

July 28, 2023

Maria Robinson  
Director, Grid Deployment Office  
United States Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585

Dear Ms. Robinson:

The New England States Committee on Electricity (“NESCOE”)<sup>1</sup> appreciates the opportunity to provide comments on the proposed elements of the Department of Energy’s (“Department”) anticipated approach to implementing an applicant-driven, route-specific National Interest Electric Transmission Corridor (“NIETC”) designation process as described in its Notice of Intent (“NOI”).<sup>2</sup>

As the pace and scale of electric transmission infrastructure investment accelerates, it is essential that the interplay between State and Federal authority be coordinated in a clear and thoughtful manner.<sup>3</sup> The NIETC designation process should be no exception. The Department’s final NIETC designation process should provide a clear and prominent role for States, both by allowing them to participate as applicants and by including evaluation criteria that appropriately weighs State support for potential routes and projects. Such an approach would recognize the primacy of the States’ role in siting transmission infrastructure and their authority over investments made to satisfy their own mandates and legal requirements.

In New England, transmission is at the heart of the region’s transition to a clean energy system pursuant to the States’ individual decarbonization mandates.<sup>4</sup> State decarbonization policies and requirements are already driving States to approve and move forward additional transmission

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<sup>1</sup> NESCOE is New England’s Regional State Committee and represents the collective views of the six New England states. These comments are submitted to the Department on behalf of the States of Connecticut, Maine, New Hampshire, Rhode Island, Vermont, and the Commonwealth of Massachusetts.

<sup>2</sup> *Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors*; 88 FR 30956 (May 15, 2023) (“NOI/RFI”).

<sup>3</sup> See Comments of New England States Committee on Electricity, FERC Docket No. RM22-7-000, at 2 (May 17, 2023) (“NESCOE Backstop Siting Comments”).

<sup>4</sup> Achieving a decarbonized system is required by laws and mandates in Connecticut, Maine, Massachusetts, Rhode Island, and Vermont. See Statement of the Governors of Connecticut, Maine, Massachusetts, Rhode Island and Vermont: New England’s Regional Wholesale Electricity Markets and Organizational Structures Must Evolve for 21st Century Clean Energy Future (Oct. 2020) (“2020 Governors’ Statement”), at 1, at [http://nescoe.com/wp-content/uploads/2020/10/Electricity\\_System\\_Reform\\_GovStatement\\_14Oct2020.pdf](http://nescoe.com/wp-content/uploads/2020/10/Electricity_System_Reform_GovStatement_14Oct2020.pdf).

investments.<sup>5</sup> Moreover, longer-term planning analysis indicates that significant additional transmission investment will be necessary for States to meet their laws and requirements.<sup>6</sup> State input, particularly for applications that purport to be driven by, or otherwise satisfy, state policy or mandates should be given due weight. Further, by allowing States to enter the NIETC designation applicant pool, the Department will leave open the opportunity for States to propose a potential route for designation as a NIETC where one or more potential transmission projects have clear State support.

As explained further below in response to certain questions presented in the Department’s Request for Information (“RFI”), the Department should work to ensure that its NIETC designation process takes into account whether or not any projects associated with a route-specific NIETC proposal have applicable State support.

**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?**

As currently proposed, the Department’s approach to the evaluation and consideration of the merits of a NIETC designation application does not include the consideration or weighting of State support for a given application. Historically, the States have played a primary role in the siting of transmission infrastructure, a role that remains critical even in instances where a NIETC designation has been made.<sup>7</sup> The consideration of States’ positions on potential transmission infrastructure projects is important because States are in the best position to understand and address the local impacts and stakeholder concerns associated with specific transmission projects (e.g., routing concerns, costs, environmental impacts, etc.).<sup>8</sup> Furthermore, State input should be weighted heavily in instances where applicants assert that a NIETC designation would support State policy or mandates. Consideration of State support for, or opposition to, a given transmission project during the NIETC designation process would not only help ensure that local

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<sup>5</sup> See, e.g., *NSTAR Elec. Co. d/b/a Eversource Energy, Mass. Elec. Co. and Nantucket Elec. Co., each d/b/a National Grid, Fitchburg Gas and Elec. Light Co. d/b/a Unitil*, D.P.U. 18-64/65/55 (2019) (approving long-term contracts supporting the development of the New England Clean Energy Connect, a 1,200 MW transmission line connecting Quebec and New England); *Commission Issues Key Decision to Move Forward with Northern Maine Renewable Energy Projects* (Jan. 31, 2023) at <https://www.maine.gov/tools/whatsnew/index.php?topic=puc-pressreleases&id=10285146&v=article088> (describing how Maine and Massachusetts have partnered to support the development of over 100 miles of new 345 kV transmission lines to connect clean energy resources in Northern Maine with the ISO New England grid); *Joint State Innovation Partnership for Offshore Wind* (Jan. 13, 2023) at <https://newenglandenergyvision.files.wordpress.com/2023/01/joint-state-innovation-partnership-for-offshore-wind-concept-paper.pdf> (proposing a Joint State Innovation Partnership for Offshore Wind supported by all six New England States).

<sup>6</sup> See <https://www.iso-ne.com/committees/key-projects/extended-term-transmission-planning-key-project/>. The *2050 Transmission Study* is the first longer-term transmission analysis conducted by ISO-NE using inputs and assumptions developed by the States to enable visibility into potential future transmission system needs that account for the clean energy transition.

<sup>7</sup> See, e.g., *Applications for Permits to Site Interstate Electric Transmission Facilities*, Notice of Proposed Rulemaking, 181 FERC ¶ 61,205 (2022) (“Backstop Siting NOPR”) at P 22.

<sup>8</sup> See NESCOE Backstop Siting Comments at 2.

impacts, policy impacts, and stakeholder concerns are given due weight, but could also increase administrative efficiency and minimize project delays.

Accordingly, the Department should require that applicants describe any support for or opposition to a proposed NIETC designation and/or any related projects from any relevant State agencies or offices under Section II.A.iii. Additionally, the Department should make clear that any such support or opposition from States will be weighed and evaluated under Section II.A.iv.

**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?**

NESCOE encourages the Department to allow States to enter the NIETC designation applicant pool so that States may propose a potential route for designation as a NIETC where one or more potential transmission projects have clear State support. As noted above, State decarbonization policies and requirements are already driving States to approve transmission investments, and additional transmission investment will be necessary for States to meet their laws and requirements.<sup>9</sup> Thus, State input, especially where applications are driven by, or otherwise satisfy, state policy or mandates should be given due weight.

**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?**

The Department includes in its proposed evaluation and designation process an opportunity for comment by, and consultations with, Federal and Tribal nations; State, local, and regional grid entities; and the general public.<sup>10</sup> However, while the Department notes that it intends to engage from an early stage with Tribal, State, and local authorities responsible for transmission siting and/or permitting in the potential corridors for designation, it does not require any outreach to States by applicants, nor does it describe how it will engage States or other interested stakeholders in the evaluation process aside from providing an opportunity for comment. As noted above, it is important that States be involved as early as possible in the decision-making processes related to the development of transmission infrastructure. The Department should require NIETC designation applicants to engage in early and involved outreach and consultation with applicable States.

NESCOE recommends that the Department add “A summary of engagements to date and future outreach planned with applicable States” to its list of required application information under Section II.A.iii. Likewise, the Department should make it clear that it will not only provide an opportunity for comment by Federal and Tribal Nations; State, local and regional grid entities; and the general public, but that it will consider and weigh those comments and any additional

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<sup>9</sup> See <https://www.iso-ne.com/committees/key-projects/extended-term-transmission-planning-key-project/>.

<sup>10</sup> NOI/RFI at 30961.

feedback garnered from consultation with these stakeholders pursuant to its evaluation and designation process and decision-making under Section II.A.iv.

The Department may also wish to consider whether and how its proposed stakeholder engagement process aligns with the stakeholder engagement process being contemplated by the Federal Energy Regulatory Commission (“FERC”) as part of the proposed amendments to its regulations governing applications for permits to site electric transmission facilities.<sup>11</sup> While NESCOE encourages the Department to ensure that all potentially affected and/or interested stakeholders are able to meaningfully participate throughout the NIETC designation process,<sup>12</sup> there may be some concerns that are best addressed during the project permitting stage, which may occur after the NIETC designation process is concluded.

NESCOE appreciates the opportunity to comment on the proposed elements of the Department’s anticipated approach to implementing an applicant-driven, route-specific NIETC designation process. We look forward to continued collaboration with the Department’s Grid Deployment Office on electric transmission issues.

Respectfully Submitted,

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<sup>11</sup> *Id.* at 30958 (citing Backstop Siting NOPR).

<sup>12</sup> *See, e.g.*, NESCOE Backstop Siting Comments at 24-26.