



**Electricity
Transmission
Competition
Coalition**

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95 Electricity Consumer Organizations from Across the Country File for Rehearing Over Anti-Consumer FERC Order 1920

The Electricity Transmission Competition Coalition submitted a rehearing request on FERC Order 1920 because the rule creates a new federal monopoly for aging electricity transmission infrastructure replacements, which would unjustly raise electricity prices on consumers.

WASHINGTON – The Electricity Transmission Competition Coalition today filed for rehearing with the Federal Energy Regulatory Commission on Order 1920 because of its inclusion of a new federal monopoly provision restricting competition for certain transmission projects. The so-called ‘Right-Sizing’ Right of First Refusal provision would grant a federal monopoly for the replacement of aging electricity transmission infrastructure in the United States, which would lead to significant electricity costs increases for consumers.

In a statement, Paul Cicio, Chair of the Electricity Transmission Competition Coalition, said: “The Federal Power Act is a consumer protection statute, and the United States Supreme Court has been clear that FERC can only act within its powers provided by Congress. Order 1920 ignores both. The Federal Power Act does not give FERC the power to create new federal monopolies.

“The Biden administration has called on FERC to pursue competition through the President’s Executive Order and the joint filing of the U.S. Department of Justice and Federal Trade Commission on this rule. Order 1920 is inconsistent with these requests.

“The inclusion of a new federal monopoly by FERC in Order 1920 is a blow to consumers, who expect their consumer protection agencies to protect them from monopolistic abuses. FERC should stand-up for consumers by removing this ROFR and wholeheartedly endorse competition, the only way to lower electricity rates. Today’s rehearing request provides an opportunity for FERC to correct its mistake.”

The average U.S. electric bill is projected to be its highest in 10 years this summer. Residential electricity prices have risen by 20% over the last three years according to the Energy Information Administration and transmission costs represent the largest component of those rising prices. The latest inflation data showed that electricity price increases are almost double the CPI over the last

year. Competition has been shown to lower costs by 40%. The U.S. will need to spend over \$2 trillion on transmission by 2050; electricity transmission competition will save ratepayers hundreds of billions of dollars.

You can read ETCC's filing in full [here](#).

You can read ETCC's factsheet on the four legal issues and errors in Order No. 1920 [here](#).

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About the Electricity Transmission Competition Coalition

The Electricity Transmission Competition Coalition (ETCC) is a broad-based, nation-wide coalition committed to increasing competition in America's electricity transmission infrastructure. We advocate for common-sense policies and solutions that result in competitively priced transmission projects, which reduce energy costs for all ratepayers – from large manufacturers to residential consumers. The ETCC represents a diverse group of 95 companies and organizations from all 50 states, including manufacturing groups, retail electric consumers, state consumer advocates, think tanks, and non-incumbent transmission developers.

For more information, visit: www.electricitytransmissioncompetitioncoalition.org.

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ETCC Rehearing Factsheet

Consistent with rehearing procedure at FERC, The Electricity Transmission Competition Coalition specifies the following four legal issues and errors in Order No. 1920:

ETCC Issue #1: Did Order No. 1920 satisfy the requirements under the first prong of Section 206 of the Federal Power Act and under the Administrative Procedure Act in mandating a preference for incumbent transmission owners for certain new right-sized replacement projects addressing Long-Term Transmission Needs?

No. Order No. 1920 erred by failing to engage in reasoned decision-making and provide substantial evidence, under the first prong of Section 206 of the Federal Power Act, that existing transmission provider tariff provisions as concerns regional transmission planning and cost allocation and incumbent public utility rights and obligations – which do not include a right-sizing monopoly preference – are unjust, unreasonable, and unduly discriminatory or preferential.

ETCC Issue #2: Did the Commission exceed its statutory authority in mandating a preference for incumbent transmission owners for certain new right-sizing replacement projects addressing Long-Term Transmission Needs?

Yes. Order No. 1920 failed to demonstrate that FERC has the legal authority under the Federal Power Act to mandate the issuance of a transmission monopoly preference or federal transmission franchise for the development and construction of electric transmission facilities in

interstate commerce, citing, among other legal reasons, the United States Supreme Court 2023 *W. Va Vs. EPA* decision that federal agencies must act under explicit Congressional direction.

ETCC Issue #3: Did Order No. 1920’s so-called ROFR or right-sizing monopoly preference deviate from prior Commission precedent without reasoned explanation?

Yes. Order No. 1920 is arbitrary and capricious because it deviates from Order No. 1000 and prior policy and precedent without adequate explanation, specifically Order No. 1000-A at P 361 “elimination of any federal rights of first refusal from Commission-jurisdictional tariffs and agreements *is necessary to address opportunities for undue discrimination and preferential treatment against nonincumbent transmission developers* within regional transmission planning processes.” Order No. 1000 – A at P 426 discussing replacements of existing facilities in a regional context “the term upgrade means an improvement to, addition to, or replacement of a part of, an existing transmission facility. The term upgrades does not refer to an entirely new transmission facility. The concept is that there should not be a federally established monopoly over the development of an entirely new transmission facility that is selected in a regional transmission plan for purposes of cost allocation to others.”

ETCC Issue #4: The right-sizing ROFR or monopoly preference adopted in Order No. 1920 has not been demonstrated to be just, reasonable, and not unduly discriminatory, and is unjust, unreasonable, unduly discriminatory, and contrary to the public interest.

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