



May 2nd, 2025

Chairs Stephenson, Torkelson, and Members of the Ways & Means Committee,

I'm writing to submit comments on House File 2442, the omnibus energy bill. Missing from HF 2442 are two important pieces of legislation that will provide much-needed relief to Minnesotans struggling under the high costs of living.

We respectfully urge your support to include repealing the Right of First Refusal (ROFR, as written in House File 2553) and the Only Pay for What You Get Act (as written in House File 1311). These two measures are critical for lowering energy costs, enhancing transparency, and ensuring Minnesotans are treated fairly on their energy bills.

The recent executive order from President Trump promoting energy competition aligns with growing bipartisan support for ending monopolistic practices in the energy sector. As detailed in the [Minnesota Reformer's April 30 article](#)¹, maintaining ROFR protections for monopoly utilities blocks competition, increases prices, and stifles innovation. I want to highlight a specific portion of the article:

“Before this law, Minnesota enjoyed electricity rates significantly lower than the national average – about 18% below in 2001 and still 13% lower in 2011.

Then came the ROFR law in 2012, and this advantage began eroding rapidly. By 2013, rates were only 6.5% below the national average. The downward trend continued until 2020, when rates were virtually identical to the national average – a mere 0.2% lower. While there have been slight improvements recently, Minnesota is nowhere near its former competitive advantage.

This isn't just about losing an economic edge – it's a failure to meet the state's own legal requirements. Minnesota law explicitly mandates that electricity rates should be 5% below the national average. Current rates fail this standard, putting Minnesota in violation of its own energy policy goals.”

One simple Google search will show numerous studies that have shed light on the negative impacts of ROFR^{2,3}. In Illinois, Governor Pritzker vetoed a ROFR bill stating that *“Competitively bidding transmission construction, instead of giving the utility a monopoly, has been shown to lower costs significantly.”*⁴

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.”*⁵

The Biden Administration expressed concerns over how eliminating competition will negatively affect consumers⁶, and now the current Trump Administration is also looking at ways to promote better energy for consumers⁷.

¹ <https://minnesotareformer.com/2025/04/30/price-relief-through-competition-ending-minnesotas-transmission-monopoly/>

² <http://www.eenews.net/articles/utilities-push-to-extend-monopolies-may-shape-grids-future/>

³ <https://www.realclearenergy.org/articles/2023/02/15/to-lower-energy-prices-states-should-end-right-of-first-refusal-laws-881656.html>

⁴ <https://news.wttw.com/2023/08/16/pritzker-vetoes-measure-granting-ameren-authority-over-transmission-line-construction>

⁵ <https://iowacapitaldispatch.com/2023/03/29/citing-crony-capitalism-iowa-supreme-court-blasts-late-night-legislative-logrolling/>

⁶ <https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>

⁷ <https://www.justice.gov/opa/pr/justice-department-launches-anticompetitive-regulations-task-force>



Take New Jersey for example⁸, where in October 2022, it was announced significant estimated savings 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 (NJBPU) 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).

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. We knock on doors and talk to Minnesotans every day and they are absolutely puzzled why their legislators would allow an energy monopoly to exist as they balk at their latest energy bill increase.

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 and ability to service and maintain transmission.

Lately, red and blue states alike have moved to block or repeal ROFR. In fact, Montana's legislature just sent a repeal to the governor's desk. Minnesota should lead the way in embracing competition and consumer protection, especially as rapidly advancing technology reshapes our energy future.

Similarly, the Only Pay for What You Get Act reinforces the effort to make energy more affordable and reliable by modifying the procedures governing cost recovery. Profit would only be allowed based on reliable assets. This is not to say that utilities cannot invest in alternative energy generators; but they must prove that they would still be able to meet energy demands when considering reducing the capacity of or retiring an asset and building new. Billions of dollars in profit stand to be made in this next wave of energy investments. Minnesotans should not be required to pay for energy sources that fail to provide vital power to their homes, businesses, schools, and the state in general. Profit should not be guaranteed, either, due to lack of competition.

Please ensure our state's energy policies work for the people and dismantle the corporate cronyism holding Minnesotans hostage to uncompetitive rate hikes. We urge you to choose protecting people over protecting utility profits.

Sincerely,

RaeAnna K. Lee

RaeAnna K. Lee
Legislative & Coalitions Director, Minnesota
Americans for Prosperity
rlee@afphq.org

⁸ <https://www.nj.gov/bpu/newsroom/2022/approved/20221026.html>