants and has continued to develop other capacity. JA_____, _____-_____[DOE0008_535,544-545]. As for Campbell, it adopted a reactive, "fix it if breaks" approach, resulting in a significant decline in investment and maintenance, making Campbell even less reliable than before.

JA_____, _____-_____[DOE0008_28,37-38].

D. Regulators predicted adequate capacity in summer 2025 in MISO regions.

Leading up to Campbell's retirement, Consumers, the Michigan Commission, and MISO continued to ensure resource adequacy. Consumers' routine filings with the Michigan Commission showed that the company had procured sufficient capacity leading up to May 2025 and surplus resources for summer 2025—the time period at issue here. JA_____[DOE0007_24] (collecting filings); JA_____[DOE0008_1524]. In fact, Consumers' filings showed adequate resources through spring 2029. JA_____, _____[DOE0008_1253,1524].

MISO's data also showed surplus resources for the summer. Its planning auction for summer 2025 through spring 2026 acquired more than sufficient

capacity to meet the upcoming year's projected peak demand, even accounting for Campbell's retirement. JA____[DOE0004_12]. For summer 2025, MISO achieved a 9.8% reserve margin, almost two percentage points higher than its target. JA____[DOE0004_5]. That surplus capacity (2.6 gigawatts) was over 1.5 times more than Campbell's capacity. JA____[DOE0004_4]. Campbell's MISO zone also cleared well above target. JA____[DOE0004_18] (column Z7).

E. The Department blocks Campbell's retirement with a Section 202(c) emergency order.

Shortly before the four-year planning process would have culminated in Campbell's retirement, the Department overrode Consumers' and Michigan's planning decisions by declaring an emergency under Section 202(c). Order No. 202-25-3 (May 23, 2025), JA____[DOE0001] ("Order").

The Order did not identify any concrete emergency in any specific location but claimed Campbell's capacity was needed for at least 90 days. JA____ - ____[DOE0001_2-3]. The claimed emergency was generalized—"in portions of the Midwest region" due to an electricity shortage—and stemmed from "potential tight reserve margins during the summer 2025 period" due to "the retirement of thermal generation capacity." JA____[DOE0001_1].

At the same time, the Department acknowledged that MISO acquired "sufficient capacity" for summer 2025, and that "MISO and Consumers have incorporated [Campbell's] planned retirement into their supply forecasts." JA____ -

____[DOE0001_1-2]. Yet, based on a few quotes from two sources, the Department concluded that “insufficiency of dispatchable capacity . . . during the summer months” could result in the “potential loss of power to homes and local businesses.” JA____ - ____ [DOE0001_1-2].

The Order asserted without explanation that Campbell’s forced operation “is necessary to best meet the emergency.” JA____ [DOE0001_2]. The Department recognized that the Order may “conflict with environmental standards,” and claimed to limit operation to the “hours necessary to meet the emergency” and to “minimize any adverse impacts.” JA____ [DOE0001_2]. But the Department also directed MISO and Consumers to employ “economic dispatch” of Campbell, meaning requiring Campbell to offer its capacity in the market regardless of any need for it to meet an emergency shortfall. JA____ [DOE0001_2]. It thus would operate whenever its offers are accepted in the market, not just when there is a shortage.

The Department responded to rehearing requests by reaching “the same result” while “modif[ying]” its reasoning. Order No. 202-25-3B (Sept. 8, 2025), JA____ [DOE0016_1] (“Rehearing Order”); 16 U.S.C. § 825l(b).

The Rehearing Order continued to claim a summer shortfall. JA____ - ____ [DOE0016_10-13]. But the Department also contested Section 202(c)’s limits on its authority. The Department argued that Section 202(c) grants unbounded

“latitude” and “discretion” to determine the existence and scope of an emergency. JA ____ - ____ [DOE0016_6-7]. In particular, it contended that the provision does not limit the Department to addressing “imminent” shortages and asserted a new basis for having forced Campbell to operate: That mandating Campbell’s operation addresses *long-term* concerns, such as “growing resource adequacy concerns” and “unacceptable reliability risks” that might emerge “within five years.” JA ____, ____ - ____ [DOE0016_7,10-14].

The Rehearing Order also defended ordering economic dispatch, because the Department believed it would “reduc[e] electricity costs.” JA ____ [DOE0016_16]. But it also “clarified” that if economic dispatch is unavailable, Campbell may operate “on a must run basis,” *i.e.*, requiring it to run at all times, regardless of an emergency need for its capacity. JA ____ [DOE0016_16].

The Department has twice renewed the Order, declaring that “emergency conditions . . . continue, both in the near and long term.” Order No. 202-25-7 (Aug. 19, 2025), ADD_095; Order No. 202-25-9 (Nov. 18, 2025), ADD_105. The Department claimed “resource adequacy problems” were now a “year-round concern” that is “likely to continue in subsequent years” until 2030. ADD_096-100; ADD_105-110.

SUMMARY OF THE ARGUMENT

I. The Department failed to demonstrate that the claimed near-term summer 2025 electricity shortage and long-term reliability concerns qualify as Section 202(c) emergencies.

A. The Department may not rely on long-term concerns because Section 202(c)'s fundamental requirement—of an “emergency”—covers only imminent shortages. 16 U.S.C. § 824a(c)(1). That interpretation follows from Section 202(c)'s text. And the remainder of Section 202 and Section 215 speak to the federal government's narrow authority over long-term grid reliability, confirming Section 202(c) is not meant to do more. Reading Section 202(c) to preclude consideration of long-term concerns also aligns with the careful federal-state balance Congress struck and the Department's own prior interpretation of the provision. The Department's discretion does not justify exceeding these limits.

B. The Department also fails to support the claimed summer 2025 shortfall. As the Department concedes, the record shows there was “sufficient capacity” in the summer. JA ____ - ____ [DOE0001_1-2]. The Department's contrary claim depends on misconstruing quotes from the resource-adequacy experts and ignoring other key evidence that would contradict the Department's conclusion.

II. Even assuming an emergency, the Department blew past other limits imposed by Section 202(c). Nothing in the record shows that reviving a decrepit

coal plant would “best meet the emergency.” 16 U.S.C. § 824a(c)(1). And by ordering Campbell to offer its capacity regardless of need, the Department required Campbell to operate more than just “during hours necessary to meet the emergency.” *Id.* § 824a(c)(2).

III. Notwithstanding the nominal expiration of the Order, mootness does not bar this Court’s review. The Department’s continued renewal of the Order—each for 90 days and each time repeating the same legal errors challenged here—either means that the Order has not expired or that the capable of repetition yet evading review exception to mootness applies.

STANDING

Petitioners have standing because Campbell’s continued operation harms its members. The “interests at stake are germane to” Petitioners’ organizational purposes, and neither the “claims asserted” nor the “relief requested requires the participation of individual members.” *Sierra Club v. EPA*, 926 F.3d 844, 848 (D.C. Cir. 2019) (cleaned up).² Petitioners’ members also have standing in their own right, because they “suffer[] injury-in-fact fairly traceable” to the Order that is

² ADD_018-021 (Sierra Club); ADD_029-033 (Natural Resources Defense Council); ADD_040-047 (Michigan Environmental Council); ADD_059-062 (Environmental Defense Fund); ADD_070-071 (Environmental Law and Policy Center); ADD_076-078 (Vote Solar); ADD_082-083 (Union of Concerned Scientists); ADD_087-088 (Ecology Center).

likely to be redressed by a favorable decision. *Ctr. for Biological Diversity v. EPA*, 56 F.4th 55, 67 (D.C. Cir. 2022).

Campbell's continued operation creates air and water pollution that harms Petitioners' members. *See supra* 11-12. In June alone, Campbell emitted hundreds of thousands of pounds of sulfur dioxide and nitrogen oxides and nearly 1.5 million pounds of carbon dioxide; in June and July, it discharged roughly 40 billion gallons of polluted water into Lake Michigan. ADD_232. Members that live within five miles of the plant feel the effects of that air pollution, which exacerbates conditions like hypertension and chronic obstructive pulmonary disease and causes sinus headaches, burning eyes, and pneumonia.³ *See Clean Wisconsin v. EPA*, 964 F.3d 1145, 1156 (D.C. Cir. 2000). The pollution ruins members' enjoyment of the many recreational areas around the plant and near Lake Michigan, with some members avoiding hiking, swimming, or otherwise being outside in these areas altogether.⁴ *See Am. Rivers v. FERC*, 895 F.3d 32, 41 (D.C. Cir. 2018); *Earthworks v. Interior*, 105 F.4th 449, 455 (D.C. Cir. 2024). The

³ ADD_025 ¶¶ 3-4, ADD_027 ¶¶ 14-15 (Oppenhuizen); ADD_022-023 ¶¶ 5-6, 9 (Hoekema); ADD_034-036 ¶¶ 4, 10 (Alicki); ADD_072 ¶¶ 2-5 (Crosby).

⁴ ADD_089 ¶ 6 (DiSano); ADD_066-067 ¶¶ 16-17 (Hauptman); ADD_074 ¶¶ 2-4 (LeVeque); ADD_072-073 ¶¶ 2-7 (Crosby); ADD_038 ¶ 9 (Babka); ADD_027 ¶ 15 (Oppenhuizen); ADD_023-024 ¶ 10 (Hoekema); ADD_084 ¶¶ 5-6 (Judge); ADD_080 ¶ 7 (Lozano-Buhl); ADD_035 ¶ 8 (Alicki); ADD_053-055 ¶¶ 25-26, 32-37 (Nieves).

noise from coal trains delivering to the plant and the plant itself has also caused members to stay inside.⁵ See *In re Pub. Emps. for Env't Resp.*, 957 F.3d 267, 272 (D.C. Cir. 2020). All of these harms are traceable to the Order—and would be redressed by setting the Order aside—because the Order is the reason Campbell has not retired. See *Am. Rivers*, 895 F.3d at 41.

Beyond environmental harms, Petitioners and their members also are ratepayers,⁶ so they have standing for the reasons explained further in the States Brief. The continued operation of Campbell has cost \$53 million. ADD_176. There is at least a substantial probability that Petitioners and their members will bear these costs. See *Env't Action v. FERC*, 996 F.2d 401, 406 (D.C. Cir. 1993). The Order anticipated as much, JA____[DOE0001_3]; JA____[DOE0016_21-22], and FERC approved allocating the costs of operating Campbell to utilities that serve Petitioners and their members. *Consumers Energy v. MISO*, 192 FERC ¶ 61,158, at P 40 (Aug. 15, 2025). Ruling for Petitioners would reduce the risk they will pay those costs. See *id.* at P 42.

⁵ ADD_025-026 ¶¶ 5-7 (Oppenhuizen); ADD_023 ¶ 8 (Hoekema).

⁶ ADD_021 ¶ 11 (Sierra Club); ADD_092 ¶ 9 (Urban Core Collective); ADD_046 ¶ 33 (Michigan Environmental Council); ADD_071 ¶ 10 (Environmental Law and Policy Center); ADD_088 ¶ 10 (Ecology Center); ADD_090 ¶ 8 (DiSano); ADD_072-073 ¶¶ 6-7 (Crosby); ADD_074-075 ¶ 5 (LeVeque); ADD_038 ¶ 10 (Babka); ADD_034 ¶ 5 (Alicki); ADD_028 ¶ 17 (Oppenhuizen); ADD_024 ¶ 11 (Hoekema); ADD_085 ¶ 10 (Judge); ADD_080-081 ¶ 8 (Lozano-Buhl); ADD_056-057 ¶¶ 44-45 (Nieves); ADD_064 ¶ 6, ADD_068 ¶ 22 (Hauptman).

STANDARD OF REVIEW

The Administrative Procedure Act applies to review of agency actions under the Federal Power Act. *Kimball Wind, LLC v. FERC*, 140 F.4th 496, 499 (D.C. Cir. 2025). This Court will set aside any “agency action, findings, and conclusions” that are “in excess of statutory jurisdiction, authority, or limitations” or “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A), (C); see *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *Pac. Gas. & Elec. Co. v. FERC*, 113 F.4th 943, 947-48 (D.C. Cir. 2024).

ARGUMENT

I. The Department Acted Unlawfully by Compelling Generation Without Demonstrating an Emergency under Section 202(c).

Section 202(c) authorizes the Department to compel “generation . . . of electric energy” only if an “emergency exists.” 16 U.S.C. § 824a(c)(1).

The basis for the Department’s claim of emergency has been a moving target. But at no point has it met the provision’s fundamental requirement: an emergency. The Department initially claimed an emergency based on an alleged summer 2025 electricity shortage. JA____[DOE0001_1]. When asked to square that claim with the grid operator’s determination that it had “sufficient capacity,” JA____[DOE0001_2], the Department defended its short-term emergency claim while also contesting the threshold proposition that Section 202(c) constrains it to

addressing imminent shortages. JA ____ - ____, ____ - ____ [DOE0016_6-7_10-14].

The Department thus revealed an alternative theory: that the Order had been intended to address non-imminent reliability risks that may emerge within five years—a theory that has animated the Order’s subsequent renewals. JA ____ - ____ [DOE0016_13-14]; ADD_97-100; ADD_105-110.

Both the long-term and short-term theories fail. Section 202(c) bars the Department’s reliance on long-term concerns because Section 202(c) limits the Department’s discretion to compelling generation only when faced with an *imminent* shortage. § I.A. And the record belies the Department’s claim of an imminent resource adequacy crisis in summer 2025. § I.B. Because there is no qualifying emergency, the Order must be set aside.

A. The Department violated Section 202(c) by using it to address long-term resource adequacy concerns.

The Department’s claim of a long-term emergency fails because it may use Section 202(c) to address only imminent shortages and not long-term resource adequacy concerns. § I.A.1. The Department’s attempts to contest that foundational limitation fail. § I.A.2.

1. Section 202(c) reaches only imminent shortfalls, not long-term resource adequacy concerns.

As relevant here, the Department may compel generation of “electric energy” only if it determines an “emergency exists by reason of . . . a shortage of

electric energy or of facilities for the generation . . . of electric energy.” 16 U.S.C. § 824a(c)(1). That provision supplies the “boundaries” of the Department’s authority, *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395 (2024), and the “traditional tools of statutory construction”—text, statutory context, and agency practice—confirm that the Department may address only imminent electricity shortages. *Pac. Gas.*, 113 F.4th at 947 (cleaned up).

Text. Section 202(c) authorizes the Department to address only those “shortage[s] of electric energy” that arise in the context of an “emergency.” 16 U.S.C. § 824a(c)(1). That requirement—of an “emergency”—supplies the provision’s essential limit, and its ordinary meaning confirms that the Department can address only imminent, unexpected shortages. When Congress passed Section 202(c) in 1935, an “emergency” was a “*sudden or unexpected* appearance or occurrence” or “[a]n unforeseen occurrence or combination of circumstances which calls for *immediate* action or remedy; pressing necessity; *exigency*.” Webster’s New International Dictionary of the English Language 716 (1930) (emphasis added); *see also* 3 Oxford English Dictionary 119 (1st ed. 1913) (defining emergency as “a state of things *unexpectedly* arising, and urgently demanding *immediate* action” (emphasis added)); *Institutional S’holder Servs. v.*

SEC, 142 F.4th 757, 766 (D.C. Cir. 2025) (cleaned up) (looking to “contemporaneous dictionaries”).⁷

The remainder of Section 202(c) underscores the need for exigency. The very first “emergency” that can “exist[]” is “a *sudden* increase in the demand for electric energy,” 16 U.S.C. § 824a(c)(1) (emphasis added), paralleling the common definition of emergency. Likewise, the text uses the present tense—requiring a determination that an “emergency *exists*,” *id.*—accentuating the focus on imminent shortfalls, not far-off, inchoate ones. The Section’s title and text also both emphasize that Section 202(c) provides only “temporary” authority. *Id.* § 824a(c), (c)(1); *Dubin v. United States*, 599 U.S. 110, 120-21 (2023) (“[A] title is especially valuable where it reinforces what the text’s nouns and verbs independently suggest.” (cleaned up)). Congress would not have authorized the Department to act only temporarily if it wanted to empower the Department to address risks that may not materialize for years.

Reading “emergency” to reach only imminent, unexpected shortages also “avoid[s] . . . giving” the provision “unintended breadth” by aligning its reach with the wartime power Section 202(c) describes in the first instance. *See S. Carolina*

⁷ That is still the definition of emergency. *See Rolsma*, 57 Conn. L. Rev. at 812 n.147.

Pub. Serv. Auth. v. FERC, 762 F.3d 41, 59 (D.C. Cir. 2014) (cleaned up); 16 U.S.C. § 824a(c)(1). Congress intended that Section 202(c) would reach—and be “appropriately limited to”—wartime power shortages and other “similar crises” that could arise after “[d]rought and other natural emergencies.” S. Rep. No. 74-621, at 19, 49. That is why this Court has recognized Section 202(c) “speaks of ‘temporary’ emergencies, epitomized by wartime disturbances.” *Richmond Power & Light of City of Richmond v. FERC*, 574 F.2d 610, 615 (D.C. Cir. 1978); see also *Otter Tail Power Co. v. Fed. Power Comm’n*, 429 F.2d 232, 233-34 (8th Cir. 1970) (Section 202(c) “enables the Commission to react to a war or national disaster”).

Based on the text alone, the Department may not use Section 202(c) to address the non-imminent, long-term resource adequacy concerns it has claimed.

Context. Two aspects of the Federal Power Act—Section 202’s three-tiered structure and Section 215—speak directly to federal authority over grid reliability and confirm that Congress did not intend Section 202(c) to address non-imminent concerns.

In the context of Section 202’s broader structure, Section 202(c) must have a limited role. If the federal government believes there is insufficient generation to meet long-term demand, JA ____ - ____ [DOE0016_13-14], the Act allows it to pursue a more “abundant supply of electric energy” using its non-emergency

authority to “promote” “*voluntary* interconnection and coordination” at the regional level. 16 U.S.C. § 824a(a) (emphasis added). That reflects Congress’s judgment that the way to ensure “the greatest possible economy” and “proper utilization” of the electricity markets is not top-down federal intervention, but bottom-up collaboration. *Id.* If those efforts fall short, Section 202(b) allows a more coercive means to promote a more interconnected grid, but only if states or utilities ask for federal intervention. *Id.* § 824a(b). And even then, the government cannot “compel” anyone to bring additional generating facilities online. *Id.*

Section 202(c) fills a narrow residual space, allowing for “temporary” command-and-control only in cases of “emergency.” *Id.* § 824a(c), (c)(1); *see also* S. Rep. No. 74-621, at 49. Congress limited Section 202(c) to “react to a war or national disaster” precisely because these other, less coercive mechanisms exist to address “a crisis which is likely to develop in the foreseeable future but which does not necessitate immediate action.” *Otter Tail Power*, 429 F.2d at 233-34. In other words, Congress’s “specific and limited enumeration” of federal power over long-term resource adequacy in Sections 202(a) and (b) is “strong evidence that” Section 202(c) “confers no such authority.” *Cal. Indep. Sys. Operator v. FERC*, 372 F.3d 395, 401 (D.C. Cir. 2004).

The Department also may not use Section 202(c) to address the core concern alleged here—“unacceptable reliability risks within five years,”

JA____[DOE0016_14]—because a separate provision, Section 215, addresses that concern. Section 215 authorizes the government to establish mandatory, nationwide reliability standards for the grid, 16 U.S.C. § 824o(d)(1)-(2), but it constrains authority to enforce “standards for adequacy” and does not allow enforcing reliability standards by compelling generation. *See id.* §§ 824o(e), (i)(2). Put differently, Section 215 establishes a finely calibrated and limited federal authority over grid reliability. Section 215 thus provides additional “strong evidence” that Section 202(c) confers no authority to address long-term reliability concerns. *Cal. Indep. Sys. Operator*, 372 F.3d at 401. Indeed, Congress added Section 215 in 2005, in recognition that the Act—including Section 202(c)—did not address long-term grid reliability. *See Alcoa Inc. v. FERC*, 564 F.3d 1342, 1344 (D.C. Cir. 2009). By using Section 202(c) to bypass Section 215’s limits, the Department has “contradict[ed] Congress’ clear intent as expressed in its more recent,” reliability-specific legislation that was enacted with the understanding that the Department had “no authority” to address long-term reliability through Section 202(c). *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 143, 156 (2000).

In short, these provisions indicate that the Department may not compel generation unless the feature that distinguishes Section 202(c) from these other sources of authority—an imminent shortage requiring immediate response—is

present. Two other aspects of the Federal Power Act confirm that this limited emergency provision does not grant the broad power the Department claims.

First, the Department cannot square its approach with Congress's recognition, in 2015, that Section 202(c) orders must be sharply limited where the order "may result in a conflict" with other environmental requirements. 16 U.S.C. § 824a(c)(2), (4). In those circumstances, Section 202(c) relaxes compliance with environmental standards while confining non-compliance to hours needed to meet the emergency and only then for 90 days, subject to renewal. *Id.* § 824a(c)(2), (3), (4). Congress did not intend to bury a long-term override of environmental standards in such a narrow emergency provision. *See Whitman v. Am. Trucking Ass'n*, 531 U.S. 457, 468 (2001).

Second, the Department's use of its limited emergency power as a long-term planning tool upsets the careful balance Congress struck in the Federal Power Act between state and federal authority. 16 U.S.C. § 824(a), (b). Congress preserved state authority over generation facilities, *id.* § 824(b)(1), including the "right" to "require retirement of existing generators . . . without direct interference from" the federal government. *Conn. Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477, 481 (D.C. Cir. 2009). The federal government's Section 202(c) authority is an exception to its otherwise limited role, *see* 16 U.S.C. § 824(b), not *carte blanche* to override state and grid operator decisions on long-term resource adequacy.

Agency Practice. The Department’s historical use of Section 202(c) also demonstrates that it is not meant to address long-term concerns. Until the Order, the Department had consistently used Section 202(c) to address the imminent possibility of power outages due to war or natural disasters—not to address long-term planning concerns. *See supra* 8; States Br. § II.A. The “want of assertion of power by those who presumably would be alert to exercise it” can confirm such power was not conferred. *Fed. Trade Comm’n v. Bunte Bros.*, 312 U.S. 349, 351-52 (1941); *see Loper Bright*, 603 U.S. at 394 (“contemporaneous[]” and “consistent” interpretations “may be especially useful in determining [a] statute’s meaning”).

Indeed, the Department’s own regulations reflect this exclusion of long-term concerns. The Department recognized for over forty years that the statute authorizes orders “during a period of unexpected inadequate supply of electricity,” not to “solve long-term problems.” 46 Fed. Reg. 39984, 39985-86 (Aug. 6, 1981). The regulations thus define an emergency as “an unexpected inadequate outage or breakdown” of facilities, where “[s]uch events may be the result of weather conditions, acts of God, or unforeseen occurrences not reasonably within the power of the affected ‘entity’ to prevent.” 10 C.F.R. § 205.371.

The regulations also refute directly the Department’s view that it can take over long-term planning before an imminent shortage occurs: “[W]here a shortage

of electric energy is projected due solely to the failure of [responsible] parties,” there is no emergency “unless the inability to supply electric service is *imminent*.” *Id.* (emphasis added). While “inadequate planning or the failure to construct necessary facilities can result in an emergency,” the Department may not utilize a “continuing emergency order” to mandate long-term system planning. *Id.*

2. The Department’s arguments for rejecting Section 202(c)’s limits fail.

The Department’s Rehearing Order did not meaningfully engage with any of these arguments demonstrating Section 202(c)’s limited breadth. It has supplied no contrary definition of “emergency” that could support its position, nor has it squared its approach with the structure of the Act. Instead, the Department claims Section 202(c) does not place *any* meaningful limits on its authority, for two reasons. Neither works.

The Department first contends that the plain terms of Section 202(c) “cannot limit” its discretion to claim an emergency because the statute “delegates a wide degree of latitude” to the Department. JA ____ - ____ [DOE0016_6-7]. But even for statutes that “delegate[] discretionary authority,” courts retain an obligation to “independently interpret the statute” to “fix[] the boundaries of the delegated authority” and “ensure that agencies exercise their discretion” within those bounds. *Loper Bright*, 603 U.S. at 395, 404 (cleaned up). Here, the statutory text, context,

and history limit the Department to addressing imminent shortages, and the Order is unlawful because the Department exceeded that limit.

The Seventh Circuit's decision in *Board of Trade of the City of Chicago v. CFTC*, 605 F.2d 1016 (7th Cir. 1979), is not to the contrary. *Contra* JA ____ [DOE00016_8]. There, the court recognized that Congress had “carefully designated the context in which a discretionary [emergency] decision” by the Commodity Futures Trading Commission could be made. 605 F.2d at 1022-23. The court did not police those bounds because it interpreted the statute to foreclose judicial review of the Commission's orders. 605 F.2d at 1017-18, 1025. Here, by contrast, the Federal Power Act expressly contemplates judicial review of Section 202(c) orders. 16 U.S.C. § 824a(c)(5). Accordingly, this Court can review the Department's use of Section 202(c), just as it has previously done. *See Richmond Power*, 574 F.2d at 614-15.

The Department's fallback is that requiring it to “act only when a shortage of electricity is ‘imminent’ makes no sense” because it would prevent “any meaningful action.” JA ____ - ____ [DOE0016_6-7]. But the Department “may not rewrite” statutory terms “to suit its own sense of how the statute should operate.” *Institutional S'holder*, 142 F.4th at 766 (cleaned up). In any event, its concerns are misplaced. That “some retired generation facilities generally cannot be brought back online in a matter of days,” JA ____ [DOE0016_7], may be true but is

irrelevant here. The government can use its non-emergency powers—reflected in Sections 202(a), 202(b), and 215—to address its five-year concerns long before they result in an imminent shortfall. *See* 16 U.S.C. §§ 824a, 824o. Indeed, the record shows that those with primary responsibility for long-term resource adequacy—states and grid operators—have addressed and will continue to address any concern before it becomes imminent. *See infra* 39-40. Should an imminent crisis arise, the Department can take “meaningful action” close-in-time, as it has consistently done when addressing natural disasters. *See supra* 8.

The Department also maintains that its own regulation allows addressing non-imminent concerns. But the provision explaining that “[e]xtended periods of insufficient power supply as a result of inadequate planning . . . can result in an emergency,” JA____[DOE0016 _7] (quoting 10 C.F.R. § 205.371), does not eliminate the need for an imminent shortage. Consistent with the statutory structure, if inadequate planning will result in an imminent shortage, the Department may step in. But the Department cannot use Section 202(c) to take over long-term resource adequacy planning before any shortage emerges.

B. The record reflects no near-term electricity shortfall.

The Order’s validity thus turns on whether the Department has supported the only imminent concerns it has raised: an alleged risk of homes and businesses losing power in summer 2025. JA____[DOE0001 _2].

Nothing the Department provides to substantiate that risk survives arbitrary-and-capricious review.⁸ The Order concedes that MISO planned for Campbell’s retirement and obtained “sufficient capacity” for summer 2025. JA____ - ____ [DOE0001_1-2]. Yet, the Order papers over these fundamental observations by relying on misleading quotes, § I.B.1, and ignoring contrary evidence from MISO, the Michigan Commission, and Consumers—the parties primarily responsible for resource planning, § I.B.2.⁹

1. The Order reflects the Department’s fundamental mischaracterization of resource adequacy and is illogical on its own terms.

The Department combines out-of-context quotes from four sources with conclusory evidence to assert that an emergency existed. The Order’s scant evidentiary support reflects the Department’s misunderstanding of how resource planning works. Such a fundamental flaw in supporting its decision renders the Order arbitrary and capricious. *See Sinclair Wyoming Ref. Co. LLC v. EPA*, 114 F.4th 693, 712 (D.C. Cir. 2024) (finding that EPA’s “misunderstanding of the

⁸ The “substantial evidence” and “arbitrary and capricious” standards are the same “substantive standard.” *Bangor Hydro-Elec. Co. v. FERC*, 78 F.3d 659, 663 n.3 (D.C. Cir. 1996).

⁹ The Department’s claim of discretion does not absolve its obligation to engage in reasoned decisionmaking within Section 202(c)’s bounds. *See Loper Bright*, 603 U.S. at 395.

dynamics and features of [the market at issue]” rendered its conclusion arbitrary and capricious).

MISO’s Planning Resource Auction Results for 2025-2026

The Order asserts that a resource adequacy emergency existed based on selective quotes from MISO’s 2025-2026 Planning Resource Auction results. JA ____ [DOE0001_2]; JA ____ - ____ [DOE0016_10-12]. But this document shows that MISO secured *more* capacity than needed to meet both its projected peak demand plus a reasonable buffer: MISO’s surplus capacity—beyond the recommended buffer—in summer 2025 was 2.6 gigawatts, *i.e.*, over 1.5 times more than Campbell’s capacity. *See* JA ____ - ____, ____ [DOE0004_4-5,12]; *supra* 15.

The Department acknowledges these results “demonstrated sufficient capacity,” JA ____ [DOE0001_2], but it brushes aside this conclusion, instead relying on out-of-context quotes from the slide deck announcing the results.

First, the Order supports its summer emergency claim by asserting that “the summer [auction results] reflected ‘the highest risk and a tighter supply-demand balance.’” JA ____ [DOE0001_2]; JA ____, ____ [DOE0016_2,12]. But it omitted the rest of the quoted sentence, which reads: “The 2025 PRA demonstrated *sufficient capacity* at the regional, subregional and zonal levels, with the summer *price* reflecting the highest risk and a tighter supply-demand balance.”

JA____[DOE0004_12] (emphasis added). Higher prices during a period of higher demand due to warmer weather indicate a healthy market, not a resource adequacy emergency. And higher prices alone do not indicate a summertime emergency, as MISO procured sufficient supply for all seasons.

Second, the Order relies on a slide titled “new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspensions/retirements and external resources.” JA____[DOE0004_13]; *see* JA____[DOE0001_2]. But “negative impacts” refers to the decrease in the amount of *offers* that MISO received for the 2025 summer auction compared to 2024. JA____[DOE0004_13]. MISO still received enough offers to procure more than sufficient capacity, regardless of the absolute number of offers decreasing from the prior year.

The Order’s assertion that the auction results “reinforce the need to increase capacity,” JA____[DOE0001_2]; JA__[DOE0016_2], is again based on a cherry-picked quote: The “need” arises because “demand is expected to grow with new large load additions.” JA____[DOE0004_2]. But citing expected long-term demand growth to justify a 90-day emergency order fundamentally misunderstands how resource adequacy planning works: Large load additions are not dumped on grid operators without notice. Any such additions for summer 2025 would already have been incorporated into the 2025 planning auction, and any longer-term load

additions would be part of future planning auctions, with regulators, utilities, and grid operators carefully studying and approving them. This generalized long-term observation therefore does not support the Department's claim of a summertime shortage emergency.

NERC's 2025 Summer Reliability Assessment

The Order's use of a quote from NERC's 2025 Summer Reliability Assessment, that "MISO is at elevated risk of operating reserve shortfalls during periods of high demand or low resource output," mischaracterizes what such a "risk" represents in NERC's risk assessment system. JA____[DOE0001_1]; JA____, ____[DOE0016_2,11].

The purpose of the NERC Assessment and its "elevated risk" label indicates that the Order's reliance is misguided. The Assessment is intended to help the industry and regulators be "better prepared to take necessary actions to ensure [grid] reliability." JA____[DOE0005_4]. In this context, an "elevated risk" is the middle category of three risk levels and describes a risk of MISO using its existing mitigation measures, such as requesting energy imports from neighbors. JA____, ____[DOE0005_8,10]. NERC's solutions for "elevated risk" therefore entail far less drastic steps (such as reviewing protocols for using those mitigation measures) than halting a planned plant retirement. JA____[DOE0005_8]. Unsurprisingly, far from signaling an emergency, NERC has routinely designated areas as "elevated

risk” without those areas ever experiencing blackouts: In the past five summers, NERC designated MISO as an “elevated” or “high” risk region, JA____, ____, ____, ____ [DOE0009_477,527,573,621], with no load-shedding in any of those summers. JA____ - ____ [DOE0009_110-119]. This illustrates that “elevated risk” designations are not useful for determining the existence of an imminent electricity shortage.

Summer 2025 Energy Emergency Alerts

The Department similarly misunderstands the significance of MISO’s “Energy Emergency Alert 1” in summer 2025 when it contends that the alerts “confirm the ongoing emergency and sudden increased threats to energy reliability.” JA____ - ____ [DOE0016_12-13]. Setting aside whether alerts post-dating the Order are relevant, *see* States Br. § III.A, they also do not show an emergency. MISO’s alerts in summer 2025 were all the second step (Step 1b) or below out of MISO’s ten-step process designed to address risks of potential shortfalls. JA____ - ____ [DOE0016_12-13]; *see supra* 10-11; States Br. § III.A (discussing the Department’s prior practice of treating Energy Emergency Alert 2 as the minimum level triggering Section 202(c)). These low-level alerts are part of MISO’s standard operating procedures for addressing manageable fluctuations in supply and demand; they do not indicate that MISO faced a meaningful risk of an imminent electricity shortage. Declaring an energy shortfall crisis at the second

lowest step of a ten-step scale is akin to rushing to the emergency room for a stubbed toe.

Evidence of long-term reliability risks

The Department also invokes several sources discussing *long-term* grid reliability concerns. JA ____ - ____ [DOE0016_13-14]. Unsurprisingly, none reasonably explain the existence of a near-term emergency requiring immediate federal intervention.

First, the Department cites two Executive Orders declaring a “National Energy Emergency” as “inform[ing] the Secretary’s decision and action.” JA ____ [DOE0016_13]. But the Executive Orders provide no factual evidence that could be applicable to MISO regions or summer 2025, simply asserting that “insufficient energy production . . . constitutes an unusual and extraordinary threat.” JA ____ [DOE0019]; *see also* JA ____ [DOE0020] (claiming “an unprecedented surge in electricity demand”). Reliance on such unsupported, generalized conclusions is arbitrary and capricious. *See Sinclair*, 114 F.4th at 714.

Second, the Department cites a MISO executive’s congressional testimony, JA ____ [DOE0016_13], but the testimony contains no suggestion of an imminent electricity shortage crisis affecting MISO. Instead, the testimony explains how MISO intended to meet the long-term challenges described in the Rehearing Order, such as “much stronger growth [in demand for electricity],”

JA____[DOE0016_13], using its existing non-emergency planning mechanisms. JA____ - ____ [DOE0021_6-10]. Absent from her list of solutions is undoing coal plant retirements or asking the Department to override long-term resource planning. JA____ - ____ [DOE0021_6-10]. Far from supporting the Department’s decision to force Campbell’s operation, the testimony reflects that long-term “electric resource planning decisions . . . are the purview of the states and utilities in the MISO region.” JA____ [DOE0021_7].

Lastly, citing nothing, the Rehearing Order states that “DOE’s assessment reveals that, if current retirement schedules and incremental additions remain unchanged, most regions—including the MISO Region relevant to the Emergency Order—will face unacceptable reliability risks within five years.”

JA____ [DOE0016_14]. Such a conclusory statement, without any evidence, cannot sufficiently support its contention that such reliability risks exist, let alone that those five-year-out reliability risks actually create a near-term emergency. *Nat’l Shooting Sports Found. v. Jones*, 716 F.3d 200, 214 (D.C. Cir. 2013) (“We do not defer to an agency’s conclusory or unsupported suppositions.” (cleaned up)).

2. The Department ignored concrete evidence of resource adequacy that contradicts the Department’s conclusion.

The Department also “ignore[d] evidence contradicting its position” that a summer electricity shortfall existed. *Genuine Parts Co. v. EPA*, 890 F.3d 304, 346

(D.C. Cir. 2018) (cleaned up). This failure renders the Department’s conclusion arbitrary and capricious.

First, the Department failed to consider any of the regulatory approval documents for Campbell demonstrating that its retirement did not pose any concerns. *See* States Br. § III.B.

Second, the Department failed to address contradictory evidence brought to its attention during the rehearing process. *See* JA____[DOE0007_25]. For example, within two weeks of the Order, MISO officials testifying at a FERC technical conference rejected that any resource adequacy emergency existed within their region: A MISO representative stated that no capacity deficits had materialized in 2025, JA____[DOE0009_174]; and MISO’s Independent Market Monitor, responsible for scrutinizing the performance of MISO’s markets and procedures, testified that “MISO is more than adequate moving into the Summer of 2025.” JA____[DOE0009_205]. The Department’s failure to engage with statements from parties most knowledgeable about the region’s resource adequacy renders its reasoning arbitrary and capricious. *Dist. Hosp. Partners, L.P. v. Burwell*, 786 F.3d 46, 57 (D.C. Cir. 2015) (“an agency cannot *ignore* new and better data”).

II. The Order Fails to Meet Section 202(c)'s Limits on the Generation the Department Can Order Under an Emergency.

Even if the Department had properly established an “emergency,” the Department may order generation only if it determines that generation “will best meet the emergency and serve the public interest.” 16 U.S.C. § 824a(c)(1). And where, as here, the order “may result in a conflict” with environmental requirements, JA____[DOE0001_2], the Department may order generation “only during hours necessary to meet the emergency and serve the public interest” and in a way that “minimizes any adverse environmental impacts.” 16 U.S.C. § 824a(c)(2). The Order meets neither requirement.

A. The Department’s conclusion that operating an ailing coal-fired plant best meets the emergency is arbitrary and capricious.

Section 202(c)(1) requires that the Department order only “generation” that “in its judgment will best meet the emergency and serve the public interest.” 16 U.S.C. § 824a(c)(1). The word “best” is inherently a comparative term and means “that which is ‘most advantageous.’” *Entergy Corp. v. Riverkeeper*, 556 U.S. 208, 218 (2009) (cleaned up). Here, the Department has not offered “a satisfactory explanation” for why Campbell was the most advantageous choice, and the Order should be set aside. *See State Farm*, 463 U.S. at 43.

The Order’s sole explanation for selecting Campbell parrots the statutory language, that “additional dispatch of the Campbell Plant is necessary to best meet

the emergency and serve the public interest.” JA____[DOE0001_2]; *see also* JA____ - ____ [DOE0016_17-18]; JA____ - ____ [DOE0008_66-68]. But this “passing reference to relevant factors” is not “reasoned and principled decisionmaking.” *City & Cnty. of San Francisco v. FERC*, 24 F.4th 652, 658 (D.C. Cir. 2022) (cleaned up). No further explanation can be divined from the record. It neither points to a shortfall in the area served by Campbell nor identifies operating Campbell as a way—let alone the best way—to address alleged resource shortfall issues. Indeed, the Department cannot claim that Campbell beat out other alternatives because there is no indication that the Department considered any alternatives, even though, as the record makes clear, resources other than Campbell could address potential shortfalls. *See supra* 10-11, 14-15; *see also* JA____, ____ [DOE0007_34,41] (describing energy imports and other options).

The Department also ignored evidence that Campbell cannot reliably address any time-sensitive resource shortfalls. Campbell cannot turn on quickly in response to extreme demand; it can take up to 12 hours to become fully operational. JA____ [DOE0008_39]. Moreover, Campbell’s capacity is often unavailable, with high outage rates that increased due to foregone maintenance. *See supra* 13. When selecting the “best” way to address reliability concerns, the Department “cannot simply ignore [this] ‘important aspect of the problem’”—Campbell’s poor reliability track record. *Ohio v. EPA*, 603 U.S. 279, 293 (2024) (cleaned up).

The Department’s decision to single out Campbell ultimately relied on “factors which Congress ha[d] not intended it to consider.” *State Farm*, 463 U.S. at 43. The Department selected Campbell not because it would “best meet the emergency,” but to meet the Administration’s long-term goal of using “all mechanisms available” to retain existing coal plants. JA ____ [DOE0020]; *see also* Executive Order No. 14,261 (Apr. 8, 2025). The Department may not choose Campbell simply because blocking its retirement would serve the Administration’s other ends. *See* JA ____ - ____ [DOE0016_13-14]; *cf. Richmond Power*, 574 F.2d at 615 (fear of overdependence on foreign oil is not proper Section 202(c) consideration).

In the end, the Department conceded that it failed to explain its conclusion. It contended it did not have to because Section 202(c)(1) “delegates a wide degree of latitude,” and so it is not required to “engage in a lengthy weighing of options or explanation.” JA ____ [DOE0016_18]. But even where a statute “delegates discretionary authority,” a reviewing court still must “ensur[e] the agency has engaged in ‘reasoned decisionmaking’ within th[e] boundaries” the statute prescribes. *Loper Bright*, 603 U.S. at 395 (cleaned up). And here, that means the Department must explain why operating Campbell “will best meet the emergency and serve the public interest.” 16 U.S.C. § 824a(c)(1). Engaging in reasoned decisionmaking may not demand a “lengthy weighing of options,” particularly

where (unlike here) an identified shortage is imminent, JA____[DOE0016_18], but it does require at least some explanation.

B. The Department has not limited generation to hours necessary to meet the emergency and to minimize environmental impacts.

The Department’s concession that the Order “may result in a conflict with a requirement of . . . environmental law,” 16 U.S.C. § 824a(c)(2); *see* JA____[DOE0016_3]; JA____[DOE0001_2], means that it must also order generation “only during hours necessary to meet the emergency” and in a way that “minimizes any adverse environmental impacts,” 16 U.S.C. § 824a(c)(2). These requirements are particularly important here, given Campbell’s well-documented pollution and health impacts. *See supra* 11-12. The Order violates both requirements.

The Order violates the statutory mandate to require generation “only during hours necessary to meet the emergency” by requiring MISO to “employ economic dispatch of the Campbell Plant,” JA____[DOE0001_2], or, where necessary, to operate Campbell on a “must run basis.” JA____[DOE0016_16]. These ways of running Campbell, by definition, cannot minimize the hours of operation. Under economic dispatch, Campbell would not just run when needed to meet the emergency—the “potential loss of power to homes and local businesses,” JA____[DOE0001_2]—but would be required to offer its capacity in the market and run whenever its offer is accepted. And if Campbell operates on a “must run

basis,” it must run at all hours, not just when needed. In the end, the Department conceded its order sought to “minimize[e] the cost to ratepayers,” JA ____ - ____ [DOE0016_16-17], not the hours of Campbell’s operation. Setting aside that this approach does not minimize costs, *see* States Br. § IV.A, the Department’s search for cost savings instead of minimizing hours of operation violates Section 202(c).¹⁰

For the same reason, the Department has not “minimize[d] any adverse environmental impacts.” 16 U.S.C. § 824a(c)(2). Running Campbell instead of other generation sources will not minimize environmental impacts because Campbell is more likely than other sources to pollute. That is inherently true of coal-fired power plants like Campbell, *see, e.g.*, 89 Fed. Reg. 38508, 38509 (May 7, 2024); JA ____ - ____ [DOE0007_48-49], and particularly true of Campbell itself, because Consumers has avoided maintaining required air pollution controls. JA ____ - ____ [DOE0008_41-42]. It thus would have been appropriate for the Department to include measures to minimize reliance on Campbell, *see, e.g.*, Order No. 202-17-4 (Sept. 14, 2017), <https://perma.cc/DDW3-KSP4> (requiring exhaustion of “all reasonably and practicably available resources,” including

¹⁰ The Department’s sole explanation here—a “passing reference” to the statutory factors—also is not “reasoned and principle decisionmaking.” *City & Cnty. of San Francisco*, 24 F.4th at 658 (cleaned up); JA ____ [DOE0001_2-3]; JA ____ - ____ [DOE0016_14-17].

available imports and demand response, to minimize an increase in emissions), not accelerate its use.

III. These Petitions Are Not Moot.

Mootness is of no concern here, for two reasons: the Order has not expired, and the capable of repetition yet evading review exception applies.

The initial 90-day order has not expired because it has been renewed. Section 202(c) treats orders extending an order beyond the initial 90-day period as *renewals*. 16 U.S.C. § 824a(c)(4)(A), (B). The Department has treated subsequent orders the same way. *See* ADD_095, 100; ADD_109-110. Accordingly, the Order has not expired.¹¹

But even if the Order has expired, the “capable of repetition yet evading review” exception to mootness plainly applies. Both requirements of that exception are met here.

First, the Order’s 90-day duration is “too short to be fully litigated before” the Order’s expiration. *Trump v. Mazars USA, LLP*, 39 F.4th 774, 786 (D.C. Cir. 2022). An action “in effect for only three months” is live for “too short” a time “to

¹¹ This case is also not moot (1) because Petitioners challenge not just the Order but also “the *policy* that underlies that action,” *Safari Club Int’l v. Jewell*, 842 F.3d 1280, 1287 (D.C. Cir. 2016), and (2) for the reason the States raise (at § I): Resolution of this petition “may affect” the resolution of the FERC proceedings relating to recovery of Consumers’ compliance costs. *Crowley Gov’t Servs. v. GSA*, 143 F.4th 518, 526 (D.C. Cir. 2025); *see Consumers*, 192 FERC ¶ 61,158, at P 42.

complete judicial review of [its] lawfulness.” *FCC v. Consumers’ Research*, 606 U.S. 656, 671 n.1 (2025); *see also Pub. Util. Comm’n of Cal. v. FERC*, 236 F.3d 708, 714 (D.C. Cir. 2001) (“[O]rders of less than two years’ duration ordinarily evade review.” (cleaned up)). That is particularly true here, where would-be petitioners must request rehearing before the agency and wait 30 days to seek judicial review. 16 U.S.C. § 825l(a)-(b).

Second, the “legal questions [this case] presents for decision” will likely be the “basis of a continuing controversy.” *Pierre-Noel v. Bridges Pub. Charter Sch.*, 113 F.4th 970, 978 (D.C. Cir. 2024) (citation omitted); *see Ralls Corp. v. Comm. on Foreign Inves. in U.S.*, 758 F.3d 296, 324 (D.C. Cir. 2014). There is “no mere risk” that the Department will “repeat” its “wrongful conduct”: The Department has “already” twice “done so” and has indicated it will do so again. *Am. Freedom Def. Initiative v. Wash. Metro. Area Transit Auth.*, 901 F.3d 356, 362 (D.C. Cir. 2018) (cleaned up); ADD_100; ADD_109-110. And each renewal raises the same issues presented here: whether the Department can invoke Section 202(c) to address long-term reliability concerns, *see supra* § I.A; ADD_097-098; ADD_106-107; whether the Department’s near-term emergency finding is arbitrary because it fundamentally misunderstands the relevant evidence, *see supra* § I.B; ADD_094-097; ADD_103-105; whether the Department has failed to explain how Campbell “best meet[s] the emergency,” *see supra* § II.A; ADD_100; ADD_109-110; and

whether the Department has failed to limit the hours of Campbell's operation and minimize environmental impact, *see supra* § II.B; ADD_101; ADD_110.

Accordingly, this Court can resolve issues presented both by an order and "renewals in a series." *See Humane Soc'y v. EPA*, 790 F.2d 106, 114 (D.C. Cir. 1986). This Court should address the issues that are presented here and will keep arising in subsequent renewals, and it should declare the Order and its justifications unlawful and set it aside.

CONCLUSION

This Court should grant the petitions, vacate the Order as modified by the Rehearing Order, and declare the Order and its justifications unlawful.

Dated: December 19, 2025

Respectfully Submitted,

/s/ Benjamin Chagnon¹²

Benjamin Chagnon (DC Cir. 65850)
Jennifer Yun (DC Cir. 66550)
Michael Lenoff (DC Cir. 66374)
1001 G St. NW, Suite 1000
Washington, DC 20001
(202) 745-5210
bchagnon@earthjustice.org
jyun@earthjustice.org
mlenoff@earthjustice.org

Lauren Piette (DC Cir. 66519)
Sameer Doshi (DC Cir. 64549)
311 S. Wacker Dr., Suite 1400
Chicago, IL 60606
(312) 500-2193
lpiette@earthjustice.org
sdoshi@earthjustice.org

Christine Powell (DC Cir. 64908)
180 Steuart St., #194330
San Francisco, CA 94105
(415) 217-2035
cpowell@earthjustice.org

*Counsel for Sierra Club and
Urban Core Collective*

/s/ Gregory E. Wannier

Gregory E. Wannier (DC Cir. 55920)
Sanjay Narayan (DC Cir. 48545)
Elena Saxonhouse (DC Cir. 56639)
Sierra Club Environmental Law
Program
2101 Webster St., Suite 1300
Oakland, CA 94612
(415) 977-5646
greg.wannier@sierraclub.org
sanjay.narayan@sierraclub.org
elena.saxonhouse@sierraclub.org

Counsel for Sierra Club

/s/ Howard A. Learner

Howard A. Learner (DC Cir. 61779)
Bradley Klein
Environmental Law & Policy Center
35 East Wacker Dr., Suite 1600
Chicago, IL 60601
T: (312) 673-6500
F: (312) 795-3730
hlearner@elpc.org
bklein@elpc.org

Katherine S. Duckworth
Environmental Law & Policy Center
1008 Floral Ave. SE
East Grand Rapids, MI 49506
T: (312) 673-6500
kduckworth@elpc.org

*Counsel for the Environmental Law &
Policy Center, Ecology Center, Union of
Concerned Scientists, and Vote Solar*

¹² Counsel represents that the other parties listed in the signature blocks on this document consent to this filing.

/s/ Caroline Reiser

Caroline Reiser (DC Cir. 62319)
Natural Resources Defense Council
1152 15th St. NW, Suite 300
Washington DC, 20005
(202) 717-8341
creiser@nrdc.org

Gavin McCabe (DC Cir. 53966)
Natural Resources Defense Council
40 W. 20th St., 11th Floor
New York, NY 10011
(212) 727-4529
gmccabe@nrdc.org

Simi Bhat (DC Cir. 55968)
Karen Chen
Natural Resources Defense Council
111 Sutter St., 21st floor
San Francisco, CA 94104
(415) 875-6110
sbhat@nrdc.org
kchen@nrdc.org

*Counsel for Natural Resources Defense
Council*

/s/ Danielle C. Fidler

Danielle C. Fidler (DC Cir. 62486)
Francis W. Sturges, Jr. (DC Cir. 64964)
Veronica Saltzman (DC Cir. 64096)
Clean Air Task Force
114 State St., 6th Floor
Boston, MA 02109
(617) 624-0234
dfidler@catf.us
fsturges@catf.us
vsaltzman@catf.us

*Counsel for Michigan Environmental
Council*

/s/ Tomás Carbonell

Tomás Carbonell (DC Cir. 54320)
Ted Kelly
Environmental Defense Fund
555 12th St. NW, #400
Washington, DC 20004
(919) 449-4600
tcarbonell@edf.org
tekelly@edf.org

*Counsel for Environmental Defense
Fund*

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Federal Rule of Appellate Procedure 32(a), D.C. Circuit Rule 32(e), and the Court's November 20, 2025 and December 2, 2025 Orders, because this document contains 9,992 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and D.C. Circuit Rule 32(e).
2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman.

/s/ Benjamin Chagnon
Benjamin Chagnon
DC Cir. 65850
Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on December 19, 2025, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the District of Columbia Circuit through this Court's CM/ECF system, which will serve a copy on all registered users.

/s/ Benjamin Chagnon

Benjamin Chagnon

DC Cir. 65850

Attorney

NOT YET SCHEDULED FOR ORAL ARGUMENT

No. 25-1159
(Consolidated with 25-1160 and 25-1162)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

THE PEOPLE OF THE STATE OF MICHIGAN,
Petitioner,
v.
U.S. DEPARTMENT OF ENERGY, AND CHRIS WRIGHT, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF ENERGY,
Respondents.

ON PETITION FOR REVIEW OF FINAL ORDER OF THE
DEPARTMENT OF ENERGY

**PUBLIC INTEREST ORGANIZATION PETITIONERS' ADDENDUM OF
STATUTES, REGULATIONS, AND DECLARATIONS**

Gregory E. Wannier (DC Cir. 55920)
Sanjay Narayan (DC Cir. 48545)
Elena Saxonhouse (DC Cir. 56639)
Sierra Club Environmental Law
Program
2101 Webster St., Suite 1300
Oakland, CA 94612
(415) 977-5646
greg.wannier@sierraclub.org
sanjay.narayan@sierraclub.org
elena.saxonhouse@sierraclub.org

Counsel for Sierra Club

Benjamin Chagnon (DC Cir. 65850)
Jennifer Yun (DC Cir. 66550)
Michael Lenoff (DC Cir. 66374)
Earthjustice
1001 G St. NW, Suite 1000
Washington, DC 20001
(202) 745-5210
jyun@earthjustice.org
bchagnon@earthjustice.org
mlenoff@earthjustice.org

*Counsel for Sierra Club and Urban
Core Collective*

Caroline Reiser (DC Cir. 62319)
Natural Resources Defense Council
1152 15th St. NW, Suite 300
Washington DC, 20005
(202) 717-8341
creiser@nrdc.org

Gavin McCabe (DC Cir. 53966)
Natural Resources Defense Council
40 W. 20th St., 11th Floor
New York, NY 10011
(212) 727-4529
gmccabe@nrdc.org

Simi Bhat (DC Cir. 55968)
Karen Chen
Natural Resources Defense Council
111 Sutter St., 21st floor
San Francisco, CA 94104
(415) 875-6110
sbhat@nrdc.org
kchen@nrdc.org

*Counsel for Natural Resources Defense
Council*

Lauren Piette (DC Cir. 66519)
Sameer Doshi (DC Cir. 64549)
Earthjustice
311 S. Wacker Dr., Suite 1400
Chicago, IL 60606
(312) 500-2193
lpiette@earthjustice.org
sdoshi@earthjustice.org

Christine Powell (DC Cir. 64908)
Earthjustice
180 Steuart St., #194330
San Francisco, CA 94105
(415) 217-2035
cpowell@earthjustice.org

*Counsel for Sierra Club and
Urban Core Collective*

Howard A. Learner (DC Cir. 61779)
Bradley Klein
Environmental Law & Policy Center
35 East Wacker Dr., Suite 1600
Chicago, IL 60601
T: (312) 673-6500
hlearner@elpc.org
bklein@elpc.org

Katherine S. Duckworth
Environmental Law & Policy Center
1008 Floral Ave. SE
East Grand Rapids, MI 49506
T: (312) 673-6500
kduckworth@elpc.org

*Counsel for the Environmental Law &
Policy Center, Ecology Center, Union
of Concerned Scientists, and Vote
Solar*

Danielle C. Fidler (DC Cir. 62486)
Francis W. Sturges, Jr. (DC Cir.
64964)
Veronica Saltzman (DC Cir. 64096)
Clean Air Task Force
114 State St., 6th Floor
Boston, MA 02109
(617) 624-0234
dfidler@catf.us
fsturges@catf.us
vsaltzman@catf.us

*Counsel for Michigan Environmental
Council*

Tomás Carbonell (DC Cir. 54320)
Ted Kelly
Environmental Defense Fund
555 12th St. NW, #400
Washington, DC 20004
(919) 449-4600
tcarbonell@edf.org
tekelly@edf.org

*Counsel for Environmental Defense
Fund*

TABLE OF CONTENTS

Title	Page
<u>Statutory Provisions</u>	
16 U.S.C. § 824.....	ADD_001
16 U.S.C. § 824a.....	ADD_004
16 U.S.C. § 824o.....	ADD_008
16 U.S.C. § 825l.....	ADD_014
<u>Regulatory Provisions</u>	
10 C.F.R. § 205.371	ADD_016
<u>Standing Declarations</u>	
<i>Sierra Club</i>	
Declaration of Jan O’Connell	ADD_018
Declaration of Susan Hoekema	ADD_022
Declaration of Mark Oppenhuizen	ADD_025
<i>Natural Resources Defense Council</i>	
Declaration of Derrell Slaughter.....	ADD_029
Declaration of Joyce Yeung	ADD_032
Declaration of Jerome Alicki	ADD_034
Declaration of Andrea Babka.....	ADD_037
<i>Michigan Environmental Council</i>	
Declaration of Charlotte Jameson.....	ADD_040
Declaration of Deirdre Nieves	ADD_048
<i>Environmental Defense Fund</i>	
Declaration of John Stith	ADD_059
Declaration of Elizabeth Hauptman.....	ADD_063

Environmental Law & Policy Center

Declaration of Kevin Brubaker.....ADD_070

Declaration of Elizabeth Crosby.....ADD_072

Declaration of Michelle LeVeque.....ADD_074

Vote Solar

Declaration of William KenworthyADD_076

Declaration of Ericka Lozano-Buhl.....ADD_079

Union of Concerned Scientists

Declaration of James GignacADD_082

Declaration of Laura Judge.....ADD_084

Ecology Center

Declaration of Alexis Blizman.....ADD_087

Declaration of Joe DiSanoADD_089

Urban Core Collective

Declaration of Sergio Cirra-ReyesADD_091

Orders

Order No. 202-25-7 (Aug. 19, 2025)ADD_094

Order No. 202-25-9 (Nov. 18, 2025)ADD_103

Other

Consumers Energy Company Form 10-Q, Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, For the quarterly period ended September 30, 2025ADD_113

Exhibit 69 of Public Interest Organization Petitioners' Request for Rehearing of DOE Order No. 202-25-7, Declaration of Bill Powers.....ADD_221

Exhibit 102 of Public Interest Organization Petitioners' Request for Rehearing of DOE Order No. 202-25-7, CAMPD Campbell Daily EmissionsADD_234

United States Code Annotated

Title 16. Conservation

Chapter 12. Federal Regulation and Development of Power (Refs & Annos)

Subchapter II. Regulation of Electric Utility Companies Engaged in Interstate Commerce

16 U.S.C.A. § 824

§ 824. Declaration of policy; application of subchapter

Effective: December 4, 2015

[Currentness](#)

(a) Federal regulation of transmission and sale of electric energy

It is declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in this subchapter and subchapter III of this chapter and of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.

(b) Use or sale of electric energy in interstate commerce

(1) The provisions of this subchapter shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but except as provided in paragraph (2) shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this subchapter and subchapter III of this chapter, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

(2) Notwithstanding subsection (f), the provisions of [sections 824b\(a\)\(2\)](#), [824e\(e\)](#), [824i](#), [824j](#), [824j-1](#), [824k](#), [824o](#), [824o-1](#), [824p](#), [824q](#), [824r](#), [824s](#), [824t](#), [824u](#), and [824v](#) of this title shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this chapter with respect to such provisions. Compliance with any order or rule of the Commission under the provisions of [section 824b\(a\)\(2\)](#), [824e\(e\)](#), [824i](#), [824j](#), [824j-1](#), [824k](#), [824o](#), [824o-1](#), [824p](#), [824q](#), [824r](#), [824s](#), [824t](#), [824u](#), or [824v](#) of this title, shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purposes other than the purposes specified in the preceding sentence.

(c) Electric energy in interstate commerce

For the purpose of this subchapter, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

(d) “Sale of electric energy at wholesale” defined

The term “sale of electric energy at wholesale” when used in this subchapter, means a sale of electric energy to any person for resale.

(e) “Public utility” defined

The term “public utility” when used in this subchapter and subchapter III of this chapter means any person who owns or operates facilities subject to the jurisdiction of the Commission under this subchapter (other than facilities subject to such jurisdiction solely by reason of [section 824e\(e\)](#), [824e\(f\)](#)¹, [824i](#), [824j](#), [824j-1](#), [824k](#), [824o](#), [824o-1](#), [824p](#), [824q](#), [824r](#), [824s](#), [824t](#), [824u](#), or [824v](#) of this title).

(f) United States, State, political subdivision of a State, or agency or instrumentality thereof exempt

No provision in this subchapter shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 ([7 U.S.C. 901 et seq.](#)) or that sells less than 4,000,000 megawatt hours of electricity per year, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

(g) Books and records

(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of--

(A) an electric utility company subject to its regulatory authority under State law,

(B) any exempt wholesale generator selling energy at wholesale to such electric utility, and

(C) any electric utility company, or holding company thereof, which is an associate company or affiliate of an exempt wholesale generator which sells electric energy to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric service.

(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

(4) Nothing in this section shall--

(A) preempt applicable State law concerning the provision of records and other information; or

(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

(5) As used in this subsection the terms “affiliate”, “associate company”, “electric utility company”, “holding company”, “subsidiary company”, and “exempt wholesale generator” shall have the same meaning as when used in the Public Utility Holding Company Act of 2005.

CREDIT(S)

(June 10, 1920, c. 285, pt. II, § 201, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 847; amended [Pub.L. 95-617, Title II, § 204\(b\)](#), Nov. 9, 1978, 92 Stat. 3140; [Pub.L. 102-486, Title VII, § 714](#), Oct. 24, 1992, 106 Stat. 2911; [Pub.L. 109-58, Title XII, §§ 1277\(b\)\(1\)](#), 1291(c), 1295(a), Aug. 8, 2005, 119 Stat. 978, 985; [Pub.L. 114-94](#), Div. F, § 61003(b), Dec. 4, 2015, 129 Stat. 1778.)

[Notes of Decisions \(226\)](#)

Footnotes

1 So in original. [Section 824e](#) of this title does not contain a subsec. (f).

16 U.S.C.A. § 824, 16 USCA § 824

Current through P.L. 119-47. Some statute sections may be more current, see credits for details.

United States Code Annotated

Title 16. Conservation

Chapter 12. Federal Regulation and Development of Power (Refs & Annos)

Subchapter II. Regulation of Electric Utility Companies Engaged in Interstate Commerce

16 U.S.C.A. § 824a

§ 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries

Effective: December 4, 2015

[Currentness](#)**(a) Regional districts; establishment; notice to State commissions**

For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnection and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and between such districts. Before establishing any such district and fixing or modifying the boundaries thereof the Commission shall give notice to the State commission of each State situated wholly or in part within such district, and shall afford each such State commission reasonable opportunity to present its views and recommendations, and shall receive and consider such views and recommendations.

(b) Sale or exchange of energy; establishing physical connections

Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

(c) Temporary connection and exchange of facilities during emergency

(1) During the continuance of any war in which the United States is engaged, or whenever 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. 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.

(2) With respect to an order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation, the Commission shall ensure that such order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts.

(3) To the extent any omission or action taken by a party, that is necessary to comply with an order issued under this subsection, including any omission or action taken to voluntarily comply with such order, results in noncompliance with, or causes such party to not comply with, any Federal, State, or local environmental law or regulation, such omission or action shall not be considered a violation of such environmental law or regulation, or subject such party to any requirement, civil or criminal liability, or a citizen suit under such environmental law or regulation.

(4)(A) An order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation shall expire not later than 90 days after it is issued. The Commission may renew or reissue such order pursuant to paragraphs (1) and (2) for subsequent periods, not to exceed 90 days for each period, as the Commission determines necessary to meet the emergency and serve the public interest.

(B) In renewing or reissuing an order under subparagraph (A), the Commission shall consult with the primary Federal agency with expertise in the environmental interest protected by such law or regulation, and shall include in any such renewed or reissued order such conditions as such Federal agency determines necessary to minimize any adverse environmental impacts to the extent practicable. The conditions, if any, submitted by such Federal agency shall be made available to the public. The Commission may exclude such a condition from the renewed or reissued order if it determines that such condition would prevent the order from adequately addressing the emergency necessitating such order and provides in the order, or otherwise makes publicly available, an explanation of such determination.

(5) If an order issued under this subsection is subsequently stayed, modified, or set aside by a court pursuant to [section 825f](#) of this title or any other provision of law, any omission or action previously taken by a party that was necessary to comply with the order while the order was in effect, including any omission or action taken to voluntarily comply with the order, shall remain subject to paragraph (3).

(d) Temporary connection during emergency by persons without jurisdiction of Commission

During the continuance of any emergency requiring immediate action, any person or municipality engaged in the transmission or sale of electric energy and not otherwise subject to the jurisdiction of the Commission may make such temporary connections with any public utility subject to the jurisdiction of the Commission or may construct such temporary facilities for the transmission of electric energy in interstate commerce as may be necessary or appropriate to meet such emergency, and shall not become subject to the jurisdiction of the Commission by reason of such temporary connection or temporary construction: *Provided*, That such temporary connection shall be discontinued or such temporary construction removed or otherwise disposed

of upon the termination of such emergency: *Provided further*, That upon approval of the Commission permanent connections for emergency use only may be made hereunder.

(e) Transmission of electric energy to foreign country

After six months from August 26, 1935, no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.

(f) Transmission or sale at wholesale of electric energy; regulation

The ownership or operation of facilities for the transmission or sale at wholesale of electric energy which is (a) generated within a State and transmitted from the State across an international boundary and not thereafter transmitted into any other State, or (b) generated in a foreign country and transmitted across an international boundary into a State and not thereafter transmitted into any other State, shall not make a person a public utility subject to regulation as such under other provisions of this subchapter. The State within which any such facilities are located may regulate any such transaction insofar as such State regulation does not conflict with the exercise of the Commission's powers under or relating to subsection (e).

(g) Continuance of service

In order to insure continuity of service to customers of public utilities, the Commission shall require, by rule, each public utility to--

(1) report promptly to the Commission and any appropriate State regulatory authorities any anticipated shortage of electric energy or capacity which would affect such utility's capability of serving its wholesale customers,

(2) submit to the Commission, and to any appropriate State regulatory authority, and periodically revise, contingency plans respecting--

(A) shortages of electric energy or capacity, and

(B) circumstances which may result in such shortages, and

(3) accommodate any such shortages or circumstances in a manner which shall--

(A) give due consideration to the public health, safety, and welfare, and

(B) provide that all persons served directly or indirectly by such public utility will be treated, without undue prejudice or disadvantage.

CREDIT(S)

(June 10, 1920, c. 285, pt. II, § 202, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 848; amended Aug. 7, 1953, c. 343, 67 Stat. 461; [Pub.L. 95-617, Title II, § 206\(a\)](#), Nov. 9, 1978, 92 Stat. 3141; [Pub.L. 114-94](#), Div. F, § 61002, Dec. 4, 2015, 129 Stat. 1772.)

[Notes of Decisions \(33\)](#)

16 U.S.C.A. § 824a, 16 USCA § 824a

Current through P.L. 119-47. Some statute sections may be more current, see credits for details.

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.

United States Code Annotated

Title 16. Conservation

Chapter 12. Federal Regulation and Development of Power (Refs & Annos)

Subchapter II. Regulation of Electric Utility Companies Engaged in Interstate Commerce

16 U.S.C.A. § 824o

§ 824o. Electric reliability

Effective: August 8, 2005

[Currentness](#)

(a) Definitions

For purposes of this section:

(1) The term “bulk-power system” means--

(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

(2) The terms “Electric Reliability Organization” and “ERO” mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

(3) The term “reliability standard” means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

(4) The term “reliable operation” means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(5) The term “Interconnection” means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

(6) The term “transmission organization” means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

(7) The term “regional entity” means an entity having enforcement authority pursuant to subsection (e)(4).

(8) The term “cybersecurity incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

(b)Jurisdiction and applicability

(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in [section 824\(f\)](#) of this title, for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after August 8, 2005.

(c)Certification

Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO--

(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

(2) has established rules that--

(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

(d) Reliability standards

(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted, approved, or ordered by the Commission until--

(A) the Commission finds a conflict exists between a reliability standard and any such provision;

(B) the Commission orders a change to such provision pursuant to [section 824e](#) of this title; and

(C) the ordered change becomes effective under this subchapter.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

(e)Enforcement

(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing--

(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

(B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if--

(A) the regional entity is governed by--

(i) an independent board;

(ii) a balanced stakeholder board; or

(iii) a combination independent and balanced stakeholder board.

(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

(f) Changes in Electric Reliability Organization rules

The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

(g) Reliability reports

The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

(h) Coordination with Canada and Mexico

The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

(i) Savings provisions

(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

(j)Regional advisory bodies

The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

(k)Alaska and Hawaii

The provisions of this section do not apply to Alaska or Hawaii.

CREDIT(S)

(June 10, 1920, c. 285, pt. II, § 215, as added [Pub.L. 109-58, Title XII, § 1211\(a\)](#), Aug. 8, 2005, 119 Stat. 941.)

16 U.S.C.A. § 824o, 16 USCA § 824o

Current through P.L. 119-47. Some statute sections may be more current, see credits for details.

United States Code Annotated

Title 16. Conservation

Chapter 12. Federal Regulation and Development of Power (Refs & Annos)

Subchapter III. Licensees and Public Utilities; Procedural and Administrative Provisions

16 U.S.C.A. § 825I

§ 825I. Review of orders

Effective: August 8, 2005

[Currentness](#)**(a) Application for rehearing; time periods; modification of order**

Any person, electric utility, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this chapter to which such person, electric utility, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing. Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied. No proceeding to review any order of the Commission shall be brought by any entity unless such entity shall have made application to the Commission for a rehearing thereon. Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.

(b) Judicial review

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. A copy of such petition shall forthwith be transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in [section 2112 of Title 28](#). Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in [section 1254 of Title 28](#).

(c) Stay of Commission's order

The filing of an application for rehearing under subsection (a) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

CREDIT(S)

(June 10, 1920, c. 285, Pt. III, § 313, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 860; amended June 25, 1948, c. 646, § 32(a), 62 Stat. 991; May 24, 1949, c. 139, § 127, 63 Stat. 107; [Pub.L. 85-791](#), § 16, Aug. 28, 1958, 72 Stat. 947; [Pub.L. 109-58, Title XII, § 1284\(c\)](#), Aug. 8, 2005, 119 Stat. 980.)

[Notes of Decisions \(503\)](#)

16 U.S.C.A. § 825I, 16 USCA § 825I

Current through P.L. 119-47. Some statute sections may be more current, see credits for details.

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.

Code of Federal Regulations

Title 10. Energy

Chapter II. Department of Energy

Subchapter A. Oil

Part 205. Administrative Procedures and Sanctions (Refs & Annos)

Subpart W. Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions; Grid Security Emergency Orders (Refs & Annos)

Emergency Interconnection of Electric Facilities and the Transfer of Electricity to Alleviate an Emergency Shortage of Electric Power (Refs & Annos)

10 C.F.R. § 205.371

§ 205.371 Definition of emergency.

Currentness

“Emergency,” as used herein, is defined as an unexpected inadequate supply of electric energy which may result from the unexpected outage or breakdown of facilities for the generation, transmission or distribution of electric power. Such events may be the result of weather conditions, acts of God, or unforeseen occurrences not reasonably within the power of the affected “entity” to prevent. An emergency also can result from a sudden increase in customer demand, an inability to obtain adequate amounts of the necessary fuels to generate electricity, or a regulatory action which prohibits the use of certain electric power supply facilities. Actions under this authority are envisioned as meeting a specific inadequate power supply situation. Extended periods of insufficient power supply as a result of inadequate planning or the failure to construct necessary facilities can result in an emergency as contemplated in these regulations. In such cases, the impacted “entity” will be expected to make firm arrangements to resolve the problem until new facilities become available, so that a continuing emergency order is not needed. Situations where a shortage of electric energy is projected due solely to the failure of parties to agree to terms, conditions or other economic factors relating to service, generally will not be considered as emergencies unless the inability to supply electric service is imminent. Where an electricity outage or service inadequacy qualifies for a [section 202\(c\)](#) order, contractual difficulties alone will not be sufficient to preclude the issuance of an emergency order.

SOURCE: [39 FR 35489](#), Oct. 1, 1974; [45 FR 71560](#), Oct. 28, 1980; Secs. 205.370 through 205.379 appear at [46 FR 39987](#), Aug. 6, 1981; [61 FR 35114](#), July 5, 1996; [83 FR 1180](#), Jan. 10, 2018; [85 FR 3232](#), Jan. 21, 2020; [90 FR 29682](#), July 3, 2025, unless otherwise noted.

AUTHORITY: Department of Energy Organization Act, [Pub.L. 95–91, 91 Stat. 565 \(42 U.S.C. 7101 et seq.\)](#); Federal Power Act, [Pub.L. 66–280, 41 Stat. 1063 \(16 U.S.C. 792 et seq.\)](#); [E.O. 10485, 18 FR 5397, 3 CFR, 1949–1953, Comp., p. 970](#) as amended by [E.O. 12038, 43 FR 4957, 3 CFR 1978 Comp., p. 136](#); [E.O. 14154, 90 FR 8353.](#); (Approved by the Office of Management and Budget under Control No. 1901–0245); [Pub.L. 95–91, 91 Stat. 565 \(42 U.S.C. 7101\)](#); [Pub.L. 66–280, 41 Stat. 1063 \(16 U.S.C. Section 792 et seq.\)](#); [E.O. 10485, 18 FR 5397, 3 CFR, 1949–1953, Comp., p. 970](#) as amended by [E.O. 12038, 43 FR 4957, 3 CFR 1978 Comp., p. 136](#); Department of Energy Delegation Order No. 00–002.00Q (Nov. 1, 2018).; Department of Energy Organization Act, [Pub.L. 95–91, 91 Stat. 565 \(42 U.S.C. 7101\)](#). Federal Power Act, [Pub.L. 66–280, 41 Stat. 1063 \(16 U.S.C. 791\(a\)\)](#)

Current through December 5, 2025, [90 FR 56065](#). Some sections may be more current. See credits for details.

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.

DECLARATION OF JAN O'CONNELL

I, Jan O'Connell, hereby declare and state as follows:

1. I am the Senior Energy Issues Organizer for the Sierra Club's Beyond Coal Campaign in Michigan. I was also the Development Director for the Sierra Club Michigan Chapter for over 12 years, and served on the national Sierra Club's Board of Directors as a volunteer from 2001-2007. I am currently responsible for carrying out Sierra Club's on-the-ground efforts in West Michigan to advance the organization's goal of transitioning the state's energy grid from fossil fuels to clean energy while protecting affordable rates. I live in Grand Rapids, Michigan. The following information is within my personal knowledge.

2. I have been working in my current role at the Sierra Club since 2007. In this capacity, I am responsible for public education and grass-roots organizing to advocate for the transition to clean energy in Michigan, along with coordinating with other capacities within Sierra Club, such as our communications and legal staff. In order to perform the responsibilities of this role, I have interacted on a daily basis with the Sierra Club's members in Michigan, as well as other state and national staff. Because of my position and responsibilities, and through my regular interaction with members, I am familiar with the Sierra Club's purpose, organization, and activities, and with the environmental interests and concerns of Sierra Club members.

3. Sierra Club is a non-profit organization under the laws of the State of California, and is the nation's oldest and largest grassroots environmental group. The Sierra Club's purposes are to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Sierra Club has worked in Michigan for nearly six decades to advocate for the

protection of air, water, and public health, and to advance a clean and affordable energy system that does not depend on fossil fuels.

4. I am familiar with the nature and scope of Sierra Club's membership programs, its membership records, and the manner in which information on members can be retrieved. I use our Sierra Club member database regularly to communicate with our members on environmental developments in their communities. Sierra Club regularly maintains membership records that include the address of each member. These records are regularly updated to add new members, reflect address changes, and remove the names of persons who are no longer members.

5. Sierra Club has more than 17,000 dues-paying members that live, use electricity, and pay electric bills in Michigan, including a significant number in Consumers Energy's service territory. Over two dozen of those members reside within just three miles of the JH Campbell Plant and thousands more live in nearby townships and further downwind.

6. Sierra Club members are greatly concerned about the impacts of coal-fired power plants on air quality, water quality, and health. Sierra Club's Beyond Coal Campaign seeks to reduce the pollution currently being produced by coal-fired power plants such as JH Campbell, and also to reduce energy bills by ensuring that ratepayers do not fund the cost of continuing to operate old, uneconomic coal plants like JH Campbell. To that end, members in Michigan have been actively engaged in advocating for the JH Campbell plant to retire before state and local decisionmakers, and the plant's owner, Consumers Energy, for more than 15 years. Sierra Club has participated in multiple regulatory and legal proceedings relating to the JH Campbell plant. Sierra Club also helped local residents investigate potential groundwater contamination from the plant's coal ash piles, and found unsafe levels of contamination in residents' well water.

7. Sierra Club staff (myself included), volunteers, and members participated in multiple stakeholder meetings held by Consumers in 2020 to inform the company's long-term resource plan filing, known as the Integrated Resource Plan. I also helped galvanize hundreds of its members to submit written comments to Consumers during this stakeholder process.

8. Sierra Club intervened and participated in Consumers Energy's 2021 Integrated Resource Plan docket, No. U-21090, before the Michigan Public Service Commission. In this docket, Consumers set forth its long-term resource plan, which included the full retirement of the JH Campbell plant by 2025. Sierra Club sponsored extensive expert testimony in that proceeding to demonstrate that the JH Campbell Plant's existing and likely future costs fully justified its closure by 2025. Sierra Club ultimately joined a settlement agreement with Consumers Energy, the Michigan Attorney General, and other parties that included terms mandating the retirement of the JH Campbell plant by May 31, 2025 and including Consumers' proposal to bring 8,000 MW of solar online by 2040 to help replace the plant's capacity. Sierra Club supported the settlement agreement because it would advance the organization's and its members' interests in reducing air, water, and coal ash pollution, along with energy bills.

9. The Department of Energy's two Section 202(c) Orders issued in May and August 2025, which have required continued operation of the JH Campbell plant, undermine the retirement date enshrined in the settlement agreement, along with the deep investments Sierra Club made to encourage Consumers to propose a rapid transition to clean energy in the company's 2021 Integrated Resource Plan. Instead of this transition, the Order requires Consumers to invest in costly coal power and could sidetrack the company from its plan to bring online clean and less expensive solar power. The orders harm Sierra Club's organizational interest in protecting public health and the environment in a cost-effective way.

10. The Orders to operate the plant beyond its planned retirement date will subject Sierra Club members to additional air and water pollution in the areas where they live and recreate. Sierra Club members also hear the plant operating, and hear and see open coal trains delivering coal to the plant. In addition, Sierra Club members are ratepayers who may be subject to higher electric bills as a result of the Department's Orders.

11. I am aware that Consumers Energy is seeking to recover the cost of keeping the JH Campbell plant running beyond its planned retirement date from ratepayers in states across the North and Central regions of MISO, the regional grid operator. Sierra Club has 10 physical offices located in areas served by these MISO regions, in Illinois, Missouri, Minnesota, Michigan, Iowa, Indiana, and Wisconsin. As a result, Sierra Club may itself be subject to higher electric bills as a result of the Department's Orders.

12. If the court were to decide that the Department's May and August Orders are unlawful, which would allow the JH Campbell plant to retire as planned, that would redress the injuries to the Sierra Club and its members that I have discussed above.

I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the foregoing is true and correct.

Executed on November 24, 2025.



JAN O'CONNELL

DECLARATION OF SUSAN HOEKEMA

I, Susan Hoekema, hereby declare as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The statements below are based on my personal knowledge.
2. I previously worked as an attorney but am now retired.
3. I have been a member of the Sierra Club since 1986, and my membership is current. I am an avid hiker and first joined Sierra Club after hiking in California and learning about the organization's history. I then became aware of the Club's work in West Michigan, where I live, and joined the local chapter. I am a member because Sierra Club works to protect things I care about, like clean air and water and a healthy environment.
4. I regularly participate in Sierra Club activities and events, including those that advocate for Consumers Energy to retire its J.H. Campbell coal plant. For example, I participated in a Sierra Club rally held in response to the U.S. Department of Energy's May order that required Campbell to continue operating instead of retiring as planned ("May Order"). I have also attended township meetings about decommissioning Campbell, at which there was discussion of the protection of the surrounding area from pollutants (particularly coal ash) and alternative land uses after the plant retires.
5. I live in West Olive, Michigan with my husband and dog. We have lived in our house since 2006. My parents built our house in 1978, so we and our children have spent a lot of time here even before moving in.
6. Our home is within three miles of Campbell. I remember reading a few years ago that Campbell was the second largest polluter in Michigan. Historically, there's been a huge pile of coal at the plant site, and ash used to blow from the plant site to our house. We would

sometimes get a layer of coal ash on our windowsills. While Consumers Energy took steps in recent years to prevent this from happening, this experience made us aware of how we are living under the plant's plume. With the plant continuing to operate under the May Order, I continue to worry about the less visible particulate matter that is in the air we breathe and is settling on our house when the Campbell plant is operating.

7. There's a stream, Pigeon Creek, right next to Campbell, near the plant's coal ash pits, that discharges into Lake Michigan. I understand that Consumers Energy plans to implement better safeguards to control its coal ash and make sure that coal ash doesn't get into the lake, but that those plans are on hold until Campbell retires. I worry a lot about overflows or floods that would bring that coal ash into Lake Michigan. Living so close to the plant, that would have a tremendous impact on us.

8. When the wind blows from the southeast, or when there is no wind at all, I hear a high-pitched whine from Campbell. It's as if the plant has a physical presence on my property. These noises sometimes prevent me from going outside to sit in my hammock.

9. I also get sinus headaches and burning eyes from Campbell's pollution. I can tell when the wind blows from the plant because I get these headaches more frequently. When this happens, I sometimes have to leave my property and head north to where the air is better, especially if we have had poor air quality for a couple of days.

10. About three times a week, I take my dog hiking at a small county park, Kirk Park, that is just south of my house. However, when the air quality is bad because of Campbell's pollution, or when the plant is making its high-pitched whine, I avoid Kirk Park and instead take my dog up north to the Grand Haven area. I also avoid taking walks at another nearby series of trails called Hemlock Crossing that is east of Campbell. It's a lovely series of trails,

but I avoid going there now because the area is downwind from the plant. When Campbell retires, I will start hiking those trails with my dog. I also understand that when Campbell retires, it may open up more land for recreational opportunities. I plan to take advantage of those opportunities.

11. We get our electricity from Consumers Energy. I am concerned that Campbell's continued operation will raise our electric rates. In the past, we investigated putting solar panels on our property to help make our electricity more affordable, but our property isn't suitable. That means we're completely dependent on Consumers Energy for our electricity. It's wrong that the company now has to spend money to keep Campbell open and that at least some of that money will come out of our pockets. I hate the idea of paying to keep this dinosaur running when we should be moving on to cleaner, more economical energy, consistent with the company's own plans.

12. I support Sierra Club's lawsuit regarding the May Order. If the court vacated the Department of Energy's order, and Consumers were allowed to retire the plant as planned, that would have a big positive impact on me. It would provide me with cleaner air and water and would lessen the negative impacts to my health, recreation, and enjoyment of my property that I describe above. I also wouldn't have to pay for Campbell's continued operation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24 day of November, 2025.



SUSAN HOEKEMA

DECLARATION OF MARK OPPENHUIZEN

I, Mark Oppenhuizen, hereby declare as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The statements below are based on my personal knowledge.
2. I joined Sierra Club as a member in 2014 and am currently a member. I am a member because Sierra Club works to protect things I care about, like clean air and water and a healthy environment.
3. My wife and I live in West Olive, Michigan. We have lived in this area for 30 years and raised our two children here.
4. Our home is less than a mile from the J.H. Campbell power generating plant. I see the plant every time I leave my house by car to go out somewhere, sometimes multiple times a day.
5. I hear the sound of the Campbell plant from my home at all times except when there is a wind blowing West to East. It is never quiet, even when the plant seems to be idling. The sound varies from a low rumble, hum, or drone to a loud whining sound. At times it can get quite loud to the point where it is almost disrupting to conversation inside our house. When I am outside, the sound of the plant greatly impacts the sounds of nature I would otherwise hear. It is very noticeable. A few times a year, the plant also makes a loud, piercing sound like a train whistle when it is expelling exhaust.
6. I also often hear the coal trains delivering coal to the Campbell plant. They make a racket when they come in. These trains are a mile, or more, long. When they stop, all the cars bang together, making loud booming sounds.

7. I love to be outdoors as much as possible, all year round. In spring, summer, and fall, I enjoy sitting on my deck or in the yard by the garden, eating outside, and tending to property maintenance like gardening or mowing the lawn. The plant's noise hampers my enjoyment of these activities. I plan to spend more time outside my home once the plant's noise finally stops.

8. I walk regularly on local roads and the beach within sight and earshot of the Campbell Plant. In the summer, I kayak on the lake just west of the Campbell Plant. These recreational activities would be more enjoyable without the Campbell plant operating and I will be more likely to recreate in these areas when it shuts down.

9. The Campbell plant is located on the shore of Lake Michigan along a road called Lakeshore Avenue that runs between Holland and Grand Haven. I regularly drive in this area. When you are driving along this road you are mostly going through residential or rural areas with lots of trees lining the road. That stretch is pleasant to drive. However, when you get to where the power plant is located, it is more industrial. You see all the infrastructure around the plant, the coal pile, and the coal ash ponds. The line conveying ash from the plant to the ash ponds goes over Lakeshore Avenue.

10. Before the U.S. Department of Energy issued the order challenged in this lawsuit, our community expected the Campbell plant to permanently cease operating this summer, and to eventually be replaced by a use more consistent with the surrounding land. Port Sheldon Township had been holding hearings about the Township Master Plan and both the Township and Consumers Energy were collecting input as to a vision for the future of the site.

11. As a former longtime Parks Commissioner for Ottawa County, I had hoped the portion of the site west of Lakeshore Avenue would be eventually turned into parkland for everyone's enjoyment. With the access to the water, it would offer very nice recreational

opportunities. I would myself recreate at this parkland and it would be a benefit to the community. There was also talk of adding solar panels and battery storage to produce clean energy on the lands to the east of Lakeshore Avenue, which I also supported to make our energy grid less reliant on polluting sources. Local discussions about repurposing the site are now stalled following the Department of Energy's order challenged in this lawsuit.

12. I had participated in hearings about the future of the site and was looking forward to the Campbell plant's retirement for the aesthetic and recreational benefits and for the peace and quiet of my own property.

13. I also participated in the public input process several years ago when Consumers Energy was developing its long-term resource plan as to whether and when it would replace its fossil-fuel fired power plants with clean energy. My understanding from Sierra Club is that the planning process and the related proceeding before the Michigan Public Utility Commission led to a settlement between Consumers and other parties, including Sierra Club, that required Consumers to retire the Campbell plant by May 31, 2025.

14. I am aware of the harmful effects of air pollution and that the Campbell plant emits fine particulate matter, precursors to ozone pollution, and other pollutants.

15. My wife suffers from acute COPD, a chronic lung disease that damages the airways and lungs, and she is reluctant to go outdoors with me when there is a breeze blowing from the direction of the plant because of her concerns about air pollution affecting her health. This further impacts my use and enjoyment of my property. I look forward to when the plant stops polluting so that my wife and I can spend more time outdoors together on our property.

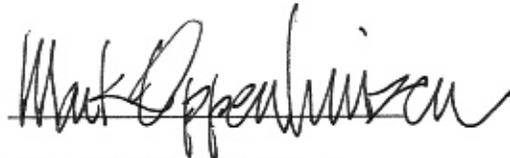
16. I have also noticed water pollution from the Campbell plant pouring into Lake Michigan. You can see the plume and there is a spot where the water never freezes during the winter

due to hot water from the power plants. Because of this, I avoid fishing or swimming at the lake near the plant, even though it is close to my house. I expect to recreate in that area more once I know the plant has stopped pouring pollution into the water there.

17. I pay my electric bill to Consumers Energy and am concerned that my electric rates will increase given the cost to the company to keep the Campbell plant running instead of retiring it on the schedule the company had planned.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 16th day of September, 2025.



MARK OPPENHUIZEN

DECLARATION OF DERRELL SLAUGHTER

I, Derrell Slaughter, declare as follows:

1. I am the Climate and Energy Policy Director for Michigan at the Natural Resources Defense Council (NRDC). I have served in this role since December 2020. I have personal knowledge of the subject matter of this declaration, and if called as a witness, could and would competently testify as to its contents.

2. My duties include leading climate and clean energy policy initiatives in the Midwest, building partnerships with impacted communities, and serving as a spokesperson on these issues. I am familiar with NRDC's portfolio on climate and energy advocacy in the Midwest.

3. NRDC has long worked to achieve clean energy solutions that will lower consumer energy bills, meet U.S. carbon reduction goals, accelerate the use of energy efficiency and renewable energy, and ensure that clean energy is affordable and accessible to people living in Michigan and beyond.

4. While operating, the J.H. Campbell coal-fired power plant in West Olive, Michigan, has been one of the largest sources of toxic pollution in the state. The Campbell plant annually emits thousands of tons of criteria air pollutants, including particulate matter, volatile organic compounds, carbon dioxide, nitrogen oxides, and sulfur dioxide. Each year it has also unleashed hundreds of pounds of water pollution into Lake Michigan, including 10,000 pounds of toxic metals.

5. NRDC worked alongside more than 75 organizations, businesses, and elected leaders to secure a settlement agreement in which Consumers Energy would shut down the Campbell plant in May 2025, 15 years earlier than previously planned. The Michigan Public

Service Commission approved this settlement. In support of this outcome, NRDC dedicated over 120 hours of work and contributed \$50,833 in combined legal and expert witness expenses. The settlement and Commission order approving it were informed by rigorous analysis showing that retiring Campbell earlier and replacing it with other resources—including investments in clean energy, battery storage, energy waste reduction, and demand response—would maintain resource adequacy and reduce costs for ratepayers.

6. In the years since the agreement was made, Consumers Energy has secured more than adequate replacement power and begun winding down investments in the plant.

7. The settlement paved the way for Consumers Energy to replace most of the plant's capacity with clean energy and battery storage, and to allocate \$30 million in shareholder funds (not ratepayer funds) to low-income bill assistance. New wind, solar, and storage resources that have been deployed in recent years now render the Campbell plant's operations superfluous.

8. The settlement continued the trend of numerous utilities across the Midwest moving beyond coal and turning to clean energy instead of gas because it is both cheaper and more sustainable. In contrast, keeping the Campbell plant operational has required Consumers Energy to purchase coal on short notice, perform unplanned repairs and maintenance on a plant that was preparing for closure, and find and pay for adequate staffing to run the plant. The Department of Energy's order does not include federal funding to keep the Campbell plant operational; the additional costs associated with the Campbell plant's extension may be passed onto consumers in Michigan and the Midwest, including NRDC members who receive their electricity from Consumers Energy.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Signed: September 25, 2025 in Chicago, IL.

A handwritten signature in black ink, appearing to read "Derrell Slaughter", written over a horizontal line.

DERRELL SLAUGHTER

DECLARATION OF JOYCE YEUNG

I, Joyce Yeung, declare as follows:

1. I am the Associate Director of Membership at the Natural Resources Defense Council (NRDC). I have served as the Associate Director of Membership since 2022, and I have worked in NRDC's Membership department for more than 20 years. I have personal knowledge of the subject matter of this declaration, and if called as a witness, could and would competently testify as to its contents.

2. My duties include supervising the maintenance of membership records and preparation of materials that NRDC distributes to members and prospective members. Those materials describe NRDC and identify its mission. I am familiar with NRDC's mission statement and its priorities.

3. NRDC's mission is to "safeguard the earth—its people, its plants and animals, and the natural systems on which all life depends." NRDC strives to protect nature in ways that advance the long-term welfare of present and future generations, and works to foster the fundamental right of all people to have a voice in decisions that affect their health and environment. Additionally, NRDC works to achieve clean energy solutions that will lower consumer energy bills, meet U.S. carbon reduction goals, accelerate the use of energy efficiency and renewable energy, and ensure that clean energy is affordable and accessible to all.

4. NRDC is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.

5. When a person becomes a member of NRDC, that person authorizes NRDC to take legal action on his or her behalf to protect public health and the environment.

6. When an individual becomes a member of NRDC, his or her current residential address is recorded in NRDC's membership database. When a member renews his or her membership or otherwise makes a contribution to NRDC, the database entry reflecting the member's residential address is verified or updated.

7. NRDC has hundreds of thousands of members nationwide, including members in all fifty states and the District of Columbia. As of the date of this declaration, approximately 5,960 members reside in Michigan. I am aware of the declarations filed in this matter by NRDC members and can confirm that those individuals are current members of the organization.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Signed: July 24, 2025 in New York, New York



JOYCE YEUNG

DECLARATION OF JEROME ALICKI

I, Jerome Alicki, declare as follows:

1. I am a resident of West Olive, Michigan, where I have lived for 18 years.
2. I own 5 acres of forested land about 3 miles away from the shore of Lake Michigan. This area is exceptionally beautiful and such a fun, great place to live. There are all kinds of things to do near here including kayaking, fishing, and cycling. I go to the lake as much as I can, and I like to walk on the beach and attend concerts down on the lakeshore.
3. I have been a member of the Natural Resources Defense Council (NRDC) for several years. I support NRDC because it has a strong reputation and legal team that are highly effective in wildlife conservation and other important fights. I have also supported several other environmental organizations that do work in Michigan and elsewhere, including but not limited to the Michigan Environmental Justice Coalition, Center for Biological Diversity, and the Wolf Conservation Center in New York.
4. I live about 3 miles away from the J.H. Campbell Generating Plant as the crow flies. My daily commute to work takes me near the plant twice daily.
5. I receive my electricity from Consumers Energy, the company that owns the Campbell Plant.
6. I think everyone around here knows that the Campbell Plant was scheduled to close in May of this year. There was coverage all over the news, including on MLive, the Detroit Free Press, and local papers. In April or early May, when one of the county commissioners tried to pursue a lawsuit to keep the plant open, I sent them a disapproving letter in response. I am now aware that the U.S. Department of Energy ordered the plant to continue operating past its scheduled retirement.

7. I support the Campbell Plant’s closure because it is a blight on the beautiful landscape here. It is the ugliest thing around. It is a monstrosity smack dab in the middle of the lakeshore, and it has poisoned the air and water. A couple of years ago I was curious about the emissions from the plant, so I drove past the plant and followed the emissions plume from the smokestack to see where it was going. I followed the plume right to my house on that day. When the wind is from the southwest, I believe that the pollution from the Plant can travel over my property. I have seen what I believe to be particulate from the Plant on top of the snow on my property.

8. I do not have a vegetable garden because of my perceived threat of pollution. There are large blueberry farms to the south and east of my property. I don’t purchase their blueberries because I believe that they may be tainted.

9. As plume continues overhead, I imagine the ash lands elsewhere most of the time. I’m about a mile and a half away from the Grand River Bayou, so if it’s falling on my land then it’s also falling on the Grand River. I have heard that the plant is known to be a source of water pollution in the area. The State of Michigan has for decades warned people about mercury contamination in Lake Michigan’s fish due to pollution from nearby industry.

10. I am extremely concerned about air quality. I understand that exposure to air pollutants from coal-fired power plants is harmful to health and can cause cardiovascular or pulmonary issues. I am currently being treated for hypertension and am concerned that breathing dirty air from the Campbell Plant’s emissions plume will exacerbate my condition. I also was diagnosed with psoriasis in 2016 and have been under treatment since then. While I cannot state that the pollution caused this – psoriasis is an autoimmune disease and is often genetic - it didn’t start until several years after I moved here. My research into my disease leads me to believe that

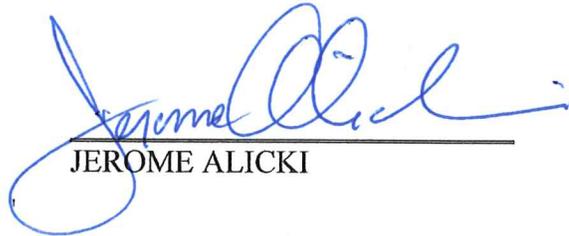
exposure to air pollutants can trigger or worsen symptoms by increasing inflammation and stress. Studies have shown that individuals with hypertension are at higher risk of developing lower respiratory infections, including pneumonia, when exposed to air pollution. I have been hospitalized twice with pneumonia since moving to West Olive. The first time was in August 2018. I was in Grand Haven Community Hospital for 4 days and needed supplemental oxygen at home for 3 weeks following. The second time was in March of 2024. I was in the hospital for 3 days. I rebounded much more quickly the second time.

11. When I heard about the Department of Energy’s order for the Campbell Plant to continue operating past its scheduled closure date, I was furious. I’d like to see it demolished. I’m concerned that after shutting it down, the decommissioned plant may be another mess that no one’s going to properly clean up. But overall, my reaction would be very positive if they shut it down.

12. I support NRDC’s lawsuit to close the Campbell Plant as scheduled. I am enthusiastic about the overall effort to transition to cleaner and cheaper sources of energy.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Date: July 21, 2025



JEROME ALICKI

DECLARATION OF ANDREA BABKA

I, Andrea Babka, declare as follows:

1. I live in Grand Rapids, Michigan, and have resided here for 26 years. I am retired. I previously worked for DTE Energy in a variety of roles, including meter reading, dispatch, and other office roles.

2. I have been a member of the Natural Resources Defense Council (NRDC) for at least five years. I joined because I care about our climate and environment, and have been actively involved in these issues for the past few decades. I attend conversations about climate change, and engage with similar organizations like Earthjustice and The Climate Reality Project.

3. I believe it's important to represent and protect our nature and each other as humans. I also believe that Lake Michigan, and the entire Great Lakes, are a gem of this country. They provide drinking water to many Americans, and deserve to be protected.

4. I know about the J.H. Campbell Generating Plant in West Olive, Michigan, near Lake Michigan. I live approximately 30-35 miles from this plant. I receive my energy from Consumers Energy, the company that owns this plant.

5. I am aware that Consumers Energy wanted to close the plant, and that state utility regulators approved for the plant to close on May 31 of this year. I am also aware that the U.S. Department of Energy ordered the J.H. Campbell Generating Plant to continue operating past its scheduled retirement.

6. I am concerned that the plant's extension already has and will continue to increase pollution in my community. We get a lot of strong wind from the west, so the weather and pollution from the lakeshore comes directly to us. As a result, the Campbell plant's pollution comes straight to Grand Rapids and our community.

7. I live in a highly polluted neighborhood, and the pollution from plants near Lake Michigan comes towards us too. I am asthmatic, and the burning smell of chemicals makes it difficult for me to go outside. In 2022 the pollution was so bad that my PurpleAir air quality monitor stopped working.

8. The pollution is particularly challenging during the winter. When there are no leaves to filter the air, I can smell the caustic burning sensation. In the past, I would text a staffer at the local U.S. Environmental Protection Agency office to help me deal with this issue.

9. The pollution in my neighborhood has caused a groggy, uncomfortable sensation in my throat that has been getting worse and worse. It's caused me to not want to spend time outside. I want to garden more, but I must be mindful of the air quality every single day, before going outside. I also used to walk the trail in the local farm area, which is to the west of my house and is affected by this pollution. I sometimes also spend time at Tunnel Park just south of the Plant, and Kirk Park to the north of the Plant, which may be affected by this pollution.

10. I am also concerned that the plant's extension will increase my electricity bills, which would hurt me terribly. I try to not use a lot of electricity, but during the summer I need to have the A/C on. Hiring people to go look for more coal to burn will drive our electricity prices up, and that would be harmful for a lot of people.

11. If the court canceled the order, I would be very relieved. I would be happy to have better air quality and would be able to spend more time outdoors. I'm a concerned citizen, and want to look out for my neighbors. It's terrible to see that plant come online again. If the state regulators greenlighted the closure, there's no reason that we should go back.

12. I am aware that NRDC is bringing a lawsuit to challenge the U.S. Department of Energy's order continuing this plant past its scheduled closure date. I support this lawsuit and the overall effort to transition to cleaner and cheaper sources of energy.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Date: July 18, 2025


ANDREA BABKA

IN THE UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

DECLARATION OF CHARLOTTE JAMESON
Submitted In Support of Michigan
Environmental Council

I, Charlotte Jameson, do hereby affirm and state:

1. I am Chief Policy Officer of the Michigan Environmental Council (MEC). I have worked at MEC since December 2017.
2. In my capacity as Chief Policy Officer, I am familiar with MEC's mission, structure, membership, and activities.
3. MEC is a statewide environmental nonprofit organization founded in 1980 and based in Lansing, Michigan. MEC has over 100 member groups, including the West Michigan Environmental Action Council (WMEAC), and a collective membership of over 300,000 people who live, recreate, and consume energy in Michigan. A member of one of MEC's member groups (for instance, a member of WMEAC) is also a member of MEC.
4. On behalf of its members, MEC advocates at the local, state, and federal level for lasting protections of its members' health and economic well-being, as well as protections for Michigan's air, water, and land. This includes promoting policies that protect Michigan residential utility ratepayers, increase

adoption of clean energy sources, reduce harmful pollution, and address the causes of climate change.

5. Since 1999, MEC's advocacy on these issues has included participation as an intervening party in hundreds of Michigan Public Service Commission cases to represent the interests of its members in lower-cost, cleaner energy generated from renewable sources.

6. MEC also advocates for comprehensive climate and energy reform in Michigan through developing and advancing policies in the state legislature and through state agencies. For instance, MEC was involved in advocacy for the 2024 passage of a landmark suite of climate legislation, including a state clean energy standard and cost-saving energy efficiency programs.

7. I am aware that the three generating units at the coal-fired J.H. Campbell power plant are between 45 and 63 years old, and that Units 1 and 2 are beyond the typical operating life of coal plants. I am also aware that the plant has had recurring outages in recent years.

8. In 2022, MEC was a party to the settlement agreement with Consumers Energy that would result in the closure of the Campbell plant and end Consumers' use of coal by May 31, 2025.

9. The 2022 settlement with Consumers Energy was designed to provide reliable energy at significantly lower cost, while also improving public health and reducing harmful environmental impacts.

10. During the settlement process, MEC provided testimony of modeling showing that retiring the Campbell plant in 2025 was economic for customers.

11. The 2022 settlement also required environmental justice analysis and community outreach for Consumers' next integrated resource management plans.

12. In supporting the 2022 settlement, MEC explained that Consumers' exit from coal generation was critical to addressing climate change. MEC also explained that increases to solar resources and the removal of numerous other air pollutants which contribute to premature deaths each year would benefit public health.

13. In supporting the 2022 settlement, MEC explained that the retirement of the Campbell plant provides cost benefits to ratepayers as demonstrated by undisputed evidence in the case that Campbell Units 1 and 2 were uneconomic. As explained in that proceeding, the retirement of Campbell in 2025 would save customers more than \$150 million.

14. In supporting the 2022 settlement, MEC also explained that the agreement formalized two other important components of a cleaner grid, namely

Consumers' ramp-up of solar energy and faster deployment of battery storage investments.

15. Delaying the retirement of the Campbell plant denies many of the 2022 settlement's benefits to MEC and its members.

16. MEC is also an electricity ratepayer.

17. MEC maintains a physical office at 602 W Ionia St, Lansing, Michigan.

18. MEC pays electricity utility bills to Lansing Board of Water and Light.

19. I am aware that Lansing Board of Water and Light is a municipally-owned public utility located within Midcontinent Independent System Operator (MISO) local resource zone 7.

20. MEC is a nonprofit, and is directly harmed by higher energy prices, as are our members.

21. I am aware that on May 23, 2025, that the Department of Energy issued Order No. 202-25-3 directing MISO and Consumers Energy to take all measures necessary to ensure that the J.H. Campbell coal-fired power plant in West Olive, Michigan, is available to operate until the order's expiration on August 21, 2025 ("May Order").

22. I am aware that on August 20, 2025, that the Department of Energy issued Order No. 202-25-7 directing MISO and Consumers Energy to take all measures necessary to ensure that the J.H. Campbell coal-fired power plant in West Olive, Michigan, is available to operate until the order's expiration on November 19, 2025 ("August Order").

23. I am aware that in response to the May Order and August Order that MISO and Consumers Energy have continued to operate the Campbell plant past its planned retirement date of May 31, 2025.

24. I am aware that Consumers reported that it cost \$80 million in the first 121 days of operating the Campbell plant past its planned retirement date in response to the May Order.

25. I am aware that these and other costs of operating the Campbell plant in response to the May Order and August Order will be passed on to MEC and its members.

26. I am aware that continued operation of the Campbell plant in response to the May Order and August Order results in air pollution, vehicle traffic, noise, and other impacts that harm the health, aesthetic, and recreational interests of Michigan residents, including members of MEC, who live or recreate near the Campbell plant.

27. The continued operation of the Campbell plant denies and will deny members of MEC the health, aesthetic, and recreational benefits of a cleaner environment that would result from the plant's closure.

28. I am aware that Consumers intends to demolish the Campbell plant after its retirement with plans to restore the site for new parkland and a battery plant. The continued operation of the plant delays the site rehabilitation and denies Michigan residents, including MEC members, the benefits of recreational use of new parkland and of the health and environmental benefits of batteries for clean energy use.

29. I am aware that Consumers explained in the 2022 settlement that it would maintain a balance of resource additions, including through expansion of renewable resources and deployment of battery storage resources.

30. The continued operation of the Campbell plant past its planned retirement date is in violation of the 2022 settlement agreement that MEC is a part of. Both the May Order and the August Order deprive MEC of the benefits of the bargain of that settlement agreement by causing Campbell's continued operation.

31. I am aware that on August 15, 2025, the Federal Energy Regulatory Commission (FERC) granted Consumers' cost recovery request for operation of the Campbell plant under the May Order and any extensions. I am aware that FERC's order allows the increased costs to run the Campbell Plant to be allocated

across load-serving entities located in MISO local resource zones 1 through 7. It is expected that affected load-serving entities will then pass these charges through to their customers. I am aware that FERC indicated it would consider whether to require refunds or revisit its approach if the May Order were modified or declared unlawful.

32. I am aware that MISO resource zone 7 covers the majority of Michigan's Lower Peninsula and that Michigan's Upper Peninsula is located in MISO resource zone 2.

33. MEC pays electricity utility bills to a utility in MISO local resource zone 7 and its members pay electricity utility bills to utilities located in resource zones 2 and 7. MEC and its members will be harmed by rate increases associated with Campbell's continued operation.

34. On June 18, 2025, MEC, along with partner organizations, filed with the Department of Energy a motion to intervene and request for rehearing and stay of the May Order directing the Campbell plant to be available to operate.

35. On July 24, 2025, MEC, along with partner organizations, filed a petition for review with the U.S. Court of Appeals for the District of Columbia Circuit challenging the May Order.

36. I support MEC's participation in these proceedings. MEC's participation in these proceedings is an important aspect of the organization's

efforts to protect of its members' health and economic well-being, as well as protections for Michigan's air, water, and land. It is also consistent with MEC's organizational mission and the organization's climate and clean energy agenda.

37. If this court were to declare the May Order unlawful and set it aside, it would provide MEC members with the benefits of the Campbell plant closure that the order denies them. It would also address the harms to MEC, including as a ratepayer and party to the 2022 settlement, that the May Order denies the organization.

38. Likewise, if this court were to declare the August Order unlawful and set it aside, it would provide MEC members with the benefits of the Campbell plant closure that the order denies them. It would also address the harms to MEC, including as a ratepayer and party to the 2022 settlement, that the August Order denies the organization.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge, information, and belief.



Charlotte Jameson

Executed on 12/8/2025

IN THE UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

DECLARATION OF DEIRDRE NIEVES
Submitted In Support of Michigan
Environmental Council

I, Deirdre Nieves, do hereby affirm and state:

1. I am a member and employee of the West Michigan Environmental Action Council (WMEAC), which itself is a member organization of the Michigan Environmental Council (MEC). Members of WMEAC are also members of MEC.

2. WMEAC is one of the groups that helped found the MEC in 1980 after realizing the need for a coordinating effort to organize environmental issues regionally throughout Michigan and in the state capital.

3. I first joined WMEAC as a volunteer over five years ago. I was later hired by WMEAC in 2022 and have served as its Director for Climate Solutions and Justice since 2023. In my capacity as Director for Climate Solutions and Justice, I am familiar with WMEAC's mission, structure, membership, and activities.

4. Founded in 1968, WMEAC is one of Michigan's oldest regional environmental nonprofit organizations and maintains a physical office at 1007 Lake Drive SE, Grand Rapids, Michigan. WMEAC has a collective membership of

over 500 people and businesses who reside, recreate, and consume energy across western Michigan, including in Ottawa County, where the J.H. Campbell coal-fired power plant is located.

5. WMEAC's mission is to work collaboratively alongside West Michigan's diverse community to educate, engage, and advocate for environmental values, environmental and climate justice, and a healthy and resilient community for all. On behalf of its members, WMEAC responds to emerging issues and new threats to West Michigan's natural and human ecologies, strategically focused on building sustainable communities and protecting natural resources. A lot of our work includes education, policy work, and community engagement focused primarily on the environment and environmental concerns.

6. WMEAC advocates on policies both in Michigan and for those that have a wider, national impact. For instance, WMEAC was one of the primary organizations around during passage of early Clean Air Act legislation.

7. WMEAC runs a number of environmental programs on land, wildlife protections, restoration, pollution safeguards, health, and air quality and pollution. Many of these also relate to climate and energy at local, state, and national policy levels.

8. WMEAC is a grassroots organization made up of individuals, and members can join online for no fee.

9. I originally joined WMEAC because of their work in Great Lakes education. I was first invited as a speaker to share my research and explain how people can advocate and engage with advocacy groups to bring awareness to legislators on how environmental issues impact Black, Indigenous, and People of Color (BIPOC) communities.

10. I support WMEAC's work on climate, especially as it relates to overburdened and environmental justice communities, including on policy-related issues.

11. My research and teaching is on climate change and its impacts, including for environmental justice and similar issues.

12. Much of my work with WMEAC is focused on what local, state, and national policy protections look like for individuals and climate. I also collaborate with other organizations across the state to advocate for stronger policies protecting the environment and climate, including for health and ecosystem impacts.

13. I am aware that the three generating units at the Campbell power plant are between 45 and 63 years old, and that Units 1 and 2 are beyond the typical operating life of coal plants. I am also aware that the plant has had recurring outages in recent years.

14. Because WMEAC is so well established in Western Michigan, people often call us to support local action, such as on the retirement of the Campbell plant.

15. In 2022, I was involved with community efforts to reach the settlement agreement to close the Campbell plant as part of Consumers' integrated resource plan. I helped inform the community on energy issues and worked to advocate that Consumers adopt more renewable energy sooner, as part of its integrated resource plan.

16. As part of a coalition awareness and action campaign, WMEAC's members and affiliates submitted over 4,000 public comments to Consumers about its integrated resource plan. These comments stressed the importance of ceasing the use of coal and accelerating the deployment of renewable energy sources in order to have a positive impact on the environment and air quality for everyone in West Michigan and beyond.

17. I feel that the community push and public comments had a direct impact on the terms Consumers agreed to in the 2022 settlement.

18. Delaying the retirement of the Campbell plant denies many of the 2022 settlement's benefits to MEC and its members, including WMEAC and its members.

19. I am aware that on May 23, 2025, the Department of Energy issued Order No. 202-25-3 directing MISO and Consumers Energy to take all measures necessary to ensure that the Campbell power plant is available to operate until the order's expiration on August 21, 2025 ("May Order").

20. I am aware that on August 20, 2025, the Department of Energy issued Order No. 202-25-7 directing MISO and Consumers Energy to take all measures necessary to ensure that the J.H. Campbell coal-fired power plant in West Olive, Michigan, is available to operate until the order's expiration on November 19, 2025 ("August Order").

21. I am aware that in response to the May Order and August Order MISO and Consumers Energy have continued to operate the Campbell plant past its planned retirement date of May 31, 2025.

22. I am aware that continued operation of the Campbell plant in response to the May Order and August Order results in air pollution, vehicle traffic, noise, and other impacts that harm the health, aesthetic, and recreational interests of Michigan residents, including myself and other members of MEC and WMEAC, who live or recreate near the Campbell plant.

23. The continued operation of the Campbell plant denies and will deny myself and other members of MEC and WMEAC the health, aesthetic, and

recreational benefits of a cleaner environment that would result from the plant's closure.

24. I am aware that Consumers intends to demolish the Campbell plant after its retirement with plans to restore the site for new parkland and a battery plant.

25. I planned to use the site for recreation once the Campbell plant was demolished. My family and I already travel to beaches and fishing spots in the area, and we planned to make use of the new parkland area.

26. The continued operation of the plant delays the site rehabilitation and denies Michigan residents, including myself and other members of MEC and WMEAC, of the benefits of recreational use of new parkland and of the health and environmental benefits of batteries for clean energy use.

27. I am aware that Consumers explained in the 2022 settlement that it would maintain a balance of resource additions, including through expansion of renewable resources and deployment of battery storage resources.

28. Continued operation of the Campbell plant as a result of the May and August Orders impacts the already overburdened communities near the Campbell plant that have suffered health impacts from pollution, including members losing their lives due to air pollution. It also takes an emotional toll on me and my

community to see the plant continue to pollute the air even after years and decades of fighting to see a better, cleaner future and to watch that slip away.

29. The feeling of being back at square one after having the right thing pulled away immediately has also had an emotional toll on me. I believe it is essential not to give up, and to continue to build momentum even in the face of setbacks like this order.

30. I live in Portage, Michigan, a walkable, small-size Tree City adjacent to Kalamazoo.

31. In my community, I am very involved in community and environmental causes. For instance, I serve on the Environmental Board that has adopted a climate emergency plan and created MLK park, which is vibrant with floral arrangements, biodiversity of native species, and includes history of MLK and his work.

32. I love the broader Kalamazoo area, which includes a larger BIPOC community with churches, recreation for adults and youth, and recreation near Battle Creek and other rivers.

33. My main concern with the continued operation of the Campbell plant in response to the Department of Energy order is with air pollution and air quality.

34. I recreate in Western Michigan in areas near the Campbell plant, including with my family. My family and I spend a lot of time at beaches and

going fishing, and many of our usual recreational spots are near the Campbell plant.

35. For example, my family and I often visit the popular Grand Haven beach, which is a little over ten miles north of the Campbell plant. We also spend a lot of time fishing in the area, as my youngest son likes to fish.

36. We plan to regularly recreate in these areas, but the continued operation of Campbell makes me think differently about our visits. My youngest son suffers from asthma, so we have to be careful about traveling to areas with heavy air pollution. I am concerned about how pollution from the Campbell plant affects my son when we travel to some of our favorite beaches and fishing spots. I also worry about having to pay medical bills from visiting a hospital or urgent care when my son has an asthma attack.

37. I am also concerned about the cumulative effects of air pollution from the Campbell plant on my own health.

38. In addition to the burdens the continued operation of Campbell will have on my health and the health of my family, I am concerned about my electricity bills going up as a result of Campbell's continued operation.

39. I am aware that Consumers reported that it cost \$80 million in the first 121 days of operating the Campbell plant past its planned retirement date in response to the May Order.

40. Antiquated plants like Campbell also have a history of issues.

Bringing it back online and doing the maintenance to keep it running will also cost money.

41. I am aware that these and other costs of operating the Campbell plant in response to the May Order and August Order will be passed on to MEC and WMEAC and its members, including myself.

42. I am aware that on August 15, 2025, the Federal Energy Regulatory Commission (FERC) granted Consumers' cost recovery request for operation of the Campbell plant under the May Order and any extensions. I am aware that FERC's order allows the increased costs to run the Campbell Plant to be allocated across load-serving entities located in MISO local resource zones 1 through 7. It is expected that these entities will pass those costs through to its customers. I am aware that FERC indicated it would consider whether to require refunds or revisit its approach if the May Order were modified or declared unlawful.

43. I am aware that MISO resource zone 7 covers the majority of Michigan's Lower Peninsula.

44. I pay electricity utility bills to Consumers, which is a utility in MISO local resource zone 7. I am concerned about my utility bill going up. I will be harmed by rate increases associated with Campbell's continued operation.

45. Likewise, WMEAC is an electricity ratepayer and pays electricity utility bills to Consumers, which is a utility in MISO local resource zone 7. WMEAC is a nonprofit and would be directly harmed by rate increases associated with Campbell's operation, as would its members, including myself. I am also concerned about the utility bills for others in the communities covered by WMEAC going up. Our community is already overly burdened by high energy bills and is very concerned about cost increases.

46. I am also concerned about Campbell's reliability. There have been numerous outages at Campbell and under the settlement with Consumers, its owner would have invested in newer, cleaner resources that are more reliable than the Campbell plant, while also saving ratepayers \$600 million. I am aware that MEC, which WMEAC is a member of, has filed a challenge to the May Order directing the Campbell plant to operate past its retirement date before the Department of Energy and in the United States Court of Appeals for the District of Columbia Circuit.

47. I support MEC's participation in these proceedings. MEC's participation in these proceedings is an important aspect of the organization's efforts to protect its members' health and economic well-being, as well as protections for Michigan's air, water, and land. It is also consistent with MEC's organizational mission and the organization's climate and clean energy agenda.

48. If this court were to declare the May and August Orders unlawful and set them aside, it would provide MEC and WMEAC members like myself the benefits of the Campbell plant closure that the order denies them. Specifically, vacating the May and August Orders would alleviate the health and financial harms posed to me and my family from the continued operation of the Campbell plant.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge, information, and belief.

Deirdre Nieves

Deirdre Nieves

Executed on 12/3/2025

DECLARATION OF JOHN STITH
Submitted in Support of Environmental Defense Fund

I, John Stith, declare as follows:

1. I am the Senior Director for Performance Analytics and CRM Operations at the Environmental Defense Fund (EDF). I have held this position for more than two years, and I have worked at EDF for over nineteen years.
2. EDF is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.
3. EDF relies on science, economics, and law to protect and restore the quality of our air, water and other natural resources. EDF employs scientists, economists, engineers, business school graduates, lawyers, and other experts to help solve challenging environmental problems in a scientifically sound and cost-effective way.
4. My duties at EDF include maintaining an accurate list of EDF members. My colleagues and I provide information to members, acknowledge gifts and volunteer actions, and manage the organization's member databases. My work requires me to be familiar with EDF's purposes, staffing, activities, and membership.

5. When an individual becomes a member of EDF, his or her current residential address is recorded in our membership database. The database entry reflecting the member's residential address is verified or updated as needed.
6. I understand from my involvement with EDF that coal-fired power plants are major sources of pollution that affect both the air we breathe and the water we depend on. These plants emit a variety of harmful substances, including particulate matter, sulfur dioxide, nitrogen oxides, mercury, and greenhouse gases. I understand that when coal is burned to generate electricity, these pollutants are released into the atmosphere, contributing to ground-level ozone and fine particle pollution, which would directly impact the health and well-being of our members. I understand that the use of coal-fired power plants also results in water pollution.
7. EDF has a strong organizational interest—and a strong interest that is based in its members' recreational, aesthetic, professional, educational, public health, environmental, and economic interests—in reducing harmful air pollution including climate change-causing greenhouse gas emissions, and decreasing utility rates, all of which are implicated by the Department of Energy's issuance of Order No. 202-25-3 and the extension Order No. 202-25-7 which delay the planned retirement of the JH Campbell Generating

Plant (“Campbell Plant”), a large 1,420 MW coal fired power plant in West Olive, MI.

8. I am also aware that continuing to operate the Campbell Plant beyond its originally scheduled retirement date will increase costs to our members that live within the MISO footprint.
9. I understand that cost recovery measures necessary to keep Campbell running were approved by the Federal Energy Regulatory Commission (FERC) on August 15, 2025, requiring all MISO customers located in Zones One through Seven to share in the costs.
10. EDF currently has 318,397 members in the United States. These members have a strong interest in protecting human health and the environment from air pollution, including greenhouse gas pollution, and enabling the benefits that clean energy resources can provide.
11. EDF also has 1,228 EDF members that live within 50 miles of the Campbell Plant, who are at higher risk of exposure to the air pollution generated by continued operations of the Plant.
12. EDF also has 39,338 EDF Members within MISO Zones 1 through 7 who are responsible for the costs of running the plant, and whose utility bills will be impacted.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct. Executed in Takoma Park, MD on this Third day of September, 2025.



John Stith

DECLARATION OF ELIZABETH HAUPTMAN

I, Elizabeth Hauptman, declare as follows:

1. I am a member of Environmental Defense Fund (EDF). I reside in Livingston County, Michigan.
2. I have worked as a field manager with Moms Clean Air Force, a community of more than 1.6 million moms, dads, and caregivers united against air pollution, for more than a decade.
3. I am also a mother of a 14 year old son who has asthma.
4. Growing up, I spent a lot of time outdoors in Michigan fishing with my uncle and cousins. I have imparted my appreciation of the outdoors to my son, who loves fishing and hiking among the lakes and ample nature trails of Michigan, including the beautiful sand dunes in the surrounding areas of West Olive, and playing outdoor sports including soccer, volleyball, and basketball.
5. As a family we try and spend as much time outdoors enjoying the rich environment of mid-Michigan, however, I am worried that due to worsening air quality due to unnecessary overreliance on polluting coal fired power plants, I will have less opportunity to do so.

6. I am also a customer of DTE Energy, which supplies my electricity and is in the footprint of the Midcontinent Independent System Operator (“MISO”), within MISO Zone 7, and worry that continuing to operate coal plants beyond their scheduled retirement date in the region will increase what I pay for electricity and have economic impacts for me and my family.
7. As a field manager with Moms Clean Air Force, I am acutely aware that coal-fired power plants are major sources of pollution that emit a variety of harmful substances, including particulate matter, sulfur dioxide, nitrogen oxides, mercury, arsenic, lead, chromium and other deadly air toxics that cause cancer, heart attacks, and developmental delays.
8. I am also aware that there are significant long-range downwind pollution impacts from coal-fired power plants, which can travel hundreds of miles from their source.¹
9. I am also aware that carbon dioxide and other greenhouse gases are emitted into the atmosphere from the operation of coal plants and contribute significantly to warming temperatures which can increase ground-level ozone. In 2024, Michigan recorded over 20 days when ozone or fine particle pollution (PM2.5) exceeded federal health standards—especially in

¹ EPA, *Power Plants and Neighboring Communities*, Long-Range Downwind Areas, <https://experience.arcgis.com/experience/4d419ce790aa42e8b42228f824024cc4/page/long-range-downwind-areas>.

Southeast Michigan, where vehicle emissions and industrial activity make air quality worse.

10. Because of my son's asthma, it is unsafe for him to be outside on days where the air quality index (AQI) exceeds 100. I regularly check air quality reports to make sure that he can safely be outside, and if so for how long. On some days, just taking a walk or waiting at the bus stop can be risky for him.
11. I am also aware that contaminants from burning coal can also settle out of the air and contaminate nearby lakes, rivers, and soil, eventually making their way into the water supply and harming aquatic life, which can build up in our bodies when we eat contaminated fish.
12. I am aware that the J.H. Campbell Generating Plant ("Campbell Plant")—a major coal-fired power facility in West Olive, Michigan—was scheduled for retirement on May 31, 2025, because it was no longer economically viable to operate and that the operator, Consumers Energy, had secured additional energy resources to replace its output.
13. I am also aware that on May 23, 2025 the U.S. Department of Energy ("DOE") issued Order 202-25-3 under Section 202(c) of the Federal Power Act requiring Consumers Energy to keep the Campbell Plant operating past its planned retirement date, and for 90 days thereafter, to expire at midnight on August 21, 2025.

14. The Campbell Plant's emissions of nitrous oxide, sulfur dioxide, and fine particulate (PM 2.5) travel over a thousand miles from its source, reaching far into Maine to the east, and North Dakota to the west.² Livingston County, MI, where I live, is only 115 miles as the crow flies from the Campbell Plant in West Olive, MI.
15. Continued operation of the Campbell Plant beyond its scheduled retirement will result in an increase in the concentration of toxic pollution into the air and water. It will also result in an increase in carbon dioxide and other greenhouse gas emissions which will contribute to worsening air quality.
16. I also worry that continued operation of the Campbell Plant will contribute to a greater number of poor air quality days in mid-Michigan, which will limit my son's ability to play sports and otherwise be outdoors.
17. The worsening air quality will impact me and my family's ability to safely and comfortably enjoy some of the natural areas in and around West Olive, MI we have visited in the past and that we had planned to return to had the Campbell Plant been retired, including Kirk Park (approximately 11 miles away from Campbell), Hemlock Crossing (approximately 4 miles away), Olive Shores (approximately 1 mile away) and Windsnest Park

² EPA, *Power Plants and Neighboring Communities*, Long-Range Downwind Areas: JH Campbell (Ottawa County, MI) <https://experience.arcgis.com/experience/4d419ce790aa42e8b42228f824024cc4/page/long-range-downwind-areas>.

(approximately 1 mile away), where we love to play on the dunes, hike, swim and collect rocks.

18. In the past when air quality has been poor, we have had to entirely scrap planned day trips to these locations, and the continued operation of the Campbell Plant will further frustrate future plans.

19. I am also concerned about the impact of pollution on the aquatic ecosystems in Lake Michigan and the surrounding lakes—areas where my family had long enjoyed fishing and consuming local seafood.

20. Pollution emitted from the Campbell Plant threatens the health of Michigan's natural water bodies and diminishes my family's ability to safely enjoy longstanding traditions. Increased pollution and higher temperatures put local fish populations and wildlife at risk, jeopardizing both ecosystems and the traditions of families like mine who have depended on these waters for generations.

21. While my family has eaten fish from Lake Michigan for generations, rising mercury levels have forced us to avoid eating fish near to the Campbell Plant. Additional mercury emissions from the Campbell Plant will further contaminate the fish, making them less safe for consumption, further limiting our ability to enjoy seafood from the area.

22. Continuing to operate the Campbell Plant beyond its retirement date will also increase my electricity rates. I am familiar with a July 31, 2025, filing by Consumers Energy with the Securities and Exchange Commission stating that between the issuance of the initial order on May 23, 2025, and June 30, 2025, the net financial impact of complying with DOE Order 202-25-3 was \$29 million.³
23. I also understand that on August 15, 2025, the Federal Energy Regulatory Commission (FERC) approved cost recovery measures that require all load-serving entities in MISO Zones One through Seven, which includes my utility DTE Energy, to share in the costs of keeping this plant running.
24. This will have an impact on our utility bills forcing us to cut back on discretionary purchases and limit contributions to our savings accounts throughout the duration of the plant's operation.
25. These financial burdens add to my worries about the health and environmental consequences caused by coal plant emissions.
26. If the Court vacates the Department of Energy Order 202-25-3, that would redress the many harms I describe above because Consumers Energy will be able to retire the Campbell Plant as planned, leading to less air pollution and less impact on my electricity rates.

³ S.E.C., CMS Energy Corporation, *Form 10-Q*, Securities and Exchange Commission EDGAR Online (June 30, 2025), <https://www.sec.gov/ix?doc=/Archives/edgar/data/0000201533/000081115625000071/cms-20250630.htm>

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Livingston County, Michigan on November 14, 2025.

A handwritten signature in cursive script that reads "Elizabeth J. Hauptman". The signature is written in black ink and is positioned above a horizontal line.

Elizabeth Hauptman

DECLARATION OF KEVIN BRUBAKER
DEPUTY DIRECTOR, ENVIRONMENTAL LAW & POLICY CENTER

I, Kevin Brubaker, declare as follows:

1. I am the Deputy Director and Chief Operations Officer of the Environmental Law & Policy Center (“ELPC”), and have been employed by the organization since 1996. My responsibilities include financial and operations oversight, as well as direct involvement in policy issues and ELPC’s advocacy campaigns.

2. ELPC’s mission is to improve environmental quality and protect natural resources, particularly across the Midwest. Through its work, ELPC fights for clean air throughout the Midwest, including advocacy to clean up or shut down coal plants. ELPC advocates before public utility commissions to accelerate the shift to clean energy and help power the Midwest with less pollution, including Michigan, Illinois, Ohio, Minnesota, Indiana, Wisconsin and Iowa. ELPC also participates in proceedings and comment opportunities before MISO and FERC. ELPC’s headquarters is in Chicago, Illinois, and ELPC also has offices in Washington, D.C. as well as Grand Rapids, Michigan; Des Moines, Iowa; Columbus Ohio; and Madison, Wisconsin.

3. ELPC has participated in cases at the Michigan Public Service Commission involving Consumers Energy’s electric power plants for over a decade. These cases determine which power plants Consumers Energy is allowed to run, how much people will pay for the electricity, and whether there are cleaner and healthier alternatives.

4. Central to this case, ELPC intervened and participated in Consumers Energy’s 2021/2022 integrated resource plan case, Case No. U-21090.

5. ELPC ultimately settled the case with Consumers Energy, the Michigan Attorney General, and several other parties representing consumer, business, and environmental interests. The settlement included a term mandating the retirement of the J.H. Campbell plant by May 31, 2025.

6. The Department of Energy's May 23, 2025 Section 202(c) Order, which required continued operation of the J.H. Campbell plant, undermines a key provision of that settlement agreement, and harms ELPC's organizational interest in reducing harmful air pollution in a cost-effective way.

7. The Department of Energy's 202(c) Order represents a significant setback for ELPC's important work and long-running advocacy before the Michigan Public Service Commission.

8. ELPC also has members who pay electricity bills to Consumers Energy. These members will be harmed by the Department of Energy's 202(c) Order because they will likely face increased electricity rates due to the unnecessary operation of the Campbell plant.

9. Many of those members live, work, and recreate in West Michigan near the Campbell Plant and the surrounding area, including on Lake Michigan. The air and water pollution caused by the Campbell Plant will harm their health, impact wildlife, and reduce their enjoyment of the natural areas in and around West Michigan.

10. In addition, ELPC rents office space and pays for electricity in Des Moines, Iowa which is located in MISO Zone 3. If the costs associated with the Campbell plant are allocated as proposed, ELPC will pay more for power in its office space.

11. The interests of ELPC and its members in a clean and healthful environment in West Michigan are injured by the Department of Energy's Section 202(c) Order for the J.H. Campbell Plant.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: August 27, 2025



Kevin Brubaker

DECLARATION OF ELIZABETH J. CROSBY

1. My name is Elizabeth J. Crosby. I have been a member of the Environmental Law & Policy Center (“ELPC”) for over eight years. I joined ELPC because environmental advocacy is important to me.

2. I live in Ada, Michigan. My family and I own a property on Lake Michigan, located approximately five miles away from Consumers Energy’s J.H. Campbell Generating Plant (“Campbell Plant”) in West Olive, Michigan. I am aware that Consumers planned to stop operating the Campbell Plant at the end of May 2025 but is currently forced to keep operating under an emergency order from the U.S. Department of Energy.

3. Lake Michigan and our cottage are very important to me and my family. My family has owned this property since 1941. Four generations of my family have spent time there, enjoying the lake shore, the weather, and all that Lake Michigan has to offer. We will continue to do so in the future.

4. We enjoy spending time outside, watching the lake and the sunsets. The quality of the air and our views from our cottage are negatively affected by pollution from the Campbell plant.

5. My sister, Susan J. Allen, is a co-owner of our family cottage and is clearly affected by poor air quality and air pollution. She has chronic obstructive pulmonary disease, and clean air is critical to her well-being. I worry about my sister’s well-being.

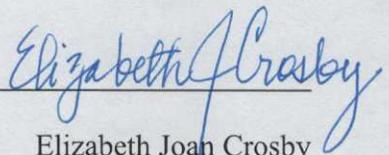
6. Not only is the continued use of the Campbell Plant detrimental to the environment and our experiences at our family’s cottage, it will also affect the rates that I pay for electricity. I am a customer of Consumers Energy, and I am concerned that my electricity bills will increase because I will have pay for the costs of the continued operation of the Campbell Plant.

7. The continued operation of Campbell diminishes my enjoyment of my family's cottage, makes the air less clean, and will increase my electric bills.

8. For the above reasons, my interests are adversely impacted by the continued operation of the Campbell Plant.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 28, 2025


Elizabeth Joan Crosby

DECLARATION OF MICHELLE A. LEVEQUE

1. My name is Michelle A. LeVeque. I have been a member of the Environmental Law & Policy Center (“ELPC”) since 2023. I joined ELPC because the health of the environment is important to me.

2. I live in Cannon Township, Michigan. My family and I frequent the Lake Michigan shoreline. We visit beaches in and around Grand Haven, such as Kirk Park, which is less than 3 miles from the Consumers Energy’s J.H. Campbell Generating Plant (“Campbell Plant”) in West Olive, Michigan. I am aware that Consumers planned to stop operating the Campbell Plant at the end of May 2025 but that it is currently operating under an emergency order from the U.S. Department of Energy.

3. Lake Michigan and its shoreline are very important to me and my family. My family spends time there, enjoying the lake shore, the weather, and outdoor recreation. In the past, we have visited approximately two to three times per month, and we plan to continue to visit at that rate in the future.

4. We ride our bikes, cross-country ski at the lakeshore in the winter, and enjoy beaches in the summer. We have rented homes on the lakeshore near the Campbell Plant for family gatherings. We take our dog to beaches in the Grand Haven area. We also contribute to the economy of the lakeshore area—going to restaurants and shops while visiting. The quality of the air impacts our ability to do those activities, and my concerns about air quality and Campbell’s emissions diminish my enjoyment of outdoor activities.

5. The continued use of the Campbell Plant is not only detrimental to the environment and our ability to do outside activities at the lakeshore, but it will also affect the

the rates that I pay for electricity. I am a customer of Consumers Energy, and I am concerned that my electricity bills will increase because I will have pay for the costs of the continued operation of the Campbell Plant.

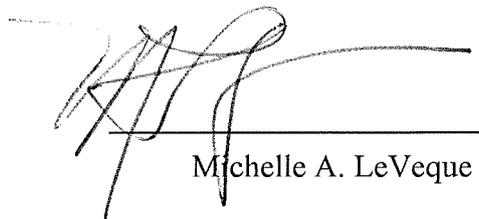
6. I have enrolled in the Consumer's Energy Solar Energy Subscription service. I pay \$10/month extra to support clean energy so that the air in West Michigan is filled with less pollution. I have made multiple trips to Asia and have witnessed firsthand the destruction caused by air pollution both from a health and overall quality of life perspective. Clean air and water are very important to me and my family.

7. The continued operation of Campbell diminishes my and my family's enjoyment of the lakeshore and makes the air less clean, and will increase my electric bills.

8. For the above reasons, my interests are adversely impacted by the continued operation of the Campbell Plant

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 30, 2025



Michelle A. LeVeque

**DECLARATION OF WILLIAM D. KENWORTHY
SENIOR REGULATORY DIRECTOR, MIDWEST
VOTE SOLAR**

I, William D. Kenworthy, declare as follows:

1. I am the Senior Regulatory Director for the Midwest region at Vote Solar. I have been employed by Vote Solar since 2018 and work out of our Chicago, Illinois office.

2. My responsibilities include leading Vote Solar's advocacy in state regulatory and legislative proceedings across the Midwest, including Illinois, Michigan, Minnesota, and Indiana. I also support Vote Solar's national policy development work and am actively engaged in campaigns to advance clean energy, equitable grid modernization, and the deployment of distributed energy resources (DERs).

3. Vote Solar is a national non-profit organization with the mission of achieving a just, 100% clean energy future by catalyzing solar and storage adoption at all scales. We work to lower solar barriers and increase access to clean energy for all, particularly communities historically excluded from the benefits of the clean energy transition. Our efforts span technical, legal, and policy advocacy before public utility commissions, state legislatures, and federal agencies including the Federal Energy Regulatory Commission (FERC) and the Department of Energy (DOE).

4. Vote Solar has been directly involved in regulatory proceedings at the Michigan Public Service Commission concerning the retirement and replacement of fossil-fueled generation, including multiple Integrated Resource Plan (IRP) dockets involving Consumers Energy.

5. In Case No. U-21090, the 2021/2022 Consumers IRP, Vote Solar intervened as a party and ultimately joined a settlement agreement that included the commitment to retire the J.H. Campbell coal-fired power plant by May 31, 2025.

6. The Department of Energy's May 23, 2025 Order under Section 202(c) of the Federal Power Act, which directs the continued operation of the Campbell plant, directly undermines the settlement agreement secured through that proceeding.

7. This harms Vote Solar's organizational interests in reducing harmful air pollution, accelerating coal plant retirements, and ensuring regulatory processes reflect cost-effective, community-supported energy planning.

8. The 202(c) Order also jeopardizes Vote Solar's broader efforts to reduce the energy burden on utility customers and to support the transition to cleaner, more affordable energy resources. Our members in Michigan—many of whom are low- to moderate-income electricity customers of Consumers Energy—will likely bear unnecessary financial and environmental costs as a result of the Campbell plant's continued operation. Vote Solar's work is focused on minimizing those burdens and ensuring the benefits of clean energy are broadly shared.

9. Additionally, Vote Solar has members and supporters who live, work, or recreate in communities affected by the emissions from the Campbell plant in West Michigan. These members' interests in clean air, public health, and a livable climate are harmed by the Department's decision.

10. The DOE's Section 202(c) Order poses a direct injury to the interests of Vote Solar and its members and undermines our ability to achieve the organizational goals we pursue in regulatory and legal proceedings.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: July 31, 2025



William D. Kenworthy

DECLARATION OF ERICKA LOZANO-BUHL

1. My name is Ericka Lozano-Buhl. I am a 7-year resident of Grand Rapids, Michigan, with my husband and child. I live 36 miles away from the J.H. Campbell Coal Plant. I am 49 years old.

2. I am a member of Vote Solar (VS). I joined VS because VS fights utilities on behalf of communities and people like me so we can all have clean, affordable energy. VS's work also relates to my work in the communications field. I have also worked with staff members at VS to help disseminate regulatory updates to all Michiganders.

3. I am the founder and principal consultant of Mixto Communications, which has been in business for almost eleven years. Over the past 4 ½ years, I've facilitated two statewide coalitions fighting to ensure climate justice and clean energy investments in the long-term power plans for DTE Energy and Consumers Energy. Our collective work led to settlement agreements with important wins, including the earlier closure of coal plants, in particular the Campbell plant; commitments to engage impacted communities; and funding for home improvements, solar, and storage for low-income households. In addition, I am currently managing a statewide project through Urban Core Collective providing support for organizers, advocates, and regulatory experts to collaborate to make the Michigan Public Service Commission more accessible and accountable to all Michiganders.

4. The continued operation of the Campbell plant makes it more difficult to do my work. My clients and I champion coal closures, renewable energy and healthy communities. The Department of Energy's order does the opposite.

5. I live in Ottawa Hills, a community in in the Third Ward of southeast Grand Rapids. My neighborhood is mostly single-family homes, with sidewalks and mature trees. It is within

walking distance of nearby Martin Luther King, Jr. Park, and we have a small branch library at the end of our street. We have a large number of older adults and a growing number of families with young children, as Grand Rapids Christian Elementary School is located within our neighborhood's boundaries.

6. I am very concerned with the continued operations of the J.H. Campbell Coal Plant. I live downwind of the Campbell plant, and I know that my community has been negatively impacted by its toxic releases since its initial commission in the 1960s.

7. As a disability advocate, I know many community members who have respiratory issues. In fact, I have severe seasonal allergies and am immunocompromised, meaning I must be extra careful with my health. In April, the American Lung Association released a report showing that Grand Rapids was named the 27th worst in the nation for ozone smog pollution with an increasing number of unhealthy days for particle pollution. Over the past several years, the number of air quality alerts in Grand Rapids has continually increased. I have noticed a surge in the severity of my allergies in the same timeframe and decline to go outdoors when the Air Quality Index is high. This means there are many events and activities I cannot do because of the poor air quality even when the weather is pleasant. There are many analyses done on the Campbell plant that show its negative health impacts, such as VS's testimony in the Consumers Energy 2021 IRP proceeding (Michigan PSC Docket No. U-21090). If Campbell were to close, I would be relieved to have better air quality and be able to spend more time outdoors.

8. I am also a customer of Consumers Energy. My family and I are already burdened with high energy bills. I know that because the Campbell plant is forced to stay online for an

additional three months, I and other Consumers customers will have to bear the additional burden of the costs around this coal plant extension. I am alarmed that I will continue to face high and unnecessary costs borne out of Campbell's continued operations, especially considering we have invested in mini-splits and are installing solar to support clean energy and reduce our energy burden.

9. Between Campbell's contribution to the poor air quality in Grand Rapids and my higher energy bills resulting from the continued, unnecessary operation of the Campbell plant, I am harmed and continue to be harmed by the Department of Energy's emergency order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: July 23, 2025



Ericka Lozano- Buhl

DECLARATION OF JAMES GIGNAC
ASSOCIATE DIRECTOR FOR MIDWEST POLICY, UNION OF CONCERNED
SCIENTISTS

I, James Gignac, declare as follows:

1. I am the Associate Director, Midwest Policy for the Union of Concerned Scientists (“UCS”) and have been employed by the organization since 2018. My responsibilities include managing UCS’ clean energy regulatory and policy efforts in the Midwest, as well as providing leadership for the organization’s Midwest office.

2. The Union of Concerned Scientists (“UCS”) is a national non-profit organization headquartered in Cambridge, Massachusetts, with additional offices in Washington, D.C.; Berkeley, California; and Chicago, Illinois. UCS is a public interest organization with more than 55 years of experience advocating for science-based policy solutions, including responsible energy policy and utility oversight at the state and federal levels, and with over a decade working in Michigan on these issues. UCS has approximately 5,800 supporters, 1,800 members, and 500 Science Network members that live, use electricity, and pay electric bills in Michigan, including in Consumers Energy’s service territory.

3. UCS has participated in cases at the Michigan Public Service Commission involving Consumers Energy’s electric power plants for many years. These cases determine which power plants Consumers Energy is allowed to run, how much people will pay for the electricity, and whether there are cleaner and healthier alternatives.

4. Central to this case, UCS intervened and participated in Consumers Energy’s 2021/2022 integrated resource plan case, Case No. U-21090.

5. UCS ultimately joined a settlement agreement in the case with Consumers Energy, the Michigan Attorney General, and several other parties representing consumer, business, and

environmental interests. The settlement included a term mandating the retirement of the J.H. Campbell plant by May 31, 2025.

6. The Department of Energy's May 23, 2025, Section 202(c) Order, which required continued operation of the J.H. Campbell plant, undermines a key provision of that settlement agreement, and harms UCS's organizational interest in reducing harmful air pollution in a cost-effective way.

7. The Department of Energy's 202(c) Order is a setback to UCS' important work and long-running advocacy before the Michigan Public Service Commission.

8. UCS also has members who pay electricity bills to Consumers Energy. These members will be harmed by the Department of Energy's 202(c) Order because they will likely face increased electricity rates due to the unnecessary operation of the Campbell plant.

9. Many of those members live, work, and recreate in Michigan, including near the Campbell plant and the surrounding area. The pollution caused by the Campbell plant will harm their health, impact wildlife, and reduce their enjoyment of the natural areas in and around West Michigan.

10. The interests of UCS and its members in a clean and healthy environment in Michigan are injured by the Department of Energy's Section 202(c) Order for the J.H. Campbell plant.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.



Dated: August 1, 2025

James Gignac

DECLARATION OF LAURA JUDGE

1. My name is Laura Judge. I live in Laketown Township, Michigan, near the City of Holland.

2. I am a member of the Union of Concerned Scientists (“UCS”) and have supported UCS for over 6 years. UCS is a national environmental nonprofit organization that advocates for science-based policy solutions in Michigan and throughout the United States.

3. I am 69 years old. Professionally, I worked for over 32 years for the City of Holland in municipal accounting followed by 3 years of part-time work with the Ottawa County finance department. I am currently retired but stay busy assisting a local Afghan refugee family.

4. I live about 19 miles south of the J.H. Campbell coal-fired power plant. My household is an electricity customer and a ratepayer of Consumers Energy.

5. I enjoy hiking, kayaking, traveling, reading, and advocating for the environment, clean energy, and climate change issues. My husband and I live very close to Saugatuck Dunes State Park which has several hiking trails and is along the shores of Lake Michigan. Spring through fall we typically hike there at least 2-3 times per week as our schedules permit. We also enjoy hiking in Sanctuary Woods and Wolters Woods, two parks in Laketown Township. Some favorite nearby kayaking spots are Lake Michigan on real calm days or local inland lakes such as Lake Goshorn. We also enjoy bicycling or walking along the rural tree-lined roads within 4 miles of our home.

6. I have been concerned about air pollution emissions from the J.H. Campbell coal plant for many years and was part of a local Sierra Club Beyond Coal working group seeking closure of the plant. I am also part of our local Citizens Climate Lobby (CCL) group in Holland that has been vocal about wanting the J.H. Campbell plan to shut down. In addition to pollution

from the plant, there is also the issue of the long coal trains that clog traffic in the City of Holland where all of us in the surrounding townships shop, work, attend medical appointments, go to school, etc.

7. I was pleased to hear about Consumers Energy's plans to retire the plant and transition to cleaner forms of electricity generation that will reduce pollution and reduce costs for the company's customers.

8. I have been an active participant in shaping the future of the J.H. Campbell site at multiple levels of government. I have attended a site redevelopment planning forum at Port Sheldon Township Hall, have spoken with the Township Manager, have written a letter to the editor and to the Ottawa County Commissioners, and have made public comment to the Michigan Public Service Commission regarding the J.H. Campbell coal plant.

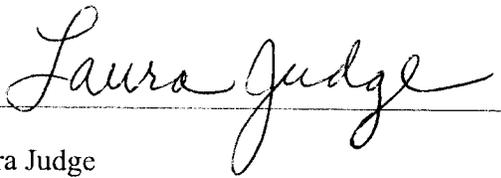
9. I understand the need to maintain a reliable supply of electricity and a stable power grid. However, I was dismayed to learn that the U.S. Department of Energy ("DOE") ordered the J.H. Campbell plant to remain operational past Consumers Energy's planned retirement date of May 31, 2025, despite both the Michigan Public Service Commission and the Midcontinent Independent System Operator having studied and approved of the company's request to retire the plant.

10. I believe the DOE's order is harmful to me, my neighbors, and numerous other Michiganders and Consumers Energy customers. The unnecessary continued operation of the J.H. Campbell plant means additional exposure to air pollution that contributes to respiratory and other public health harms. I have also heard that the DOE order to keep the coal plant open longer will increase our rates because Consumers Energy will be forced to incur unnecessary costs to keep the plant operational that ratepayers like my household may be forced to pay.

11. I am supporting UCS' and other petitioners' actions to challenge the DOE's order out of concern for my health and my interest in sound investments of my ratepayer dollars, as well as concern for other people who breathe pollution from the J.H. Campbell plant and pay Consumers Energy electricity bills.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Date: 08/01/2025



Laura Judge

DECLARATION OF ALEXIS BLIZMAN
LEGISLATIVE AND POLICY DIRECTOR, ECOLOGY CENTER

I, Alexis Blizman, declare as follows:

1. I am the Legislative and Policy Director of the Ecology Center (“EC”), and have been employed by the organization since 2011. My responsibilities include policy analysis, grant administration, and direct involvement in planning and implementing EC’s advocacy campaigns.

2. EC is a Michigan-based public interest environmental advocacy organization. EC’s mission is to improve environmental quality and protect human health, particularly across Michigan, but also throughout the Great Lakes region. Through its work, EC fights for clean air throughout Michigan, including advocacy to clean up or shut down coal plants. EC intervenes and advocates before the Michigan Public Service Commission to accelerate the shift to clean energy and help power Michigan with less pollution, and to reduce the energy burden for residential ratepayers. EC’s headquarters is in Ann Arbor, Michigan, and EC also has offices in Detroit, Michigan.

3. EC has participated in cases at the Michigan Public Service Commission involving Consumers Energy’s electric power plants since 2015. These cases determine which power plants Consumers Energy is allowed to run, how much people will pay for the electricity, and whether there are cleaner and healthier alternatives.

4. Central to this case, EC intervened and participated in Consumers Energy’s 2021/2022 integrated resource plan case, Case No. U-21090.

5. EC ultimately settled the case with Consumers Energy, the Michigan Attorney General, and several other parties representing consumer, business, and environmental interests. The settlement included a term mandating the retirement of the J.H. Campbell plant by May 31, 2025.

6. The Department of Energy's May 23, 2025 Section 202(c) Order, which required the continued operation of the J.H. Campbell plant, undermines a key provision of that settlement agreement, and harms EC's organizational interest in reducing harmful air pollution in a cost-effective way.

7. The Department of Energy's 202(c) Order represents a significant setback for EC's important work and long-running advocacy before the Michigan Public Service Commission.

8. EC also has members who pay electricity bills to Consumers Energy. These members will be harmed by the Department of Energy's 202(c) Order because they will likely face increased electricity rates due to the unnecessary operation of the Campbell plant.

9. Many of those members live, work, and recreate in West Michigan near the Campbell Plant and the surrounding area, including on Lake Michigan. The air and water pollution caused by the Campbell Plant will harm their health, impact wildlife, and reduce their enjoyment of the natural areas in and around West Michigan.

10. In addition, EC rents office space in Ann Arbor, MI and Detroit, MI and pays electricity bills to DTE Electric, which is located in MISO Zone 7.

11. The interests of EC and its members in a clean and healthy environment in Michigan are injured by the Department of Energy's Section 202(c) Order for the J.H. Campbell Plant.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: August 22, 2025



Alexis S. Blizman

DECLARATION OF JOE DISANO

1. My name is Joe DiSano. I have been a member of the Ecology Center for over ten years. I am a member of the Ecology Center because I support its work to protect the environment and health in Michigan. Advocating for clean air, affordable energy, and environmental quality is important to me.

2. As part of my professional work, I have worked to help elect candidates who support advancing clean energy and protecting customers from high energy costs. I have also worked to advance ballot proposals that improve air quality by increasing access to public transportation and reduce emissions from vehicles.

3. I live in Meridian Township, Michigan, which is approximately 100 miles east of Consumers Energy's J.H. Campbell coal plant. I am aware that Consumers planned to stop operating the Campbell plant at the end of May 2025 but is currently operating it under an emergency order from the U.S. Department of Energy.

4. The continued operation of the Campbell plant negatively impacts me. I have read that pollution from the Campbell plant spreads east across the state of Michigan and negatively impacts the air quality where I live.

5. Clean air is important to me and is critical to the well-being of my family. My son has asthma and air pollution and poor air quality exacerbates his asthma.

6. I routinely spend time outdoors biking, and my wife is an avid hiker. Air quality impacts our ability to do those activities. I enjoy recreating outdoors less when the air quality is bad.

7. Not only is the continued use of the Campbell plant detrimental to the Michigan environment and the air quality where I live, it will also affect the rates that I pay for electricity.

8. I am a customer of Consumers Energy, and I am concerned that my electricity bills will increase because I will have to pay for the costs of the continued operation of the Campbell Plant.

9. Because of the negative health impacts and the impact to my electricity bills, my interests are adversely impacted by the continued operation of the Campbell Plant. If the court were to vacate the Department of Energy's emergency order, I would no longer be impacted by higher electricity bills or more air pollution from Campbell continuing to operate past its planned retirement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 26, 2025



Joe DiSano

DECLARATION OF SERGIO CIRA-REYES

I, Sergio Cira-Reyes, declare as follows:

1. I submit this declaration in support of Urban Core Collective's petitions for review of the orders issued by the U.S. Department of Energy on May 23, 2025 and August 20, 2025 regarding Consumers Energy's J.H. Campbell coal-fired power plant.

2. Urban Core Collective is a non-profit organization with three member groups: Baxter Community Center, Family Outreach Center, and the Urban League of West Michigan. Our main office is in Grand Rapids, Michigan, located about 30 miles east of the Campbell plant.

3. Urban Core Collective advocates for strengthening democracy, education reform, leadership development, and climate and environmental justice. Much of our work involves advocating for policies that advance a transition from fossil fuels to renewable sources of energy that are affordable, reliable, and do not contribute to climate change. We advocate for our member groups and their stakeholders in Grand Rapids who are affected first and most severely by pollution from fossil fuels, including coal pollution.

4. I am the Climate Justice Catalyst for Urban Core Collective. I have held this position for five years. Previously, I was the Director of Community Engagement for three years. I work at Urban Core Collective's office in Grand Rapids. In my current role, I am the lead strategist for Urban Core Collective's environmental justice team and support the work of the organization's climate justice organizers. I also represent the organization in various local and statewide coalitions focusing on energy justice, utility reform, and environmental justice policy.

5. To further our organizational goals, Urban Core Collective regularly participates in energy proceedings at the Michigan Public Service Commission.

6. Urban Core Collective intervened in Consumers Energy's 2021 Integrated Resource Plan proceeding and signed the 2022 settlement agreement that required Consumers Energy to retire its Campbell plant by May 31, 2025. During that proceeding, Urban Core Collective advocated for, and organized public comments supporting, the Campbell plant's retirement. Urban Core Collective joined the 2022 settlement agreement because it furthered our climate and environmental justice goals, including our goal of transitioning from fossil fuels to cleaner, cheaper, and more reliable sources of energy.

7. I am aware that the Department of Energy's May Order prevented the Campbell plant from retiring on May 31 and that the Department's August Order has continued to prevent the plant from retiring.

8. Each day that the Campbell plant operates past its planned May 31 retirement date injures Urban Core Collective as a party to the 2022 settlement agreement.

9. In addition, Urban Core Collective rents the office space in Grand Rapids, where we use and pay for electricity from Consumers Energy. As a Consumers Energy ratepayer, Urban Core Collective is further harmed by the Department of Energy's May and August orders because they will cause the organization to incur costs from the Campbell plant's continued operation.

10. If the court decides that the Department of Energy's May and August orders are unlawful, and Consumers Energy can proceed with retiring the Campbell plant as planned, that would remedy Urban Core Collective's injuries.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Signed: October 29, 2025 in Grand Rapids, Michigan.



Sergio Cira-Reyes

Order No. 202-25-7

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

Order No. 202-25-3

J.H. Campbell Generating Plant (Campbell Plant) is a 1,420 MW coal-fired plant primarily owned by Consumers Energy Company (Consumers) and located in West Olive, MI. In 2021, Consumers announced that it planned to implement a “speed closure” of the Campbell Plant fifteen years before the end of its scheduled design life.¹ Instead of retiring the Campbell Plant at the end of its design life, Consumers planned to accelerate the Campbell Plant’s retirement and discontinue its operations on May 31, 2025.

Order No. 202-25-3, issued pursuant to FPA section 202(c), required that the Campbell Plant remain in operation for 90 days, until August 21, 2025. That order was based on my determination that emergency conditions existed in the region served by the Midcontinent Independent System Operator, Inc. (MISO). Specifically, I determined that MISO likely faced tight reserve margins during the summer 2025 period, particularly during periods of high demand or low generation resource output. I determined that the continued operation of the Campbell Plant would provide additional generation capacity during these periods which would help prevent the potential loss of power to homes and local businesses in the areas that might have been affected by curtailments or outages that would otherwise pose a risk to public health and safety. I determined that the continued operation of the Campbell Plant was necessary to alleviate immediate and anticipated threats to reliability. My determination was based on a number of facts.

First, the North American Electric Reliability Corporation (NERC) released its 2025 Summer Reliability Assessment on May 14, 2025. In its assessment, NERC indicated that “[d]emand forecasts and resource data indicate that MISO is at elevated risk of operating reserve shortfalls during periods of high demand or low resource output.”² In particular, NERC explained that the retirement of thermal generation capacity increased the likelihood of electricity supply

¹ See *Consumers Energy Announces Plan to End Coal Use by 2025; Lead Michigan’s Clean Energy Transformation*, Consumers Energy (June 23, 2021), <https://www.consumersenergy.com/news-releases/news-release-details/2021/06/23/consumers-energy-announces-plan-to-end-coal-use-by-2025-lead-michigans-clean-energy-transformation>. As a coal-fired facility, it would be difficult for the Campbell Plant to resume operations once it has been retired. Specifically, any stop and start of operation creates heating and cooling cycles that could cause an immediate failure that could take 30-60 days to repair if a unit comes offline.

² *2025 Summer Reliability Assessment*, North American Electric Reliability Corporation, at 16 (May 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf (NERC 2025 Summer Reliability Assessment).

shortfalls. NERC anticipated that the near-term period of greatest capacity shortfall for MISO would likely occur in August.³

Second, multiple generation facilities in Michigan have retired in recent years. According to the U.S. Energy Information Administration (EIA), “[s]ince 2020, about 2,700 megawatts of coal-fired generating capacity have been retired and no new coal-fired facilities are planned.”⁴ Additionally, EIA stated, “[t]ypically, Michigan’s nuclear power plants have supplied about 30% of in-state electricity, but the amount of electricity generated by nuclear power plants in Michigan has declined as plants have been decommissioned.”⁵ The state’s Big Rock Point nuclear power plant shut down in 1997, and the Palisades nuclear power plant closed in 2022. While the Palisades nuclear power plant may reopen in 2025, it was not projected to be available during the peak demand period this summer.⁶

Third, the Campbell Plant’s retirement would have further decreased available dispatchable generation within MISO’s service territory, adding to the loss of the other 1,575 MW of natural gas and coal-fired generation that has retired since the summer of 2024. Although MISO and Consumers have incorporated the planned retirement of the Campbell Plant into their supply forecasts and Consumers acquired a 1,200 MW natural gas power plant in Covert, MI, the NERC Assessment still anticipates “elevated risk of operating reserve shortfalls.”⁷

Fourth, MISO’s Planning Resource Auction Results for the 2025-2026 Planning Year, released in April 2025, noted that for the northern and central zones, which includes Michigan, “new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspensions/retirements and external resources.”⁸ While the results “demonstrated sufficient capacity,” the summer months reflected the “highest risk and a tighter supply-demand balance” and these results “reinforce the need to increase capacity.”⁹

Continuing Emergency Conditions

The emergency conditions that led to the issuance of Order No. 202-25-3 continue, both in the near and long term. The summer season has not yet ended, and the production of electricity from the Campbell Plant will continue to be a critical asset to maintain reliability in MISO this summer. That need is evidenced by the fact that the Campbell Plant was called on by MISO to generate large amounts of electricity during the heat wave that hit MISO this past June. According

³ *Id.*

⁴ *Michigan State Profile and Energy Estimates*, U.S. Energy Info. Admin. (Oct. 17, 2024), <https://www.eia.gov/state/print.php?sid=MI>.

⁵ *Id.*

⁶ The start-up of Palisades is scheduled for the fourth quarter of 2025.

⁷ NERC 2025 Summer Reliability Assessment at 16.

⁸ *Planning Resource Auction—Results for Planning Year 2025–2026*, Midcontinent Independent System Operator, Inc., 13 (May 29, 2025), https://cdn.misoenergy.org/2025%20PRA%20Results%20Posting%2020250529_Corrections694160.pdf. (MISO Planning Resource Auction – Results for Planning Year 2025-26).

⁹ *Id.* at 2,12.

to the U.S. Environmental Protection Agency's data, over the month of June, the Campbell Plant generated approximately 664,000 MWh, running at 61% capacity.¹⁰ In fact, between June 11 and August 18, MISO issued dozens of alerts to manage grid reliability in its Central Region in response to hot weather, severe weather, high customer load, forced generation outages, and transfer capability limits. MISO issued alerts for the Central Region on at least 40 of the 69 days between June 11 and August 18. In June, MISO issued alerts affecting the Central Region on 18 days, including an Energy Emergency Alert (EEA) level 1 ("Max Gen Step 1b") on June 23 to enable MISO to take emergency action to ensure grid stability, including bringing additional resources online.¹¹ The Central Region had alerts on 21 days in July, including one Max Generation Warning on July 29 and two Max Generation Alerts on July 28 and 29.¹² Two Capacity Advisory Initiate alerts have been issued in August to date.¹³ Moreover, the May 2025 NERC Summer Reliability Assessment referenced a Seasonal Outlook issued by the National Oceanic and Atmospheric Administration (NOAA), which estimates that much of the Midwest has a 33%-40% chance to experience above-normal temperatures this summer.¹⁴ The Seasonal Outlook released by NOAA on July 17, 2025, increased this estimate for much of the region to a 40%-50% chance.¹⁵

MISO's resource adequacy problems are not limited to the summer. In 2022, MISO requested Federal Energy Regulatory Commission (FERC) approval of its filing to revise its resource adequacy construct (including the Planning Resource Auction or PRA) to establish capacity requirements for each of the four seasons of the year rather than on an annual basis determined by peak summer demand.¹⁶ MISO justified this revision by explaining that "Reliability risks associated with resource adequacy have shifted from 'Summer only' to a year-round

¹⁰ See, *Custom Data Download, EPA CAMPD (Clean Air Markets Program Data)*, <https://campd.epa.gov/data/custom-data-download> (search criteria to produce these results could include Emissions >> Monthly >> Unit (default) >> Apply >> "2025" and "June." The data can then be filtered to only include the Campbell Plant.)

¹¹ An Energy Emergency Alert is an alert declared by the Transmission Provider in accordance with the NERC Operating Manual associated with the Transmission Provider's inability to provide for the Energy and Operating Reserve requirements of the MISO Balancing Authority Area. For more information, see MISO, FERC Electric Tariff, Module A, § 1.E (Definitions) (92.0.0). For more information on Energy Emergency Alert levels, see North American Electric Reliability Corporation. (n.d.). *EOP-011-1 Emergency Operations*. <https://www.nerc.com/pa/stand/reliability%20standards/eop-011-1.pdf>.

¹² A Max Gen Alert occurs when MISO is forecasting a potential capacity shortage. A Max Gen Warning is a warning to prepare for a possible Max Gen Event. See MISO Operating Procedures, <https://efis.psc.mo.gov/Document/Display/9379> (20180920).

¹³ A Capacity Advisory alert is an advisory issued based on the potential for limited operating capacity margins (<5%) in the following 2-3 days. See MISO Operating Procedures, <https://efis.psc.mo.gov/Document/Display/9379> (20180920).

¹⁴ NERC 2025 Summer Assessment at 9.

¹⁵ *Seasonal Outlook*, NOAA Climate Prediction Ctr., (July 17, 2025), https://www.cpc.ncep.noaa.gov/products/predictions/long_range/seasonal.php?lead=1.

¹⁶ *Midcontinent Independent System Operator, Inc.*, FERC Docket No. ER22-495-000 (Nov. 30, 2021). This request was approved by FERC on August 31, 2022. *Midcontinent Independent System Operator, Inc.*, 180 FERC ¶ 61,141 (2022).

concern.”¹⁷ MISO noted that over 60 percent of all “MaxGen” events (events when MISO initiates emergency procedures because of concerns over the adequacy of available generation) occurred outside of the summer season.¹⁸

In December of 2023, MISO released an “Attributes Roadmap,” in which it presented “an in-depth look at the challenges of operating a reliable bulk electric system in a rapidly transforming energy landscape.”¹⁹ Among other things, this report described changes in the time of year during which the risk of the loss of load was greatest. For the 2023/24 Planning Year, the greatest risk of loss of load was in the summer, but it is expected that by the summer of 2027, there will be an equal loss of load risk in both the summer and fall seasons. MISO also projects that the risk of loss of load in the winter and spring seasons, although not as high as in the summer or fall, will nevertheless increase over time.²⁰

More recently, MISO affirmed the resource adequacy problems occurring outside of its summer season in its 2024 report entitled, “*MISO’s Response to the Reliability Imperative.*”²¹ In a section of that report entitled “Risks in Non-Summer Seasons,” MISO again stressed that it has resource reliability concerns outside of the summer season.

Widespread retirements of dispatchable resources, lower reserve margins, more frequent and severe weather events and increased reliance on weather-dependent renewables and emergency-only resources have altered the region’s highest historic risk profile, creating risks in non-summer months that rarely posed challenges in the past.²²

These MISO studies indicate that the emergency conditions caused by the loss of generation capacity in MISO extend past the summer season.

The evidence indicates that there is also a potential longer term resource adequacy emergency in MISO. When MISO reported the results of its PRA for the 2025-26 Planning Year, it noted that “new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspensions/retirements and external resources” in the northern and central zones, which include Michigan.²³

On June 6, 2025, subsequent to the issuance of Order No. 202-25-3, the Organization of MISO States (OMS) and MISO issued the results of their survey, which has been conducted annually for many years to determine the degree to which expected capacity resources satisfy

¹⁷ MISO Transmittal Letter at 3, FERC Docket No. ER22-495-000 (Nov. 30, 2021).

¹⁸ *Id.* at 3-4.

¹⁹ *Attributes Roadmap*, MISO (Dec. 2023), <https://cdn.misoenergy.org/2023%20Attributes%20Roadmap631174.pdf>.

²⁰ *Id.* at 11.

²¹ *MISO’s Response to the Reliability Imperative*, MISO (Updated Feb. 2024), <https://cdn.misoenergy.org/2024+Reliability+Imperative+report+Feb.+21+Final504018.pdf>.

²² *Id.* at 12.

²³ MISO Planning Resource Auction – Results for Planning Year 2025-26 at 13.

planning reserve margin requirements.²⁴ The 2025 Survey presented projections of resource adequacy for the summer of 2026 and subsequent years. Although the survey projected a potential capacity surplus for the summer of 2026, it also projected that at least 3.1 GW of additional generation capacity beyond currently committed generation capacity must be added to meet the projected planning reserve margin.²⁵ The survey also projected that there would be insufficient capacity to meet the peak demand for electricity in each of the following four summers, increasing from a deficit of 1.4 GW in 2027 to 8.2 GW in 2030.²⁶ Similar results were projected for MISO's winter seasons, with a small surplus of generation capacity in 2026, followed by increasing deficits the following four years.²⁷

The primary reasons for these projected deficits also are shown on the OMS-MISO survey. Large amounts of existing generation capacity are projected to be retired each year while, at the same time, the demand for electricity is projected to increase at an accelerating pace.²⁸ Although the OMS-MISO survey projects generation capacity to continue to increase in the coming years with the addition of new potential generation assets, the increase in capacity is largely offset by the projected retirements, and does not keep up with the growth in demand.²⁹

MISO has been taking steps to address these projected deficits. For example, on June 6, 2025, MISO submitted a proposal to FERC to establish an Expedited Resource Addition Study (ERAS) process to provide a framework for the expedited study of interconnection requests to address urgent resource adequacy and reliability needs in the near term. This proposal was approved by FERC on July 21, 2025.³⁰ The ERAS process should help expedite the construction of needed new capacity. However, resources studied under the ERAS will have commercial operation dates that are at least three years away, and are provided an additional three year grace period to commence commercial operations.³¹ In addition, supply chain constraints impeding the acquisition of critical grid components, including large natural gas turbines and transformers, are likely to further hinder rapid construction and exacerbate reliability concerns.³² Consequently, the new ERAS process is unlikely to result in the addition of any new generation capacity in the next few years.

²⁴ 2025 OMS-MISO Survey Results, OMS and MISO (Updated June 6, 2025)

<https://cdn.misoenergy.org/20250606%20OMS%20MISO%20Survey%20Results%20Workshop%20Presentation702311.pdf>.

²⁵ *Id.* at 2.

²⁶ *Id.* at 7.

²⁷ *Id.* at 9.

²⁸ *Id.* at 7, 9.

²⁹ *Id.*

³⁰ *Midcontinent Independent System Operator, Inc.*, 192 FERC ¶ 61,064 (2025).

³¹ 192 FERC ¶ 61,064 at P 84.

³² *See generally*, *US Gas-Fired Turbine Wait Times as Much as Seven Years; Costs Up Sharply*, S&P Global (May 2025), [US gas-fired turbine wait times as much as seven years; costs up sharply | S&P Global](#). “With demand for natural gas-fired turbines in the US rapidly accelerating amid power demand growth forecasts driven by AI, manufacturing, and electrification, wait times for turbines are anywhere between one and seven years depending on the model, and costs have increased considerably, experts told Platts.”

Order 202-25-3 was preceded by executive orders on January 20, 2025, and April 8, 2025, in which President Donald J. Trump underscored the dire energy challenges facing the Nation due to growing resource adequacy concerns. Specifically, in Executive Order 14262, “Strengthening the Reliability and Security of the United States Electric Grid,” 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 increase in domestic manufacturing.”³³ President Trump likewise recognized, in Executive Order 14156, “Declaring a National Energy Emergency,” that the “United States’ insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy.”³⁴ The Executive Order adds: “Hostile state and non-state foreign actors have targeted our domestic energy infrastructure, weaponized our reliance on foreign energy, and abused their ability to cause dramatic swings within international commodity markets.”³⁵

The Department’s July 2025 Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid, issued pursuant to the President’s directive in Executive Order 14262, details the myriad challenges affecting the Nation’s energy outlook. “Absent decisive intervention, the Nation’s power grid will be unable to meet projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence (AI) innovation.”³⁶ The prolific growth of data centers for the development of AI, as well as their immense energy needs, presents a new and unexpected source of load growth. This growth is illustrated by the fact that there are more than twenty AI companies operating in Michigan alone.³⁷ In addition, as just one example, Consumers has announced an additional 1 GW of new power to a planned hyperscale data center and “continue[s] to see positive momentum with data centers within the 9 GW pipeline”³⁸

Grid operators—including MISO itself—have likewise acknowledged the Nation’s current energy crisis. For instance, during a March 25, 2025, hearing before the House Committee on Energy and Commerce, Jennifer Curran, Senior Vice President, Planning and Operations, MISO, testified that “the MISO region faces resource adequacy and reliability challenges due to the

³³ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (*Strengthening the Reliability and Security of the United States Electric Grid*), <https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-the-reliability-and-security-of-the-united-states-electric-grid/>.

³⁴ Executive 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/>.

³⁵ *Id.*

³⁶ See also *Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid*, U.S. Department of Energy (July 2025), at 1, <https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%202025%29.pdf>.

³⁷ Ekku Jokinen, *Top 21 Artificial Intelligence Companies in Michigan*, (last accessed Aug. 13, 2025), <https://www.inven.ai/company-lists/top-21-artificial-intelligence-companies-in-michigan>.

³⁸ See *Michigan utility Consumers Energy to provide 1GW of power to new hyperscale data center*, Data Center Dynamics (August 05, 2025), <https://www.datacenterdynamics.com/en/news/michigan-utility-consumers-energy-to-provide-1gw-of-power-to-new-hyperscale-data-center/> (quoting Consumers Energy CEO Garrick Rochow).

changing characteristics of the electric generating fleet, inadequate transmission system infrastructure, growing pressures from extreme weather, and rapid load growth.”³⁹ Ms. Curran also described “much stronger growth [in demand for electricity] from continued electrification efforts, a resurgence in manufacturing, and an unexpected demand for energy-hungry data centers to support artificial intelligence.”⁴⁰ She added, “[a] growing reliability risk is that the rapid retirement of existing coal and gas power plants threatens to outpace the ability of new resources with the necessary operational characteristics to replace them.”⁴¹

ORDER

FPA section 202(c)(1) provides that whenever the Secretary of the Department of Energy 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,” then the Secretary has the authority “to require by order . . . such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest.”⁴² This statutory language constitutes a specific grant of authority to the Secretary to require the continued operation of the Campbell Plant when the Secretary has determined that such continued operation will best meet an emergency caused by a sudden increase in the demand for electric energy or a shortage of generation capacity.

Such is the case here. As described above, the emergency conditions resulting from increasing demand and accelerated retirements of generation facilities supporting the issuance of Order No. 202-25-3 will continue in the near term and are also likely to continue in subsequent years. This could lead to the potential loss of power to homes and local businesses in the areas that may be affected by curtailments or outages, presenting a risk to public health and safety. Given the responsibility of MISO to identify and dispatch generation necessary to meet load requirements, I have determined that, under the conditions specified below, continued additional dispatch of the Campbell Plant is necessary to best meet the emergency and serve the public interest under FPA section 202(c).

To ensure the Campbell Plant will be available if needed to address emergency conditions, the Campbell Plant shall remain in operation until November 19, 2025.⁴³

³⁹ Keeping the Lights On: Examining the State of Regional Grid Reliability Before the House Committee on Energy and Commerce, Subcommittee on Energy, 119th Cong. (Mar. 25, 2025) (statement of Ms. Jennifer Curran, Senior Vice President for Planning and Operations, Midcontinent Independent System Operator), at 5, https://democrats-energycommerce.house.gov/sites/evo-subsites/democrats-energycommerce.house.gov/files/evo-media-document/witness-testimony_curran_eng_grid-operators_03.25.2025.pdf.

⁴⁰ *Id.* at 6.

⁴¹ *Id.* at 7.

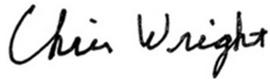
⁴² Although the text of FPA section 202(c) grants this authority to “the Commission,” section 301(b) of the Department of Energy Organization Act transferred this authority to the Secretary of the Department of Energy. *See* 42 U.S.C. § 7151(b) (2018).

⁴³ 16 U.S.C. § 824a(c)(4).

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

- A. From August 21, 2025, MISO and Consumer Energy shall take all measures necessary to ensure that the Campbell Plant is available to operate. For the duration of this Order, MISO is directed to take every step to employ economic dispatch of the Campbell Plant to minimize cost to ratepayers. Following the conclusion of this Order, sufficient time for orderly ramp down is permitted, consistent with industry practices. Consumers Energy is directed to comply with all orders from MISO related to the availability and dispatch of the Campbell Plant.
- B. To minimize adverse environmental impacts, this Order limits operation of dispatched units to the times and within the parameters as determined by MISO pursuant to paragraph A. MISO shall provide a daily notification to the Department (via AskCR@hq.doe.gov) reporting whether the Campbell Plant has operated in compliance with the allowances contained in this Order.
- C. All operation of the Campbell Plant must comply with applicable environmental requirements, including but not limited to monitoring, reporting, and recordkeeping requirements, to the maximum extent feasible while operating consistent with the emergency conditions. This Order does not provide relief from any obligation to pay fees or purchase offsets or allowances for emissions that occur during the emergency condition or to use other geographic or temporal flexibilities available to generators.
- D. By September 4, 2025, MISO is directed to provide the Department of Energy (via AskCR@hq.doe.gov) with information concerning the measures it has taken and is planning to take to ensure the operational availability of the Campbell Plant consistent with this Order. MISO shall also provide such additional information regarding the environmental impacts of this Order and its compliance with the conditions of this Order, in each case as requested by the Department of Energy from time to time.
- E. Consumers is directed to file with the Federal Energy Regulatory Commission Tariff revisions or waivers to effectuate this Order. Rate recovery is available pursuant to 16 U.S.C. § 824a(c).
- F. This Order shall not preclude the need for the Campbell Plant to comply with applicable state, local, or Federal law or regulations following the expiration of this Order.
- G. Because this Order is predicated on the shortage of facilities for generation of electric energy and other causes, the Campbell Plant shall not be considered a capacity resource.

- H. This Order shall be effective from 00:00 Eastern Daylight Time (EDT) on August 21, 2025, and shall expire at 00:00 EDT on November 19, 2025, with the exception of applicable compliance obligations in paragraph D.
- I. Issued in Norfolk, Virginia at 8:50pm Eastern Daylight Time on this 20th day of August 2025.



Chris Wright
Secretary of Energy

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

Michigan Public Service Commissioners
Chairman Dan Scripps
Commissioner Katherine Peretick
Commissioner Shaquila Myers



Department of Energy
Washington, DC 20585

Order No. 202-25-9

Pursuant to the authority vested in the Secretary of Energy by section 202(c) of the Federal Power Act (FPA),¹ and section 301(b) of the Department of Energy Organization Act,² and for the reasons set forth below, I hereby determine that an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for the generation of electricity, and other causes. Issuance of this Order will meet the emergency and serve the public interest.

Order Nos. 202-25-3 and 202-25-7

J.H. Campbell Generating Plant (Campbell Plant) is a 1,420 MW coal-fired plant primarily owned by Consumers Energy Company (Consumers) and located in West Olive, MI. In 2021, Consumers announced that it planned to implement a “speed closure” of the Campbell Plant fifteen years before the end of its scheduled design life.³ Instead of retiring the Campbell Plant at the end of its design life, Consumers planned to accelerate the Campbell Plant’s retirement and discontinue its operations on May 31, 2025.

Order No. 202-25-3, issued pursuant to FPA section 202(c), required that the Campbell Plant remain in operation for 90 days, until August 21, 2025. Subsequently, Order No. 202-25-7, issued pursuant to FPA section 202(c), required that the Campbell Plant remain in operation for 90 days, until November 19, 2025. Those orders were based on my determination that emergency conditions existed in the region served by the Midcontinent Independent System Operator, Inc. (MISO). Specifically, I determined that MISO likely faced tight reserve margins during the summer 2025 period, particularly during periods of high demand or low generation resource output. I determined that the continued operation of the Campbell Plant would provide additional generation capacity during these periods which would help prevent the potential loss of power to homes and local businesses in the areas that might have been affected by curtailments or outages that would otherwise pose a risk to public health and safety. I determined that the continued operation of the Campbell Plant was necessary to alleviate immediate and anticipated threats to reliability. My determination was based on a number of facts.

First, the North American Electric Reliability Corporation (NERC) released its 2025

¹ 16 U.S.C. § 824a(c).

² 42 U.S.C. §7151(b).

³ See *Consumers Energy Announces Plan to End Coal Use by 2025; Lead Michigan’s Clean Energy Transformation*, Consumers Energy (June 23, 2021), <https://www.consumersenergy.com/news-releases/newsrelease-details/2021/06/23/consumers-energy-announces-plan-to-end-coal-use-by-2025-lead-michigans-cleanenergy-transformation>.

Summer Reliability Assessment on May 14, 2025. In its assessment, NERC indicated that “[d]emand forecasts and resource data indicate that MISO is at elevated risk of operating reserve shortfalls during periods of high demand or low resource output.”⁴ In particular, NERC explained that the retirement of thermal generation capacity increased the likelihood of electricity supply shortfalls. NERC anticipated that the near-term period of greatest capacity shortfall for MISO would likely occur in August.⁵

Second, multiple generation facilities in Michigan have retired in recent years. According to the U.S. Energy Information Administration (EIA), “[s]ince 2020, about 2,700 megawatts of coal-fired generating capacity have been retired and no new coal-fired facilities are planned.”⁶ Additionally, EIA stated, “[t]ypically, Michigan’s nuclear power plants have supplied about 30% of in-state electricity, but the amount of electricity generated by nuclear power plants in Michigan has declined as plants have been decommissioned.”⁷ The state’s Big Rock Point nuclear power plant shut down in 1997, and the Palisades nuclear power plant closed in 2022. The Palisades plant remains unavailable, although according to a recent news report, “Holtec International expects the Palisades plant in Michigan to resume service early next year....”⁸

Third, the Campbell Plant’s retirement would have further decreased available dispatchable generation within MISO’s service territory, adding to the loss of the other 1,575 MW of natural gas and coal-fired generation that has retired since the summer of 2024. Although MISO and Consumers have incorporated the planned retirement of the Campbell Plant into their supply forecasts and Consumers acquired a 1,200 MW natural gas power plant in Covert, MI, the NERC Assessment still anticipates “elevated risk of operating reserve shortfalls.”⁹

Fourth, MISO’s Planning Resource Auction Results for the 2025-2026 Planning Year, released in April 2025, noted that for the northern and central zones, which include Michigan, “new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspensions/retirements and external resources.”¹⁰ While the results “demonstrated sufficient

⁴ *2025 Summer Reliability Assessment*, North American Electric Reliability Corporation, at 16 (May 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf (NERC 2025 Summer Reliability Assessment).

⁵ *Id.*

⁶ *Michigan State Profile and Energy Estimates*, U.S. Energy Info. Admin. (Oct. 17, 2024), <https://www.eia.gov/state/print.php?sid=MI>.

⁷ *Id.*

⁸ *Nuclear plants face decadelong timeline to meet AI energy needs*, Los Angeles Times. (Nov. 13, 2025), <https://www.latimes.com/business/story/2025-11-13/despite-80-billion-commitment-nuclear-plants-face-decade-long-timeline-to-meet-ai-energy-needs>.

⁹ NERC 2025 Summer Reliability Assessment at 16.

¹⁰ *Planning Resource Auction—Results for Planning Year 2025–2026*, Midcontinent Independent System Operator, Inc., 13 (May 29, 2025), https://cdn.misoenergy.org/2025%20PRA%20Results%20Posting%2020250529_Corrections694160.pdf. (MISO Planning Resource Auction – Results for Planning Year 2025-26).

capacity,” the summer months reflected the “highest risk and a tighter supply-demand balance” and these results “reinforce the need to increase capacity.”¹¹

Continuing Emergency Conditions

The emergency conditions that led to the issuance of Order Nos. 202-25-3 and 202-25-7 continue, both in the near and long term.¹² The production of electricity from the Campbell Plant will continue to be a critical asset to maintain reliability in MISO. According to the U.S. Environmental Protection Agency’s data, the plant has generated an average of approximately 509,000 MWh per month, from June 2025 through September 2025,¹³ providing vital generation capacity to the region. Additionally, between June 11 and November 5, MISO issued dozens of alerts to manage grid reliability in its Central Region in response to hot weather, severe weather, high customer load, forced generation outages, and transfer capability limits.

MISO’s year-round resource adequacy concerns are well documented. In 2022, MISO requested Federal Energy Regulatory Commission (FERC) approval of its filing to revise its resource adequacy construct (including the Planning Resource Auction or PRA) to establish capacity requirements for each of the four seasons of the year rather than on an annual basis determined by peak summer demand.¹⁴ MISO justified this revision by explaining that “Reliability risks associated with resource adequacy have shifted from ‘Summer only’ to a year-round concern.”¹⁵ MISO noted that over 60% of all “MaxGen” events (events when MISO initiates emergency procedures because of concerns over the adequacy of available generation) occurred outside of the summer season.¹⁶

In December of 2023, MISO released an “Attributes Roadmap,” in which it presented “an in-depth look at the challenges of operating a reliable bulk electric system in a rapidly transforming energy landscape.”¹⁷ Among other things, this report described changes in the time of year during

¹¹ *Id.* at 2,12. For further information regarding the determination that emergency conditions existed, *see* Order No. 202-25-7.

¹² Further, as noted in Order No. 202-25-7, as a coal-fired facility, it would be difficult for the Campbell Plant to resume operations once it has been retired. Specifically, any stop and start of operation creates heating and cooling cycles that could cause an immediate failure that could take 30-60 days to repair if a unit comes offline. In addition, other practical issues, such as employment, contracts, and permits may greatly increase the timeline for resumption of operations. Further, if Consumers were to begin disassembling the plant or other related facilities, the associated challenges would be greatly exacerbated. Thus, continuous operation is required in such cases so long as the Secretary determines a shortage exists and is likely to persist.

¹³ *See, Custom Data Download, EPA CAMPD (Clean Air Markets Program Data), <https://campd.epa.gov/data/custom-data-download> (search criteria to produce these results could include Emissions >> Monthly >> Unit (default) >>Apply >> “2025” and “June, July, August, September.” The data can then be filtered to only include the JH Campbell Plant.)*

¹⁴ *Midcontinent Independent System Operator, Inc.*, FERC Docket No. ER22-495-000 (Nov. 30, 2021). This request was approved by FERC on August 31, 2022. *Midcontinent Independent System Operator, Inc.*, 180 FERC ¶ 61,141 (2022).

¹⁵ MISO Transmittal Letter at 3, FERC Docket No. ER22-495-000 (Nov. 30, 2021).

¹⁶ *Id.* at 3-4.

¹⁷ *Attributes Roadmap*, MISO (Dec. 2023), <https://cdn.misoenergy.org/2023%20Attributes%20Roadmap631174.pdf>

which the risk of the loss of load was greatest. For the 2023/24 Planning Year, the greatest risk of loss of load was in the summer, but it is expected that by the summer of 2027, there will be an equal loss of load risk in both the summer and fall seasons. MISO also projects that the risk of loss of load in the winter and spring seasons, although not as high as in the summer or fall, will nevertheless increase over time.¹⁸

More recently, MISO affirmed the resource adequacy problems occurring outside of its summer season in its 2024 report entitled, “*MISO’s Response to the Reliability Imperative*.”¹⁹ In a section of that report entitled “Risks in Non-Summer Seasons,” MISO again stressed that it has resource reliability concerns outside of the summer season.

Widespread retirements of dispatchable resources, lower reserve margins, more frequent and severe weather events and increased reliance on weather-dependent renewables and emergency-only resources have altered the region’s highest historic risk profile, creating risks in non-summer months that rarely posed challenges in the past.²⁰

These MISO studies indicate that the emergency conditions caused by the loss of generation capacity in MISO extend past the summer season.

While the 2025 – 2026 NERC Winter Reliability Assessment has not yet been released as of the date of this Order, two recent winter studies (2024 – 2025 NERC Winter Reliability Assessment²¹ and the 2023 – 2024 NERC Winter Reliability Assessment²²) have assessed the MISO assessment area as an elevated risk, with the “potential for insufficient operating reserves in above-normal conditions.” Specifically, the 2024 – 2025 Winter Reliability Assessment noted that “[ge]nerating capacity is 10 GW lower (-6.8%) compared to the prior winter as generators have retired, withdrawn from MISO’s capacity market, or received lower winter accredited capacity.”²³

The evidence indicates that there is also a potential longer term resource adequacy emergency in MISO. When MISO reported the results of its PRA for the 2025-26 Planning Year, it noted that “new capacity additions were insufficient to offset the negative impacts of decreased

¹⁸ *Id.* at 11.

¹⁹ *MISO’s Response to the Reliability Imperative*, MISO (Updated Feb. 2024), <https://cdn.misoenergy.org/2024+Reliability+Imperative+report+Feb.+21+Final504018.pdf>

²⁰ *Id.* at 12.

²¹ 2024 – 2025 NERC Winter Reliability Assessment at 5, https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2024.pdf

²² 2023 – 2024 NERC Winter Reliability Assessment at 5, https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2023.pdf

²³ 2024 – 2025 NERC Winter Reliability Assessment at 15, https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2024.pdf

accreditation, suspensions/retirements and external resources” in the northern and central zones, which include Michigan.²⁴

On June 6, 2025, the Organization of MISO States (OMS) and MISO issued the results of their survey, which has been conducted annually for many years to determine the degree to which expected capacity resources satisfy planning reserve margin requirements.²⁵ The 2025 Survey presented projections of resource adequacy for the summer of 2026 and subsequent years. Although the survey projected a potential capacity surplus for the summer of 2026, it also projected that at least 3.1 GW of additional generation capacity beyond currently committed generation capacity must be added to meet the projected planning reserve margin.²⁶ The survey also projected that there would be insufficient capacity to meet the peak demand for electricity in each of the following four summers, increasing from a deficit of 1.4 GW in 2027 to 8.2 GW in 2030.²⁷ Similar results were projected for MISO’s winter seasons, with a small surplus of generation capacity in 2026, followed by increasing deficits the following four years.²⁸

The primary reasons for these projected deficits also are shown on the OMS-MISO survey. Large amounts of existing generation capacity are projected to be retired each year while, at the same time, the demand for electricity is projected to increase at an accelerating pace.²⁹ Although the OMS-MISO survey projects generation capacity to continue to increase in the coming years with the addition of new potential generation assets, the increase in capacity is largely offset by the projected retirements, and does not keep up with the growth in demand.³⁰

MISO has been taking steps to address these projected deficits. For example, on June 6, 2025, MISO submitted a proposal to FERC to establish an Expedited Resource Addition Study (ERAS) process to provide a framework for the expedited study of interconnection requests to address urgent resource adequacy and reliability needs in the near term. This proposal was approved by FERC on July 21, 2025.³¹ The ERAS process should help expedite the construction of needed new capacity. However, resources studied under the ERAS will have commercial operation dates that are at least three years away, and are provided an additional three-year grace period to commence commercial operations.³² In addition, supply chain constraints impeding the acquisition of critical grid components, including large natural gas turbines and transformers, are

²⁴ MISO Planning Resource Auction – Results for Planning Year 2025-26 at 13.

²⁵ *OMS-MISO Survey Results*, OMS and MISO (Updated June 6, 2025)

<https://cdn.misoenergy.org/20250606%20OMS%20MISO%20Survey%20Results%20Workshop%20Presentation702311.pdf>

²⁶ *Id.* at 2.

²⁷ *Id.* at 7.

²⁸ *Id.* at 9

²⁹ *Id.* at 7, 9.

³⁰ *Id.*

³¹ *Midcontinent Independent System Operator, Inc.*, 192 FERC ¶ 61,064 (2025).

³² 192 FERC ¶ 61,064 at P 84.

likely to further hinder rapid construction and exacerbate reliability concerns.³³ Consequently, the new ERAS process is unlikely to result in the addition of any new generation capacity in the next few years.

Order Nos. 202-25-3 and 202-25-7 were preceded by executive orders on January 20, 2025, and April 8, 2025, in which President Donald J. Trump underscored the dire energy challenges facing the Nation due to growing resource adequacy concerns. Specifically, in Executive Order 14262, “Strengthening the Reliability and Security of the United States Electric Grid,” 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 increase in domestic manufacturing.”³⁴ President Trump likewise recognized, in Executive Order 14156, “Declaring a National Energy Emergency,” that the “United States’ insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy.”³⁵ The Executive Order adds: “Hostile state and non-state foreign actors have targeted our domestic energy infrastructure, weaponized our reliance on foreign energy, and abused their ability to cause dramatic swings within international commodity markets.”³⁶

The Department’s July 2025 Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid, issued pursuant to the President’s directive in Executive Order 14262, details the myriad challenges affecting the Nation’s energy outlook. “Absent decisive intervention, the Nation’s power grid will be unable to meet projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence (AI) innovation.”³⁷ The prolific growth of data centers for the development of AI, as well as their immense energy needs, presents a new and unexpected source of load growth. This growth is illustrated by the fact that there are more than twenty AI companies operating in Michigan alone.³⁸ In addition, as just one example,

³³ See generally, *US Gas-Fired Turbine Wait Times as Much as Seven Years; Costs Up Sharply*, S&P Global (May 2025), [US gas-fired turbine wait times as much as seven years; costs up sharply | S&P Global](https://www.spglobal.com/commodityinsights/enews/2025/05/01/us-gas-fired-turbine-wait-times-as-much-as-seven-years-costs-up-sharply). “With demand for natural gas-fired turbines in the US rapidly accelerating amid power demand growth forecasts driven by AI, manufacturing, and electrification, wait times for turbines are anywhere between one and seven years depending on the model, and costs have increased considerably, experts told Platts.”

³⁴ Executive Order No. 14262, 90 Fed. Reg. 15521 (Apr. 8, 2025) (*Strengthening the Reliability and Security of the United States Electric Grid*), <https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-the-reliability-and-security-of-the-united-states-electric-grid/>.

³⁵ Executive 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/>.

³⁶ *Id.*

³⁷ See also *Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid*, U.S. Department of Energy (July 2025), at 1, <https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29.pdf>.

³⁸ Ekku Jokinen, *Top 21 Artificial Intelligence Companies in Michigan*, (last accessed Aug. 13, 2025), <https://www.inven.ai/company-lists/top-21-artificial-intelligence-companies-in-michigan>.

Consumers has announced an additional 1 GW of new power to a planned hyperscale data center and “continue[s] to see positive momentum with data centers within the 9 GW pipeline”³⁹

Grid operators — including MISO itself — have also acknowledged the Nation’s current energy crisis. For instance, during a March 25, 2025, hearing before the House Committee on Energy and Commerce, Jennifer Curran, Senior Vice President, Planning and Operations, MISO, testified that “the MISO region faces resource adequacy and reliability challenges due to the changing characteristics of the electric generating fleet, inadequate transmission system infrastructure, growing pressures from extreme weather, and rapid load growth.”⁴⁰ Ms. Curran also described “much stronger growth [in demand for electricity] from continued electrification efforts, a resurgence in manufacturing, and an unexpected demand for energy-hungry data centers to support artificial intelligence.”⁴¹ She added, “[a] growing reliability risk is that the rapid retirement of existing coal and gas power plants threatens to outpace the ability of new resources with the necessary operational characteristics to replace them.”⁴²

Pursuant to section 202(c)(4)(B) of the FPA, the Department has consulted with the primary Federal agency with expertise in the environmental interest protected by the laws or regulations that may conflict with this Order. The agency did not submit additional conditions for inclusion in this Order.

ORDER

FPA section 202(c)(1) provides that whenever the Secretary of the Department of Energy 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,” then the Secretary has the authority “to require by order . . . such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest.”⁴³ This statutory language constitutes a specific grant of authority to the Secretary to require the continued operation of the Campbell Plant when the Secretary has

³⁹ See *Michigan utility Consumers Energy to provide 1GW of power to new hyperscale data center*, Data Center Dynamics (August 05, 2025), <https://www.datacenterdynamics.com/en/news/michigan-utility-consumers-energy-toprovide-1gw-of-power-to-new-hyperscale-data-center/> (quoting Consumers Energy CEO Garrick Rochow).

⁴⁰ Keeping the Lights On: Examining the State of Regional Grid Reliability Before the House Committee on Energy and Commerce, Subcommittee on Energy, 119th Cong. (Mar. 25, 2025) (statement of Ms. Jennifer Curran, Senior Vice President for Planning and Operations, Midcontinent Independent System Operator), at 5, https://democratsenergycommerce.house.gov/sites/evo-subsites/democrats-energycommerce.house.gov/files/evo-mediadocument/witness-testimony_curran_eng_grid-operators_03.25.2025.pdf

⁴¹ *Id.* at 6.

⁴² *Id.* at 7.

⁴³ Although the text of FPA section 202(c) grants this authority to “the Commission,” section 301(b) of the Department of Energy Organization Act transferred this authority to the Secretary of the Department of Energy. See 42 U.S.C. § 7151(b).

determined that such continued operation will best meet an emergency caused by a sudden increase in the demand for electric energy or a shortage of generation capacity.

Such is the case here. As described above, the emergency conditions resulting from increasing demand and shortage from accelerated retirements of generation facilities supporting the issuance of Order Nos. 202-25-3 and 202-25-7 will continue in the near term and are also likely to continue in subsequent years. This could lead to the loss of power to homes and local businesses in the areas affected by curtailments or outages, presenting a risk to public health and safety. Given the responsibility of MISO to identify and dispatch generation necessary to meet load requirements, I have determined that, under the conditions specified below, continued additional dispatch of the Campbell Plant is necessary to best meet the increased demand and determined shortage and serve the public interest under FPA section 202(c).

To ensure the Campbell Plant will be available if needed to address emergency conditions, the Campbell Plant shall remain in operation until February 17, 2026.⁴⁴

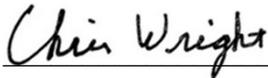
Based on my determination of an emergency set forth above, I hereby order:

- A. From November 19, 2025, MISO and Consumer Energy shall take all measures necessary to ensure that the Campbell Plant is available to operate. For the duration of this Order, MISO is directed to take every step to employ economic dispatch of the Campbell Plant to minimize cost to ratepayers. Following the conclusion of this Order, sufficient time for orderly ramp down is permitted, consistent with industry practices. Consumers Energy is directed to comply with all orders from MISO related to the availability and dispatch of the Campbell Plant.
- B. To minimize adverse environmental impacts, this Order limits operation of dispatched units to the times and within the parameters as determined by MISO pursuant to paragraph A. MISO shall provide a daily notification to the Department (via AskCR@hq.doe.gov) reporting whether the Campbell Plant has operated in compliance with the allowances contained in this Order.
- C. All operation of the Campbell Plant must comply with applicable environmental requirements, including but not limited to monitoring, reporting, and recordkeeping requirements, to the maximum extent feasible while operating consistent with the emergency conditions. This Order does not provide relief from any obligation to pay fees or purchase offsets or allowances for emissions that occur during the emergency condition or to use other geographic or temporal flexibilities available to generators.

⁴⁴ 16 U.S.C. § 824a(c)(4).

- D. By December 3, 2025, MISO is directed to provide the Department of Energy (via AskCR@hq.doe.gov) with information concerning the measures it has taken and is planning to take to ensure the operational availability of the Campbell Plant consistent with this Order. MISO shall also provide such additional information regarding the environmental impacts of this Order and its compliance with the conditions of this Order, in each case as requested by the Department of Energy from time to time.
- E. Consumers is directed to file with the Federal Energy Regulatory Commission Tariff revisions or waivers to effectuate this Order, as needed. Rate recovery is available pursuant to 16 U.S.C. § 824a(c).
- F. This Order shall not preclude the need for the Campbell Plant to comply with applicable state, local, or Federal law or regulations following the expiration of this Order.
- G. Because this Order is predicated on the shortage of facilities for generation of electric energy and other causes, the Campbell Plant shall not be considered a capacity resource.
- H. This Order shall be effective from 00:00 Eastern Standard Time (EST) on November 19, 2025, and shall expire at 00:00 EST on February 17, 2026, with the exception of applicable compliance obligations in paragraph D.

Issued in Washington, D.C. at 5:58PM EST on this 18th day of November 2025.



Chris Wright
Secretary of Energy

cc:

FERC Commissioners

Chairman Laura V. Swett
Commissioner David Rosner
Commissioner Lindsay S. See
Commissioner Judy W. Chang
Commissioner David A. LaCerte

Michigan Public Service Commissioners

Chairman Dan Scripps

Commissioner Katherine Peretick

Commissioner Shaquila Myers

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

FORM 10-Q

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

OR

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

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

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

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

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

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

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

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

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

CMS Energy Corporation:		Consumers Energy Company:	
Large accelerated filer	<input checked="" type="checkbox"/>	Large accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Non-accelerated filer	<input checked="" type="checkbox"/>
Accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Smaller reporting company	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
Emerging growth company	<input type="checkbox"/>	Emerging growth company	<input type="checkbox"/>

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

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

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

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock at October 13, 2025:

CMS Energy Corporation:		
CMS Energy Corporation Common Stock, \$0.01 par value		304,319,765
Consumers Energy Company:		
Consumers Common Stock, \$10 par value, privately held by CMS Energy Corporation		84,108,789

CMS Energy Corporation

Consumers Energy Company

Quarterly Reports on Form 10-Q to the Securities and Exchange Commission for the Period Ended September 30, 2025

Table of Contents

Glossary	2
Filing Format	10
Available Information	10
Forward-looking Statements and Information	10
Part I—Financial Information	15
Item 1. Financial Statements	15
Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations	95
Item 3. Quantitative and Qualitative Disclosures About Market Risk	95
Item 4. Controls and Procedures	96
Part II—Other Information	96
Item 1. Legal Proceedings	96
Item 1A. Risk Factors	96
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds	96
Item 3. Defaults Upon Senior Securities	98
Item 4. Mine Safety Disclosures	98
Item 5. Other Information	98
Item 6. Exhibits	99
Signatures	100

Glossary

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

2024 Form 10-K

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

2023 Energy Law

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

ABATE

Association of Businesses Advocating Tariff Equity

ASP

Appliance Service Plan

Aviator Wind

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

Aviator Wind Equity Holdings

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

Bay Harbor

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

Bcf

Billion cubic feet

CCR

Coal combustion residual

CEO

Chief Executive Officer

CERCLA

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

CFO

Chief Financial Officer

Clean Air Act

Federal Clean Air Act of 1963, as amended

Clean Energy Plan

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

Clean Water Act

Federal Water Pollution Control Act of 1972, as amended

CMS Energy

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

CMS Land

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

Consumers

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

Consumers 2014 Securitization Funding

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

Consumers 2023 Securitization Funding

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

Covert Generating Station

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

Craven

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

CSAPR

Cross-State Air Pollution Rule of 2011, as amended

DB Pension Plans

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

DB SERP

Defined Benefit Supplemental Executive Retirement Plan

Delta Solar Equity Holdings

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

DIG

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

Dodd-Frank Act

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

DTE Electric

DTE Electric Company, a non-affiliated company

EGLE

Michigan Department of Environment, Great Lakes, and Energy

Endangered Species Act

Federal Endangered Species Act of 1973, as amended

energy waste reduction

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

EPA

U.S. Environmental Protection Agency

EPS

Earnings per share

ERP

Enterprise Resource Planning software

Exchange Act

Securities Exchange Act of 1934

Federal Power Act

Federal Power Act of 1920

FERC

Federal Energy Regulatory Commission

FTR

Financial transmission right

GAAP

U.S. Generally Accepted Accounting Principles

Genesee

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

Good Neighbor Plan

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

Grayling

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

GW

Gigawatt, a unit of energy equal to one billion watts

IRS

Internal Revenue Service

IT

Information technology

J.H. Campbell

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

kWh

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

Ludington

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

MATS

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

MCV Facility

A 1,647-MW natural gas-fueled, combined-cycle cogeneration facility operated by the MCV Partnership

MCV Partnership

Midland Cogeneration Venture Limited Partnership, a non-affiliated company

MD&A

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

METC

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

MGP

Manufactured gas plant

Migratory Bird Treaty Act

Migratory Bird Treaty Act of 1918, as amended

MISO

Midcontinent Independent System Operator, Inc.

MISO Tariff

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

mothball

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

MPSC

Michigan Public Service Commission

MW

Megawatt, a unit of power equal to one million watts

NAAQS

National Ambient Air Quality Standards

Natural Gas Act

Natural Gas Act of 1938

Newport Solar Holdings

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

NorthStar Clean Energy

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

NO_x

Nitrogen oxides

NPDES

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

NREPA

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

NWO Holdco

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

NWO Wind Equity Holdings

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

OBBBA

Federal One Big Beautiful Bill Act of 2025

OPEB

Other post-employment benefits

OPEB Plan

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

PCB

Polychlorinated biphenyl

PPA

Power purchase agreement

PSCR

Power supply cost recovery

RCRA

Federal Resource Conservation and Recovery Act of 1976

Reliability Roadmap

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

ROA

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

SEC

U.S. Securities and Exchange Commission

securitization

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

SOFR

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

TAES

Toshiba America Energy Systems Corporation, a non-affiliated company

TBJH

TBJH Inc., a non-affiliated company

TCJA

Tax Cuts and Jobs Act of 2017

Term SOFR

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

T.E.S. Filer City

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

Toshiba

Toshiba Corporation, a non-affiliated company

Toshiba International

Toshiba International Corporation, a non-affiliated company

UWUA

Utility Workers Union of America, AFL-CIO

VIE

Variable interest entity

Filing Format

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

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

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

Available Information

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

Forward-looking Statements and Information

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

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

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

- the ability of CMS Energy and Consumers to execute their financing strategies
- the investment performance of the assets of CMS Energy's and Consumers' pension and benefit plans, the discount rates, mortality assumptions, and future medical costs used in calculating the plans' obligations, and the resulting impact on future funding requirements
- the impact of the economy, particularly in Michigan, and potential future volatility in the financial and credit markets on CMS Energy's, Consumers', or any of their affiliates' revenues, ability to collect accounts receivable from customers, or cost and availability of capital
- changes in the economic and financial viability of CMS Energy's and Consumers' suppliers, customers, and other counterparties and the continued ability of these third parties, including those in bankruptcy, to meet their obligations to CMS Energy and Consumers
- population changes in the geographic areas where CMS Energy and Consumers conduct business
- national, regional, and local economic, competitive, and regulatory policies, conditions, and developments
- loss of customer demand for electric generation supply to alternative electric suppliers, the creation of municipal utilities, increased use of self-generation including distributed generation, energy waste reduction, or energy storage
- loss of customer demand for natural gas due to alternative technologies or fuels or electrification
- the ability of Consumers to meet increased renewable energy demand due to customers seeking to meet their own sustainability goals in a timely and cost-efficient manner
- the reputational or other impact on CMS Energy and Consumers of the failure to meet the renewable or clean energy standards required by the 2023 Energy Law or to achieve or make timely progress on their greenhouse gas reduction goals related to reducing their impact on climate change
- adverse consequences of employee, director, or third-party fraud or non-compliance with codes of conduct or with laws or regulations
- federal regulation of electric sales, including periodic re-examination by federal regulators of CMS Energy's and Consumers' market-based sales authorizations
- any event, change, development, occurrence, or circumstance that could impact the implementation of the Clean Energy Plan, including any action by a regulatory authority or other third party to prohibit, delay, or impair the implementation of the Clean Energy Plan
- the ability to meet increases in electric demand associated with data centers, or alternatively, the risk that anticipated demand growth from data center expansion may not materialize as expected
- the availability, cost, coverage, and terms of insurance, the stability of insurance providers, and the ability of Consumers to recover the costs of any insurance from customers
- the effectiveness of CMS Energy's and Consumers' risk management policies, procedures, and strategies, including strategies to hedge risk related to interest rates and future prices of electricity, natural gas, and other energy-related commodities
- factors affecting development of electric generation projects, gas transmission, and gas and electric distribution infrastructure replacement, conversion, and expansion projects, including

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

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

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

(This page intentionally left blank)

Part I—Financial Information

Item 1. Financial Statements

Index to Financial Statements

Management’s Discussion and Analysis of Financial Condition and Results of Operations	16
CMS Energy Consolidated Financial Statements (Unaudited)	48
Consolidated Statements of Income (Unaudited)	48
Consolidated Statements of Comprehensive Income (Unaudited)	49
Consolidated Statements of Cash Flows (Unaudited)	51
Consolidated Balance Sheets (Unaudited)	52
Consolidated Statements of Changes in Equity (Unaudited)	54
Consumers Consolidated Financial Statements (Unaudited)	55
Consolidated Statements of Income (Unaudited)	55
Consolidated Statements of Comprehensive Income (Unaudited)	56
Consolidated Statements of Cash Flows (Unaudited)	57
Consolidated Balance Sheets (Unaudited)	58
Consolidated Statements of Changes in Equity (Unaudited)	60
Notes to the Unaudited Consolidated Financial Statements	61
1: Regulatory Matters	61
2: Contingencies and Commitments	63
3: Financings and Capitalization	67
4: Fair Value Measurements	70
5: Financial Instruments	73
6: Retirement Benefits	74
7: Income Taxes	75
8: Earnings Per Share—CMS Energy	76
9: Revenue	78
10: Reportable Segments	83
11: Variable Interest Entities	91
12: Exit Activities and Asset Sales	94

CMS Energy Corporation

Consumers Energy Company

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

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

Executive Overview

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

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

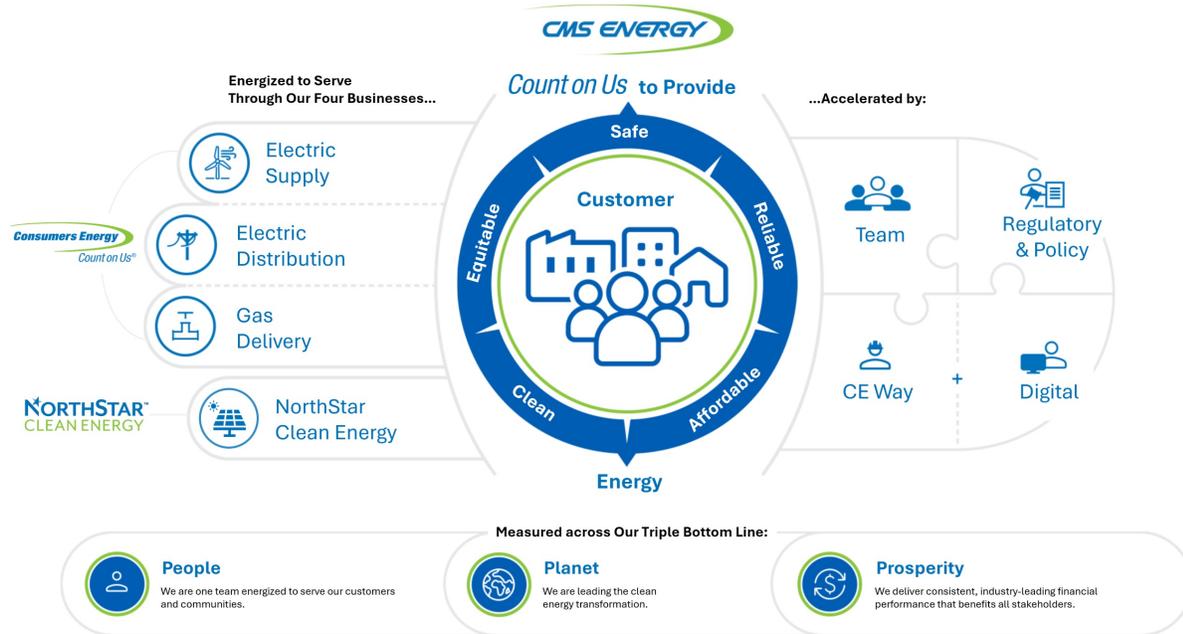
- regulation and regulatory matters
- state and federal legislation
- economic conditions
- weather
- energy commodity prices
- interest rates
- their securities' credit ratings

The Triple Bottom Line

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Consumers' updates to its renewable energy plan, which were approved by the MPSC in September 2025, and planned updates to its Clean Energy Plan in 2026 will serve as a blueprint to meeting the requirements of the 2023 Energy Law by focusing on increasing the generation of renewable energy, deploying energy storage, helping customers use less energy, and offering demand response programs to reduce demand during critical peak times.

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

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

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

On August 20, 2025, the U.S. Secretary of Energy issued a second emergency order requiring J.H. Campbell to continue operating for another 90 days, through November 19, 2025. Consumers is complying with the August 2025 emergency order and will seek recovery of its compliance costs at a later date, consistent with rate recovery sought for the May 2025 emergency order. The U.S. Department of Energy may issue more orders to require the continued operation of J.H. Campbell. Consumers cannot predict the long-term impact of these orders, litigation surrounding the orders, or additional orders or similar governmental actions, on the Clean Energy Plan.

Consumers' updates to its renewable energy plan include up to 9,000 MW of both purchased and owned solar energy resources and the addition of up to 2,800 MW of new, competitively bid wind energy resources. Coupled with updates to the Clean Energy Plan, these actions will enable Consumers to achieve 60-percent renewable energy by 2035 and 100-percent clean energy by 2040, and will also contribute to Consumers' achievement of the net-zero emissions goals discussed below.

Net-zero methane emissions from natural gas delivery system by 2030: Under its Methane Reduction Plan, Consumers plans to reduce methane emissions from its system by about 80 percent, from 2012

baseline levels, by accelerating the replacement of aging pipe, rehabilitating or retiring outdated infrastructure, and adopting new technologies and practices. The remaining emissions will likely be offset through clean fuel alternatives or nature-based carbon removal pathways. To date, Consumers has reduced methane emissions by nearly 30 percent.

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

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

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

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

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

For the nine months ended September 30, 2025, CMS Energy's net income available to common stockholders was \$775 million, and diluted EPS were \$2.59. This compares with net income available to common stockholders of \$731 million and diluted EPS of \$2.45 for the nine months ended September 30, 2024. In 2025, higher gas sales due primarily to favorable weather and electric and gas rate increases were offset partially by lower earnings at NorthStar Clean Energy and increased depreciation and property taxes, reflecting higher capital spending. A more detailed discussion of the factors affecting CMS Energy's and Consumers' performance can be found in the Results of Operations section that follows this Executive Overview.

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

Performance: Impacting the Triple Bottom Line

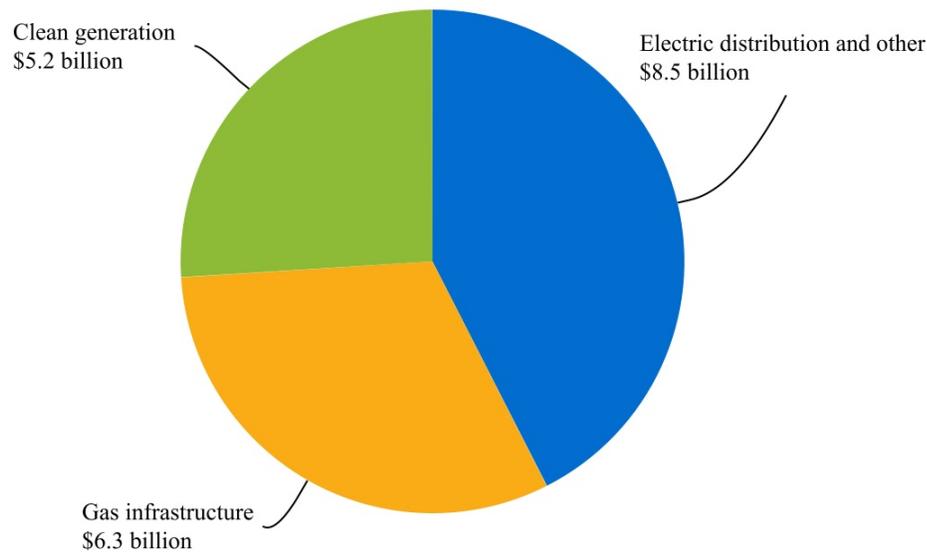
CMS Energy and Consumers remain committed to delivering safe, reliable, affordable, clean, and equitable energy in service of their customers and positively impacting the triple bottom line of people, planet, and prosperity. During 2025, CMS Energy and Consumers:

- reached an agreement with a new data center expected to add up to 1 GW of incremental load growth in our service territory, supporting long-term sales growth and delivering economic benefits for Michigan
- expanded the use of drone technology enabling faster, safer inspections of 400 miles of hard-to-reach power lines and infrastructure resulting in reduced average outage time per customer and improved storm recovery capabilities
- announced the launch of “Green Giving,” a program enabling the general public to contribute to renewable energy while offering financial benefits to low-income customers, along with a new Residential Renewable Energy Program, which allows customers of all income levels to subscribe and match their energy usage with renewable energy sources, supporting clean energy initiatives
- moved forward with an aggressive plan to enhance grid reliability for nearly two million homes and businesses by clearing trees along 8,000 miles of power lines and creating a modern, stronger, and more resilient power grid through infrastructure upgrades and technology investments
- announced deployment of eight state-of-the-art vehicles that will survey the company’s nearly 30,000-mile gas distribution system to find methane emissions, enhancing safety and reliability for Consumers’ natural gas customers
- experienced success with the underground power line pilot program in early 2025, with pilot areas seeing 100-percent reduction in storm-related outages and improved customer satisfaction

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

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

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



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

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

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

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

orders. In October 2025, Consumers revised its requested increase to \$447 million. The MPSC must issue a final order in this case before or in April 2026.

2024 Gas Rate Case: In December 2024, Consumers filed an application with the MPSC seeking an annual rate increase of \$248 million based on a 10.25-percent authorized return on equity for the projected 12-month period ending October 31, 2026. In July 2025, Consumers revised its requested increase to \$217 million. In September 2025, the MPSC issued an order authorizing an annual rate increase of \$157.5 million, based on a 9.80-percent authorized return on equity. The new rates become effective in November 2025.

Looking Forward

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

Results of Operations

CMS Energy Consolidated Results of Operations

In Millions, Except Per Share Amounts

September 30	Three Months Ended			Nine Months Ended		
	2025	2024	Change	2025	2024	Change
Net Income Available to Common Stockholders	\$ 275	\$ 251	\$ 24	\$ 775	\$ 731	\$ 44
Basic Earnings Per Average Common Share	\$ 0.92	\$ 0.84	\$ 0.08	\$ 2.59	\$ 2.45	\$ 0.14
Diluted Earnings Per Average Common Share	\$ 0.92	\$ 0.84	\$ 0.08	\$ 2.59	\$ 2.45	\$ 0.14

In Millions

September 30	Three Months Ended			Nine Months Ended		
	2025	2024	Change	2025	2024	Change
Electric utility	\$ 326	\$ 273	\$ 53	\$ 617	\$ 540	\$ 77
Gas utility	—	11	(11)	238	195	43
NorthStar Clean Energy	11	6	5	15	53	(38)
Corporate interest and other	(62)	(39)	(23)	(95)	(57)	(38)
Net Income Available to Common Stockholders	\$ 275	\$ 251	\$ 24	\$ 775	\$ 731	\$ 44

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

	<i>In Millions</i>	
	Three Months Ended	Nine Months Ended
September 30, 2024	\$ 251	\$ 731
<i>Reasons for the change</i>		
<i>Consumers electric utility and gas utility</i>		
Electric sales	\$ 26	\$ 41
Gas sales	7	87
Electric rate increase	99	179
Gas rate increase, including gain amortization in lieu of rate relief	10	45
Lower service restoration costs, net of 2025 deferred storm expense ¹	7	30
Higher income tax expense	(45)	(83)
Higher depreciation and amortization	(13)	(48)
Higher interest charges	(14)	(30)
Higher other maintenance and operating expenses	(13)	(26)
Higher property taxes, reflecting higher capital spending	(9)	(23)
Higher IT expenses, including early-phase ERP implementation costs	(7)	(17)
Higher vegetation management cost	(2)	(15)
Lower other income, net of expenses	(4)	(14)
Absence of ASP revenue, net of expense, due to sale in 2024	—	(6)
	\$ 42	\$ 120
NorthStar Clean Energy (see below for additional detail)	5	(38)
Corporate interest and other	(23)	(38)
September 30, 2025	\$ 275	\$ 775

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

Consumers Electric Utility Results of Operations

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

	<i>In Millions</i>	
	Three Months Ended	Nine Months Ended
September 30, 2024	\$ 273	\$ 540
<i>Reasons for the change</i>		
<i>Electric deliveries¹ and rate increases</i>		
Rate increase, including return on higher renewable capital spending	\$ 99	\$ 179
Higher revenue due primarily to higher sales volume	19	19
Higher (lower) energy waste reduction program revenues	(3)	12
Higher other revenues	7	22
	\$ 122	\$ 232
<i>Maintenance and other operating expenses</i>		
Lower service restoration costs, net of 2025 deferred storm expense ²	7	30
Higher vegetation management cost	(2)	(15)
Lower (higher) energy waste reduction program costs	3	(12)
Higher IT expenses, including early-phase ERP implementation costs	(5)	(12)
Higher other maintenance and operating expenses	(6)	(16)
	(3)	(25)
<i>Depreciation and amortization</i>		
Increased plant in service, reflecting higher capital spending	(10)	(31)
<i>General taxes</i>		
Higher property taxes, reflecting higher capital spending	(6)	(13)
<i>Other income, net of expenses</i>		
	(1)	(8)
<i>Interest charges</i>		
	(10)	(21)
<i>Income taxes</i>		
Higher electric utility pre-tax earnings	(24)	(36)
Absence of 2024 deferred tax liability reversals	(11)	(11)
State deferred tax remeasurement ³	—	(8)
Higher other income taxes	(4)	(2)
	(39)	(57)
September 30, 2025	\$ 326	\$ 617

¹ For the three months ended September 30, deliveries to end-use customers were 10.4 billion kWh in 2025 and 10.1 billion kWh in 2024. For the nine months ended September 30, deliveries to end-use customers were 28.4 billion kWh in 2025 and 28.0 billion kWh in 2024.

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

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

Consumers Gas Utility Results of Operations

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

	<i>In Millions</i>	
	Three Months Ended	Nine Months Ended
September 30, 2024	\$ 11	\$ 195
<i>Reasons for the change</i>		
<i>Gas deliveries¹ and rate increases</i>		
Rate increase	\$ 8	\$ 26
Higher revenue due primarily to the absence of 2024 unfavorable weather	6	88
Higher energy waste reduction program revenues	—	12
Absence of ASP business revenue ²	—	(19)
ASP gain customer bill credit ²	(2)	(20)
	\$ 12	\$ 87
<i>Maintenance and other operating expenses</i>		
Amortization of ASP gain ²	5	38
Absence of 2024 ASP business expense ²	—	13
Higher IT expenses, including early-phase ERP implementation costs	(2)	(5)
Higher energy waste reduction program costs	—	(12)
Higher maintenance and other operating expenses	(7)	(10)
	(4)	24
<i>Depreciation and amortization</i>		
Increased plant in service, reflecting higher capital spending	(3)	(17)
<i>General taxes</i>		
Higher property taxes, reflecting higher capital spending	(3)	(10)
<i>Other income, net of expenses</i>		
	(3)	(6)
<i>Interest charges</i>		
	(4)	(9)
<i>Income taxes</i>		
Lower (higher) gas utility pre-tax earnings	1	(18)
Absence of 2024 deferred tax liability reversals	(5)	(5)
State deferred tax remeasurement ³	—	(4)
Lower (higher) other income taxes	(2)	1
	(6)	(26)
September 30, 2025	\$ —	\$ 238

¹ For the three months ended September 30, deliveries to end-use customers were 30 Bcf in 2025 and 28 Bcf in 2024. For the nine months ended September 30, deliveries to end-use customers were 213 Bcf in 2025 and 186 Bcf in 2024.

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

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

NorthStar Clean Energy Results of Operations

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

	<i>In Millions</i>	
	Three Months Ended	Nine Months Ended
September 30, 2024	\$ 6	\$ 53
<i>Reason for the change</i>		
Higher (lower) earnings from renewable projects ¹	\$ 3	\$ (24)
Higher (lower) operating earning ²	7	(16)
Lower (higher) other expense	2	(1)
Lower (higher) tax expense	(7)	3
September 30, 2025	\$ 11	\$ 15

¹ Reflects timing of achieving commercial operation during the nine months ended September 30, 2025 versus 2024.

² Reflects planned major outage at DIG during the nine months ended September 30, 2025 versus 2024.

Corporate Interest and Other Results of Operations

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

	<i>In Millions</i>	
	Three Months Ended	Nine Months Ended
September 30, 2024	\$ (39)	\$ (57)
<i>Reasons for the change</i>		
Higher interest charges	\$ (16)	\$ (44)
Lower gains on extinguishment of debt	(20)	(18)
Lower other expense	5	14
Lower tax expense	8	10
September 30, 2025	\$ (62)	\$ (95)

Cash Position, Investing, and Financing

At September 30, 2025, CMS Energy had \$432 million of consolidated cash and cash equivalents, which included \$70 million of restricted cash and cash equivalents. At September 30, 2025, Consumers had \$311 million of consolidated cash and cash equivalents, which included \$69 million of restricted cash and cash equivalents.

Operating Activities

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

	<i>In Millions</i>
CMS Energy, including Consumers	
Nine Months Ended September 30, 2024	\$ 1,967
<i>Reasons for the change</i>	
Higher net income	\$ 68
Non-cash transactions ¹	89
Unfavorable impact of changes in core working capital, ² due primarily to fluctuations in gas prices and higher undercollections of PSCR	(277)
Unfavorable impact of changes in other assets and liabilities, due primarily to higher service restoration expenditures ³	(90)
Nine Months Ended September 30, 2025	\$ 1,757
Consumers	
Nine Months Ended September 30, 2024	\$ 2,014
<i>Reasons for the change</i>	
Higher net income	\$ 122
Non-cash transactions ¹	(42)
Unfavorable impact of changes in core working capital, ² due primarily to fluctuations in gas prices and higher undercollections of PSCR	(271)
Unfavorable impact of changes in other assets and liabilities, due primarily to higher service restoration expenditures ³	(49)
Nine Months Ended September 30, 2025	\$ 1,774

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

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

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

Investing Activities

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

	<i>In Millions</i>
CMS Energy, including Consumers	
Nine Months Ended September 30, 2024	\$ (2,101)
<i>Reasons for the change</i>	
Higher capital expenditures	\$ (650)
Absence of proceeds from sale of ASP business in 2024	(124)
Other investing activities, primarily higher cost to retire property	(51)
Nine Months Ended September 30, 2025	\$ (2,926)
Consumers	
Nine Months Ended September 30, 2024	\$ (1,994)
<i>Reasons for the change</i>	
Higher capital expenditures	\$ (390)
Absence of proceeds from sale of ASP business in 2024	(124)
Other investing activities, primarily higher cost to retire property	(61)
Nine Months Ended September 30, 2025	\$ (2,569)

Financing Activities

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

	<i>In Millions</i>
CMS Energy, including Consumers	
Nine Months Ended September 30, 2024	\$ 353
<i>Reasons for the change</i>	
Higher debt issuances	\$ 1,064
Higher debt retirements	(95)
Lower repayments of notes payable	28
Higher issuances of common stock	90
Higher payments of dividends on common stock	(26)
Proceeds from sale of membership interests in VIEs	44
Other financing activities, primarily higher debt issuance costs	(35)
Nine Months Ended September 30, 2025	\$ 1,423
Consumers	
Nine Months Ended September 30, 2024	\$ 327
<i>Reasons for the change</i>	
Lower debt issuances	\$ (174)
Lower debt retirements	222
Lower repayments of notes payable	28
Higher stockholder contribution from CMS Energy	375
Absence of return of stockholder contribution to CMS Energy in 2024	320
Higher payments of dividends on common stock	(105)
Other financing activities	(6)
Nine Months Ended September 30, 2025	\$ 987

Capital Resources and Liquidity

CMS Energy and Consumers expect to have sufficient liquidity to fund their present and future commitments. CMS Energy uses dividends and tax-sharing payments from its subsidiaries and external financing and capital transactions to invest in its utility and non-utility businesses, retire debt, pay dividends, and fund its other obligations. The ability of CMS Energy's subsidiaries, including Consumers, to pay dividends to CMS Energy depends upon each subsidiary's revenues, earnings, cash needs, and other factors. In addition, Consumers' ability to pay dividends is restricted by certain terms included in its articles of incorporation and potentially by FERC requirements and provisions under the Federal Power Act and the Natural Gas Act. For additional details on Consumers' dividend restrictions, see Notes to the Unaudited Consolidated Financial Statements—Note 3, Financings and Capitalization—Dividend Restrictions. During the nine months ended September 30, 2025, Consumers paid \$649 million in dividends on its common stock to CMS Energy.

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

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

In 2023, CMS Energy entered into an equity offering program under which it may sell shares of its common stock having an aggregate sales price of up to \$1 billion in privately negotiated transactions, in "at the market" offerings, or through forward sales transactions. During the nine months ended September 30, 2025, CMS Energy settled forward sale contracts issued under this program, resulting in net proceeds of \$349 million. An additional settlement in October 2025 resulted in net proceeds of \$147 million. Following these settlements, CMS Energy has \$8 million in outstanding forward contracts under the program, maturing through November 30, 2026.

CMS Energy, NorthStar Clean Energy, and Consumers use revolving credit facilities for general working capital purposes and to issue letters of credit. At September 30, 2025, CMS Energy had \$515 million of its revolving credit facility available, NorthStar Clean Energy had \$62 million available under its revolving credit facility, and Consumers had \$1.2 billion available under its revolving credit facilities.

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

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

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

	Limit	Actual
CMS Energy, parent only		
Debt to capital ¹	≤ 0.70 to 1.0	0.55 to 1.0
NorthStar Clean Energy, including subsidiaries		
Debt to capital ²	≤ 0.50 to 1.0	0.13 to 1.0
Debt service coverage ²	≥ 2.00 to 1.0	3.41 to 1.0
Pledged equity interests to aggregate commitment ^{2,3}	≥ 2.00 to 1.0	2.06 to 1.0
Consumers		
Debt to capital ⁴	≤ 0.65 to 1.0	0.51 to 1.0

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

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

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

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

Outlook

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

During 2025, the federal government has taken numerous executive actions related to tariffs and trade, alleviating regulatory burdens, and environmental regulations and enforcement, among other areas of potential impact. Many of these actions require further implementation by federal agencies and departments, and some of these actions will likely be subject to further judicial review. CMS Energy and Consumers continue to monitor these executive actions and will continue taking steps to deliver consistently on the triple bottom line.

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

Consumers Electric Utility Outlook and Uncertainties

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

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

While Consumers' existing Clean Energy Plan, established under Michigan's integrated resource planning process, provides a path towards meeting these requirements, Consumers will file updates to the plan in 2026 to expand and solidify that path. Additionally, Consumers filed updates to its renewable energy plan to achieve the increased renewable energy standard; the MPSC approved updates in September 2025. Together, these plans will enable Consumers to achieve 60-percent renewable energy by 2035 and 100-percent clean energy by 2040. Also through its Clean Energy Plan, Consumers continues to make progress on expanding its customer programs, namely its demand response, energy efficiency, and conservation voltage reduction programs, as well as increasing its renewable energy generation.

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

In May 2025, before the planned closure of J.H. Campbell, the U.S. Secretary of Energy issued an emergency order under section 202(c) of the Federal Power Act requiring J.H. Campbell to continue operating for 90 days, through August 20, 2025. The order stated that continued operation of J.H. Campbell was required to meet an energy emergency across MISO's North and Central regions. Consistent with the Federal Power Act and the U.S. Department of Energy regulations, the order authorizes Consumers to obtain cost recovery at FERC. As directed, Consumers continued to make J.H. Campbell available in the MISO market and filed a complaint at FERC seeking a modification of the MISO Tariff to establish a mechanism for recovery and allocation of the cost to comply with this order. In August 2025, FERC issued an order granting Consumers' requested relief and ordered MISO to file a revised tariff, which MISO filed in September 2025 and is pending at FERC. For additional discussion of this FERC proceeding, see Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters.

On August 20, 2025, the U.S. Secretary of Energy issued a second emergency order requiring J.H. Campbell to continue operating for another 90 days, through November 19, 2025. Consumers is complying with the August 2025 emergency order and will seek recovery of its compliance costs at a later date, consistent with rate recovery sought for the May 2025 emergency order.

Following the May 2025 emergency order, several third-party stakeholders, including the Michigan Attorney General, the Organization of MISO States, and a group of environmental and public interest groups, asked the U.S. Department of Energy to reconsider the May 2025 emergency order. In July 2025, after the U.S. Department of Energy took no action on those requests, several parties filed petitions for review of the May 2025 emergency order in federal court. The requests for rehearing were subsequently denied, and similar challenges to the August 2025 order are underway. The U.S. Department of Energy may issue more orders to require the continued operation of J.H. Campbell. While the timing and content of future orders and the outcome of third-party legal challenges are not yet known, Consumers is committed to pursuing cost recovery as provided for under applicable laws, orders, and proceedings.

In order to continue providing controllable sources of electricity to customers while expanding its investment in renewable energy, Consumers purchased the Covert Generating Station, a natural gas-fueled generating facility with 1,200 MW of nameplate capacity, in 2023.

In September 2025, Consumers entered into a PPA with the MCV Partnership for the purchase of up to 1,240 MW of capacity and associated energy from the MCV Facility. The agreement is effective from June 1, 2030 through May 31, 2040. Under the terms of the agreement, Consumers will pay a monthly capacity charge of \$5.00 per MWh of available capacity. Energy payments include a fixed component designed to recover non-fuel operating costs and a variable component based on the MCV Partnership's cost of production for energy delivered to Consumers. The agreement, which is subject to MPSC approval, supports Consumers' ongoing resource adequacy and energy supply planning efforts.

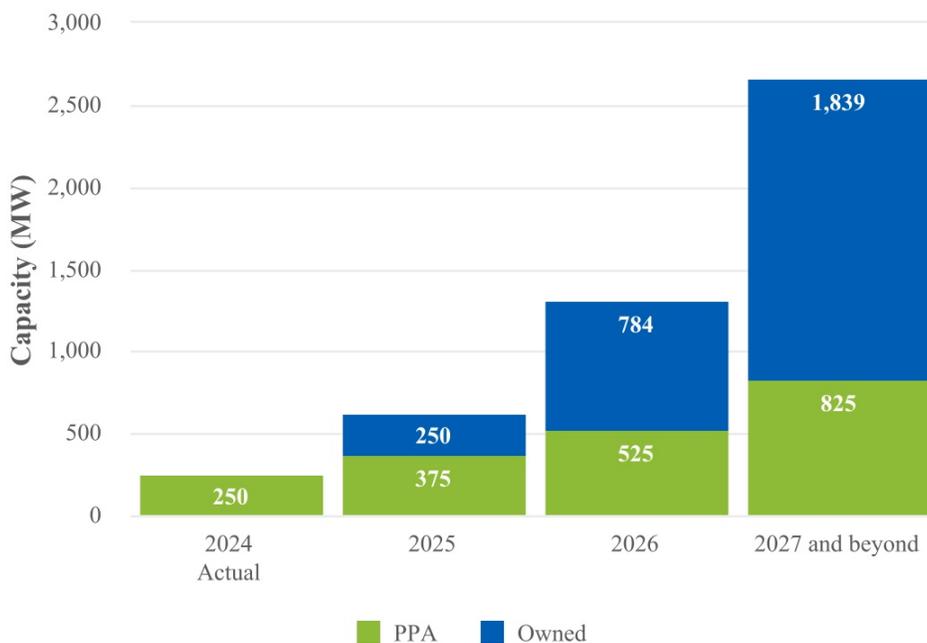
Consumers has also contracted to purchase 700 MW of capacity from battery storage facilities, which will be located in Michigan's Lower Peninsula and are expected to be operational by 2028. In an April 2025 report, the MPSC Staff indicated that Consumers' share of the 2,500-MW statewide energy storage target established by the 2023 Energy Law is 817 MW.

Under its Clean Energy Plan, Consumers bids new capacity and energy competitively and the actual composition of Consumers' future portfolio will reflect the results of that competitive bid process. Consumers earns a return equal to its pre-tax weighted-average cost of capital on permanent capital structure on payments made under new clean, renewable, or energy storage PPAs with non-affiliated entities.

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

Consumers' updates to its renewable energy plan, which were approved by the MPSC in September 2025, include up to 2,800 MW of new, competitively bid wind energy resources and up to 9,000 MW of both purchased and owned solar energy resources. Of the proposed solar energy resources, 1,060 MW will support Consumers' voluntary green pricing program that provides full-service electric customers with the opportunity to advance the development of renewable energy beyond present state requirements.

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



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

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

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

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

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

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

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

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

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

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

Sale of Hydroelectric Facilities: In September 2025, Consumers signed an agreement to sell its 13 river hydroelectric dams, which are located throughout Michigan, to a non-affiliated company. Additionally, Consumers signed an agreement to purchase power generated by the facilities for 30 years, at a price that reflects the counterparty's acceptance of the risks and rewards of ownership of the facilities, including FERC licensing obligations. The agreements are contingent upon MPSC and FERC approval, which must be filed within 60 days of signing. Timing of the regulatory review process is uncertain and could extend 12 to 18 months or longer. In Consumers' most recent electric rate case, the MPSC approved deferred accounting treatment for costs of owning and operating the hydroelectric dams pending and until completion of the transaction. At September 30, 2025, the net book value of the hydroelectric facilities was immaterial.

To ensure necessary staffing at the hydroelectric facilities through the anticipated sale, Consumers has provided current employees at the facilities with a retention incentive program. Subsequently, to ensure continued safe operation of the facilities after the sale, the buyer will offer employment to the current hydroelectric employees for a period of at least a year. The retention incentive benefits are contingent upon MPSC and FERC approval of the sale transaction.

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

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

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

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

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

In October 2025, Consumers revised its requested increase to \$447 million. Presented in the following table are the components of the revised requested increase in revenue:

	<i>In Millions</i>
Projected 12-Month Period Ending April 30	2027
Investment in rate base	\$ 192
Operating and maintenance costs	157
Cost of capital	67
Sales and other revenue	7
Subtotal	\$ 423
Surcharge	24
Total	\$ 447

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

Retention Incentive Program: Under its Clean Energy Plan, Consumers had planned to retire J.H. Campbell in 2025. In order to ensure necessary staffing at J.H. Campbell through the planned retirement, Consumers implemented a retention incentive program. The terms of and Consumers' obligations under this program have not been modified as a result of the U.S. Secretary of Energy's emergency orders requiring the continued operation of J.H. Campbell. Consumers will make final payments due under this retention plan in November 2025. The aggregate cost of the J.H. Campbell program is estimated to be \$48 million; Consumers expects to recognize \$5 million of retention benefit costs in 2025. The MPSC has approved deferred accounting treatment for these costs; these expenses are deferred as a regulatory asset. Should the U.S. Department of Energy issue additional emergency orders that require the continued operation of J.H. Campbell beyond November 2025, Consumers is prepared to implement additional retention measures to ensure appropriate staffing levels. For additional details on this program, see Notes to the Unaudited Consolidated Financial Statements—Note 12, Exit Activities and Asset Sales. For additional details on the emergency orders, see Notes to the Unaudited Consolidated Financial Statements—Note 1, Regulatory Matters.

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

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

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

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

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

In March 2024, the EPA published a lower fine particulate matter NAAQS, which will likely result in newly designated nonattainment areas in Michigan starting in 2026. EGLE has proposed nonattainment areas for Kalamazoo and Wayne counties. Consumers does not have any fossil-fuel-fired generating

assets in these counties and therefore does not expect this rule to have significant impacts on its existing assets or its clean energy strategy. Consumers will continue to monitor NAAQS rulemakings and litigation to evaluate potential impacts to its generating assets.

In December 2024, the EPA published a proposal to amend new source performance standards for new, modified, and reconstructed stationary combustion turbines to lower emission limits for NOx. This may impact future gas-fueled, simple-cycle turbine projects. Consumers, in conjunction with industry stakeholder groups, submitted comments on the proposed rule and will continue monitoring this rulemaking.

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

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

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

In September 2025, the EPA proposed a rule to reconsider the Greenhouse Gas Reporting Program by eliminating the reporting obligations from numerous emission sources, including Consumers' electric generation sites and distribution equipment. Reporting of carbon dioxide to the EPA, however, will continue for sources subject to the Clean Air Act Acid Rain Program, which includes Consumers' fossil-fuel-fired electric generation. This change could result in inconsistent approaches in greenhouse gas accounting for industrial sources.

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

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

Increased frequency or intensity of severe or extreme weather events, including those due to climate change, could materially impact Consumers' facilities, energy sales, and results of operations. Consumers is unable to predict these events; however, Consumers evaluates the potential physical impacts of climate

change on its operations, including increased frequency or intensity of storm activity; increased precipitation; increased temperature; and changes in lake and river levels. Consumers released a report addressing the physical risks of climate change on its infrastructure in 2022. Consumers is taking steps to mitigate these risks as appropriate.

While Consumers cannot predict the outcome of changes in U.S. policy or of other legislative, executive, or regulatory initiatives involving the potential regulation or reporting of greenhouse gases, it intends to move forward with its Clean Energy Plan, its present net-zero goals, and its emphasis on reliable and resilient electric supply. Litigation, international treaties, executive orders, federal laws and regulations (including regulations by the EPA), and state laws and regulations, if enacted or ratified, could ultimately impact Consumers. Consumers may be required to:

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

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

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

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

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

Consumers, with agreement from EGLE, completed the work necessary to initiate closure by excavating CCRs or placing a final cover over each of its relevant CCR units prior to the closure initiation deadline set forth in the 2015 CCR rule. Consumers has historically been authorized to recover in electric rates costs related to coal ash disposal sites that supported power generation. Consumers completed an assessment of inactive facilities as required by the 2024 CCR rule, and did not identify any legacy impoundments. Consumers is continuing evaluations related to CCR management units and 2024 CCR rule impacts on the state permit program.

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

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

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

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

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

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

Additionally, Consumers regularly monitors proposed changes to the listing status of several species within its operational area. A change in species listed under the Endangered Species Act, or under

Michigan's equivalent law, may impact Consumers' costs to mitigate its impact on protected species and habitats at certain existing facilities as well as siting choices for new facilities.

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

Consumers Gas Utility Outlook and Uncertainties

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

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

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

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

2024 Gas Rate Case: In December 2024, Consumers filed an application with the MPSC seeking an annual rate increase of \$248 million based on a 10.25-percent authorized return on equity for the projected 12-month period ending October 31, 2026. In July 2025, Consumers revised its requested increase to \$217 million. In September 2025, the MPSC issued an order authorizing an annual rate increase of \$157.5 million, based on a 9.80-percent authorized return on equity. The new rates become effective in November 2025.

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

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

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

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

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

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

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

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

In September 2025, the EPA proposed a rule to reconsider the Greenhouse Gas Reporting Program by removing the natural gas distribution segment from the reporting obligations under the petroleum and natural gas source category, and proposed to delay the reporting obligations until 2034 for the remaining sources in this category. This change could result in inconsistent approaches in greenhouse gas accounting for industrial sources.

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

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

In 2022, Consumers also announced a net-zero greenhouse gas emissions target for its entire natural gas system by 2050. This includes suppliers and customers, and has an interim goal of reducing customer emissions by 25 percent by 2035. Consumers' Natural Gas Delivery Plan, a rolling ten-year investment plan to deliver safe, reliable, clean, and affordable natural gas to customers, outlines ways in which Consumers can make early progress toward these goals in a cost-effective manner, including energy waste reduction, carbon offsets, and renewable natural gas supply.

Consumers has already initiated work in these key areas by continuing to expand its energy waste reduction targets and by offering gas customers the ability to offset their carbon footprint associated with natural gas use by purchasing renewable natural gas and/or carbon credits associated with Michigan forest preservation. Consumers has two renewable natural gas facilities under construction scheduled for commercial operation in 2026 and is monitoring regulatory developments and market conditions closely as part of its ongoing evaluation of the projects. Consumers is evaluating and monitoring newer technologies to determine their role in achieving Consumers' interim and long-term net-zero goals, including biofuels, geothermal, synthetic methane, carbon capture sequestration systems, and other innovative technologies.

NorthStar Clean Energy Outlook and Uncertainties

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

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

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

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

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

CSAPR requires Michigan and many other states to improve air quality by reducing power plant emissions that, according to EPA modeling, contribute to ground-level ozone in other downwind states. Since its 2015 effective date, CSAPR has been revised several times. In 2023, the EPA published the Good Neighbor Plan, a revision to CSAPR. This regulation tightens emission allowance budgets for electric generating units in Michigan between 2023 and 2029 and changes the mechanism for allocating

such allowances on a year-over-year basis beginning in 2026. In June 2024, the U.S. Supreme Court stayed the Good Neighbor Plan pending judicial review and, as a result, the allowance requirements for Michigan reverted back to the prior effective CSAPR ozone season rule. Under the 2023 revision, NorthStar Clean Energy could incur increased costs to purchase allowances or retrofit equipment.

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

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

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

In September 2025, the EPA proposed a rule to reconsider the Greenhouse Gas Reporting Program by eliminating the reporting obligations from numerous emission sources. Reporting of carbon dioxide to the EPA, however, will continue for sources subject to the Clean Air Act Acid Rain Program. This change could result in inconsistent approaches in greenhouse gas accounting for industrial sources.

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

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

Other Outlook and Uncertainties

Union Contract: The UWUA represents Consumers' operating, maintenance, construction, and customer contact center employees. In May 2025, Consumers and the UWUA ratified a new five-year contract for its operating, maintenance, and construction bargaining unit. In July 2025, Consumers and the UWUA ratified a new five-year contract with customer contact center employees. In September 2025, Consumers and the United Steelworkers labor union ratified a new five-year contract for its Zeeland plant bargaining unit.

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

interest expense in lieu of 100-percent bonus depreciation. Based on guidance available to date, CMS Energy and Consumers evaluated the provisions of the OBBBA and concluded that the legislation is not expected to have a material impact on their respective financial statements. This conclusion is subject to change as additional guidance or interpretations become available.

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

New Accounting Standards

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

CMS Energy Corporation

Consolidated Statements of Income (Unaudited)

In Millions, Except Per Share Amounts

September 30	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
Operating Revenue	\$ 2,021	\$ 1,743	\$ 6,306	\$ 5,526
Operating Expenses				
Fuel for electric generation	153	179	504	449
Purchased and interchange power	513	362	1,332	1,025
Purchased power – related parties	21	19	69	53
Cost of gas sold	42	32	549	449
Maintenance and other operating expenses	416	412	1,218	1,218
Depreciation and amortization	288	273	964	914
General taxes	107	99	378	356
Total operating expenses	1,540	1,376	5,014	4,464
Operating Income	481	367	1,292	1,062
Other Income (Expense)				
Non-operating retirement benefits, net	48	42	137	127
Other income	19	46	128	167
Other expense	(5)	(4)	(16)	(11)
Total other income	62	84	249	283
Interest Charges				
Interest on long-term debt	204	176	590	519
Interest expense – related parties	2	3	8	9
Other interest expense	—	4	(1)	11
Allowance for borrowed funds used during construction	(3)	(5)	(9)	(11)
Total interest charges	203	178	588	528
Income Before Income Taxes	340	273	953	817
Income Tax Expense	68	26	193	125
Net Income	272	247	760	692
Loss Attributable to Noncontrolling Interests	(5)	(6)	(22)	(46)
Net Income Attributable to CMS Energy	277	253	782	738
Preferred Stock Dividends	2	2	7	7
Net Income Available to Common Stockholders	\$ 275	\$ 251	\$ 775	\$ 731
Basic Earnings Per Average Common Share	\$ 0.92	\$ 0.84	\$ 2.59	\$ 2.45
Diluted Earnings Per Average Common Share	\$ 0.92	\$ 0.84	\$ 2.59	\$ 2.45

The accompanying notes are an integral part of these statements.

CMS Energy Corporation

Consolidated Statements of Comprehensive Income (Unaudited)

In Millions

September 30	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
Net Income	\$ 272	\$ 247	\$ 760	\$ 692
Retirement Benefits Liability				
Amortization of net actuarial loss, net of tax of \$—, \$1, \$—, and \$1	1	—	1	1
Amortization of prior service credit, net of tax of \$— for all periods	(1)	—	(1)	—
Other Comprehensive Income	—	—	—	1
Comprehensive Income	272	247	760	693
Comprehensive Loss Attributable to Noncontrolling Interests	(5)	(6)	(22)	(46)
Comprehensive Income Attributable to CMS Energy	\$ 277	\$ 253	\$ 782	\$ 739

The accompanying notes are an integral part of these statements.

(This page intentionally left blank)

CMS Energy Corporation

Consolidated Statements of Cash Flows (Unaudited)

	<i>In Millions</i>	
Nine Months Ended September 30	2025	2024
Cash Flows from Operating Activities		
Net income	\$ 760	\$ 692
<i>Adjustments to reconcile net income to net cash provided by operating activities</i>		
Depreciation and amortization	964	914
Deferred income taxes and investment tax credits	171	103
Other non-cash operating activities and reconciling adjustments	(181)	(152)
<i>Changes in assets and liabilities</i>		
Accounts receivable and accrued revenue	114	185
Inventories	(134)	51
Accounts payable and accrued rate refunds	(6)	15
Other current assets and liabilities	103	(3)
Other non-current assets and liabilities	(34)	162
Net cash provided by operating activities	1,757	1,967
Cash Flows from Investing Activities		
Capital expenditures (excludes assets placed under finance lease)	(2,750)	(2,100)
Proceeds from sale of ASP business	—	124
Cost to retire property and other investing activities	(176)	(125)
Net cash used in investing activities	(2,926)	(2,101)
Cash Flows from Financing Activities		
Proceeds from issuance of debt	2,511	1,447
Retirement of debt	(884)	(789)
Decrease in notes payable	(65)	(93)
Issuance of common stock	373	283
Payment of dividends on common and preferred stock	(496)	(470)
Proceeds from the sale of membership interests in VIEs	44	—
Other financing costs	(60)	(25)
Net cash provided by financing activities	1,423	353
Net Increase in Cash and Cash Equivalents, Including Restricted Amounts	254	219
Cash and Cash Equivalents, Including Restricted Amounts, Beginning of Period	178	248
Cash and Cash Equivalents, Including Restricted Amounts, End of Period	\$ 432	\$ 467
Other Non-cash Investing and Financing Activities		
<i>Non-cash transactions</i>		
Capital expenditures not paid	\$ 586	\$ 387

The accompanying notes are an integral part of these statements.

CMS Energy Corporation

Consolidated Balance Sheets (Unaudited)

ASSETS

	<i>In Millions</i>	
	September 30 2025	December 31 2024
Current Assets		
Cash and cash equivalents	\$ 362	\$ 103
Restricted cash and cash equivalents	70	75
Accounts receivable and accrued revenue, less allowance of \$28 in 2025 and \$23 in 2024	922	1,049
Accounts receivable – related parties	12	14
<i>Inventories at average cost</i>		
Gas in underground storage	566	435
Materials and supplies	307	299
Generating plant fuel stock	30	35
Deferred property taxes	294	448
Regulatory assets	84	229
Prepayments and other current assets	98	103
Total current assets	2,745	2,790
Plant, Property, and Equipment		
Plant, property, and equipment, gross	36,583	34,932
Less accumulated depreciation and amortization	10,051	9,569
Plant, property, and equipment, net	26,532	25,363
Construction work in progress	3,158	2,098
Total plant, property, and equipment	29,690	27,461
Other Non-current Assets		
Regulatory assets	3,545	3,569
Accounts receivable	18	20
Investments	64	69
Postretirement benefits	1,744	1,627
Other	202	384
Total other non-current assets	5,573	5,669
Total Assets	\$ 38,008	\$ 35,920

LIABILITIES AND EQUITY

	<i>In Millions</i>	
	September 30 2025	December 31 2024
Current Liabilities		
Current portion of long-term debt and finance leases	\$ 1,162	\$ 1,195
Notes payable	—	65
Accounts payable	1,141	1,085
Accounts payable – related parties	8	8
Accrued rate refunds	9	38
Accrued interest	204	156
Accrued taxes	200	654
Regulatory liabilities	89	111
Other current liabilities	239	209
Total current liabilities	3,052	3,521
Non-current Liabilities		
Long-term debt	16,774	15,194
Non-current portion of finance leases	137	112
Regulatory liabilities	4,104	4,067
Postretirement benefits	92	96
Asset retirement obligations	731	728
Deferred investment tax credit	119	122
Deferred income taxes	3,172	2,925
Other non-current liabilities	396	407
Total non-current liabilities	25,525	23,651
Commitments and Contingencies (Notes 1 and 2)		
Equity		
<i>Common stockholders' equity</i>		
Common stock, authorized 350.0 shares in both periods; outstanding 304.3 shares in 2025 and 298.8 shares in 2024	3	3
Other paid-in capital	6,355	6,009
Accumulated other comprehensive loss	(41)	(41)
Retained earnings	2,323	2,035
Total common stockholders' equity	8,640	8,006
Cumulative redeemable perpetual preferred stock, Series C, authorized 9.2 depository shares; outstanding 9.2 depository shares in both periods	224	224
Total stockholders' equity	8,864	8,230
Noncontrolling interests	567	518
Total equity	9,431	8,748
Total Liabilities and Equity	\$ 38,008	\$ 35,920

The accompanying notes are an integral part of these statements.

CMS Energy Corporation

Consolidated Statements of Changes in Equity (Unaudited)

In Millions, Except Per Share Amounts

September 30	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
Total Equity at Beginning of Period	\$ 8,971	\$ 8,541	\$ 8,748	\$ 8,125
Common Stock				
At beginning and end of period	3	3	3	3
Other Paid-in Capital				
At beginning of period	5,998	5,991	6,009	5,705
Common stock issued	358	10	393	307
Common stock repurchased	(1)	—	(13)	(11)
Adjustment for sale of membership interests in VIEs	—	—	(34)	—
At end of period	6,355	6,001	6,355	6,001
Accumulated Other Comprehensive Loss				
<i>Retirement benefits liability</i>				
At beginning of period	(41)	(45)	(41)	(46)
Amortization of net actuarial loss	1	—	1	1
Amortization of prior service credit	(1)	—	(1)	—
At end of period	(41)	(45)	(41)	(45)
Retained Earnings				
At beginning of period	2,210	1,830	2,035	1,658
Net income attributable to CMS Energy	277	253	782	738
Dividends declared on common stock	(162)	(153)	(487)	(461)
Dividends declared on preferred stock	(2)	(2)	(7)	(7)
At end of period	2,323	1,928	2,323	1,928
Cumulative Redeemable Perpetual Preferred Stock, Series C				
At beginning and end of period	224	224	224	224
Noncontrolling Interests				
At beginning of period	577	538	518	581
Sale of membership interests in VIEs	—	—	78	—
Loss attributable to noncontrolling interests	(5)	(6)	(22)	(46)
Other changes in noncontrolling interests	(5)	(2)	(7)	(5)
At end of period	567	530	567	530
Total Equity at End of Period	\$ 9,431	\$ 8,641	\$ 9,431	\$ 8,641
Dividends declared per common share	\$ 0.5425	\$ 0.5150	\$ 1.6275	\$ 1.5450
Dividends declared per preferred stock Series C depositary share	\$ 0.2625	\$ 0.2625	\$ 0.7875	\$ 0.7875

The accompanying notes are an integral part of these statements.

Consumers Energy Company

Consolidated Statements of Income (Unaudited)

In Millions

September 30	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
Operating Revenue	\$ 1,913	\$ 1,661	\$ 6,007	\$ 5,291
Operating Expenses				
Fuel for electric generation	113	150	419	366
Purchased and interchange power	490	346	1,219	989
Purchased power – related parties	21	19	69	53
Cost of gas sold	40	31	545	447
Maintenance and other operating expenses	388	381	1,137	1,136
Depreciation and amortization	274	261	925	878
General taxes	104	95	369	346
Total operating expenses	1,430	1,283	4,683	4,215
Operating Income	483	378	1,324	1,076
Other Income (Expense)				
Non-operating retirement benefits, net	44	39	128	118
Other income	15	24	44	67
Other expense	(4)	(3)	(11)	(10)
Total other income	55	60	161	175
Interest Charges				
Interest on long-term debt	135	123	388	364
Interest expense – related parties	10	9	30	22
Other interest expense	3	3	6	8
Allowance for borrowed funds used during construction	(3)	(4)	(8)	(8)
Total interest charges	145	131	416	386
Income Before Income Taxes	393	307	1,069	865
Income Tax Expense	79	34	221	139
Net Income	314	273	848	726
Preferred Stock Dividends	—	—	1	1
Net Income Available to Common Stockholder	\$ 314	\$ 273	\$ 847	\$ 725

The accompanying notes are an integral part of these statements.

Consumers Energy Company

Consolidated Statements of Comprehensive Income (Unaudited)

In Millions

September 30	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
Net Income	\$ 314	\$ 273	\$ 848	\$ 726
Retirement Benefits Liability				
Amortization of net actuarial loss, net of tax of \$— for all periods	—	1	—	1
Other Comprehensive Income	—	1	—	1
Comprehensive Income	\$ 314	\$ 274	\$ 848	\$ 727

The accompanying notes are an integral part of these statements.

Consumers Energy Company

Consolidated Statements of Cash Flows (Unaudited)

	<i>In Millions</i>	
Nine Months Ended September 30	2025	2024
Cash Flows from Operating Activities		
Net income	\$ 848	\$ 726
<i>Adjustments to reconcile net income to net cash provided by operating activities</i>		
Depreciation and amortization	925	878
Deferred income taxes and investment tax credits	57	99
Other non-cash operating activities and reconciling adjustments	(111)	(64)
<i>Changes in assets and liabilities</i>		
Accounts and notes receivable and accrued revenue	124	184
Inventories	(137)	50
Accounts payable and accrued rate refunds	1	25
Other current assets and liabilities	121	(29)
Other non-current assets and liabilities	(54)	145
Net cash provided by operating activities	1,774	2,014
Cash Flows from Investing Activities		
Capital expenditures (excludes assets placed under finance lease)	(2,389)	(1,999)
Proceeds from sale of ASP business	—	124
Cost to retire property and other investing activities	(180)	(119)
Net cash used in investing activities	(2,569)	(1,994)
Cash Flows from Financing Activities		
Proceeds from issuance of debt	1,123	1,297
Retirement of debt	(100)	(322)
Decrease in notes payable	(65)	(93)
Stockholder contribution	695	320
Return of stockholder contribution	—	(320)
Payment of dividends on common and preferred stock	(650)	(545)
Other financing costs	(16)	(10)
Net cash provided by financing activities	987	327
Net Increase in Cash and Cash Equivalents, Including Restricted Amounts	192	347
Cash and Cash Equivalents, Including Restricted Amounts, Beginning of Period	119	56
Cash and Cash Equivalents, Including Restricted Amounts, End of Period	\$ 311	\$ 403
Other Non-cash Investing and Financing Activities		
<i>Non-cash transactions</i>		
Capital expenditures not paid	\$ 453	\$ 382

The accompanying notes are an integral part of these statements.

Consumers Energy Company

Consolidated Balance Sheets (Unaudited)

ASSETS

	<i>In Millions</i>	
	September 30 2025	December 31 2024
Current Assets		
Cash and cash equivalents	\$ 242	\$ 44
Restricted cash and cash equivalents	69	75
Accounts receivable and accrued revenue, less allowance of \$28 in 2025 and \$23 in 2024	890	1,019
Accounts and notes receivable – related parties	10	17
<i>Inventories at average cost</i>		
Gas in underground storage	566	435
Materials and supplies	299	291
Generating plant fuel stock	28	30
Deferred property taxes	294	448
Regulatory assets	84	229
Prepayments and other current assets	90	86
Total current assets	2,572	2,674
Plant, Property, and Equipment		
Plant, property, and equipment, gross	35,021	33,434
Less accumulated depreciation and amortization	9,772	9,310
Plant, property, and equipment, net	25,249	24,124
Construction work in progress	2,532	1,766
Total plant, property, and equipment	27,781	25,890
Other Non-current Assets		
Regulatory assets	3,545	3,569
Accounts receivable	24	26
Accounts and notes receivable – related parties	88	92
Postretirement benefits	1,622	1,514
Other	148	323
Total other non-current assets	5,427	5,524
Total Assets	\$ 35,780	\$ 34,088

LIABILITIES AND EQUITY*In Millions*

	September 30 2025	December 31 2024
Current Liabilities		
Current portion of long-term debt and finance leases	\$ 579	\$ 456
Notes payable	—	65
Accounts payable	984	917
Accounts payable – related parties	15	12
Accrued rate refunds	9	38
Accrued interest	147	130
Accrued taxes	290	678
Regulatory liabilities	89	111
Other current liabilities	204	185
Total current liabilities	2,317	2,592
Non-current Liabilities		
Long-term debt	11,537	10,818
Long-term debt – related parties	1,005	823
Non-current portion of finance leases	84	69
Regulatory liabilities	4,104	4,067
Postretirement benefits	67	70
Asset retirement obligations	696	694
Deferred investment tax credit	119	122
Deferred income taxes	3,185	3,053
Other non-current liabilities	342	349
Total non-current liabilities	21,139	20,065
Commitments and Contingencies (Notes 1 and 2)		
Equity		
<i>Common stockholder's equity</i>		
Common stock, authorized 125.0 shares; outstanding 84.1 shares in both periods	841	841
Other paid-in capital	8,869	8,174
Accumulated other comprehensive loss	(11)	(11)
Retained earnings	2,588	2,390
Total common stockholder's equity	12,287	11,394
Cumulative preferred stock, \$4.50 series, authorized 7.5 shares; outstanding 0.4 shares in both periods	37	37
Total equity	12,324	11,431
Total Liabilities and Equity	\$ 35,780	\$ 34,088

The accompanying notes are an integral part of these statements.

Consumers Energy Company

Consolidated Statements of Changes in Equity (Unaudited)

In Millions

September 30	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
Total Equity at Beginning of Period	\$ 11,698	\$ 10,893	\$ 11,431	\$ 10,800
Common Stock				
At beginning and end of period	841	841	841	841
Other Paid-in Capital				
At beginning of period	8,324	7,759	8,174	7,759
Stockholder contribution	545	—	695	320
Return of stockholder contribution	—	—	—	(320)
At end of period	8,869	7,759	8,869	7,759
Accumulated Other Comprehensive Loss				
Retirement benefits liability				
At beginning of period	(11)	(15)	(11)	(15)
Amortization of net actuarial loss	—	1	—	1
At end of period	(11)	(14)	(11)	(14)
Retained Earnings				
At beginning of period	2,507	2,271	2,390	2,178
Net income	314	273	848	726
Dividends declared on common stock	(233)	(185)	(649)	(544)
Dividends declared on preferred stock	—	—	(1)	(1)
At end of period	2,588	2,359	2,588	2,359
Cumulative Preferred Stock				
At beginning and end of period	37	37	37	37
Total Equity at End of Period	\$ 12,324	\$ 10,982	\$ 12,324	\$ 10,982

The accompanying notes are an integral part of these statements.

CMS Energy Corporation

Consumers Energy Company

Notes to the Unaudited Consolidated Financial Statements

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

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

1: Regulatory Matters

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

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

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

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

J.H. Campbell Emergency Order: In May 2025, before the planned closure of J.H. Campbell, the U.S. Secretary of Energy issued an emergency order under section 202(c) of the Federal Power Act requiring J.H. Campbell to continue operating for 90 days, through August 20, 2025. The order stated that continued operation of J.H. Campbell was required to meet an energy emergency across MISO's North and Central regions. Consistent with the Federal Power Act and the U.S. Department of Energy regulations, the order authorizes Consumers to obtain cost recovery at FERC.

In June 2025, Consumers filed a complaint at FERC seeking a modification of the MISO Tariff that would enable Consumers to recover the costs of complying with the emergency order. Consumers' complaint seeks a mechanism in the MISO Tariff that would allow allocation of those compliance costs across the MISO North and Central regions, consistent with the nature of the energy emergency declared in the U.S. Department of Energy order.

On August 20, 2025, the U.S. Secretary of Energy issued a second emergency order requiring J.H. Campbell to continue operating for another 90 days, through November 19, 2025. Consumers is complying with the August 2025 emergency order. Also in August 2025, FERC granted Consumers' complaint seeking modification of the MISO Tariff and ordered MISO to revise its tariff accordingly. MISO submitted a compliance filing with FERC in September 2025, and FERC approval of the compliance filing remains pending. During the initial emergency order period, the net financial impact of compliance was \$53 million after applying MISO revenues of \$67 million. For the second emergency order period through September 30, 2025, the net financial impact of compliance was \$27 million after applying MISO revenues of \$17 million. Upon FERC approval of the requested tariff modification, Consumers intends to file for recovery and allocation of costs to comply with the emergency orders across the region specified by the emergency orders. The ultimate financial impact remains subject to the outcome of the FERC proceeding and any future guidance or interpretation.

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

2: Contingencies and Commitments

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

CMS Energy Contingencies

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

At September 30, 2025, CMS Energy had a recorded liability of \$47 million for its remaining obligations for environmental remediation. CMS Energy calculated this liability based on discounted projected costs, using a discount rate of 4.34 percent and an inflation rate of 1 percent on annual operating and maintenance costs. The undiscounted amount of the remaining obligation is \$59 million. CMS Energy expects to pay the following amounts for long-term leachate disposal and operating and maintenance costs during the remainder of 2025 and in each of the next five years:

	<i>In Millions</i>					
	2025	2026	2027	2028	2029	2030
Long-term leachate disposal and operating and maintenance costs	\$ 1	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4

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

Consumers Electric Utility Contingencies

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

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

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

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

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

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

In order to enforce their rights under the contract and parent guaranty, and to pursue appropriate damages, Consumers and DTE Electric filed a complaint against TAES and Toshiba in the U.S. District Court for the Eastern District of Michigan in 2022. TAES and Toshiba filed a motion to dismiss the complaint, along with an answer and counterclaims seeking approximately \$15 million in damages related to payments allegedly owed under the parties' contract. As a co-owner of Ludington, Consumers would be liable for 51 percent of any such damages, if liability and damages were proven. The court denied the motion to dismiss filed by TAES and Toshiba. The trial is scheduled to begin in the fourth quarter of 2025. Consumers believes the counterclaims filed by TAES and Toshiba are without merit, but cannot predict the financial impact or outcome of this matter. An unfavorable outcome could have a material adverse effect on CMS Energy's and Consumers' financial condition, results of operations, or liquidity.

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

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

Consumers Gas Utility Contingencies

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

At September 30, 2025, Consumers had a recorded liability of \$60 million for its remaining obligations for these sites. Consumers expects to pay the following amounts for remediation and other response activity costs during the remainder of 2025 and in each of the next five years:

	<i>In Millions</i>					
	2025	2026	2027	2028	2029	2030
Remediation and other response activity costs	\$ —	\$ 3	\$ 8	\$ 25	\$ 11	\$ 3

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

Pursuant to orders issued by the MPSC, Consumers defers its MGP-related remediation costs and recovers them from its customers over a ten-year period. At September 30, 2025, Consumers had a regulatory asset of \$85 million related to the MGP sites.

Guarantees

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

					<i>In Millions</i>
Guarantee Description	Issue Date	Expiration Date	Maximum Obligation	Carrying Amount	
CMS Energy, including Consumers					
Indemnity obligations from sale of membership interests in VIEs ¹	various	various	\$ 229	\$	—
Indemnity obligations from stock and asset sale agreements ²	various	indefinite	152		—
Guarantee ³	2011	indefinite	30		—
Consumers					
Guarantee ³	2011	indefinite	\$ 30	\$	—

- ¹ These obligations arose from the sale of membership interests in Aviator Wind, Newport Solar Holdings, and NWO Holdco to tax equity investors. NorthStar Clean Energy provided certain indemnity obligations that protect the tax equity investors against losses incurred as a result of breaches of representations and warranties under the associated limited liability company agreements. These obligations are generally capped at an amount equal to the tax equity investor's capital contributions plus a specified return, less any distributions and tax benefits it receives, in connection with its membership interest. For any indemnity obligations related to Aviator Wind, NorthStar Clean Energy would recover 49 percent of any amounts paid to the tax equity investor from the other owner of Aviator Wind Equity Holdings. Additionally, Aviator Wind holds insurance coverage that would partially protect against losses incurred as a result of certain failures to qualify for production tax credits. For further details on NorthStar Clean Energy's ownership interest in Aviator Wind, Newport Solar Holdings, and NWO Holdco, see Note 11, Variable Interest Entities.
- ² These obligations arose from stock and asset sale agreements under which CMS Energy or a subsidiary of CMS Energy indemnified the purchaser for losses resulting from various matters, including claims related to taxes. The maximum obligation amount is mostly related to an Equatorial Guinea tax claim.
- ³ This obligation comprises a guarantee provided by Consumers to the U.S. Department of Energy in connection with a settlement agreement regarding damages resulting from the department's failure to accept spent nuclear fuel from nuclear power plants formerly owned by Consumers.

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

Other Contingencies

In addition to the matters disclosed in this Note and Note 1, Regulatory Matters, there are certain other lawsuits and administrative proceedings before various courts and governmental agencies, as well as unasserted claims that may result in such proceedings, arising in the ordinary course of business to which CMS Energy, Consumers, and certain other subsidiaries of CMS Energy are parties. These other lawsuits, proceedings, and unasserted claims may involve personal injury, property damage, contracts, environmental matters, federal and state taxes, rates, licensing, employment, and other matters. Certain of these matters, while potentially substantial, are covered by insurance and the insurer or insurers are

involved in the relevant proceedings. Further, CMS Energy and Consumers occasionally self-report certain regulatory non-compliance matters that may or may not eventually result in administrative proceedings. CMS Energy and Consumers believe that the outcome of any one of these proceedings and potential claims will not have a material negative effect on their consolidated results of operations, financial condition, or liquidity.

3: Financings and Capitalization

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

	Principal (In Millions)	Interest Rate (%)	Issuance Date	Maturity Date
CMS Energy, parent only				
Junior subordinated notes ¹	\$ 1,000	6.500	February 2025	June 2055
Term loan credit agreement	110	variable	February 2025	December 2025
Total CMS Energy, parent only	\$ 1,110			
NorthStar Clean Energy, including subsidiaries				
Construction financing agreement ²	\$ 179	variable	February 2025	Five years after conversion date ²
Total NorthStar Clean Energy, including subsidiaries	\$ 179			
Consumers				
First mortgage bonds	\$ 500	4.500	May 2025	January 2031
First mortgage bonds	625	5.050	May 2025	May 2035
Total Consumers	\$ 1,125			
Total CMS Energy	\$ 2,414			

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

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

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

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

CMS Energy's Purchase of Consumers' First Mortgage Bonds: CMS Energy purchased Consumers' first mortgage bonds with a principal balance of \$184 million during the nine months ended September 30, 2025 in exchange for cash of \$109 million. On a consolidated basis, CMS Energy's

repurchase of Consumers' first mortgage bonds was accounted for as a debt extinguishment and resulted in a pre-tax gain of \$72 million during the nine months ended September 30, 2025, which was recorded in other income on CMS Energy's consolidated statements of income. Interest expense related to the repurchased bonds was \$8 million for the three months ended September 30, 2025 and \$21 million for the nine months ended September 30, 2025, which was recorded in interest expense - related parties on Consumers' consolidated statements of income.

CMS Energy purchased Consumers' first mortgage bonds with a principal balance of \$69 million during the three months ended September 30, 2024 and \$311 million during the nine months ended September 30, 2024, in exchange for cash of \$49 million and \$218 million, respectively. On a consolidated basis, CMS Energy's repurchase of Consumers' first mortgage bonds was accounted for as a debt extinguishment and resulted in a pre-tax gain of \$20 million for the three months ended September 30, 2024 and a pre-tax gain of \$90 million for the nine months ended September 30, 2024, which was recorded in other income on its consolidated statements of income. Interest expense related to the repurchased bonds was \$5 million for the three months ended September 30, 2024 and \$13 million for the nine months ended September 30, 2024, which was recorded in interest expense - related parties on Consumers' consolidated statements of income.

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

<i>In Millions</i>					
Expiration Date	Amount of Facility		Amount Borrowed	Letters of Credit Outstanding	Amount Available
CMS Energy, parent only					
December 14, 2027 ¹	\$	550	\$ —	\$ 35	\$ 515
September 30, 2026		50	—	50	—
NorthStar Clean Energy, including subsidiaries					
May 30, 2028 ²	\$	250	\$ 180	\$ 8	\$ 62
December 25, 2025 ³		37	—	37	—
Upon completion of construction project ⁴		19	—	12	7
Consumers					
December 14, 2027 ⁵	\$	1,100	\$ —	\$ 10	\$ 1,090
November 18, 2025 ⁵		250	—	112	138
March 31, 2028		50	—	42	8

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

² Obligations under this facility are secured by certain pledged equity interests in subsidiaries of NorthStar Clean Energy; under the terms of this facility, the interests may not be sold by NorthStar Clean Energy unless there is an agreed-upon substitution for the pledged equity interests. At September 30, 2025, the net book value of the pledged equity interests was \$515 million. Also under the terms of this facility, NorthStar Clean Energy may be restricted from remitting cash dividends to CMS Energy in the event of default.

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

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

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

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

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

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

NorthStar Clean Energy's Supplier Financing Program: Under a supplier financing program, NorthStar Clean Energy agrees to pay a bank that is acting as its payment agent the stated amount of confirmed invoices from participating suppliers on the original maturity dates of the invoices. The bank is required to pay the supplier invoices that have been confirmed as valid under the program in full within 135 days of the invoice date. NorthStar Clean Energy does not provide collateral or a guarantee to the bank in support of its payment obligations under the agreement, nor does it pay a fee for the service. NorthStar Clean Energy or the bank may terminate the supplier financing program agreement upon 30 days prior written notice to the other party. At September 30, 2025, obligations under this program accounted for as accounts payable on CMS Energy's consolidated balance sheets were \$79 million.

Dividend Restrictions: At September 30, 2025, payment of dividends by CMS Energy on its common stock was limited to \$8.6 billion under provisions of the Michigan Business Corporation Act of 1972.

Under the provisions of its articles of incorporation, at September 30, 2025, Consumers had \$2.5 billion of unrestricted retained earnings available to pay dividends on its common stock to CMS Energy. Provisions of the Federal Power Act and the Natural Gas Act appear to restrict dividends payable by Consumers to the amount of Consumers' retained earnings. Several decisions from FERC suggest that, under a variety of circumstances, dividends from Consumers on its common stock would not be limited to amounts in Consumers' retained earnings. Any decision by Consumers to pay dividends on its common stock in excess of retained earnings would be based on specific facts and circumstances and would be subject to a formal regulatory filing process.

During the nine months ended September 30, 2025, Consumers paid \$649 million in dividends on its common stock to CMS Energy.

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

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

maturity dates, and presently intends to physically settle the contracts by delivering shares of its common stock.

During the three months ended September 30, 2025, CMS Energy entered into forward sale agreements for approximately 2.1 million shares at a weighted average initial forward price of \$72.42 per share. During the same period, CMS Energy settled forward sale contracts under this program by issuing approximately 5.0 million shares at a weighted average price of \$70.52 per share, resulting in net proceeds of \$349 million.

In October 2025, CMS Energy completed an additional settlement issuing approximately 2.0 million shares at a weighted average price of \$72.73, resulting in net proceeds of \$147 million. Following these transactions, outstanding forward contracts under the program have an aggregate sales price of \$8 million, maturing through November 30, 2026.

The initial forward price in the forward equity sale contracts includes a deduction for commissions and will be adjusted on a daily basis over the term based on an interest rate factor and decreased on certain dates by certain predetermined amounts to reflect expected dividend payments. No amounts are recorded on CMS Energy's consolidated balance sheets until settlements of the forward equity sale contracts occur. If CMS Energy had elected to net share settle or net cash settle the contracts as of September 30, 2025, it would have been required to deliver 21,313 shares or pay \$2 million in cash.

4: Fair Value Measurements

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

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

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

Assets and Liabilities Measured at Fair Value on a Recurring Basis

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

	<i>In Millions</i>			
	CMS Energy, including Consumers		Consumers	
	September 30 2025	December 31 2024	September 30 2025	December 31 2024
<i>Assets¹</i>				
Cash equivalents	\$ 75	\$ 27	\$ —	\$ —
Restricted cash equivalents	70	75	69	75
Nonqualified deferred compensation plan assets	35	34	27	25
Derivative instruments	3	2	3	2
Total assets	\$ 183	\$ 138	\$ 99	\$ 102
<i>Liabilities¹</i>				
Nonqualified deferred compensation plan liabilities	\$ 35	\$ 34	\$ 27	\$ 25
Derivative instruments	4	—	—	—
Total liabilities	\$ 39	\$ 34	\$ 27	\$ 25

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

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

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

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

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

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

nine months ended September 30, 2025. The fair value of these swaps recorded in other non-current liabilities on CMS Energy's consolidated balance sheets totaled \$4 million at September 30, 2025.

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

5: Financial Instruments

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

<i>In Millions</i>											
	September 30, 2025					December 31, 2024					
	Carrying Amount	Fair Value				Carrying Amount	Fair Value				
		Total	Level				Total	Level			
			1	2	3			1	2	3	
CMS Energy, including Consumers											
<i>Assets</i>											
Long-term receivables ¹	\$ 7	\$ 6	\$ —	\$ —	\$ 6	\$ 9	\$ 8	\$ —	\$ —	\$ 8	
<i>Liabilities</i>											
Long-term debt ²	17,930	16,993	2,111	12,932	1,950	16,386	14,876	1,018	11,952	1,906	
Long-term payables ³	8	8	—	—	8	9	9	—	—	9	
Consumers											
<i>Assets</i>											
Long-term receivables ¹	\$ 7	\$ 6	\$ —	\$ —	\$ 6	\$ 9	\$ 8	\$ —	\$ —	\$ 8	
Notes receivable – related party ⁴	91	91	—	—	91	94	94	—	—	94	
<i>Liabilities</i>											
Long-term debt ⁵	12,109	11,132	—	9,182	1,950	11,270	9,940	—	8,034	1,906	
Long-term debt – related party ⁶	1,005	674	—	674	—	823	549	—	549	—	
Long-term payables	2	2	—	—	2	4	4	—	—	4	

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

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

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

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

⁵ Includes current portion of long-term debt of \$572 million at September 30, 2025 and \$452 million at December 31, 2024.

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

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

6: Retirement Benefits

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

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

	DB Pension Plans				OPEB Plan			
	Three Months Ended		Nine Months Ended		Three Months Ended		Nine Months Ended	
September 30	2025	2024	2025	2024	2025	2024	2025	2024
<i>In Millions</i>								
CMS Energy, including Consumers								
<i>Net periodic credit</i>								
Service cost	\$ 6	\$ 7	\$ 19	\$ 21	\$ 2	\$ 2	\$ 6	\$ 8
Interest cost	27	26	81	78	10	10	32	32
Expected return on plan assets	(57)	(58)	(171)	(176)	(27)	(28)	(83)	(86)
<i>Amortization of:</i>								
Net loss	3	3	8	9	—	1	2	3
Prior service cost (credit)	1	1	3	3	(8)	(7)	(25)	(23)
Settlement loss	3	3	8	8	—	—	—	—
Net periodic credit	\$ (17)	\$ (18)	\$ (52)	\$ (57)	\$ (23)	\$ (22)	\$ (68)	\$ (66)
Consumers								
<i>Net periodic credit</i>								
Service cost	\$ 6	\$ 7	\$ 18	\$ 20	\$ 2	\$ 2	\$ 6	\$ 8
Interest cost	26	25	77	74	11	11	32	31
Expected return on plan assets	(54)	(56)	(162)	(166)	(26)	(26)	(78)	(80)
<i>Amortization of:</i>								
Net loss	2	3	7	8	—	1	2	3
Prior service cost (credit)	1	1	3	3	(8)	(8)	(25)	(23)
Settlement loss	3	3	8	8	—	—	—	—
Net periodic credit	\$ (16)	\$ (17)	\$ (49)	\$ (53)	\$ (21)	\$ (20)	\$ (63)	\$ (61)

In Consumers' electric and gas rate cases, the MPSC approved a mechanism allowing Consumers to defer for future recovery or refund pension and OPEB expenses above or below the amounts used to set existing rates. Amounts deferred will be collected from or refunded to customers over ten years. At September 30, 2025, CMS Energy, including Consumers, had deferred \$1 million of pension costs and

\$7 million of OPEB credits under this mechanism related to 2025 expense. At September 30, 2024, CMS Energy, including Consumers, had deferred \$12 million of pension credits and \$8 million of OPEB credits under this mechanism related to 2024 expense.

7: Income Taxes

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

Nine Months Ended September 30	2025	2024
CMS Energy, including Consumers		
U.S. federal income tax rate	21.0 %	21.0 %
<i>Increase (decrease) in income taxes from:</i>		
State and local income taxes, net of federal effect ¹	7.2	5.4
Renewable energy tax credits	(5.7)	(6.3)
TCJA excess deferred taxes	(3.5)	(3.8)
Deferred tax adjustment ²	—	(1.9)
Taxes attributable to noncontrolling interests	1.2	1.1
Other, net	0.1	(0.2)
Effective tax rate	20.3 %	15.3 %
Consumers		
U.S. federal income tax rate	21.0 %	21.0 %
<i>Increase (decrease) in income taxes from:</i>		
State and local income taxes, net of federal effect ¹	6.5	5.0
Renewable energy tax credits	(3.6)	(4.4)
TCJA excess deferred taxes	(3.0)	(3.5)
Deferred tax adjustment ²	—	(1.8)
Other, net	(0.2)	(0.2)
Effective tax rate	20.7 %	16.1 %

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

² In September 2024, Consumers recognized a \$16 million tax benefit resulting from the expiration of the statute of limitations associated with audit points for the 2018 and 2019 tax years.

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

Tax Legislation: CMS Energy and Consumers are subject to changing tax laws. In July 2025, President Trump signed into law the OBBBA. The legislation allows for the immediate expensing of domestic research and development costs and includes changes to clean energy tax credits enacted by the

Inflation Reduction Act of 2022. While the OBBBA restores, and makes permanent, the 100-percent bonus depreciation deduction, it also retains a provision that allows utilities to take a full deduction of interest expense in lieu of 100-percent bonus depreciation. Based on guidance available to date, CMS Energy and Consumers evaluated the provisions of the OBBBA and concluded that the legislation is not expected to have a material impact on their respective financial statements. This conclusion is subject to change as additional guidance or interpretations become available.

8: Earnings Per Share—CMS Energy

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

September 30	<i>In Millions, Except Per Share Amounts</i>			
	Three Months Ended		Nine Months Ended	
	2025	2024	2025	2024
<i>Income available to common stockholders</i>				
Income from continuing operations	\$ 272	\$ 247	\$ 760	\$ 692
Less loss attributable to noncontrolling interests	(5)	(6)	(22)	(46)
Less preferred stock dividends	2	2	7	7
Income from continuing operations available to common stockholders – basic and diluted	\$ 275	\$ 251	\$ 775	\$ 731
<i>Average common shares outstanding</i>				
Weighted-average shares – basic	299.7	298.0	298.8	297.5
Add dilutive nonvested stock awards	0.6	0.8	0.6	0.7
Add dilutive forward equity sale contracts	0.1	—	—	—
Weighted-average shares – diluted	300.4	298.8	299.4	298.2
<i>Income from continuing operations per average common share available to common stockholders</i>				
Basic	\$ 0.92	\$ 0.84	\$ 2.59	\$ 2.45
Diluted	0.92	0.84	2.59	2.45

Nonvested Stock Awards

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

Forward Equity Sale Contracts

CMS Energy has entered into forward equity sale contracts. These forward equity sale contracts are non-participating securities. While the forward sale price in the forward equity sale contract is decreased on certain dates by certain predetermined amounts to reflect expected dividend payments, these price

adjustments were set upon inception of the agreement and the forward contract does not give the owner the right to participate in undistributed earnings. Accordingly, the forward equity sale contracts were included in the computation of diluted EPS, but not in the computation of basic EPS.

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

Convertible Securities

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

9: Revenue

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

In Millions

Three Months Ended September 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy ¹	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	\$ 1,675	\$ 233	\$ —	\$ 1,908
Other	—	—	67	67
Revenue recognized from contracts with customers	\$ 1,675	\$ 233	\$ 67	\$ 1,975
Leasing income	—	—	41	41
Financing income	2	1	—	3
Consumers alternative-revenue programs	2	—	—	2
Total operating revenue – CMS Energy	\$ 1,679	\$ 234	\$ 108	\$ 2,021
Consumers				
<i>Consumers utility revenue</i>				
Residential	\$ 842	\$ 139	\$ —	\$ 981
Commercial	577	45	—	622
Industrial	204	6	—	210
Other	52	43	—	95
Revenue recognized from contracts with customers	\$ 1,675	\$ 233	\$ —	\$ 1,908
Financing income	2	1	—	3
Alternative-revenue programs	2	—	—	2
Total operating revenue – Consumers	\$ 1,679	\$ 234	\$ —	\$ 1,913

¹ Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of \$28 million for the three months ended September 30, 2025.

In Millions

Three Months Ended September 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy ¹	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	\$ 1,443	\$ 212	\$ —	\$ 1,655
Other	—	—	56	56
Revenue recognized from contracts with customers	\$ 1,443	\$ 212	\$ 56	\$ 1,711
Leasing income	—	—	26	26
Financing income	4	1	—	5
Consumers alternative-revenue programs	1	—	—	1
Total operating revenue – CMS Energy	\$ 1,448	\$ 213	\$ 82	\$ 1,743
Consumers				
<i>Consumers utility revenue</i>				
Residential	\$ 707	\$ 127		\$ 834
Commercial	486	40		526
Industrial	169	5		174
Other	81	40		121
Revenue recognized from contracts with customers	\$ 1,443	\$ 212		\$ 1,655
Financing income	4	1		5
Alternative-revenue programs	1	—		1
Total operating revenue – Consumers	\$ 1,448	\$ 213		\$ 1,661

¹ Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of \$15 million for the three months ended September 30, 2024.

In Millions

Nine Months Ended September 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy ¹	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	\$ 4,324	\$ 1,665	\$ —	\$ 5,989
Other	—	—	182	182
Revenue recognized from contracts with customers	\$ 4,324	\$ 1,665	\$ 182	\$ 6,171
Leasing income	—	—	117	117
Financing income	7	5	—	12
Consumers alternative-revenue programs	6	—	—	6
Total operating revenue – CMS Energy	\$ 4,337	\$ 1,670	\$ 299	\$ 6,306
Consumers				
<i>Consumers utility revenue</i>				
Residential	\$ 2,055	\$ 1,146		\$ 3,201
Commercial	1,468	374		1,842
Industrial	576	46		622
Other	225	99		324
Revenue recognized from contracts with customers	\$ 4,324	\$ 1,665		\$ 5,989
Financing income	7	5		12
Alternative-revenue programs	6	—		6
Total operating revenue – Consumers	\$ 4,337	\$ 1,670		\$ 6,007

¹ Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of \$82 million for the nine months ended September 30, 2025.

In Millions

Nine Months Ended September 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy ¹	Consolidated
CMS Energy, including Consumers				
Consumers utility revenue	\$ 3,793	\$ 1,480	\$ —	\$ 5,273
Other	—	—	158	158
Revenue recognized from contracts with customers	\$ 3,793	\$ 1,480	\$ 158	\$ 5,431
Leasing income	—	—	77	77
Financing income	8	5	—	13
Consumers alternative-revenue programs	5	—	—	5
Total operating revenue – CMS Energy	\$ 3,806	\$ 1,485	\$ 235	\$ 5,526
Consumers				
<i>Consumers utility revenue</i>				
Residential	\$ 1,779	\$ 998		\$ 2,777
Commercial	1,279	311		1,590
Industrial	499	37		536
Other	236	134		370
Revenue recognized from contracts with customers	\$ 3,793	\$ 1,480		\$ 5,273
Financing income	8	5		13
Alternative-revenue programs	5	—		5
Total operating revenue – Consumers	\$ 3,806	\$ 1,485		\$ 5,291

¹ Amounts represent NorthStar Clean Energy's operating revenue from independent power production and its sales of energy commodities. Certain of NorthStar Clean Energy's power sales agreements are accounted for as operating leases. In addition to fixed payments, these agreements have variable payments based on energy delivered. NorthStar Clean Energy's leasing income included variable lease payments of \$44 million for the nine months ended September 30, 2024.

Electric and Gas Utilities

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

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

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

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

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

CMS Energy and Consumers recorded uncollectible accounts expense of \$10 million for the three months ended September 30, 2025 and \$7 million for the three months ended September 30, 2024. CMS Energy and Consumers recorded uncollectible accounts expense of \$30 million for the nine months ended September 30, 2025 and \$24 million for the nine months ended September 30, 2024.

Consumers' customers are billed monthly in cycles having billing dates that do not generally coincide with the end of a calendar month. This results in customers having received electricity or natural gas that they have not been billed for as of the month-end. Consumers estimates its unbilled revenues by applying an average billed rate to total unbilled deliveries for each customer class. Unbilled revenues, which are recorded as accounts receivable and accrued revenue on CMS Energy's and Consumers' consolidated balance sheets, were \$381 million at September 30, 2025 and \$584 million at December 31, 2024.

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

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

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

10: Reportable Segments

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

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

CMS Energy

The segments reported for CMS Energy are:

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

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

Consumers

The segments reported for Consumers are:

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

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

In Millions

Three Months Ended September 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	\$ 1,679	\$ 234	\$ 108	\$ 2,021	\$ —	\$ 2,021
<i>Operating expenses</i>						
Power supply cost ¹	624	—	63	687	—	687
Cost of gas sold	—	40	2	42	—	42
Maintenance and other operating expenses	285	103	25	413	3	416
Depreciation and amortization	239	35	14	288	—	288
General taxes	81	23	3	107	—	107
Total operating expenses	1,229	201	107	1,537	3	1,540
Operating Income (Loss)	450	33	1	484	(3)	481
Other income	34	22	4	60	2	62
Interest charges	92	53	(1)	144	59	203
Income (Loss) Before Income Taxes	392	2	6	400	(60)	340
Income tax expense	66	2	—	68	—	68
Income (Loss) From Continuing Operations	326	—	6	332	(60)	272
Other segment items ²	—	—	5	5	(2)	3
Net Income (Loss) Available to Common Stockholders	\$ 326	\$ —	\$ 11	\$ 337	\$ (62)	\$ 275
Property, plant, and equipment, gross	\$ 21,095 ³	\$ 13,890 ³	\$ 1,568	\$ 36,553	\$ 30	\$ 36,583
Total assets	21,917 ³	13,720 ³	2,229	37,866	142	38,008

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

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

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

In Millions

Three Months Ended September 30, 2025	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	\$ 1,679	\$ 234	\$ 1,913	\$ —	\$ 1,913
<i>Operating expenses</i>					
Power supply cost ¹	624	—	624	—	624
Cost of gas sold	—	40	40	—	40
Maintenance and other operating expenses	285	103	388	—	388
Depreciation and amortization	239	35	274	—	274
General taxes	81	23	104	—	104
Total operating expenses	1,229	201	1,430	—	1,430
Operating Income	450	33	483	—	483
Other income	34	22	56	(1)	55
Interest charges	92	53	145	—	145
Income (Loss) Before Income Taxes	392	2	394	(1)	393
Income tax expense	66	2	68	11	79
Net Income (Loss) Available to Common Stockholder	\$ 326	\$ —	\$ 326	\$ (12)	\$ 314
Property, plant, and equipment, gross	\$ 21,095 ²	\$ 13,890 ²	\$ 34,985	\$ 36	\$ 35,021
Total assets	21,972 ²	13,762 ²	35,734	46	35,780

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

² Amounts include a portion of Consumers' other common assets attributable to both the electric and gas utility businesses.

In Millions

Three Months Ended September 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	\$ 1,448	\$ 213	\$ 82	\$ 1,743	\$ —	\$ 1,743
<i>Operating expenses</i>						
Power supply cost ¹	515	—	45	560	—	560
Cost of gas sold	—	31	1	32	—	32
Maintenance and other operating expenses	282	99	27	408	4	412
Depreciation and amortization	229	32	12	273	—	273
General taxes	75	20	4	99	—	99
Total operating expenses	1,101	182	89	1,372	4	1,376
Operating Income (Loss)	347	31	(7)	371	(4)	367
Other income	35	25	3	63	21	84
Interest charges	82	49	2	133	45	178
Income (Loss) Before Income Taxes	300	7	(6)	301	(28)	273
Income tax expense (benefit)	27	(4)	(6)	17	9	26
Income (Loss) From Continuing Operations	273	11	—	284	(37)	247
Other segment items ²	—	—	6	6	(2)	4
Net Income (Loss) Available to Common Stockholders	\$ 273	\$ 11	\$ 6	\$ 290	\$ (39)	\$ 251
Property, plant, and equipment, gross	\$ 19,826 ³	\$ 12,840 ³	\$ 1,469	\$ 34,135	\$ 21	\$ 34,156
Total assets	20,222 ³	12,809 ³	1,711	34,742	75	34,817

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

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

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

In Millions

Three Months Ended September 30, 2024	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	\$ 1,448	\$ 213	\$ 1,661	\$ —	\$ 1,661
<i>Operating expenses</i>					
Power supply cost ¹	515	—	515	—	515
Cost of gas sold	—	31	31	—	31
Maintenance and other operating expenses	282	99	381	—	381
Depreciation and amortization	229	32	261	—	261
General taxes	75	20	95	—	95
Total operating expenses	1,101	182	1,283	—	1,283
Operating Income	347	31	378	—	378
Other income	35	25	60	—	60
Interest charges	82	49	131	—	131
Income Before Income Taxes	300	7	307	—	307
Income tax expense (benefit)	27	(4)	23	11	34
Net Income (Loss) Available to Common Stockholder	\$ 273	\$ 11	\$ 284	\$ (11)	\$ 273
Property, plant, and equipment, gross	\$ 19,826 ²	\$ 12,840 ²	\$ 32,666	\$ 29	\$ 32,695
Total assets	20,279 ²	12,852 ²	33,131	29	33,160

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

² Amounts include a portion of Consumers' other common assets attributable to both the electric and gas utility businesses.

Presented in the following tables is financial information by segment:

In Millions

Nine Months Ended September 30, 2025	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	\$ 4,337	\$ 1,670	\$ 299	\$ 6,306	\$ —	\$ 6,306
<i>Operating expenses</i>						
Power supply cost ¹	1,707	—	198	1,905	—	1,905
Cost of gas sold	—	545	4	549	—	549
Maintenance and other operating expenses	806	331	73	1,210	8	1,218
Depreciation and amortization	682	243	39	964	—	964
General taxes	227	142	9	378	—	378
Total operating expenses	3,422	1,261	323	5,006	8	5,014
Operating Income (Loss)	915	409	(24)	1,300	(8)	1,292
Other income	97	64	7	168	81	249
Interest charges	263	152	(2)	413	175	588
Income (Loss) Before Income Taxes	749	321	(15)	1,055	(102)	953
Income tax expense (benefit)	131	83	(7)	207	(14)	193
Income (Loss) From Continuing Operations	618	238	(8)	848	(88)	760
Other segment items ²	(1)	—	23	22	(7)	15
Net Income (Loss) Available to Common Stockholders	\$ 617	\$ 238	\$ 15	\$ 870	\$ (95)	\$ 775

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

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

In Millions

Nine Months Ended September 30, 2025	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	\$ 4,337	\$ 1,670	\$ 6,007	\$ —	\$ 6,007
<i>Operating expenses</i>					
Power supply cost ¹	1,707	—	1,707	—	1,707
Cost of gas sold	—	545	545	—	545
Maintenance and other operating expenses	806	331	1,137	—	1,137
Depreciation and amortization	682	243	925	—	925
General taxes	227	142	369	—	369
Total operating expenses	3,422	1,261	4,683	—	4,683
Operating Income	915	409	1,324	—	1,324
Other income	97	64	161	—	161
Interest charges	263	152	415	1	416
Income (Loss) Before Income Taxes	749	321	1,070	(1)	1,069
Income tax expense	131	83	214	7	221
Net Income (Loss)	618	238	856	(8)	848
Other segment items ²	(1)	—	(1)	—	(1)
Net Income (Loss) Available to Common Stockholder	\$ 617	\$ 238	\$ 855	\$ (8)	\$ 847

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

² Other segment items comprise of preferred stock dividends.

In Millions

Nine Months Ended September 30, 2024	Electric Utility	Gas Utility	NorthStar Clean Energy	Segments Total	Other Reconciling Items	Consolidated
CMS Energy, including Consumers						
Operating revenue	\$ 3,806	\$ 1,485	\$ 235	\$ 5,526	\$ —	\$ 5,526
<i>Operating expenses</i>						
Power supply cost ¹	1,408	—	119	1,527	—	1,527
Cost of gas sold	—	447	2	449	—	449
Maintenance and other operating expenses	781	355	73	1,209	9	1,218
Depreciation and amortization	651	226	36	913	1	914
General taxes	214	132	10	356	—	356
Total operating expenses	3,054	1,160	240	4,454	10	4,464
Operating Income (Loss)	752	325	(5)	1,072	(10)	1,062
Other income	105	70	11	186	97	283
Interest charges	242	143	3	388	140	528
Income (Loss) Before Income Taxes	615	252	3	870	(53)	817
Income tax expense (benefit)	74	57	(3)	128	(3)	125
Income (Loss) From Continuing Operations	541	195	6	742	(50)	692
Other segment items ²	(1)	—	47	46	(7)	39
Net Income (Loss) Available to Common Stockholders	\$ 540	\$ 195	\$ 53	\$ 788	\$ (57)	\$ 731

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

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

In Millions

Nine Months Ended September 30, 2024	Electric Utility	Gas Utility	Segments Total	Other Reconciling Items	Consolidated
Consumers					
Operating revenue	\$ 3,806	\$ 1,485	\$ 5,291	\$ —	\$ 5,291
<i>Operating expenses</i>					
Power supply cost ¹	1,408	—	1,408	—	1,408
Cost of gas sold	—	447	447	—	447
Maintenance and other operating expenses	781	355	1,136	—	1,136
Depreciation and amortization	651	226	877	1	878
General taxes	214	132	346	—	346
Total operating expenses	3,054	1,160	4,214	1	4,215
Operating Income (Loss)	752	325	1,077	(1)	1,076
Other income	105	70	175	—	175
Interest charges	242	143	385	1	386
Income (Loss) Before Income Taxes	615	252	867	(2)	865
Income tax expense	74	57	131	8	139
Net Income (Loss)	541	195	736	(10)	726
Other segment items ²	(1)	—	(1)	—	(1)
Net Income (Loss) Available to Common Stockholder	\$ 540	\$ 195	\$ 735	\$ (10)	\$ 725

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

² Other segment items comprise of preferred stock dividends.

11: Variable Interest Entities

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

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

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

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

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

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

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

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

	<i>In Millions</i>	
	September 30, 2025	December 31, 2024
<i>Current</i>		
Cash and cash equivalents	\$ 19	\$ 18
Accounts receivable	3	4
Prepayments and other current assets	3	3
<i>Non-current</i>		
Plant, property, and equipment, net	1,028	1,024
Other non-current assets	6	3
Total assets¹	\$ 1,059	\$ 1,052
<i>Current</i>		
Accounts payable	\$ 9	\$ 8
Accrued taxes	1	—
<i>Non-current</i>		
Non-current portion of finance leases	24	23
Asset retirement obligations	35	33
Other non-current liabilities	3	—
Total liabilities	\$ 72	\$ 64

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

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

Consumers' wholly-owned subsidiaries, Consumers 2014 Securitization Funding and Consumers 2023 Securitization Funding, are VIEs designed to collateralize Consumers' securitization bonds. These entities are considered VIEs primarily because their equity capitalization is insufficient to support their operations. Consumers is the primary beneficiary of and consolidates these VIEs, as it has the power to direct the activities that most significantly impact the economic performance of the companies, as well as the obligation to absorb losses or the right to receive benefits from the companies. The VIEs' primary assets and liabilities comprise non-current regulatory assets and long-term debt. The carrying value of the regulatory assets on Consumers' consolidated balance sheets was \$580 million at September 30, 2025 and \$666 million at December 31, 2024. The carrying value of securitization bonds on Consumers' consolidated balance sheets was \$600 million at September 30, 2025 and \$700 million at December 31, 2024.

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

Presented in the following table is information about these partnerships:

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

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

The creditors of these partnerships do not have recourse to the general credit of CMS Energy, NorthStar Clean Energy, or Consumers. NorthStar Clean Energy’s maximum risk exposure to these partnerships is generally limited to its investment in the partnerships, which is included in investments on CMS Energy’s consolidated balance sheets in the amount of \$59 million at September 30, 2025 and \$64 million at December 31, 2024.

12: Exit Activities and Asset Sales

J.H. Campbell Retirement: Under its Clean Energy Plan, Consumers had planned to retire J.H. Campbell in 2025. In order to ensure necessary staffing at J.H. Campbell through the planned retirement, Consumers implemented a retention incentive program. The terms of and Consumers’ obligations under this program have not been modified as a result of the U.S. Secretary of Energy’s emergency orders requiring the continued operation of J.H. Campbell. Consumers will make final payments due under this retention plan in November 2025. Should the U.S. Department of Energy issue additional emergency orders that require the continued operation of J.H. Campbell beyond November 2025, Consumers is prepared to implement additional retention measures to ensure appropriate staffing levels. For additional information on the emergency orders associated with J.H. Campbell, see Note 1, Regulatory Matters.

The aggregate cost of the J.H. Campbell program is estimated to be \$48 million. The MPSC has approved deferred accounting treatment for these costs; these expenses are deferred as a regulatory asset. As of September 30, 2025, the cumulative cost incurred and deferred as a regulatory asset related to the J.H. Campbell retention incentive program was \$47 million. Amounts deferred under the program are subsequently collected from customers over three years.

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

	<i>In Millions</i>	
Nine Months Ended September 30	2025	2024
Retention benefit liability at beginning of period	\$ 14	\$ 16
Costs deferred as a regulatory asset ¹	4	6
Retention benefit liability at the end of the period ²	\$ 18	\$ 22

¹ Includes \$1 million for the three months ended September 30, 2025 and \$3 million for the three months ended September 30, 2024.

² Includes current portion of other liabilities of \$18 million at September 30, 2025 and \$9 million at September 30, 2024.

Sale of Hydroelectric Facilities: In September 2025, Consumers signed an agreement to sell its 13 river hydroelectric dams, which are located throughout Michigan, to a non-affiliated company. Additionally, Consumers signed an agreement to purchase power generated by the facilities for 30 years, at a price that reflects the counterparty’s acceptance of the risks and rewards of ownership of the facilities, including FERC licensing obligations. The agreements are contingent upon MPSC and FERC approval, which must be filed within 60 days of signing. Timing of the regulatory review process is uncertain and could extend 12 to 18 months or longer. In Consumers’ most recent electric rate case, the MPSC approved deferred accounting treatment for costs of owning and operating the hydroelectric dams pending and until completion of the transaction. At September 30, 2025, the net book value of the hydroelectric facilities was immaterial.

To ensure necessary staffing at the hydroelectric facilities through the anticipated sale, Consumers has provided current employees at the facilities with a retention incentive program. Subsequently, to ensure continued safe operation of the facilities after the sale, the buyer will offer employment to the current hydroelectric employees for a period of at least a year. The retention incentive benefits are contingent upon MPSC and FERC approval of the sale transaction.

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

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

Item 3. Quantitative and Qualitative Disclosures About Market Risk

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

Item 4. Controls and Procedures

CMS Energy

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

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

Consumers

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

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

Part II—Other Information

Item 1. Legal Proceedings

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

Item 1A. Risk Factors

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

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

Unregistered Sales of Equity Securities

None.

Issuer Repurchases of Equity Securities

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

Period	Total Number of Shares Purchased ¹	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares That May Yet Be Purchased Under Publicly Announced Plans or Programs
July 1, 2025 to July 31, 2025	313	\$ 69.41	—	—
August 1, 2025 to August 31, 2025	—	—	—	—
September 1, 2025 to September 30, 2025	2,862	70.23	—	—
Total	3,175	\$ 70.15	—	—

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

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

CMS Energy's and Consumers' Exhibit Index

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

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

Exhibits	Description
31.1	— CMS Energy's certification of the CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	— CMS Energy's certification of the CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.3	— Consumers' certification of the CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.4	— Consumers' certification of the CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	— CMS Energy's certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	— Consumers' certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	— Inline XBRL Instance Document
101.SCH	— Inline XBRL Taxonomy Extension Schema
101.CAL	— Inline XBRL Taxonomy Extension Calculation Linkbase
101.DEF	— Inline XBRL Taxonomy Extension Definition Linkbase
101.LAB	— Inline XBRL Taxonomy Extension Labels Linkbase
101.PRE	— Inline XBRL Taxonomy Extension Presentation Linkbase
104	— Cover Page Interactive Data File (the cover page XBRL tags are embedded in the Inline XBRL document)

Signatures

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

CMS ENERGY CORPORATION

Dated: October 30, 2025

By:

/s/ Rejji P. Hayes

Rejji P. Hayes

Executive Vice President and Chief Financial Officer

CONSUMERS ENERGY COMPANY

Dated: October 30, 2025

By:

/s/ Rejji P. Hayes

Rejji P. Hayes

Executive Vice President and Chief Financial Officer

Certification of Garrick J. Rochow

I, Garrick J. Rochow, certify that:

1. I have reviewed this quarterly report on Form 10-Q of CMS Energy Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 30, 2025

By:

/s/ Garrick J. Rochow

Garrick J. Rochow
President and Chief Executive Officer

Certification of Rejji P. Hayes

I, Rejji P. Hayes, certify that:

1. I have reviewed this quarterly report on Form 10-Q of CMS Energy Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 30, 2025

By:

/s/ Rejji P. Hayes

Rejji P. Hayes

Executive Vice President and Chief Financial Officer

Certification of Garrick J. Rochow

I, Garrick J. Rochow, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Consumers Energy Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 30, 2025

By:

/s/ Garrick J. Rochow

Garrick J. Rochow
President and Chief Executive Officer

Certification of Rejji P. Hayes

I, Rejji P. Hayes, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Consumers Energy Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 30, 2025

By:

/s/ Rejji P. Hayes

Rejji P. Hayes

Executive Vice President and Chief Financial Officer

Certification of CEO and CFO Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Quarterly Report on Form 10-Q of CMS Energy Corporation (the “Company”) for the quarterly period ended September 30, 2025 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), Garrick J. Rochow, as President and Chief Executive Officer of the Company, and Rejji P. Hayes, as Executive Vice President and Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Garrick J. Rochow

Name: Garrick J. Rochow
Title: President and Chief Executive Officer
Date: October 30, 2025

/s/ Rejji P. Hayes

Name: Rejji P. Hayes
Title: Executive Vice President and Chief Financial Officer
Date: October 30, 2025

Certification of CEO and CFO Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Quarterly Report on Form 10-Q of Consumers Energy Company (the “Company”) for the quarterly period ended September 30, 2025 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), Garrick J. Rochow, as President and Chief Executive Officer of the Company, and Rejji P. Hayes, as Executive Vice President and Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Garrick J. Rochow

Name: Garrick J. Rochow
Title: President and Chief Executive Officer
Date: October 30, 2025

/s/ Rejji P. Hayes

Name: Rejji P. Hayes
Title: Executive Vice President and Chief Financial Officer
Date: October 30, 2025

BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

Federal Power Act Section 202(c))
Emergency Order: Midcontinent)
Independent System Operator)
(MISO))
_____)

Order No. 202-25-7

Exhibit to
Motion to Intervene and Request for Rehearing and Stay of
Public Interest Organizations

Filed September 5, 2025

Exhibit 69

Powers Sept. Decl.

DECLARATION OF BILL POWERS, P.E.

I, Bill Powers, P.E., declare as follows:

1. I am the principal of Powers Engineering, an engineering firm that consults on issues related to the operation of, and control of pollution from, power plants, including coal-fired power plants. My office is located in San Diego, California.

2. My professional and educational experience is set forth in the curriculum vitae attached to this declaration (Attachment A) and in the declaration I prepared on the U.S. Department of Energy's and Secretary of Energy Christopher Wright's ("DOE") May 23, 2025 order regarding Consumers Energy Company's ("Consumers") J.H. Campbell coal-fired power plant (Order No. 202-25-3) ("May Order"). That declaration, attached here as Attachment B, was filed with DOE on June 18, 2025 as an attachment to the Request for Rehearing of the May Order filed by Sierra Club, Natural Resources Defense Council, Michigan Environmental Council, Environmental Defense Fund, Environmental Law and Policy Center, Vote Solar, Public Citizen, Union of Concerned Scientists, Ecology Center, and Urban Core Collective ("Public Interest Organizations").

3. My June 18 declaration provides my opinion on: (A) the extent to which Campbell can operate reliably after May 31, 2025; (B) whether Campbell can operate effectively as a peaking unit; and (C) easily attainable steps DOE can require to ensure Campbell's operations are consistent with environmental requirements and minimize adverse environmental impacts. I did not opine on the claimed energy emergency described in the Order, nor did I opine on alternatives to Campbell that are available to DOE to effectively address the circumstances described in the Order.

4. I am familiar with DOE's August 20, 2025 order regarding Consumers' Campbell plant (Order No. 202-25-7) ("August Order"). I have been asked by the Public Interest Organizations to opine on: (A) the continued validity of the opinion I provided in my June 18 declaration; (B) the extent to which Campbell can reliably operate in light of any new information that has emerged since my June 18 declaration; and (C) environmental implications of Campbell's continued operation, including adverse environmental impacts and consistency with environmental requirements.

A. The continued validity of the opinion I provided in my June 18 declaration.

5. The opinion I provided in my June 18 declaration continues to be valid. I am not aware of any new information that weakens or undermines my June 18 declaration. In fact, as I discuss below, I am aware of new information that reinforces my opinion. Thus, I fully reaffirm and incorporate here my June 18 declaration.

6. Additionally, I do not identify anything in the August Order that responds to my June 18 declaration. I also do not identify in the August Order material that addresses the types of matters addressed in my June 18 declaration.

B. The extent to which Campbell can reliably operate in light of any new information that has emerged since my June 18 declaration.

7. In my professional opinion, it is unlikely that Campbell can be depended upon to operate reliably in its current state as of August 2025. This is especially true if the plant is required to run for extended periods of time; is required to stop and start numerous times; or attempts to start up at an accelerated rate in response to extreme demand conditions. The reasons for that opinion are set forth in my June 18 declaration at pages 4–17 (which, again, I incorporate here).

8. As I explained in my June 18 declaration, each of Campbell's three units suffered outages in 2023 and 2024 that tended to be long, recurrent, and due to the types of failures that are the predictable result of old equipment, minimal capital spending, and minimal major maintenance spending.¹ The record evidence shows that, in the 2022-2025 period, Consumers significantly cut back on capital expenditures and major maintenance on Campbell Units 1, 2, and 3:

- **Capital spending:** Consumers reduced its capital spending by approximately **91 percent** across all three units compared to the amount the company projected to spend if Units 1-2 operated until 2031 and Unit 3 operated until 2039.²
- **Major maintenance spending:** Consumers reduced its major maintenance spending by approximately **62-78 percent** across all three units compared to the amount the company projected to spend if Units 1-2 operated until 2031 and Unit 3 operated until 2039.³

The reductions in Consumers' capital and major maintenance spending on Units 1-3 that followed the Integrated Resource Plan (IRP) that established a May 2025 retirement date are summarized in the following table:

Capital spending	Pre-IRP projected spend 2022-25 (\$MM)	Post-IRP actual/projected spend 2022-25 (\$MM)	% reduction
Units 1&2	60.6	4.1	93
Unit 3	85.5	8.4	90
Major maintenance spending			
Units 1&2	14.4	5.5	62
Unit 3	23.5	5.1	78

¹ Attachment B (June 18 declaration), pp. 4-5.

² Ibid, pp. 5-6.

³ Ibid.

9. Further, Consumers recently confirmed that it did “not record[] any capital expenditures at the Campbell plant in the two-year period prior to May 31, 2025.”⁴ Consumers’ lack of capital expenditures in that two-year period is consistent with the opinion in my June 18 declaration that Consumers has been transitioning from a preventive capital spending and maintenance structure to a reactive, “fix it if it breaks” approach.⁵

10. Campbell will continue to degrade in 2025 to the extent there is a continued lack of capital spending and minimal major maintenance spending. *Id.* at 5.

11. I am not aware of any calculations or itemizations of costs that Consumers has incurred since the May Order.⁶

12. It is my opinion that if Campbell’s ability to operate reliably has improved since my June 18 declaration, it is likely the result of Consumers making capital expenditures or performing major maintenance that it had cancelled after Campbell’s May 31, 2025 retirement date was established in the 2021 Integrated Resource Plan settlement. I identified those foregone capital expenditures and major maintenance projects in my June 18 declaration.⁷ The table below identifies a subset of those cancelled capital and major maintenance projects that are the minimum that would likely be necessary to improve Campbell’s ability to operate reliably.⁸

⁴ RFR Exhibit 101, Consumers, Informal Response to Michigan AG Campbell Questions, June 10, 2025, Question 1 (“Consumers June Responses to AG”).

⁵ Attachment B (June 18 declaration), pp. 15-16.

⁶ RFR Exhibit 101 (Consumers June Responses to AG), Question 2 (stating that Consumers “has not performed any calculations to determine any amounts it could or would include in a request for cost recovery” to comply with the May Order).

⁷ Attachment B (June 18 declaration), pp. 8-14.

⁸ *Ibid.*

Unit 1	Unit 2	Unit 3
Replacement of: <ul style="list-style-type: none"> • Pulse Jet Fabric Filter (PJFF) bags • Boiler components • Superheat outlet pendant • Air preheater baskets 	Replacement of: <ul style="list-style-type: none"> • Horizontal reheat • Selective Catalytic Reduction (SCR) catalyst • Burner assemblies • Turbine reheat stop valve • Boiler components 	Two major maintenance projects: <ul style="list-style-type: none"> • Boiler feedwater pump inspection • Turbine overhaul Replacement of: <ul style="list-style-type: none"> • PJFF bags • High pressure feedwater heater 8A • SCR catalyst

13. New information reinforces my opinion that it is unlikely Campbell can be depended upon to operate reliably. For example, during June 2025—the first full calendar month of operation under the May Order—Unit 1 experienced an outage on June 23 and remained offline the rest of the month.⁹

14. In addition, Unit 2 was largely offline in June 2025, producing power on only four days in a 30-day month. It produced significant amounts of power on only three days, June 28-30, and then operating only at approximately 50 percent of its rated capacity when online.¹⁰ Multiple operational issues contributed to Unit 2’s poor performance. On July 17, 2025, Consumers informed Michigan’s environmental agency that:

[Campbell] Unit 2 was offline on May 19, 2025 and there was no immediate plan as of May 27, 2025 to bring it back online. But after further evaluation and interpretation of the DOE order . . . it has been determined that it is necessary to attempt to repair and operate Unit 2¹¹

⁹ RFR Exhibit 102, EPA, Clean Air Markets Program Data (CAMPD), June daily emissions data by unit for the Campbell Plant, available at <https://campd.epa.gov/data/custom-data-download>. Select “emissions” from the “data type” menu; select “daily emissions” from the “data subtype” menu; and then select “apply.” On the next screen, set 06/01/2025 as the start date and 06/30/2025 as the end date; search for and select “J H Campbell” from the “facility” menu; and then select “apply.” Select “preview data.” (“CAMPD daily emissions data”).

¹⁰ Ibid.

¹¹ RFR Exhibit 103, Joseph Firlit, Consumers, email to April Lazzaro, EGLE, July 17, 2025 (“July 17 email from Consumers to EGLE”).

Unit 2 was “out of service due to needed boiler tube repairs and other balance of plant work”¹² when the 90-day period covered by the May Order began on May 23.¹³ At the time, the estimated return to service was June 27, 2025.¹⁴ Unit 2 then operated briefly between June 25 and July 4, 2025 before going back offline to address a water intake issue.¹⁵

15. Unit 2’s poor performance in June 2025 is consistent with its recent operational performance. Unit 2 had very high forced outage rates in 2023 and 2024, 57.32 percent and 48.07 percent respectively, caused by worn, obsolete, and difficult to repair components.¹⁶

16. In my opinion, Unit 2 is suffering from chronic component operational deficiencies that severely impair its reliability.

17. Even if it were available to operate, Unit 2 takes approximately 36 hours to start up from a cold condition. Unit 2 could not be relied upon to provide any power, much less peaking power to meet high demand summer load conditions, during the June – August 2025 period covered by the May Order. The approximate number of hours required for startup from a cold condition for each Campbell unit are shown in the table below.¹⁷ These startup times are very long, even for coal units. In contrast, peaking gas turbines can start up in 10 minutes or less.¹⁸

Unit 1	Unit 2	Unit 3
24 hours	36 hours	72 hours

¹² Petrotech, *Balance of Plant in Power Generation*, webpage accessed on August 31, 2025: <https://petrotechinc.com/balance-of-plant-in-power-generation/>. “Coal and thermal plants require extensive BoP (balance of plant) systems to handle ash removal, feedwater management, as well as pollution control.”

¹³ RFR Exhibit 101 (Consumers June Responses to AG), Question 4.

¹⁴ Ibid.

¹⁵ RFR Exhibit 103 (July 17 email from Consumers to EGLE).

¹⁶ Attachment B (June 18 declaration), pp. 4-5.

¹⁷ RFR Exhibit 101 (Consumers June Responses to AG), Question 5.

¹⁸ Attachment B (June 18 declaration), p. 17.

18. The problems with Campbell Units 1 and 2 reaffirm my opinion that it is unlikely Campbell can be depended upon to operate reliably, including because Consumers transitioned from a preventative to a reactive approach to plant maintenance in recent years. As I explain in my June 18 declaration, it is reasonable to assume that much of the \$161 million in planned capital and major maintenance projects that Consumers cancelled at Campbell in recent years was necessary to ensure continued, nominally reliable plant operations. Campbell can no longer operate reliably due to the lack of capital and major maintenance investment in recent years. This reality contradicts a basic premise of the August Order, which claims there is an ongoing need for Campbell—to assure grid reliability—at least through 2030.¹⁹

19. Campbell is a 1,560 MW power plant.²⁰ Campbell operated well below its capacity in June 2025, with output between approximately 800 MW and 1,000 MW.²¹ Campbell was in partial outage throughout the month, with one or two of the three units, either Unit 1 or Unit 2 or both, offline at any given time.²² The statement in DOE’s Order that the Campbell units must operate continuously to reliably produce power is in error.²³ Units 1 and 2 demonstrated they cannot stay online continuously in June 2025 and that they must stop and start, with long outages between stops, due to their unreliable condition.

20. The Campbell outages that occurred in June 2025 were predictable due to the lack of the necessary capital and major maintenance expenditures in recent years. Neither Unit 1 nor

¹⁹ August Order, p. 5. “The (MISO) survey also projected that there would be insufficient capacity to meet the peak demand for electricity in each of the following four summers, increasing from a deficit of 1.4 GW in 2027 to 8.2 GW in 2030.”

²⁰ May Order, p. 1.

²¹ RFR Exhibit 102 (CAMPD daily emissions data) (numbers derived by dividing the “Gross Load MWh” values by 24 (hours)).

²² Ibid.

²³ August Order, p. 1, footnote 1: “As a coal-fired facility, it would be difficult for the Campbell Plant to resume operations once it has been retired. Specifically, any stop and start of operation creates heating and cooling cycles that could cause an immediate failure that could take 30-60 days to repair if a unit comes offline.”

Unit 2 could reliably provide power throughout the first full calendar month of the May Order.

The unreliability of the Campbell units will likely increase if these units continue to operate.

C. The extent to which Campbell's operations are consistent with environmental requirements and minimize adverse environmental impacts in light of any new information that has emerged since my June 18 declaration.

21. Burning coal produces pollutants. These pollutants include nitrogen oxide (“NO_x”), sulfur dioxide (“SO₂”), and particulate matter, among others.

22. Large quantities of these pollutants will enter the atmosphere if uncontrolled.

23. Coal-burning power plants must include air emission control equipment to reduce the pollutants in the coal boiler exhaust gas stream. The equipment still allows some level of pollution to enter the atmosphere, but it reduces the amount of pollutants entering the atmosphere.

24. Some of that air cleaning equipment includes pulse jet fabric filters and SCR catalysts. Pulse jet fabric filters remove particulate matter from the boiler exhaust gas. Pulse jet fabric filter bags are degraded over time by fly ash erosion and plugging, resulting in particulate “bleed through” and potentially bag rupture, which would result in increased particulate matter emissions.²⁴ The SCR catalysts are used to reduce NO_x emissions. Over time the catalyst is poisoned by trace metals and fouled by fly ash.²⁵ NO_x emissions increase as the catalyst degrades.

²⁴ Power Engineering, *Real World Performance Results of Fabric Filters on Utility Coal-Fired Boilers*, August 1, 2012: <https://www.power-eng.com/environmental-emissions/real-world-performance-results/>.

²⁵ Power Engineering, *Selective Catalytic Reduction: Operational Issues and Guidelines*, November 1, 2011: <https://www.power-eng.com/environmental-emissions/selective-catalytic-reduction-operational-issues-and-guidelines/>.

25. In order for air cleaning equipment like pulse jet fabric filters and SCR catalysts to do the job they are supposed to do, they must be kept in good working order. They also must be replaced when at their end of life.

26. The Campbell units depend on pulse jet fabric filters and SCR catalysts to reduce the units' air pollution emissions.

27. In my June 18 declaration, I explained the hazards if Campbell's pulse jet fabric filters and SCR catalysts are not in good working order.²⁶ These hazards include releases of particulate matter and NO_x. I further explained that DOE should require any Campbell unit that exceeds air permit limits for opacity, NO_x, or SO₂ during operation of Units 1 -2—as registered on the continuous monitors installed on each unit—to shut down. My opinion remains the same following review of new information available since the June 18 declaration.

28. Campbell's SCR catalysts are past their end of life. According to Consumers, "Campbell Unit 2 and Campbell Unit 3 selective catalytic reduction catalysts [were] at end of life" as of June 10.²⁷ The company further recognized on June 10 that new catalyst is needed should DOE continue preventing Campbell's retirement.²⁸ Consumers' estimate for one layer of catalyst at Campbell Unit 2 is \$3 million and at Campbell Unit 3 is \$5 million.²⁹ The company also noted that catalyst purchases "typically require six-to-twelve-month lead time."³⁰

29. In addition, according to Consumers, "Campbell Unit 3 is overdue for [pulse jet fabric filter] bag changeout."³¹ Consumers cancelled a prior changeout "due to expected site

²⁶ Attachment B (June 18 declaration), pp. 19-20.

²⁷ RFR Exhibit 101 (Consumers June Responses to AG), Question 2.

²⁸ Ibid (stating that the SCR catalysts for Campbell Units 2 and 3 "are expected to perform adequately for the next 90 days, however additional extensions beyond this will eventually require catalyst addition").

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid, Question 15.

closure.”³² Consumers acknowledged on June 10 that continued operation of Campbell beyond August 2025 “may negatively impact [] performance” of the Unit 3 pulse jet fabric filter.³³ Consumers’ rough estimate for Campbell Unit 3 pulse jet fabric filter full bag changeout (24 compartments with 28,272 bags total) is \$7 million to \$10 million.³⁴

30. The Consumers air permit requires that “[a]ny air cleaning device shall be installed, maintained, and operated in a satisfactory manner and in accordance with the Michigan Air Pollution Control rules and existing law.”³⁵

31. In my professional opinion, and based on the available information, Campbell’s SCR catalysts and pulse jet fabric filter bags are air cleaning devices that are not installed, maintained, and operated in a satisfactory manner at this time. A SCR catalyst at its end of life cannot do its job to remove NO_x in a satisfactory manner. Nor can a pulse jet fabric filter overdue for bag replacement do its job to effectively remove particulate from the boiler exhaust gas.

32. In my professional opinion, including because of the state of the SCR catalysts and pulse jet fabric filters, it appears that operating Campbell violates the air permit, or at minimum may be in serious conflict with the permit.

33. I also opined in my June 18 declaration that there are alternatives to running Campbell to meet an extreme peak demand that would produce far less environmental harm. The new emissions and discharge information since filing my June 18 declaration reinforces my opinion.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Attachment C, Consumers Energy, J.H. Campbell Generating Complex, Renewable Operating Permit, Permit Number: MI-ROP-B2835-2020b, p. 6.

34. U.S. EPA's Clean Air Markets Program Data ("CAMPD") show that, between June 1 and June 30, 2025, Campbell emitted approximately 694,696 pounds of SO₂ and 483,868 pounds of NO_x. Campbell also emitted 1,453,247,200 pounds of carbon dioxide in the same time period.³⁶ NO_x is a lung irritant and a precursor to ozone formation.³⁷ SO₂ can harm the respiratory system and contribute to the formation of acid rain.³⁸

35. Campbell is located in Ottawa County, Michigan. The counties adjacent to Ottawa County—Muskegon County to the north and Allegan County to the south—have been identified by the EPA as ozone non-attainment areas.³⁹ Campbell Units 1-3, when operational, emit ozone precursors that form ozone in the atmosphere, which is carried to surrounding areas and could contribute to ozone non-attainment in Muskegon and Allegan counties.

36. Discharge Monitoring Reports that Consumers filed with Michigan's environmental agency show that, between June 1 and July 31, 2025, Campbell withdrew and discharged approximately 40 billion gallons of cooling water to Lake Michigan.⁴⁰ The primary environmental impacts of this cooling water usage is (1) degradation of marine fauna being run through cooling water circulation pumps and (2) the deleterious impacts on marine fauna of the 20°F or more increase in water temperature at the point of cooling water discharge.

³⁶ RFR Exhibit 102 (CAMPD daily emissions data).

³⁷ U.S. EPA, *Basic Information about NO₂*, webpage accessed August 31, 2025: <https://www.epa.gov/no2-pollution/basic-information-about-no2>.

³⁸ U.S. EPA, *Sulfur Dioxide Basics*, webpage accessed August 31, 2025: <https://www.epa.gov/so2-pollution/sulfur-dioxide-basics>.

³⁹ U.S. EPA., Michigan Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants, webpage accessed September 3, 2025: https://www3.epa.gov/airquality/greenbook/anayo_mi.html.

⁴⁰ See Campbell DMR reports for June and July 2025, available at <https://mienviro.michigan.gov/nsite/map/results/detail/6241586858212305105/documents>. To access the July report, search for "MI0001422_2025-07-01_to_2025-07-31_DMR.pdf" in the "File" bar. The date of the entry is 8/13/2025. To access the June report, search for "MI0001422_2025-06-01_to_2025-06-30_DMR.pdf" in the "File" bar. The date of the entry is 7/14/2025.

37. In my professional opinion, and based on my 40 years of experience in coal boiler air emissions assessment and utility resource planning (as further discussed in Attachments A and B), the above-discussed emissions and discharge data show substantial and unnecessary environmental impact caused by operation of Campbell when lower-emitting, lower cost alternatives are available.

38. Thus, it continues to be my opinion that a coal unit would be the last alternative to consider for a peaking power application due in part to its high environmental impact.

I declare under penalty of perjury under the laws of the United States, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

Executed on this 3rd day of September 2025, in San Diego, California.


Bill Powers, P.E.
Powers Engineering
4452 Park Blvd., Suite 209
San Diego, CA 92116

BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

Federal Power Act Section 202(c))
 Emergency Order: Midcontinent)
 Independent System Operator)
 (MISO))
 _____)

Order No. 202-25-7

Exhibit to
 Motion to Intervene and Request for Rehearing and Stay of
 Public Interest Organizations

Filed September 5, 2025

Exhibit 102

CAMPD Campbell Daily Emissions Data

CERTIFICATE OF SERVICE

I hereby certify that, on December 19, 2025, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the District of Columbia Circuit through this Court’s CM/ECF system, which will serve a copy on all registered users.

/s/ Benjamin Chagnon
Benjamin Chagnon
DC Cir. 65850
Attorney