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July 25, 2022

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA E-FILING**

**RE: Petition Requesting Initiation of a Proceeding on Federal Funding Opportunities for  
Utilities under the Infrastructure Investment and Jobs Act; Docket No. P-2022-3032929**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") is the Answer of Citizens' Electric Company of Lewisburg, PA, Wellsboro Electric Company and Valley Energy, Inc., in the above-referenced proceeding.

This filing has been served via email on the parties listed on the attached Certificate of Service. If you have any questions regarding this filing, please feel free to contact the undersigned. Thank you.

Very truly yours,

*Pamela C. Polacek*

By

Pamela C. Polacek

Counsel to Citizens' Electric Company of Lewisburg, PA,  
Wellsboro Electric Company and Valley Energy, Inc.

Enclosure

c: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Requesting Initiation of a	:	
Proceeding on Federal Funding Opportunities	:	
For Utilities under the Infrastructure	:	Docket. No. P-2022-3032929
Investment and Jobs Act	:	

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**ANSWER OF CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA, WELLSBORO  
ELECTRIC COMPANY AND VALLEY ENERGY, INC., TO PETITION OF THE  
OFFICE OF CONSUMER ADVOCATE, THE OFFICE OF SMALL BUSINESS  
ADVOCATE, AND THE PENNSYLVANIA UTILITY LAW PROJECT**

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Pursuant to 52 Pa. Code § 5.61(e), Citizens' Electric Company of Lewisburg, PA, Wellsboro Electric Company and Valley Energy, Inc., (collectively, the "C&T Utilities") hereby answer the Petition Requesting Initiation of a Proceeding on Federal Funding Opportunities for Utilities under the Infrastructure Investment and Jobs Act ("Petition") filed on June 10, 2022 by the Office of consumer Advocate ("OCA"), the Office of Small business Advocate ("OSBA") and the Pennsylvania Utility Law Project ("PULP") (hereinafter collectively referenced as the "Petitioners").<sup>1</sup> Petitioners seek two types of relief in their Petition, which they contend could form the basis for Pennsylvania Public Utility Commission ("PUC" or "Commission") oversight of individual electric utility and water utility company decisions to apply for federal funding.<sup>2</sup>

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<sup>1</sup> The Petition was served via email on June 10, 2022 on the Energy Association of Pennsylvania ("EAP"), OSBA, PULP, the Pennsylvania Public Utility Commission's Bureau of Investigation & Enforcement ("I&E"), the Pennsylvania Telephone Association and the York Water Company as the representative of the Pennsylvania Chapter of the National Association of Water Companies. The Commission subsequently issued a Secretarial Letter dated June 23, 2022 by which the Commission served all Pennsylvania jurisdictional fixed utilities.

<sup>2</sup> Petitioners identify a number of federal grant and loan programs in the Petition available to electric utilities and water utilities.

First, Petitioners request that the Commission initiate a formal proceeding to mandate utilities to file reports at the Commission related to utility efforts to apply for federal funds available under the Infrastructure Investment and Jobs Act (“IIJA”) Pub. L. No. 117-58, 135 Stat. 429 (2021). The Petitioners request that the Commission direct “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 applications, and conditions that must be met to obtain funding.” Petition at p. 5. Second, Petitioners seek a “process for reviewing utility plans” that would provide for public comments to (1) identify all possible programs under the IIJA available to Commission regulated utilities; (2) recommend actions utilities should take with respect to those programs; and (3) recommend actions the Commission should take to facilitate utility “application, receipt, and deployment of available federal funds.” Petition at p. 5. Overall, Petitioners ask the Commission to exercise its supervisory authority to manage and override the internal decision-making process of electric and water utilities regarding whether to apply for a variety of federal funding to use in specific capital investments identified under the IIJA.

The C&T Utilities appreciate the Petitioners efforts to highlight the funding opportunities that may be available through the IIJA; however, the relief requested by the Petitioners is not appropriate. The C&T Utilities agree with and adopt the arguments set forth in the EAP Answer submitted at this docket. The Petitioners’ requests would place the Commission in the role of a “super board of directors” regarding utilities’ decisions to pursue certain funding programs and the capital projects. It is well established that the Commission’s role and jurisdiction does not extend to micro-managing the utility’s business decisions. *Northern Pennsylvania Power Co. v. Pennsylvania Public Utility Commission*, 333 Pa. 265, 5 A.2d 133 (1939).

The C&T Utilities engage in mid-range and long-range planning to identify and prioritize capital projects for each system. Although the C&T Utilities can consider “off-plan” projects that could qualify for IIJA funding, the primary focus should be on the system priorities to meet the fundamental Public Utility Code obligations of providing safe, adequate and reliable service. *See* 66 Pa. C.S. § 1501. The Petitioners’ preference for IIJA projects is not a sufficient explanation to a customer that is experiencing service issues when a planned capital improvement is delayed so the Company can undertake an IIJA-eligible project.

In addition, critical details of many of the IIJA funding opportunities are undefined at this time. Those grants may ultimately require specific construction timeframes, the use of prevailing wage or unionized contractors, domestically-sourced construction materials and other requirements that would make the opportunity difficult for smaller utilities. At this time, the C&T Utilities also are experiencing extended lead time for obtaining certain materials and equipment that would impact the viability of meeting the grant requirements. Furthermore, grant applicants may be required to contribute a portion of the project funding, which could divert financial resources from other priorities. All of these factors are appropriately considered and weighed by the utility’s management, using its managerial discretion, prior to seeking a grant.

Finally, the Petitioners’ requests for plans and reports will place an undue burden on the internal resources for the C&T Utilities. The time and resources that would be expended to comply with the Petitioners’ proposed requirements are better focused on system operations and management. The Petitioners appear to desire an analysis of each grant opportunity and explanations of why a utility will not submit an application. This would add to the work that must be done by the utility to submit applications and to meet compliance reporting obligations for any

grant. Resources that could be used to apply for grants will be spent instead in trying to avoid negative regulatory comments about why applications are not being submitted.

For the reasons stated above, the C&T Utilities request that the relief requested in the Petition be denied.

Respectfully submitted,

*Pamela C. Polacek*

By \_\_\_\_\_

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Date: July 25, 2022

## **CERTIFICATE OF SERVICE**

I hereby certify that I have, on this day, served true and correct copies of the foregoing document upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

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