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April 16, 2024

Chair Acomb and Members of the Climate and Energy Finance and Policy Committee,

We are writing to express our strong support for House File 4177, as amended by the DE2, the committee's omnibus finance and policy bill.

This year, the committee's bill is proposing improvements to Minnesota's residential and commercial buildings, our electric grid, and distributed solar generation systems. We applaud all of these, but want to lift up two, in particular.

**This bill could make 2024 a breakthrough year for Thermal Energy Networks in Minnesota.** The bill includes five provisions that will accelerate the deployment of this proven, carbon-free technology in Minnesota. These include a Thermal Energy Network (TEN) Deployment Working Group at the Public Utilities Commission (2.16-2.20; 9.24-11.5), a TENs Siting Suitability Study (1.16-1.20; 11.6-11.27), Geothermal Planning Grants for Local Governments (3.32-4.5; 8.5-9.23), a minimum spending requirement for TENs in Natural Gas Innovation Act plans for large utilities (4.31-8.4), and a direct appropriation for an innovative geothermal project at the Sabathani Community Center (3.27-3.31).

**Taken together, these would help position Minnesota as a national leader on geothermal and waste heat recovery.**

Second, we appreciate the work that Chair Acomb, Rep. Long, and the committee have put into improving the siting process for wind, solar, storage, and transmission in Minnesota (12.1-37.28; 40.4-40.25). **To reach 100% clean electricity by 2040, we need to accelerate the deployment of these clean energy solutions,** while preserving all of Minnesota's existing environmental protections and opportunities for public engagement. We believe both the House and Senate have been working toward this goal. We trust that these reforms, if advanced, will be refined and improved in conference committee. **Please advance the clean energy siting improvements included in this bill, as well as the \$166,000 appropriation to the Public Utilities Commission to support them.**

Thank you for your time and consideration,

*Aurora Vautrin*

**Aurora Vautrin**  
Legislative Director of 100%  
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April 16, 2024

Chair Acomb and Members of the House Climate and Energy Finance and Policy Committee:

**We strongly support repealing the Right of First Refusal (ROFR) law and highly recommend the committee's inclusion of the following language to House File 4177: *REPEALER. Minnesota Statutes 2022, section 216B.246, is repealed.***<sup>1</sup>

Repealing ROFR will reinstate a more competitive, efficient, and reliable energy future that puts Minnesotans – not corporate interests – first, and break the monopoly holding us hostage to uncompetitive rate hikes by the incumbent utilities. The ROFR provision, now ensconced in our state law, gives utility companies that currently provide service to Minnesotans a monopoly over new electric energy transmission infrastructure.

ROFR laws effectively shut out competition. The Inflation Reduction Act provided significant funding for new transmission projects. However, ROFR hinders this investment by limiting competition that drives up costs for consumers. Not to mention all the new infrastructure we must build in our state to meet all the mandates passed by this legislature. **Maintaining ROFR perpetuates anti-competitive practices, inhibits the free flow of interstate commerce, and undermines the likelihood that Minnesotans can have reasonably priced electricity for years to come.**

One simple Google search will show numerous studies that have shed light on the negative impacts of ROFR. In Illinois, Governor Pritzker vetoed a ROFR bill stating that **eliminating competition only puts profit over consumers with a monopoly and consumers will pay more.**<sup>2</sup> In Iowa, the Supreme Court struck down a ROFR attempt and in a scathing rebuke said, “We are not surprised the ROFR lacked enough votes to pass without logrolling. **The provision is quintessentially crony capitalism. This rent-seeking, protectionist legislation is anticompetitive. Common sense tells us that competitive bidding will lower the cost of upgrading Iowa’s electric grid and that eliminating competition will enable the incumbent to command higher prices for both construction and maintenance. Ultimately, the ROFR will impose higher costs on Iowans.**”<sup>3</sup> The Biden Administration has expressed concerns over how eliminating competition will negatively affect consumers.

We’ve been out knocking doors in communities across the state and **Minnesotans are puzzled why their legislators would allow such a monopoly to exist as they balk at their latest energy bill increase.**

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<sup>1</sup> [www.revisor.mn.gov/bills/text.php?number=SF1456&version=latest&session=ls93&session\\_year=2023&session\\_number=0](http://www.revisor.mn.gov/bills/text.php?number=SF1456&version=latest&session=ls93&session_year=2023&session_number=0)

<sup>2</sup> <https://gov.illinois.gov/news/press-release.26893.html>

<sup>3</sup> <https://iowacapitaldispatch.com/2023/03/29/citing-crony-capitalism-iowa-supreme-court-blasts-late-night-legislative-logrolling/>



Contrary to what utilities may claim, repealing ROFR will not result in chaos or unreliability on the grid. Projects must undergo a rigorous application process to prove reliability. Notably, on Xcel's own website, they state that competitive bidding is needed to "help keep costs lower as well as receiving input from affected communities."<sup>4</sup> (Utilities have also created multiple transmission companies to extend their influence and bid in other markets where they actually have to compete for business.)

At the federal level, the Federal Energy Regulatory Commission (FERC) removed the right of first refusal for certain new transmission facilities from its Commission-approved tariffs and agreements in its [Order No. 1000](#),<sup>5</sup> issued July 21, 2011. Due to a number of factors, including the changing generation resource mix in the years that followed, FERC issued a [notice of proposed rulemaking](#) on May 4, 2022.<sup>6</sup>

That proposal would require a public utility transmission provider to conduct long-term regional transmission planning on a sufficiently forward-looking basis; seek the agreement of relevant state entities within the transmission planning region regarding the cost allocation methods that will apply to transmission facilities selected in the regional transmission plan for purposes of cost allocation through long-term regional transmission planning; and would permit the exercise of federal rights of first refusal for transmission facilities selected in a regional transmission plan for purposes of cost allocation, conditioned on the incumbent transmission provider with the federal right of first refusal for such regional transmission facilities establishing joint ownership of the transmission facilities. A final rule has not been issued as of this writing.

A number of comments have been submitted in response to the proposal, including a noteworthy [comment](#) from the United States Department of Justice (DOJ) and the Federal Trade Commission (FTC).<sup>7</sup> The comment sets out the Agencies' concerns that the reinstatement of a federal right of first refusal (ROFR) is not justified:

“With a ROFR, consumers will lose the many benefits that competition can bring, including lower rates, improved service, and increased innovation, leading to a more efficient, reliable, and resilient grid. The rulemaking's requirement that the ROFR can be exercised only if the incumbent transmission provider establishes joint ownership of the new transmission facilities does not alleviate the Agencies' concerns. Like an unconditional ROFR, a conditional one displaces competition and thus forgoes the important benefits that competition

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<sup>4</sup> <https://www.transmission.xcelenergy.com/Transcos/Transcos-FAQ>

<sup>5</sup> Federal Energy Regulatory Commission Final Rule, Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, Docket No. RM10-23-000; [Order No. 1000](#), Issued July 21, 2011.

<sup>6</sup> Federal Energy Regulatory Commission: Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection, Notice of proposed rulemaking, 87 FR 26504, Docket No. RM21-17-000, May 4, 2022.

<sup>7</sup> Comment of the United States Department of Justice and Federal Trade Commission, Docket No. RM21-17-000. Document is undated; however, a date of 08/17/2022 is indicated in the Column titled "Filed" in online FERC records: [https://elibrary.ferc.gov/eLibrary/docketsheet?docket\\_number=RM21-17-000&sub\\_docket=](https://elibrary.ferc.gov/eLibrary/docketsheet?docket_number=RM21-17-000&sub_docket=)



produces for consumers.”<sup>8</sup> (Emphasis Added).

The comment went on to discuss competition in the marketplace:

“Competition is a core organizing principle of the American economy, and vigorous competition gives consumers the benefits of lower prices, higher quality goods and services, increased access to goods and services, and greater innovation. The Agencies work to promote competition through enforcement of the antitrust laws, which prohibit certain transactions and business practices that harm competition and consumers, and through competition advocacy efforts, which urge federal, state, and local governmental bodies to make decisions that benefit competition and consumers.... In the Agencies’ experience, competition in wholesale electricity markets and in the development of transmission facilities – including competition from independent, transmission-only companies and other non-incumbent transmission owners – produces important benefits for wholesale and retail electricity consumers.”<sup>9</sup> (Emphasis Added).

The comment also discussed that competitive processes have significantly reduced costs of regional transmission development when they have been implemented. In referencing FERC’s removal of the ROFR from federal tariffs, it cited part of Order No. 1000 where FERC had stated:

“federal rights of first refusal in favor of incumbent transmission providers deprive customers of the benefits of competition in transmission development, and associated potential saving....”<sup>10</sup> (Emphasis Added).

And finally, the Agencies noted that:

“(a)dopting reforms that promote competition where possible will make transmission development less costly, more resilient, and more innovative for the American consumer than it otherwise would be.”<sup>11</sup> (Emphasis Added).

Policies that promote competition instead of putting up roadblocks need to be adopted at the state level as well.

One example of competition is in New Jersey, where in October, 2022, it was announced

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<sup>8</sup> *Id.*, pp. 1-2.

<sup>9</sup> *Id.*, pp. 3-4.

<sup>10</sup> *Id.*, p. 10.

<sup>11</sup> *Id.*, p. 22.



significant estimated savings<sup>12</sup> when the state did its largest-ever competitive bidding process for an offshore wind energy transmission project. That project was New Jersey's first use of the State Agreement Approach (SAA) between the New Jersey Board of Public Utilities (NJBPR) and PJM, the Regional Transmission Organization (RTO) that coordinates wholesale electricity in all or parts of thirteen states and the District of Columbia. This project used PJM's competitive transmission planning process to help NJBPU solicit and evaluate 80 different transmission proposals. The selected projects will save New Jersey ratepayers an estimated \$900 million compared to the cost of transmission without utilizing the coordination through the State Agreement Approach (SAA).<sup>13</sup>

It is puzzling indeed why any legislative body in the United States would promote a policy that inhibits competition and hurts consumers. But that is what we currently have here in Minnesota with our state ROFR law. A repeal of this anti-competitive measure should be a top priority for this legislative body,

**We urge committee members to add language to HF 4177 to repeal ROFR and choose Minnesotans over corporate interests. Remove the thumb of government tipping the scales in favor of the utilities. Break the monopoly. Choose people over profits.**

Respectfully submitted,

*RaeAnna K. Lee*

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<sup>12</sup> Press Release: New Jersey Board of Public Utilities Selects Offshore Wind Transmission Project Proposed by Mid-Atlantic Offshore Development and Jersey Central Power & Light Company in First in Nation State Agreement Approach Solicitation, October 26, 2022, <https://nj.gov/bpu/newsroom/2022/approved/20221026.html>

<sup>13</sup> *Id.*



April 16, 2024

Representative Patty Acomb  
593 State Office Building  
St Paul, Minnesota 55155

Chair Acomb and Members:

On behalf of the Minnesota Propane Association (MPA), which represents propane marketers, wholesalers, suppliers, distributors, and equipment manufacturers across the state, we appreciate the opportunity to comment on HF4177.

Our members provide clean and critical energy to residential, commercial, agricultural, and industrial customers across the state. The state's propane industry provides thousands of good-paying jobs and contributes more than \$1.5 billion in economic activity annually.

- In 2021, the Energy Conservation Act passed with guardrails to ensure its conservation goals were followed.
  - Although we had concerns with the legislation, we were told by the proponents that this would have a minimal impact on propane – **as we were then and are now the cleaner fuel.**
- Two years later, in 2023, the Minnesota Carbon-Free electricity standard was passed, requiring 100% carbon-free electricity by 2040.
- Since the Carbon Free by 2040 law was passed, it has become apparent that some of the requirements are not going to be able to be obtained by some of the stakeholders.
- HF4177 effectively removes the guardrails established in 2021 and 2023 and allows emissions to continue and potentially increase.

Our concerns include, but are not limited to the following:

Lines 52.20-52.25: “An efficient fuel switch improvement **does not include**, and must not count toward any energy savings goals from, energy conservation improvements **when fuel switching would result in an increase of greenhouse gas emissions into the atmosphere on an annual basis.**” This is stricken from the bill and would actually allow for increased emissions to count towards energy conservation.

Lines 54.25-54.29: The following clause of the ECO statute is stricken as well. **“Notwithstanding any provision to the contrary, until July 1, 2026, spending by a consumer-owned utility subject to this section on efficient fuel switching improvements implemented to meet the annual energy savings goal under this section must not exceed .55 percent per year, averaged over a three year period of the consumer-owned utility’s gross annual retail energy sales.”**

This would allow unlimited spending on fuel switching to count towards emissions reductions, even though emissions will be increasing. Unlimited spending will also impact ratepayers; the concern is that they will have no protections against rate increases.

Lines 57.15-57.18; 64.5-64.9: Removes **“using a full fuel cycle energy analysis”** in comparing greenhouse gas emissions, effectively eliminating emissions from electrical emissions. This deletion will allow emissions to increase. Minnesota receives only approximately 30% of its electricity from renewable energy sources. In addition, 66% of the energy used to produce electricity is lost in production, transmission, and distribution.

Lines 60.17-60.19: Under existing statute, “source energy” is defined as **“the total amount of primary energy required to deliver energy services, adjusted for losses in generation, transmission, and distribution, and expressed on a fuel-neutral basis.”**

Lines 64.11-64.18: allows for fuel switching improvements based on “a proposed goal for efficient fuel switching improvements that the utility **expects** to achieve...”

It doesn’t consider the expected improvements of the fuel it replaces.

- Renewable propane is available and being used in the United States today.
- Its carbon intensity is as low as 20 and may be below zero in the near future.

- Renewable propane can blend with conventional propane at any percentage meaning no new infrastructure, equipment and appliances are needed.

Lines 66.19-66.22: **“A public utility is not eligible for a financial incentive for an efficient fuel switching program under this subdivision in any year in which the utility achieves energy savings goals below one percent of gross annual sales, excluding savings achieved through fuel switching programs.”**

Again, stricken from the ECO bill. It removes the financial incentive to reduce emissions and allows spending on non-conservation improvement fuel-switching.

I have included some quotes from various stakeholders about the vulnerability of our electric grid, and I ask that you take these seriously:

“A new report from the North American Electric Reliability Corporation (NERC) stresses the need to improve the reliability of North America’s power grid. The report assessed the amount of generation that will be available this winter compared to the projected demand for electricity and highlighted concerns about the risk of outages due to insufficient generation . . . The warning from NERC, which oversees the reliability and security of the electric grid, comes as utilities are grappling with changes throughout the industry. Traditionally the power grid faces its greatest challenges during a few peak hours each year, but that is changing as the industry transitions to new sources of energy. Now, the report details, supply challenges can arise over more circumstances in both summer and winter months.”

**Quote:** “This report is a serious reminder that decisions we make today will impact our power reliability tomorrow,” **Darrick Moe**, CEO of the **Minnesota Rural Electric Association** said. “According to the report, a large portion of the continent, including Minnesota, is at risk in the winter months if the weather is severe. In a state like Minnesota, having reliable power during dangerously cold winter weather can mean life or death.”

**Quote:** “Headlining the regional risk is uncertain energy availability, which was elevated from a high risk in 2023 to an extreme risk in 2024. This is the first time in the assessment’s history that a risk has risen to an extreme priority. A reliable bulk power system requires generating resources to produce the necessary amount of energy to manage electricity demand at any given time. The energy mix is rapidly transforming to include more energy-limited

resources that have uninsured fuel supplies, challenging the ability to provide power on demand.”

— *Mark Tiemeier, MRO Principal Technical Advisor, 2024 MRO Regional Risk Assessment Report*

**Quote:** “People use the phrase ‘keeping the lights on,’ but it’s so much more than that. It’s keeping families warm in the winter, helping American businesses stay competitive, ensuring hospitals and essential resources are available at all times and protecting our national security. These are things that depend on a reliable electric grid and we should take that seriously.”

— *Mac McLennan, Minnkota president and CEO, October 9, 2023, article*

**Quote:** “The electric power industry continues to face challenges in the future. A rapidly changing resource mix, a threat landscape, extreme weather, inverter-based resources. But really focusing in on reliability, managing the pace of a rapidly changing resource mix, which includes not only making sure you don’t retire prematurely, but also that we’re building enough resources and making sure they’re dispatchable really continues to be our greatest reliability risk in the future.”

— *John Moura, NERC Director of Reliability Assessment and Performance Analysis, Fox interview on Dec. 13, 2023*

**Quote:** “We are heading for potentially very dire consequences, potentially catastrophic consequences in the United States in terms of the reliability of our grid.”

— *Mark Christie, FERC commissioner, at a House Energy and Commerce Committee, Energy Subcommittee hearing on June 13, 2023*

**Quote:** “A major reliability event will set us backwards. The public will absolutely revolt.”

— *Joe Sullivan, vice chairman of MNPUC, at a conference hosted by the Minnesota Solar Energy Industries Association, on October 9, 2023 (courtesy MinnPost)*

**Quote:** “We’re talking about these reliability challenges in a nation that is so blessed with an abundant array of affordable, reliable energy resources like America is, it really doesn’t seem plausible that we should ever fall short. Yes, we have storms. Yes, there are power outages. That’s going to happen. But not having enough? That should never happen. Ever.”

— *Julie Fedorchak, NDPSC commissioner, at National Association of Regulatory Utility Commissioners’ annual meeting in November 2023*

**Quote:** “The recent acceleration in the pace of fleet change is increasing risks to system reliability for MISO. Dispatchable generators that we need to ensure reliability are being removed from the system before new resources with the needed reliability attributes are being brought online.”

— *Todd Ramey, MISO senior vice president of markets and digital strategy, at a House Subcommittee on Energy, Climate and Grid Security hearing on September 28, 2023*

The grid reliability report from the Energy Information Administration states that in Minnesota:

- System average customer minutes of interruption in 2022
  - 275.2 minutes. A 127% increase from 2021
- Customer average length of outage in 2022
  - 228 Minutes. A 96% increase from 2021

Many of the proponents’ strategies will make domestic fuels expensive or unavailable – we need to ensure that reliability and cost are factors in any conservation decision.

The Minnesota Propane Association wants to ensure that propane is an important part of our energy mix. It has numerous benefits, including:

- 2.5 times as much natural gas is needed to replace propane as natural gas contains only 1,000 btu per cubic foot, while propane produces 2,500 btu per cubic foot.
- Propane is made up of 73% hydrogen, while natural gas is made up of 70% methane.

- Methane has 80 times the warming power of carbon dioxide, while propane is listed as a non-pollutant that doesn't harm air, soil, or water.
- Propane's carbon intensity in Minnesota is 78, while grid electricity in Minnesota, including wind and solar, is 128.
- According to the EPA, propane has a site source ratio of 1.01 versus electricity, which is 2.8. This means that propane is almost three times more efficient than electricity.
- Propane is stored on-site, making it less vulnerable to reliability issues.
- Propane is part of the solution, not part of the problem.

Before we continue hiding emissions and making allowances not to meet the 2040 carbon-free goal, we need to evaluate and resolve the likely consequences - before experiencing them. These proposals need extensive scrutiny beyond using inefficient fuel switching and emissions exemptions.

Minnesotans, especially rural Minnesotans, need reliable energy and access to all forms of energy at an affordable price.

***Dave Wager***

Executive Director

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April 16, 2024

Representative Patty Acomb  
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Saint Paul, MN 55155

Dear Chair Acomb and Members of the House Climate and Energy Finance and Policy Committee:

Thank you for including \$5 million in funding for HF 4938 (Hollins) in the committee's 2024 omnibus bill. We appreciate the committee's interest in this innovative, forward-looking project to get organics out of our landfills and moved up the waste management hierarchy. By producing renewable natural gas from organic waste we have the opportunity to reduce reliance on traditional fossil fuels while simultaneously reducing greenhouse gas emissions from landfills. This project represents an exciting opportunity to invest in new technologies to manage our waste, create renewable natural gas, and move Minnesota forward in our climate and recycling goals.

We invite all committee members to come take a tour of both the [Ramsey/Washington Recycling and Energy Facility](#) in Newport, as well as the Dem-Con facility outside of Shakopee. For Recycling & Energy tours, please contact Melissa Finnegan ([melissa.finnegan@ramseycounty.us](mailto:melissa.finnegan@ramseycounty.us), 651-278-8374). For Dem-Con tours, please contact Bill Keegan ([billkeegan@dem-con.com](mailto:billkeegan@dem-con.com), 612-845-5075).

Thank you again for allowing us to share this exciting project with you. We appreciate the committee's interest and support in this innovative technology.

Sincerely,

Commissioner Victoria Reinhardt  
Ramsey County  
Recycling & Energy Board

Commissioner Fran Miron  
Washington County  
Recycling & Energy Board

Bill Keegan  
President  
Dem-Con Companies



Supporting Organizations:

