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February 10, 2023

*Submitted via* [energy.standards@usdoj.gov](mailto:energy.standards@usdoj.gov)

**RE: Energy Conservation Program: Energy Conservation Standards for Distribution Transformers [EERE-2019-BT-STD-0018]**

To Whom It May Concern:

XX, XX and the National Rural Electric Cooperative Association (NRECA) respectfully submit the following comments to the U.S. Department of Justice Antitrust Division concerning competition issues raised by the U.S. Department of Energy’s notice of proposed rulemaking (NOPR) on Energy Conservation Standards for Distribution Transformers (EERE-2019-BT-STD-0018).

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NRECA is the national trade association representing nearly 900 local electric cooperatives and other rural electric utilities. America’s electric cooperatives are owned by the people that they serve and comprise a unique sector of the electric industry. From growing regions to remote farming communities, electric cooperatives power 1 in 8 Americans and serve as engines of economic development for 42 million Americans across 56 percent of the nation’s landscape.

Our members are some of the primary consumers of distribution transformers and if this proposal is implemented as currently contemplated, it would have serious consequences to their ability to provide affordable, reliable electric service to millions of Americans. We urge DOJ to fully consider the competition issues raised by the DOE NOPR and work with DOE to address these concerns before a final rule is issued by DOE.

As drafted, DOE’s NOPR would transition almost the entire distribution transformer market in the United States to use amorphous steel cores, as compared to the current widespread use of grain oriented electrical steel (GOES) cores. We have numerous concerns about the proposal but within the DOJ Antitrust Division’s purview we specifically raise (1) the lack of domestic suppliers available to produce amorphous steel cores and (2) the untenable timeline in the proposal.

The fact that there is only one domestic supplier of GOES puts the domestic electrical steel market into a precarious state. Rather than helping to diversify supply, the DOE NOPR is counterproductive as it would deter further domestic investment in GOES production because essentially only amorphous steel cores will be able to meet the new energy conservation standard proposed by DOE. Ultimately, DOE’s NOPR will not foster competition and is instead likely to create a new monopoly supplier, while simultaneously driving the existing GOES supplier out of the market and killing further investment in GOES under consideration or announced by other steel producers.

Furthermore, we have serious concerns about whether the only domestic producer of amorphous steel cores today would even be able to meet electric utilities’ demand for distribution transformers. The only amorphous steel core producer’s output today is a mere fraction of what would be required to adequately meet the electric utilities’ demand, raising serious implications for electric reliability and affordability. The NOPR as currently drafted seems to be relying on a single supplier in the market to ramp up output to meet the demand on an incredibly short time frame of just three years.[[1]](#footnote-1)

In addition, the Department of Commerce found that amorphous steel is “more labor intensive to form into cores” and “it is more economical in countries with low labor costs.”[[2]](#footnote-2) The United States’ labor market, characterized by higher prevailing wages, is very different than those countries such as China and India where most amorphous steel cores are widely produced today. Moreover, the labor shortages plaguing many U.S. industries today – including distribution transformer manufacturers– make it very unlikely that domestic production of amorphous steel cores will ramp up to the level that DOE assumes in the NOPR. The Department of Commerce also found that the current lone domestic supplier “has lost 50 percent of its employees due to its inability to compete with imports from China that have flooded the world market.” We have serious doubts about the ability of one supplier to increase output in the timeline envisioned in this proposal. If this NOPR is finalized as drafted, and the sole supplier cannot meet the demand, manufacturers will be forced to source their material from international sources (particularly China) representing a significant national security risk to the United States.

Contrary to DOE’s statements, the NOPR would not increase diversity of steel suppliers in the market but would rather drive out the lone GOES supplier in favor of an amorphous supplier because the new efficiency standards will drive nearly all distribution transformer manufacturing away from GOES. In addition, steel producers that have made tentative commitments to invest in electrical steel in the coming years will likely forego those additional investments because the manufacturing community will be forced to move away from GOES. This move will also be detrimental to bringing back domestic manufacturing capacity for large power transformers (LPTs) used for electric utility transmission service. LPTs use GOES and cannot use amorphous steel cores, and it has already been identified as another national security risk that the U.S. receives nearly all LPTs and their components from overseas.

Finally, we must emphasize that the current manufacturing base serving electric utilities is struggling to meet demand and DOE’s NOPR exacerbates this ongoing crisis. Our members are facing unprecedented challenges securing equipment and material to provide reliable electric service to their customers. Electric utilities have been sounding the alarm for more than a year about the supply chain constraints around multiple types of equipment they require to keep the lights on, with distribution transformers being the most acute challenge. It now takes more than a year on average for utilities to receive distribution transformers, compared with 60 days just a couple years ago. Further, we expect the backlog to continue to increase absent U.S. government support as utilities invest in grid resilience and modernization projects and federal and state policies drive more electrification. With that backdrop, DOE’s NOPR sends the wrong signal at a critical moment when we need more investment in production capability right now and for the next several years to dig us out of the current hole we are in and be able to meet growing demand.

A proposal of this magnitude requires more time and analysis to avoid unintended consequences. At a minimum, DOJ should work with DOE to better understand the competition implications raised by the DOE’s NOPR and take the requisite time to ensure that we do not create unintended consequences that will be detrimental to electric reliability and affordability as well as U.S. national security.

Thank you for considering our comments. We would welcome further discussion about the issues we have raised with your team.

Sincerely,

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1. If the NOPR is finalized in 2024 as envisioned, compliance by manufacturers would begin in 2027. [↑](#footnote-ref-1)
2. See the U.S. Department of Commerce’s “The Effect of Imports of Transformers and Transformer Components on the National Security” (October 15, 2020) at: <https://www.bis.doc.gov/index.php/documents/section-232-investigations/2790-redacted-goes-report-20210723-ab-redacted/file> [↑](#footnote-ref-2)