

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE

Comments on Preliminary List of Potential National
Interest Electric Transmission Corridors (“NIETCs”)

**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 NEBRASKA FARM BUREAU, THE OKLAHOMA
FARM BUREAU, AND THE SOUTH DAKOTA FARM BUREAU**

These Farm Bureaus (hereinafter referred to as the “State Farm Bureaus”) and the American Farm Bureau Federation, of which they are members, appreciate the opportunity to submit these comments on the Preliminary List of Potential National Interest Electric Transmission Corridors (“NIETCs”) issued by the Grid Deployment Office of the United States Department of Energy (“DOE”).

Our farmer 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. As we previously pointed out in our Joint Comments to DOE’s Request for Information on the designation of NIETCs, Docket No. DOE-HQ-2023-0039 we believe that an applicant-driven, route-specific framework for designating NIETCs violates Section 216(a) of the Federal Power Act (“FPA”), which allows the DOE to solicit input regarding specific geographic areas that should be designated as NIETCs but not specific projects needed to alleviate congestion or constraints in those areas.

DOE’s use of the applicant-driven project specific approach overrides ongoing regional and interregional transmission planning by regional transmission operators and independent system operators, while usurping transmission line siting authority of the states. The Farm Bureaus are

concerned that the DOE’s preliminary list of potential NIETCs exceeds the authority granted by Congress under the FPA and will fast-track certain projects at the expense of long-standing protections for ratepayers and landowners in favor of a small number of private transmission developers. DOE’s preliminary list of NIETCs are proposed solutions to purported capacity or congestion restraints which it has identified, while the FPA does not authorize the DOE to propose specific solutions. Instead, the DOE 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. Indeed, DOE’s applicant-driven project-specific approach presumes that specific transmission lines are the solution to any congestion when construction of new transmission lines may not be the best solution. As technologies evolve and improve, there are opportunities to strengthen existing infrastructure without expanding the footprint necessary to deliver electricity.

I. Midwest-Plains and Plains-Southwest

The applicant-driven, project-focused nature of the NIETC process improperly benefits private individual companies and makes competition for these types of projects practically nonexistent. An example of this is the proposed Midwest-Plains NIETC,¹ which traces the map for the Grain Belt Express (GBX) line, but with a much wider swath. This project is an 800-mile, 5,000 megawatt, HVDC line² that has been in development for more than a decade. In fact, GBX originally received siting authority for the portion of its line located in Kansas in 2013,³ for the Missouri portion

¹ The Plains – Southwest line, to some extent, also encompasses portions of the Grain Belt Express line in southwest Kansas, particularly related to the AC collector lines. *See Application for Transmission Line Siting Permits in In the Matter of the Application of Grain Belt Express, LLC for Siting*, KCC Docket No. 24-GBEE-790-STG, p. 31 (May 31, 2024).

² *See* Grain Belt Express’s website, <https://grainbeltexpress.com>, last accessed June 14, 2024.

³ *See Order Granting Siting Permit in In the Matter of Application of Grain Belt Express for Transmission Siting*, Docket No. 13-GBEE-803-MIS, available at <https://estar.kcc.ks.gov/estar/ViewFile.aspx/20131107153823.pdf?Id=fd85011e-d733-41e5-b586-fc4ecaa044eb>, last accessed June 14, 2024, where the Grain Belt Express project was granted a state siting permit by the Kansas

of the line in 2019 and for the Illinois portion of the line in 2023.

In this matter, the public has been invited to comment on, among other things, the “present or expected transmission capacity constraints or congestion relevant to the potential NIETCs in the preliminary list.”⁴ The GBX project has been planned outside of the Midcontinent Independent System Operator’s (MISO) planning process, making this effort disjointed, at best. In 2022, MISO approved its \$10.3 billion transmission plan to address reliability, congestion, and transfer capacity while accommodating renewable generation.⁵ MISO is considering a 2nd long-range transmission portfolio (“LRTP”) with approximately \$20 billion in transmission buildouts which will be considered by its board in September. As with MISO’s 1st buildout, several multi-state transmission projects are proposed including a superhighway of 765-kV lines.⁶ The Midwest-Plains NIETC designation does not address, nor does the 2023 National Transmission Needs Study identify, any foreseen congestion issues that are not already being addressed by MISO as part of its LRTP or as part of its interregional planning with its RTO neighbors PJM Interconnection, L.L.C. (“PJM”) and Southwest Power Pool (SPP”).⁷

Another component of the request for comments relates to the geographic boundaries of the proposed NIETC. For the Midwest-Plains NIETC, where GBX has already received all the necessary approvals from state regulatory agencies⁸ for a 150-200’ right-of-way,⁹ the five-mile wide path is

Corporation Commission on November 7, 2013. The Illinois Commerce Commission approved this project in 2023, and multiple parties have appealed the ICC’s approval but no decision has been entered on appeal.

⁴ 89 Fed. Reg. 40477, 40478. (May 10, 2024).

⁵ See <https://www.misoenergy.org/planning/long-range-transmission-planning/>

⁶ <https://cdn.misoenergy.org/MISO%20Long-Range%20Transmission%20Planning%20LRTP%20Tranche%202%20FAQs631005.pdf>

⁷ See Comments of the MISO Transmission Owners, Docket No. DOE-HQ-2023-0039, pp10-11.

⁸ See *Invenergy’s Grain Belt Express Transmission Line Secures Last of its State Approvals*, on the Grain Belt Express website, available at: <https://grainbeltexpress.com/invenergys-grain-belt-express-transmission-line-secures-last-of-its-state-approvals/>, last accessed June 16, 2024.

⁹ See e.g. *Order Granting Siting Permit in In the Matter of Application of Grain Belt Express for Transmission Siting*, Docket No. 13-GBEE-803-MIS, at ¶9, available at <https://estar.kcc.ks.gov/estar/ViewFile.aspx/20131107153823.pdf?Id=fd85011e-d733-41e5-b586-fc4ecaa044eb>, last accessed June 14, 2024.

evidence of DOE's efforts to draw a corridor around a specific project and designate a private transmission line developer's project as a NIETC. The FPA authorizes DOE to designate as a 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.

This proposed designation opens up the existing GBX corridor to numerous parallel lines, while also giving the potential for the federal government to usurp local control of siting those lines from state agencies. That sort of land burden should only be considered with local control and after local input. The width of the proposed Plains-Southwest NIETC is similarly unnecessarily broad in the areas where it appears to pick up where the Midwest-Plains NIETC ends possibly relating to the AC Collector Lines for GBX,¹⁰ and the width is too overreaching for other portions of that proposed NIETC. A path that is several counties wide, and up to 100 miles in width, is simply not a corridor – it's a land grab resulting from an unauthorized NIETC designation that exposes impacted landowners to extensive burdens on their land.

II. Delta-Plains, Plains-Southwest, and Mountain-Plains-Southwest

Three of the NIETCs will directly or indirectly affect Oklahoma. The Delta-Plains potential NIETC is a 645-mile-long route varying from four to eighteen miles wide, that originates in the southwest corner of the Oklahoma panhandle and runs across northern Oklahoma to the state border with Arkansas. The Plains-Southwest NIETC covers a massive land area in the Oklahoma panhandle, covering the entirety of Cimarron County and the vast majority of Texas County. The NIETC originates in eastern New Mexico before it crosses the Oklahoma panhandle and heads into southwestern Kansas. Finally, the Mountain-Plains-Southwest NIETC originates in south-

¹⁰ See *Application for Transmission Line Siting Permits in In the Matter of the Application of Grain Belt Express, LLC for Siting*, KCC Docket No. 24-GBEE-790-STG, p. 31 (May 31, 2024).

southeastern New Mexico heading north along the New Mexican borders with Texas and Oklahoma before crossing into southeastern Colorado.

Oklahoma is one of the most impacted states by potential NIETCs. Oklahoma is therefore burdened by an inordinately large and lengthy set of NIETCs which serve to benefit other parts of the country while leaving the citizens of the state without any benefit. Indeed, according to the Preliminary List, DOE's goal for the Oklahoma NIETCs is to take power generated by wind and solar projects in western Oklahoma and transfer that power to the east and southeast parts of the country. The proposed Oklahoma Corridors range from four to eighteen miles wide and 645 miles long (Delta-Plains) and approximately thirty-four miles wide and ninety-five miles long. Of the proposed corridors, Oklahoma's are third longest in terms of corridor length and includes the second largest corridor in terms of total land area to be proposed within in a state. The Oklahoma NIETCs address transmission needs in other states at the expense of Oklahomans.

The Delta-Plains and Plains-Southwest NIETCs also ignore the needs of the rural communities they threaten to impact the most. Rural counties in northern and western Oklahoma have experienced significant population loss over the last twenty (20) years, and the Oklahoma Department of Commerce expects that trend to continue over the next two (2) decades¹¹. One contributing factor to their population loss is a lack of adequate infrastructure to support the demands of higher populations. Yet, as proposed the NIETCs won't address transmission or generation issues in northern and western Oklahoma.

Oklahomans experienced firsthand what chaos an unreliable electric grid can cause. Significant winter storms in 2021 and 2023 caused transmission issues in Oklahoma, leaving many residents without power during subzero temperatures. The North American Electric Reliability

¹¹ <https://www.okcommerce.gov/wp-content/uploads/Oklahoma-State-and-County-Population-Projections-Through-2070.pdf>

Corporation's 2023-2024 Winter Reliability Assessment¹² identified Oklahoma's power grid as at an "elevated risk" in the event of future extreme winter weather. Yet, the potential NIETCs do nothing to resolve those issues while burdening Oklahomans in service of other states and regions of the country.

The potential NIETCs which impact Oklahoma are observably intended to either connect existing or planned transmission lines or overlay already planned routes. The FPA gives DOE the authority to designate a NIETC over a geographic area that it identifies as either experiencing or that it expects to experience electric transmission capacity constraints or congestion. What the FPA does not allow is for DOE to backdoor existing projects into federal funding via pre-ordained NIETCs¹³. By way of example, the Invenergy Cimarron Link Project is already underway in Oklahoma. Invenergy is as we speak purchasing easements from landowners across Oklahoma even before the Delta-Plains NIETC is formally designated. By proposing the Delta-Plains NIETC over the existing Cimarron Link Project, DOE is exceeding its statutory authority under FPA, and violating the affected landowners fundamental due process rights.

Apart from being outside of DOE's authority, the NIETCs impacting Oklahoma have an overlapping effect in the same part of the state. Both the Delta-Plains and the Plains-Southwest NIETCs impact Cimarron and Texas Counties in the Oklahoma panhandle. While Delta-Plains is a narrow corridor, Plains-Southwest covers the entirety of Cimarron County and most of Texas County. Additionally, the Mountain-Plains-Southwest NIETC runs along the Oklahoma-New Mexico border inside New Mexico. It is therefore possible, and in fact likely, that a single landowner could be affected by more than one of the three NIETCs.

It appears the Delta-Plains NIETC represent two separate transmission lines¹⁴ that will run

¹² https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2023.pdf

¹³ See 16 U.S.C. § 824(p).

¹⁴ See U.S. Department of Energy Grid Deployment Office Preliminary List of Potential NIETCs, p. 64

from Cimarron County to Tulsa, Oklahoma. OKFB is aware of the Cimarron Link Project, but as of the time of this comment Invenenergy claims that it is not planning to extend its line east of Tulsa. It's our understanding that NextEra would like to build a transmission line to harness wind production from the panhandle of Oklahoma and move it east to Arkansas through a cross-state transmission line. If there are in fact two entities planning to move power from the panhandle east across the state, OKFB would like to see those entities consider partnering by putting lines on the same transmission towers, thus reducing their footprints and resulting in less land impacted by transmission line easements.

Similar to many states, Oklahoma eminent domain laws and regulations provide a level of protection to the landowner that are simply not there under federal eminent domain procedures. Under Federal Energy Regulatory Commission rules, the federal district court reviewing the condemnation may consider the regional and national benefits of a proposed project, where Oklahoma law would not allow an entity to acquire property if the project does not directly benefit Oklahomans¹⁵. Property owners in the state of Oklahoma stand to lose guaranteed protections, placing them at a disadvantage when dealing with companies that will qualify under the NIETCs.

The designation of NIETCs in Oklahoma also places regional utility providers at a disadvantage. Under the NIETC framework utility companies who utilize the Corridors will not be required to comply with OCC regulations, while the utility companies outside of the NIETCs will still be required to comply. This gives a few major companies a competitive advantage over those that will not qualify for NIETC usage, setting the economic sector up for a non-competitive, under regulated business model. This is an outcome that Oklahoma law has specifically designed to prevent. Such a circumstance will impede Oklahoma's ability to effectively regulate and control

¹⁵ *National Interest Electric Transmission Corridors: Will State Regulators Remain Relevant?* 113 Penn St. L. Rev. 575. (2008)

utility providers within the state.

III. Northern Plains

The proposed NIETC for the Northern Plains contains multiple sections, each of which is 10 to 50 miles wide and up to 400 miles from north to south and 300 miles from east to west across the entire states of South Dakota and Nebraska. Both Nebraska and South Dakota are engaged in robust transmission planning and the SPP has already identified several projects which should be constructed as part of its 2020 Integrated Transmission Planning Assessment Report.¹⁶ We are concerned about the potential taking of agricultural land included in the massive swath of land included in the proposed NIETC for the Northern Plains which is contrary to the potential impact of projects approved at the state level and by the SPP.

IV. Unprecedented Number of Potential NIETC's based on 2023 National Transmission Needs Study

The Farm Bureaus are also concerned about the unprecedented number of potential NIETCs designations proposed for ten geographic areas which are based upon the broad finding of the 2023 Needs Study and other discretionary factors. Although the Amendments to Section 216(a)(4) allow the DOE to consider other factors, Congress made it clear that the electric transmission capacity constraints and congestion must be the basis for designation of a NIETC. The Needs Study finds a pressing need for additional transmission capacity expansion in nearly the entire country and relies upon over 100 published reports that consider both historic and anticipated future transmission constraints and congestion. The Farm Bureaus appreciate that the DOE could not undertake independent research but are concerned by DOE's reliance upon such "studies" performed by or at the behest of parties which stand to benefit from the massive buildout of transmission infrastructure

¹⁶ <https://www.spp.org/documents/63434/2020%20integrated%20transmission%20plan%20report%20v1.0.pdf>

across the United States. Even those states that are not affected by NIETC designation under this iteration, recognize that the process established here and its implementation will create significant impacts to landowners in the future.

Moreover, although the preliminary list of potential NIETCs repeatedly references the conclusions of the Needs Study it's unclear how the Needs Study supports the proposed NIETCs. There is a huge leap from the discussion portion of the preliminary list and the maps of the proposed NIETCs. The discussion in the report provides no support on how the DOE arrived at the proposed corridors other than its reliance upon projects that were submitted by applicants during Phase 1. 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 NIETCs at the expense of agricultural landowners subject to federal eminent domain under FERC's limited backstop siting authority. Rarely, do these landowners receive the full value from the impact of mandated infrastructure on their property. Furthermore, sweeping additions of infrastructure have continued to drive up electricity costs to end-users. The State Farm Bureaus previously raised its concerns if DOE proceeds with an applicant-driven process, the lack of any oversight or independent support for an applicant-driven project specific process will encourage profit driven transmission developers to sidestep the role of state-siting processes and the role of regional transmission planning authorities. We believe this approach will likely subject designations of such projects as national corridors to litigation. Instead, we urge the DOE to consult with the states and regional planning authorities and consider geographic areas already under consideration by RTOs/ISOs to ensure that the designation of a NIETC is consistent with Section 216 of the FPA and

will not threaten the reliability, market efficiency, resiliency or other goals of regional transmission planning.

V. Conclusion

DOE should revise the preliminary list of potential NIETC's 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.

We are also concerned about the staggering amount of private property that could be impacted by NIETC designations, as some of them are slated to be 100 miles wide. To our members, one high-voltage transmission line alone can cause countless problems to agricultural operations, preventing farmers and ranchers from efficiently planting, raising and harvesting crops by disrupting current and future land uses. Large transmission projects can also negatively impact agricultural drainage and cause soil compaction, which can take years to mitigate.

Our nation's electricity grid is built upon the backs of farmers, ranchers and landowners, and to allow these projects to move forward without significant landowner input, compensation and protection would be unjust.

In order to understand landowner impact, we strongly recommend DOE host field hearings in every state the proposed NIETC routes will impact.

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
309-557-2470

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

Sam Kieffer
Vice President, Public Policy
American Farm Bureau Federation
600 Maryland Avenue SW
Washington, D.C. 20024

Matthew Bogue
South Dakota Farm Bureau
Dakota Ave S.
Huron, SD 57350
605-377-8833

Kole Pederson
Nebraska Farm Bureau
5225 S. 16th Street
Lincoln, NE 68501
402-421-4447