



**TO:** U.S. Department of Energy (DOE), Grid Deployment Office  
**FROM:** American Council on Renewable Energy (ACORE)  
**RE:** Request for Information (RFI) on the Designation of National Interest Electric Transmission Corridors (NIETC)

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ACORE appreciates the opportunity to provide feedback to the RFI on the proposed NIETC process. Please find our responses to the questions in the RFI below. For questions related to these comments, please contact Kevin O'Rourke ([orourke@acore.org](mailto:orourke@acore.org)) or Elise Caplan ([caplan@acore.org](mailto:caplan@acore.org)).

**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?**

ACORE strongly supports DOE's proposed applicant-driven, route-specific approach to NIETC designation, which has the following advantages:

- Establishes a path for beneficial projects already under development to access financial support or Federal Energy Regulatory Commission (FERC) backstop siting authority to bring them to completion. In a recent request for a FERC technical conference, Invenergy Transmission LLC notes that: "More than 10 projects have been proposed in recent years, many of which are interregional and hundreds of miles long, with an aggregate capacity of more than 20 GW. Several are major new interties between the Eastern and Western Interconnects. These projects are highly impactful and beneficial."<sup>1</sup>
- Can provide greater opportunities for earlier community engagement by targeting a specific route, and therefore may reduce potential opposition to NIETC designations, particularly if additional entities, such as tribal authorities, states, and local governments are included in the final pool of allowed applicants, as DOE is considering.<sup>2</sup>

One potential area of improvement in the process is to clarify and narrow the definition of "Communities of Interest." As listed in the RFI, a Community of Interest "means any community that has been historically marginalized, including, but not limited to, disadvantaged communities, fossil energy communities, rural communities, minority communities, indigenous

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<sup>1</sup> Invenergy Transmission LLC Request for Technical Conference, Docket AD22-13-000 (November 10, 2022) citing Grid Strategies, LLC, Transmission Projects Ready to Go: Plugging into America's Untapped Renewable Resources, at 6 (Apr. 2021) (listing DC projects), <https://acore.org/transmission-projects-ready-to-go-report/> and individual project sources.

<sup>2</sup> See RFI at III.A.i.

peoples, or other geographically proximate communities that could be affected by a NIETC.”<sup>3</sup> These terms are not yet defined, and the phrases, “but not limited to,” and “could be affected by,” are particularly overbroad and could cause unnecessary uncertainty and delay in submitting and processing NIETC applications. We suggest either clearly defining those communities in the final rule and/or reducing the categories included in “communities of interest.”

**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 scope of information requested under section III.A.iii seems reasonable.<sup>4</sup>

ACORE requests, however, that DOE reduce the potential burden of submitting duplicative or similar information to multiple programs and allow developers to use the same application materials for programs in addition to the NIETC process. These programs should include: (1) the Transmission Facilitation Program (TFP); (2) applications to FERC under the use of its permitting authority under Section 216 of the Federal Power Act (FPA); and (3) the Transmission Facility Financing program.

Regarding information required in the application, DOE should focus on ensuring that applicants provide the most streamlined information necessary to make a legally defensible NIETC designation and conduct activities to meet National Environmental Policy Act (NEPA) requirements with respect to that designation. DOE’s primary focus should remain on showing that a project will address some or all of the needs identified in DOE’s National Transmission Needs Study (Needs Study). This lens will lower the burden on applicants, reduce litigation risk, and maintain legitimacy in the process.

**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?**

No additional details are needed for DOE to issue an informed NIETC designation decision. A NIETC corridor designation unlocks other federal financing and siting tools. DOE and/or FERC can subsequently request additional information relevant to the individual program.

**4. For any of the information listed in Section II.A.iii or suggested in response to the question above, what metrics and methods are available for evaluating how that information meets the statutory requirements for a NIETC described in Section I.C?**

As ACORE recommended in our comments on DOE’s draft Needs Study, when examining whether a geographic area is *expected* to experience energy transmission capacity constraints or congestion, DOE should ensure that projections of clean energy development and electricity

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<sup>3</sup> RFI at Footnote 15.

<sup>4</sup> There is no section II.A.iii in the RFI and ACORE therefore assumes DOE is referring to III.A.iii in this and subsequent sections.

demand use the higher end of scenarios that fully incorporate the impacts of the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022.<sup>5</sup>

**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?**

When evaluating the proposed corridors, DOE should seek to ensure the legal durability of the designation decisions by using the FPA §216(a)(2) criteria for NIETC designation, along with the additional criteria that DOE may consider under §216(a)(4).

In the February 2023 draft National Transmission Needs Study (“Needs Study”), DOE defined such transmission needs as upgrades or expansion that could “improve reliability and resilience of the power system; alleviate transmission congestion on an annual basis; alleviate transmission congestion during real-time operations; alleviate power transfer capacity limits between neighboring regions; deliver cost-effective generation to high-priced demand; or meet projected future generation, electricity demand, or reliability requirements.”<sup>6</sup> Additional criteria listed in §216(a)(4) incorporate a range of factors, several of which overlap with the Needs Study, including how the corridor contributes to: (1) economic growth; (2) supply diversity; (3) energy independence or security; (4) national energy policy; (5) national defense and homeland security; (6) enhancing the ability of facilities to transmit or generate electricity generation or connect to the grid; (7) maximizing the use of existing rights-of-way and minimizing impacts on sensitive environmental areas or cultural heritage sites; and (8) electricity cost reductions. ACORE recommends that DOE rely on these statutory criteria as the basis for project selection, with a focus on the criteria used in the Needs Study and use the discretion it has under §216(a)(4) to avoid requiring that applications meet each individual criterion.

The list provided in this question includes some factors not considered under these relevant FPA sections, such as domestic content provisions, and conversely excludes several criteria included

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<sup>5</sup> ACORE Comments on DOE draft National Transmission Needs Study at 6, <https://acore.org/acore-comments-on-doe-national-transmission-needs-study-draft/>

<sup>6</sup> Draft Needs Study at 1-2.

in §216(a)(4) that were also covered by the Needs Study, including whether “the designation would enhance the ability of facilities that generate or transmit firm or intermittent energy to connect to the electric grid” and whether “the designation would result in a reduction in the cost to purchase electric energy for consumers.” DOE should evaluate these statutory criteria as well.

Moreover, it may not be possible to fully quantify each of the criteria posed in this question, and therefore a precise weighting can produce an overly complex and lengthy process. ACORE does not for example, think that energy equity and environmental justice or strong labor standards are any less important, rather, these cannot be easily quantified or assigned as transmission benefits.

**How should DOE evaluate eligible projects that include benefits that may vary across any of the above set of preferred impacts? To what extent should DOE consider other related outcomes like cumulative impacts from a potential corridor? What information should DOE seek to inform such considerations? What metrics and methods are available for conducting such evaluations?**

As discussed in the response to the prior question, DOE has the discretion to consider a range of multiple benefits from an applicant, but many of the factors listed above are not included in the statutory language. Moreover, “d.” through “g.” are hard to quantify and therefore not amenable to a benefits weighting methodology. ACORE also urges DOE to reconsider whether all these benefits should be considered in the NIETC designation process, as some are also a factor in applications for other programs. For example, TFP applicants are required to submit information on community benefits, job quality, and domestic content commitments.

Using a standardized methodology for evaluating lines and corridors within the NIETC process may provide more clarity for transmission developers. For example, MISO’s recent benefits quantification in Tranche 1 of their Long-Range Transmission Plan provides an example of how to quantify multiple benefits.<sup>7</sup> More broadly, a recent meta-analysis of best practices across all planning regions identified a set of 10 benefits that planners should use to fully quantify the benefits of new lines.<sup>8</sup>

**6. Are there other potential Applicants beyond those listed in Section II.A.i that should be considered when developing final guidance, or whose specific needs should be considered when developing this process?**

ACORE supports flexibility of eligible applicant types. DOE should be agnostic as to what entity (or combination of entities) brings forward a proposal to designate a NIETC and should treat all applicants that meet DOE’s statutory criteria fairly and should not give preference to specific projects or parties. Specifically, ACORE supports DOE’s proposed set of applicants, which could include Tribal authorities, States, non-transmission-owning utilities (including

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<sup>7</sup> ACORE and Grid Strategies, *Enabling Low-Cost Clean Energy and Reliable Service Through Better Transmission Analysis: A Case Study of MISO’s Long Range Transmission Planning*, (August 2022), <https://acore.org/wp-content/uploads/2022/08/ACORE-Enabling-Low-Cost-Clean-Energy-and-Reliable-Service-Through-Better-Transmission-Analysis.pdf>.

<sup>8</sup> Brattle, Grid Strategies, ACORE, and NRDC, *Transmission Planning for the 21st Century: Proven Practices that Increase Value and Reduce Costs* (Oct. 2021), at 34-35, [https://www.brattle.com/wp-content/uploads/2021/10/2021-10-12-Brattle-GridStrategies-Transmission-Planning-Report\\_v2.pdf](https://www.brattle.com/wp-content/uploads/2021/10/2021-10-12-Brattle-GridStrategies-Transmission-Planning-Report_v2.pdf).

transmission-dependent utilities), local governments, generation developers, or other entities with an interest in seeking designation of a NIETC.

ACORE agrees that including developers and non-transmission owners would allow for a diversity of applicants. DOE should not give preference to specific parties, while also adhering to DOE's stated expectation that that "routes proposed for potential designation as a NIETC may be associated with specific transmission projects under active development, meaning that a potential applicant has progressed beyond the preliminary concept and has begun actively routing the project and engaging in community and landowner outreach, land surveys, or initiation of environmental compliance work."<sup>9</sup> DOE should also recognize that the greatest consumer cost savings may accrue from interregional or multi-state lines, especially where developed on a merchant basis, as a lack of effective interregional planning and increasingly frequent extreme weather events has created a need for significant additional interregional and multi-state capacity. Finally, we encourage DOE to strongly consider those lines that are incorporating advanced conductors and grid-enhancing technologies.

To ensure equal access by a range of applicants, DOE should anticipate that some of the potential applicant categories, such as Tribal authorities, States, and local governments are unlikely to have the same resources or expertise as private developers or non-transmission owning utilities. Therefore, DOE should consider providing financial resources or technical support to ensure those entities are able to provide the requested analyses and information. One option could be to use funding from the Transmission Siting and Economic Development Grants Program created by the Inflation Reduction Act (Section 50152). ACORE's comments in response to the RFI on these grants recommend that "DOE could use at least a portion of the siting facilitation grant funding for the provision of studies, analysis, and other technical assistance to both siting agencies and community groups."<sup>10</sup>

**7. Should DOE accept proposals or recommendations for NIETCs on an annual basis, on some other defined frequency, or on a rolling basis? How long should defined request periods be open?**

ACORE supports DOE accepting NIETC applications on a rolling basis is preferable to allow for the greatest flexibility. This review process is consistent with DOE's proposal to accept applications at any stage of development and is likely the least administratively burdensome process.

**8. Should DOE explicitly seek NIETC corridor proposals that facilitate the development of certain kinds of transmission projects or that meet specific identified transmission needs (e.g., interregional transmission projects)?**

Yes, particularly since the draft Needs Study was primarily focused on interregional and multi-state transmission needs. Interregional transmission is also in the greatest need of a catalyst given

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<sup>9</sup> NIETC RFI at 30957.

<sup>10</sup> ACORE Comments on the RFI for Transmission Siting and Economic Development Grants Program at 1, <https://acore.org/acore-comments-on-doe-transmission-siting-and-economic-development-grants/>.

the differential between its benefits and its development. As ACORE noted in our comments to FERC on the December 2022 Interregional Transfer Capability workshop:<sup>11</sup>

Despite the clearly demonstrated benefits, the development of larger regional and interregional transmission has not kept pace with the need. A Grid Strategies LLC analysis shows that the installation of new high-voltage transmission lines declined from an average of 1,700 miles per year in the first half of the 2010s, to averaging only 645 miles per year in the second half of the 2010s.<sup>12</sup> This decline continued last year, when 198 miles of 345 kV lines were completed,<sup>13</sup> compared to 567 miles in 2021.<sup>14</sup> Just 0.3 miles of 500kV lines were completed in 2021 and zero in 2022.<sup>15</sup> The DOE Draft Needs Study confirms these finding in its showing that transmission investments have steadily declined since 2015.<sup>16</sup>

One exception to the above is if a transmission line has been approved through an existing transmission planning process where multiple benefits were evaluated, then that project should be given a priority in the NIETC designation. DOE should recognize those planning processes that incorporate multiple benefits over a long-term horizon, such as MISO's Long Range Transmission Plan discussed under question 5.

**9. Should DOE create separate tracks for those applicants who are interested in backstop siting and financing versus those interested in only access to DOE commercial facilitation and finance tools? In your response, please address how the environmental review and other review processes—including with FERC, other federal agencies, and state regulatory bodies—might differ, the relative timing and urgency for siting corridors versus financing corridors, differences in when in the project development cycle an applicant may seek a financing or siting corridor, and conversion between corridor types.**

ACORE is not taking a position on whether DOE should use separate tracks, as long as there is an equitable and efficient process for evaluating applications. Whether the project needs financing or backstop siting should not affect how the NIETC designation is decided, because if the project meets the statutory requirement for a NIETC designation, that should be executed as expeditiously as possible.

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<sup>11</sup> ACORE Comments, AD23-3-000 (May 15, 202) at 3-4.

<sup>12</sup> Jay Caspary, Michael Goggin, Rob Gramlich and Julia Selker, Grid Strategies, LLC, *Fewer New Miles -The US Transmission Grid in the 2010s* (Sep. 2022), available at: [https://gridprogress.files.wordpress.com/2022/09/grid-strategies\\_fewer-new-miles\\_final.pdf](https://gridprogress.files.wordpress.com/2022/09/grid-strategies_fewer-new-miles_final.pdf)

<sup>13</sup> FERC Office of Energy Projects, Energy Infrastructure Update for January 2023, available at: <https://cms.ferc.gov/media/energy-infrastructure-update-january-2023-0>.

<sup>14</sup> FERC Office of Energy Projects, Energy Infrastructure Update for January 2022, available at: <https://cms.ferc.gov/media/energy-infrastructure-update-january-2022-0>.

<sup>15</sup> Energy Infrastructure Updates for January 2022 and 2023.

<sup>16</sup> Draft Needs Study at 39.

ACORE encourages DOE to create efficiencies in the subsequent post-NIETC stages, such as by initiating early coordination with FERC for projects seeking backstop siting or within DOE for those seeking financing from DOE programs. For example, transmission lines located on the Outer Continental Shelf or on public lands would not be subject to FERC backstop siting because the FERC is not the lead agency and should therefore not require any reviews from FERC. Moreover, as noted under Question 5, DOE should be cognizant of the different types of information that may be required under different programs and ensure that such information is only required in the post-NIETC program applications.

DOE should also endeavor to establish a streamlined submission process that reduces the need for duplicative submissions, including allowing information submitted for NIETC to also then be used for other applicable programs. Such streamlining need not only include applications for the financing programs for which the NIETC process confers eligibility, but other DOE programs, such as the Title 17 Clean Energy Financing Program.

**10. To the extent practicable, DOE anticipates leading the coordination of NEPA reviews with other agencies to support their NEPA documentation and to streamline their responsibilities related to facility permitting as well as coordinating with any other Federal agency required to participate in NIETC designations. To support and facilitate environmental review, DOE anticipates requiring that proposed “route-specific corridors” include or are supported by, to the extent practicable, existing environmental data and analyses that any federal agency may require to complete its environmental review. In particular, where projects in NIETCs indicate an intention to seek siting permits from FERC under section 216(b) of the FPA, DOE anticipates that it will coordinate with FERC to avoid redundancy and promote efficiency in environmental reviews. Accordingly, DOE intends to request a scope and level of detail similar to what FERC would require pursuant to its responsibilities.**

**a. Please comment on the role of FERC in the corridor designation process. How can DOE and FERC coordinate to avoid redundancy and promote efficiency in environmental reviews regarding the DOE corridor designation and any potential FERC permit applications? Please be as specific as possible, including but not limited to how the timing of the corridor designations and permit applications restricts or facilitates coordination, and practicable approaches to implementation.**

Although DOE and FERC should coordinate their NEPA review where possible, the FPA does not contemplate a role for FERC in the actual determination of a NIETC designation. ACORE recommends that FERC be allowed to comment on a proposed NIETC, with DOE making the final decision whether to designate an NIETC.

DOE and FERC should seek to conduct a single coordinated environmental review for projects designated in the NIETC process that are subject to the use of FERC backstop siting authority. In this NOI, DOE states that: “Documentation under NEPA would constitute the complete federal decision for the corridor designation with respect to environmental and cultural resources made and its rationale.”<sup>17</sup> While this sentence seems to imply the potential for a single environmental review, ACORE requests that DOE clarify its intent. Moreover, further clarification is needed

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<sup>17</sup> RFI at III.A.iv.

regarding the recently signed multi-agency Memorandum of Understanding and FERC's role under FPA section 216. As ACORE explained in our comments<sup>18</sup> on FERC's Notice of Proposed Rulemaking on Applications for Permits to Site Interstate Electric Transmission Facilities (Permitting NOPR):

Earlier this month, a group of federal agencies entered into a Memorandum of Understanding ("MOU") to "expedite the siting, permitting, and construction of electric transmission infrastructure in the United States" under FPA section 216(h).<sup>19</sup> The Commission is not a signatory to the MOU, and the definition of a Qualifying Project in the MOU specifically excludes "transmission projects granted a construction permit from the Federal Energy Regulatory Commission pursuant to section 216(b) of the FPA."<sup>20</sup>

The MOU also notes that DOE previously delegated its section 216(h) authority to the Commission. ACORE therefore recommends that the Commission work with DOE to clarify whether the provisions of the MOU can be used for non-Qualifying Projects where the Commission is the lead agency. Such provisions could include prompt and binding intermediate milestones and deadlines for decisions, inclusive of engagement with potentially affected Tribal Nations, communities, and other stakeholders;<sup>21</sup> the use of an environmental impact statement that can be relied on by other Participating Agencies;<sup>22</sup> an appeals process that could result in a Presidential authorization for the project;<sup>23</sup> and the possible provision of technical assistance, expertise, personnel or financial resources to State, Tribal, and local governments.<sup>24</sup>

**b. Is there additional information that DOE should request in its NIETC application beyond the information listed in Section II.A.iii? Is additional information beyond the information listed in Section II.A.iii, necessary to develop a record consistent with that which FERC would require to meet its responsibilities under section 216(b) and NEPA?**

No additional details are needed for DOE to issue an informed NIETC designation decision. Additionally, DOE should align its NIETC requirements to ensure there is no duplication of effort for developers planning to seek FERC approval of the line and therefore preparing the new Environmental Justice Resource, Tribal Resources, and Air Quality and Environmental Noise

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<sup>18</sup> <https://acore.org/wp-content/uploads/2023/05/ACORE-Comments-on-FERC-Transmission-Permitting.pdf>, at 3-4.

<sup>19</sup> Memorandum of Understanding (MOU) among the U.S. Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, the Environmental Protection Agency, the Council on Environmental Quality, the Federal Permitting Improvement Steering Council, Department of the Interior, and the Office of Management and Budget Regarding Facilitating Federal Authorizations for Electric Transmission Facilities (May 4, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/05/Final-Transmission-MOU-with-signatures-5-04-2023.pdf>

<sup>20</sup> MOU at 3-4.

<sup>21</sup> MOU at 4-6.

<sup>22</sup> MOU at 6.

<sup>23</sup> MOU at 7-8.

<sup>24</sup> MOU at 8.



Reports that FERC proposes to require in its Rule on Applications for Permits to Site Interstate Electric Transmission Facilities.<sup>25</sup>

**11. Are there other forms of outreach and/or consultation 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?**

Yes, additional outreach as part of the NIETC process is warranted as long as it does not overburden States and local communities where FERC Section 216 siting authority is being used. DOE should seek to minimize duplications of effort by stakeholders among the three processes—the NIETC designation; Commission determination; and the State project application review.

Consultation with grid operators would be worthwhile but DOE should recognize that limited interregional transmission planning is currently taking place.

**12. Are there post-designation procedures not discussed in this request that should be included?**

DOE should provide clarity on whether NIETC applications can be used to access or receive prioritization for non-NIETC funding sources. For example, it would be helpful to inform applicants of their federal funding support options, such as the Grid Resilience and Innovative Partnerships (GRIP) grants or funding through the Loan Programs Office.

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<sup>25</sup> 88 Fed. Reg. 2770 (Jan. 17, 2023)