

**BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION**

IN THE MATTER OF THE PETITION OF THE OFFICE OF PEOPLE’S COUNSEL REQUESTING A PROCEEDING ON FEDERAL GRANT OPPORTUNITIES FOR UTILITIES UNDER THE INFRASTRUCTURE INVESTMENT AND JOBS ACT	* * * *	Case No.
--	------------------	----------

* * * * * * * * * * * * *

**PETITION OF THE OFFICE OF PEOPLE’S COUNSEL REQUESTING A
PROCEEDING ON FEDERAL GRANT OPPORTUNITIES FOR UTILITIES
UNDER THE INFRASTRUCTURE INVESTMENT AND JOBS ACT**

Pursuant to section 2-204(a) of the Public Utilities Article, the Office of People’s Counsel respectfully submits this petition requesting that the Public Service Commission open a docket to allow utilities and interested parties to file reports and comments related to federal programs and funding available to Maryland utilities through the federal Infrastructure Investment and Jobs Act.

BACKGROUND

The Infrastructure Investment and Jobs Act (IIJA)¹ was signed into law on November 15, 2021, and provides for a substantial investment of federal funds in utility infrastructure. Among the many programs that IIJA authorizes, several may be available to Commission-regulated utilities. These include:

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

- Grants to assist entities in carrying out efforts to harden the grid, reduce risks of wildfires, or reduce or diminish the consequences of disruptive events;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
- 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;⁴
- Grants to improve cybersecurity technologies and provide technical assistance to small and rural utilities;⁵ and
- Programs to develop carbon capture technology to improve environmental performance of coal and natural gas use.⁶

The available programs and grants are appropriated through various funding mechanisms and each has specific application and project requirements. In most 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 the funding is exhausted.

REQUEST FOR DOCKET

The Commission has the authority and responsibility to “supervise and regulate the public service companies subject to the jurisdiction of the Commission to...ensure their operation in the interest of the public.”⁷ It is in the public interest for the State’s utilities to diligently consider and pursue the funds and programs available under the

² *Id.* at § 40101.

³ *Id.* at § 40103.

⁴ *Id.* at § 40107.

⁵ *Id.* at § 40124.

⁶ *Id.* at § 40303 and § 40305.

⁷ Md. Code Ann., Pub. Util. § 2-113(a)(1)(i).

IIJA. The programs aim to develop clean energy, improve grid resilience and security, and expand access to clean energy and water to underserved populations. Each of these goals significantly benefit Maryland residents and utility customers.

It is also in the public interest to foster cooperation between the Commission, utilities, and other stakeholders to ensure the process for exploring 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 governments, community stakeholders, local governments, and other key partners.”⁸ We understand the Commission is engaged with the utilities in reviewing grant options, but this work also requires input from and coordination with interested stakeholders to ensure the programs are best utilized for the public’s interest. A docket will provide a forum 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.

The Commission is further charged by the Maryland General Assembly to “provide assistance and support to electric companies applying for and obtaining access to federal and other available funds to meet the state’s policy goals”⁹ pursuant to the Climate Solutions Now Act. In so doing, the Commission must require electric companies to report to the Commission on the IIJA funding applications the utility has

⁸ 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.

⁹ Md. Code Ann., Pub. Util. § 7-803(B).

made, the purpose of the funds, the status of the application, and any conditions that must be met to obtain the funding.¹⁰ The Commission may also “adopt regulations or issue orders that require electric companies to apply for federal and other available funds in a timely manner.”¹¹

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 in the North Carolina Utilities Commission’s decision to open up a docket establishing a collaborative process for considering reasonable actions the utilities should take to access federal funds available under the IIJA.¹² So that Maryland ratepayers also 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 Maryland state agencies have information on what Maryland utilities are seeking to accomplish by accessing federal funds.¹³

¹⁰ *Id.* at § 7-803(D)(1).

¹¹ *Id.* at § 7-803(D)(2).

¹² *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).

¹³ The Governor formed the Governor’s Subcabinet on Infrastructure (Executive Order 01.01.2022.01) to coordinate the State’s federal infrastructure funds spending and develop a strategy to maximize funding from the IIJA. The Maryland Department of Environment is also set to begin tracking and reporting all state spending on climate activities, including uses of federal infrastructure spending.

CONCLUSION AND REQUESTED RELIEF

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

For the above-stated reasons, OPC respectfully requests that the Commission open a docket to require utilities to file regular reports documenting their efforts—past, current, and prospective—to obtain IIJA funding, the purposes for which they are seeking funding, the status of any applications, and conditions that must be met to obtain funding, in compliance with the Climate Solutions Now Act of 2022. Such a proceeding should also evaluate whether regulations governing utility actions with respect to federal infrastructure spending are necessary and appropriate. Furthermore, OPC requests 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 Maryland 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,

DAVID S. LAPP
PEOPLE'S COUNSEL

William F. Fields
Deputy People's Counsel

Joseph G. Cleaver
Deputy People's Counsel

Frederick H. Hoover
Assistant People's Counsel

/electronic signature/
Irene N. Wiggins
Assistant People's Counsel

Office of People's Counsel
6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
(410) 767-8150

May 5, 2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 2022, the foregoing Petition of the Maryland Office of People’s Counsel Requesting a Proceeding on Federal Grant Opportunities for Utilities Under the Infrastructure Investment and Jobs Act was e-mailed to the following parties:

Lloyd Spivak, Esq., Staff Counsel
David Ralph, Esq., General Counsel, BGE
Matthew Segers, Esq., Pepco/Delmarva
Jeffrey Trout, Esq., Potomac Edison
John Dodge, Esq., Washington Gas
Mark MacDougall, Esq., SMECO
Matt Everngam, Chesapeake Utilities and Elkton Gas
Sarah Minner Dahl, Esq., Choptank Electric Cooperative
Ted Gallagher, Esq., NiSource

Respectfully submitted,

/electronic signature/

Irene N. Wiggins
Assistant People’s Counsel

Maryland Office of People’s Counsel
6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
(410) 767-8150