

**UNITED STATES OF
AMERICA DEPARTMENT
OF ENERGY GRID
DEPLOYMENT OFFICE**

Notice of Intent and Request for Information:
Designation of National Interest Electric Transmission
Corridors
Docket No. DOE-HQ-2023-0039
July 31, 2023

**JOINT COMMENTS OF THE CALIFORNIA FARM BUREAU, THE ILLINOIS
AGRICULTURAL ASSOCIATION A/K/A THE ILLINOIS FARM BUREAU, THE
IOWA FARM BUREAU FEDERATION, THE KANSAS FARM BUREAU, THE
MISSOURI FARM BUREAU FEDERATION, THE OKLAHOMA FARM BUREAU
AND THE TEXAS FARM BUREAU**

These Farm Bureaus (hereinafter referred to as the “State Farm Bureaus”) appreciate the opportunity to submit these comments on the Notice of Intent (“NOI”) and Request for Information (“RFI”) issued by the Grid Deployment Office of the United States Department of Energy (“DOE”) regarding the designation of National Interest Electric Transmission Corridors (“NIETCs”). Our farmer and landowner members are impacted by both the reliability and resiliency of the electric grid and by these projects taking their private property for construction through eminent domain or the threat thereof.

Our members will be directly impacted by the designation of NIETCs which enables transmission line developers to seek FERC backstop authorization. The threat that eminent domain may be exercised for transmission line projects, when those projects may not be the right solutions for grid constraints or congestion, concerns the State Farm Bureaus. Moreover, we believe that an applicant-driven, route-specific framework for

designating NIETCs violates Section 216(a) of the Federal Power Act (“FPA”),¹ which allows the DOE to solicit input regarding specific geographic areas that should be designated as NIETC’s but not specific projects needed to alleviate congestion or constraints in those areas.

A reliable and resilient electric transmission grid is an essential part of our electric system especially as the national energy policy becomes focused on electricity rather than a more diverse energy profile. Discrete energy generation resources are being abandoned and more disparate renewable energy elements are often taking their place. The regional transmission operators and independent system operators, along with states, are adapting and managing this transition. The federal government’s role should be to support and enable their efforts rather than usurping their authority to fast-track certain projects at the expense of long-standing protections for ratepayers and landowners.

The State Farm Bureaus encourage DOE to adopt a number of changes and clarifications to the NOI’s proposal to help ensure that NIETC designations do not usurp the roles of state siting processes, the roles the Independent System Operators (ISOs) and Regional Transmission Operators (RTOs) have over transmission planning, and FERC’s limited backstop siting authority.

I. COMMENTS

RFI Question No. 1: Please comment on the approach to NIETC designation discussed in the NOI. What are the potential positive and negative impacts of such an approach? How could this process, especially how applications for designation are structured, be altered or improved?

DOE’s applicant driven, route-specific NIETC designation puts the cart before the horse. It exceeds the authority granted under the Federal Power Act (“FPA”) which allows

the DOE to solicit input regarding specific geographic areas that may be designated as NIETCs. *See* 16 U.S.C. § 824p. The FPA authorizes DOE to designate as an NIETC any geographic area that is experiencing or is expected to experience electric energy transmission capacity constraints or congestion that adversely affects consumers. It does not allow DOE to solicit projects that are under development and to then draw corridors around those projects.

Under the FPA, the DOE is required to consult with impacted states and tribes in the development of the National Transmission Needs Study and the National Transmission Corridors. The proposed process does an end-around of that requirement by prioritizing transmission developers with a project under development driving the results.

The criteria set forth in Section 216 of the FPA do not include evaluation of specific projects for NIETC designations by DOE. DOE's role is to designate a corridor under appropriate circumstances and then FERC may consider applications for route-specific projects. None of these statutory considerations includes private companies initiating and driving the national corridor designations.

The transmission companies have a profit motive for their proposed transmission lines to be federally designated whereas states and tribes will likely take a more balanced approach which normally includes evaluating transmission needs along with impacts on landowners and ratepayers. If the DOE proceeds with an applicant-driven process, features should be added to the process to protect against favoritism, corruption and graft. Moreover, DOE's proposed NIETC designation process duplicates FERC's backstop siting authority and potentially usurps the role of state siting processes and the role of regional

transmission planning authorities.

DOE should not identify or determine solutions to capacity or congestion because the FPA does not authorize them to do so. Instead, it must defer to state and regional planning processes to identify solutions (which may not require additional transmission lines) to meet the problems identified by DOE's transmission study and NIETC designation. DOE should also rely on the recommendations from independent planning organizations such as RTOs, ISOs and other regional planning authorities.

RFI Question No. 2: Please comment on the information DOE intends to request as part of an application in Section II.A.iii—are elements of these requests and/or supporting rationale overly burdensome on respondents?

The State Farm Bureaus disagree with DOE's approach to limit its' inquiry to applicants seeking approval of specific projects. We believe this approach will likely subject designations of such projects as national corridors to litigation. However, if DOE proceeds with this approach, it should consult with the states and regional planning authorities and consider localized electrical paths instead of specific transmission routes and projects proposed by transmission developers. States, RTOs/ISOs and transmission owners are constantly considering options for streamlining transmission infrastructure.

RTOs/ISOs and independent planners have the expertise and skills necessary to evaluate proposed transmission projects for efficiencies with an eye to how projects will fit into the overall transmission setup. Any proposed rules by DOE should not ignore this important skillset and function. Projects should be required to be vetted by RTOs/ISOs to ensure regional transmission feasibility. If a developer previously proposed a project in a regional transmission plan but the project was not selected, the developer be required to

identify the reasons that an alternative was selected.

Furthermore, the NOI states that DOE intends to engage, from an early stage, with “communities of interest,” and includes “rural communities” as an example of one such community. However, DOE’s inclusion of “rural communities” in the definition of “communities of interest” is vague.¹ Rural communities, by their nature, do not have high-density population areas, but rather have their population spread over a greater area. In many instances, rural communities are largely supported by agriculture production in their area, and the communities’ farmers and ranchers live in rural areas near the land that they work. These rural areas will likely bear the brunt of the transmission growth expected in the near future.² For these reasons, “rural communities” should be interpreted broadly, to include all rural areas in the path of any proposed NIETC, not just those rural areas within or near a rural city’s limits.

With that broad interpretation in mind, when applicants provide information with their application, more than “known information” about the “presence” of Communities of Interest should be required.³ There should be some requisite responsibility placed on applicants to study and gather publicly available information about Communities of Interest that might be impacted by a NIETC designation, such as the types of agriculture production predominant in the area and economic output from agriculture (found on a county-wide

¹ *Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors*, Fed. Reg. Vol. 88, No. 93, p. 30956, at 30959 fn 15 (May 15, 2023).

² See Eric Larson, et al., *Net-Zero America: Potential Pathways, Infrastructure, and Impacts*, slides 27-29 (Dec. 15, 2020), available at: [https://netzeroamerica.princeton.edu/img/Princeton%20NZA%20FINAL%20REPORT%20SUMMARY%20\(29Oct2021\).pdf](https://netzeroamerica.princeton.edu/img/Princeton%20NZA%20FINAL%20REPORT%20SUMMARY%20(29Oct2021).pdf).

³ Fed. Reg. Vol. 88, No. 93 at 30960 III(A)(iv)(i) (May 15, 2023).

level with the United States Department of Agriculture and many states' Department of Agriculture), as well as specific challenges that transmission lines place on agriculture producers, like farmers who need to move large machinery under and around transmission lines, and ranchers who may be unable to pasture cattle in a given area during transmission line construction or maintenance phases. This type of due diligence will make applicant responses more meaningful when they provide a summary of potential avoidance, minimization, and conservation measures.⁴

RFI Question No. 3: Is there other information or types of information not listed in Section II.A.iii that should be requested to inform the evaluation and designation of NIETCs?

With respect to the Required Application Information” components outlined in this RFI, the State Farm Bureaus first wish to acknowledge requirements that we agree upon. “Feasibility for co-location of the qualifying project with existing facilities, or location in existing corridors and transportation rights-of-way” and an “indication of the extent to which the potential NIETC could be made to align with existing rights-of-way, rail rights-of-way, highway rights-of-way, and multi-function energy corridors established on Federal lands...” are items that the State Farm Bureaus are highly supportive of provided that DOE properly uses its authority to designate transmission corridors and not utilize its proposed project specific approach.

In addition, regarding “other agreements” mentioned in Section iv (e), we believe this language should be expanded to require applicants to describe what procedures they have in place to reduce impacts to agricultural land, as well as returning such land to pre-

⁴ *Id.* at III(A)(iv)(l).

construction condition, including but not limited to: restoration of soil compaction and rutted land, restoration of damaged drain tile and field entrances, repair of damaged terraces, waterways and other erosion control structures and restoration of land slope and contour.

That said, we believe it would be appropriate for DOE to require applicants to include a summary of “known or potential” adverse impacts to land uses, as transmission lines are a burden to landowners, particularly when those lines cross properties in ways that disrupt current and future land uses. This is particularly true with agricultural uses, where a transmission line going through the center of a field can prevent farmers from efficiently planting, raising, and harvesting crops and hay. Transmission lines can make it impossible to apply crop protection products or cover crop seed by air, for example, meaning that applications either cost more, cannot be made in a timely manner, or both. This often results in a decrease in efficacy of the crop protection products, a reduction in conservation practices and, ultimately, reduced crop and forage production.

RFI Question No. 5: When considering the merits of corridor designation applications, how should DOE evaluate and weight the impact that a proposed corridor and any associated potential project(s) may have on: (a) alleviating congestion or transmission capacity constraints and/or responding to concerns identified in the Needs Study; (b) grid reliability and resilience; (c) reducing greenhouse gas emissions; (d) generating host community benefits; (e) encouraging strong labor standards and the growth of union jobs and expanding career-track workforce development in various regions of the country; (f) improving energy equity and achieving environmental justice goals; (g) maximizing the use of products and materials made in the United States; and (h) maintaining or improving energy security?

In designating and defining NIETC’s, DOE should describe the capacity constraint of congestion problem which warrants designation of such corridors. Although the State

Farm Bureaus disagree with DOE's project-specific approach, we submit that all applicants must demonstrate efforts made at the statewide or regional level for development of the transmission project.

Many states, such as California, have longstanding review processes that scrutinize electric infrastructure overall to determine priorities for upgraded and new transmission lines. The California Independent System Operator in 2022 issued a 20-year outlook of transmission needs based on roughly the same criteria as the instant proposal purports to look to, including reliability requirements and anticipation of renewable resource siting.⁵The CAISO developed the outlook in conjunction with the state's energy agencies, the California Public Utilities Commission and the California Energy Commission. A measured approach, with deference to state and regional planning, to avoid duplicate and conflicting analysis of proposed projects is appropriate for the benefit of the public interest.

States and regions have been operating within a defined structure for planning purposes, which structure should not be completely usurped. Based on the current framework, states continue to look for opportunities for cooperation for managing power. Just recently, California, Washington, Oregon, Arizona and New Mexico proposed the creation of an entity that can serve as a means for delivering a market that includes all states in the Western Interconnection with independent governance.

The longstanding framework for transmission planning in states and regions provides for some level of certainty for stakeholders that their concerns will be incorporated into the final product. Those processes must remain the first steps for

⁵ <http://www.caiso.com/InitiativeDocuments/20-YearTransmissionOutlook-May2022.pdf>.

consideration in transmission planning, only if it can be demonstrated that they have failed should the proposed methods be allowed to go forward.

RFI Question No. 11: Are there other forms of outreach and/or consultations that should be included in this process to ensure adequate participation of and notice to Tribal authorities, State, local, the public, and appropriate regional authorities? For example, should regional planning entities or grid operators be included in outreach or consultation?

As outlined above, the State Farm Bureaus think that cooperation and consultation with regional planning authorities is critical, and it is baffling that DOE would ask if “regional planning entities or grid operators [should] be included in outreach or consultation” in NIETC matters. The State Farm Bureaus believe that this is axiomatic. Whether given notice or not, it is likely these organizations will be aware of this process and provide input where allowed, but notice and an invitation to consult at least gives some semblance of DOE’s desire to truly engage with interested parties in designating NIETCs.

Moreover, recent experiences with transmission projects in rural parts of our states have led many to conclude that, by the time landowner feedback is sought and received in line-siting proceedings for approved projects, little can or often will be done to minimize landowner impact and address landowner concerns. It is burdensome for landowners to meaningfully participate in siting matters once so many decisions have been made about the line’s necessity and location. Therefore, it is imperative that more outreach is conducted at earlier phases in transmission planning processes, with the opportunity for comment prior to any approvals being granted.

One way to enhance outreach could be a requirement that local county commissions be notified if their county is in the path of a proposed NIETC. County commission

notification would go a long way to engaging Communities of Interest, including, but not limited to, rural communities. Additionally, there must be better ways for landowners and others in the general public to be notified of and participate in pending transmission matters. Professional staff at our organizations have tried navigating the public websites of state and regional transmission regulating authorities to seek opportunities to participate in open matters, only to be met by websites that are overcrowded with information and that lack the option to sign up for informative notifications. DOE, along with transmission planning and regulating agencies and organizations at all levels should implement user-friendly ways for the general public to sign up for automatic notification of new and pending transmission matters, filtered by their location. Additionally, frequently updated maps of pending transmission matters would help provide a simple visual of what areas may be impacted by transmission matters.

II. CONCLUSION

DOE should revise the NOI and not limit its inquiry to specific projects. Congress directed the DOE to identify corridors within geographic areas with congestion and constraints that are of national importance. DOE should not identify or determine solutions to capacity or congestion but must defer to state and regional planning processes to identify solutions (which may not require additional transmission lines) to meet the problems identified by DOE's transmission study and NIETC designation.

Thank you for your time and consideration of these comments.

Respectfully submitted,

/s/ Garrett Thalgott

Garrett Thalgott
Assistant General Counsel
Office of the General Counsel
Illinois Agricultural Association
1701 Towanda Avenue
Bloomington, IL 61701
309-557-2096
gthalgott@ilfb.org

Laura Harmon
Illinois Agricultural
Association a/k/a Illinois
Farm Bureau
1701 Towanda Ave.
Bloomington, IL 61701
309-557-2111

Karen Mills
California Farm Bureau
2600 River Plaza Drive
Sacramento, CA 95833
916-561-5500

Christina Gruenhagen
Iowa Farm Bureau
Federation
5400 University Ave.
West Des Moines, IA 50266
515-225-5400

Joe Newland
Kansas Farm Bureau
2627 KFB Plz.
Manhattan, KS 66503
785-587-6000

Garrett Hawkins
Missouri Farm Bureau
701 S. Country Club Dr.
Jefferson City, MO 65109
573-893-1400

Marla Peek
Oklahoma Farm Bureau
2501 N. Stiles Ave.
Oklahoma City, OK 73105
405-523-2300