

194 FERC ¶ 61,215
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Northern Indiana Public Service Company LLC

Docket No. EL26-36-000

v.

Midcontinent Independent System Operator, Inc.

ORDER ON COMPLAINT

(Issued March 19, 2026)

1. On December 29, 2025, Northern Indiana Public Service Company LLC (NIPSCO) filed a complaint (Complaint) pursuant to sections 202(c), 306, and 309 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's Rules of Practice and Procedure,² proposing revisions to the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to add a provision (Proposed Tariff Provision) to allocate the costs of keeping Units 17 and 18 of the Schahfer generating plant (collectively, Schahfer Units) in operation, in response to the U.S. Department of Energy's (DOE) December 23, 2025 Emergency Order No. 202-25-12 (DOE Order), under section 202(c) of the FPA and section 301 of the DOE Organization Act.³

2. In this order, we grant the Complaint and find that the Proposed Tariff Provision is just and reasonable, subject to modification and to the outcome of the proceeding in Docket No. ER25-3425. We direct MISO to make a compliance filing, within 30 days of the date of a Commission order accepting MISO's compliance filing in Docket No. ER25-3425, to adopt the Proposed Tariff Provision, as revised, as discussed below.

¹ 16 U.S.C. §§ 824a(c), 825e, 825h.

² 18 C.F.R. § 385.206 (2025).

³ 42 U.S.C. § 7151(b).

I. Background

A. Schahfer Units Retirement Plan

3. The Schahfer Units, located in northwestern Indiana, are coal-fired units that each have a maximum capacity of 437.5 MW. NIPSCO planned to retire the units on December 31, 2025, pursuant to settlement agreements approved by the Indiana Utility Regulatory Commission (Indiana Commission) in 2023 and 2025.⁴ NIPSCO submitted a notice to suspend operation of the Schahfer Units to MISO pursuant to Attachment Y of the Tariff, and MISO found no reliability violations.

B. DOE Order

4. In the DOE Order, the Secretary of Energy determined that “an emergency exists in portions of the Midwest region of the United States due to a shortage of electric energy, a shortage of facilities for the generation of electric energy, and other causes.”⁵ Further, the Secretary of Energy determined that issuance of the DOE Order will “meet the emergency and serve the public interest.”⁶ Therefore, the Secretary of Energy directed MISO and NIPSCO to take all measures necessary to ensure that the Schahfer Units were available to operate⁷ and directed NIPSCO to keep the Schahfer Units open for 90 days, i.e., until March 23, 2026.⁸

5. The DOE Order cited a statement in the 2024 North American Electric Reliability Corporation (NERC) Long-Term Reliability Assessment (Reliability Assessment) that MISO is at risk because “probabilistic assessments indicate above-normal generator outages during extreme weather can result in unserved energy or load loss. With uncertainty around new resource additions and existing generator retirements, MISO is also at risk of falling below [Reference Margin Levels] within the next five years.”⁹ The DOE Order quoted a MISO April 2025 presentation on the Planning Resource Auction

⁴ NIPSCO Complaint at 7-8.

⁵ DOE Order at 1.

⁶ *Id.*

⁷ *Id.* at ordering para. (A).

⁸ *Id.* at 5.

⁹ *Id.* at 2 (citing NERC 2024 Long-Term Reliability Assessment at 13 (July 11, 2025), https://www.nerc.com/globalassets/our-work/assessments/2024-ltra_corrected_july_2025.pdf).

Results for Planning Year 2025-2026 as demonstrating that, for the MISO North and MISO Central regions, which include Indiana, “new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspension/retirements and external resources[.]”¹⁰ The DOE Order also referenced an annual survey conducted by the Organization of MISO States, Inc. (OMS) and MISO projecting that additional capacity is needed beyond current commitments to meet the projected summer 2026 Planning Reserve Margin and projecting that there would be shortfalls in capacity to meet the peak demand for electricity in each of the following four summers and winters.¹¹ The DOE Order noted that the OMS-MISO survey attributed these projected deficits to large quantities of existing generation capacity retirements and projected accelerated growth of electric demand that would outpace the increase in generation capacity.¹² The DOE Order noted that MISO’s efforts to address its projected deficiencies to date, particularly through its Expedited Resource Addition Study (ERAS) process, would not immediately add new capacity due to commercial operation dates for ERAS resources that were at least three years away and supply chain constraints that would impede the construction of new capacity.¹³

6. The DOE Order directed NIPSCO to “file with [this Commission] Tariff revisions or waivers [necessary] to effectuate [the DOE Order].”¹⁴

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

II. NIPSCO’s Complaint

8. NIPSCO states that it and MISO agree that the Tariff does not have a mechanism for NIPSCO to recover costs incurred under the DOE Order. NIPSCO therefore asks the Commission to exercise its authority under FPA sections 202(c), 306, and 309 to order MISO to adopt the Proposed Tariff Provision as a cost recovery and allocation mechanism. NIPSCO also states that the Proposed Tariff Provision is strictly to establish a cost allocation mechanism, and that, after the 90-day period (Order Duration Period),

¹⁰ *Id.*

¹¹ *Id.* at 3 (citing OMS and MISO, 2025, OMS-MISO Survey Results at 7, 9 (June 6, 2025, <https://cdn.misoenergy.org/20250606%20OMS%20MISO%20Survey%20Results%20Workshop%20Presentation702311.pdf>)).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at ordering para. (E).

NIPSCO will submit a filing in a separate docket with the actual costs to be allocated according to the Tariff mechanism. Specifically, NIPSCO states that it will submit a subsequent filing to the Commission under section 202(c) in which NIPSCO will explain and support its just and reasonable costs associated with operating the Schahfer Units and complying with the DOE Order, net of market revenues.¹⁵

9. NIPSCO asserts that the Proposed Tariff Provision meets the “just and reasonable” standard of section 202(c)(1). In support, NIPSCO states that section 202(c) requires costs to be allocated based on the scope and nature of the emergency and that the DOE Order referred to the MISO North and MISO Central regions; accordingly, NIPSCO argues that allocating NIPSCO’s costs of complying with the DOE Order to both the MISO North and MISO Central regions comports with section 202(c)’s just and reasonable standard.¹⁶ NIPSCO notes that the Proposed Tariff Provision is similar to the Tariff provision approved by the Commission with regard to the Consumers Energy Company (Consumers) J.H. Campbell plant (Campbell Plant), and the geographic scope identified in the DOE Order is virtually identical to the scope identified in the DOE emergency order on the Campbell Plant (Campbell Plant DOE Order).¹⁷

10. The Proposed Tariff Provision specifies that it is pursuant to the DOE Order and applies to the allocation of costs (DOE Order Costs) associated with the continued availability of the Schahfer Units pursuant to the DOE Order, and any extensions ordered by the Secretary of Energy. The Proposed Tariff Provision states that NIPSCO will petition the Commission to approve recovery of DOE Order Costs, net of market revenues, and that the costs will be allocated among Local Resource Zones¹⁸ 1-7, i.e., among zones in the MISO North and MISO Central regions, to load-serving entities

¹⁵ NIPSCO Complaint at 3, 5.

¹⁶ *Id.* at 17.

¹⁷ *Id.* at 3, 17 (citing *Consumers Energy Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 192 FERC ¶ 61,158, at P 35 (*Consumers v. MISO*), order on reh’g, 193 FERC ¶ 61,228 (2025) (Rehearing Order)).

¹⁸ While NIPSCO refers to “Zones” in the Complaint and in its Proposed Tariff Provision, we understand NIPSCO to refer to Local Resource Zones in the Tariff, which are used for determining locational resource requirements under MISO’s resource adequacy construct to ensure deliverability of capacity resources, given constraints that limit deliverability of resources between zones. See MISO, FERC Electric Tariff, § II, Module A, § II (General Provisions), § 1.L (Definitions – L) (50.0.0) Local Resource Zone: “A geographic area within the Transmission Provider Region that is prescribed by the Transmission Provider . . . to address congestion that limits Planning Resource deliverability.”

(LSE) on a “load ratio share” basis. NIPSCO notes that the issue of cost allocation on a demand or energy basis is currently pending before the Commission in Docket No. ER25-3425 and that NIPSCO intends to defer to the Commission’s final decision in that proceeding.¹⁹

11. NIPSCO argues that the Commission’s prior notice requirements, filed rate doctrine, and rule against retroactive ratemaking apply to filings or proceedings under sections 205 and 206 of the FPA, but do not apply to determinations and cost recovery under section 202(c).²⁰ NIPSCO argues that section 202(c) allows costs to be determined and recovered after the emergency generation or provision of jurisdictional service. NIPSCO maintains that section 202(c)’s contemplation of such post-hoc determinations and recovery is demonstrated in the wording of the statute, including that, after an emergency order “takes effect,” there will be “supplemental” orders regarding “compensation or reimbursement.”²¹

III. Notice and Responsive Pleadings

12. Notice of the Complaint was published in the *Federal Register*, 91 Fed. Reg. 368 (Jan. 6, 2026), with interventions and protests due on or before January 20, 2026.

13. Notices of intervention were filed by: the Arkansas Public Service Commission (Arkansas Commission); the Council of the City of New Orleans (New Orleans Council); the Illinois Commerce Commission (Illinois Commission); the Louisiana Public Service Commission; the Michigan Public Service Commission; the Minnesota Public Utilities Commission; the Mississippi Public Service Commission; the Missouri Public Service Commission (Missouri Commission); OMS; and the Public Service Commission of Wisconsin.

14. Timely motions to intervene were filed by: Alliant Energy Corporate Services, Inc., on behalf of Interstate Power and Light Company and Wisconsin Power and Light Company; Ameren Services Company (Ameren), on behalf of Ameren Illinois Company (Ameren Illinois) and Union Electric Company d/b/a Ameren Missouri; American Electric Power Service Corporation, on behalf of AEP Indiana Michigan Transmission Company, Inc., AEP Energy Partners, Inc., and AEP Retail Energy Partners LLC; American Municipal Power, Inc.; Calpine Corporation; Citizens Action Coalition of Indiana, Inc. (Citizens Action Coalition of Indiana); Citizens Utility Board of Wisconsin; Consumers; Cooperative Energy; Entergy Services, LLC, on behalf of Entergy Arkansas,

¹⁹ NIPSCO Complaint at 3 n.10, 6 n.15.

²⁰ *Id.* at 13 (citing 16 U.S.C. §§ 824d, 824e), 14-16.

²¹ *Id.* at 13.

LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, and Entergy Texas, Inc. (collectively, Entergy); Environmental Law and Policy Center; Indiana Office of Utility Consumer Counselor; Michigan Attorney General; MISO Transmission Owners;²² the Office of the Illinois Attorney General (Illinois Attorney General); Pelican Power, LLC; Public Citizen, Inc. (Public Citizen); Sierra Club; and Wolverine Power Supply Cooperative, Inc. (Wolverine). A motion to intervene out of time was filed by Wabash.

15. On January 20, 2026, MISO submitted its answer to the Complaint. Protests or comments were filed by: the Arkansas Commission and the New Orleans Council (collectively, Southern Regulators); the Illinois Attorney General; the Illinois Commission; the Michigan Attorney General; the Missouri Commission; OMS; and Public Interest Organizations.²³ On February 4, 2026, NIPSCO filed an answer (NIPSCO Answer). On February 11, 2026, Consumers filed an answer (Consumers Answer).

²² MISO Transmission Owners for this proceeding include: Ameren, as agent for Ameren Missouri, Ameren Illinois, and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; Citizens Electric Corporation; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Cooperative Energy; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; East Texas Electric Cooperative; Entergy; Great River Energy; GridLiance Heartland LLC; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company d/b/a AES Indiana; International Transmission Company d/b/a ITCTransmission; ITC Midwest LLC; Lafayette Utilities System; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power, Inc.; Southern Illinois Power Cooperative; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc. (Wabash); and Wolverine Power Supply Cooperative, Inc. (Wolverine).

²³ Public Interest Organizations include: Citizens Action Coalition of Indiana, Citizens Utility Board of Wisconsin, Environmental Law and Policy Center, and Sierra Club.

A. MISO Answer

16. MISO agrees with NIPSCO that the Tariff does not currently contain a mechanism for cost allocation under these circumstances.²⁴ MISO states that it does not oppose the Proposed Tariff Provision and that it will file such a schedule if directed by the Commission. MISO notes that it reserves the right to change the cost allocation mechanism “to account for existing Tariff requirements and to include other clarifications as may be appropriate.”²⁵

B. Comments and Protests

17. The Michigan Attorney General and the Illinois Commission state that, contrary to claims made by the DOE Order, there is no evidence of an energy emergency.²⁶ The Illinois Commission asserts that MISO does not need the capacity provided by the Schahfer Units and that MISO has emergency operating procedures, which both belie the notion of an emergency in MISO.²⁷ The Illinois Commission further states that the DOE Order is an overreach of federal authority because it encroaches on that state’s role in resource adequacy and fuel choice.²⁸

18. The Michigan Attorney General opposes the Proposed Tariff Provision, arguing that the Commission should reject it because the underlying DOE Order justifying cost recovery is *ultra vires*, and, absent a valid legal obligation to operate pursuant to FPA section 202(c), the imposition of the costs of operating the Schahfer Units on ratepayers pursuant to FPA sections 205 or 206 is not just and reasonable and is unduly discriminatory or preferential, and violates the filed rate doctrine. Alternatively, the Michigan Attorney General requests that the Commission, under the discretion afforded the Commission under FPA section 202(c), issue an order deferring any finding, on the basis that the Proposed Tariff Provision is premature until the rehearing requests at DOE are resolved.²⁹ The Michigan Attorney General also asserts that the Commission should limit cost recovery to those costs from the limited scope of operation ordered by the DOE

²⁴ MISO Answer at 4.

²⁵ *Id.* at 5.

²⁶ Illinois Commission Comments at 4; Michigan Attorney General Protest at 4.

²⁷ Illinois Commission Comments at 8.

²⁸ *Id.* at 10.

²⁹ Michigan Attorney General Protest at 2, 4.

Order if the Commission accepts the Proposed Tariff Provision.³⁰ The Michigan Attorney General notes that the DOE Order requires that MISO “take every step to employ economic dispatch” of the Schahfer Units in order “to minimize cost to ratepayers” and argues that any form of commitment and dispatch that enables the Schahfer Units to operate at a net loss in their market operations, factoring the costs of repairs necessary to be operable, is inconsistent with the DOE Order.³¹ The Michigan Attorney General states that the Commission should impose a “clawback” mechanism to refund upgrade costs recovered under the Proposed Tariff Provision should the Schahfer Units return to commercial operation and require provisions for refunds of unlawful charges to customers in the event the DOE Order is invalidated.³²

19. In addition, the Michigan Attorney General argues that costs should be recovered throughout the entire MISO region to be consistent with cost causation principles.³³ The Michigan Attorney General explains that the DOE Order asserts that there is an emergency throughout the entire MISO region and that its assessment of an emergency is not limited to specific zones in MISO.³⁴ The Michigan Attorney General also notes that if the DOE Order is valid then operating the Schahfer Units would be needed to comply with federal law, and Commission precedent has allocated the costs of complying with a law across the law’s applicable jurisdiction, in this case the entire MISO region.³⁵

20. Public Interest Organizations state that the Commission should reject the Complaint because ratepayers should not be subject to costs for unlawful section 202(c) orders, or that the Commission, at a minimum, should delay acting on the Complaint until issues related to the validity and scope of the DOE Order have concluded.³⁶ Public Interest Organizations request that if the Commission determines that creating a cost allocation mechanism is appropriate, the Commission should, at a minimum, make clear

³⁰ *Id.* at 5-6.

³¹ *Id.* at 5 (quoting DOE Order at 5).

³² *Id.* at 7-8.

³³ *Id.* at 8.

³⁴ *Id.*

³⁵ *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, 184 FERC ¶ 61,059, at P 47 (2023); *Consol. Edison Co. of N.Y., Inc.*, 180 FERC ¶ 61,106, at P 50 (2022)).

³⁶ Public Interest Organizations Protest at 5-6.

that any and all costs assigned pursuant to the Proposed Tariff Provision are subject to refund if the underlying DOE Order is found unlawful.

21. Public Interest Organizations also argue that the Commission cannot approve any compensation for the capacity contributions of the Schahfer Units because the DOE Order states that the units will not be considered capacity resources.³⁷ Public Interest Organizations add that LSEs in MISO have sufficient capacity such that they will not benefit from additional capacity from the Schahfer Units.³⁸ Public Interest Organizations also state that the Schahfer Units require significant repairs, particularly Schahfer Unit 18, that would disqualify them as capacity resources in MISO.³⁹ Public Interest Organizations assert that the DOE Order lacks the authority to compel NIPSCO to repair its units⁴⁰ and that, in its current state, the Schahfer Units provide no benefit.⁴¹

22. Further, Public Interest Organizations explain that MISO has existing Tariff provisions to compensate for and allocate the costs of the Schahfer Units' participation in the energy and ancillary services market, as the Tariff compensates generators during periods of scarcity through the Value of Lost Load (VOLL) mechanism, which is a price cap implemented during MISO emergency events.⁴² Given this Tariff mechanism, Public Interest Organizations argue that NIPSCO must demonstrate that recovery of its costs are not compensated by existing Tariff provisions.⁴³ In addition, Public Interest Organizations argue that NIPSCO should demonstrate what, if any, uncompensated benefits are provided by the continued operation of the Schahfer Units and the relative level of benefits each Local Resource Zone receives.⁴⁴ Public Interest Organizations allege that NIPSCO has not justified the load ratio share concept in the Proposed Tariff

³⁷ *Id.* at 8-9.

³⁸ *Id.* at 9.

³⁹ *Id.* at 10.

⁴⁰ *Id.* at 18.

⁴¹ *Id.*

⁴² *Id.* at 10.

⁴³ *Id.* at 11-12 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 191 FERC ¶ 61,019 (2025)).

⁴⁴ *Id.* at 12-13.

Provision, as the benefits of the continued operation of the units do not appear to align with the average amount of electricity withdrawn by each LSE.⁴⁵

23. Public Interest Organizations state that NIPSCO should not be allowed to recover costs incurred prior to the Order Duration Period, noting that the Proposed Tariff Provision identified DOE Order Costs as costs “incurred, before and during the Order Duration Period.”⁴⁶

24. Multiple commenters request that the Commission require MISO to initiate a stakeholder process related to the Proposed Tariff Provision.⁴⁷ The Illinois Attorney General argues that the DOE Order may be extended or other section 202(c) orders may be issued; therefore, a stakeholder process is needed to address how plants will be compensated in these circumstances.⁴⁸ The Illinois Commission states that, after such a stakeholder process, the Commission should set the matter for hearing to develop a record of the costs that have been informed by the results of a stakeholder process.⁴⁹ The Illinois Commission adds that a stakeholder process is necessary because the capacity provided by the Schahfer Units is not needed in MISO.⁵⁰ Similarly, OMS urges the Commission to direct MISO to engage with MISO states and stakeholders in determining any cost recovery or cost allocation methods.⁵¹ OMS requests that, absent such direction from the Commission, the Commission should set the Complaint for hearing. The Missouri Commission avers that stakeholders are entitled to increased transparency regarding the use and costs related to orders issued under section 202(c); consequently, the Missouri Commission states that the Commission should direct NIPSCO and other plant owners subject to future section 202(c) orders to submit regular reports into these proceedings on their plants’ operation and costs.⁵²

⁴⁵ *Id.* at 13-14.

⁴⁶ *Id.* at 14.

⁴⁷ Illinois Attorney General Comments at 3-4; Illinois Commission Comments at 3-4; Missouri Commission Comments at 4; OMS Comments at 3-4.

⁴⁸ Illinois Attorney General Comments at 5.

⁴⁹ Illinois Commission Comments at 3-4.

⁵⁰ *Id.* at 8.

⁵¹ OMS Comments at 3-4.

⁵² Missouri Commission Comments at 5.

25. OMS asserts that to satisfy the just and reasonable standard required by law, any cost allocation method must demonstrate a clear nexus between the costs incurred and the benefits received, and in evaluating whether such a relationship exists, material differences among states and regions must be considered, including variations in load forecasts, resource mix, retirement schedules, and system conditions.⁵³ OMS states that routine Commission approval of broad cost allocation for costs associated with a section 202(c) order may incentivize utilities to accelerate retirements and cash in on a section 202(c) order cost shift, moving costs away from local customers and onto an 11-state region. OMS argues that relying on arbitrary regional cost allocation may shield utilities from political and economic consequences, distort market signals, and create perverse incentives to prolong emergency operations.⁵⁴

26. Southern Regulators take no position on NIPSCO's requested relief, the Commission's authority to grant that relief, or whether the Proposed Tariff Provision is just and reasonable, but request that any Commission order on the Complaint make clear that any rate recovery schedule that the Commission may accept in this proceeding will not be of general applicability under the Tariff but will be limited to the Schahfer Units and costs incurred due to the DOE Order.⁵⁵ They also assert that costs should not be allocated to the MISO South region, and they urge the Commission to make clear that any findings on cost allocation in this proceeding do not set precedent for future DOE orders issued pursuant to section 202(c).⁵⁶

C. Answers to Comments and Protests

27. In response to arguments that the Commission should establish a hearing to determine the beneficiaries of the continued operation of the Schahfer Units, NIPSCO states that the Commission's acceptance of the Proposed Tariff Provision is not predicated on NIPSCO demonstrating cost causation or identifying the beneficiaries.⁵⁷ NIPSCO states that, pursuant to section 202(c), the costs of the Schahfer Units' continued operation are to be allocated in accordance with the scope of the emergency identified in the DOE Order. NIPSCO argues that a hearing is unnecessary because there are no material facts in dispute

⁵³ OMS Comments at 5.

⁵⁴ *Id.* at 7.

⁵⁵ Southern Regulators Comments at 5.

⁵⁶ *Id.* at 5-6.

⁵⁷ NIPSCO Answer at 10-11.

that would require a hearing.⁵⁸ NIPSCO also objects to requests for a MISO stakeholder process, arguing that a stakeholder process is unwarranted because it would delay cost recovery and because the DOE Order directed the Commission, and not MISO, to address the cost recovery issue.⁵⁹

28. In response to Public Interest Organizations' argument that NIPSCO should not recover costs incurred before the Order Duration Period, NIPSCO clarifies that it does not intend to seek to recover costs incurred prior to the issuance of the DOE Order, and the identified language can be removed from MISO's submittal of the compliance filing.⁶⁰ NIPSCO states that the Proposed Tariff Provision specifies that NIPSCO shall petition to the Commission to approve the recovery of specific DOE Order Costs, net of market revenues, that the Commission determines are recoverable pursuant to section 202(c). Therefore, NIPSCO states that the Proposed Tariff Provision already contains adequate just and reasonable safeguards within the cost recovery mechanism and that requests for further limitations would require the Commission to prejudge which costs are recoverable, which is outside the scope of this proceeding.

29. Consumers also objects to the requests for a MISO stakeholder process, arguing that section 202(c) and the DOE Order direct the Commission, not MISO, to address cost recovery issues.⁶¹ In addition, Consumers argues that concerns with the DOE Order or the Commission's determinations regarding cost recovery issues are properly addressed through rehearing and judicial review processes, not through a stakeholder process. Consumers notes that the fact that DOE has issued additional orders under section 202(c) should lead the Commission to follow the process established for the Campbell Plant, rather than impose a new process. However, Consumers argues in the alternative that, if the Commission does change course and directs MISO to hold a stakeholder process on the Schahfer Units, the Commission should clarify that such a stakeholder process should be prospective-only and would not affect the cost recovery process in place for the Campbell Plant.⁶²

⁵⁸ *Id.* at 13.

⁵⁹ *Id.* at 15-16.

⁶⁰ *Id.* at 10 n.29.

⁶¹ Consumers Answer at 2, 5-7.

⁶² *Id.* at 2, 8.

IV. Discussion

A. Procedural Matters

30. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2025), the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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

32. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2025), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the answers filed by NIPSCO and Consumers because they provided information that assisted us in our decision-making process.

B. Substantive Matters

33. As discussed below, we grant NIPSCO's Complaint and find the Proposed Tariff Provision is just and reasonable under FPA section 202(c), subject to modification and to the outcome of the proceeding in Docket No. ER25-3425. Accordingly, we direct MISO to make a compliance filing to adopt the Proposed Tariff Provision, as revised. MISO should file the compliance filing, within 30 days of the date of a Commission order accepting MISO's compliance filing in Docket No. ER25-3425, to adopt the Proposed Tariff Provision, as revised, as discussed below.

34. The DOE Organization Act gives the Secretary of Energy the authority pursuant to section 202(c) of the FPA that had been previously granted to the Federal Power Commission.⁶³ Responsibilities pursuant to section 202(c) include taking action to address an energy emergency:

(c) Temporary connection and exchange of facilities during emergency

(1) . . . [W]henever 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

⁶³ 42 U.S.C. § 7151.

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.⁶⁴

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

If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.⁶⁵

35. The Commission's rate analysis applies the cost causation principle, which requires that "all approved rates reflect to some degree the costs actually caused by the customer who must pay them."⁶⁶ We find that this is the relevant legal standard for evaluating whether the proposed method to allocate the costs of keeping the Schahfer Units in operation, in response to the DOE Order, is just and reasonable. Courts have explained that, to "the extent that a utility benefits from the costs of new facilities, it may be said to have 'caused' a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built, or might have been delayed."⁶⁷ As a result, a cost allocation method can satisfy the cost causation principle if the Commission "has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with" the allocation of the costs.⁶⁸

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

⁶⁵ 16 U.S.C. § 824a(c)(1).

⁶⁶ *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992).

⁶⁷ *Ill. Com. Comm'n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009).

⁶⁸ *Id.* at 477.

36. In applying the cost causation principle here, we find that it is just and reasonable for the cost allocation method to allocate costs in accordance with the scope of the emergency as described by the DOE Order. We recognize that the parties offer different interpretations of the DOE Order on that issue. NIPSCO argues that the beneficiaries are the LSEs in Local Resource Zones 1-7, which the DOE Order refers to as MISO North and MISO Central.⁶⁹ Public Interest Organizations challenge NIPSCO's interpretation of the DOE Order, noting that LSEs in MISO as a whole and in Indiana specifically have already met their resource adequacy requirements, such that they would not benefit from the extra capacity from the Schahfer Units.⁷⁰ The Michigan Attorney General argues that the DOE Order supports a MISO-wide cost allocation, including to MISO South.⁷¹

37. We acknowledge that parties have presented different interpretations of how the DOE Order defined the geographic scope of the emergency. However, we find that, as with the Campbell Plant DOE Order, the most reasonable reading of the DOE Order's intended scope is that the emergency necessitating the continued operation of the Schahfer Units is in the MISO North and MISO Central regions, i.e., Local Resource Zones 1-7. Specifically, we find that it is reasonable to interpret the DOE Order's reliance on statements in MISO's presentation on the Planning Resource Auction Results for Planning Year 2025-2026 that "new capacity additions were insufficient to offset the negative impacts of decreased accreditation, suspensions/retirements and external resources"⁷² in the MISO North and MISO Central regions as indicating that resource adequacy concerns for those regions were the driver for the DOE Order. Therefore, we accept NIPSCO's proposal to allocate the costs of keeping the Schahfer Units in operation, in response to the DOE Order, to LSEs within Local Resource Zones 1-7.

38. Public Interest Organizations argue that NIPSCO must demonstrate the relative level of benefits each Local Resource Zone receives and that benefits may not accrue in a way that aligns with the average amount of electricity withdrawn by each LSE in Local Resource Zones 1-7. However, as the Commission found in the order accepting the cost allocation mechanism precipitated by the Campbell Plant DOE Order, a load-ratio share allocation method based on actual peak demand reasonably aligns the allocation of the Campbell Plant DOE Order costs with the emergency described in the Campbell Plant DOE Order and the beneficiaries of the continued operation of the Campbell Plant.⁷³ We

⁶⁹ NIPSCO Complaint at 6, 17-18.

⁷⁰ Public Interest Organizations Protest at 9-10.

⁷¹ Michigan Attorney General Protest at 19-21.

⁷² DOE Order at 2.

⁷³ *Consumers v. MISO*, 192 FERC ¶ 61,158 at P 43.

apply similar reasoning to the Schahfer Units, as well. We also note that the Proposed Tariff Revision will use peak demand to allocate costs among LSEs in Local Resource Zones 1-7, which is consistent with the Commission's order on MISO's compliance filing in Docket No. ER25-3425.⁷⁴

39. In response to commenters who argue that the Commission should require MISO to initiate a stakeholder process related to the Proposed Tariff Provision, we find that further process is not necessary. As described above, the most reasonable reading of the DOE Order's intended scope is that the emergency necessitating the continued operation of the Schahfer Units is in Local Resource Zones 1-7, providing sufficient basis for our accepting NIPSCO's proposal. Similarly, we decline to require NIPSCO to submit regular reports on the Schahfer Units' continued operation and costs in this proceeding, having found that a stakeholder process is unnecessary and the Proposed Tariff Revision is just and reasonable, as revised. Further, we note that the instant proceeding has provided any interested stakeholder notice of NIPSCO's proposal and an opportunity to comment. We also reject commenters' request to delay action on the Proposed Tariff Provision until the rehearing proceeding at DOE is resolved, as prompt action on the Complaint can help to mitigate potential regulatory uncertainty.⁷⁵

40. We find that arguments related to the prudence of costs associated with operating the Schahfer Units and whether the DOE Order is authorized to mandate that NIPSCO repair the Schahfer Units, particularly Schahfer Unit 18, are beyond the limited scope of this proceeding. We also find that whether the provision should include a mechanism to refund upgrade costs recovered under the Proposed Tariff Provision, should the Schahfer Units continue to operate beyond the term of the DOE Order, are likewise beyond the limited scope of this proceeding. Public Interest Organizations assert that NIPSCO must demonstrate what, if any, uncompensated benefits are provided by the continued operation of the Schahfer Units. They also assert that the recovery of DOE Order Costs is covered by existing Tariff provisions, particularly the Tariff's VOLL mechanism. We disagree. While existing Tariff provisions govern the distribution of market revenues for any energy supplied by Market Participants, they do not provide a cost allocation method for prudently incurred costs associated orders issued under FPA section 202(c) directing resources to ensure continuing availability for operation, such as the DOE Order Costs. Under the Proposed Tariff Provision, any market revenue, including any revenue based on scarcity pricing, will be netted from the DOE Order Costs, and recovery of any DOE Order Costs in excess of market revenue is outside the scope of this proceeding. While

⁷⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 194 FERC ¶ 61,155, at PP 48-49 (2026).

⁷⁵ See *Consumers v. MISO*, 192 FERC ¶ 61,158 at P 41; Rehearing Order, 193 FERC ¶ 61,228 at P 43.

this order approves the cost allocation method in the Proposed Tariff Provision, subject to condition, it does not approve recovery of actual costs. Pursuant to the Proposed Tariff Provision, NIPSCO must petition the Commission in a separate proceeding at a later date for approval to recover specific DOE Order Costs before ratepayers can be charged for such costs. Parties may raise issues related to the scope of costs prudently incurred pursuant to the DOE Order, including costs for repairs to the Schahfer Units, in that cost recovery proceeding.⁷⁶ Parties also may take appropriate steps, such as requesting rehearing in this proceeding, to preserve arguments that, if the DOE Order were to be modified, then the Commission should require refunds or otherwise revisit its approach to matters in connection with the DOE Order.

41. Furthermore, we find that the DOE Order's statement that the Schahfer Units "shall not be considered capacity resources" does not mean that the Commission cannot approve compensation that arises from the Schahfer Units' capacity benefits. Regardless of whether the Schahfer Units are treated as capacity resources in MISO's resource adequacy construct, the DOE Order cited resource adequacy concerns for the MISO North and MISO Central regions as the driver of the need for continued operation of the Schahfer Units.⁷⁷

42. We find OMS' argument that granting the Complaint may incentivize utilities to accelerate retirements is speculative, as OMS provides no additional explanation of such potential behavior.

43. We note that in response to Public Interest Organizations' argument that NIPSCO should not recover costs incurred before the Order Duration Period, NIPSCO clarifies that it does not intend to seek to recover costs incurred prior to the issuance of the DOE Order, and that the identified language can be removed in MISO's submittal of the compliance filing.⁷⁸ Accordingly, we direct MISO to remove the "before and" phrase referring to the Order Duration Period from the Proposed Tariff Provision when it makes its compliance filing in this proceeding.

44. For these reasons, we grant NIPSCO's Complaint and find the Proposed Tariff Provision is just and reasonable under FPA section 202(c), subject to modification and to the outcome of the proceeding in Docket No. ER25-3425. We direct MISO to make a compliance filing, within 30 days of the date of a Commission order accepting MISO's compliance filing in Docket No. ER25-3425, to adopt the Proposed Tariff Provision, including any modifications directed in Docket No. ER25-3425, and to delete the phrase

⁷⁶ Public Interest Organizations Protest at 17-18.

⁷⁷ See also *Consumers v. MISO*, 192 FERC ¶ 61,158 at P 40.

⁷⁸ Public Interest Organizations Protest at 14; NIPSCO Answer at 10.

“before and” from the Proposed Tariff Provision, as discussed above.⁷⁹ The effective date of the provision will be the issuance date of the DOE Order, December 23, 2025.

The Commission orders:

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

(B) MISO is hereby directed to file a compliance filing, within 30 days of the date of a Commission order accepting MISO’s compliance filing in Docket No. ER25-3425, as discussed in the body of this order.

By the Commission.

(S E A L)

Carlos D. Clay,
Deputy Secretary.

⁷⁹ We note that the Proposed Tariff Provision refers to the end of the 90-day period as March 23, 2025, whereas it should be March 23, 2026. We direct MISO to correct the year in its compliance filing.