

Minnesota Senate Energy, Utilities, Environment, and Climate Committee
1150 Minnesota Senate Building
95 University Ave W, St Paul, MN 55103
April 3, 2024

The logo for the American Economic Liberties Project. It features a dark blue square with the words "AMERICAN ECONOMIC LIBERTIES PROJECT" in white, uppercase, sans-serif font. To the left of the square is a light blue graphic consisting of several horizontal wavy lines of varying lengths, resembling a stylized flag or a series of hills.

AMERICAN
ECONOMIC
LIBERTIES
PROJECT

Dear Chair Frentz and Members of the Committee,

My name is Pat Garofalo (no relation to your House colleague) and I am the director of state and local policy at the American Economic Liberties Project, a research and advocacy organization dedicated to reducing the power corporations wield over our economy and democracy, in pursuit of economic liberty for all. I'm writing to voice our organization's support for repealing Minnesota's "right of first refusal" law, thereby re-introducing a competitive bidding process into the buildout of regional electric transmission lines.

Research has shown that automatically granting incumbent monopoly utilities the right to build new transmission lines substantially increases costs for consumers, at a time when utility bills are already too high and are often riddled with junk fees and other unfair charges that put a strain on Minnesota families. A 2019 study showed that competitive bidding reduces construction costs by 20-30 percent, enabling substantial saving to be passed on to ratepayers.¹ Repealing Minnesota's "right of first refusal" law alone could save nearly half a billion for consumers, according to another analysis.²

This dynamic makes sense, as monopoly utilities have special incentive to increase costs during transmission construction — or, more charitably, to expend no special effort on costs containment — because they can engage in cost recovery from consumers. As the Department

¹ "Cost Savings Offered by Competition in Electric Transmission: Experience to Date and the Potential for Additional Customer Value," The Brattle Group, April 2019 <http://etccoalition.wpengine.com/wp-content/uploads/Brattle-Report-Cost-Savings-Offered-by-Competition-in-Electric-Transmission.pdf>

² Neeley, Josiah, "How ROFR Laws Increase Electric Transmission Costs in Midwestern States," R Street Institute, March 7, 2023 <https://www.rstreet.org/commentary/how-rofr-laws-increase-electric-transmission-costs-in-midwestern-states/>

of Justice and Federal Trade Commission wrote in a joint comment in 2022, “Competition for the construction of transmission facilities creates incentives for rival transmission developers to minimize costs—incentives that are not present when construction rights are exclusive.”³

This issue is even more important today than it has been in the past, due to the tens of billions of dollars the Biden Administration’s Bipartisan Infrastructure Law and Inflation Reduction Act included for building out the U.S. power grid. State lawmakers have a key role to play ensuring that buildout creates substantial benefits for consumers, and doesn’t simply create new monopoly profits for incumbent utilities.

Thank you for your consideration, and, again, we encourage you to repeal Minnesota’s “right of first refusal” law.

Best,

Pat Garofalo
Director of State and Local Policy
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³ Comment of the United States Department of Justice and Federal Trade Commission, “Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection,” Docket No. RM21-17-00, https://www.ftc.gov/system/files/ftc_gov/pdf/p072104_doj_ftc_transmission_comment_to_ferc.pdf