

ORDER NO. 91399

Federal Grant Opportunities for Utilities
under the Infrastructure Investment and Jobs
Act

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

PC 56

**ORDER ON MARYLAND UTILITIES' PURSUIT AND REPORTING OF
FEDERAL FUNDING**

Before: Frederick H. Hoover, Chair
Michael T. Richard, Commissioner
Kumar P. Barve, Commissioner
Bonnie A. Suchman, Commissioner

Issue Date: November 4, 2024

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On March 19, 2024, the Commission issued a Notice¹ in the above-captioned matter directing each utility subject to Order No. 90272² to submit comments summarizing its efforts to procure federal funding under the federal Infrastructure Investment and Jobs Act (“IIJA”) and to evaluate the utility’s relative success in procuring funding since Order No. 90272 was issued. The Notice also requested that each utility discuss the extent to which its efforts align with existing distribution plans and with State policy goals under *Annotated Code of Maryland*, Public Utilities Article (“PUA”) §§ 7-802 and 7-803.

Following the issuance of the Notice, the General Assembly passed House Bill 1393, effective October 1, 2024, requiring the Commission to adopt regulations or issue orders *expressly* requiring electric companies to apply for available federal funds in a timely manner and “to ensure that least-cost debt is used.”³ On May 9, 2024, the Commission issued a Supplemental Notice extending the comment deadline to allow utilities and other interested parties to submit comments on the requirements of the new legislation.⁴ On June 12, 2024, the Commission held a legislative-style hearing⁵ to consider next steps and to determine how best to comply with Maryland General Assembly House Bill 1393.

I. Background

On November 15, 2021, President Joseph R. Biden, Jr. signed the Infrastructure Investment and Jobs Act into law.⁶ The IIJA provides for, *inter alia*, substantial investment of federal funds

¹ *Notice of Public Hearing and Opportunity to Comment*, Federal Grant Opportunities for Utilities under the Infrastructure and Jobs Act, PC 56, March 19, 2024.

² Maillog No. 241252.

³ House Bill 1393, 446th Gen. Assembly (2024), MD. Chp. of Laws 540 (to be codified at Md. Code Ann., PUA § 7-803).

⁴ *Supplemental Notice of Public Hearing and Opportunity to Comment*, Federal Grant Opportunities for Utilities under the Infrastructure and Jobs Act, PC 56, May 9, 2024.

⁵ See Maillog No. 308316 (Notice of Hearing) and Maillog No. 309544 (Supplemental Notice) (“June 12th hearing”).

⁶ Pub. L. 117-58.

in utility infrastructure, including grid resiliency and reliability, electric generation and transmission, access to clean water, and improved cybersecurity. Subsequent to the passage of the IJJA, the State of Maryland enacted the Climate Solutions Now Act of 2022 (“CSNA”),⁷ requiring the Commission and the Maryland Energy Administration (“MEA”) to assist and support the electric companies of the State in applying for and obtaining access to federal and other available funds to meet the State’s policy goals for the electric distribution system. The CSNA also requires MEA to identify funding sources that may be available to electric companies to implement the State’s policy goals under PUA § 7-802.⁸ The CSNA strongly encourages the electric companies of the State to pursue relevant federal funding applications and requires them to report on such efforts to the Commission.⁹

On June 29, 2022, acting on a petition by the Maryland Office of People’s Counsel (“OPC”),¹⁰ the Commission issued Order No. 90272 in accordance with the CSNA. The Order directed each electric company under the Commission’s jurisdiction to identify and file a monthly report on IJJA funds applied for, the purpose for which such funding would be used, its connection

⁷ S.B. 528, 444th Md. Gen. Assembly Ch. 38 (2022) which is codified in Md. Code Ann., Pub. Utils. §§§§ 7-801, 7-802, 7-803, 7-804.

⁸ PUA § 7-802 provides that “On or before December 1, 2024, and each December 1 thereafter, the Commission shall submit a report, in accordance with § 2-1257 of the State Government Article, to the General Assembly with information regarding the current status of electric distribution system evolution, including information on electric distribution system planning processes and implementation that promote, as specific goals, the following: (1) measures to decrease greenhouse gas emissions incident to electric distribution, including high levels of distributed energy resources and electric vehicles; (2) giving priority to vulnerable communities in the development of distributed energy resources and electric vehicle infrastructure; (3) energy efficiency; (4) meeting anticipated increases in load; (5) incorporation of energy storage technology as appropriate and prudent to (i) support efficiency and reliability of the electric distribution system and (ii) provide additional capacity to accommodate increased distributed renewable electricity generation in connection with electric distribution system modernization; (6) efficient management of load variability; (7) electric distribution system resiliency and reliability; (8) bidirectional power flows; (9) demand response and other nonwire and noncapital alternatives; (10) increased use of distributed energy resources, including electric vehicles; (11) transparent stakeholder participation in ongoing electric distribution system planning processes; and (12) any other issues the Commission considers appropriate.”

⁹ PUA §§ 7-803(a), 7-803(d).

¹⁰ Maillog No. 240572. *Petition of the Office of People’s Counsel Requesting a Proceeding On Federal Grant Opportunities for Utilities Under The Infrastructure Investment and Jobs Act*, filed May 5, 2022 (“Petition”).

to State policy goals and the company’s existing distribution plan, the status of any funding applications, and any conditions that must be met to obtain funding.¹¹

On August 16, 2022, President Biden also signed the federal Inflation Reduction Act of 2022 (“IRA”) into law,¹² providing for substantial additional climate and energy funding. The federal government initiated and disbursed significant funding under the various programs established in the IIJA and the IRA. Recognizing this dispersal of limited funds available through IIJA and IRA and that two years have passed since the CSNA was enacted and Public Conference 56 (“PC 56”) was initiated, the Commission held a legislative-style hearing on June 12, 2024,¹³ to review and evaluate the progress and success of the electric companies in their applications for federal funding, address recently passed amendments to the CSNA,¹⁴ and contemplate any further action that should be taken.

II. Discussion

In advance of its June 12 hearing, the Commission received written comments from the following stakeholders: Baltimore Gas & Electric Company (“BGE”), Potomac Electric Power Company (“Pepco”), and Delmarva Power & Light Company (“DPL”) (together, the “Exelon Utilities”);¹⁵ The Potomac Edison Company (“Potomac Edison”);¹⁶ Southern Maryland Electric Cooperative (“SMECO”);¹⁷ OPC;¹⁸ MEA;¹⁹ Sierra Club;²⁰ and Earthjustice, on behalf of Non-

¹¹ Maillog No. 241252. Order No. 90272 at 7 and 9.

¹² Pub. L. 117-169.

¹³ See Maillog No. 308316 (notice of hearing), and Maillog No. 309544 (supplemental notice).

¹⁴ See H.B. 1393, 446th Gen. Assembly (2024) (amending PUA § 7-803, effective October 1, 2024, to require the Commission to adopt regulations or issue orders expressly requiring electric companies to apply for federal and other available funds in a timely manner and “to ensure that least-cost debt is used”).

¹⁵ Maillog Nos. 309408 and 310040 (“Joint Comments”).

¹⁶ Maillog Nos. 309295 and 310029.

¹⁷ Maillog Nos. 309424 and 310022.

¹⁸ Maillog No. 309422 and 309933.

¹⁹ Maillog No. 309933.

²⁰ Maillog No. 309404.

Profit Organizations (hereinafter “Earthjustice”),²¹ and the Commission’s Technical Staff (“Staff”). Each of these stakeholders also testified at the Commission’s June 12 hearing.

A. Initial Comments

a. Exelon Utilities

The Exelon Utilities noted in their Joint Comments that they have evaluated the federal funding programs of both the IIJA and IRA for relevance and eligibility and found that for most of the funding opportunities the Joint Exelon Utilities are not eligible to apply as the primary or prime applicant.²² The Exelon Utilities pointed out that about two-thirds of the \$550 billion available for new infrastructure under IIJA will flow through the states to sub-grantees and the remaining one-third will be available through competitive grants administered by federal agencies. Consequently, Exelon Utilities have been “actively seeking opportunities to partner with Maryland’s state and local agencies to maximize available funding opportunities.”²³

In their Joint Comments, the Exelon Utilities pointed out that the IIJA grant programs available as the prime applicant are extremely competitive and described the IIJA Grid Resilience and Innovation Partnerships (“GRIP”) program as the largest and most relevant funding program which utilities can apply for as the prime applicant.²⁴ The GRIP program is a \$10.5 billion program administered by the United States Department of Energy (“DOE”) that “focuses on enhancing grid flexibility and improving the resilience of the power system against growing threats of extreme weather and climate change.”²⁵ The Exelon Utilities explained that the GRIP has three topic areas

²¹ Maillog No. 309406. The Non-Profit Organizations include the Maryland League of Conservation Voters, Earthjustice, and the National Consumer Law Center, on behalf of its low-income clients. *Id.* at 1 n.2.

²² Joint Comments at 2.

²³ *Id.*

²⁴ *Id.*

²⁵ Joint Comments at 2-3. In the first two rounds of GRIP funding, DOE awarded funds to the following Maryland utilities: SMECO, BGE, FirstEnergy/Potomac Edison and the Exelon Utilities.

with different application requirements and deadlines. One such requirement is that all topic areas require utility applicants to first submit a concept paper describing their proposed project prior to submission of a full application.²⁶ The Exelon Utilities noted that after the concept paper is submitted, the DOE sends a letter of encouragement or discouragement to the applicant.²⁷ The Exelon utilities disclosed that they submitted five concept papers and four full applications under GRIP in round one, but none of those applications received an award.²⁸

Recognizing the importance of securing federal funding, the Exelon Utilities reported that they established a Grants Management Office (“GMO”) tasked with assisting Exelon’s utilities in identifying relevant funding opportunities under IIJA/IRA and supporting the development of competitive applications.²⁹ Further, with the support of the GMO, the Joint Exelon Utilities “evaluate funding opportunities that are relevant to Maryland as well as those opportunities that are relevant to Exelon as a corporation.”³⁰ Also, within each of the Exelon Utilities, a Grants Administration and Compliance (“GAC”) department has been established which is responsible for leading efforts to advance the development of critical infrastructure projects and programs by securing alternative funding via federal, state and other grant opportunities.³¹

The Joint Comments indicated that the Exelon Utilities take a thoughtful and methodical approach to grant application development given the limited number of direct funding opportunities.³² The Exelon Utilities carefully design projects and programs that offer the greatest benefits to customers. The Exelon Utilities reported that since the inception of IIJA, collectively, they have submitted 12 concept papers resulting in eight letters of encouragement and ten full

²⁶ *Id.* at 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 4.

³⁰ *Id.* at 5.

³¹ *Id.*

³² *Id.*

applications, resulting in three awards.³³ In its initial Joint Comments,³⁴ the Exelon Utilities also noted that they had five additional applications in development at the time with a May 22, 2024 due date.

b. Potomac Edison

Potomac Edison stated in its comments that it remained excited about the “once-in-a-generation opportunities presented by the various IIJA and IRA funding opportunities.”³⁵ Potomac Edison noted that it had staffed a Grants Management Office to pursue grants focusing on securing IIJA and IRA funding opportunities and to coordinate the required reporting processes once the grants are secured. Potomac Edison further described the grant opportunities that it had pursued as of April 26, 2024.

Specifically, Potomac Edison noted that it applied for DOE’s GRIP program grants. In the first round of GRIP program grants, Potomac Edison submitted a concept paper that proposed a program to enhance reliability and reduce outages through additional investments in vegetation management, replacement of aging infrastructure and grid modernization.³⁶ Potomac Edison stated that its concept paper received encouragement from the DOE in February 2023.³⁷ In its concept paper, Potomac Edison proposed the “Distribution Investments to Enhance Reliability and Reduce Outages Project (“DIERRO Project”) which aimed to enhance resiliency, efficiency, and reliability of its distribution system with a focus on disadvantaged communities.³⁸ Potomac Edison stated that the DIERRO Project would have supported MEA’s Energy Plan for 2022 and State policy

³³ *Id.* at 6.

³⁴ On May 30, 2024, the Exelon Utilities submitted an update to its initial Joint Comments which included a spreadsheet that summarizes the Joint Exelon Utilities IIJA/IRA activity to date. Maillog No. 309952 (“Corrected Joint Comments”).

³⁵ Maillog No. 309295 (“Potomac Edison Comments”) at 1.

³⁶ *Id.* at 1.

³⁷ *Id.*

³⁸ *Id.* at 2.

goals of improving energy distribution resiliency, efficiency and reliability by strategically replacing distribution grid infrastructure.³⁹ Potomac Edison noted that on October 18, 2023, the Company was informed that the DIERRO Project was not selected to receive a grant.

In the second round of GRIP program grants, Potomac Edison noted that it submitted concept papers for three funding opportunities including: the “Creating Reliable and Equitable Access to Energy for Customers Through the Energy Transition (“CREATE”) through West Virginia/Maryland Smart Grid program; CREATE through the FirstEnergy Distributed Energy Resource Management System and Enhanced Advanced Meter Infrastructure program; and CREATE through FirstEnergy Distributed Energy Resource Station Service. Potomac Edison stated that the CREATE projects will support MEA’s Energy Plan for its 2022 goal of improving energy distribution resiliency, efficiency, and reliability by strategically enhancing distribution grid infrastructure.⁴⁰

c. **SMECO**

SMECO reported that it performed extensive research on potential funding opportunities available to the Company under IIJA. As a result, SMECO applied for the GRIP Program and on October 18, 2023 was notified that it had been selected to negotiate with DOE for a grant award in the amount of approximately \$33.5 million.⁴¹ The Company indicated that the negotiation process is still underway and anticipates finalizing the award with DOE in Q3 2024.⁴² SMECO reported that it was one of only 16 utilities nationwide selected for a GRIP under the first round of funding, and it was the only utility in Maryland selected for any form of funding under the GRIP

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Maillog No. 309424 (“SMECO Comments”) at 1.

⁴² *Id.* at 2.

program.⁴³ SMECO reported that the project work accepted by DOE under the GRIP program is work the Company already planned to complete as part of its existing distribution construction work plan that is aligned with PUA § 7-802.⁴⁴ SMECO also noted that it has submitted a concept paper and full application to the DOE for the second round of GRIP funding opportunities.

Regarding IRA funding opportunities, SMECO stated that it submitted a letter of interest (“LOI”) with the Department of Agriculture’s Rural Utilities Service to participate in the Empowering Rural America (“New ERA”) program, which is designed to help rural Americans transition to clean, affordable and reliable energy.⁴⁵ SMECO’s LOI remains in a pending status under the NEW ERA program. SMECO noted that all of the projects proposed in SMECO’s LOI “are designed to advance Maryland State policy goals set forth in PUA § 7-802—specifically [Greenhouse Gas] reduction, meeting anticipated increases in load, incorporation of energy storage technology, support for efficiency and reliability of the electric distribution system, and increased use of distributed energy resources.”⁴⁶

d. Sierra Club

Overall, the Sierra Club noted that “[t]aken together, IJJA and IRA represent an unparalleled federal investment in clean energy and infrastructure, and provide grants for electrification in every sector of the economy.”⁴⁷ It commented that the Maryland utilities’ reports filed under the PC 56 docket “have reflected an overly narrow interpretation of federal grant opportunities, a lack of collaboration with their customers and an absence of valuable public engagement.”⁴⁸ The Sierra Club asserted that the utilities’ filings in PC 56 have provided little

⁴³ *Id.* at 3.

⁴⁴ *Id.*

⁴⁵ *Id.* at 2.

⁴⁶ *Id.* at 3.

⁴⁷ Maillog No. 309404 (“Sierra Club Comments”) at 5.

⁴⁸ *Id.* at 3.

information that the Commission can use to exercise its oversight role to ensure that utilities' are maximizing the benefits of the IIJA's and IRA's funding programs.⁴⁹ The Sierra Club provided several recommendations it argued would help the Commission ensure that utilities are maximizing their efforts to secure IIJA and IRA funding.

First, the Sierra Club recommended that the Commission should require that future utility filings in PC 56 provide information that is key to the Commission's evaluation of whether utilities are fulfilling the pivotal role that they have to play in harnessing IIJA to decarbonize Maryland's transportation sector. Specifically, the Sierra Club highlighted federal grants available under the National Electric Vehicle Infrastructure program and the utilities' role with respect to obtaining such funding. The Sierra Club also recommended that the Commission require utilities to provide information that is needed to ensure that Maryland utilities are "future proofing" their grid upgrades and investments so they are able to service the statewide electric vehicle ("EV") fleet projected in 10 to 20 years, and not just meet the minimum federal NEVI requirements.⁵⁰ Third, the Sierra Club recommended that the Commission require utilities to provide information that demonstrates they are building out and energizing the distribution infrastructure in a timely manner.⁵¹ Fourth, the Sierra Club recommended that the Commission require utilities to provide information that will allow for its oversight of utility EV make-ready programs.⁵²

Other recommendations by the Sierra Club include requiring utilities to submit grant program information regarding their role in implementing the U.S. Environmental Protection Agency ("EPA")'s Clean School Bus program. The Sierra Club also recommended that the Commission require utilities to provide information concerning their support for the electrification

⁴⁹ *Id.* at 4.

⁵⁰ *Id.* at 8.

⁵¹ *Id.* at 9.

⁵² *Id.* at 10.

of public transit buses under IIJA funding opportunities.⁵³ Regarding building electrification, the Sierra Club advocated that Maryland utilities should report how they are servicing customers seeking to electrify their homes using IIJA and IRA grants.⁵⁴ The Sierra Club recommended the Commission should expand Order No. 90272 to expressly require utilities to report on their IIJA and IRA grants and their associated distribution upgrades.⁵⁵ Further, the Sierra Club recommended that the Commission “require utilities to report on their applications—or justify their decisions not to apply for—IRA programs designed to modernize and increase resilience of the electric grid.”⁵⁶ Finally, the Sierra Club recommended that Maryland utilities should provide information on how they are supporting their customers in applying for municipal grants pursuant to the IRA.⁵⁷

e. **Earthjustice (Non-Profit Organizations)**

Earthjustice argued that the implementation of PC 56 fails to meet the CSNA requirements and the Commission’s obligation to ensure that utilities operate in the public interest. Earthjustice noted that the General Assembly considered federal funding so important to achieving Maryland’s policy goals that it specifically directed the Commission and MEA to work with electric companies to ensure that Maryland receives the available federal funds.⁵⁸ Earthjustice asserts that Order No. 90272 falls short and “created nothing more than a document depository for the information that utilities choose to provide regarding their federal funding efforts.”⁵⁹ As implemented, Earthjustice argued that the Commission provided for no oversight or review of the utilities’ actions by the Commission itself. Earthjustice stated that under the Order, the utilities are free to reject applying for these suggested proposals without explanation and there is no Commission review of the

⁵³ *Id.* at 14.

⁵⁴ *Id.* at 15.

⁵⁵ *Id.*

⁵⁶ *Id.* at 17.

⁵⁷ *Id.*

⁵⁸ Maillog No. 309406 (“Earthjustice Comments”) at 4.

⁵⁹ *Id.* at 4.

utilities' rejection.⁶⁰ Without the Commission taking an active oversight role in the utilities' applications for and deployment of IIJA funds, Earthjustice claimed that the utilities have little to no incentive to seek federal funds.⁶¹

Additionally, Earthjustice advocated that the PC 56 docket should be expanded to include federal funding opportunities under the IRA. They noted that the IRA provides billions of dollars in grant and loan programs and other investments for clean energy and climate action. The IRA also contains tax provisions that will save families money on their energy bills and accelerate the deployment of clean energy, clean vehicles, clean buildings and clean manufacturing.⁶² Earthjustice commented that the IRA is designed to build upon the foundational climate and clean energy measures contained in the IIJA.⁶³

Last, Earthjustice argued that the Commission's failure to include stakeholders in the grant process violates transparency principles and represents a lost opportunity.⁶⁴ Specifically, Earthjustice pointed out that in light of the CSNA's directive that Maryland achieve certain greenhouse gas emissions and net-zero statewide greenhouse gas emissions as well as other policy goals concerning renewable energy, it is incumbent upon the Commission to ensure that "this once in a generation funding opportunity addresses Maryland's goals rather than solely addressing the priorities of the utilities."⁶⁵ To achieve this objective, Earthjustice argues that expertise from a variety of stakeholders is necessary; and therefore, "[u]tilities should be required to work with stakeholders to identify the most effective and workable constructions for integrating their programs with the federal programs and tax credits."⁶⁶ Earthjustice argued that the reports required

⁶⁰ *Id.* at 5.

⁶¹ *Id.*

⁶² *Id.* at 6.

⁶³ *Id.*

⁶⁴ *Id.* at 7.

⁶⁵ *Id.* at 8.

⁶⁶ *Id.*

under Order No. 90272 are insufficient to provide the level of transparency needed and often do not contain the minimum amount of information required under Order No. 90272.⁶⁷ Further, Earthjustice recommends that the Commission commence a proceeding that allows for information and input from both utilities and other stakeholders which will help the Commission effectively supervise utilities in the public interest and in furtherance of Maryland’s policy goals.⁶⁸

f. MEA

MEA stated that it strives to promote clean, affordable, reliable energy and energy-related greenhouse gas emission reductions to benefit all Marylanders in a just and equitable manner.⁶⁹ Pursuant to PUA § 7-803, MEA is tasked with identifying federal funding opportunities for electric utilities to implement the State’s electric system distribution planning policy goals.⁷⁰

MEA noted that its comments reflect the Maryland General Assembly’s recently amended PUA § 7-803 with the passage of HB 1393. MEA explained that the bill, which will become effective on October 1, 2024, specifies that utilities must report to MEA on their efforts to secure federal funding on a quarterly basis, adds the federal IRA to the list of possible funding sources, and orders the Commission to pass rules mandating that utilities apply for federal and other funds “to ensure that least-cost debt is used.”⁷¹ MEA also stated that the bill tacitly expands the definition of “electric system planning” in Maryland to include transmission system planning—not just distribution system planning—to the extent that transmission system planning and coordination are appropriate at the state level.⁷²

⁶⁷ *Id.* at 10.

⁶⁸ *Id.* at 11.

⁶⁹ Maillog No. 309396 (“MEA Comments”) at 1.

⁷⁰ *Id.* at 1.

⁷¹ *Id.* at 4.

⁷² *Id.*

MEA discussed the two federal programs which it administers and pointed out several other federal funding opportunities that MEA does not administer but utilities should also pursue. First, MEA noted that it has been awarded \$8.790 million, and applied for an additional \$4.136 million in federal Section 40101(d) funds through the Preventing Outages and Enhancing the Resiliency of the Electric Grid Formula Grant Program.⁷³ MEA indicated that this funding will be made available to businesses, nonprofits, local governments and utilities.⁷⁴ MEA stated that under federal grant guidelines, priority will be given to “efforts that generate the greatest community benefit providing clean, affordable, and reliable energy.”⁷⁵ Second, MEA noted that it will be overseeing rebates for residential homes and buildings through two federal formulaic IRA programs, the HOMES Residential Energy Efficiency Rebate Program (established under Section 50121 of the IRA) and the High-Efficiency Electric Home Rebate Program (established under Section 50122 of the IRA). These programs are anticipated to be available starting in fiscal year 2025.⁷⁶ While these programs are targeted to residents and not utilities, MEA stated it was worth mentioning these rebate programs in the PC 56 docket because of the Maryland General Assembly’s passage of the Working for Accessible Renewable Maryland Thermal Heat (WARMTH) Act (HB397/SB570 (2024)), which provides that MEA shall apply to the U.S. DOE to reserve a portion of IRA funding, up to \$9 million, to assist utilities in covering some of the expenses of residential appliances under the proposed networked geothermal pilot programs.⁷⁷

Other federal funding sources that MEA suggested included: the federal investment tax credits (ITC) for clean energy projects available through the Internal Revenue Service; the U.S.

⁷³ *Id.* at 5.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 5-6.

⁷⁷ *Id.* at 6.

DOE Federal Loans Programs which offer funding in four project categories within Title 17 Clean Energy Financing Program; the U.S. DOE GRIP Program to enhance grid flexibility and improve the resilience against growing threats of extreme weather; and the U.S. DOE Grid Deployment Office provides assistance to public utility commissions and regional transmission organizations.⁷⁸

g. OPC

OPC recommended that the Commission initiate a rulemaking to require electric and gas companies to (1) “diligently” monitor and pursue federal and state funding that directly applies to utilities, and (2) promote the availability of federal and state rebates, tax credits, and other energy efficiency and electrification incentives to customers.⁷⁹ OPC also recommended that Order No. 90272 be modified to require companies to (1) report on funding opportunities the company has sought under both the IIJA and the IRA; (2) describe in detail the company’s efforts to monitor federal funding opportunities; (3) identify a single senior-level company employee responsible for the company’s efforts to monitor and apply for federal funding; (4) provide, in future rate cases and other filings, information on whether IIJA or IRA funding may be utilized for the planned projects, along with detailed information regarding the company’s efforts to procure “least-cost debt,” including from the DOE Loan Programs Office; (5) for companies that have filed rate cases since the Commission issued Order No. 90272, review the company’s existing capital programs to identify projects that may be eligible for grants, loans, and tax credits under the IIJA, IRA, and other applicable federal laws; (6) file with the Commission any feedback received from a federal agency, where a company’s application for federal funding has been rejected or a company’s concept paper submitted to federal agencies has not resulted in encouragement; (7) regularly

⁷⁸ *Id.* at 6-9.

⁷⁹ Maillog No. 309422 (“OPC Comments”) at 2.

disclose the expenditures and any savings that the company has recorded to its PC 56 regulatory asset account; and (8) report on any federal funding awards received by affiliate utilities.⁸⁰

OPC argued, *inter alia*, that the companies' federal funding reports were vague, that the companies' filed rate cases did not consistently identify connections between their planned projects and IIJA funding opportunities, and that the companies submitted relatively few concept papers or applications.⁸¹

OPC also recommended that utilities' efforts and successfulness in procuring federal funding should be assessed on five criteria:

- i. Whether a company has instituted and used a reasonable process to monitor funding opportunities and identify opportunities that can be used to support state policy goals and company planning and projects;
- ii. Whether a company has instituted and used a reasonable process to determine whether to apply or submit a concept paper for an applicable opportunity, taking into account the amount of funding available, the degree of alignment with state policy goals, and other appropriate factors;
- iii. Whether concept papers and applications submitted by a company are aligned with state policy goals and a company's distribution plan and are structured to avoid customer costs, to the extent possible, rather than merely leveraging new expenditures that will increase costs;
- iv. The number of concept papers and applications a company has submitted, taking into account the number of submissions by similarly situated utilities, including in other jurisdictions; and
- v. The number of funding awards a company has received for applications that are aligned with state policy goals and a company's distribution plan and are structured to save customers money.⁸²

OPC offered that these criteria are non-exclusive factors and recommended that more weight be given to the first four factors than the fifth because many federal funding opportunities

⁸⁰ *Id.* at 2-3.

⁸¹ *Id.* at 17-18 and 21-22.

⁸² *Id.* at 16.

are highly competitive. Therefore, the Commission should base its determination of a utility's successfulness in seeking federal funding primarily on the diligence of the utility's efforts rather than the outcome of those efforts.⁸³

B. Reply Comments

a. Exelon Joint Utilities Reply

On June 3, 2024, the Exelon Utilities filed reply comments addressing some of the recommendations and concerns advanced by other intervenors. First, like other intervenors, the Exelon Utilities agree that the federal funding opportunities available through the IIJA and IRA are transformative and therefore they have “diligently and actively pursued eligible and relevant funding opportunities” for which they are eligible.⁸⁴ In their reply comments, the Exelon Utilities again cautioned that many of the IIJA grant opportunities are not available to utilities and are highly competitive or earmarked only for innovative or new projects and not business as usual utility projects.⁸⁵ They also noted that the grant application deadlines are often very short for developing concept papers and proposals after funding opportunities are announced. Therefore, the Exelon Utilities “must carefully consider which funding opportunities they can commit resources to pursue, given the deadlines.”⁸⁶ The Exelon Utilities explained that once a funding opportunity is selected to be pursued and if a concept paper receives an encouragement letter from DOE, the Exelon Utilities engage in cross-functional efforts that require a lot of time and resources to develop the detailed project proposal.⁸⁷

⁸³ *Id.* at 16.

⁸⁴ Maillog No. 310040 (“Exelon Reply Comments”) at 1.

⁸⁵ *Id.* at 2.

⁸⁶ *Id.*

⁸⁷ *Id.* at 3.

Second, in response to OPC’s comments which identified in tabular form a list of federal funding opportunities available under the IIJA and IRA, the Exelon Utilities expanded on the tables to include commentary on the reasons why some of the opportunities have not been pursued.⁸⁸ The Exelon Utilities also expressed disagreement with OPC’s assertion that for the Middle Mile project “BGE had chosen the most capital-intensive approach...without evaluating alternatives.”⁸⁹ Citing Order No. 90948, they pointed out the Commission previously found that “BGE’s programmatic deployment of fiber may be reasonable and beneficial to Maryland’s electric grid” and that “BGE has adequately demonstrated in this case that there appear to be compelling reasons for BGE to develop its own fiber infrastructure...”⁹⁰

Third, the Exelon Utilities also disagree with the Sierra Club’s assertion that they have failed to collaborate with stakeholders and customers. The Exelon Utilities rebutted this assertion and stated they have “collaborated with many organizations and communities to explore funding opportunities, obtained letters of support for projects, coordinated with other utilities, and provided advice to others on their electrification and decarbonization plans.”⁹¹ As a result of their collaborative and coordinated efforts, they have assisted other organizations in securing over \$66 million in federal funding in 2023, and \$62 million so far in 2024.⁹² In footnote 6 of the Exelon Utilities’ Reply Comments, they listed several businesses, charitable organizations, and government entities with whom they have held discussions regarding federal funding opportunities.

⁸⁸ *Id.*

⁸⁹ *Id.* at 5.

⁹⁰ *Id.* at 6.

⁹¹ *Id.*

⁹² *Id.* at 6-7.

Fourth, the Exelon Utilities argued that OPC's request for additional oversight of the utilities' federal funding activities by the Commission is unnecessary and overly burdensome.⁹³ The Exelon Utilities contended that the additional oversight "would result in delays in developing funding proposals, which are already constrained by short deadlines."⁹⁴ They also pointed out that neither OPC nor any of the other intervenors have demonstrated that the proposed additional oversight would lead to more successful grant proposals, and that the Joint Utilities already submit monthly reports to the Commission and all stakeholders have an opportunity to comment and issue data requests on those reports.⁹⁵

Fifth, the Exelon Utilities argued that the Commission should reject OPC's proposal to deem imprudent any costs which could have been avoided had a utility pursued an available federal tax credit.⁹⁶ The Exelon Utilities pointed out that OPC's proposal is asymmetric where "utilities are penalized for not pursuing every opportunity, despite making strategic resource allocation choices about which funding opportunities are most likely to result in success given the competitive nature of these opportunities."⁹⁷ The Exelon Utilities argue that the result of OPC's request "would be a watering down of utility efforts to pursue the likeliest funding opportunities in order to avoid penalties for not pursuing every possible funding opportunity, potentially leading to unintended effects."⁹⁸ The Exelon Utilities reject OPC's proposal and argue that they must maintain independence to determine which opportunities best serve their customers, meet their system's needs and align with State policy goals.⁹⁹

⁹³ *Id.* at 8.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 9.

⁹⁹ *Id.*

Last, the Exelon Utilities argue that House Bill 864, which requires gas utilities to promote the availability of federal and state rebates, tax credits and incentives to be used for energy efficiency investments, should be dealt with in the Commission’s EmPOWER proceeding and not the PC 56 docket.¹⁰⁰ However, the Exelon Utilities committed to working with the Commission to ensure all requirements of House Bill 1393 are met.¹⁰¹

b. Potomac Edison Reply

In Potomac Edison’s Reply Comments, the Company maintained its commitment to complying with Order No. 90272, which it believes is in full compliance with the CSNA mandate directing the Commission to “provide assistance and support to electric companies for applying for and obtaining access to federal and other available funds to meet the State’s policy goals for the electric distribution system.”¹⁰² Potomac Edison described in more detail the applications for two grants under the smart grid topic area of the GRIP grants program.¹⁰³ It also noted that the Company provides significant information to the Commission in its monthly report which goes beyond the quarterly requirement prescribed in House Bill 1393.¹⁰⁴ Potomac Edison stated that while utilities are required to disclose any grant applications that have been submitted pursuant to Order No. 90272, the Company provides more than the minimum disclosure by “reporting on all grant concept papers submitted which are the precursor to submission of an application according to DOE requirements.”¹⁰⁵

Potomac Edison expressed concerns regarding additional application disclosure as recommended by some intervenors. Specifically, Potomac Edison pointed out that DOE feedback

¹⁰⁰ *Id.* at 10.

¹⁰¹ *Id.*

¹⁰² Maillog No. 310029 (“Potomac Edison Reply Comments”) at 3.

¹⁰³ *Id.* at 3-4.

¹⁰⁴ *Id.* at 4.

¹⁰⁵ *Id.* at 4.

on concept papers “is typically a form letter with certain boxes checked, while feedback on full applications is very detailed and provides critical insight into the DOE thoughts on what makes a successful application.”¹⁰⁶ Potomac Edison indicated a willingness to share DOE’s feedback on the high-level concept papers, but asserted that “sharing more detailed feedback from DOE about unsuccessful applications would not only harm Potomac Edison in future grant efforts but ultimately harm those the Company serves.”¹⁰⁷ Potomac Edison argued that the more information that is shared in a public forum related to Maryland utility IJA—or IRA—applications, the less competitive those Maryland utilities will be in future applications. Potomac Edison also cautioned that the information sharing is asymmetric—allowing utilities operating in other jurisdictions that are not subject to the same level of disclosure requirements to take advantage of knowing what DOE has said about Maryland utility applications and utilize that information in their submission without Maryland utilities being able to do the same.¹⁰⁸ Potomac Edison stated that it “welcomes stakeholder involvement in the grant process but cautions the Commission from being overly prescriptive in its oversight.”¹⁰⁹

c. SMECO Reply

In its Reply Comments, SMECO stated that it had no concerns with the shift in focus of PUA § 7-803 from the electric distribution system to the broader “electric system.”¹¹⁰ Similarly, SMECO indicated that it had no concerns with the requirement to report funding applications efforts at least quarterly since Order No. 90272 requires utilities to report monthly.¹¹¹ Lastly, SMECO noted no concern with the requirement of HB 1393 for the Commission to take action “in

¹⁰⁶ *Id.* at 6.

¹⁰⁷ *Id.* at 6.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* at 7.

¹¹⁰ Maillog No. 310022 (“SMECO Reply”) at 2.

¹¹¹ *Id.*

order to ensure that least-cost debt is used” when considering federal funding (or other available funding sources) to help promote the State’s policy goals under PUA § 7-802.¹¹² SMECO remarked that in its normal course of business, it always explores opportunities to secure short- and long-term financing on favorable terms reasonably achievable based on the Cooperative’s core financial metrics, including credit rating and actual debt service coverage ratio.”¹¹³

Additionally, SMECO provided a status update to the Commission on its IRA New ERA program grant application indicating that the Cooperative was notified by the U.S. Department of Agriculture, Rural Utilities Services that funding under the program was nearly exhausted and would unlikely be available for the projects submitted by SMECO through its letter of interest.¹¹⁴

d. Earthjustice (Non-Profit Organizations)

Overall, Earthjustice recommended that the Commission should:

- (1) expand PC 56 or any subsequent proceeding to include consideration of the IRA funding;
- (2) recognize the benefits that stakeholder expertise will bring to the application process and to the discussion of how to best promote the consumer programs provided in the IJA and IRA and expand the process to include stakeholders in all federal funding discussions;
- (3) order the utilities to include the specific information listed above in their IJA (and now IRA reports); and
- (4) adopt regulations requiring utilities to diligently seek federal funding.¹¹⁵

In its Reply Comments, Earthjustice argued—specifically—that the provisions of House Bill 1393 should be implemented in conjunction with the provisions of House Bill 864, which also was

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ Maillog No. 310002 (“Earthjustice Reply”) at 9.

passed by the General Assembly during the 2024 legislative session.¹¹⁶ Earthjustice highlighted the relevant provisions as:

(A) Each electric company and each gas company shall promote the availability of federal and state rebates, tax credits, and incentives that can be used to support energy efficiency investments, energy efficient and non-fossil-fuel- powered appliances and cooking equipment, breaker box upgrades, and portable heating and cooling equipment.

(B) The Commission shall adopt regulations to carry out this section.

Earthjustice commented that both bills address the same general subject matter of ensuring that the appropriate entities know the specific federal funds available to meet the State’s policy goals and that utilities diligently pursue them.¹¹⁷ It also pointed out that the General Assembly in the case of passing both House Bill 1393 and House Bill 864 “took the unusual step of *requiring* the Commission to issue regulations or adopt orders implementing the laws’ requirements rather than simply authorizing the Commission to adopt regulations.”¹¹⁸ Earthjustice suggested this shows the importance the General Assembly places on the utilities’ obtaining federal funds.¹¹⁹

Earthjustice recommended that “[g]iven the mandates set forth in House Bill 1393 and House Bill 864, the Commission should expressly find that electric companies have a duty to monitor federal funding opportunities that could avoid customer costs and aid in the achievement of Maryland’s climate targets, as well as a duty to aggressively pursue applicable federal funding opportunities.”¹²⁰ Additionally, Earthjustice recommended that “[t]he Commission should initiate a rulemaking to require electric companies to diligently pursue federal and state funding opportunities that are directly available to utilities and to promote to utility customers the

¹¹⁶ *Id.* at 3.

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 3-4.

¹¹⁹ *Id.* at 4.

¹²⁰ *Id.* at 5.

availability of federal and state rebates, tax credits, and other incentives to support energy efficiency and electrification investments.”¹²¹

Recognizing that promulgating the new regulations as required by both House Bill 1393 and House Bill 864 can take considerable time, Earthjustice recommended that in the interim the Commission should establish additional reporting requirements for electric companies.¹²² Specifically, Earthjustice recommended the Commission should require each electric company to:

- i. Report on all funding opportunities the utility has sought under the IRA, as well as the IJA;
- ii. Identify existing capital projects that may be eligible for funding under the IJA and/or IRA and provide that information to the Commission;
- iii. File with the Commission any and all feedback received from a federal agency, where a company’s application for federal funding has been rejected or a company’s concept paper submitted to the federal agency has not resulted in encouragement; and
- iv. Report on a monthly basis any and all activities to promote the federal and state incentives per HB 864.¹²³

Earthjustice asserted that the Commission has an obligation to ensure that the utilities are making every effort to obtain as much federal funding as possible for the benefit of ratepayers.¹²⁴

Earthjustice further argued that the Commission must oversee utility applications for and deployment of IJA funds because the utilities have little to no incentive to seek these funds.¹²⁵ To that end it recommended that the Commission should “create a stakeholder working group to

¹²¹ *Id.*

¹²² *Id.* at 6.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.* at 7.

obtain expertise from a variety of stakeholders such as low-income advocates, distributed energy suppliers, environmental advocates, and state agencies.”¹²⁶

e. **OPC**

In its Reply Comments, OPC maintained that HB 1393 broadens the scope of Subtitle 8 of the PUA—and therefore the purposes for which utilities should seek federal funds—to include transmission system planning, as well as distribution system planning.¹²⁷ OPC pointed out that “transmission and distribution system planning are interrelated—and connected through subtransmission systems, which may be FERC- or State-jurisdictional.”¹²⁸

Second, OPC argued that HB 1393 requires the Commission by regulation or order to implement “specific policies” that promote the State policy goals identified in PUA § 7-802 and ensure that electric companies use “least-cost debt.”¹²⁹ In its Reply Comments, OPC continues to urge the Commission to adopt regulations that include specific requirements, and in the interim, to issue an order that augments and supersedes Order No. 90272.¹³⁰ In its Reply Comments, OPC further explains that electric utility companies’ efforts to pursue federal funds including low-cost loans from the DOE Loan Programs Office (“LPO”) have been inadequate.¹³¹

Third, OPC stated that it supports the Sierra Club’s comments regarding electric companies advancing transportation and building electrification; however, OPC argued that the Commission should exercise caution to avoid premature grid upgrades and investments that may become stranded.¹³²

¹²⁶ *Id.*

¹²⁷ Maillog No. 310039 (“OPC Reply”) at 1.

¹²⁸ *Id.* at 2.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.* at 15.

Additionally, OPC warned that the Commission should exercise caution with accepting the notion that electric companies should “future proof” their grid upgrades and investments.¹³³ OPC conceded that “while electric companies have an obligation to forecast anticipated load growth on their systems and plan their investments and programs to meet that load growth, they must also seek to do so at lowest cost based on foreseeable needs.”¹³⁴

f. Staff

In its Reply Comments, Staff noted that the Commission in Order No. 90272 did not directly order the utilities to file proposals to obtain funding from the relevant federal agencies, but instead required them to file monthly reports on their efforts to obtain funding under the IJJA. Staff asserted that Order No. 90272 was consistent with the CSNA provision that “encourages the electric utilities of the State to pursue diligently federal funds to meet the State’s policy goals for the electric distribution system, including funds made available under §§ 40101, 40103, and 40107 of the federal Infrastructure Investment and Jobs Act.”¹³⁵ Staff acknowledged that the modified version of PUA § 7-803(d)(2) requires the Commission to adopt regulations or issue orders that require the electric utilities to apply for federal and other available funds in a timely manner, where the previous provision authorized but did not require it.¹³⁶

In its Reply Comments, Staff recognized that all of Maryland’s major utilities have developed and submitted applications under the IJJA and they have filed monthly reports pursuant to Order No. 90272. Staff stated that it “has no evidence to suggest that the utilities have not been diligent in this process.”¹³⁷ Nonetheless, in light of the new requirements now in PUA § 7-803(d),

¹³³ *Id.*

¹³⁴ *Id.* at 15-16.

¹³⁵ Maillog No. 310041 (“Staff Reply”) at 3 (citing Md. Code Ann., PUA §7-803).

¹³⁶ *Id.* at 3.

¹³⁷ *Id.* at 3-4.

Staff recommends that the Commission “issue an order or establish a rulemaking to formalize a requirement that the electric companies timely apply for federal and other available grant monies whenever such funds are available and can be effectively used to promote the State’s policy goals for the electric grid.”¹³⁸ Staff suggested that this can be accomplished by requiring the electric companies’ monthly reports include information regarding the efforts to obtain funding under the IRA, and what efforts are being made to ensure that least-cost debt is used.¹³⁹ Additionally, Staff further recommended that the Commission issue an order or establish a rulemaking formalizing a requirement for electric companies to apply for federal funds and other grant monies that are available to improve the State’s electric grid and otherwise implement the State’s policy goals with respect to the electric grid and electric companies.¹⁴⁰

COMMISSION DECISION

Pursuant to newly enacted legislation modifying PUA § 7-803 (*See* Appendix A), the Commission is now required to broaden Order No. 90272 to explicitly require Maryland utility companies to apply for IRA federal funding opportunities; and adopt regulations or orders requiring utilities to diligently seek federal funding in a timely manner and in order to ensure that least-cost debt is used. Each of the intervenors’ filed comments and reply comments in this docket discussing recommendations for the Commission to consider in several areas. The Commission finds that Order No. 90272 remains consistent with the CSNA; however, in light of the revised statute, the Commission expands Order No. 90272 where appropriate and provides additional guidance and clarity to the electric companies in certain areas, including the applicable federal

¹³⁸ *Id.* at 4.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

funds covered, the application submission materials, and the reporting requirements, both mandatory and optional.

1. Applicable Federal Funds

First, the Commission recognizes – as argued by various stakeholders – that the statutory language extends beyond the IJA. Specifically, the Commission finds that the electric companies’ federal funding pursuits should not be limited to any one source of federal funds, but rather should holistically consider *any and all* available federal funding sources that can support the State’s policy goals listed under PUA § 7-802, including, *at a minimum*, the IJA and the IRA. The Commission also agrees that the IRA and any federal funding that can support the State’s policy goals represent significant, once-in-a-generation opportunities.

2. Reporting Requirements

PUA § 7-803 also requires electric companies to report on their federal funding applications. Specifically, the statute requires each electric company report to the Commission and the Maryland Energy Administration on: (i) the funding for which the electric company has applied; (ii) the purposes for which the funding is intended to be used; (iii) the status of the funding applications; and (iv) conditions that must be met to obtain the funding.¹⁴¹

In Order No. 90272, the Commission imposed this reporting requirement on a monthly basis.¹⁴² Recognizing that the reporting requirement stemmed from the need to promote the State’s policy goals under § 7-802, the Commission found it in the public interest for each electric company to connect intended funding uses with the State’s policy goals and with the company’s

¹⁴¹ PUA § 7-803(d)(1).

¹⁴² Maillog No. 241252 at 9.

existing distribution plan.¹⁴³ The Commission’s Order also elaborated on funding conditions, mentioning “minimum and maximum required funding matches.”¹⁴⁴

Federal funding applications often require prior submission of a concept paper or LOI.¹⁴⁵ In the instant proceeding, stakeholders debated whether the statute or Order No. 90272 required the electric companies to report on these concept papers or on full applications alone. Whether or not required to do so, some companies reported, to some degree, submission of their concept papers anyway.¹⁴⁶ However, parties have not always reported the same information for the concept papers or LOIs as explicitly required of full applications.¹⁴⁷

While the statute requires reporting on “the funding for which the electric company has applied,” the Commission does not interpret the General Assembly’s use of the terms “application” or “applied” to narrowly refer only to full applications submitted upon encouragement following a concept paper or LOI. Several intervenors have noted that the concept papers and LOIs, as the electric companies themselves noted, are “often required”¹⁴⁸ as a “precursor to submission of an application according to DOE requirements.”¹⁴⁹ Viewed differently, they constitute literal “conditions that must be met to obtain the funding.”¹⁵⁰ Therefore, the Commission finds that extending the reporting requirement to these precursor documents affords the public greater transparency, enhances the ability of the Commission and other State agencies to monitor electric companies’ efforts, and allows the companies to be better recognized for such efforts.

¹⁴³ *Id.* at 7.

¹⁴⁴ *Id.*

¹⁴⁵ Maillog No. 310040 at 2. *See e.g.*, DE-FOA-0002740 (GRIP I); DE-FOA-0003195 (GRIP II); *see also*, New ERA Program, 88 Fed. Reg. 48,429 (July 27, 2023).

¹⁴⁶ *See e.g.*, Maillog No. 310029 at 4; and Maillog No. 307930 at 1.

¹⁴⁷ Maillog No. 309406 at 10 (citing Maillog No. 307930).

¹⁴⁸ Maillog No. 310040 at 2.

¹⁴⁹ Maillog No. 310029 at 4.

¹⁵⁰ *See* PUA § 7-803(d)(1)(iv).

Additionally, the Commission finds that the public benefits from uniform, consistent, and detailed reporting across utilities and directs that electric companies' monthly reports on their federal funding efforts, including full applications, concept papers, and LOIs, must include the required reporting information in a spreadsheet format, similar in form to that submitted by the Exelon Utilities (*See Appendix B*).¹⁵¹

A. Mandatory Disclosures

Below is a description of the specific categories that electric companies *must* include in their monthly reports:

i. Funding for which the Electric Company is seeking or has applied (inclusive of concept papers and LOIs)

The report should identify the primary and any secondary applicants. The report should indicate which specific Maryland electric company or companies would participate in or benefit from the federal funding. The report should identify the common name of the funding program, the formal statutory authority under which it is invoked, the funding agency or agencies (including any state agencies administering or dispersing the federal funds), and the funding opportunity announcement number, separated, if applicable, by topic area. The report should also include the project name, total project cost, amount of federal funds sought, and amount of funds that would specifically benefit the company's Maryland service territory.

ii. The purpose for which the funding is intended to be used

In reporting the purpose and intended use of the funding, each company should provide a brief project summary. The summary should link the purpose and intended use of the funding with the State's policy goals (explicitly citing the goal listed in the statute) and, as applicable, the company's existing distribution plan. Companies need not publicly reveal confidential

¹⁵¹ *See* Maillog No. 309952.

information, such as competitive business information or infrastructure security. Confidentiality should not, however, be a tool for the company to avoid its reporting obligation or the spirit of transparency intended by the General Assembly. Each company must disclose information sufficient for a reasonable person to ascertain *how* the purpose and intended use of funding aligns with the State's policy goals. Additionally, where the Commission finds it necessary to examine confidential information to fulfill its oversight responsibility, the company shall, upon request by the Commission, submit a supplemental confidential filing.

iii. The status of the funding application

In reporting the status of any funding applications, the company should note the due date(s), anticipated or actual decision dates, and the decision as of the time of the report (e.g., awarded, awarded pending negotiation, denied, pending). If awarded funds, the report should note the final award amount and specify the amount that would specifically benefit the company's Maryland service territory.

iv. Conditions that must be met to obtain the funding

The Commission reiterates that reports must disclose any conditions required to obtain funding, such as cost- shares (or similar), community benefit plans, labor requirements, and equipment or materials sourcing restrictions.

B. Additional Disclosures

Several intervenors proposed *additional disclosures* for the Commission to consider and mandate as part of the monthly reports required under PUA § 7-803. Those proposed disclosures included:

i. Agency Feedback

OPC recommended that the Commission require companies to file feedback received from a federal agency when the agency discourages a company's concept paper or rejects an application.¹⁵² Potomac Edison responded with willingness to share high-level agency feedback on concept papers but cautioned against disclosure of more detailed feedback on rejected applications, citing competitiveness concerns.¹⁵³ The Exelon Utilities similarly described this additional oversight as "unnecessary and overly burdensome."¹⁵⁴ The Commission agrees that filing detailed feedback from rejected applications would expose competitive information to other electric companies not required to share the same information and would disadvantage Maryland electric companies and consequently ratepayers. Notwithstanding, the higher-level feedback information from rejected applications may present less risk; therefore, the Commission encourages but does not require disclosure of the high-level feedback.

ii. Customer Education Efforts

OPC and Sierra Club recommended that the Commission require the electric companies to report on actions that they took to inform their Maryland customers about federal funding opportunities.¹⁵⁵ Order No. 90272 did not require that information, and electric companies consequently did not share that information in their monthly reports, leaving the rest of the public unable to know about the companies' efforts. The Commission encourages disclosure of customer education but does not require it. However, should the electric companies opt to share information on their customer education efforts, the Commission encourages quarterly disclosure that specifically describes the methods (e.g., advertising, meetings) used to reach customers, the

¹⁵² Maillog No. 309422 at 3.

¹⁵³ Maillog No. 310029 at 6.

¹⁵⁴ Maillog No. 310040 at 8.

¹⁵⁵ Maillog No. 309422 at 2 and Maillog No. 309404 at 2.

estimated number of customers reached through those methods, and the approximate dates of the customer education initiatives in the preceding quarter (or, optionally, in the preceding month). The Commission further encourages the electric companies to coordinate, enhance and synergize customer education efforts with those by Federal agencies and in particular state agencies.

iii. Federal funds not pursued

Sierra Club recommended that the Commission require the electric companies to disclose and explain their reasoning for not pursuing certain federal funding opportunities.¹⁵⁶ Sierra Club cited, for example, SMECO's decision to not pursue most of the 25 funding opportunities identified by SMECO's consultant.¹⁵⁷ SMECO did not respond. In a similar vein, OPC listed several grants, loans, and credits to which OPC asserted the electric companies could apply.¹⁵⁸ The Exelon Utilities responded that they did not pursue those specific opportunities because of ineligibility, inapplicability, or burdensome ongoing compliance, among other reasons.¹⁵⁹ Staff found no evidence to suggest that the companies had not been diligent in pursuing federal funding under PC 56. Where certain parties have highlighted some available funding opportunities not pursued, the electric companies responded with a reasonable explanation for why those opportunities were not explored. Therefore, the Commission, without evidence to suggest otherwise, finds requiring the electric companies to report an explanation of federal funds not pursued as unnecessary, except as provided below in Section C (Stakeholder Engagement).

C. Stakeholder Engagement

In this proceeding, several stakeholders recommended enhancements to stakeholder engagement, such as customer education reporting discussed above and explicitly including

¹⁵⁶ Maillog No. 309404 at 2.

¹⁵⁷ *Id.* at 3.

¹⁵⁸ Maillog No. 309422 at 10-11.

¹⁵⁹ Maillog No. 310040 at 3-5.

stakeholders in the identification and drafting of funding applications.¹⁶⁰ The CSNA itself directs the Commission and MEA to “provide assistance and support to electric companies for applying for and obtaining access to federal and other available funds” and specifically directs MEA to “identify funding sources that may be available to electric companies to implement the State’s policy goals.”¹⁶¹ MEA’s comments in this docket listed pending or open federal funds, including State-administered federal funds, potentially available to Maryland electric companies.¹⁶² MEA stated that it will supplement its filing in PC 56 as it becomes aware of other opportunities.¹⁶³

In light of MEA’s statutory responsibility for identifying federal funding sources that may be available to electric companies, MEA’s intent to supplement filings as it becomes aware of other federal funding opportunities, and the Commission’s oversight responsibility to compel electric company federal funding applications, the Commission finds it necessary and appropriate to direct electric companies to meet and collaborate with MEA on federal funding applications identified by MEA and for which the electric company is eligible and that will support State policy goals listed under PUA § 7-802. The Commission also encourages MEA to include other relevant stakeholders. The Commission further invites other interested stakeholders to file, in the PC 56 docket, federal funding opportunities for which an electric company may be eligible and that will support State policy goals listed under PUA § 7-802.

The Commission specifically encourages MEA to apprise the electric companies on any remaining GRIP funding opportunities.¹⁶⁴ The Commission directs the electric companies to timely meet with MEA and apply to the GRIP funding and to other funding opportunities for which

¹⁶⁰ Maillog No. 309406 at 11.

¹⁶¹ PUA § 7-803(b)-(c).

¹⁶² Maillog No. 309396 at 5-8.

¹⁶³ *Id.* at 9.

¹⁶⁴ While not yet announced, if the next and potentially final round of GRIP funding follows a similar timeline as the first two funding rounds, the next GRIP funding opportunity will likely be announced in October or November 2024, with concept papers due in December 2024 or January 2025 and full applications due in April or May 2025.

the company is eligible and for which there is alignment with the State’s policy goals. The Commission makes clear that its identification and directives regarding GRIP does not constitute an exhaustive list of the electric companies’ federal funding obligations under this order but, rather, represents at least one time-sensitive and applicable federal funding opportunity.

To the extent that an electric company elects not to pursue GRIP or any future MEA-identified funding opportunities, the electric company must provide, in its relevant monthly report, a written explanation of its decision not to pursue the particular funding opportunity. The Commission encourages electric companies to consider federal funding opportunities identified by other interested stakeholders and encourages electric companies, when forgoing pursuit of those federal funding opportunities, to explain their decision(s) not to pursue those opportunities.

D. Promulgation of Regulations

As noted above, amendments to PUA § 7-803 now require the Commission to “adopt regulations or issue orders that require electric companies to apply for federal and other available funds.”¹⁶⁵ The Commission does not find it necessary to initiate a rulemaking at this time, but directs the electric companies to: (1) diligently pursue and apply for federal and other available funds; (2) comply with the reporting requirements as ordered in Order No. 90272 and updated herein; and (3) engage with the Maryland Energy Administration on federal funding pursuits, as directed herein, and ensure the use of least-cost debt when considering such federal funding options.

IT IS THEREFORE, this 4th day of November, in the year Two Thousand Twenty-Four, by the Public Service commission of Maryland, **ORDERED**:

¹⁶⁵ See Distributed Renewable Integration and Vehicle Electrification Act, H.B. 1256, 446th Gen. Assembly Ch. 476 (2024) (amending PUA § 7-803(d)(2) to require, rather than merely permit, regulations or orders directing electric companies to apply for federal funding).

(1) that effective October 1, 2024, each electric company of the State on or about the 1st day of each month thereafter, shall report, in the manner prescribed in this Order, on the company's full applications, any concept papers, letters of interests, or other prerequisite materials mandated for federal funding opportunities, including, at a minimum, federal funding opportunities offered under the federal Infrastructure Investment and Jobs Act or the federal Inflation Reduction Act; and

(2) that each electric company of the State shall in a timely manner, meet and collaborate with MEA on federal funding applications identified by MEA and filed in the PC 56 docket, for which the electric company is eligible and that will support State policy goals listed under PUA § 7-802 and will ensure the use of least-cost debt.

/s/ Frederick H. Hoover, Jr. _____

/s/ Michael T. Richard _____

/s/ Kumar P. Barve _____

/s/ Bonnie A. Suchman _____

Commissioners

Appendix A

The new provisions of PUA § 7-803 provide:

(a) The General Assembly strongly encourages the electric companies of the State to pursue diligently federal funds to meet the State’s policy goals for the electric system, including funds made available under the federal Infrastructure Investment and Jobs Act or the federal **Inflation Reduction Act**.¹⁶⁶

(b) The Commission and the Maryland Energy Administration shall provide assistance and support to electric companies for applying for and obtaining access to federal and other available funds to meet the State’s policy goals.

(c) The Maryland Energy Administration shall identify funding sources that may be available to electric companies to implement the State’s policy goals under § 7–802 of this subtitle, including funding for:

- (1) increasing the efficiency of electric systems, including through installation and integration of energy storage devices and operational changes and upgrades;
- (2) grid-hardening activities to reduce the occurrence of or consequences of events that disrupt operations of the electric system due to extreme weather or natural disasters;
- (3) other electric system enhancement activities available for funding under the federal Infrastructure Investment and Jobs Act or the federal Inflation Reduction Act; and
- (4) other specific activities that the Commission identifies.

(d) As needed to promote the State’s policy goals under § 7–802 of this subtitle, the Commission:

(1) shall require each electric company to report at least quarterly to the Commission and the Maryland Energy Administration on:

- (i) the funding for which the electric company has applied;
- (ii) the purposes for which the funding is intended to be used;
- (iii) the status of the funding applications; and
- (iv) conditions that must be met to obtain the funding; and

(2) shall adopt regulations or issue orders:

(i) that require electric companies to apply for federal and other available funds in a timely manner; and

(ii) in order to ensure that **least-cost debt is used**.¹⁶⁷

¹⁶⁶ Emphasis added.

¹⁶⁷ Emphasis added.

Appendix B

[SEE BELOW SAMPLE TEMPLATE OF REPORTING SPREADSHEET - Reflective of the Commission Decision on Reporting Requirements in Section C. 2 in this order]

SAMPLE TEMPLATE OF REPORTING SPREADSHEET

Federal Funding Sought				Funding Purpose			Status		Conditions	
Applicant Conditions	MD Utility	Federal Program	Project Funding	Submission Type	Project Name & Description	State and/or Distribution Plan Goals	Due Date	Decision Date	Status	Funding
[EXAMPLE*] [EXAMPLE]	[EXAMPLE] [EXAMPLE]	[EXAMPLE] [EXAMPLE]	[EXAMPLE]		[EXAMPLE]	[EXAMPLE]	[EXAMPLE]			[EXAMPLE]
Prime Applicant(s): Mid-Atlantic Utilities, Inc. Co.	Maryland Gas & Electric	Grid Resilience and Innovation Partnerships (GRIP)	Overall Project Cost: \$20,000,000	Application	[Proposal Title] The proposal seeks to	The proposal will advance the State's distributed energy resource and energy efficiency goals under PUA §§ 7- 802(2)-(3) bA	4/1/2023	6/1/2023	Awarded	50-50 Company Cost Share MD Award: \$3,000,000 Contractor Prevailing Wage Requirement
Secondary Applicant(s): Maryland Green Bank		IIJA § 40101(c) U.S. Department of MD: Energy (DOE) Grid Deployment Office (GDO) DE-FOA-0002740 Topic Area 3 (Grid Innovation)	Federal Funds Sought: \$10,000,000 Fed. Funds for \$5,000,000							

Index Key for Reporting Requirements Template

<u>Column</u>	<u>Instructions*</u>
Applicant	Identify the primary and any secondary applicants.
MD Utility	Indicate which specific Maryland electric company or companies would participate in or benefit from the federal funding.
Federal Program	Identify the common name of the funding program, the formal statutory authority under which it is invoked, the funding agency or agencies (including any state agencies administering or dispersing the federal funds), and the funding opportunity announcement number, separated, if applicable, by topic area.
Project Name & Description	Provide the project name and a brief project summary, including the intended use of the funds.
Project Funding/Cost	Identify the following, as applicable: overall project cost, amount of federal funding sought, amount of federal funding that would specifically benefit the company's Maryland service territory.
Submission Type	Report the type of submission (e.g., concept paper, letter of interest, application).
State and/or Distribution Plan Goals	Briefly describe how the funding advances the State's policy goals (explicitly citing the goal in the statute) and, as applicable, the company's existing distribution plan.
Due Date	Note the date that the submission was/is due.
Decision Date	Note the date that a decision on the submission was received or is expected to be received.
Status	Note the current status of the submission (e.g., rejected, pending, full application encouraged, awarded). Note any funds awarded that will specifically benefit the company's Maryland service territory.
Funding Conditions	Disclose any conditions required to obtain funding (e.g., cost shares (or similar), community benefit plans, labor requirements, sourcing restrictions).

*Examples and instructions herein are provided for illustrative purposes and as a courtesy. Where these examples or instructions conflict with Commission Order on reporting, the language of Order controls.