

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
GRID DEPLOYMENT OFFICE

Comments on Preliminary List of Potential National  
Interest Electric Transmission Corridors (“NIETC’s”)

**NAFSICA ZOTOS, CONCERNED CITIZENS AND PROPERTY OWNERS, THE CONCERNED PEOPLES  
ALLIANCE, AND YORK TOWNSHIP IRRIGATORS**

These property owners (hereinafter referred to as the “Landowner Alliance”) appreciate the opportunity to submit these comments on the Preliminary List of Potential National Interest Electric Transmission Corridors (“NIETC’s”) issued by the Grid Deployment Office of the United States Department of Energy (“DOE”).

The landowners who form the Landowner Alliance will be directly impacted by the designation of NIETC’s, 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 Landowner Alliance. The members of the Landowner Alliance believe that an applicant-driven, route-specific framework for designating NIETC’s 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 NIETC’s 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 Landowner Alliance is concerned that the DOE’s preliminary list of potential NIETC’s 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 NIETC’s 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,<sup>1</sup> 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 line<sup>2</sup> 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,<sup>3</sup> for the Missouri portion 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

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<sup>1</sup> 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).

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

<sup>3</sup> *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 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.

or expected transmission capacity constraints or congestion relevant to the potential NIETC’s in the preliminary list.”<sup>4</sup> 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, transfer capacity while accommodating renewable generation.<sup>5</sup> MISO is considering a 2<sup>nd</sup> 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 1<sup>st</sup> buildout, several multi-state transmission projects are proposed including a superhighway of 765-kV lines.<sup>6</sup> 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).<sup>7</sup>

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 agencies<sup>8</sup> for a 150-200’ right-of-way,<sup>9</sup> the five-mile wide path is 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

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<sup>4</sup> 89 Fed. Reg. 40477, 40478. (May 10, 2024).

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

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

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

<sup>8</sup> 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.

<sup>9</sup> 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.

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,<sup>10</sup> 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. Unprecedented Number of Potential NIETC’s based on 2023 National Transmission Needs Study

The Landowner Alliance is also concerned about the unprecedented number of potential NIETC’s 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 Landowner Alliance appreciates 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

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<sup>10</sup> 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).

transmission infrastructure 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 NIETC's repeatedly references the conclusions of the Needs Study it's unclear how the Needs Study supports the proposed NIETC's. In short, there's a huge leap from the discussion portion of the preliminary list and the maps of the proposed NIETC's. 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 NIETC's 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 to mandated infrastructure on their property. Furthermore, sweeping additions of infrastructure have continued to drive up electricity costs to end-users. The Landowner Alliance previously raised its concerns if DOE proceeds with an applicant-driven process, that the lack of any oversight or independent support for 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.

**III. 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.

Thank you for your time and consideration of these comments.

Respectfully submitted,

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