

# Pennsylvania Telephone Association

*"The Communications  
Leader in Pennsylvania"*

**Steven J. Samara**  
President

July 25, 2022

VIA ELECTRONIC FILING

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

Re: Petition Requesting Initiation of a Proceeding on Federal Funding Opportunities for  
Utilities Under the Infrastructure Investment and Jobs Act.  
Docket Number: P-2022-3032929

Dear Secretary Chiavetta:

The Pennsylvania Telephone Association ("PTA") is in receipt of the Petition filed by the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Utility Law Project ("Petitioners") requesting that the Pennsylvania Public Utility Commission ("Commission" or "PUC") "initiate a proceeding that would 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." Petition at 1.

PTA, as a representative of the "incumbent" rural local exchange carriers ("RLECs"), was served with a copy of the Petition, which is broadly drafted to encompass all "utilities," a term that technically applies to every ILEC, CAP, DAS provider and CLEC certificated by the PUC.

However, the Petition does not once mention broadband deployment as among "the many programs" authorized under the federal Infrastructure Investment and Jobs Act ("IIJA"). Petition at 2-3. Nor is broadband deployment mentioned as among the "significant impact[s] on expanding clean energy, improving grid resiliency, and providing for the safe and efficient delivery of electricity and water in the Commonwealth." Petition at 5.

The PTA, therefore, presumes that the Petition is intended to encompass monopoly, gas, water and electric utilities and not the highly competitive telecommunications sector. Nevertheless, the PTA is filing this letter in lieu of an answer on behalf of all of its member companies to explain why including the telecommunications sector would be duplicative and a waste of resources.

Under the IIJA and the Broadband Equity, Access and Deployment ("BEAD") Program, the Commonwealth of Pennsylvania is the "eligible entity" for funding and will be the applicant for and recipient of the federal monies. IIJA at §60102. The Commonwealth, in turn, will administer and distribute these funds to the companies and other entities ("subgrantees") that will actually construct and operate the projects.

Unique to the telecommunications industry, the Pennsylvania General Assembly, on December 22, 2021, created the Pennsylvania Broadband Development Authority (“PBDA”). Act 96 of 2021. The PBDA is “charged, as an “independent agency” with administering Federal and State funds allocated for the purposes of expanding broadband services in Pennsylvania.” <https://dced.pa.gov/broadband-resources/pennsylvania-broadband-development-authority/>. The PBDA will be developing a Statewide broadband plan, as well as establishing and administering criteria for the (sub)grant applications.

The PBDA’s authority is exclusive:

Single point of contact. -- The authority shall aim to serve as a single point of contact for entities wishing to engage in broadband development and deployment in this Commonwealth, including coordination of public and private [deployment] efforts to avoid overbuild in any given geographic area and to efficiently utilize existing infrastructure.

Act 96 at § 6122(a). Other agencies “charged with specific aspects of broadband development and deployment shall communicate and cooperate with the authority.” Act 96 at § 6122(c).

On the other hand, the PUC does not have the power to initiate a proceeding regarding BEAD or other telecommunications funding. The Petitioners suggestion, without citation or legal analysis, that the Commission’s authority to establish the proceeding is inherent in its general supervisory powers is vague and fails to identify any specific powers such that the Petition should be granted. Petition at 3. In the case of broadband specifically, any assertion of authority by the Commission would be limited to its narrow powers over less than broadband speeds (1.544 Mbps) and limitations on ILEC reporting as defined in Chapter 30. Those restrained powers do not include a proceeding to address federal broadband funding.

Act 96 expressly requires that the PBDA process be transparent, specifying that the applications will be available on the PBDA’s “publicly accessible Internet website.” Act 96 at § 6124. Under these provisions, Petitioners will have access to information and opportunity for public input regarding application for IJA funding that they appear to seek by their Petition. Petition at 4.

The Commission and Petitioners have a role to play at the PBDA. By statute, the Chairman of the Commission is a member of the Board. Moreover, it is expected that the PBDA will establish various subcommittees, in which interested members of the public, such as the Petitioners, may participate if they choose to do so.

The PTA and its member companies have every confidence that the PBDA will successfully fulfill its role to receive, consider and administer projects proposed by the telecommunications industry. To the extent that the Petitioners are proposing a Commission proceeding that would encompass the area of broadband deployment, the PTA and its member companies do not believe this is necessary or legally permissible and they decline to participate.

Sincerely,

A handwritten signature in black ink, appearing to read "S. J. Samara", with a stylized flourish at the end.

Steven J. Samara  
President