

V. National Security Interests Support an Exemption

Compliance with the requirements in the MATS RTR is not in the national security interest of the nation. President Trump's Executive Order (E.O.) 14156 declares a national energy emergency and confirms that energy generation and grid reliability are issues of national security.³⁰ The MATS RTR is one of the "policies of the previous administration" that will contribute to the "inadequate and intermittent energy supply" and "increasingly unreliable grid."³¹ Similarly, in E.O. 14154, *Unleashing American Energy*, President Trump acknowledged that the past administration's regulations—which include this Rule—have "limited the generation of reliable and affordable electricity" and, in turn, "weaken[ed] our national security."³² The E.O. calls for the review and potential rescission of rules like this one, which "impose an unburden on the . . . use of domestic energy resources."³³ To ensure "an abundant supply of reliable energy" that will help "protect the United States's economic and national security and military preparedness," the MATS RTR should be subject to exemption.³⁴

In North Dakota, specifically, lignite-fired power plants provide the majority of electric power generated and consumed in the State and, therefore, the MATS RTR has a more profound impact on North Dakota than other areas of the country. The Rule's stringent new limits and the high costs associated with compliance, in combination with other prior rulemakings impacting coal-fired EGUs, could force source owners to prematurely retire coal-fired EGUs before there is sufficient new dispatchable generation to replace them, seriously endangering grid reliability. Further, grid reliability is already in jeopardy in North Dakota: The North American Electric Reliability Corporation (NERC) estimates continued future shortfalls in the State.³⁵ NERC also reports that, with respect to the MISO region, "[r]esource additions are not keeping up with generator retirements and demand growth" and "[r]eserve margins fall below Reference Margin Levels (RML) in winter and summer."³⁶ North Dakota's region of MISO is already in a tenuous, overburdened portion of the grid.

The North Dakota Transmission Authority (NDTA) studied the outfall from a grid failure. NDTA reports consequences such as the loss of tax revenue and a decrease in economic activity for the region. The interruption of power delivery from a grid failure will cause damage to public health. North Dakotans rely on electricity to heat their homes during the extreme winter temperatures typical of the long winter season. Affordable and consistent electricity powers essential medical services to the elderly, infirm, and to vulnerable individuals with chronic health

³⁰ See 90 Fed. Reg. 8433, 8433 (Jan. 29, 2025) ("generation capacity of the United States [is] . . . far too inadequate to meet our Nation's needs" and "a reliable, diversified, and affordable supply of energy" is necessary to ensure "military preparedness").

³¹ *Id.* at 8433.

³² 90 Fed. Reg. 8353, 8353 (Jan. 29, 2025).

³³ *Id.* at 8354.

³⁴ *Id.* at 8353.

³⁵ NERC, *2024 Long-term Reliability Assessment* (Dec. 2024), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20IDL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf

³⁶ *Id.* at 6.