

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 10, 2022

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition Requesting Initiation of a Proceeding on Federal
Funding Opportunities for Utilities under the Infrastructure
Investment and Jobs Act
Docket No. P-2022-_____

Dear Secretary Chiavetta:

Attached for electronic filing please find the Petition of the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Utility Law Project in the above-referenced proceeding. The OCA has attached the verification of Patrick M. Cicero, Consumer Advocate, pursuant to the requirements of 52 Pa. Code § 1.36.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christine Maloni Hoover
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Rick Hicks, Law Bureau (**email only:** rehicks@pa.gov)
Certificate of Service

*330402

CERTIFICATE OF SERVICE

Re: Petition Requesting Initiation of a :
Proceeding on Federal Fundin : Docket No. P-2022-_____
Opportunities for Utilities under the :
Infrastructure Investment and Jobs Act :

I hereby certify that I have this day served a true copy of the following document, the Petition of the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Utility Law Project, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 10th day of June 2022.

SERVICE BY E-MAIL ONLY

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Dated: June 10, 2022
*330403

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition Requesting Initiation of a	:	Docket No. P-2022-_____
Proceeding on Federal Funding	:	
Opportunities for Utilities under the	:	
Infrastructure Investment and Jobs Act	:	
	:	

PETITION OF THE OFFICE OF CONSUMER ADVOCATE, THE OFFICE OF SMALL
BUSINESS ADVOCATE, AND THE PENNSYLVANIA UTILITY LAW PROJECT

Pursuant to Section 5.41 of the Public Utility Commission’s (Commission) regulations, 52 Pa. Code Section 5.41, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Utility Law Project (OCA, OSBA and PULP) respectfully submit this petition requesting that the Commission initiate a proceeding to require utilities and allow interested parties to file reports and comments to the Commission related to federal programs and funding available to Pennsylvania utilities under the federal Infrastructure Investment and Jobs Act.¹

I. BACKGROUND

The federal Infrastructure Investment and Jobs Act (IIJA) was enacted on November 15, 2021, and provides for the availability of substantial federal funds for investment in utility infrastructure. Among the many programs authorized by the IIJA, a number may be available to Commission-regulated utilities. These include:

¹ Pub. L. No. 117-58, 135 Stat. 429 (2021) (IIJA).

- Grants to assist entities in carrying out efforts to harden the electricity grid, reduce risks of power lines causing wildfires, and reduce the likelihood and consequences of disruptive events, including those caused by weather or natural disaster;²
- A program to encourage innovative approaches to transmission, storage, and distribution infrastructure to improve resilience and reliability, and to encourage new approaches to enhance regional grid resilience;³
- A Transmission Facilitation Program under which eligible transmission owners can receive loans from the Department of Energy (DOE) for new or replacement transmission lines or upgrades of existing lines. Loans may be subject to entering into capacity contracts with DOE;⁴
- An expansion of the Smart Grid Investment Matching Grant Program established by section 1306(a) of the Energy Independence and Security Act of 2007, which allows for investment in technology to enhance grid flexibility;⁵
- Grants and technical assistance to enable small and rural electric utilities to deploy advanced cybersecurity technologies;⁶
- Grants to provide assistance to small and disadvantaged community water systems to purchase point-of-entry or point-of-use filters and filtration systems; or make investments necessary for providing information regarding use and maintenance of these devices, as well as options for replacing lead service lines or removing other lead sources;⁷
- Grants pursuant to a newly-established Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program to enable these systems to improve

² IIJA § 40101

³ IIJA § 40103

⁴ IIJA § 40106

⁵ IIJA § 40107

⁶ IIJA § 40124

⁷ IIJA § 50104

resilience to natural hazards and extreme weather events as well as address cybersecurity vulnerabilities.⁸

- Grants for rural and Low-Income Water Assistance Pilot programs to maintain access to drinking water and wastewater treatment.⁹

The available programs and funding are appropriated through various mechanisms and each has specific application and project requirements. In many cases the program funding is available until expended, so timely applications are of the essence to ensure a utility can take advantage of the program before funding is exhausted.

II. REQUEST FOR INITIATION OF A PROCEEDING

The Commission has the authority and responsibility to supervise and regulate all public utilities doing business within the Commonwealth and to see that the operation of those public utilities is in the public interest. Accordingly, it is in the public interest for the Commonwealth's utilities to actively explore and consider pursuing the funds and programs available under the IIJA. These programs aim to expand access to clean energy, improve grid resilience and security, support innovation in energy technology, and advance improvements in water infrastructure. Each of these goals will significantly benefit Pennsylvania residents and utility customers.

It is also in the public interest to foster cooperation among the Commission, utilities, and other stakeholders to ensure that the process for pursuing and obtaining federal funds is as effective as possible. As stated in the White House guidebook to the IIJA, "investing federal infrastructure dollars will require significant coordination between federal government, states, Tribal

⁸ IIJA § 50107

⁹ IIJA § 50109

governments, community stakeholders, local governments, and other key partners.”¹⁰ In addition to the Commission and affected utilities, this work also requires input from and coordination with interested stakeholders to ensure the programs are best utilized for the public’s interest. A formal Commission proceeding focused on the IIJA and the funding opportunities it presents for the Commonwealth’s public utilities will provide a locus for coordination by utilities, state agencies, and local governments of requests for competitive grants that will enhance the prospects of approval by the relevant federal agencies.

A docket that directs utilities to report on their efforts to obtain federal funds promotes transparency, creates important opportunities for public input, and helps ensure a diligent and thorough consideration of time-limited federal funding. These benefits were recognized by the North Carolina Utilities Commission in its decision to open up a docket establishing a collaborative process for considering reasonable actions that North Carolina utilities should take to access federal funds available under the IIJA.¹¹ In order for Pennsylvania utility customers to reap the benefits of a collaborative and transparent process, this Commission should open its own docket into these matters.

Finally, by establishing a process for reviewing utility plans, the Commission would help ensure that other Pennsylvania state agencies would have information on what the Commonwealth’s utilities are doing with regard to seeking and accessing funds under the IIJA.

¹⁰ A Guidebook to the Bipartisan Infrastructure Law for State, Local, Tribal, and Territorial Governments, and Other Partners, The White House, https://www.whitehouse.gov/wp-content/uploads/2022/01/BUILDING-A-BETTER-AMERICA_FINAL.pdf at 5.

¹¹ See, e.g., Order Allowing Comments Regarding Federal Funding for Utility Service in North Carolina, North Carolina Utilities Commission, Docket No. M-100 Sub 164 (Feb. 1, 2022) (“finding good cause to allow interested parties to file written comments” regarding the identification of federal programs under the IIJA and reasonable actions for North Carolina utilities to take to access funds).

III. CONCLUSION AND REQUESTED RELIEF

The substantial funding opportunities provided for in the IIJA could have a significant impact on expanding clean energy, improving grid resiliency, and providing for the safe and efficient delivery of electricity and water in the Commonwealth. The Commission should ensure that utilities take advantage of every reasonable opportunity to pursue the IIJA funding available to them, thereby maximizing that Act's benefits for their customers. In addition, allowing the public and stakeholders to evaluate the programs and provide input on the pursuit of IIJA funding will lend critical assistance to the Commission in overseeing this task.

For the above-stated reasons, the OCA, OSBA and PULP respectfully request that the Commission initiate a proceeding requiring utilities to file regular reports documenting their efforts – past, current, and future – to obtain IIJA funding, the purposes for which they are seeking funding, and the status of any applications, and conditions that must be met to obtain funding. The OCA, OSBA and PULP, further request that the Commission allow utilities and other interested parties to file written comments regarding the following:

- a. Identification of all possible programs under the IIJA available to Commission-regulated utilities;
- b. Recommendations for actions utilities should take with respect to identified programs; and
- c. Recommendations for actions the Commission should take to facilitate the application, receipt, and deployment of available federal funds.

Respectfully submitted,

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Counsel for:
The Small Business Advocate

Dated: June 10, 2022
*330279

VERIFICATION

I, Patrick M. Cicero, Consumer Advocate, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information, and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 06/10/2022

/s/ Patrick M. Cicero
Patrick M. Cicero
Consumer Advocate