

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

International Transmission Co.)	
d/b/a ITC Transmission, <i>et al.</i>)	Docket No. EL26-58-000
)	
v.)	
)	
Midcontinent Independent System Operator, Inc.)	
Southwest Power Pool, Inc.)	

**JOINT PROTEST AND
JOINT AND SEVERAL MOTIONS TO INTERVENE OF THE
JOINT CONSUMER ADVOCATES**

Pursuant to Rules 206, 211, and 214 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, and the April 16, 2026 Notice of Extension of Time, the Joint Consumer Advocates respectfully submit this Joint Protest and Joint and Several Motions to Intervene in response to the 2026 Complaint submitted by International Transmission Co. d/b/a ITC Transmission, et al.¹ (collectively “Complainants”) against Midcontinent Independent System Operator, Inc. (“MISO”) and Southwest Power Pool, Inc. (“SPP”). The Joint Consumer Advocates are: (1) the Citizens Utility Board of Wisconsin (“Wisconsin CUB”); (2) the Citizens Utility Board of Illinois (“Illinois CUB”); (3) the Colorado Office of the Utility Consumer Advocate; (4) the Office of the Illinois Attorney General; (5) Citizens Action Coalition of Indiana; (6) the Alliance for Affordable Energy, (7) the Citizens Utility Board of Michigan (“Michigan CUB”); (8) the Maryland Office of People’s Counsel; and (9) the Delaware Division of the Public Advocate.

¹ Michigan Electric Transmission Co., LLC; ITC Midwest LLC, and ITC Great Plains, LLC; Ameren Services Co.; American Transmission Co. LLC; Cleco Power LLC; Entergy Services, LLC; Evergy, Inc.; Oklahoma Gas & Electric Co.; The Empire District Electric Company; and Xcel Energy Services Inc.

As demonstrated herein, the Complaint seeks extraordinary relief, asking FERC to (i) set aside a Final Rule that remedied a well-documented violation of the consumer protections enshrined in the Federal Power Act, and (ii) exalt the monopoly interests of incumbent transmission providers over the interests of customers that benefit from competitive solicitations. But the Complaint is short on evidentiary support for that extraordinary claim. Given the affordability crisis that is plaguing many customers, FERC should determine that it is particularly important to adhere to—not set aside—regulations that protect consumers from excessive rates for essential utility service. In support thereof, the Joint Consumer Advocates state as follows:

I. JOINT AND SEVERAL MOTIONS TO INTERVENE

Several of the Joint Consumer Advocates have already submitted motions to intervene in this proceeding.² The remaining Joint Consumer Advocates submit the following Joint and Several Motions to Intervene: (1) The Colorado Office of the Utility Consumer Advocate represents the public interest and, in particular, the interests of residential, small business, and agricultural energy consumers in Colorado. Colorado Revised Statutes Sec. 40-6.5-106 (2.5) authorizes the Colorado Office of the Utility Consumer Advocate to seek to intervene in any proceeding before a federal agency that regulates utility rates or service or before a federal court when the matter before the agency or court will affect a rate, charge, tariff, or term of service for a utility product or service for a residential, small business, or agricultural utility consumer in the state of Colorado; (2) The Citizens Utility Board of Illinois is an Illinois-based statewide organization of residential ratepayers. The Citizens Utility Board Act, 220 ILCS 10/2, the Illinois statute that created and

² Wisconsin CUB submitted a doc-less motion to intervene on April 28, 2026; the Office of the Illinois Attorney General submitted a doc-less motion to intervene on April 27, 2026; the Citizens Action Coalition of Indiana submitted a doc-less motion to intervene on May 26, 2026; Citizens Utility Board of Michigan submitted a doc-less motion to intervene on May 14, 2026; the Maryland Office of Peoples Counsel submitted a doc-less motion to intervene on May 26, 2026; and the Alliance for Affordable Energy submitted a doc-less motion to intervene on April 17, 2026.

governs Illinois CUB, states that Illinois CUB shall “[r]epresent and protect the interests of the residential utility consumers of this State.” Illinois ratepayers will be materially affected by the outcome of this docket; (3) The Delaware Division of the Public Advocate, established in 1978, exists to “advocate primarily on behalf on behalf of residential and small commercial customers.”³ As enacted by the Delaware General Assembly in 29 Del. C. Section 8716(3)(a) the Delaware Division of the Public Advocate is to “To appear on behalf of the interest of consumers in the courts of this state, the federal courts, and federal administrative and regulatory agencies and commissions in matters involving rate, services, and public utilities.”⁴ The Public Advocate is nominated by the Governor and approved by the Delaware Senate.⁵ On the regional and federal level, DPA is a member of and participates in stakeholder processes of PJM Interconnection, LLC (“PJM”) and intervenes in and participates in proceedings at FERC. PJM, whose footprint includes Delaware, is a sibling regional transmission owner to MISO and SPP, and PJM’s planning and procurement of electric transmission facilities has a direct and significant impact on the costs of electricity for Delaware consumers. DE DPA’s interest in this proceeding is to assure that the Commission not weaken or undermine Order No. 1000’s mandate for securing competition in transmission.

The Complaint proposes revisions to MISO’s and SPP’s competitive solicitation processes that, if granted, would affect the rates and terms for wholesale transmission service. Each of the movants represents the interests of consumers in a state that is located in either the MISO or SPP footprint, or represents the interests of consumers in another regional transmission organization

³ “About the Division of the Public Advocate” <https://publicadvocate.delaware.gov/division-public-advocate/> (last visited June 25, 2025).

⁴ Del. C. 8716 (e)(3)(a).

⁵ Del. C. 8716(A).

(“RTO”) region who could be adversely affected if the Complaint were granted on grounds applicable to other RTOs. As such, each has an interest that may be directly affected by the outcome of the proceeding. The movants’ unique interests cannot be adequately represented by any party to the proceeding. Consequently, the participation of each movant is in the public interest. On these bases, FERC should grant the Joint and Several Motions to Intervene so that the Joint Consumer Advocates can participate in this proceeding for all purposes.

The representatives of the movants, and the individuals to be included on the official service list, are:

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II. JOINT PROTEST

Starting in 1996, FERC has taken a series of actions under Section 206 of the Federal Power Act to remedy circumstances that it has deemed unjust and unreasonable and unduly discriminatory. In Order No. 888, FERC concluded that unduly discriminatory and anticompetitive practices existed in the electric industry and that, absent FERC action under Section 206, such practices would increase as competitive pressures in the industry grew.⁶ To remedy those circumstances, FERC established a *pro forma* Open Access Transmission Tariff (“OATT”) and set forth certain minimum requirements for transmission planning.⁷

In 2003, FERC noted that generator interconnection is a critical component of open access transmission service and thus is subject to the requirement that utilities offer comparable service under the *pro forma* OATT. FERC also recognized a need for a standard set of interconnection procedures for transmission providers and a single, uniformly applicable interconnection agreement for large generating facilities. It established such procedures and related practices in

⁶ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh’g*, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048, *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002)

⁷ *See, e.g.*, Section 28.2 of the *pro forma* OATT.

Order No. 2003.⁸ In 2005, FERC issued Order No. 2006, adopting standard procedures and a standard agreement for interconnecting generating facilities no larger than 20 MW citing the same purposes outlined in Order No. 2003.⁹

In 2007, FERC found that the obligations in the *pro forma* OATT related to transmission planning were not sufficient to eliminate opportunities for undue discrimination in the provision of transmission service. To remedy this circumstance, FERC issued Order No. 890, which established nine planning principles that apply to all public utility transmission providers: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects.¹⁰

In 2010, FERC examined ongoing changes within the electric industry, and considered its experience in implementing Order No. 890. FERC noted that it had seen substantial improvement in transmission planning processes through compliance with Order No. 890. However, the ongoing changes in the nation's electric power industry since issuance of Order No. 890 required consideration of additional reforms to transmission planning and cost allocation. In 2011, FERC issued Order No. 1000 which, *inter alia*: (1) required that each public utility transmission provider

⁸ *Standardization of Generator Interconnection Agreements & Procs.*, Order No. 2003, 68 FR 49846 (Aug. 19, 2003), 104 FERC ¶ 61,103, at PP 1, 616 (2003), *order on reh'g*, Order No. 2003-A, 69 FR 15932 (Mar. 5, 2004), 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 70 FR 265 (Jan. 19, 2005), 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 70 FR 37661 (July 18, 2005), 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

⁹ *Standardization of Small Generator Interconnection Agreements & Procs.*, Order No. 2006, 111 FERC ¶ 61,220, at PP 15, 35-36, *order on reh'g*, Order No. 2006-A, 70 FR 71760 (Dec. 30, 2005), 113 FERC ¶ 61,195 (2005), *order granting clarification*, Order No. 2006-B, 71 FR 42587 (July 27, 2006), 116 FERC ¶ 61,046 (2006).

¹⁰ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 at PP 418-601, *order on reh'g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 73 FR 39092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 74 FR 12540 (Mar. 25, 2009), 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 74 FR 61511 (Nov. 25, 2009), 129 FERC ¶ 61,126 (2009).

participate in a regional transmission planning process that produces a regional transmission plan; (2) required adoption of a regional cost allocation method for the cost of new transmission facilities selected in a regional transmission plan; and (3) removed from FERC-approved tariffs and agreements a federal right of first refusal for certain new transmission facilities and replaced it with a requirement to engage in competitive solicitations.¹¹

Each of the foregoing actions marked an incremental step toward identifying and rectifying unjust, unreasonable, and unduly discriminatory practices that contravene the Federal Power Act's consumer-protection focus.¹² The Complaint seeks extraordinary relief, asking FERC to set aside one of these incremental steps as unjust and unreasonable. Specifically, the Complaint asks FERC to find that provisions in SPP's and MISO's tariffs that implement Order No. 1000's competitive solicitation processes are unjust and unreasonable.¹³ The Complaint asks FERC to either: (1) exempt from solicitation any transmission project that is needed to interconnect new generation or load, if delaying the project would delay service to generation or load; or (2) temporarily pause the competitive solicitation processes. FERC should deny the requested relief.

Order No. 1000 detailed the benefits that result from regional planning processes that allow entities to compete for the opportunity to develop and own transmission projects. As compared to projects that are built by incumbents and subject to their monopoly power, the Joint Consumer Advocates' constituents in MISO and SPP have benefitted directly from reduced costs that result

¹¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, No. 12-1232, 2014 WL 3973116 (D.C. Cir. Aug. 15, 2014).

¹² *See, e.g., Pa. Water & Power Co. v. FPC*, 343 U.S. 414, 418 (1952) ("A major purpose of the whole [Federal Power] Act is to protect power consumers against excessive prices."); *Pub. Sys. v. FERC*, 606 F.2d 973, 979, n.27 (D.C. Cir. 1979) ("[T]he Federal Power Act aim[s] to protect consumers from exorbitant prices and unfair business practices.").

¹³ *See* Complaint at 1.

from competitive bidding, cost containment provisions, and schedule discipline and accountability. Any entity that seeks to halt competition—either temporarily or on an indefinite basis—should be subjected to a high burden in order to ensure that ratepayers are not deprived of the well-thought and effective protections that are built into Order No. 1000’s competitive selection process. A desire to advance the parochial interests of incumbent transmission owners must not serve as a basis for depriving customers of these benefits. Likewise, vague claims about energy emergencies should not be sufficient to exalt the monopoly interests of transmission providers over the interests of customers. But those are precisely the arguments underlying the Complaint.¹⁴

FERC’s obligation to engage in reasoned decision-making demands a much more rigorous evidentiary showing to justify the extraordinary relief requested by the Complainants.¹⁵ That obligation also requires FERC to consider the policy implications of the requested relief. In light of the affordability crisis that many consumers are facing, it is particularly inappropriate to deprive consumers of the benefits of competitive solicitations. The Joint Consumer Advocates expand on these objections below.

A. The Joint Consumer Advocates Believe in Competition as a Means to Bring Down Costs

The Joint Consumer Advocates are responsible for advocating for affordable energy in their states. The electricity customers represented by the Joint Consumer Advocates face an unprecedented affordability crisis, with prices rising faster than inflation and transmission costs

¹⁴ See, e.g., Complaint at 4-5.

¹⁵ The arbitrary-and-capricious standard requires that FERC’s orders be “reasonable and reasonably explained.” *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). FERC must also “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (cleaned up).

rising faster still. It is against this backdrop that the Complainants seek to remove an important mechanism limiting that growth in transmission costs – competition.

While the Complainants assert, contrary to evidence and common sense, that competitive bidding actually *increases* costs, their arguments are not supported by those who ultimately pay the bills. Competition forces transmission companies to sharpen their pencils, find ways to decrease costs, and supplement consumer protections in order to win bids. The evidence shows that not only are the winning bids lower when there is competition, but competitive bidding also delivers superior cost caps and other consumer protections that shield consumers from cost overruns and other risks.

Competitive bidding doesn't just put downward pressure on project cost estimates. It also fosters competition on return on equity and capital structure, both of which have a large impact on a project's ultimate costs to consumers.

While the Complainants cherry-pick a handful of projects they claim support their view, scrutiny of those examples reveals that the bidding process produces customer benefits. With respect to the MISO awarded Wisconsin Southeast Competitive Transmission Project (“WISE”), for example, MISO selected the winning bidder based on its superior value across a range of factors.¹⁶ While the winner, Viridon Midcontinent LLC, submitted the lowest capital cost, it also had better cost containment mechanisms, lower return on equity and weighted average cost of capital, and it waived the construction work in progress (“CWIP”) incentive.

But Wisconsin utility ratepayers have also experienced the other end of the spectrum with non-competitive projects. Wisconsin's most recently completed MISO MVP project, the Cardinal-

¹⁶ WISE Selection Report at ii-iii, MISO, <https://cdn.misoenergy.org/WISE%20Selection%20Report734486.pdf> (last visited May 27, 2026).

Hickory Creek line, exceeded authorized costs by \$202.4 million or 41 percent as of October 24, 2024.¹⁷ Meanwhile in Indiana, a project assigned to Northern Indiana Public Service Company pursuant to the state’s right of first refusal has seen costs balloon from \$340 million to \$675.4 million.¹⁸

Similarly, in MISO South states, there is a documented history of anti-competitive behavior. Alliance for Affordable Energy (“AAE”) is the consumer advocate representing residential ratepayers across the state of Louisiana. For decades AAE has been concerned about ratepayer impacts that flow from the anti-competitive behavior of Entergy Services, LLC. In 2021 and 2024, AAE sent joint letters to the Department of Justice to call attention to Entergy’s concerning behavior.

Entergy is a vertically integrated monopoly, owning and controlling both power generation and transmission. Entergy has unlawfully maintained its monopoly by continuing a pattern of anticompetitive conduct that led to an Antitrust Division investigation in the 2010s. Specifically, the Division explored whether Entergy harmed consumers by exercising its control over its transmission system and dominant fleet of gas-fired power plants to exclude rival operators of low-cost combined-cycle gas turbine (CCGT) power plants from competing to sell long-term power. In particular, the Division looked at whether Entergy’s practices effectively foreclosed more efficient rivals from obtaining long-term firm transmission service, a necessary input for selling long-term power products to wholesale customers in the Entergy service area. As part of the

¹⁷ 3Q2024 CHC Progress Report and In-service Notification, October 24, 2024, *Joint Application of American Transmission Company LLC, ITC Midwest LLC, and Dairyland Power Cooperative, for Authority to Construct and Operate a New 345 kV Transmission Line from the Existing Hickory Creek Substation in Dubuque County, Iowa, to the Existing Cardinal Substation in Dane County, Wisconsin, to be Known as the Cardinal-Hickory Creek Project*, Wisconsin Public Service Commission Docket 5-CE-146.

¹⁸ See NIPSCO Project Mitigation Plan (Mar. 19, 2026), available at [https://cdn.misoenergy.org/Morrison Ditch %E2%80%93 Reynolds %E2%80%93 Burr Oak %E2%80%93 Leesburg - Hiple Variance Analysis Mitigation Plan Public Notice746498.pdf](https://cdn.misoenergy.org/Morrison%20Ditch%20Reynolds%20Burr%20Oak%20Leesburg%20Hiple%20Variance%20Analysis%20Mitigation%20Plan%20Public%20Notice746498.pdf) (last visited May 27, 2026).

conduct investigation, the Division reviewed the competitive impact of, and circumstances surrounding, Entergy's serial acquisition of rivals' CCGT power plants, including plants owned by KGen Power Corp.¹⁹

The Division ultimately suspended the investigation without pursuing an enforcement action because Entergy committed to two specific steps that would mitigate anticompetitive conduct: divesting its energy transmission business and joining a Regional Transmission Organization (RTO).²⁰ After more than ten years, these mitigation measures have not succeeded. Entergy did not follow through on its commitment to divest its transmission business and, in part because it continues to own transmission, membership in an RTO has not mitigated anticompetitive conduct. Entergy continues to unlawfully preserve and protect its market power through its behavior as a transmission-owning utility in MISO and by creating other barriers to competition throughout MISO South.²¹

Similarly, in 2016, Entergy put forth a transmission expansion plan. The plan included a proposal to build a new transmission line into Downstream of Gypsy at a cost of \$87.7 million to help increase transfer capabilities and alleviate congestion in both Downstream of Gypsy and Amite South.²² This transmission line would have brought energy produced by Entergy rivals outside of the load pockets into the region. But then Entergy built the St. Charles CCGT in

¹⁹ Department of Justice, *Justice Department Statement on Entergy Corp.'s Transmission System Commitments and Acquisition of KGen Power Corp.'s Plants in Arkansas and Mississippi* (Nov. 14, 2012) <https://www.justice.gov/archives/opa/pr/justice-department-statement-entergy-corp-s-transmission-system-commitments-and-acquisition> (last visited May 27, 2026).

²⁰ *Id.*

²¹ Kowalczyk, Andy. "Utility Entergy Stymied Transmission Projects That Might Have..." Canary Media, September 30, 2021. <https://www.canarymedia.com/articles/utilities/utility-entergy-stymied-transmission-projects-that-might-have-prevented-some-new-orleans-blackouts> (last visited May 27, 2026).

²² MISO, MTEP16 MISO Transmission Expansion Plan, at 116-19 (Feb. 17, 2017), https://www.ieca-us.org/wp-content/uploads/Christina_Switzer_MTEP16-Full-Report.pdf (last visited May 27, 2026).

Downstream of Gypsy at a cost of approximately \$869 million. When MISO added the energy from the new CCGT into the transmission line's benefit-to-cost analysis, the outcome no longer weighed in favor of building the transmission line. Entergy effectively "saved" the load pocket by spending more than \$780 million in excess of the cost of the transmission line, thereby wiping out the cheaper option of building additional transmission.

Given Entergy's longstanding history of violating antitrust laws, it is concerning that Entergy has signed onto this complaint to FERC requesting the first right of refusal for upcoming transmission projects.

Competitive processes are an important tool to place downward pressure on electricity costs, and they are even more important – not less – at a time when customers are experiencing rising costs. Suspending competitively bid transmission projects in MISO and SPP for the next five years will harm consumers. Consumers should have certainty that grid expansion projects will be built by the lowest-cost bidders. During a time when the affordability crisis threatens communities in MISO and SPP, consumers cannot afford for competitively bid transmission project solicitation to be suspended.

B. The Complainants Provided Insufficient Evidence of Delays Actually Caused By Competitive Solicitation Processes.

The core premise of the Complaint is that competitive bidding causes project delays of 16 to 20 months. But absent from the Complaint is any evidence that solicitation processes actually cause any delays to *project in-service dates*.

At most, the Complaint asserts that for a handful of SPP and MISO projects, the solicitation process itself averaged 16 to 20 months. But this does not mean that the projects were delayed by that amount of time *because of* the solicitation process. For one thing, MISO and SPP projects are often based on long-term planning that incorporates the time for competitive processes when

determining the target in-service date. Thus, however long the solicitation period lasts, it does not necessarily have an impact on meeting MISO's or SPP's timing needs.

Moreover, the competitive bidding process results in strict schedule requirements that can subject the winning bidder to significant penalties. This means that time added on the front end for competitive bidding can be made up for during a project with added incentive to finish on time. On the other hand, when a project is handed out without competition to an incumbent transmission owner, that company may have little incentive to timely complete the project.

Even if there were delays caused by competitive bidding processes, the Complainants fail to establish that discarding competitive bidding altogether would be the best or only option. There are existing tariff provisions that already allow exceptions to competition, including for any urgent "immediate need" projects and expedited project reviews, and all reliability projects.²³ The Complainants do not explain why these exceptions are insufficient.

The Complainants also fail to address why MISO and SPP could not simply remedy any inefficiencies in the current solicitation process rather than abandoning it. If FERC identifies a problem with existing solicitation processes, then it should select a remedy that fits that problem. The way to fix inefficient competitive solicitation processes is to make them more efficient, not to eliminate them.

C. The Complainants Ask FERC to Override State Legislative Processes

The same transmission owners who are Complainants here have, for years, lobbied state governments to hand them right of first refusal advantages through legislation or other state

²³ "Immediate Need Reliability Projects," MISO, January 27, 2021, available at <https://cdn.misoenergy.org/Immediate%20Need%20Reliability%20Project514798.pdf> (last visited May 27, 2026).

regulatory processes. Those efforts have been rejected in a number of MISO and SPP states.²⁴ For example, in Illinois, legislation to authorize the right of first refusal was rejected, and later attempts for a right of first refusal were dismissed by FERC and Illinois state court. Ameren, one of the Complainants, sought a transmission right of first refusal at the Illinois General Assembly in 2023 that was vetoed by Illinois Governor J.B. Pritzker due to concerns that a right of first refusal would eliminate competition and raise transmission costs for ratepayers.²⁵ Ameren later sought a declaratory order for a right of first refusal at FERC, which was dismissed by the Commission.²⁶ The Commission even noted that Ameren’s request implicated a question of first impression under state law, and that FERC was not the correct forum for Ameren’s request.²⁷ Ameren’s concurrent attempt in Illinois state court was also unsuccessful, as the Woodford County, Illinois circuit court dismissed Ameren’s separate complaint for a right of first refusal.²⁸

The Complaint amounts to an attempt to end-run around these state-level democratic processes in favor of a top-down federal directive. The balance of authority between state and federal jurisdictions is an important and delicate one that should not be lightly tampered with.

²⁴ Rich Kremer, “Republicans introduce new version of controversial transmission line bill”, Wisconsin Public Radio, April 10, 2025, <https://www.wpr.org/news/republicans-introduce-new-version-controversial-transmission-line-bill> (noting repeated failures of right of first refusal legislation in Wisconsin); Ethan Howland, “In Hit to Ameren, Illinois Governor Vetoes Right of First Refusal for MISO Transmission,” Utility Dive, August 18, 2023, available at <https://www.utilitydive.com/news/ameren-illinois-governor-veto-right-of-first-refusal-roft-transmission-miso/691268> (last visited May 27, 2026).

²⁵ 103rd General Assembly, House Bill 3445, Gov. JB Pritzker Amendatory Veto Letter dated Aug. 16, 2023, available at <https://ilga.gov/legislation/billstatus/fulltext?LegDocId=185182&DocName=10300HB3445gms&GA=103&LegID=148612&SessionId=112&SpecSess=00&DocTypeId=HB&DocNum=3445&GAID=17&Session=> (last visited May 27, 2026).

²⁶ Order Dismissing Petition for Declaratory Order, *Ameren Illinois Co.*, 193 FERC ¶ 61,151 at P 26-27 (Nov. 24, 2025).

²⁷ *Id.*

²⁸ See *Ameren Ill. Co. v. Midcontinent Indep. Sys. Operator, Inc.*, Case No. 2025MR15 (Ill. 11th Cir. Ct. 2025).

As evidenced by the bevy of states participating in this proceeding, the states are thoughtfully engaged on this issue and should be accorded the power to address whether the right of first refusal is appropriate within their jurisdictions.²⁹ The Commission should decline the invitation to revisit and preempt decisions that have been made by states after heavy participation by incumbent transmission owners and other stakeholders.

III. RESERVATION OF RIGHTS

The Joint Consumer Advocates reserve the right to posit and address any additional issues that may be identified or developed during the course this proceeding.

IV. CONCLUSION

WHEREFORE, the Joint Consumer Advocates respectfully ask that the Federal Energy Regulatory Commission:

- (1) Grant the Joint and Several Motions to Intervene in Section I above so that each of the Joint Consumer Advocates can participate in this proceeding for all purposes;
- (2) Consider the arguments raised in the Joint Protest in Section II above in evaluating the merits of the Complaint; and
- (3) Deny Complainants' requested relief; and

²⁹ See, e.g., Comments of the Illinois Commerce Commission, Accession No. 20260521-5114 (opposing the Complaint because competition is "required to ensure optimal transmission planning and protection against monopoly inefficiencies"); Comments of Senator Derek J. Harvey of Montana Senate Energy, Technology, and Federal Relations Committee, et al., encouraging FERC to reject the complaint, decline requested approach, and to carefully evaluate the potential impacts etc. under EL26-58, Accession No. 2026-0521-4006; Comments of Representative Henry Stone et al., of Iowa Legislature, urging FERC to reject the complaint under EL26-58, Accession No. 20260521-4001 (explaining that "With competition by all, Iowa ratepayers will win, because incumbents tend to make more competitive proposals when they face competition.")

(4) Grant such other relief as may be deemed necessary and appropriate.

Respectfully submitted,

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Dated: May 27, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 27th day of May, 2026.

/s/ Jason T. Gray

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