From: Patty Hughs <pattyhughs@yahoo.com>
Sent: Wednesday, July 24, 2024 10:44 AM
To: Cobb, Carrie <carrie.cobb@hq.doe.gov>
Subject: [EXTERNAL] Questions about the NIETC

Carrie,

Here are the questions we have about the National Interest Electric Transmission Corridor. If the person answering them isn't sure what we are asking for, would they please give us a call? Our phone is 575-571-2983. We would like know the **fullness** of what could happen as a result of the NIETC, not what may seem likely. We are attaching a posting from the DOE Grid Deployment Office so that it is clear what we are referencing in our questions.

1. What powers, or rights, would be granted and to whom would they granted in the **broad areas** mapped in the Phase 2 NIETC process? Would those powers be permanent? In other words, what **exactly and fully** do the large mapped areas represent?

2. What powers, or rights, would be granted and to whom would they be granted in the **5 mile wide corridors** that would be identified as part of the NIETC process? What exactly do they represent? Are the corridors a 5 mile wide right of way? Who owns the right of way - the DOE, the private transmission company, or other? What can those owners do within the right of way?

3. Who owns the actual ground within the the right of way? If the right of way is taken by eminent domain, who owns the actual ground within the right of way? If a property owner retains ownership of the ground, what can they do, or **not** do, on that ground?

4. Can multiple 5 mile wide corridors be within the broader shaded areas shown in the NIETC Phase 2 maps?

5. Could multiple transmission lines could go in a 5 mile wide corridor, or, could the entire width contain multiple sets of transmission lines?

6. What would be the height, width and number of electric lines in a single transmission line? Do you have a picture that would give us an idea of what this would look like?

If at all possible can we get answers by Friday, July 26?

Thanks for your help on this.

Ed and Patty Hughs

Hi Ed and Patty Hughs,

Thank you for your inquiry below and for your interest in the National Interest Electric Transmission Corridor (NIETC) Program. Please find our responses to your questions below. We thank you for your interest and look forward to further engaging with interested stakeholders through the NIETC designation process.

Please reach out to the NIETC inbox if you have any additional questions and we'll be happy to answer them.

Best,

NIETC Team

1. What powers, or rights, would be granted and to whom would they granted in the **broad areas** mapped in the Phase 2 NIETC process? Would those powers be permanent? In other words, what **exactly and fully** do the large mapped areas represent?

Response: A NIETC is a geographic area where, based on the National Transmission Needs Study or other relevant information, the DOE has identified, in consultation with any appropriate regional entity referred to under Section 215 of the Federal Power Act (FPA), present or expected transmission capacity constraints or congestion that adversely affects consumers, and which has been designated by the Secretary of Energy as a NIETC. In other words, a NIETC is an area of the country where DOE has determined that a lack of adequate transmission harms consumers and hampers access to reliable and affordable electricity.

A NIETC is not a route determination for a particular transmission project, nor is it a broad geographic area covering large swaths of regions. Rather, a NIETC is linear in nature, drawn such that development of one or more transmission projects could proceed entirely within the geographic boundaries of the NIETC. The geographic boundaries of any potential NIETC included in the preliminary list of potential NIETCs that proceeds to Phase 3 may ultimately differ from those presented in the preliminary list. The geographic boundaries of a NIETC are not final until DOE issues a final NIETC designation report, following completion of environmental review. For example, the geographic boundaries may be narrowed or shifted based on additional information gathered in Phase 2 to allow for a more targeted potential NIETC, or similarly the length of the potential NIETC may be reduced to focus on an area of greatest utility for NIETC designation.

NIETC designation unlocks key federal financing and permitting tools for transmission projects located within a NIETC, which can facilitate transmission development where it is urgently needed. On the federal financing side, developers of transmission projects located within NIETCs may be eligible to apply for federal funding from DOE via public-private partnerships through the Transmission Facilitation Program (TFP) and for direct loans via the Transmission Facility Financing (TFF) program to support development of those transmission projects. A developer that applies to DOE for federal funding through one of these programs will be evaluated based on the criteria for those programs, meaning that NIETC designation does not guarantee that a developer within a NIETC will receive federal funding.

On the siting and permitting side, siting and permitting authority for transmission facilities located with NIETCs remains in the first instance with state and local siting authorities. In certain limited circumstances, the Federal Energy Regulatory Commission (FERC) has authority to issue federal permits for transmission facilities located within NIETCs, under Section 216(b) of the FPA. FERC is an independent regulatory commission, and issuance of permits is according to the statutory criteria and FERC's rules implementing the statute. In other words, NIETC designation does not guarantee that a developer within a NIETC will either be eligible to apply for a federal permit nor that the developer will receive a federal permit.

At a high level, FERC may grant permits for transmission projects within NIETCs where the state siting authorities do not have authority to site a transmission project, have not acted on an application to site a transmission project for over one year, or have denied an application. This may include the transmission developer gaining the ability to obtain rights-of-way by exercising the right of eminent domain, but only if certain requirements are met. FPA section 216(e)(1) states that this right can only be exercised if the transmission developer cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way and has made good faith efforts to engage with landowners and other stakeholders early in the applicable permitting process. FERC recently issued new rules that provide more information on what such "good faith" efforts entail. FPA section 216(f) provides that just compensation is due, in an amount equal to the fair market value (including applicable severance damages) of the property. For more information on FERC and its authority and processes, you can contact FERC's Office of Public Participation by phone or email at 202-502-6595 or OPP@ferc.gov.

NIETC designation is expected to remain valid so long as DOE's underlying findings of present or expected future transmission capacity constraints or congestion adversely affecting consumers remain valid. The duration of a NIETC designation will be addressed in the final designation reports issued for each individual NIETC.

2. What powers, or rights, would be granted and to whom would they be granted in the **5 mile wide corridors** that would be identified as part of the NIETC process? What exactly do they represent? Are the corridors a 5 mile wide right of way? Who owns the right of way - the DOE, the private transmission company, or other? What can those owners do within the right of way?

Response: Please refer to the response to question 1 above regarding what powers, or rights, would be granted and to whom they would be granted as a result of NIETC designation, and what they represent.

NIETC designation does not designate a right of way. Rather, NIETC designation identifies targeted, high-priority areas where the lack of adequate transmission harms consumers and where transmission development, or an alternative non-transmission solution, is needed to address those consumer harms. Before a right of way can be established with a NIETC, a transmission developer would need to apply for permits from the appropriate authority, whether federal, state, or local, as they would if they were developing a transmission project outside a NIETC. Transmission developers may obtain rights-of-way pursuant to the relevant permits granted for their specific project within a NIETC the same as if the transmission project were not within a NIETC. For example, this may be through negotiating contracts with landowners. Eminent domain authority is limited to those instances in which a federal, state, or local authority grants eminent domain authority to a transmission developer. See the response to question 1 for an explanation of the circumstances in which a transmission developer with a FERC permit may be granted eminent domain authority within a NIETC.

3. Who owns the actual ground within the the right of way? If the right of way is taken by eminent domain, who owns the actual ground within the right of way? If a property owner retains ownership of the ground, what can they do, or **not** do, on that ground?

Response: Please refer to the response to question 2 above. DOE does not grant rights of way through NIETC designation.

4. Can multiple 5 mile wide corridors be within the broader shaded areas shown in the NIETC Phase 2 maps?

Response: The shaded areas of the potential NIETCs included in the preliminary list of potential NIETCs are single corridors with geographic boundaries drawn wide enough for one or more transmission projects to be located therein to address a lack of adequate transmission that harms consumers and hampers access to reliable and affordable electricity. In other words, there are not multiple corridors within a single NIETC, as the NIETC itself is the corridor. That said, there could be multiple transmission projects to the extent they receive necessary permits from federal, state, and/or local authorities.

5. Could multiple transmission lines could go in a 5 mile wide corridor, or, could the entire width contain multiple sets of transmission lines?

Response: Please see the response to question 4 above. Note that the potential for multiple transmission lines to be developed within a NIETC does not mean that is likely to be the case

nor that multiple transmission lines are necessary to address the identified transmission need. In many cases, the solution will be constructing new transmission facilities, but in other cases, the solution may be alternatives such as distributed energy resources or advanced grid technologies.

6. What would be the height, width and number of electric lines in a single transmission line? Do you have a picture that would give us an idea of what this would look like?

Response: DOE is granted the authority to designate geographic areas as NIETCs, as described in the responses above, where DOE finds that there is inadequate transmission in an area and that is harming consumers (e.g., more frequent and longer power outages, high electricity rates). But it is up to market participants, transmission planning entities, state and local authorities, Tribal entities, and potentially FERC to determine the appropriate facilities to address the needs within any given NIETC. Therefore, there is no particular height, width, or number of lines to reference for a particular NIETC.

From: Patty Hughs <pattyhughs@yahoo.com>
Sent: Tuesday, August 6, 2024 9:44 AM
To: NIETC <nietc@hq.doe.gov>
Subject: Re: [EXTERNAL] Questions about the NIETC

Dear NIETC Team,

I have appreciated your help in understanding the NIETC. I have one further question.

In response to question 2. below you answered the following:

NIETC designation does not designate a right of way. Rather, NIETC designation identifies targeted, high-priority areas where the lack of adequate transmission harms consumers and where transmission development, or an alternative non-transmission solution, is needed to address those consumer harms. Before a right of way can be established with a NIETC, a transmission developer would need to apply for permits from the appropriate authority, whether federal, state, or local, as they would if they were developing a transmission project outside a NIETC. Transmission developers may obtain rights-of-way pursuant to the relevant permits granted for their specific project within a NIETC the same as if the transmission project were not within a NIETC. For example, this may be through negotiating contracts with landowners. Eminent domain authority is limited to those instances in which a federal, state, or local authority

grants eminent domain authority to a transmission developer. See the response to question 1 for an explanation of the circumstances in which a transmission developer with a FERC permit may be granted eminent domain authority within a NIETC.

I don't understand what "an alternative non-transmission solution" (highlighted in blue above) means. Could you please tell me what the full range of what an alternative non-transmission solution would be?

I would appreciate a response as soon as possible.

Thank you very much,

Patty Hughs

Hello,

Please find our response to your follow-up question below: “Could you please tell me what the full range of what an alternative non-transmission solution would be?”

Response: In many cases, the solution to meet present or expected transmission capacity constraints or congestion that adversely affects consumers that DOE has identified through the NIETC process will be to construct new “poles and wires” transmission facilities, as NIETC designation can unlock key federal financing and permitting tools to facilitate such transmission infrastructure. In other cases, the solution may come in the form of alternative, non-traditional enhancements to the existing transmission network that increase operational efficiency without the need to build new transmission lines, such as grid enhancing-technologies, **energy storage solutions,** distributed energy resources, or other solutions. As discussed in the response to question 6 below, however, it is up to market participants, transmission planning entities, state and local authorities, Tribal entities, and potentially FERC to determine the appropriate facilities to address the needs DOE has identified within any given NIETC.

We thank you for your interest and look forward to further engaging with interested stakeholders through the NIETC designation process. Please reach out to the NIETC inbox if you have any additional questions and we’ll be happy to answer them.

-NIETC Team