JULIAN BRADLEY
WISCONSIN STATE SENATOR

Senate Bill 481
Senate Committee on Utilities, Technology and Telecommunications
Monday, October 9, 2023

Committee members,

We are all likely guilty of taking the availability of power in Wisconsin for granted. But without it families and businesses could not function. Maintaining the efficient delivery of power should be a top priority for both regulated utilities and policymakers here in the legislature and at the Public Service Commission.

Since the Federal Energy Regulatory Commission (FERC) rolled back a federal Right-of-First-Refusal for some types of transmission projects in 2011, several states within the Midcontinent Independent System Operator (MISO) region have passed bipartisan laws to ensure the continued availability of power to consumers. This legislation has been passed by Republican legislatures with overwhelming bipartisan support in Texas, Mississippi, Indiana, Michigan, Iowa, North Dakota, and South Dakota and signed by Republican Governors like Kim Reynolds in Iowa, Greg Abbott in Texas and former Vice-President Pence in Indiana.

These legislative leaders and governors were seeking to retain state level control of their transmission projects and to ensure that their constituents had access to safe, reliable and affordable energy. These same goals are what led Representative Petersen and me to work on the bill before us today.

By proactively establishing a state level Right-of-First-Refusal like so many of our neighboring states we can achieve these goals. We likely have a long day ahead of us, and many regional and national experts available to discuss this is in great detail so I will focus the rest of my testimony on explaining in layman's terms the benefits of this bill.

First, if given the choice between Wisconsin regulators and policy makers and a federal procurement process, I think it should be an easy choice for us to entrust critical energy infrastructure to our fellow Wisconsinites. After all, we represent Wisconsin and have Wisconsin's best interests in mind.

Second, there will be in-depth discussion of costs. Speakers after me will likely discuss two different studies and multiple transmission projects in other states. The key point to remember is that the price a company initially bids to construct a project is not the same as the final cost to ratepayers.

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The opponents of this bill would love if that was the case, but in reality the price merchant developers bid often bears no actual resemblance to the final price ratepayers ultimately pay. For example, the Ten West Link project or Delaney to Colorado River received five bids with a winning bid of about $242 million and an estimated completion date of May 1, 2020. Today local consumers are still waiting for the project to be complete, but earlier this year DCR Transmission, the company who won the bid, asked FERC to approve a transmission tariff of $553 million, more than doubling the cost.

For better or worse, we are all aware that there are companies who submit bids they have no realistic way to meet only to raise prices later through a series of revisions. They say there are cost caps, but what they don't say is that there are exceptions to the cost caps. The key thing to remember is that the final cost to ratepayers is what matters, not the initial bid.

It is important to note that the Brattle Study that opponents of this bill will cite is focused on bids, not final costs and only examined sixteen projects in two regions. Instead of relying on final costs, they projected cost increases, and those theoretical savings of course never made it to the pocket of a ratepayer. In many cases like Ten West Link, initial bid amounts have no relationship to the final tariff cost passed on to ratepayers.

You will also hear about the economic advantage for ratepayers to have an incumbent transmission company build and own a project. Incumbent companies can defray a greater share of the actual cost paid by Wisconsin ratepayers on future regional projects in the MISO region. Without a Right-of-First-Refusal this advantage disappears for Wisconsin ratepayers.

This in combination with the significantly lower cost of ATC or Xcel operating and maintaining these lines long term makes Wisconsin's adoption of this bill a win for our ratepayers. As you hear the testimony related to cost I would encourage you to ask future speakers if they are describing bids at the beginning of the process or actual costs paid by ratepayers when a project is completed and in operation.

Ratepayers in my district prefer the kind of savings that actually make it to their bank accounts over theoretical savings and I would expect that is also the case in Superior, Arcadia and Viroqua as well.

Thank you for your time. I appreciate your consideration of this bill.

KEVIN PETERSEN
STATE REPRESENTATIVE

Testimony on Senate Bill 481

Good morning members of the Senate Committee on Utilities and Technology, thank you for allowing me to testify today on Senate Bill 481. I have several things to discuss, but I'd like to highlight the three main things this bill will do when signed into law: It will keep the state of Wisconsin's authority over its own power grid, ensure the continued reliability of our grid, and enshrine cost competition into our statutes.

In Wisconsin, when we turn our light switches on at night, we trust that there will be power to light our homes. We value the reliability of our energy, and our energy policies have been made to ensure we have power when we need it. But it wasn't always that way in the state.

A little over 20 years ago, Wisconsin's economic future was in doubt because we lacked a reliable and robust energy grid. Multiple utilities operated a fragmented transmission network. Utilities were disincentivized from making investments in their own transmission because those investments could benefit competitors at the expense of their own ratepayers. This resulted in under investment in transmission causing Wisconsin to be cut off from cheaper external power sources, while decreasing reliability and economic efficiency.

That changed in the late 1990s, when the Governor and Legislature engaged in a multi-session bipartisan effort to make sure that Wisconsin had a safe, reliable, and economically efficient transmission network. Beginning with 1997 Wisconsin Act 240, the state began the process of encouraging utilities to divest their transmission lines in order to consolidate transmission operations in the state. While some utilities retained their transmission lines, such as Xcel and Dairyland Power Cooperative, many other utilities chose to divest these lines. The next session, 1999 Wisconsin Act 9 created the company we know today as American Transmission Company (ATC).

In that act, Wisconsin utilities were permitted to transfer their transmission assets, and ATC was required to assume those assets, along with the statutory duty to provide transmission and maintain the transmission lines that had been transferred. With the state's creation of ATC, much of Wisconsin's transmission lines came under the control of one company whose sole purpose is to ensure the reliable transmission of power in our state.

For many years after its creation, ATC was responsible for the construction, maintenance, and operation of both inter-state transmission projects (such as lines bringing wind power from the Dakotas into Wisconsin) and intra-state projects affecting only Wisconsin's grid. Federal law, at the time, granted ATC and other transmission operators a right-of-first refusal for the construction of these lines, and the projects were overseen and regulated by our own Public Service Commission (PSC).

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KEVIN PETERSEN
STATE REPRESENTATIVE

Unfortunately, since then, an order from the Federal Energy Regulatory Commission (FERC) has undermined states' energy independence, including in Wisconsin, by requiring inter-state projects to go through a lengthy bureaucratic bidding process mandated by the federal government. In 2015, FERC issued Order 1000, which removed a federal right-of-first refusal for incumbent transmission companies to construct inter-state transmission lines, although in Wisconsin, transmission companies retain the exclusive right to intra-state transmission construction.

FERC Order 1000 gives the Midcontinent Independent System Operator (MISO), the Midwest's regional grid regulator and a private entity, the authority to make decisions about Wisconsin's electric transmission lines and power grid that would otherwise be under the jurisdiction of the PSC of Wisconsin. The Order also has the effect of encouraging non-Wisconsin companies to get involved in our state's power grid, even if those companies have not proven they can be reliable in their construction, operation and maintenance of transmission lines.

The goals of Order 1000 were to encourage competition and cost-savings. Although these goals were admirable, unfortunately, they have not necessarily been realized.

When we talk about energy policy, it's important to keep in mind that we're dealing with a highly regulated industry, and it's highly regulated because the legislature intended for it to be that way. I'll use the example of buying something at Wal-Mart to illustrate a point I'd like to make. If I go to Wal-Mart and want to buy a microwave, I go to the microwave aisle and choose if I want the cheap microwave, the expensive microwave, or one of the many microwaves in between. As you're obviously aware, I can't go to an aisle in Wal-Mart to buy my power. In fact, I can't even choose which company I buy my power from.

This is by design. I have one utility that I can buy my power from when I'm at home, and in Wisconsin, I will always have one utility that I can buy power from, even in the most remote corner of Waupaca County. That utility has a regional monopoly on power. In exchange for that monopoly, given to them by state law, that utility is obligated to provide power to every household in their territory, whether they want to or not, and they are subject to extensive oversight by the PSC. Everyone who wants power has access to power. That's known as the regulatory compact.

Given the highly regulated nature of energy policy, it's not surprising that Order 1000's goals of a competitive energy market have encountered challenges. Recent studies have found a number of issues with competitively bid projects under Order 1000. I will go over some of these issues, although it is a non-exhaustive list.

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First, competitive projects have experienced delays in start times. These delays can be attributed to a number of factors stemming from Order 1000, including the extensive bidding process required by MISO and companies operating in states they have little to no experience in.

Second, the people approving transmission projects are not from Wisconsin. No disrespect to them, but I think you and I have Wisconsin's best interests in mind, and we should be making these important decisions. Without a state right-of-first-refusal, MISO is the one making the decision about who, where, and how transmission lines will be constructed in Wisconsin. The people making decisions about Wisconsin's grid are not beholden to anyone in our state government for the cost, reliability, or efficiency of our power grid.

Third, competitive projects have seen cost overruns on projects that were initially underbid. Even though competitive bidding may result in an initial low-ball bid from a developer, these projects will often have cost-overrun contingencies and multiple exclusions in capped costs. Developers have found ways to game the competitive bidding system by submitting a low-ball bid and then recovering the true costs from rate payers by taking advantage of these contingencies and cost caps. Examples of these cost overruns include the Harry Allen to Eldorado line, which had a cost cap overrun of 39%, the Suncrest Project, which had a cost cap overrun of 14%, and the Ten West Link Project, which is still ongoing and has reported at least a 61% cost cap overrun.

In light of these issues with Order 1000, Wisconsin must take action to return to earlier transmission policy that worked so well in in the 2000s and early 2010s.

Although FERC Order 1000 removed the federal right-of-first refusal, states may still implement a right-of-first refusal. While MISO has authority over inter-state transmission, MISO defers to state law regarding siting and permitting of transmission facilities. Because of this, a state level right-of-first refusal is still permitted and recognized, and such a law will return the authority over transmission lines in Wisconsin back to our PSC.

That is the purpose of Senate Bill 481:

- It preserves the role of the PSC, whose members are appointed by the Governor and confirmed with the advice and consent of the State Senate, in deciding who owns and operates the transmission infrastructure in the state versus an out-of-state regulator.
- It also requires Wisconsin's transmission developers to competitively bid the construction of their infrastructure which will be reviewed and approved by the PSC in an open, transparent process.

Eight states within MISO have already adopted similar legislation: Texas, Indiana, North Dakota, South Dakota, Minnesota, Iowa, Mississippi, and Michigan. Opponents will talk about how one Supreme Court has overturned this legislation on its merits, which is true, but they

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STATE REPRESENTATIVE

won't talk about the other states where the legislation is still good law. Nor will they talk about the wide conservative majorities that passed the legislation, and the bipartisan list of Governors that have signed it into law, including Greg Abbott, Gretchen Whitmer, and Mike Pence. Wisconsin should join these states by keeping our authority over our own power grid and remaining competitive in keeping the price of transmission low.

Decisions about our power grid in Wisconsin should be made by our own state government, not an out-of-state regional authority. The companies building our power grid should be the same companies we've entrusted to keep our lights on at night, not out-of-state or international corporations. Reliable power is critical to the safety and economic well-being of Wisconsin.

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KAREN HURD
STATE REPRESENTATIVE • 68TH ASSEMBLY DISTRICT

Senate Bill 481
Public Testimony
Senate Committee on Utilities and Technology
October 9, 2023

Thank you, Chair Bradley and members of the committee for holding this hearing on Senate Bill 481.

Although electricity is not a public good, it is not an item quite like other privately purchased services. A consumer can choose between several options when employing a plumber to repair leaky pipes or when contracting with a construction company to build their home. However, when it comes to choosing the private company that will provide the transmission lines to carry electricity to their home or business, a consumer has no choice.

This is as it should be because we as a society cannot run multiple lines of transmission wires along the same routes. It would be duplicative and is economically unfeasible. That is what has made the ownership of transmission facilities which include high voltage lines as well as substations difficult to navigate. That said, Wisconsin has done remarkably well in managing this issue, most especially since the legislature's efforts in 1999 resulting in the formation of the American Transmission Company (ATC) to fix the unreliable energy grid that plagued Wisconsin with brown-outs. Additionally, the good-will cooperation between our energy providers in our state as well as the input of the Public Service Commission (PSC) has been essential in achieving the lowest possible rates for consumers with the best possible delivery of energy.

Prior to the formation of ATC, our grid was fragmented because of multiple transmission facility owners with varying standards. The ability of these many facilities to join as one to provide reliable and affordable energy was a major step forward for Wisconsin's energy grid. We are again at a crossroads that is in some respects similar to what we faced in 1999.

In the Federal Energy Regulatory Commission's (FERC) Order No. 1000, the already established Right of First Refusal (ROFR) applied only to upgrades that an incumbent transmission facility owner needed to make. New transmission facilities selected in a regional plan were not covered by the federal ROFR and nonincumbent transmission developers were permitted. Herein lies the vulnerability to the Wisconsin grid.

Merchant developers do not necessarily have Wisconsin rate payers' best interests in mind. Understandably so, these merchant developers are in the business of making money for their company. Additionally, if new projects are bid out to companies outside of our own Wisconsin energy companies, Wisconsin is no longer in control of that infrastructure. Our own PSC will be eliminated from the oversight on those projects. This leaves our grid and rate payers vulnerable. Bottom line, let Wisconsin control Wisconsin's grid and not outside entities.

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Obviously, from my foregoing statements, I am most definitely in favor of SB 481. However, to properly represent my district which is rural Wisconsin, I would ask the committee to consider amending the language of the bill to be more clear that in the construction of new transmission facilities that are in the footprint of 2 or more incumbent transmission facility owners that all of those incumbent facility owners would have the right to be at the table in the process of the ROFR. The proportion of ownership as well as investment of funds in these new projects would be in accordance with the proportion of energy for which the incumbent facility owners are responsible within their footprint.

Thank you for your time. I am happy to answer any questions the committee may have.

October 9, 2023

TO: Senate Committee on Utilities and Technology

FROM: Mike Hofbauer, Executive Vice President & Chief Financial Officer

SUBJECT: Senate Bill 481

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to provide testimony in support of Senate Bill 481.

The idea that a Right of First Refusal (ROFR) for incumbent utilities to build transmission projects in Wisconsin would lead to higher costs for Wisconsin customers is simply wrong. Wisconsin customers will pay less for a regional transmission project that is built by an incumbent utility than they would if that project was built by an out of state developer. Holding everything else constant, if an incumbent utility builds such a project, Wisconsin rates will decrease, while rates will go up if an outside developer builds it. This is due to the way that costs are allocated across the region for these projects.

When ATC owns one of these regional transmission projects, we send a bill to the regional transmission organization, MISO. This bill doesn't only include the capital cost of the project itself; it includes an allocation of ATC's existing operating costs.

I know many of you are business owners. The concept here is similar to how income tax deductions work for a home office. If you use a room in your home to run your business, you can deduct the cost of furniture, computers and other office equipment on your tax return. You can also deduct a portion of your electricity, heating, homeowners' insurance and mortgage interest.

It's the same principle for allocating costs for regional transmission projects. ATC allocates a portion of its existing operating costs to the region that we would otherwise bill to our Wisconsin customers.

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MISO collects these bills from all the transmission owners in the region. Then they allocate the total cost for all regional projects to customers based on usage of the system. The amount that MISO bills to Wisconsin customers for an ATC project is less than the amount ATC bills to the region for that project.

Let me illustrate this concept with actual data for existing ATC projects. ATC currently has two regionally cost-shared projects that have been approved by the Wisconsin Public Service Commission and are in service or will soon be in service. The first is the Pleasant Prairie – Zion Energy Center 345kv line that was placed in service in 2013. The second is the LaCrosse – Madison 345kv / Dubuque Co. – Spring Green 345kv, more commonly known as Badger Coulee and Cardinal - Hickory Creek. The Badger Coulee portion of the project was placed into service in 2018 and ATC's portion of the Cardinal – Hickory Creek line is expected to go into service at the end of this year. ATC recently submitted our 2024 rate sheets for these projects to MISO. The total amount to be collected by MISO for these projects in 2024 is $66.8 million. The cost of these projects is allocated across the MISO region based on customers' usage of the system. Based on information from MISO, we expect 12.5% of the cost, or $8.3 million to be billed to ATC's customers. Included in the $66.8 million total that ATC submitted to MISO is $10.1 million of operating expenses that have been subtracted from the amounts that ATC will bill to its customers in 2024. Because ATC is reducing its billings by $10.1 million for these projects, and MISO is only billing ATC customers $8.3 million, ATC customers will receive a net benefit of $1.7 million in 2024.

The same would not be true for an outside developer. That's because an outside developer does not have existing costs in Wisconsin; therefore it would not be able to provide the same cost reduction benefit to Wisconsin customers.

This same allocation methodology applies to regionally cost-shared projects being constructed in other MISO states. Costs are being shifted from those states and billed to Wisconsin customers. If incumbent transmission owners in Wisconsin don't have the opportunity to shift costs to other states, Wisconsin customers will bear higher transmission costs.

I would also like to point out that this bill would not eliminate competition from the construction of transmission lines. ATC utilizes a competitive bidding process for construction contractors, as well as for the purchase of equipment and construction materials. The bill codifies this process under the oversight of the Public Service Commission.

There is another benefit to Wisconsin from ATC's ownership of transmission lines. Public power entities, including WPPI Energy and several other municipal and cooperative utilities, have a 12% ownership share of ATC. Over the past 10 years, ATC has distributed over $197 million dollars to our public power owners. These owners can use their distributions to improve their local utilities, lower their customers' rates, or continue to invest in ATC, helping us deliver safe, efficient, and reliable energy to the state.

Thank you for the opportunity to provide this information for your consideration.

Mike Hofbauer

CONSUMER ENERGY ALLIANCE
THE VOICE OF THE ENERGY CONSUMER

Chairman Bradley, Vice Chairman Wanggaard, and Members of the Committee on Utilities and Technology, I wish to thank you for allowing Consumer Energy Alliance (CEA) to provide testimony in support of Senate Bill 481. My name is Chris Ventura, and I represent CEA, Midwest.

CEA is the nation's leading consumer energy and environmental advocate – ensuring families, farmers, and local businesses have access to sustainably produced, affordable, reliable and resilient energy.

Our members support a rational, all-of-the-above energy policy that utilizes all our domestic natural resources – both traditional and renewable – while ensuring commonsense environmental protections are in place. We believe that responsible policies always consider the needs of consumers while leveraging and supporting the development of state-of-the-art technologies to improve our environmental stewardship, aiding in the continued reductions of all emissions.

As such, we believe this legislation will continue to offer consumers access to energy that remains affordable and reliable, while allowing for increased resiliency and protections for Wisconsin's energy consumers.

Right of First Refusal (ROFR) questions related to transmission investments are occurring throughout the country at both the state and federal levels. Questions such as, "Who pays for interconnection?" and "How do states in RTO's with varying state policy goals and/or mandates allocate costs?"

This is because electric grids are facing reliability challenges due to a variety of factors from aging infrastructure to an evolving power generation mix. The Midcontinent Independent System Operator (MISO), of which Wisconsin is a member, is not immune to these challenges. The North America Electric Reliability Corporation (NERC)—the entity responsible for overseeing the reliability of our electricity grid considers MISO at an elevated risk for blackouts.

SB 481 will strengthen the reliable delivery of Wisconsin's electricity supply by ensuring that transmission developers familiar with the intricacies of the state's electricity grid will oversee the construction of system upgrades. Additionally, SB 481 maintains the current requirement that transmission owners competitively bid for project construction— ensuring that transmission investments will not only increase reliability but will also deliver these investments in infrastructure at the most affordable cost to consumers.

Some will argue that ROFR laws restrict competition that would benefit consumers, but there is no evidence supporting those claims. Concentrics Energy Advisors reviewed competitively solicited transmission projects and concluded: "...competitive solicitations have not been successful in driving cost savings and have added delays to the development of transmission

infrastructure. Competitive solicitations added as many as 1000 days to the development of transmission projects, and many experienced cost escalations, further questioning the value of competitive solicitations."

Moreover, delays in transmission investment not only hinder the reliability of the grid but also have the potential to increase consumer costs because of congestion and an inability to deliver lower cost power from transmission-constrained areas.

Thank you, again, for the opportunity to comment in support of Senate Bill 481.

CUB CITIZENS UTILITY BOARD

Citizens Utility Board of Wisconsin, Inc.
Thomas Content - Executive Director

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To: Members of the Senate Committee on Utilities and Technology
From: Tom Content, Executive Director, Citizens Utility Board of Wisconsin
Date: October 9, 2023
Re: Opposition to Senate Bill 481

Chairman Bradley and members of the committee, thank you for the opportunity to provide input on Senate Bill 481 today. I'm Tom Content, Executive Director of the Citizens Utility Board of Wisconsin, or CUB. CUB respectfully requests that you keep cost saving tools in the regulatory toolbox for customers we represent across Wisconsin and oppose this incumbent monopoly utility protection legislation.

CUB advocates on behalf of homeowners, renters and small businesses across the state — the residential and small business customers of Wisconsin's electric, natural gas and water utilities. CUB is a nonpartisan non-profit organization created by the Legislature in 1979 to level the playing field in cases at the state Public Service Commission and provide representation for small customers. CUB advocates for safe, reliable and affordable utility service.

This bill undercuts affordability efforts by blocking an opportunity to find cost savings or project improvements when major power lines are built. Consumer advocates and customer groups across the country have mobilized in the name of cost savings to support competitive bidding for projects as part of an expected multi-billion-dollar expansion of the Midwest and national power grid.

Transmission spending is taking up a larger share of a typical customer's electric bill, and Wisconsin customers today pay the second highest electricity rates in the Midwest. Our electricity rates rank among the top 15 most expensive states in the country for residential and business customers, and a Midwest comparison this year found residential and business rates for most Wisconsin investor-owned utilities rank in the top quartile in a comparison with IOUs across 12 Midwest states.

Competitive bidding has been shown to save up to one-third or more on transmission line costs. Significantly, cost caps in competitively bid projects assure that utility customers aren't on the hook for cost overruns. Those savings are being seen around the country, and this year the Midwest Independent System Operator joined other regions in moving forward in this area, selecting a competitively bid project.

For CUB members and utility customers across the state, the cost pressures keep coming. This is why CUB is highlighting affordability as a goal that regulators and policymakers here in the Capitol need to keep top in mind.

Many customers experienced double-digit increases on bills earlier this year, and more of the same is being proposed right now for other customers. This fall customers across the state are submitting comments or speaking at public hearings on currently pending proposals to raise prices by $500 million or more. That includes hearings taking place this afternoon and evening in Milwaukee.

Current Wisconsin law does not require competitive bidding. Rather, it holds it out as an option for when competition is appropriate. If concerns exist over the level of control non-Wisconsin entities such as the Midcontinent Independent System Operator have over the selection and design of transmission projects to be built in our state, this bill is not the solution. Rather than increasing the amount of control our state has over transmission projects to be built within our borders, it would hand even more control to MISO as it would take streamline the process between when MISO identifies the need for a project and when that project comes before our Public Service Commission.

It would throw away the opportunity for competitive bidding, opportunities that are already severely limited due to MISO's rules. It would throw away the tool this legislature has long preserved to make sure all options are on the table to help ensure that only the best and most cost-effective projects are paid for with utility customers' money. In short, rather than improving state control over transmission investment, this bill would have Wisconsin hand over the keys, not only to MISO but also to any potential future federal push to increase transmission investment to enable more renewable energy and decarbonize our electricity sector.

Now I'd like to highlight some recent developments on this issue around the country and in the Midwest.

CUB serves on the Executive Committee of the National Association of State Utility Consumer Advocates, a voluntary association of 60 consumer advocate offices in 44 states and the District of Columbia.

This national coalition, NASUCA, is highlighting the value of competitive bidding for major transmission projects. In June 2022, NASUCA passed a transmission policy resolution that states in part:

> "Competitive bidding for transmission services should result in greater innovation and lower prices for consumers. In addition, competitive bidding should improve operating efficiencies and will shift business risk from monopoly customers to competitive transmission providers."[1]

A copy of the resolution is attached to the written version of my testimony.

[1] NASUCA Resolution 2022-01, Urging the Develompent of Consumer Protection Policies for Interconnection and Electric Transmission and Distrribution Planning and Development, June 2022

Also last year,[2] and again this year,[3] NASUCA submitted comments to the Federal Energy Regulatory Commission underscoring the value of competitive bidding and opposition to plans to undercut that through ROFR. NASUCA highlighted a number of consumer protection issues in FERC's Building the Future Transmission rulemaking, among them that "competition should be the primary method for determining who builds transmission projects."

The comments went on to say:

> "NASUCA believes that allowing entities to compete on price to win the opportunity to build defined projects will result in the lowest cost for consumers. In a process arguably controlled by incumbent transmission owners, eliminating the opportunity to bring competitive suppliers and competitive pressures into play for the benefit of consumers is the wrong policy direction."[4]

Just this year we have seen developments in nearby states. The Iowa State Supreme Court overturned a ROFR law that was enacted despite customers' opposition in a state where transmission costs have surged and become a significant share of customers' rising bills.

More recently, just two months ago, Gov. J.B. Pritzker vetoed a ROFR bill in Illinois, saying Illinois utility customers were facing higher costs under the legislation. "Without competition, Ameren ratepayers will pay for these transmission costs at a much higher costs, putting corporate profits over consumers," he said.[5]

CUB stands with our consumer advocate colleagues in nearby states and across the country in support of effective policies that support affordable utility bills. That includes retaining competitive bidding on major power line projects. CUB respectfully requests your assistance in keeping utility costs in check by voting against SB 481.

Thank you.

Attach PDF of NASUCA Resolution 2022-01

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[2] Initial Comments of NASUCA in FERC Transmission 'Building the Future" NOPR RM21-17-000, August 17, 2022

[3] Post-Technical Conference Comments of NASUCA in Dockets AD-22-8-000 and AD-21-15-000, March 23, 2023

[4] Initial Comments of NASUCA in FERC Transmission 'Building the Future" NOPR RM21-17-000, August 17, 2022

[5] Gov. Pritzker Vetoes Legislation – Amendatory Veto to Illinois House Bill 3445, August 16, 2023

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
RESOLUTION 2022-01

URGING DEVELOPMENT OF CONSUMER PROTECTION POLICIES FOR INTERCONNECTION AND ELECTRIC TRANSMISSION AND DISTRIBUTION PLANNING AND DEVELOPMENT

Whereas, electric service is an essential service; and

Whereas, consumers' lives and livelihoods depend on such service being safe, reliable, and affordable; and

Whereas, the electric system exists to serve customers; and

Whereas, consumers ultimately both pay for the costs of any generation, transmission, and distribution development and bear the brunt of impacts if the lights go out; and

Whereas, the electric system must be well-planned for consumer system demands and needs and be based on cost-efficient planning principles, and the planning process must provide for the opportunity for meaningful input by consumers; and

Whereas, increased interconnection of distributed energy resources can impact system requirements; and

Whereas, electric system infrastructure must be able to withstand extreme weather events; and

Whereas, stronger interregional connections can help increase overall electric system reliability and resilience; and

Whereas, transmission and distribution investment is necessary and advantageous for the electric system to meet reliability and public policy climate objectives, and in particular, to allow the interconnection of non-fossil fuel generation resources; and

Whereas, competitive bidding for transmission services should result in greater innovation and lower prices for consumers. In addition, competitive bidding should improve operating efficiencies and will shift business risk from monopoly customers to competitive transmission providers. Competition for transmission services should enhance service quality, should make the winning providers more responsive to consumer needs, and should increase owner accountability to consumers and regulators; and

Whereas, grid-enhancing technologies can help offset the need for infrastructure investment; and

Whereas, existing infrastructure should be used in future planning and development when it is in the best interest of customers to do so; and

Whereas, significant investment comes with significant responsibility because many consumers are already facing economic or environmental disadvantages and/or already escalated transmission charges; and

Whereas, individuals will bear the burdens of these investments, including societal, environmental, and economic impacts on our communities from siting facilities; and

Whereas, NASUCA members are concerned that FERC could over broadly define benefits as a method of unreasonable or unfair cost socialization; and

Whereas, NASUCA acknowledges that its individual member states have different policy priorities and different approaches to achieve those policy priorities; and

Whereas, adequate consumer protections are essential to any process reforms; and

Whereas, generator interconnection and transmission and distribution development policies must be prepared to address not only interregional issues of large generation sited farther from the customers it will serve, but the inverse issue of increased interconnection of distributed energy resources sited near load or behind the meter.

Now, therefore, be it resolved, the National Association of State Utility Consumer Advocates ("NASUCA") supports policy changes to ensure that the future grid is designed appropriately and cost-efficiently to ensure service remains reliable and resilient, rates remain just and reasonable, and competition remains a priority, but cautions that policies should only be changed if the outcomes benefit customers and finds that the following principles are essential to ensuring that interconnection, and transmission and distribution development plans and policies both benefit and protect customers:

1. Any changes to policies and rules impacting transmission and distribution development should be made in an open and transparent manner that allows for ongoing public input.

2. Cost-causation regulatory principles should be followed to protect consumers from paying charges for transmission services that do not provide benefits to those consumers.

3. Cost allocation must reflect the distribution of costs and benefits associated with projects. Cost causation principles require that the entities paying the costs benefit from the investment and that their share of costs is commensurate with the benefit that they receive.

4. The methods for calculating and assigning benefits should be based on objective, measurable, clear, and specific metrics, and such metrics should be developed in concert with the consumers who may ultimately pay those costs.

5. Transmission and distribution plans should be based on reasonable, transparent, and well-tested planning assumptions (e.g., vetted by state regulatory processes), shared with the representatives of those who are impacted by the planning decisions, informed by feedback from the public, developed with consideration given to alternative solutions, forward-looking, and holistic in that they consider multiple needs;

6. Consumer advocate groups should have support to participate actively in regional transmission planning processes;[1]

7. Consumers should be protected from unreasonable costs and risks. Poor planning can lead to imprudent transmission and interconnection, unnecessary spending, poorly-sited transmission facilities, and stranded assets that are not used and useful in the provision of

[1] For example, the Consumer Advocates of the PJM States (CAPS), http://www.pjm-advocates.org/, is funded through the PJM budget.

utility service. Neither these risks nor the associated costs should be passed onto consumers.

8. Energy infrastructure has sometimes been sited in economically, socially, and environmentally disadvantaged communities. Planning should be sensitive to the local experience of communities where transmission may be located and should include considerations of whether the project development would exacerbate existing inequities.

9. Transmission planning processes should be robust to optimize siting in areas of highest economic, social, and network value; network planning should be holistic and incorporate both expected generation development and consumer demand projections.

10. Network planning should account for the severity of environmental and weather conditions, including hurricanes, tornadoes, storms, fires, and other natural disasters.

11. Network planning should examine cost-effective alternatives to infrastructure development including the siting of distributed generation and the use of grid enhancing technologies.

12. The principle of used/useful should remain the core of transmission policies and customers should not be required to bear the costs of plant that does not go in-service.

13. Transmission incentives under FERC Order 679 should not be granted where there is no need or justification for such incentives, where projects would be built absent an incentive, and where such incentives only serve to unnecessarily increase the cost of building needed transmission for consumers. To the extent incentives are offered, they should be accompanied by cost protections, including time- and scope-limits to ensure that consumers are charged only for the incentive necessary to incent the development of a needed project that would not be built absent the incentive.

14. The initial risks of bidding and planning for projects should be borne by the developer, not the customers, and developers should not be allowed to pass on to consumers the planning costs of projects that bid into but are not chosen for regional transmission plans as these costs are traditional business risks.

15. As appropriate, generators and/or developers should continue to pay some or all interconnection costs because they are the primary beneficiary of the activity: interconnection is a necessary component to bringing power to the market/load.

16. Federal transmission planning cost allocation and generator interconnection policies should be complementary to and not supplant state jurisdiction over regional resource planning decisions.

17. Federal and state jurisdiction should be clearly defined so that there is no regulatory gap and so that all projects receive regulatory scrutiny of their need, prudence, and costs.[2] The Utility should bear the burden of proof that transmission facilities are properly included in a FERC-approved tariff before the utility charges consumers.

18. States, as appropriate, should retain the primary authority and control over the siting of transmission facilities. Transmission lines in national transmission corridors and elsewhere can and should include an evaluation of the costs and benefits of the proposed transmission project to consumers of that state, and to the extent transmission is regionally planned, there should be a robust process for state input into transmission siting and cost allocation decisions.

19. Regional transmission planning should incorporate and support, rather than supplant or undermine, state policies. Because states are charged not only with regulating their share of the energy industry but also with looking after the safety, health, and welfare of their citizens, energy development is but one consideration in a larger set of considerations for the state. Federal policies that supplant state policies may lead to unintended consequences for other important areas of state responsibility.

20. Planning policies should be nimble enough to account for regional, state, and local considerations because there are regional, state, and even local differences in policies, consumer growth, generation mix, and community impacts that dictate the tailoring of policies to the specific needs of the area. Relatedly, the need for change differs by area, and not every region necessarily needs a complete transformation in its transmission planning and cost allocation policies.

21. Some but certainly not all NASUCA members' regions are served by a regional transmission organization or an independent system operator (hereafter, collectively referred to as "RTOs"). For those states where a utility or utilities are part of an RTO, those RTOs and state and federal officials should ensure that there is an independent entity within each jurisdiction that is charged with reviewing interconnection concerns and complaints.

22. Many NASUCA members are interested in exploring the creation of Independent Transmission Monitors in both RTO and non-RTO regions. Like Independent Market Monitors, the Transmission Monitors should be attuned to the specific needs of, and data associated with, the regions that they oversee.

23. Planning principles should support competition in the building of RTO-identified transmission projects. Competition helps ensure the adoption of efficient, cost-effective

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[2] A 2019 report prepared for the Consumer Advocates of the PJM States found that capital expenditures for supplemental projects— projects not required for compliance with PJM operational performance, system reliability, or economic criteria—increased by more than 1,000% from 2013 through 2020. *See* Continuum Associates, Expert Consultation on PJM Supplemental Transmission Projects: Standards and Oversight 1, September 13, 2019, https://0201.nccdn.net/4_2/000/000/076/de9/final-report---caps---pjm-supplemental-transmission-projects_wo_.pdf ; *see also* PJM, TEAC Project Statistics, May 12, 2020, Slide 6, https://pjm.com/-/media/committees-groups/committees/teac/2020/20200512/20200512-item-10-2019-project-statistics.ashx

solutions that lead to lower prices for consumers. FERC's transmission planning and interconnection policies should continue to support robust competition and should temper the ability of incumbent transmission providers to expand their monopoly control over the electric grid.

24. In states or regions in which incumbent transmission providers are insulated from competition, FERC must establish processes to ensure that transmission plans are cost-effective and transmission development costs are reasonable, carefully managed, and more frequently reviewed to ensure the transmission projects are still needed and cost justified.

25. Transmission planning should be data driven and should support concepts of just and reasonable rates and the prevention of undue discrimination.

26. Effective and early public participation is necessary so that transmission planners can understand the impacts of their decision-making on the public.

27. Federal Agencies should work together to streamline transmission siting on Federal lands.

Be it further resolved, that NASUCA authorizes its Executive Committee to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to the resolution.

Submitted by the Electric Committee

Approved:

2022 NASUCA Mid-Year Meeting

June 12, 2022

Clark Electric Cooperative

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Greenwood, WI 54437
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Tim Stewart's Wisconsin Senate Testimony Draft
10-9-2023

Good morning, Chair Bradley and Members of the Senate Committee on Utilities and Technology.

My name is Tim Stewart. I am the Chief Executive Officer and General Manager for Clark Electric Cooperative located in Greenwood, Wisconsin. I have served in Rural Electrification for over 37 years, thirty-one of which being the CEO position. I have been at Clark Electric for approximately 20 years.

Clark Electric Cooperative is a not for profit distribution electric company serving over 9,500 members in parts of six counties: Chippewa, Clark, Jackson, Marathon, Taylor, and Wood Counties. Clark's service area is primarily rural as we only serve 4.5 members per mile of line. Clark Electric Cooperative is owned and operated by our member consumers. Our Board of Directors are elected from the membership, by the membership. This helps ensure that the benefits of local ownership flow back to the rate payer, not investors in other states. Clark Electric Cooperative has a Board member from our local electric cooperative serving on the Dairyland Board of Directors.

Clark Electric Cooperative is a member of Dairyland Power Cooperative. Dairyland Power Cooperative is a generation and transmission cooperative headquartered in La Crosse, WI and provides the wholesale power supply for Clark Electric Cooperative as well as twenty-three other distribution cooperatives and twenty-seven municipal utilities in the upper Midwest. Dairyland owns, operates, and reliably maintains a network of over 3,200 miles of transmission lines and over 350 substations located throughout a 44,500 square mile service territory.

Dairyland is a member of MISO. This is an independent, not for profit, member-based organization that is responsible for operating the power grid across fifteen states and Manitoba, Canada. MISO also coordinates with its members and stakeholders in planning the grid for the future. This obviously affects Dairyland, and the rural areas served by our local systems.

With that background, I am here to testify regarding our concerns and opposition to Senate Bill 481 in its current form and to support a path forward with an amendment to allow for the inclusion of all incumbent transmission owners in the construction, ownership, and maintenance of high voltage projects in Wisconsin.

I have a couple of main points I would like to make today.

One, while Senate Bill 481, may be well intended, as currently drafted, it fails rural electric cooperatives and our members. There are primarily three transmission companies servicing Wisconsin: Xcel Energy, ATC, and Dairyland Power. This Bill effectively eliminates Dairyland Power Cooperative's participation in bulk transmission lines going forward. Here is the problem.

Simply stated, that in 2022 MISO introduced eighteen new regionally cost shared transmission lines totaling over $10 Billion. Under MISO's tariff rules there is cost sharing for load serving entities and federal margins for the transmission investing utilities. This allows for some cost recovery for Xcel and ATC but NOT for Dairyland Power Cooperative and the rural areas they serve. Why would this be equitable? This bill further enhances the rural / urban economic divide. As I indicated earlier; we serve mostly rural areas, we are a not-for-profit operation, and the areas we do serve tend to be some of the poorest in the State. Dairyland serves retail consumers through its Wisconsin member distribution systems, like Clark Electric Cooperative. Dairyland and its members pay the cost of these new regionally cost-shared transmission lines. Without a right to invest, there is no opportunity to earn the margin from these transmission lines that off-set cost to consumers. This Bill will ultimately increase my electric rates to my end member because of the inability to mitigate new transmission costs while the benefit will flow to investors, including out of state investors (Xcel Energy).

My second thought is that of Cooperation. For years, Cooperatives and IOU's were able to collaborate on projects that benefits everyone. A couple of recent examples are Cap X and Badger Coulee transmission lines. For some reason that appears to have shifted away from Cooperation with a more focus on individual company profits. In the current draft of Senate Bill 481, only the urban rate payers of Xcel Energy and ATC would get the benefits conferred by federal policy on transmission incentives. Rural consumers would have to pay the cost while Senate Bill 481, as drafted, would remove any right of ownership and cost recovery for rural public power.

Finally, I do believe there is a path forward. I believe an amendment could be introduced that addresses our concerns resulting in fair and equitable treatment for our rural membership.

Thank you for your consideration.

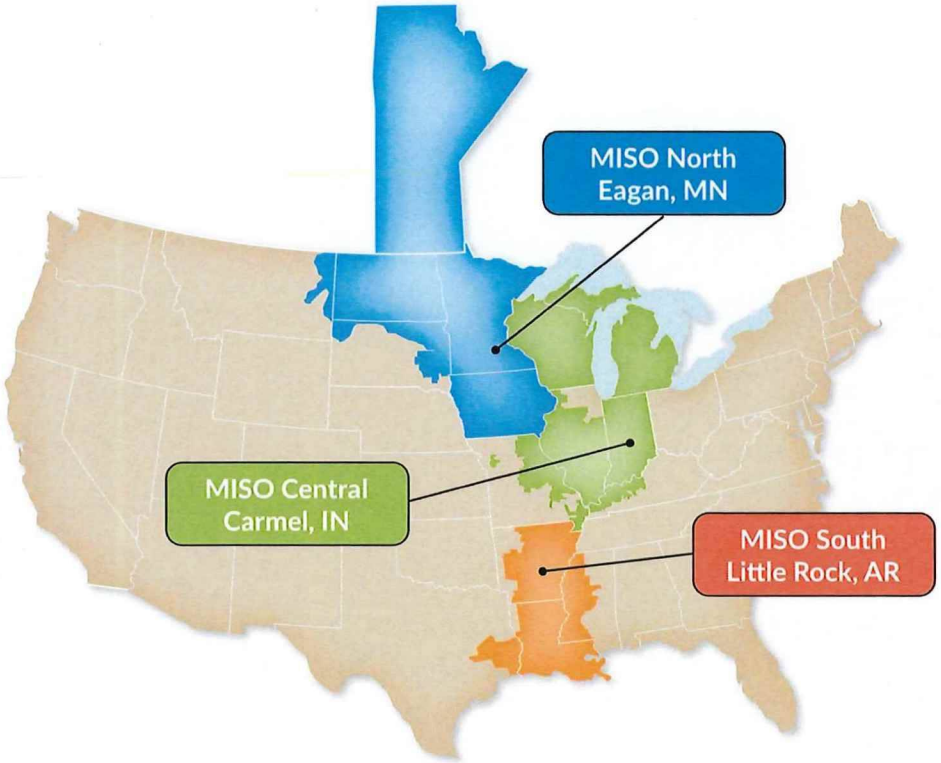
Tim Stewart
CEO/GM

MISO Transmission Planning

Senate Committee on
Utilities and Technology

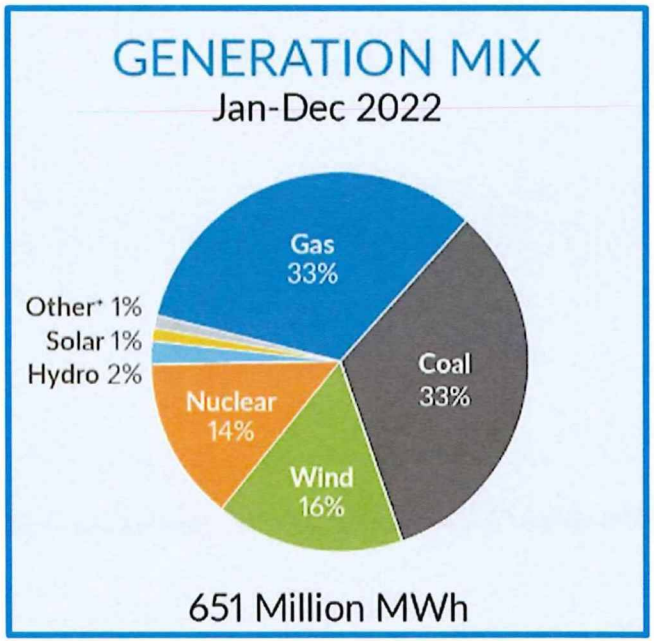
October 9, 2023

MISO drives value creation through efficient and reliable markets, operations, planning, and innovation

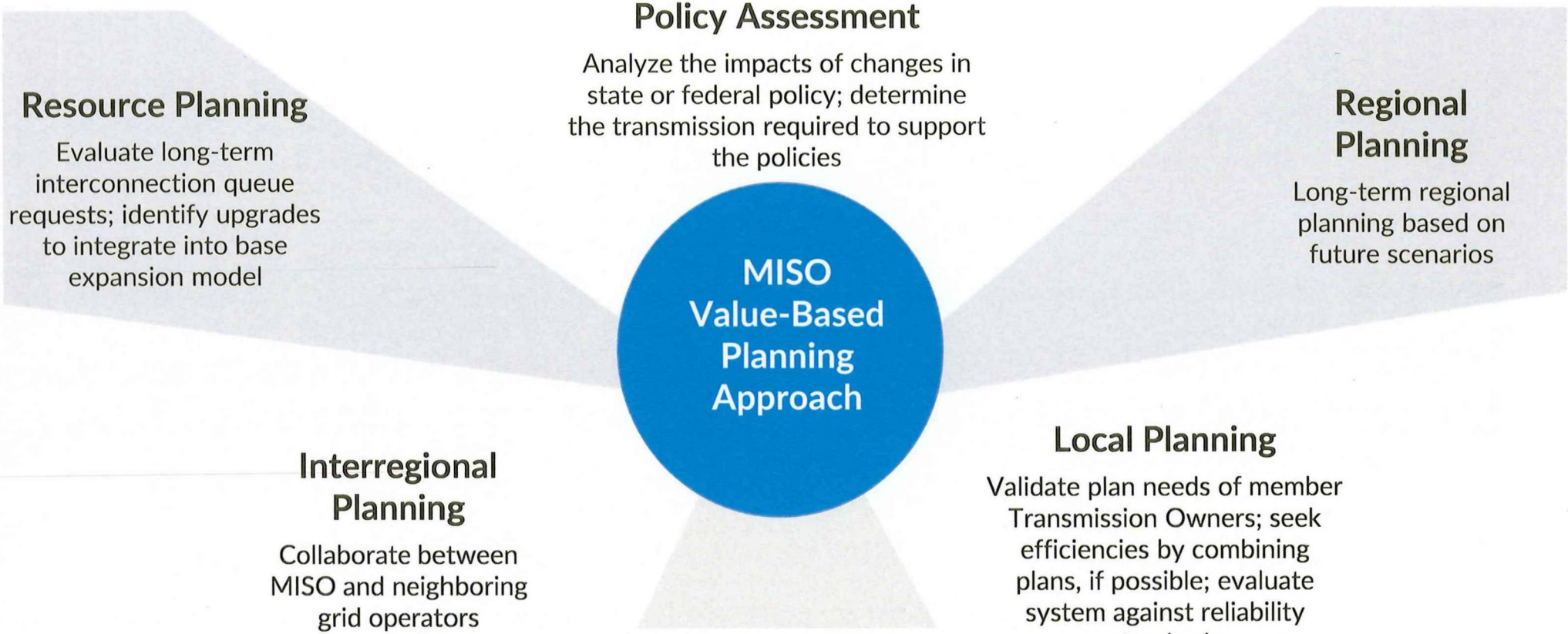


MISO's reliability footprint and locations of regional control centers.

MISO by the numbers	
High Voltage Transmission	75,000 miles
Generation Capacity	184,287 MW
Peak Summer System Demand	127,125 MW
Customers Served	45 Million

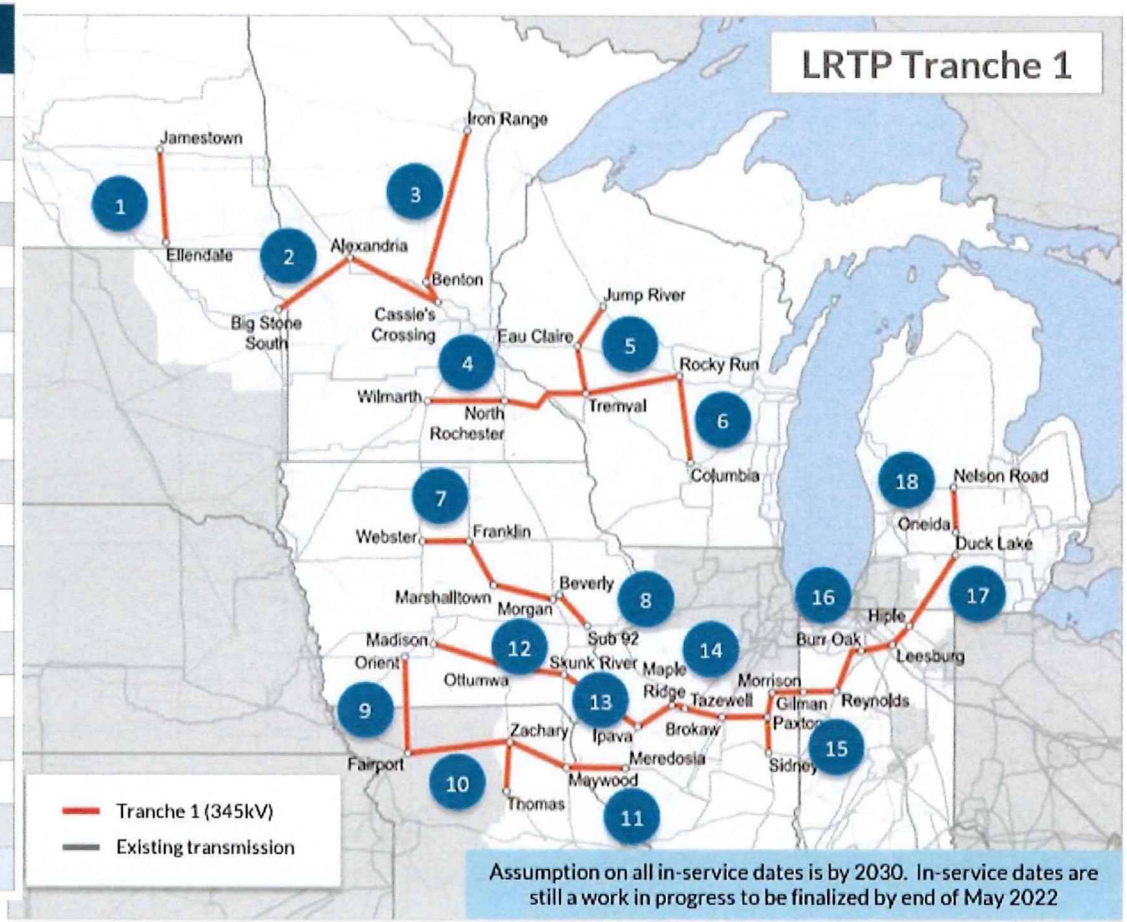


System Planning Overview:
MISO's value-based planning process develops solutions that integrate local needs with regional requirements



Long Range Transmission Planning provides a roadmap to guide the optimization of near-term needs that are compatible with long-term drivers and adaptable to future changes

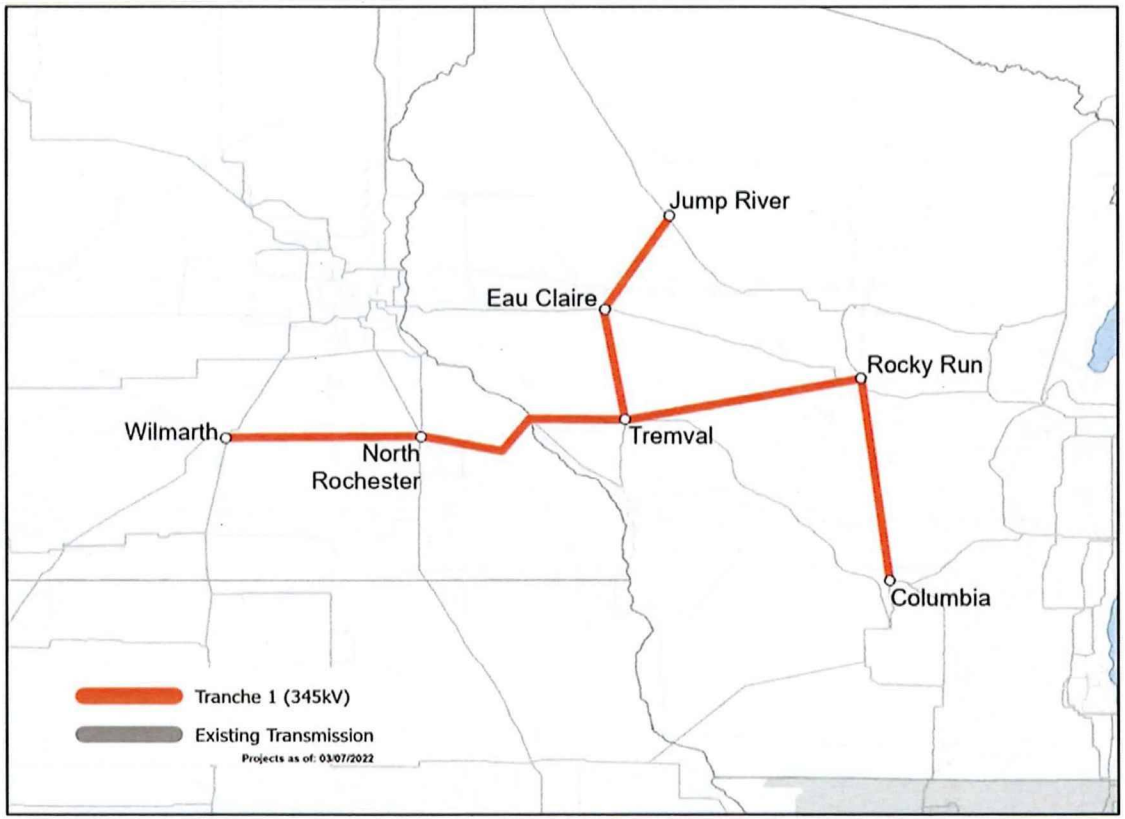
ID	Project Description	Est. Cost ($M, 2022)
1	Jamestown – Ellendale	$420M
2	Big Stone South – Alexandria – Cassie's Crossing	$595M
3	Iron Range – Benton County – Cassie's Crossing	$853M
4	Wilmarth – North Rochester – Tremval	$718M
5	Tremval – Eau Clair – Jump River	$575M
6	Tremval – Rocky Run – Columbia	$673M
7	Webster – Franklin – Marshalltown – Morgan Valley	$716M
8	Beverly – Sub 92	$178M
9	Orient – Denny - Fairport	$561M
10	Denny – Zachary – Thomas Hill – Maywood	$1,115M
11	Maywood – Meredosia	$356M
12	Madison – Ottumwa – Skunk River	$683M
13	Skunk River – Ipava	$600M
14	Ipava – Maple Ridge – Tazewell – Brokaw – Paxton East	$640M
15	Sidney – Paxson East – Gilman South – Morrison Ditch	$533M
16	Morrison Ditch – Reynolds – Burr Oak – Leesburg – Hiple	$374M
17	Hiple – Duck Lake	$488M
18	Oneida – Nelson Rd.	$302M
	Total Project Portfolio Cost	**$10,380**



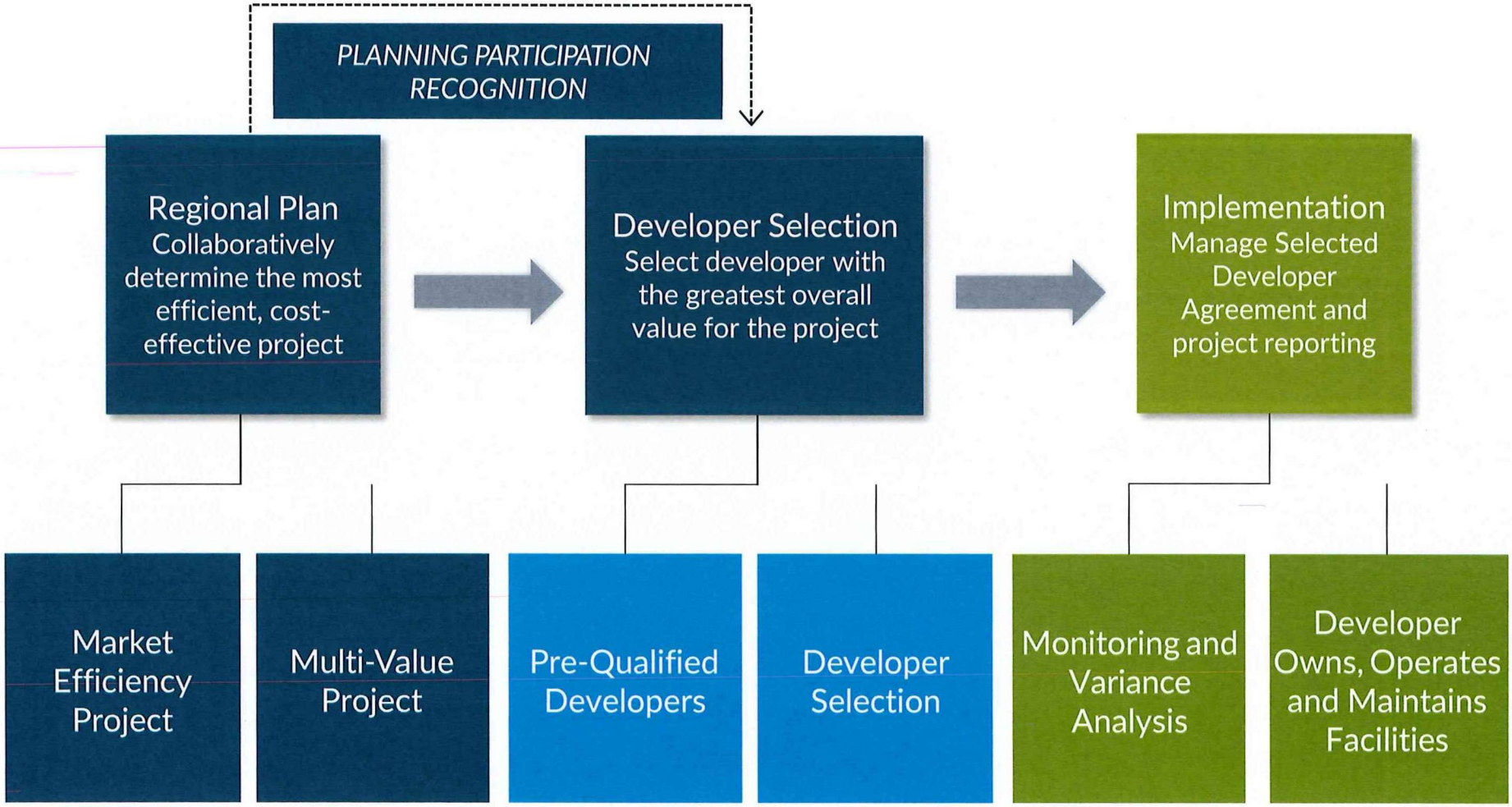
Costs as of 4/6/2022, and are subject to change (costs represent "overnight" costs)

2 projects are planned for Wisconsin as part LRTP Tranche 1

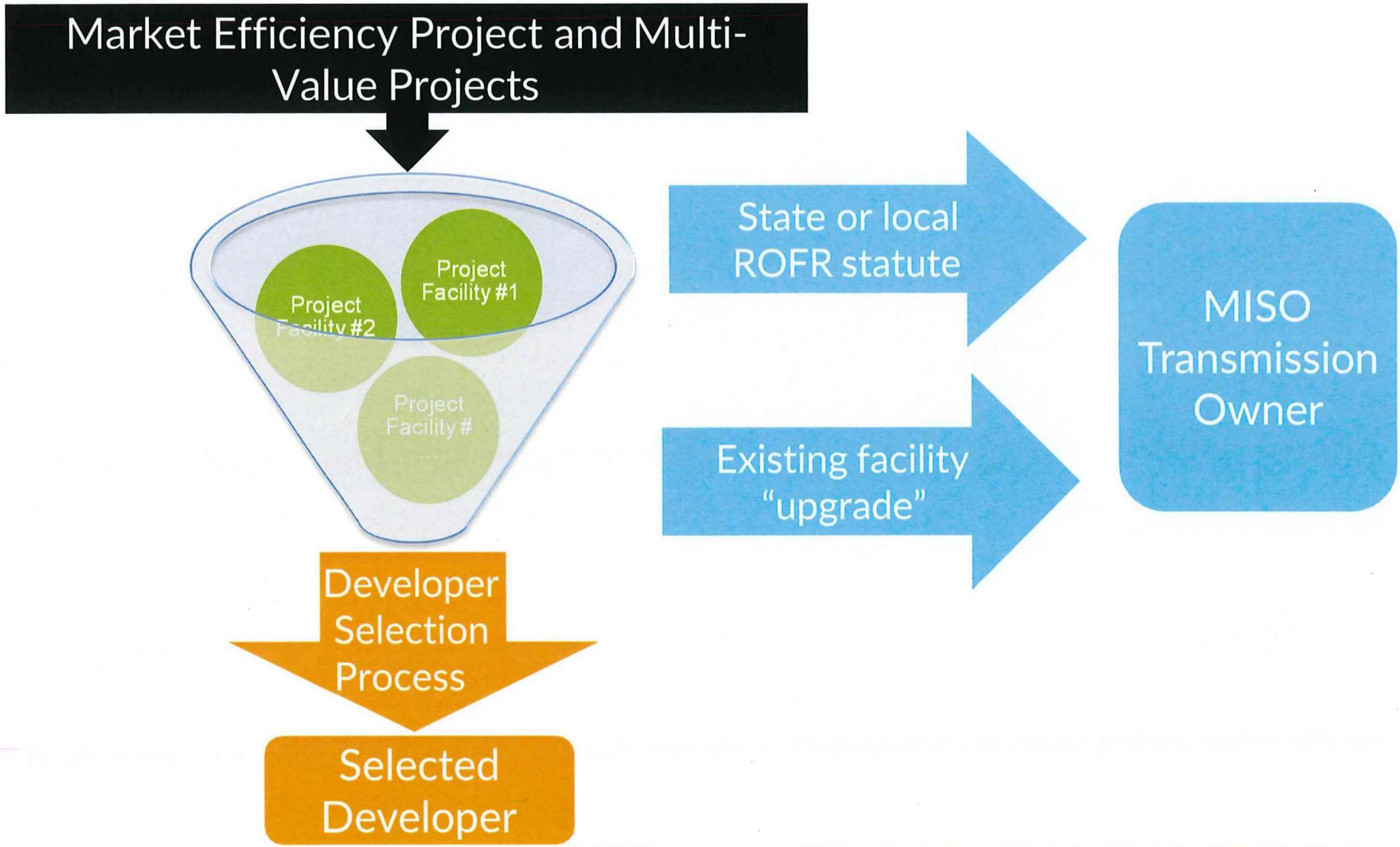
- These projects reinforce the outlet towards load centers in Wisconsin, providing relief of congestion as well as easing both thermal loading and transfer voltage stability.
- Wilmarth – North Rochester – Tremval – Eau Claire – Jump River 345 kV
  - $689M
- Tremval – Rocky Run – Columbia 345 kV
  - $1050M



MISO's competitive selection process builds on the rigor and value of our regional planning process



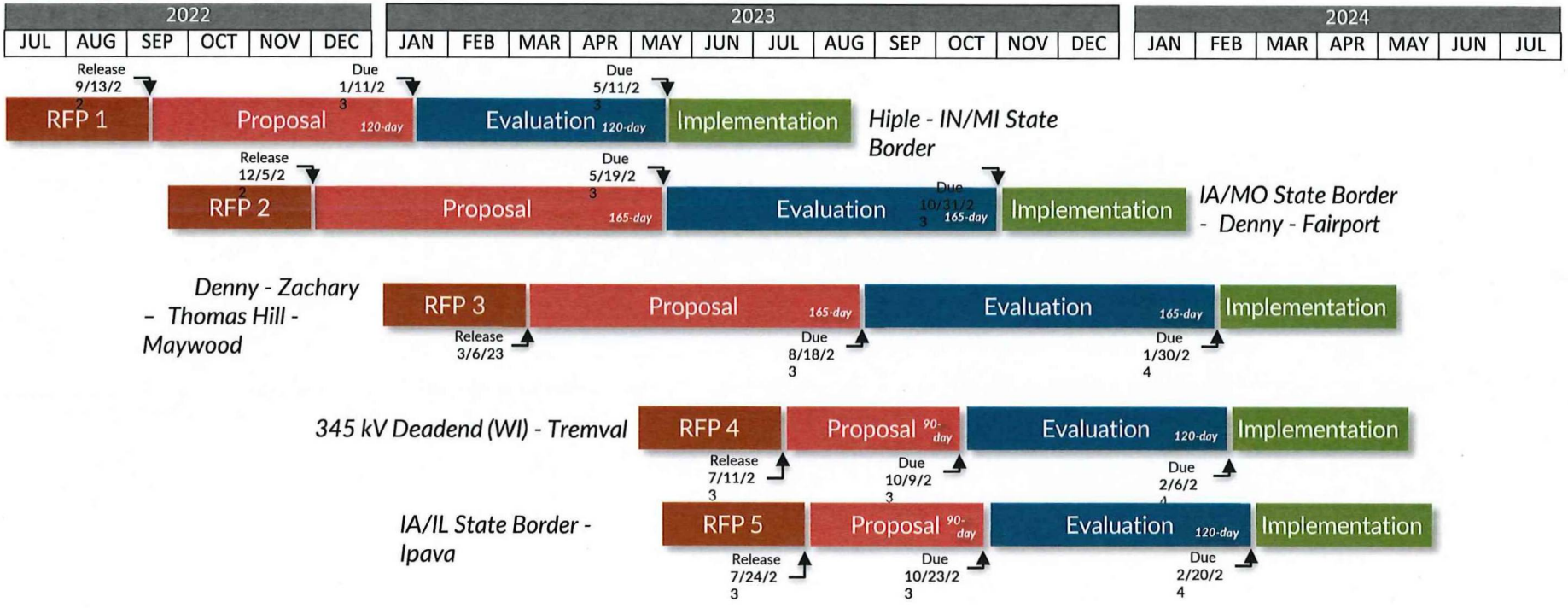
Upgrades and transmission facilities in States with a right of first refusal (ROFR) statute are excluded from the Competitive Transmission Process and assigned directly to the MISO Transmission Owner



MISO

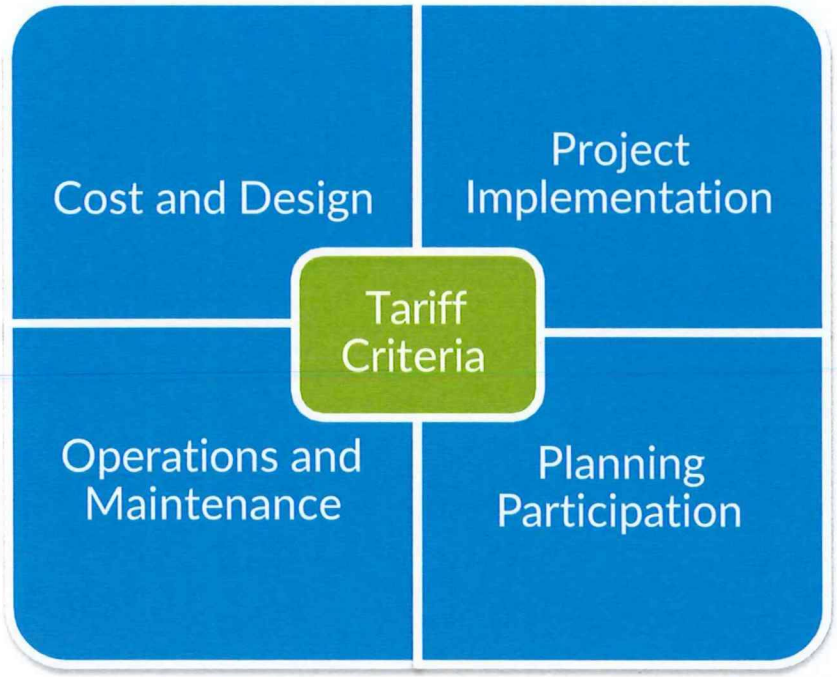
It can take 300 – 700 days to select a developer and it follows four phases: MISO issues a request for proposals, developers create and submit their proposals, MISO evaluates and selects a developer, then enters into an agreement with the developer

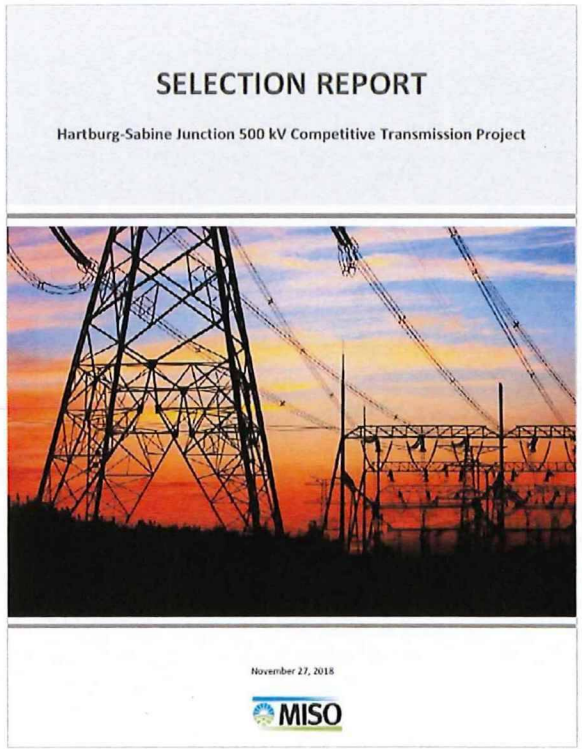
MTEP21 - Tranche 1 MVP Portfolio RFP Release Schedule



July 2022 - The Competitive Transmission process started when the Multi-Value Project portfolio was approved by the MISO Board of Directors

The process to select a developer uses comparative analysis to apply the Tariff criteria to each proposal and the results are shared in a publicly available selection report





ORAL TESTIMONY
MARC L. SPITZER
SB 481 - 10/09/2023
Wisconsin State Legislature

Intro

Mr. Chairman, Members, my name is Marc Spitzer. I represent the Edison Electric Institute, though the views I express today on the ROFR Bill are my own.

I am a visitor to Wisconsin and a guest in this chamber. As a former state legislator in Arizona, I recognize each jurisdiction is unique. I'm here today mindful this Legislature will ultimately decide what's best for Wisconsin.

Two overarching observations. First, as in Arizona, Wisconsin has harnessed the benefits of competition in wholesale power sales without disrupting operation of the grid. Secondly, the Legislation before the Committee is necessary because competitive procurement for transmission has not been the magic bullet. Elimination of the federal ROFR in Order 1000 has led not to more wires but instead bureaucratic morass. In that respect I was mistaken when I supported it.

I left the State Senate to run for the Arizona Commission in 2000 when California's failed deregulation scheme cratered the entire western power grid. Between my election in November 2000 and taking the Oath as Commissioner in the new year, they had been counting hanging chads in Florida and Energy Secretary Richardson was threatening to appropriate Arizona electricity to keep the lights on in San Francisco.

Unlike California's deregulation fiasco , Wisconsin presents a success story. This Legislature had the foresight in 1999 to enact Legislation establishing ATC as an independent company responsible for transmission for much of the state—one of the first transmission-only utilities in the country. Wisconsin was a leader in pursuing open-access

transmission and tasked ATC to construct, operate, maintain, and expand transmission to ensure reliable and affordable electricity service for Wisconsin.

I'm now going to address the issue of competition head on. During my 41 years as attorney and 20 years in public service I have been advocate for the free market. The economic form of competition, however, varies with each specific business application and even among industry segments. For example, agricultural commodities have moved towards market forces but retain both federal and state regulation and tax preferences.

Competition was introduced into energy markets beginning in the 80's to the great benefit of consumers. U.S. natural gas markets are the envy of the world, and the decontrol of wellhead prices led directly to the shale revolution and billions of dollars in savings. There remain, however, many limitations on pure competition in electricity. For example, Congress required nuclear power plants be owned and operated by U.S. companies.

I have been a strong supporter of competition in power generation and while Legislator and Commissioner oversaw merchant power plant construction that kept Arizona's lights on and rates down. However, electric *transmission* is a much different business proposition than power generation.

The ROFR bill before this Committee recognizes the unique challenges of running high voltage power lines through peoples' back yards.

This is not any easy task. Mr. Chairman, please indulge me in a point of personal privilege. When this Legislature launched ATC, Mr. José Delgado was selected to, as he put it, "elect poles and wires to public office in Wisconsin." Wisconsin's grid went from worst to first. Like many refugees from Castro's Cuba, José was immensely proud of his adopted country, moving to Wisconsin and starting as a journeyman

electrical engineer. While serving on the Federal Energy Regulatory Commission I presided over a meeting to deal with the 2008 financial crisis's impact on the power grid, and it was José Delgado who calmed down a room of nervous stakeholders by saying "*don't bet against the United States*."

Let me echo that. In continuing the legacy of what this Legislature put in place—and what José led—what's important to keep in mind is "*don't bet against Wisconsin*." Because when it comes to "competitive bidding" for transmission—that's betting against Wisconsin. That's betting that faraway companies will reliably provide affordable transmission, even though their record reflects just the opposite.

Allowing this bidding process is gambling with the transmission system this Legislature created two decades ago. You and your predecessors deserve praise for Wisconsin's prior leadership on transmission—now, though, without a ROFR, Wisconsin lags behind several other states in the region that have ROFRs.

It's time to take this next step to further that legacy of reliable and affordable power for all Wisconsinites. The ROFR Bill before the Committee is not about abstractions. Energy is the lifeblood, not only of our economy, but of our way of life. The ROFR will help put wires in place so electricity will, as it has for 100 years, continue to flow.

Background

Here's how I came to view the ROFR as essential in building more reliable and affordable transmission.

In 2006, I was appointed to be a Commissioner of the Federal Energy Regulatory Commission, FERC.

At the time, I believed competitive solicitation might lead to more interstate transmission.

As part of a larger effort to reform transmission policy in 2011, FERC issued Order 1000, eliminating the ROFR in certain FERC-regulated contexts but preserving states' ability to enact ROFRs. You'll hear people speculate today about FERC and Order 1000, but *I was there*—and, having hope in the theory of competitive transmission, I voted for Order 1000. I have reconsidered my views on the ROFR because Order 1000, despite the best intentions, has not resulted in a more robust electric grid. Instead, and for many reasons, Order 1000 led to lots of meetings and emails but very few wires.

It's now clear—with the benefit of over a decade of actual experience and new expert studies analyzing this period—that competitive bidding has failed to deliver. It has not caused more transmission to be built. It has not lowered costs.

Hindsight is 20/20. And what I can see clearly now is that with Order 1000, what was well-intended has spun into a series of endless procedures that have not ultimately delivered more transmission. Competitive bidding has unfortunately ended up hand-cuffing local companies that wanted to actually build—preventing them from getting real things done.

There's that old quip, where an economist might ask, "sure, the idea doesn't work in practice, but does it work in theory?" That's essentially what the opponents of the ROFR are saying—after more than a decade of evidence that competitive bidding doesn't work in practice, that somehow, *in theory*, competition works. But that hasn't been borne out on the ground.

Reliability

What's rightly at the top of everyone's minds as we consider electric policy is making sure the lights stay on.

As recent weather events and the pandemic have made painfully clear, reliable transmission has never been so important to keeping our communities safe and protecting local businesses. It supplies the lifeblood not only of our economy but our daily lives.

Competitive bidding jeopardizes reliability. The delays inherent in the competitive solicitation process present significant reliability concerns because it takes longer for key lines to start serving customers. Adding developers also makes the grid more brittle by exposing it to new vulnerabilities. Some competitive developers have solid records across the country. Others, however, have neither produced nor distributed a kilowatt-hour of electricity in Wisconsin or anywhere else.

With a ROFR law, the companies with a record of proving reliable service are the ones who build essential power lines. When constructing a line, they can rely on substantial expertise and experience operating in Wisconsin. They know the land. They have relationships with local businesses that cost-effectively supply them with necessary materials. They're available and on the ground when the wind blows and the snow falls. And their hardworking linemen live in the communities they serve.

In short, this Legislature has established a system that enables local companies to build reliable transmission. Allowing these companies a first crack at new lines helps Wisconsin play to its strengths.

Costs

Beyond reliability, competitive bidding has not led to cost savings.

If competitive solicitations *did* present cost savings opportunities, we'd know by now. There would be hard evidence. But the data—well, that points in the other direction.

In particular, the transmission experts at Concentric have put together excellent reports analyzing, in painstaking depth, competitive transmission solicitations. I really recommend taking a look.

Let me tell you the key points. In some cases, competitively-bid project costs have skyrocketed against the initial estimates as developers circumvent cost caps. In other cases, final costs were close to other proposals—raising the question of whether the competitive solicitation itself actually resulted in materially lower prices.

For the competitive bidding to be efficient and good policy, it would need to be true that the cost of preparing the bids and administering the selection process did not exceed any construction savings. But given the effort needed in the solicitation process, it's not clear that this is often the case. Indeed, these costs from the process itself may ultimately be passed on to ratepayers.

And why haven't cost savings come to pass? Substantial cost overruns have occurred because of outside events that might have been *avoided* by local transmission companies, such as regulatory delays, re-routing, and environmental challenges. The developers often lack the cost advantages that local companies have, like expertise and experience on the ground, economies of scale, and local teams of engineers. Remember—if this bill were enacted and a local transmission company were to build a line, it would be required to procure key goods and services in competitive markets to keep costs low.

Delays

As has become clear, delays have been a major problem stopping competitive bidding from improving reliability or lowering costs. Competitive bidding causes two kinds of delays. First, delays are caused by the added layer of bureaucracy from the competitive process—and all the endless meetings and documents it involves. Local transmission companies are able to put steel in the ground following confirmation of

the need. But the competitive solicitation process, when used, usually delays construction by a year or two.

Second, developers of competitively-bid projects often face delays from planning and construction issues. On average, the projects that Concentric examined were delayed about a year beyond the required in-service date.

So now, when you hear ROFR opponents say, "if local companies are so effective, why not let them compete with everyone else?" the key issue isn't just that allegedly low bids from independent developers come in and then costs balloon, and construction deadlines expand. It's that even if the local company is selected in the competitive process, Wisconsin is already behind the eight ball because the process itself takes a year or two.

Example

I'll tell just one story of a competitively solicited project I'm familiar with from my home state, Arizona.

The line is to start in California and stretch into La Paz and Maricopa Counties in Arizona. The California grid operator began the competitive solicitation about a decade ago in 2014. The winning bid came in with a cost cap of about $240 million dollars. But costs ballooned and now the developer is seeking around $550 million dollars in cost recovery, more than double the original cost cap.

When the process began in 2014, the in-service date was in early 2020. Spoiler alert: it's still not in-service. The current estimate is for 2024.

Commenting on this debacle, FERC Commissioner Mark Christie noted quote "There are those who think that competitive bidding is a 'magic bullet' … Think again."

If I were to continue the analogy, I'd say far that from a magic bullet, competitive bidding has been a dud. Local transmission companies, on the other hand, would have been better able to anticipate and head-off regulatory and other challenges that caused these cost overruns and delays in Arizona. With all the debate and bureaucracy inherent in the competitive solicitation process, building this line has taken too long and costs have risen. It's not that there's wrongdoing on the part of the developer, it's just a matter of looking back years later and coming to the understanding that competitive solicitation was not the salve to what ails transmission development.

Conclusion

This Bill presents an opportunity for affordable and reliable power in Wisconsin. This Legislature acted in 1999 to the benefit of Wisconsin. A ROFR would build on that success. I respectfully support favorable consideration by this Committee.

To: Members of the Senate Committee on Utilities and Technology

From: Megan Novak, State Director, Americans for Prosperity - Wisconsin

Date: October 9, 2023

Subject: Support Ratepayers, Oppose SB 481

Chairman Bradley, and members of the Senate Committee on Utilities and Technology, thank you for the opportunity to provide testimony opposing Senate Bill 481.

Americans for Prosperity – Wisconsin believes freedom and opportunity are the keys to unleashing prosperity for all. Through our community of activists in every corner of the state, we advocate for solutions, based on proven principles, in order to tackle the country's most critical challenges.

One of the growing challenges for Americans right now are high energy costs. Too many families and business owners are facing seemingly non-stop hikes in their monthly energy bills, which can limit their ability to live out their version of the American Dream. Unfortunately, the bill before this committee today, would risk yet another rate hike for Wisconsinites. With our state already having some of the highest electricity rates in the Midwest, another increase would be devastating to families and businesses already struggling under the inflationary economy of Bidenomics.

Senate Bill 481would eliminate competition for building new large, regional transmission lines in Wisconsin, by only allowing current, incumbent companies to build these projects. Said in other terms, Senate Bill 481 increases costs for Wisconsin families and businesses, by eliminating the benefits of free market competition such as consumer-friendly financing packages that can include cost caps on overruns and delivering projects on time.

Competition is critical in all sectors of our economy, regardless of how regulated that sector is. The Legislature in recent years has correctly used public policy to support competition to drive better outcomes for consumers. For example, in K-12 education we continue to support and work to expand education options to give families a choice and in hopes that it drives all schools to improve outcomes for students. Health care is another highly regulated industry, but there are continued efforts to push competitive forces to improve access to high quality and affordable care.

The energy and utility space should be no different than these examples.
In Wisconsin, a transmission owning utility can earn up to a 10.52% profit on any new line they build through their authorized 'return on equity'. Eliminating competition in these massive projects also eliminates any incentive to keep project costs down or for the company to even consider lowering this return on equity.

We have seen from other projects that have been let to bid that competition does in fact save millions of dollars in the long run:

- $1 billion estimated savings[i] from two new electricity transmission projects in Maine.
- $900 million estimated savings[ii] on the largest-ever competitive bidding process for a transmission project in the country in New Jersey.
- $500 million estimated savings[iii] on the Empire State Transmission Line in New York.
- $58 million estimated savings[iv] on the Wolf Creek to Blackberry transmission project in Kansas and Missouri.
- $26 million estimated savings[v] on the Minco-Pleasant Valley Draper project in Oklahoma.
- $84 million estimated savings[vi] on the Crossroads- - Hobbs – Roadrunner upgrade project in New Mexico.

For another example of the importance of competitive bidding, attached to this testimony is the MISO selection report for the Hiple to IN/MI State Border 345 kV transmission project. Developer C was the winning bid for this project. As you can see, their bid included a lower 9.8% initial return on equity, with additional ROE reductions for any project delays, along with annual revenue caps. The winning bid came in at over $1.2 million lower per mile than the highest bid – a 26% savings for ratepayers.

From economic analysis and studies to these real-life examples, competition on transmission projects can and does reduce costs to consumers by up to 33% or more. These real-life examples show the significant savings that will be realized by ratepayers in other states – shouldn't Wisconsinites expect to benefit from similar savings as well with billions of dollars of new transmission line projects coming to our state over the next few years?

Proponents of this legislation have stated two main reasons why incumbents should not have to compete for future projects: built in savings from being an incumbent and reliability. To the first, we say prove it. If there truly are built in savings from already operating in Wisconsin, any competitive bid an incumbent company submits for a project should reflect these savings and likely give them a leg up in the bidding process. On the point of reliability, the companies that are eligible to bid on MISO transmission line projects must go through a robust application process that includes strict and rigorous requirements on reliability. Attached to this testimony are the nearly 50 companies, including Wisconsin's incumbents, that MISO has reviewed and approved for competitive bidding, based in part, on their reliability.

In Wisconsin, families and businesses are already struggling with rising energy costs. Governor Evers' appointees to the Public Service Commission have approved double digit rate hikes over the last few years and are currently considering another round of substantial rate hikes for many customers.

AFP-Wisconsin hears almost daily from our activists and from voters we talk to on the phone and the door about their absolute shock in how much utility bills have already been increasing. These voters come from every corner of the state and every walk of life, but almost every single person our organization talks to is shocked and upset by their monthly bill.

Over time, Senate Bill 481 would only serve to make these problems worse: rate hikes on those who can least afford it and rate hikes that will make our manufacturing and business sectors less competitive nationally and internationally. Simply put, Wisconsinites cannot afford this policy.

Chairman Bradley and committee members, we strongly urge you to reject Senate Bill 481 and instead support competition and lower energy costs for all Wisconsinites.

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[i] Maine Public Utilities Commission, *Commission Selects Winning Bids for Northern Main Transmission Line and Renewable Energy Projects*, (10/26/2022) available at https://www.maine.gov/tools/whatsnew/index.php?topic=puc-pressreleases&id=9382450&v=article088; *see also* Electricity Transmission Competition Coalition, *Competitive Electricity Transmission Bidding Process Saves Main Consumers over $1 Billion*, (10/26/2022) available at https://electricitytransmissioncompetitioncoalition.org/competitive-electricity-transmission-bidding-process-saves-maine-consumers-over-1-billion/

[ii] New Jersey Board of Public Utilities, *New Jersey Board of Public Utilities Selects Offshore Win Transmission Project Proposed by Mid-Atlantic Offshore Development and Jersey Century Power & Light Company in First in Nation State Agreement Approach Solution*, (10/26/2022) available at https://nj.gov/bpu/newsroom/2022/approved/20221026.html; *Also see* Electricity Transmission Competition Coalition, *Competitive Electricity Bidding Process Saves New Jersey Ratepayers Billions of Dollars,* (11/1/2022) available at https://electricitytransmissioncompetitioncoalition.org/competitive-electricity-transmission-bidding-process-saves-new-jersey-ratepayers-billions-of-dollars/

[iii] NextEra Transmission, *New York Gov. Hochul joins NextEra Energy Transmission to celebrate commissioning of Empire State Transmission Line*, (07/11/2022) available at https://www.streetinsider.com/PRNewswire/New+York+Gov.+Hochul+joins+NextEra+Energy+Transmission+to+celebrate+commissioning+of+Empire+State+Transmission+Line/20311212.html; *also see* Electricity Transmission Competition Coalition, *Statement from ETCC Chair Paul Cicio on NYISO's New, Competitively Bid Empire State Line Project*, (07/12/2022) available at https://electricitytransmissioncompetitioncoalition.org/statement-from-etcc-chair-paul-cicio-on-nyisos-new-competitively-bid-empire-state-line-project/

[iv] Electricity Transmission Competition Coalition, "Competition Works" available at https://electricitytransmissioncompetitioncoalition.org/competition-works/

[v] Southwest Power Pool, *Minco-Pleasant Valley-Draper RFP* available at https://www.spp.org/documents/66929/minco-pleasant%20valley-draper%20rfp%20iep%20public%20report.pdf

[vi] Electricity Transmission Competition Coalition, *Competitive Electricity Transmission Bidding Process Saves New Mexico Consumers $84 million* available at https://electricitytransmissioncompetitioncoalition.org/competitive-electricity-transmission-bidding-process-saves-new-mexico-consumers-84-million/

TRANSMISSION COMPETITION SAVES RATEPAYERS

MISO

May 2023

Selection Report

Hiple to IN/MI State Border 345 kV Competitive Transmission Project

Revenue containment provisions

Winning Bidder

	Developer A	Developer B	Developer C
Return on CWIP	no [10]	yes [11]	no
Equity / Total Capital	45%	50%	
Return on equity (ROE)	9.8%	10%	9.8%
Project delay	ROE reduction	$5000/day [12]	ROE reduction
Annual revenue caps	✓		✓
Cap adjustment			+/- 4.5% per mile
Commitment period	15 years	10 years	40 years

Project implementation cost (Per mile of proposed route, $M)

Proposal Criteria Categorizations and Scores

Proposal	Cost and Design 30%	Project Implementation 35%	Operations and Maintenance 30%	Planning Participation 5%	Evaluation Score
WIN 306	Best 1	Best 1	Good 7	✓	93
303	Better 2	Good 2	Best 1	✓	81
301	Better 3	Good 2	Best 1	✓	80
307	Good 4	Good 2	Best 1	✓	78
305	Good 5	Good 2	Best 1	✓	77
302	Good 6	Good 6	Better 5	✓	67
304	Good 7	Good 6	Better 5	✓	64

ECONWERKS

Testimony
Tony Clark, Sr. Advisor
Wilkinson Barker Knauer LLP
Wisconsin State Senate - SB 481
Committee on Utilities and Technology
October 9, 2023

Chairman Bradley and Committee members, thank you for the opportunity to appear before you today. My name is Tony Clark. I am a Senior Advisor at the firm of Wilkinson Barker Knauer LLP, and I am testifying on behalf of our client ATC. I am here today to speak in favor of SB 481. By way of background, prior to my position, I was a Commissioner of the Federal Energy Regulatory Commission (FERC), before that, Chairman of the North Dakota Public Service Commission, and prior to that a state legislator in North Dakota. I'm also a native of Wisconsin. My family roots are in Rock County, but I was born in Platteville. And though I've lived most of my life in North Dakota, I am fortunate in that my family and I are able to spend a couple of months each summer at our lake cabin in Barron County. It's all a long way of saying that I have more than a passing interest in making sure Wisconsin gets energy policy right.

The issue before you today is relatively straight-forward. For a certain category of larger transmission lines, there are one of two ways to determine which entities will be responsible for developing the projects inside the borders of the state. As legislators, you have the ability to decide which of these two paths are taken.

One option is the traditional method of transmission development, in which needed projects are identified by MISO, the regional grid operator, and then assigned to Wisconsin's existing utilities for completion. Under this structure, projects and routes are developed, sited and built by the companies that are more comprehensively regulated by the state PSC, because they are the companies that serve customers within the state. When it comes time for cost recovery of the lines, they are placed into service at regulated rates to ensure the utility is charging a "just and reasonable rate."

The second option is a more recent invention that was created by FERC just over a decade ago. Under this newer regulation, the projects are still identified by MISO, but instead of being assigned, they are bid out through a process where non-traditional transmission companies, called "merchants," can also attempt the be selected to develop a project.

Unlike traditional customer serving utilities, these merchants may have little nexus with the state or those who use electricity here. They may be foreign private equity funds with opaque ownership structures and no familiarity with construction and operation of critical infrastructure in Wisconsin. When the project is bid by MISO, the companies seeking to win the transmission line do not have a route, a site certificate or even certain design parameters regarding pole construction and layout. MISO then selects one of the bidders based on a formula that includes

cost and other parameters. But just as in first option I described, once the line is built, the developer seeks to place into regulated rates the full and true cost of the project.

Regardless of the method that selects the project, once built, the line is a monopoly. Customers don't get to choose their own transmission line. The question for the state is – which way of assigning responsibility for the line produces the best outcome for customers and landowners?

And when it comes to answering that question, there is little doubt that the traditional method for assigning lines is producing better outcomes. Let me be clear, if the second way of developing lines was working well for consumers and landowners, I would not be here today. The idea FERC had was that consumer outcomes would be improved through the new competitive solicitation process. But as Milton Friedman said, "One of the great mistakes is to judge policies and programs by their intentions rather than their results."

By all accounts, the nation's transmission grid is likely to expand in the coming decades. It's being driven by electrification, growing demand, and a power system that is incorporating more renewable generation. Getting this right is important, because customer dollars and landowner impacts are at stake.

The new FERC bidding policy was promulgated under a regulation called Order 1000. But however well-intended, what it has sowed is not healthy competition, but rather a dysfunctional process for building out the grid. Merchant developers, with little local knowledge of the land, and lacking on-the-ground resources where they propose to build the lines, are using the federal bidding process to win the right to build the project, but then repeatedly failing to deliver the projects as promised.

It is an unforeseen consequence of a federal rule which separates transmission development from the local communities that are being served. It can saddle customers with poorly executed, over budget projects. It is a costly race to the bottom in the development of some of our nation's most important critical infrastructure.

In the years since FERC created the new process, it has resulted in added expense, delay and controversy. Reports have detailed numerous problems. The last time I spoke before this Committee, I discussed the tortured tale of a project developed under the new bidding process. It was a 3-mile transmission project and associated substations which took seven years to compete, and even when finished, it incurred operational problems. In the process, it nearly caused the State of Delaware to upend its entire siting statute over concern for the consumer impacts of the project.

A more recent New York project which went through this process resulted in a 67 percent cost overrun that will likely be passed along to the state's consumers.

In Kansas, the regional grid operator selected a project that will result in landowners being forced to host multiple lines on their private property. As one Kansas regulator pointed out, had

incumbent utilities been assigned the project, a single line could have been upgraded, thereby minimizing the impact on farmers, ranchers and the environment.

In New Mexico, the regional grid operator, for reasons that are not entirely discernable, selected a merchant developer to build a line even though the existing utility was willing to build it more quickly and for less money.

And perhaps the most startling recent example of the failure of the "bid" process is a merchant developer in California seeking to charge customers hundreds of millions of dollars in extra costs for a line that is 3 years overdue and costing more than twice what was bid. In this case, an international developer won the right to build the line at a bid of $242 million. The grid operator estimated it would cost approximately $300 million, so those who support the bidding process could claim that "competition" saved about $50 million. But now that the project is finally under construction, the developer is seeking to charge ratepayers $553 million. The California PUC estimates the line was only a reasonable and prudent investment for customers if it cost under $389 million. FERC Commissioner Mark Christie said plainly that anyone thinking that competitive solicitation is a "magic bullet" to lowering consumer costs had better "think again." In his words, the bid process, "does not cure or in any way prevent consumers from being hit with exorbitant and ever rising costs from transmission being built not to serve their need for reliable power, but to serve other interests."

What I believe is happening is one of two things, and neither is good. Either the bidding process is being gamed by developers, who know that the key is to win the bid, however you have to do it, because once you win the bid, there is little to discipline their actual costs. Or, the bidding bureaucracy itself is flawed, because the grid operators are asking developers to bid on projects without knowing key elements, such as where it will actually go, and what basic design elements of the line should be. In this case it is little wonder why merchant bids are sometimes significantly different from established operators – because incumbent utilities will generally have a better sense of what a project will cost to properly build in a given area.

Finally, you will hear developers tout that they build into their proposals cost caps or binding cost containment measures – but offramps and exceptions make these caps illusory. Or as Commissioner Christie said, the caps, "may subsequently be honored more in the breach than in the observance; in other words, the cost cap applies until it doesn't." Furthermore, when projects are not brought online in a timely manner, which has been the case with several merchant projects, it means customers lose the time value of a needed project. In short – the bidding process is shifting greater risk onto customers than would happen if projects were simply directly assigned to the properly regulated companies that serve customers in the state.

These are just a few examples, but they highlight that this federal rule is broken, and electricity customers and landowners are paying the price for it. If you would like to read more examples of the dysfunction of this federal rule, I would encourage you to read two reports authored by Concentric Energy Advisors, copies of which can be made available to the Committee.

Fortunately, FERC allowed states the option of continuing to use the more traditional method of transmission development, which preserves greater local oversight and decision-making about the state's energy future. But to exercise the choice, states must adopt a "right of first refusal" law (or ROFR), which ensures that the existing utilities that serve the state have the first responsibility for construction, coordination, cost control and operation of the lines that are so important to the welfare of citizens. That is the reason you have SB 481 before you today.

Passing SB 481 will put Wisconsin among the majority of states in the Midwest that now afford their ratepayers and landowners the additional protections provided by a state ROFR law. States across the country, on a bipartisan basis, have embraced these laws as a means of protecting their consumers and ensuring that when new transmission is needed, it is built in a coordinated, efficient way.

Wisconsin utilities have greater accountability to state regulators and understand how to build and operate transmission in a state where reliable operations during winter weather can be a matter of life and death. When questions need to be answered about line siting, construction, reliability and operations, it means state officials will be calling local utility operators who actually serve customers in the state to get answers.

Wisconsin should adopt a common-sense ROFR law. It's good for local communities, landowners, private property rights, reliability and customer costs. It will help ensure the coming transmission build is done in a way that puts Wisconsin's interests first.

Mr. Chairman and Members of the Committee:

My name is Bill Marsan, Executive Vice President and General Counsel at ATC. I am here with my colleague Mike Hofbauer to testify in support of Senate Bill 481. I will be speaking about the safety, reliability and public policy reasons why SB 481 is important for Wisconsin, and Mike will speak to you about why passing SB 481 will save money for Wisconsin consumers.

SB 481 is necessary to maintain Wisconsin's right to control the expansion and operation of the electric grid. Without this legislation, Wisconsin will have no say over who gets to build out major projects on the grid, and the current outstanding safety and reliability performance of the system will be at risk. Furthermore, as my colleague will explain, failure to pass this legislation opens the door for higher electric bills for Wisconsin consumers.

Wisconsin's build out, regulation and management of the electric grid has been a tremendous success story for more than 20 years. In the mid to late 1990's, the reliability of Wisconsin's electricity supply was at great risk. Ownership of the grid was fragmented and rolling blackouts loomed unless corrective action was taken. Thankfully, the Wisconsin Legislature took corrective action. Specifically, in 1999, the Wisconsin legislature helped consolidate the grid and establish ATC as a stand-alone grid company to help improve the safety, reliability and strength of the state's transmission system. It worked.

ATC has built a system that now has 10,000 miles of lines and 600 substations. According to the metrics, ATC has improved overall reliability of the system by as much as 33%. In the last 10 years, ATC has completed 26 transmission projects that required Wisconsin Public Service Commission approval and, on average, those projects have cost 12% less than the budget ordered by the commission. ATC projects are subject to a competitive bidding process for labor and materials, and the commission, in an open and transparent process, monitors that process.

Given the success of the Wisconsin model for building, operating and maintaining the grid, you may ask why this legislation is necessary. The answer is that the Wisconsin model is under attack from a failed federal mandate and the investor/speculators who want to take advantage of it.

FERC Order 1000, which went to effect a dozen years ago, attempted to mandate a federal process for the build out of large transmission projects in the states. The theory was that a competitive process regarding ownership would result in cost savings for consumers and faster project development. The reality has been quite the opposite. Where implemented, Order 1000 has slowed the development process and has resulted in massive cost overruns for several projects.

The problem is that Order 1000 is still on the books. Until and unless FERC repeals Order 1000, there is only one way for states to maintain control of transmission development and take advantage of the cost benefits for consumers - pass legislation like SB 481.

As of today, eight states in the MISO grid region have passed so-called right of first refusal legislation, including our neighbors in Michigan, Iowa and Minnesota.

As I stated, my colleague Mike Hofbauer will describe the compelling financial reasons for passing SB 481. I will describe compelling policy and operational reasons for doing so.

From a policy perspective, Wisconsin should not forfeit the control over who owns critical infrastructure in this state. Moreover, Wisconsin policymakers have long-term experience with its state-based utilities that have been here for decades, unlike the out-of-state hedge funds and other entities who want to make money by getting into the transmission business in Wisconsin. By comparison, Wisconsin grid utilities employ Wisconsin citizens, and have a record of accomplishment and commitment to the communities we serve. We are proud to live and work in Wisconsin and serve our neighbors.

From an operations perspective, allowing new, unproven transmission providers on to the Wisconsin grid complicates operation of the system, exposes the system to new reliability and safety risks, and duplicates operational investments already made and paid for by Wisconsin consumers. Frankly, failure to pass SB 481 would be a step backwards from the model this state adopted in 1999 and which has proved so beneficial to Wisconsin consumers.

The opponents of SB 481 have one message: Competition in transmission development is a good unto itself. Their claim is contrary to the reality of our

experience under Order 1000, and is patently false when it comes to what Wisconsin consumers will pay for the grid unless SB 481 becomes law.

Opponents have also raised the fact that ATC opposed ROFR legislation in Minnesota many years ago and are trying to have it both ways. Not true.

At the outset of Order 1000, many transmission companies tried to build transmission in other states. Once the failure of Order 1000 was apparent and MISO states began passing right of first refusal laws, our obligation to our customers was to acknowledge the realities of the market and change course. Successful companies change strategy when market conditions change. The facts of this market make it clear that the best way to get transmission built and serve customers is through the traditional state regulation process, and in this market, states without right of first refusal laws are putting their consumers at risk for higher rates.

To conclude, the choice before you is simple: You can go backwards, risk the reliability and stability of our grid, and raise rates for Wisconsin customers, or you can pass SB 481 and maintain the model that has created more than 20 years of grid safety, reliability and value for Wisconsin consumers.

Thank you for your time. I am happy to answer questions.

WISCONSIN INDUSTRIAL ENERGY GROUP

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To: Senate Committee on Utilities and Technology

From: Todd Stuart, Executive Director
Wisconsin Industrial Energy Group, Inc.

Re: Opposition to Senate Bill 481

Date: October 9, 2023

Chairman Bradley and members of the Senate Committee on Utilities and Technology, thank you for the opportunity to provide comments on Senate Bill 481. Wisconsin Industrial Energy Group, Inc. respectfully offers these comments on behalf of its members in opposition to SB 481 regarding an incumbent transmission facility owner's right to construct, own, and maintain certain transmission facilities.

WIEG is a non-profit association of 25 of Wisconsin's largest energy consumers. The group has long advocated for policies that support affordable and reliable energy. Since the early 1970s, WIEG has been the premier voice of Wisconsin ratepayers and an engine for business retention and expansion. Each year its members collectively spend more than $400 million on electricity in Wisconsin. Most of these companies have electric bills of over $1 million each month, and it is one of their top costs of doing business.

WIEG and our members join ratepayer organizations like Citizens Utility Board, taxpayer advocate groups like Americans for Prosperity and Americans for Tax Reform, free market advocates like Wisconsin Institute of Law and Liberty, and other trade associations representing thousands of Wisconsin employees like Associated Builders and Contractors, Midwest Food Products Association and Wisconsin Cast Metals Association in opposing this legislation.

This bill eliminates competition on the development of large new regionally cost shared transmission projects approved by the Midcontinent Independent System Operator (MISO). Eliminating competition will almost certainly cost Wisconsin businesses and consumers more money. Without competition, there are fewer checks and balances on cost estimates, and little or no incentive to curb transmission project costs and prevent cost overruns.

Wisconsin's ratepayers simply can't afford additional cost burdens. High electric rates are effectively a tax on ***all*** Wisconsin homeowners and businesses. Wisconsin's electric rates have been well above the Midwest average since 2003 and continue to be above the national average. Energy inflation is a real issue in Wisconsin.

This is a major concern for our members, employing thousands of Wisconsin taxpayers across the state. With MISO expected to approve up to $100 billion of transmission projects for the Long Range Transmission Planning process (LRTP). Wisconsin has historically had a roughly 14% cost share of regional projects. If a similar percentage of cost sharing is applied to the new MISO projects, then Wisconsin would see billions of dollars in new costs from regional projects.

Transmission costs have been a contributing factor in Wisconsin's persistently high rates. Transmission has steadily grown and now makes up a significant and growing line item on electricity bills in Wisconsin. According to FERC filings, transmission costs increased at an annual rate of around 5% between 2005 and 2023. ATC's most recent 10-year year assessment is between $5.1 billion and $6.2 billion. This is probably ATC's largest capital expenditure plan ever and it is $1 billion more than the year before. The increase was almost entirely driven by including MISO's Tranche 1 of the "Future 1" scenario of its LRTP. Based on MISO's expansion plans, we have no reason to believe there will be any diminished rate pressure from the growth in capital expenditures related to transmission.

The Public Service Commission (PSC) has supported transmission competition at MISO because competitive bidding serves the public interest and promotes compliance with FERC Order 1000. Multiple regulatory and consumer agencies, including National Association of Regulatory Utility Commissioners (NARUC) and National Association of State Utility Advocates (NASUCA) filed comments in recent years related to FERC Order 1000 in support of competition.

President Trump's Department of Justice said that bills like SB 481 will increase costs, reduce reliability and harm consumers. The Trump administration commented on the Texas version of SB 481: *"such laws can similarly reduce competition and thereby harm consumers... consumers may face higher electricity rates and less reliable service as H.B. 3995 [the Texas version of SB 481] may limit construction of transmission that would increase the supply of generation available to serve a local territory or area."*

According to studies by the Brattle Group, competition to build regional transmission projects drives cost savings between 20% - 30%, and when cost overruns by incumbent utilities are factored in, the cost savings are estimated closer to 50%.

Real world examples demonstrate how competition can spur innovation and create savings for customers. Within the MISO footprint, there have been projects that show the benefits of competition. The Duff-Coleman Project in Indiana and Kentucky was the first FERC Order 1000 competitive solicitation. There were 11 proposals for the approximately $60 million project, including multiple MISO transmission owners and transmission owners from other regions competing outside their service territory. Duke Energy and ATC (DATC) and Xcel Energy bid on the project. The winning bid had financial concessions consisting of cost caps, a reduced return on equity and a guaranteed schedule. It also had a strong use of local partners in its operating and maintenance plan.

More recently, MISO announced the results of a competitively bid new line in May 2023. The Hiple to Indiana/Michigan State Border project is a 30-mile 345 kV transmission line. It was for the first project of the Renewable Integration Projects that are part of Tranche 1 LRTP. There are cost caps in place. The financing is set at 9.8% rather than ATC's return on equity of 10.52%. As a result of the competitive process, the Hiple to Indiana/Michigan State Border project will cost about 26% per mile less and save $177 million versus MISO's original estimate.

The schedule guarantees and reduced return on equity are significant long-term benefit to the consumer. These commitments end up being incorporated into binding and enforceable contracts with MISO. In other words, if there are delays or cost overruns, the developer must absorb the financial consequences. If SB 481 would be signed into law, then the protections are removed and large, regionally cost shared projects default to the incumbent utilities. The excess costs to consumers resulting from the lack of competition would be easily reach into the billions from overruns and/or lack of financial concessions.

Outside of the MISO footprint, competition has secured significant savings around the country. In recent years:

The Maine Public Utilities Commission has estimated savings of over $1 billion for consumers from two new electricity transmission projects from competitive bidding.

New Jersey had the largest-ever competitive bidding process for a transmission project in the country - saving an estimated $900 million.

New York's Empire State Transmission Line was selected by the New York Independent System Operator (NYISO) through a competitive bidding process. The first competitively bid transmission project awarded and built in New York had an estimated savings of $500 million.

The Crossroads – Hobbs – Roadrunner 345-kV Competitive Upgrade Project is the fifth and largest competitive transmission project that the Southwest Power Pool (SPP) has released and will deliver an estimated $84 million in savings to New Mexico.

The Wolf Creek to Blackberry transmission project, a 94-mile 345 kV line, was competitively bid and the least expensive proposal was selected. The line between Kansas and Missouri saved an estimated $58 million.

The Minco-Pleasant Valley Draper transmission project, a 48-mile, 345 KV line, was competitively bid with regulators selecting the least costly proposal. This line in Oklahoma saved an estimated $26 million.

We note that ATC or DATC, Xcel and ITC have never won a competitive project inside the MISO footprint or elsewhere in the United States.

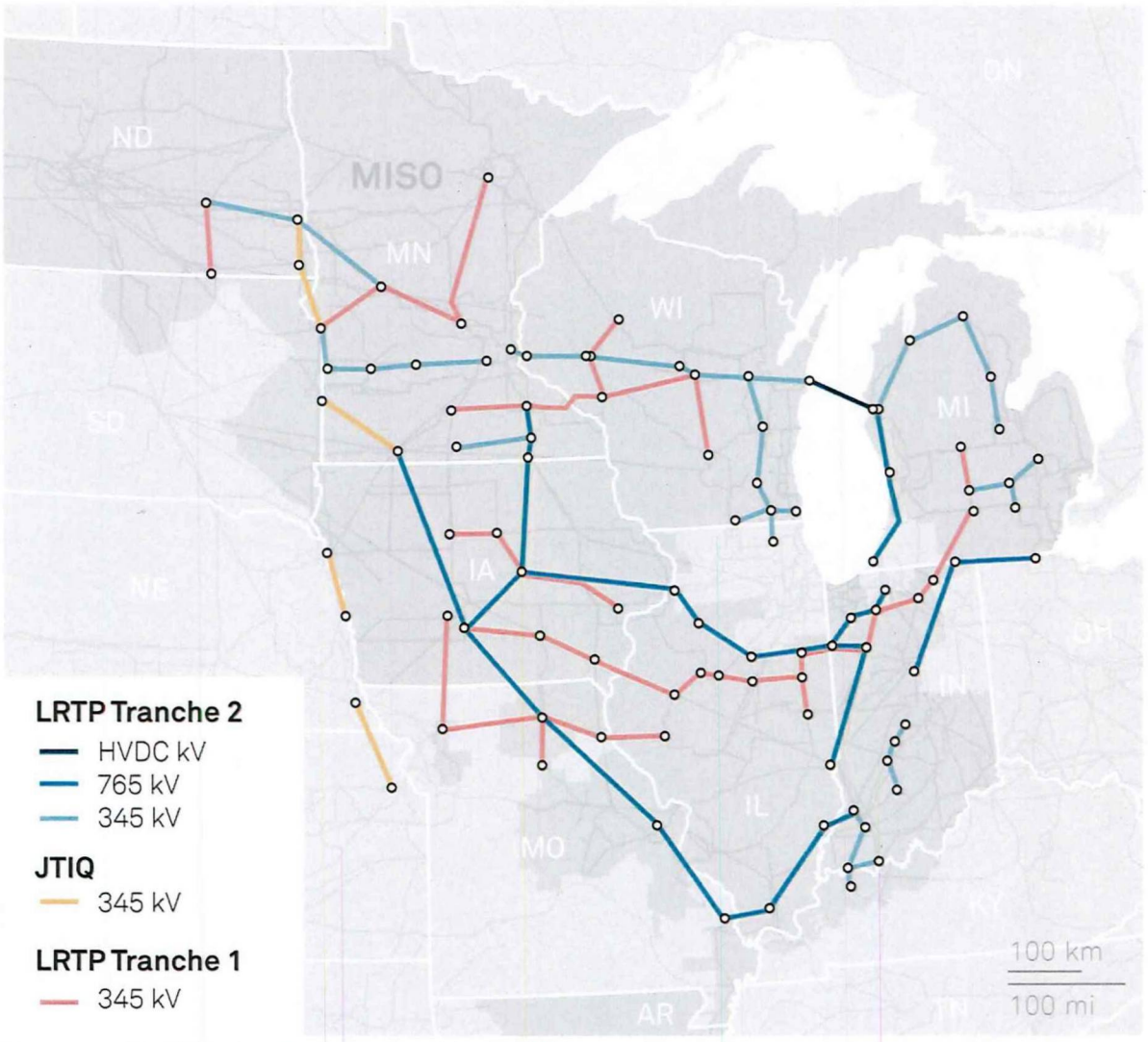
Wisconsin has one of the most manufacturing-dependent economies in the country. Our member companies support 35,000 good paying jobs, compete locally, regionally and globally. Energy costs are one of the primary factors considered for retention, relocation or expansion for manufacturers throughout our great state.

Many utility customers, both large and small, had double-digit rate hikes on their electric bills starting January 1, 2023. On top of that, many customers are about to have fuel surcharges added to their bills for the remaining months of 2023. The PSC is currently reviewing roughly a half billion dollars in higher electric and natural gas rates for 2024 and 2025.

Wisconsin's energy inflation and uncompetitive electric rates are a threat to our industries. Removing competition will cost Wisconsin businesses and taxpayers more money, and that is why members of this committee should vote no on this bill.

Potential LRTP Tranche 2 projects

MISO has identified an initial set of hypothetical projects to meet its updated Future 2 scenario for fleet change and demand growth.



Source: S&P Global Commodity Insights, MISO

- $20 Billion to $30 Billion for Tranche 2
- MISO Board System Planning Committee Review, December 2023
- MISO Board Approval, Before End of June 2024

milwaukee journal sentinel
PART OF THE USA TODAY NETWORK

Power line owner ATC flips position, backs legislation on rights to transmission expansion

By Patrick Marley of the Milwaukee Journal Sentinel
February 7, 2022

MADISON – An energy transmission company is urging Wisconsin lawmakers to pass legislation that would guarantee it would be the one to build future power lines — flip-flopping from the position it took on an identical Minnesota law.

The measures in the two states are meant to ensure the owners of power lines can build additional ones, but the effects of them for American Transmission Co. are not the same.

The Minnesota law keeps ATC from building lines because it has few existing lines there. The Wisconsin legislation would give it a lock on building more lines in much of the Badger State.

The Wisconsin bill has backing from Republicans and Democrats who sit on legislative committees that oversee utilities. It has attracted an unusual collection of opponents that includes environmentalists and Americans for Prosperity, the conservative heavyweight that was formed by industrialists Charles and David Koch.

Senate Bill 838 would allow the owners of transmission lines to build lines that connect to their existing ones, preventing competitors from trying to get the work.

That would benefit Pewaukee-based ATC, which owns more than 10,000 miles of transmission lines in the Midwest, primarily in Wisconsin and Michigan's Upper Peninsula. WEC Energy Group and other utilities have an ownership stake in ATC.

When the similar measure came up in Minnesota, ATC fought it.

The Minnesota bill "would stifle competition in the development and construction of electric transmission facilities leading to higher costs for electricity users in Minnesota," ATC lobbyist John Garvin wrote in a memo he sent to Minnesota lawmakers in 2012.

Now the company is taking the opposite view in its home state, where it stands to gain financially.

ATC officials were interested in developing projects in other states when Minnesota considered its law, according to Bill Marsan, ATC's executive vice president and general counsel. Over the

following years, their view changed as they had a chance to better understand new federal rules for transmission lines, he said in a written statement.

"What we learned over time, and based on experience, was that the federal process failed to deliver competitive projects. ATC changed its position based on the reality of the market and our conviction that the best way to actually get transmission built and serving customers was through the traditional state regulatory process," he said in his statement.

Eric Bott, director of Americans for Prosperity-Wisconsin, said ATC is trying to get states to adopt policies that are best for it depending on the circumstance — even when those policies contradict each other from one state to the next.

"They want to have it both ways," he said in an interview. "They want government in Wisconsin to protect them from competition, right? But they want to be able to compete for work in other states."

'Really, this is cronyism'

Bott argued letting other companies bid on new power lines would keep prices down for electric ratepayers. It would also help keep jobs on time and prevent budget overruns, he contended.

"Really, this is cronyism," he said. "If you read the bill on its face, the purpose is to fence out competition and protect the home team."

Supporters say the legislation is necessary because without it decisions on transmission lines will be made by Midcontinent Independent System Operator Inc., a nonprofit organization overseen by the Federal Energy Regulatory Commission.

"What this bill does is protect Wisconsin's ability to have a say in who owns and maintains critical infrastructure in our state," Ellen Nowak, a member of the utility-regulating Public Service Commission, said in recent testimony to the Assembly Utilities Committee.

"Forfeiting Wisconsin's ability to determine who can build here and replacing our process with a slow, cumbersome bureaucratic process run by the federal government or an arm of the federal government is not in the best interest of Wisconsin."

Nowak has served as a commissioner for most of the last decade, though she took a break from the job in 2018 to serve as administration secretary in Republican Gov. Scott Walker's last year in office.

It's unclear whether backers can get the bill through the Republican-controlled Legislature before the session ends in March — and whether Democratic Gov. Tony Evers would sign it if they do.

In rolling out the legislation in December, Republican Sens. Julian Bradley of Franklin and Roger Roth of Appleton said the legislation was needed for "ensuring that Wisconsin will control the expansion and operation of the grid that meets the needs of customers."

Bradley is the chairman of the Senate Utilities Committee and Roth is the vice chairman. Also signing onto the legislation are the committee's other members — Republican Sen. Van Wanggaard of Racine, Democratic Sen. Jeff Smith of Brunswick and Democratic Sen. Brad Pfaff of Onalaska. Pfaff is running for Congress.

The bill has the support of the Metropolitan Milwaukee Association of Commerce, the Construction Business Group and utilities, including Xcel Energy and Dairyland Power Cooperative, which like ATC own transmission lines in Wisconsin.

The bill's opponents include the Wisconsin Institute for Law & Liberty, a conservative group focused on free-market issues; Clean Wisconsin, an environmental group; the Wisconsin Industrial Energy Group, which represents businesses that use large amounts of power; and the Citizens Utility Board of Wisconsin, which seeks to keep prices down for ratepayers.

Opponents of the bill have tried to sway Republican lawmakers by noting the U.S. Department of Justice under former President Donald Trump raised objections to similar legislation in Texas in 2019.

Daniel Haar, an acting section chief of the Department of Justice's antitrust division, submitted testimony to a Texas legislative committee saying the proposal there could drive up prices.

"The Division is concerned that these restrictions would limit competition, thereby potentially raising prices and lowering the quality of service for electricity consumers," Haar wrote.

AMERICAN TRANSMISSION COMPANY®

MEMORANDUM

TO: Minnesota Senate Energy, Utilities and Telecommunications Committee

FROM: John Garvin, American Transmission Co.

DATE: March 20, 2012

SUBJECT: Senate File 1815

Thank you very much for the opportunity to provide testimony regarding Senate File 1815.

ATC owns, operates, builds and maintains the high voltage transmission system serving portions of Wisconsin, Michigan, Minnesota and Illinois. Formed in 2001 as the nation's first multi-state transmission-only utility, ATC has invested $2.7 billion to improve the adequacy and reliability of its infrastructure. ATC is a $3.1 billion company with 9,440 miles of transmission lines and 519 substations.

ATC is also a national leader in the cost efficient planning, development and construction of high voltage electric transmission facilities. With nearly $3 billion invested in the last 10 years, ATC has a proven track record of building needed transmission as cost efficiently as possible for electricity users.

Senate File 1815, unfortunately, would stifle competition in the development and construction of electric transmission facilities leading to higher costs for electricity users in Minnesota. Unquestionably the competitive free market system in America has benefited businesses and consumers for decades. This same competitive spirit will only benefit Minnesota electricity users when applied to the development, construction, ownership and maintenance of electric transmission facilities.

Senate File 1815 is contrary to the nation's energy policy governing transmission. In July, 2011, the Federal Energy Regulatory Commission (FERC) issued Order 1000. One of the central tenets of Order 1000 is to enable incumbent and non-incumbent transmission developers to compete to build transmission facilities that would provide regional benefits, with the costs shared on a regional basis. In its regional transmission planning process, MISO is proposing that these projects would be designated "Market Efficiency Projects" that provide economic savings and "Multi-Value Projects" that provide public policy, reliability and/or economic

benefits. FERC's goal with Order No. 1000 was to encourage the development of the substantial amount of transmission needed to support Renewable Portfolio Standards and reliability among other purposes, and that it be developed in the most efficient and cost effective manner.

Establishing an exclusive right of incumbent transmission owners to construct and own electric transmission lines that connect to facilities of the incumbent provider, as proposed in Senate File 1815, would remove any competition to plan, construct, own, operate and maintain certain transmission facilities that MISO would require to provide within its regional planning process. Yet Minnesota incumbent transmission owners who would be protected from competition inside Minnesota would at the same time be able to compete to develop transmission projects in other states that do not impose ROFRs on the market.

Finally, the legislation would create an "off-ramp" for projects that are included in the MISO regional plan for the state of Minnesota. The projects included in that plan are those determined to be the best solution to address a given transmission need. Senate File 1815 would inappropriately give Minnesota transmission owners the ability to refuse to build a project that is included in a regional plan, and this would conflict with the MISO Transmission Owners' obligation to build.

Today, the transmission grid is a regionally interconnected regional system, not a series of in-state systems. An incumbent transmission owner's ability to veto a project that is included in a regional plan could have cost and reliability impacts both on Minnesota electricity users, as well as users beyond the Minnesota state border.

HARTFORD
ELECTRIC & WATER

October 9, 2023

Good morning, Mr. Chairman and members of the Senate Committee on Utilities and Technology, my name is Brian Rhodes and I am the Director of Utilities at Hartford Utilities. Thank you for the opportunity to testify in support of Senate Bill 481.

Hartford Utilities is a municipal electric utility founded in 1897. We provide electric service to 7,800 customers and were a founding member of WPPI Energy back in 1980. I serve on the WPPI Energy Board of Directors and their Executive Committee.

Like those up here with me, I support the passage of SB 481 because it will save Hartford Utilities' customers money and it will help to ensure we can continue to provide the safe and reliable electricity our customers expect.

Hartford Utilities receives all the power we provide to our customers from WPPI Energy. Because WPPI has an ownership stake in ATC, our power costs, which include generation and transmission, are lowered because WPPI receives transmission revenues that offset the cost of delivering electricity to Hartford. In fact, last year our costs were lowered by about half a million dollars. These savings reduce the costs to the residents and businesses that Hartford serves. All people that live in WPPI's 41 member municipals in Wisconsin, and the businesses and industries located in those communities, benefit from WPPI's participation in ATC in the same manner. These savings would not occur if new transmission facilities were owned by out-of-state transmission developers.

Finally, ATC is a trusted partner that we at Hartford Utilities are comfortable working with. ATC is engaged with its customers – routinely and frequently seeking input on future transmission needs and ideas about the most cost-effective solutions to those needs. ATC's interests are aligned with those of its customers, and it provides good value as a result. In my experience, ATC does all the seemingly small things well – tree trimming, pole inspections and things like this that ensure reliable transmission service. And in the rare case where something goes wrong, we know exactly who to call for immediate collaboration to get things up running again. This isn't the case for all the entities we deal with. There is a great deal of value in having an in-state partner we can call on a moment's notice.

Thank you for your time and attention to this important matter.

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OPERATIONS 262.670.3710 • FAX 262.673.8307
BILLING/ACCOUNTS RECEIVABLE 262.673.8209 • ACCOUNTS PAYABLE 262.673.8205

1425 Corporate Center Drive Sun Prairie, WI 53590-9109 608.834.4500 wppienergy.org

Good morning, Mr. Chairman and members of the Senate Committee on Utilities and Technology, my name is Joseph Owen and I am the Director of Government Affairs for WPPI Energy. Thank you for the opportunity to testify in support of Senate Bill 481.

WPPI Energy is a member-owned, not for profit joint action agency that provides wholesale energy, services, and advocacy to 41 municipal electric utilities covering 18 senate districts across the State of Wisconsin. Our members, some of whom are here with me today, keep the lights on in the small to medium sized cities and villages they serve and answer directly to their friends and neighbors in those communities.

Unlike other joint action agencies across the country, WPPI Energy is fortunate to own transmission through our partial ownership of ATC. Prior to ATC's formation, we needed to negotiate for transmission access rights across multiple jurisdictions to bring the energy needed to serve our members to their communities. This is still the case for many of our peers across the country. Our support for SB 481 is based on a simple premise: WPPI and our members benefit in two distinct ways when ATC builds transmission lines.

First, because of our partial ownership in ATC, we are able to offset the costs associated with moving energy across the power grid with the payment we receive for our fractional ownership of ATC transmission assets and we pass both the costs and the savings along to our members. **That would not be the case with a transmission line built by an out of state, merchant transmission company where we would incur costs, but have no earnings offset.** The savings provided to our members as a result of WPPI's participation in ATC are significant: over the past three years (2020-2022) the savings have averaged over $9M per year. This bill would ensure WPPI's ability to offset the cost of delivering electricity to our municipal member utilities, and ultimately their customers, is preserved for future transmission lines MISO determines are needed to promote electric grid stability.

Second, ATC is in the transmission business for the long term. It is invested in and responsive to Wisconsin communities, businesses, and stakeholders. If we have any issues in delivering our generation resources to our load that could solved by transmission solutions, we know exactly who to call at ATC. They are always responsive and collaborative in seeking beneficial outcomes. ATC is laser-focused on providing safe and reliable electricity to Wisconsinites year after year. They are not here today on one big project and gone tomorrow with no lasting concern over the approach taken to build a single project. This bill would ensure a Wisconsin company employing men and women from across the state continues to build the critical infrastructure needed to provide reliable energy to all corners of the state. ATC is a trusted, Wisconsin-based partner providing a critical service and this benefits all WPPI members.

Thank you for the opportunity to testify on this important bill.

WPPI Member Communities in Wisconsin:

Algoma, Black River Falls, Boscobel, Brodhead, Cedarburg, Columbus, Cuba City, Eagle River, Evansville, Florence, Hartford, Hustisford, Jefferson, Juneau, Kaukauna, Lake Mills, Lodi, Menasha, Mt. Horeb, Muscoda, New Glarus, New Holstein, New London, New Richmond, Oconomowoc, Oconto Falls, Plymouth, Prairie du Sac, Reedsburg, Richland Center, River Falls, Slinger, Stoughton, Sturgeon Bay, Sun Prairie, Two Rivers, Waterloo, Waunakee, Waupun, Westby, Whitehall

MARSHFIELD Utilities

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Marshfield, WI 54449-0670
Phone: 715-387-1195 Fax: 715-389-2016
http://www.marshfieldutilities.org

Marshfield Utilities Testimony in SUPPORT of SB 481: Incumbent transmission companies Right of First Refusal to maintain, own, and construct certain transmission facilities.

Chairman Bradley, Vice-Chair Wanggaard and members of the Senate Utility and Technology Committee,

Thank you for the opportunity to testify **in support** of SB 481 today. My name is Nicolas Kumm and I am the General Manager of Marshfield Utilities (MU).

Established in 1904, Marshfield Utilities proudly serves nearly 14,000 electric customers in the Marshfield area and stands as a founding member of Great Lakes Utilities. I have held the position of General Manager at Marshfield Utilities since 2018 and I am also the Chair-elect of the MEUW Board of Directors and Managing Director of Great Lakes Utilities.

I am here in support for SB 481 because of the significant benefits it will bring to Marshfield Utilities' customers. This legislation not only promises cost savings for our customers but also ensures that our critical electric energy infrastructure remains under the supervision of Wisconsin-based companies known for their track record in delivering reliable and safe energy transmission services to our community.

As an owner of the American Transmission Company (ATC), Marshfield Utilities has received over $3.2 million in distributions over the past decade. These funds have been instrumental in our ability to reinvest in our infrastructure, make improvements to our distribution network, establish an EV charging rebate program, and provide support to our local community, among other endeavors—all of which directly benefit our valued customers. Projects initiated by out-of-state companies would not offer us these financial distributions.

As a public power community, we take pride in offering reliable services to our residential, commercial, and industrial customers. The passage of SB 481 will guarantee that major transmission projects remain under Wisconsin ownership and the supervision of Wisconsin regulators. This means that such projects are more likely to be approved and completed promptly and cost-effectively compared to those overseen by federal regulators in Washington, DC. These advantages will, once again, directly benefit our local residents and businesses.

Lastly, I wish to emphasize the importance of our partnerships with Wisconsin-based companies. These entities are dedicated to anticipating and addressing our specific needs, as well as the needs of our customers. We have established strong working relationships with ATC and have confidence in their ability to promptly and efficiently address any issues that may arise. They consistently provide us with timely and accurate information that we can then relay to our customers.

Thank you for your time and your support of SB 481.

Municipal Electric Utilities of Wisconsin
725 Lois Drive
Sun Prairie, WI 53590
T: 608-837-2263
www.meuw.org

Municipal Electric Utilities of Wisconsin Testimony in SUPPORT of SB 481: Incumbent transmission companies Right of First Refusal to maintain, own, and construct certain transmission facilities.

Chairman Bradley, Vice-Chair Wanggaard and members of the Senate Utility and Technology Committee,

Thank you for the opportunity to testify **in support** of SB 481. I am Tyler Vorpagel, Director of Legislative and Regulatory Relations for the Municipal Electric Utilities of Wisconsin. The Municipal Electric Utilities of Wisconsin (MEUW) is a 95-year-old trade association representing Wisconsin's 81 municipally owned - not for profit - utilities, their employees, and customers. MEUW's members are responsible for the safe, reliable, and low-cost delivery of electricity to over 300,000 customers across 43 counties in Wisconsin.

When American Transmission Company (ATC) was formed in the early 2000's as the first multi-state, transmission-only utility in the United States, our municipal utility members who owned their own transmission assets, turned those assets over to ATC in exchange for a fractional ownership percentage. MEUW has 15 members who are owners of ATC (one of which is with me today – Nick Kumm from Marshfield Utilities) and another 32 who benefit by purchasing their power from WPPI Energy.

Because municipally owned utilities are not-for-profit and are funded exclusively with ratepayer dollars – not taxpayer dollars – our members and their customers benefit from Wisconsin-owned transmission companies building this infrastructure. Over the past 10 years ATC has distributed more than $197 Million to public power utilities in Wisconsin, that is real money that goes back into system improvements and results in keeping customer rates down. These utilities will receive $0 in distributions from any project in Wisconsin built by an outside party.

Reliability is extremely important to our customers. Customers of public power communities are without power less often and when an outage does happen, customers call a local number and community-owned utilities are prepared to act quickly and respond to safely restore power. The same is true for electric transmission in Wisconsin, passing this bill would ensure that our members will be served by Wisconsin-owned partners who have a demonstrated track record of safety, reliability, and communication and not an out-of-state owner.

Passage of SB 481 is important and strongly encouraged by your public power communities.

Thank you!

Wisconsin Public Power Utility Owners of American Transmission Company

- Algoma Utility Commission
- Columbus Utilities
- Kaukauna Utilities
- Manitowoc Public Utilities
- Marshfield Utilities
- Oconto Falls Municipal Utilities
- Plymouth Utilities
- Reedsburg Utility
- Sheboygan Falls Utilities
- Stoughton Utilities
- Sturgeon Bay Utilities
- Sun Prairie Utilities
- Wisconsin Rapids Utilities
- Badger Power Authority
    - Shawano Municipal Utilities
    - Clintonville Utilities

Testimony in Support for Senate Bill 481
Karl Hoesly, President, Xcel Energy Wisconsin & Michigan

Thank you, Chairman Bradley and committee members, for hearing this bill today and allowing me to testify. I am Karl Hoesly, President of Xcel Energy in Wisconsin and Michigan. I have submitted written testimony on behalf of Xcel Energy for the committee and today I will go through the testimony to highlight the importance of SB 481.

Xcel Energy is the number one builder of transmission miles in the U.S. which means we own and operate one the largest investor-owned transmission systems in Wisconsin and the United States, specifically Wisconsin is the 6th largest behind the much larger states of CA and TX. In fact, in the past 10 years, no other company in the country has built more new transmission lines ensuring a safe and lower cost system for our customers. Today, our company owns and operates more than 20,000 transmission miles and nearly 1,200 transmission substations across Wisconsin and nine other states.

Just like any major infrastructure provider, such as broadband, roads and highways, the transmission grid needs to be upgraded and expanded to serve existing and new customers. We are fortunate to live in a state that continues to grow economically – something I see every day in my travels throughout our service area in western and northwestern Wisconsin. Whether that is the full St. Croix Business Park in Hudson, the amazing development in downtown Eau Claire and La Crosse, the growing dairy farms in Marathon and Chippewa County, or the numerous meetings my team has each week with companies – large and small – looking to relocate to Wisconsin because of its quality of our workforce, low cost of living and supportive business environment - the trend is always upwards. And through each economic story, there is a common thread – these businesses need ready access to safe, reliable and low-cost electricity.

In Wisconsin, Xcel Energy serves one of the largest, most rural service areas in the state covering 20,000 sq. miles - located in 500 communities within 26 counties stretching from Bayfield to Viroqua and Abbotsford to Hudson. In Wisconsin, we locally own, operate and maintain more than 2,600 miles of transmission lines – the second most in the state behind ATC.

On behalf of our customers and communities, we strongly support SB 481 as it ensures the rightful control of transmission construction to our state's own local energy companies and not non-local interests. The surest way to ensure Wisconsin continues to grow our economy and meet the needs of our residents and businesses is to pass SB 481. Other states that have passed Right of First Refusal ("ROFR") laws, including 8 of 15 MISO states, emphasize a state's rights rather than a federal model to expand their transmission system. And all have successfully developed projects that access new generation resources, save customers money and increase reliability.

Federal regulation of transmission development does not work
Others will attempt to cherry pick a few projects to support their premise against this legislation. However, it's a fact that they will not mention that the majority of the projects built under the federal bureaucratic process of competition are plagued by scope changes resulting in massive cost overruns and extreme delays. They also will act as if the federal process guarantees cost savings through the bidding process, which it simply does not. Actual costs for these projects have almost always exceeded the low bids that are incentivized with the competitive bidding process.

A perfect example is the SPP Crossroads-Hobbs-Roadrunner project in southeast New Mexico where Xcel Energy serves.

- In this project, Xcel Energy, the incumbent was not selected, while a non-local contractor (NextEra) was the selected developer.
- The out-of-state developer's proposal was >30% higher and a year later commercial operation date and is siting the project where it wants using condemnation rather than working with property owners to site the project.

It is a fact that since FERC Order 1000 was passed over a decade ago it has been entirely unsuccessful in bringing more efficient projects to life. It has also resulted in far less collaboration, created extensive delays in development, imposed costly processes and removed control from local and state officials who know best what their communities need.

Let me give you a few examples:

- In several regions, such as California, local utilities have stopped altogether in participating in federal bureaucratic competitive processes.
- In the Southwestern part of the U.S., generally only four companies bid into projects.
- In the Midwest Independent System Operation region, the number of companies participating dropped by half between the first and second competitive projects that were provided.

In addition to these examples, there's tremendous risk to overall reliability when incumbent utilities don't construct these projects. Unlike local utilities, non-local companies only need to maintain infrastructure for the years when they are receiving revenue. But after the period when revenues decrease, they have little incentive to maintain that infrastructure. Conversely, local utilities are held accountable and are required by the PSCW to continue maintaining infrastructure for reliability and the safety and security of our residents.

Regarding price, I would like to note that we are fully regulated and mandated to file rate cases with the Public Service Commission of Wisconsin at least every other year. As you know, in these proceedings the Commission regulates the reasonableness of our rates, and it is in our best interest to have affordable rates to attract new business to our region and to have satisfied customers.

It is also worth underscoring that all new transmission projects built by Wisconsin utilities are subject to Wisconsin's robust Certificate of Public Convenience and Necessity process, which is reviewed by the Public Service Commission. This process includes ensuring the project is in the public interest and is competitively priced and bid.

In fact, a Concentric Energy Advisors study revealed that transmission projects awarded to out-of-state developers experienced an average of one year in schedule delay and a cost increase of 27%.

At Xcel Energy, we have a rich history of working together with other transmission owners to support development of the regional grid that enables economic growth in Wisconsin. In 2017 the $2 billion CapX2020 transmission grid initiative involving Xcel Energy, Dairyland Power, ATC and many other utilities in the Upper Midwest was completed. Throughout that project, close to 800 miles of new transmission lines were energized in Wisconsin and three other states which changed the energy landscape in the region for decades to come. The success of CapX2020 has shown that state-led

processes, not a burdensome, expensive federal process, leads to greater local control and engagement, and more streamlined planning, permitting, and construction.

In fact, CapX2020 has been described as a unique and innovative structure in which each of the 11 local partner utilities had equal representation, oversight and decision-making. A study published by the University of Minnesota's Humphrey School of Public Affairs said the key characteristics led to the success of the CapX2020 included setting common goals, creating a win-win situation, building relationships, following group governance, and providing transparency and open communication.

We have followed this same model since then and continued to build out the transmission system in northwestern Wisconsin. Here are a few examples:

Bayfield Loop

Over the past 10 years, we have completed projects including on a very challenging project on Bayfield Peninsula around the northern tip of Wisconsin along Lake Superior. For that project, an existing transmission line that was built in the 1950s, 60s and 70s was no longer adequate, experienced low voltages during peak days and provided no redundancy in the case of a large outage. In addition to upgrading the line and providing a second source of power, this project strengthens the overall system in the area. The entire project was done with local control and state oversight to ensure that it was on-time, on-budget and met the needs of our local communities.

Ashland-Michigan's Upper Peninsula

Also in northern Wisconsin, we are upgrading an important transmission line that runs from Ashland and connects to Michigan's Upper Peninsula. That transmission line was also built in the 1950s and 1970s and is critical to provide service to customers of Xcel Energy and the local rural electric cooperatives in the region including Bayfield Electric and Price Electric. At least 90 percent of this line runs through difficult terrains including wetlands, beaver ponds, bogsand rivers. In addition, a section also crosses the Bad River Native American reservation – also in a remote location that poses accessibility and environmental challenges. As part of this project, we will be removing the line from the reservation and as a local utility, we have worked closely with Bad River to maintain a strong working relationship on all issues associated with the project. This is a major project and we expect it to be in service between 2026 and 2028.

Western Wisconsin

And in western Wisconsin, we have upgraded the majority of the transmission structures that connect from the St. Croix River to Eau Claire and on to Marathon County. This 345,000 kilovolt line is a critical reliability source for the entire state of Wisconsin and through these proactive efforts we upgraded structures that were 40-50 years old, to ensure that it provides the safe and reliable service our state has come to expect.

As these three examples show, it is impossible to imagine a scenario where critical transmission lines get built more efficiently than by ensuring our local transmission companies and officials have the first say in how they are developed. A strong and locally constructed and maintained transmission system will ensure continued reliable and affordable service; meet state and regional energy policy goals; and support a diverse generation mix for years to come.

AARP Wisconsin

SENATE UTILITIES AND TECHNOLOGY COMMITTEE
SENATE BILL 481
TESTIMONY OF AARP WISCONSIN

October 9, 2023

Good morning, Chairman Bradley and committee members. I regret that I am unable to join you this morning. On behalf of AARP of Wisconsin I want to share a few thoughts on SB481.

We are interested in this legislation because in a word, it could raise electricity rates for our members and Wisconsin electricity consumers in general. SB 481 is an inappropriate end run around sound Federal policy which requires competitive bidding of large new scale transmission projects. MISO (the grid operator serving Wisconsin) and Wisconsin's transmission developer, ATC (owned by We Energies), has proposed an alarming amount of new long distance transmission. Such costly transmission spending is an increasing driver of Wisconsin's frequent electricity rate increases while it pads the profits of monopoly utilities by increasing their rate base.

Right now MISO and its voluntary utility members are pushing a second series of transmission projects at a cost of $9 billion dollars after just securing a first tranche last year. Fifteen percent of this amount will end up in Wisconsin's electricity rates and much of it is to benefit other states. ATC is proposing no less than six large new transmission line projects in the state. MISO's own independent market monitor has stated that some of this transmission is not needed as local alternatives like local solar and local generation are more cost effective. He says MISO's assumptions are incorrect.

In any event, this harmful and unnecessary bill would void current Federal policy and give exclusive rights to ATC to construct large new transmission lines in the state. And the fact that monopoly utilities in Minnesota, North Dakota, and a few other states have secured passage of a similar bill in their state is testimony only to their political muscle, not to the merits of the bill. Further, having ATC competitively bid engineering and other duties (instead of MISO) is a poor idea since ATC is not independent and has no incentive to keep costs down. More importantly, estimates show that such projects could cost at least 20% less with competitive bidding as is required today.

AARP and other groups have opposed similar proposals last session in Kansas, Missouri, Illinois, and other states because they are detrimental to consumers. It has been rejected by the court in both Texas and Iowa.

We urge you to reject this unnecessary special interest legislation. Our residential electricity customers (who already now pay the second highest electricity rates in the Midwest) cannot afford it, especially given all the utilities are now before the PSC for yet another series of rate increases.

We urge a no vote on SB 481.

Martha Cranley
State Director
222 West Washington Ave, Suite 600
Madison, WI 53703

To: Members of the Senate Committee on Utilities & Technology

From: Royce Lockett, Owner of Skybox Sports Bar.

Date: October 9th, 2023

Subject: Opposing Senate Bill 481

Chairman Bradley, and members of the Senate Committee on Utilities & Technology, thank you for the opportunity to provide testimony today opposing SB 481, in hopes to stop the continued increases in utilities cost for myself and businesses across Wisconsin.

I've operated my sports bar on MLK Dr in Milwaukee for over 10 years, servicing thousands of customers to contribute to revitalizing a once thriving neighborhood. Because of rising utility costs and inflation, costs to operate my business have already seen a dramatic increase over the last few years, and still, I seek to compete with the surrounding businesses to retain and increase my customer base.

Unfortunately, it becomes harder to keep my prices competitive and staff the best workers when my energy costs have nearly doubled since 2020.

If I'm proudly competing with my fellow bar & restaurant owners to provide the highest quality experience, food and drinks at an affordable price, why can't we have the same healthy competition when expanding and building new transmission lines?

Increased energy costs from policy like SB 481 will make it harder for me to keep costs down while heating and cooling my establishment in the future, which means another price increase for my customers while they are also suffering from higher utility bills at home. I am asking, please vote no on SB 481 and stop energy costs in Wisconsin from rising more than they already have.

DAIRYLAND POWER
COOPERATIVE

Dairyland Power Cooperative Testimony on Senate Bill 481
Ben Porath, Executive Vice President, and Chief Operating Officer
October 9, 2023

Good morning, Chairman Bradley and Members of the Senate Committee on Utilities and Technology. Thank you for the opportunity to testify on Senate Bill 481.

I'm Ben Porath, Executive Vice President, and Chief Operating Officer for Dairyland Power Cooperative. I've worked at Dairyland Power for over 20 years and have direct, first-hand experience working on the development, construction, maintenance, and ownership of three Mid-Continent Independent System Operator (MISO) regionally cost-shared transmission lines in the State of Wisconsin in that time.

Dairyland Power Cooperative is a generation and transmission cooperative headquartered in La Crosse, WI, serving member distribution cooperatives in Wisconsin, Minnesota, Iowa, and Illinois. Dairyland provides the wholesale power supply and other services to 24-member distribution cooperatives and 27 municipal utilities in the Upper Midwest. This represents a population of over 700,000 people served across our four-state region. Dairyland owns, operates, and reliably maintains over 3,200 miles of transmission lines and over 350 substations located throughout our 44,500 square mile service territory. The majority of our owned and operated transmission lines are 161 kV and 69 kV. All of the substations Dairyland owns are at the 161 kV or 69 kV level. Dairyland does jointly own some 345 kV transmission line as tenants-in-common, but does not own any 345 kV substations in the state.

Dairyland is a member of MISO. This is an independent, not for profit, member-based organization that is responsible for operating the power grid across 15 states and Manitoba, Canada. MISO also coordinates with its members and stakeholders in planning the grid for the future.

As a local transmission owner/operator in Wisconsin, Dairyland has a long history, now over 80 years, of providing reliable and cost-effective service in Wisconsin. Dairyland is committed to growing and supporting our rural communities and member distribution cooperatives in the wholesale purchase and delivery of electricity.

As a cooperative, we have a unique business model. Our non-profit status and democratic cooperative business model allow for local governance by our member-consumer owners through the elected Board of Directors. Local ownership by Dairyland ensures the economic benefit of transmission ownership/operation flows back to our local rural energy consumers. Transmission revenues off-set costs of service which help generate stable rates for our member-consumers over time.

Dairyland has a strong history of working collaboratively to support the development, construction, and operation of the electric grid. Dairyland is a member of the Grid North Partners (GNP), the group formerly known as CapX 2020. Grid North Partners is the result of cooperatives, municipals and investor-owned utilities serving consumers in Minnesota coming together to build out the next generation of

high voltage transmission lines for enabling renewable energy, reducing carbon emissions, and enhancing reliability. Included in this effort was the new power line from the Twin Cities to Rochester to La Crosse completed in 2016.

Dairyland has also collaborated with other utilities on the Badger Coulee regionally cost-shared transmission line and the on-going development of the Cardinal-Hickory Creek transmission project, which will also be regionally cost-shared once complete.

By participating in these high voltage transmission efforts, Dairyland brings a not-for-profit, low capital investment by borrowing capital directly from the USDA's Rural Utilities Service (RUS) and income-tax free cost benefits to the projects through a comparatively lower revenue requirement. Dairyland and our member distribution cooperatives also have existing utility right-of-ways and relationships with the rural landowners impacted by the future expansion projects subject to Senate Bill 481. Local control of transmission projects by utilities such as Dairyland benefits rural residents, rural landowners and rural member-consumers that pay for at-cost electric service.

Today, I am here to testify regarding Dairyland's concerns and opposition to Senate Bill 481 in its current form. We request an amendment to allow for the inclusion of all incumbent transmission owners in the construction, ownership, and maintenance of high voltage projects in Wisconsin.

First, Senate Bill 481, as currently drafted, is bad for public power and rural electric cooperatives in western WI. Dairyland would support an amendment to this bill based on our concerns.

Second, this truly is an urban versus rural issue based on how Senate Bill 481 is currently drafted.

Finally, I'll explain why Dairyland has concerns with the bill as drafted this session when our cooperative supported this bill in the previous legislative session.

As mentioned, Senate Bill 481 is bad for public power as currently drafted. Senate Bill 481 closely models Minnesota's right of first refusal, or ROFR, statute with which I have first-hand experience. Senate Bill 481 provides an exclusive right for Wisconsin incumbent transmission facility owners to own, operate and maintain new high voltage transmission lines in the state. This right is conferred based on ownership rights in existing high voltage substations. Existing high voltage substations are the starting point and ending point for new high voltage transmission lines.

However, Senate Bill 481 also introduces the concept of regionally cost-shared transmission lines. Under MISO's tariff rules, regionally cost-shared transmission lines apply only to transmission lines 300 kV and above. In July 2022, MISO introduced 18 new regionally cost-shared transmission projects totaling over $10 billion of investment in the Upper Midwest. All $10 billion of new regionally cost-shared transmission lines are 345 kV volt projects.

Dairyland does not own any 345 kV substations. Only two incumbent utilities in Wisconsin own all of the 345 kV substations, Xcel Energy and American Transmission Company. Senate Bill 481, as currently drafted, would give exclusive rights to all new regionally cost-shared transmission lines to these two utilities. Dairyland would have no such rights.

Why does this matter? It matters because it shifts costs to rural consumers. All load serving utilities in MISO pay the for the cost of these regionally cost-shared transmission projects. While at the same time,

the utilities that have the right to own, construct and maintain these new regionally cost-shared transmission lines earn a federally guaranteed rate of return on these projects. That return helps off-set the cost to their retail consumers.

Dairyland serves retail consumers through its Wisconsin member distribution cooperatives and municipal utilities it serves. Dairyland and its members pay the cost of these new regionally cost-shared transmission lines. Without a right to invest, there is no opportunity to earn the rate of return from these transmission lines that off-set cost to consumers.

This is bad for public power. It is that simple. But rather than raising an issue and opposing it outright, Dairyland would support an amendment that if a new regionally cost-shared transmission line crosses a Wisconsin county where a Dairyland member serves retail-consumer members, then Dairyland should have a right to sit at the table and negotiate a fair, reasonable share of the new project. Again, it's a simple concept, if the new regionally cost-shared transmission line impacts rural consumers and land-owners by crossing their properties and communities, then they should have the right to own a fair share to benefit from the federal and MISO policies on cost recovery. If the rural landowners are burdened with the infrastructure, then they should also have a right to invest in and own a fair share.

Second, this really is a rural versus urban issue. Historically, transmission lines were built to serve growing consumer demand for residential, commercial and industrial electric consumers. And those retail consumers paid for the cost of the transmission lines needed through their utility rates.

The for-profit utilities like Xcel Energy and American Transmission Company, through its load-serving utility owners, serve the higher density urban areas of the State. Dairyland and its member distribution cooperatives were originally formed as part of the New Deal legislation to electrify rural America and serve the rural population with its much lower consumer density and higher percentage of poverty.

Because of this, the for-profit utilities such as Xcel Energy and ATC built larger high voltage projects, such as 345 kV substation and transmission lines to serve their urban consumers. This made sense as those urban rate payers paid for those lines and substations.

Dairyland, serving the rural and less densely populated area did not need to build 345 kV infrastructure as Dairyland could serve its member consumers through 161 kV and 69 kV infrastructure. Dairyland's member consumer paid these costs.

This model existed from the 1950s through the early 2000s as the transmission grid was developed to serve growing consumer demand. The model then changed. Consumer demand, or load growth, leveled off and has been flat for well over a decade or more.

The new 345 kV high voltage transmission lines being proposed and built today are being built for federal and state public policy reasons, to enable and move renewable wind and solar energy from where its produced to where its consumed and to reduce carbon dioxide emissions. As there is a public benefit to these policies across a large multi-state region, federal policy put forth by the Federal Energy Regulatory Commission, or FERC, and adopted through the MISO transmission tariff, require all consumers to pay for these new transmission lines.

To promote the development, construction, and maintenance of these new 345 kV transmission lines, FERC policy as adopted by MISO in its tariff as Multi-Value Projects, or MVPs, provides a financial

incentive and federally guaranteed rate of return to the owner of these new projects and allows the cost to be regionally cost-shared across the entire MISO North footprint.

The 345 kV substations and transmission lines were originally built by for-profit utilities to serve their dense urban loads. Public power utilities like Dairyland did not need to build infrastructure to that scale to serve our less densely populated service areas. This is why the urban utilities own the 345 kV infrastructure and rural public power generally does not in this part of the Upper Midwest.

Now, when the expansion of regionally cost-shared transmission project at 300 kV or above is for Federal and State public policy reasons, renewable energy and carbon reduction, all end-use consumers pay the cost. However, in the current draft of Senate Bill 481, only the urban rate payers of Xcel Energy and ATC would get the benefits conferred by federal policy on transmission incentives. Rural consumers would have to pay the cost while Senate Bill 481, as drafted, would remove any right of ownership and cost recovery for rural public power.

To solve this fairness and equity concern, Dairyland supports the introduction of an amendment that would allow public power to negotiate a fair and reasonable share of these new regionally cost-shared transmission facilities to protect the interests of rural consumers.

Finally, I would like to address why Dairyland supported a similar bill in the previous session. Last session, the investor-owned utilities, provided assurances that the utilities would work together on regionally cost shared projects as we had previously such as the CapX 2020 (Twin Cities to Rochester to La Crosse) 345 kV transmission line, the Badger Coulee (La Crosse to Madison) 345 kV transmission line, and the Cardinal Hickory Creek (Dubuque to Madison) 345 kV transmission line. Both the Badger Coulee and the Cardinal Hickory Creek lines are MISO MVP regionally cost-shared projects while the CapX 2020 project was not and was paid for by each utilities' rate payers. Due to the assurances provided about fair participation, Dairyland supported the previous session's bill.

What has changed since the previous legislative session is MISO released its project list of 18 new 345 kV transmission lines, which is a $10 billion portfolio of projects in July 2022. MISO is also working on a second project list of 345 kV projects in another announcement expected in 2024.

While ATC and Xcel Energy previously provided assurances to work together on these new regionally cost-shared projects, real-world experience proved otherwise. A specific example is that of the new 18 MISO 345 kV regionally cost-shared transmission projects includes a new Mankato to North Rochester, line segment in Minnesota. This new 345 kV line segment could not exist without the prior CapX 2020 Twin Cities to Rochester to La Crosse 345 kV transmission line project that built the new North Rochester 345 kV substation. While Dairyland was an investor and owner of the CapX 2020 345 kV transmission line, decisions were made that Xcel Energy would solely own the 345 kV North Rochester substation for NERC cyber security compliance reasons. Assurances were given that sole ownership of the substation was for cyber security reasons only and not related to the Minnesota ROFR statute which was signed into law at about the same time.

In 2022, after MISO released its project list of new 345 kV transmission line projects, Dairyland, Rochester Public Utilities and Southern Minnesota Municipal Power Agency, all public power entities, approached Xcel Energy to discuss line ownership of the Mankato to North Rochester line segment. Xcel Energy took the position that the Minnesota ROFR statute, based on end-point substation ownership, gave Xcel Energy exclusive rights to that new regionally cost-shared transmission line. Xcel Energy did

not remember the assurances it gave in the CapX 2020 project and that it honored previously in the Badger Coulee project.

Thus, Xcel Energy proved to Dairyland that mere assurances are not enough when a ROFR statute confers, by the power of the state exclusive rights to own, construct and maintain new regionally cost-shared transmission lines and their resultant financial benefit.

As Dairyland has this first-hand experience in Minnesota with the application of a ROFR statute in, we cannot now support Senate Bill 481 in Wisconsin for the very same reasons. Unless Senate Bill 481 is amended to provide a fair opportunity for public power to have a seat at the table, this bill will negatively impact our consumer-members and other public power entities.

In closing, thank you Chairman Bradley for the opportunity to share the perspective from Dairyland Power Cooperative, and I am happy to answer questions from the Committee.