



Industrial Energy Consumers of America

The Voice of the Industrial Energy Consumers

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July 12, 2021

The Honorable Joe Manchin III
Chairman
Senate Committee on Energy and Natural
Resources
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
Senate Committee on Energy and Natural
Resources
Washington, DC 20510

Re: Energy Infrastructure Act – “Support Competitive Bidding on Electric Transmission Projects”

Dear Chairman Manchin and Ranking Member Barrasso:

On behalf of the Industrial Energy Consumers of America (IECA), we urge you to insert the attached legislative changes into the Energy Infrastructure Act, which protects consumers by ensuring that all electric transmission projects are competitively bid, thereby reducing costs. The purpose of Federal Energy Regulatory Commission’s (FERC) Order 1000 was to inject competition into electric transmission projects, but incumbent electric utilities found ways to subvert competition called “rights of first refusal” which protects their monopoly power. Transmission projects receive very high ROE’s of about 12-13 percent. These protectionist laws are not in the public interest. Electric transmission is manufacturing’s highest increased energy cost. According to the Edison Electric Institute (EEI), transmission costs from investor-owned electric utilities have surged 42 percent in six years.¹

To illustrate the significant increase in transmission costs, below are selected transmission providers in PJM:

Transmission Zone	2015	2021	Percent Increase
AEP	\$41,438	\$95,598	+130.9%
Penelec	\$15,112	\$50,128	+231.8%
PPL	\$34,595	\$97,881	+182.7%
PSEG	\$96,521	\$172,190	+78.4%

In 2011, FERC Order 1000 was to usher in electricity competition into the national policy arena. FERC took the position that competitive transmission was in the consumers and public interest. FERC ordered that “rights of first refusal” for incumbent transmission owners be removed from all federal tariffs across the country, and the federal processes should have competitive pressures. FERC’s order was upheld by the DC Circuit and appellate courts across the U.S.

¹ “Financial Review 2019,” Edison Electric Institute (EEI)

But successful lobbying effort at the state level quickly led to the enactment of state right of first refusal laws across the country, which proposed reinstating state right of first refusals for incumbent transmission owners.

We look forward to working with you and the Committee to ensure that consumers are protected from monopoly market power.

Sincerely,

Paul N. Cicio

Paul N. Cicio
President and CEO

cc: Senate Committee on Energy and Natural Resources

SUGGESTED CHANGES TO LEGISLATION

SENATOR MANCHIN BILL EDITS TO 7/9 MARK--- PROPOSED EDITS (new language in red)

SECTION 1005. Siting of Interstate Electric Transmission Facilities.

On Page 32, Section 216(a)(2)(B) is AMENDED -

(B) by deleting “which may designate as a national interest electric corridor any geographic area that” and inserting “which may designate as a national interest electric corridor any geographic area, including a specific project, that”;

On Page 34, Section 216(a)(4) is AMENDED -

(H) the designation would improve grid reliability or resilience, or would result in a reduction in the cost ~~to~~ of transmission additions or of the purchase of electric energy by or for consumers.”; and

On Page 34, existing Section 216 (b)(1)(B) is AMENDED

“(B) the applicant for a permit is a transmission utility under this Act but does not qualify to apply for or be granted a permit, eminent domain authority, or siting approval for the proposed project in a State, because:

- (1) the applicant does not serve end-use customer in the State-or is not an existing public utility in that State; Or;
- (2) the State or local authority, whether through law, regulation or court, otherwise limits transmission permitting or ownership to entities owning existing transmission facilities in the State or to existing public utilities in the State, or provides existing transmission owners with a right of first refusal or any preference for high-priority interstate transmission corridors, areas or projects. Or;

On Page 37, existing Section 216 (g) is AMENDED

“(g) STATE LAW.— Other than as set forth herein, Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

On Page 37, new Section 1005 (e) is ADDED

(e) Section 216 of the Federal Power Act is amended by adding new section (I): **(I) Transmission Selection Process and High-Priority Interstate Transmission Corridors.** --

Not later than 180 days after the date of enactment of this Act, the Federal Energy Regulatory Commission shall issue a new regulation, or revisions to existing regulations, that require

(1) after September 1, 2021, regions to conduct competitive processes for regional or interregional transmission projects, if such federal competition might not otherwise be allowed under regulations, because of restrictions outlined under Section 216(b)(1)(B)(1) and (b)(1)(B)(2); and,

(2) any qualified non-incumbent developer be permitted to participate and be selected in the competitive processes under (1), if the qualified developer notifies the selecting authority at the time its competitive proposal is submitted that it is willing to apply for federal authority under this section 216 if selected to develop the regional transmission project; and,

(3) the transmission planning selection process under (1) shall not provide any preference for any such state or local restrictions in the selection process if such notification (2) is provided after September 1, 2021.

SUBTITLE A- GRID INFRASTRUCTURE RESILIENCE AND RELIABILITY- NEW SECTION 1014.

Section 1014. National Policy on Transmission

It is the policy of the United States that –

- (1) the planning, siting, permitting, and operation of a modernized and integrated bulk electricity transmission system should facilitate a reliable, resilient, and cost-effective electricity supply and any necessary replacement of transmission infrastructure that is nearing the end of its useful life, at least cost to ratepayers; and
- (2) the public interest is served by overcoming regulatory and jurisdictional barriers to coordinated, cost-effective, and competitively procured, investments in the Nation’s electric grid system; and
- (3) the planning of regional and interregional planned projects, procured through competitive processes, that provide access to demand for clean energy resources should be prioritized by the Department of Energy and Federal Energy Regulatory Commission.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$1.1 trillion in annual sales, over 4,200 facilities nationwide, and with more than 1.8 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.