



July 31, 2023

Submitted via Regulations.gov

Maria Duaine Robinson
Director
Grid Deployment Office
Department of Energy
1000 Independence Ave. SW
Washington, D.C. 20585

Re: NECA Comments on Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors, Docket No. 2023-10321

Dear Director Robinson:

The National Electrical Contractors Association (NECA) submits these comments in response to the Department of Energy (DOE) Grid Deployment Office's (GDO's) *Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors*, Docket No. DOE-HQ-2023-0039.

NECA appreciates this opportunity to provide valuable information to DOE regarding key program elements that should be included in guidelines, procedures, and evaluation criteria to support an applicant-driven, route-specific National Interest Electric Transmission Corridors (NIETC) designation process.

NECA is a national trade association and the leading voice of the \$225 billion electrical contracting industry that brings power, light, and communication technology to buildings and communities across the U.S. NECA collectively represents over 4,000 electrical contractor members served by 118 local Chapters across the country. NECA employs a unionized workforce with contracts collectively bargained with the largest union of electrical workers in the world, the International Brotherhood of Electrical Workers, AFL-CIO, CLC (IBEW).

NECA recognizes that our success lies in our partnership with and investment in a highly skilled and trained union workforce. In these comments, we will provide recommendations to assist GDO in developing procedures for the designation of NIETCs. These recommendations will support the buildout of a reliable and resilient national transmission system that facilitates the achievement of national and subnational greenhouse gas emissions reduction goals and reduces the cost of delivered power for consumers and create well-paying, union jobs to build a modern, sustainable infrastructure for an equitable clean energy future.



As the leading trade association for electrical contractors, NECA has a vested interest in supporting the Administration's and Congress's goal to strengthen transmission infrastructure throughout the nation.

These comments are offered in response to Question 5e to offer policies that GDO can implement to encourage strong labor standards, the growth of union jobs, and expand career-track workforce development in various regions of the country.

A. Background

Both the IJJA and IRA have allocated funds that the Department of Energy (DOE) can utilize to address commercial challenges related to the development of transmission facilities within NIETCs. Section 40106 of the IJJA established the Transmission Facilitation Program, with an appropriation of \$2.5 billion for DOE to offer commercial facilitation aimed at supporting the construction of high-capacity new, replacement, or upgraded transmission lines. Under this provision, DOE is granted the authority to collaborate with public-private partnerships to co-develop transmission projects situated within NIETCs. Additionally, section 50151 of the IRA introduced the Transmission Facility Financing program, allowing DOE to provide loan support to transmission facilities designated by the Secretary as necessary for national interest under Section 216(a) of the Federal Power Act. An appropriation of \$2 billion was allocated to cover the cost, also known as the "credit subsidy," associated with issuing such loans. These federal investments are crucial and were deemed significant by Congress when enacting IJJA and IRA, therefore warrant using the strongest possible quality standards for construction to maximize return on federal investment. The IJJA and IRA also have unique provisions requiring the prevailing wage and the use of registered apprenticeship programs. DOE should strongly consider incorporating these provisions where applicable as part of the NIETC designation process.

Sec. 216(b)(3) of the Federal Powers Act states that the Federal Power Commission (Commission) may, after notice and an opportunity for hearing, issue one or more permits for the construction or modification of electric transmission facilities in a designated NIETC if the Commission finds that "the proposed construction or modification is *consistent with the public interest...*" (emphasis added). In addition, the federal government has broad authority under Sec. 216(c) to issue rules specifying the form of the application and what information to be contained in the application.

The Administration has articulated the need for, and benefits of, requiring such agreements on federal investments in Executive Order (E.O.) 14063, Use of Project Labor Agreements for Federal Construction Projects, issued February 4, 2022 (87 FR 7363, February 9, 2022).

As discussed further below, GDO should require applicants to provide detailed information about their construction workforce plans, including the use of single craft labor agreements, project labor agreements, and registered apprenticeship programs. To successfully



implement the provisions detailed above, GDO should prioritize transmission corridors that include projects that have submitted signed copies of all labor agreements. Where there is a single craft labor agreement for utility transmission work or PLA for non-utility transmission projects, i.e., building of substation to support a commercial business, GDO should prioritize such corridors for designation as an NIETC.

B. GDO should encourage the use of single craft labor agreements for Utility Transmission Projects

To ensure that utility transmission projects are completed on time, with the highest degree of quality, and in a cost-effective manner, contractors and subcontractors engaged in the construction of such projects should be required to enter into single-craft labor agreements with NECA contractors who employ electricians from IBEW local unions, as described in the comments filed by IBEW on the Transmission Facilitation Program, which are incorporated herein by reference.

Single craft labor agreements are customarily used for all in the areas designated for any outside electrical construction for utilities, municipalities, rural electrification projects (REA) or railroads, both overhead and underground all underground network systems. Similar to project labor agreements (PLAs) discussed below, a single craft labor agreement sets wage rates, hours of employment and other conditions of employment. These agreements include agreed upon terms with relevant NECA Chapters and corresponding signatory local unions of the IBEW.

Single craft labor agreements made by NECA and IBEW are unique in nature in that they exclusively pertain to transmission infrastructure and the required workforce needed to build such projects. NECA members that are signatory to a single craft labor agreement with IBEW promise to only use one construction craft (electricians) labor and set the terms and workforce requirements for the project.

C. GDO Should Encourage the use of Project Labor Agreements (PLAs) for non-utility transmission projects

In addition to requiring single craft labor agreements for utility transmission projects as discussed above, GDO should require the use of project labor agreements (PLAs) on non-utility transmission projects, i.e., building of substation to support a commercial business.

NECA has long partnered with construction owners, managers, contractors and state and local building and construction trades councils to negotiate and implement PLAs to successfully deliver complex construction projects in both the public and private sectors. Our experience with PLAs demonstrates these agreements promote economy, efficiency, and project quality, and offer substantial benefits to the communities where construction is located. PLA's are a valuable



resource to the government, interested parties, and the community when implemented. As described below, the positive impacts are beneficial to all parties.

Large construction projects share specific characteristics and challenges that have informed the use of PLAs in both the public and private sectors for decades. All large construction projects will necessitate a constantly changing stream of contractors and subcontractors, each responsible for distinct parts of the project. Each of these distinct parts must be highly coordinated and collaboratively work together seamlessly for the entire project to be completed efficiently and safely. On a typical large construction project, an owner will contract and subcontract various aspects of construction. Each contractor and subcontractor will supply its own set of employees who are, for the most part, hired for that particular project. In the unionized sector, each construction trade is governed by its own unique collective bargaining agreement (“CBA”), each with its own set of rules covering the terms of employment (i.e., work hours, rates of pay and overtime, holidays, etc.). In the nonunion sector, each contractor will similarly bring with it its own labor-relations structure, including work rules, scheduling, and hiring needs. These different work rules typically vary widely, and thus can and often do lead to costly project overruns, delays, safety issues, and work stoppages.

PLAs were designed as a project management tool to control these unique challenges by maximizing efficiency and productivity while reducing costs and meeting critical project deadlines. A PLA is a comprehensive multi-employer/multi-union unitary collective bargaining agreement designed to cover entire construction project(s). PLAs are generally negotiated by the entity that controls contracting for the project and a council of labor organizations representing all trades employed on the project. Through PLAs, the parties set standard work rules, including, but not limited to rules to establish various forums for communication and coordination, and prevent work stoppages with provisions such as no-strike, no-lockout provisions, and speedy dispute-resolution mechanisms. They also set standard pay scales and benefit rates for each trade and address labor supply issues through provisions that commit the signatory unions to use their job referral procedures to ensure a steady supply of highly skilled workers for the project. Both union and nonunion workers can register for referrals, and typically any contractor – union or nonunion – may bid for work on a covered project, as long as they agree to abide by the agreement and thereby to be held to the same standards.

As such, PLAs reduce administrative costs, improve coordination and consistency, and prevent cost overruns and project delays that can be fatal to successful project completion. PLAs also ensure that projects are completed to the highest quality standards, minimizing the need for work to be redone later. In addition, PLAs often contain provisions requiring participation in Registered Apprenticeship Programs and pre-apprenticeship programs to help recruit women, people of color and other underrepresented individuals into the construction industry to provide family-sustaining careers working on the projects that impact their communities.



1. PLAs Promote Quality, Efficiency, and Economy in Taxpayer-Funded Construction.

The federal policy that PLAs promote economy and efficiency has been implemented and maintained across three consecutive Presidential Administrations. The arguments put forward against this proposal were already considered and rejected during this time. There is no new data that warrants displacing this longstanding, carefully considered policy determination. Moreover, major for-profit companies and state and local governments across the nation have recognized that PLAs promote economy and efficiency in completing large, critical, and complex construction projects. PLAs also promote equitable development of a future skilled workforce for such projects by supporting privately-funded training programs. In addition, the use of PLAs ensures that government construction does not facilitate labor and employment law violations that transfer costs to taxpayers, harm workers, and prevent law-abiding contractors committed to training the next generation of skilled craftspeople from competing on a level playing field.

The Treasury Department endorsed PLAs as promoting economy and efficiency in guidance associated with a January 27, 2022 final rule governing use of the \$350 billion in State and Local Fiscal Recovery Funds (SLFRF) authorized by the *American Rescue Plan Act* to help communities restore or improve infrastructure in response to the COVID-19 pandemic. The Treasury Department explained that PLAs and the labor standards associated with them:

[E]nsure a stronger skilled labor supply and minimize labor disputes and workplace injuries, which can result in costly disruptions to projects. Treasury assesses that these benefits will increase the economy and efficiency of infrastructure projects undertaken through SLFRF and will outweigh the potential for a marginal increase in labor costs (Emphasis added).

2. Leading For-Profit Companies and State and Local Governments Rely on PLAs to Ensure Quality and Value for their Largest, Most Critical Construction Projects.

Leading businesses recognize that PLAs promote economy and efficiency when committing shareholder funds for their largest, most critical, and complex construction projects. A representative sampling of some major private sector construction projects that have utilized PLAs include:

- *The Dominion Cove Point LNG terminal (2014)* – A PLA was used for this \$3.4 billion LNG export terminal led by IHI/Kiewit, which required 1,500 construction workers. This state-of-the-art facility included a 1.25-mile underwater tunnel connecting the onshore facilities to the offshore platform in the Chesapeake Bay. It was the first facility of its kind on the East Coast.



- *Shell Beaver County Cracker Plant (2016)* – This massive energy project built under a PLA required 6,000 construction craft workers.
- *Honda of America* signed a PLA for a \$210 million project to build a new, state-of-the-art 300,000-square-foot paint facility that will be able to handle 229,000 vehicles a year.
- *The Citizens Imperial Solar, LCC Project* – The IID/Citizens low-income community solar project is being built under a PLA. The project will serve upwards of 12,000 electric customers in an economically distressed desert area of California. It is one of the largest low-income community solar projects in the nation, and unique among community solar energy projects in its structure and implementation.
- *The Oregon Clean Energy Center* – North America Project Development, LLC, a joint venture of CME and Pure Energy, utilized a PLA to build the Oregon Clean Energy Center. The Center is an 869 MW (Peak: 951 MW) natural gas-fired electric power plant in Oregon, Ohio that uses state-of-the-art technology to capture exhaust heat to generate enough electricity to power over 700,000 homes. The project required around 1,500 skilled construction craftspeople, whose services were secured and coordinated through a PLA.

3. PLAs Ensure a Skilled Workforce to Meet Federal Agencies’ Future Construction Needs.

The workforce training requirements associated with most PLAs support the continued success of privately-funded apprenticeship training programs that ensure a future skilled workforce for large-scale, complex federal government construction projects. Under these agreements, the contractors pay a set amount per worker per hour into a training fund for their respective crafts that is matched by contributions from labor partners. This successful, privately-funded, industry-wide model provides training at no cost to the government or taxpayers. These training funds administer apprenticeship and training programs that invest between \$750 million and \$1 billion annually, ensuring properly staffed, resourced, and well-run programs. All successful PLA bidders – union and nonunion – can access this labor pool under a PLA. Non-union PLA signatories have recognized that union referrals enable them to compete for – and more likely successfully perform – jobs requiring a higher degree of worker skill and technical experience.

Joint apprenticeship programs in the building trades advance economy and efficiency by continuously updating and improving the value and relevance of their training. This is done through ongoing national instructor preparation and upgrading, arranging for college credit for learning during apprenticeships, and expansion of journey-level update training. Research confirms that: (1) union programs enroll the majority of building trade registered apprentices, (2) the apprentice completion rates from union programs are higher than from non-union programs, (3) union programs enroll non-traditional populations in higher numbers and at higher rates than do non-union programs, and (4) the apprentice completion rates of non-traditional populations from union programs is higher than from non-union programs.



The Electrical Training ALLIANCE is a nonprofit that was created over 80 years ago by IBEW and NECA to support our affiliated apprenticeship training programs. IBEW/NECA affiliated apprenticeship programs are the largest training providers for electrical workers in the country, with some 300 construction training centers in operation. These programs make almost \$200 million in annual investments in apprenticeship training efforts. Such training is provided at no cost to participants or taxpayers, and apprentices are paid good wages for on-the-job training, including health and retirement benefits. In addition, to combat the inherent safety risks of electrical construction and ensure that projects are completed successfully, journey-level IBEW members obtain numerous safety and technical certifications as part of their apprenticeship training. IBEW electricians also obtain additional qualifications in various continuing education courses due to the ever-evolving technological advancements and safety imperatives that frequently arise within the electrical field.

D. GDO Should Ensure Applicants Use Workforce from Registered Apprenticeship Programs.

The IBEW-NECA JATC Registered Programs discussed above have developed alongside the Department of Labor’s (DOL’s) continued implementation of the National Apprenticeship Act (“NAA”), which Congress enacted in 1937. 29 U.S.C. 50 et seq. In the NAA, Congress gave a directive to the Secretary of Labor to “formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship...” The NAA gave clear direction that the Secretary has the sole authority to approve the registered apprenticeship programs and the duty of safeguarding the welfare of apprentices in the registered apprenticeship system.

The ALLIANCE develops state-of-the-art guideline standards, which are continuously updated and adopted by each of our programs. These model guideline standards (1) clearly set forth the on-the-job training and related instruction requirements for apprentices; (2) standardize the wage progression applicable to apprentices; (3) ensure that apprentices’ performance is regularly reviewed; (4) set appropriate journeyworker to apprentices ratios; (5) require mandatory training for apprentices; and (6) promote continuing education for apprentice instructions. See, e.g., ETA Bulletins FY 2011-2015 (Inside Wireman); FY 2012- 2016 (Outside Journeyworker Lineman (line Maintainer); FY 2021-2021 (Residential Wireman); and FY 2012-2023 (Telecommunications Technician).

In addition, our Registered Programs make every effort to ensure that apprentices are trained in a safe environment. Construction, as a whole, is an industry where safety is always a concern, with recent data showing that 19% of private sector workplace fatalities occurred in the construction trades, even though construction represents only 7% of the overall workforce. The electrical construction industry is not immune to these statistics. Between 2003 and 2017, there were approximately 2788 workplace electrical fatalities in the United States and 54% occurred in



the construction industry. Younger, less experienced workers are far more likely to die from electrical injuries than older, more experienced workers. In fact, workers ages 18 to 19 experience fatalities at 2.4 times the average, and workers between the ages of 20 and 24 experience fatalities at 1.8 times the average.

Given these dangers, NECA/IBEW affiliated apprenticeship programs take a number of steps to reduce the risks to our workers. Our standards, for example, require that employers trade and practices to work safely and further require that employers ensure the practices receive on-the-job training and facilities and environments that are in compliance with Occupational Safety and Health Act (OSHA) standards. Our registered programs include extensive safety training required in class training and under our standards, and employers providing on-the-job training are responsible for ensuring the apprentices receive assignments they can safely perform as described in the Bulletin FY 2011-2015 above.

E. Use of ‘One Federal Decision’ to Promote Efficiency and Environmental Reviews

DOE and FERC should confer regarding which agency is the most capable of effectively acting as “lead agency” under the ‘One Federal Decision’ policy. This would make the designation process proceed in a timely process and maximize the benefits of ‘One Federal Decision.’

The ‘One Federal Decision’ policy, as described in Executive Order 13807, *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, sets a government-wide goal of reducing the average time to complete required environmental reviews for major infrastructure projects..

The EO also requires all Federal authorization decisions for the construction of these projects to be completed within 90 days of the issuance of a decision. One of the goals of the EO is to ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent. Additionally, IIJA codifies the ‘One Federal Decision’ process, establishing a two-year time limit for completing the National Environmental Policy Act (NEPA) review and permitting processes for major infrastructure projects.

Lastly, the Fiscal Responsibility Act of 2023 includes several reforms to the federal permitting and environmental review process, including:

- Clarifies that an agency shall issue an environmental impact statement (EIS) for actions that have a “reasonably foreseeable significant effect on the quality of the human environment,” and shall prepare a “concise” environmental assessment (EA) for actions that do not have such reasonably foreseeable significant effects or the effects are unknown, unless the action is covered by a categorical exclusion.



- Codifies principles of the One Federal Decision initiative, requiring multi-agency reviews to have one lead agency that must supervise all cooperating agencies' preparation of environmental documents, develop a schedule for review, and use a single environmental document for evaluation.
- Sets page limits for environmental documents: a maximum of 150 pages for EISs, with an exception for extraordinary complex statements that allows up to 300 pages, and a maximum of 75 pages for EAs. Sets a two-year time limit for EISs and a one-year time limit for EAs
- Agencies that determine they will not meet the deadline may extend the deadline in consultation with applicants. If agencies miss review deadlines, project sponsors have a new right of action in the courts.
- Courts that find an agency has failed to meet a deadline will set new deadlines that are as soon as is practical and no more than 90 days from the court decision. The head of lead agencies shall submit an annual report to Congress that identifies EAs and EISs that missed deadlines along with explanations for failures to meet them.

Given the significance and importance of designation of NIETC it is imperative that the GDO is able to effectively decide which agency shall be designated the 'lead agency' of all projects to ensure that these transmission projects are able to use the streamlined processes laid out by the respective executive actions and statutory authority.

G. Conclusion

NECA appreciates your consideration of the recommendations outlined above. We stand ready to work with the Department of Energy to build the nation's transmission lines and look forward to continuing to work with you on the NIETC designation process.

Sincerely,

A handwritten signature in black ink, appearing to read "Marco A. Giamberardino".

Marco A. Giamberardino, MPA
Senior Vice President
Government and Public Affairs