



October 1, 2024,

US Department of Energy
Attn: Secretary Jennifer Granholm
1000 Independence Ave. SW
Washington DC 20585
NIETC@hq.doe.gov

RE: National Interest Electric Transmission Corridor (NIETC)
Midwest-Plains

Dear Secretary Granholm,

This letter is intended as a formal objection to the proposed Midwest-Plains NIETC, which if adopted as currently drafted would run through Kansas, including Pawnee, Barton, and Russell Counties. While we recognize a NIETC designation would “unlock” valuable Federal financial resources for project developers, the proposed Federal Rule’s inclusion of Federal eminent domain authority and Federal overriding of State permitting decisions are simply unacceptable.

For reference, being centrally located, we represent the Heart of Kansas. Our local economies are dependent upon the agricultural and natural resources industries. According to the USDA National Agricultural Statistic Service’s 2022 Census of Agriculture, 1,462 farms in our counties, some of which have been in continual operation for more than a century, manage 1,407,756 acres of agricultural land and over 200,000 head of cattle. Additionally, 2,957,878 barrels of oil were produced by 3,799 wells. (See 2023 Kansas Geological Survey). Situated along the Arkansas River, Barton and Pawnee Counties served as vital trading stops on the historic Santa Fe Trail. Barton County is the home of Cheyenne Bottoms Wildlife Preserve, the largest inland wetland in America and the critical midway stop along the Migratory Bird Central Flyway. More than fifty percent of North America’s Migratory Waterfowl use this flyway. With the discovery of significant oil fields in 1923, Russell County became and remains a leading producer and innovator in the petroleum industry.

Given how much it means to our way of life, our constituents appreciate the indispensable value of land and the need to preserve it. More importantly, they have a strong understanding as to their property rights. For that reason, it came as a shock when it was discovered this Summer (i.e., after the closing of the comment period on the preliminary list of potential NIETCs) that the US Department of Energy proposed designating a five-mile-wide swath across the entirety of our counties for “future electricity transmission.” Exacerbating this surprise, the DOE’s rollout lacked transparency and sufficient details upon which landowners could rely to make informed decisions regarding their property. This vagueness unquestionably resulted in a great deal of speculation on the part of our local constituents. Of greatest concern is the NIETC proposal suggests that the Federal Energy Regulatory Commission (FERC) be given the authority to override State

Midwest-Plains NIETC**Objection of Barton, Pawnee and Russell Counties**

regulatory agencies' permitting, siting and application decisions, and to exercise the right of eminent domain authority within the designated corridor.

Under Kansas law, the Kansas Corporation Commission (KCC) has sole authority over siting permits and construction of electric transmission lines (K.S.A. 66-1,178). This State permitting process requires notice and opportunity to be heard at public hearing of all landowners of record whose land or interest is located within 660 feet of a proposed line (i.e., due process). Federal Courts have held that while the federal government has reserved the power to regulate the transmission of electric energy in interstate commerce, the States retain the authority of siting, construction, and permitting of regional energy infrastructure. While State statute does allow for the potential utilization of eminent domain, said claims are litigated in the local district courts which are more apt to appreciate the unique qualities and merits of the local properties in question.

The documentation published by the Grid Deployment Office on its website sets forth the need for the NIETC designation is to "expedite and streamline" this permitting, siting and regulatory process "especially if the transmission line extends through multiple states or regions." Here, the proposed Midwest-Plains NIETC was simply transposed over the Grain Belt Express (GBE) High Voltage Transmission line route, a multistate project that was permitted by the KCC more than a decade ago. Given that such a large project was in fact permitted at the State level without federal intervention illustrates there is not currently a compelling need to exercise federal authority within the Central Plains to circumvent said State regulatory authority.

This use of an existing transmission line route as the basis for a corridor designation, however, is extremely problematic; particularly when the proposed width of the corridor (i.e., five miles) appears arbitrarily determined. The actual siting of transmission lines through the State permitting process results in narrowly defined utility easements. For example, the standard easement for the GBE transmission line is 150 feet. By the DOE's overlap usage of this already permitted project, those limited easements, the overwhelming majority of which were privately negotiated without the use of eminent domain, transform into potential de facto easements of the entirety of the landowner's property, their neighbors' property and their neighbors' neighbor's property. Given the DOE's proposed inappropriate usage of existing easements as the basis to create a NIETC designation, it is foreseeable that landowners will be hesitant to voluntarily enter into future easements for infrastructure out of a reasonable fear said easement will later be expanded.

The overly broad five-mile width of the Midwest-Plains NIETC creates a genuine impact on the land value of all property that falls within the proposed Energy Corridor. Potential purchasers will now need to factor into their offers whether they are willing to risk the possibility of future utility easements impacting the property's usability. Current owners will also have to keep this potential in mind when deciding whether to invest in upgrades such as more efficient irrigation equipment or when building facilities.

In addition to the negative economic impact, the proposed Midwest-Plains NIETC may have an environmental impact on sensitive wildlife habitats as it potentially places multiple large transmission lines even closer to Cheyenne Bottoms Wildlife Preserve and Quivira National Wildlife Refuge. Quivira is located directly south of Barton County. According to Audubon of Kansas' "Notice of Intent To Prepare an Environmental Impact Statement for the Grain Belt Express Transmission Line Project," "The proposed project creates potential harm to the federally