ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF AN INVESTIGATION INTO UTILITY PLANS FOR MAXIMIZING THE OPPORTUNITIES AND BENEFITS PROVIDED BY THE FEDERAL INFLATION REDUCTION ACT AND THE INFRASTRUCTURE INVESTMENT AND JOBS ACT

ORDER

In this Order, the Arkansas Public Service Commission (Commission) initiates an investigation into the impacts of recently adopted federal energy policies, including the Inflation Reduction Act (IRA)\(^1\) and the Infrastructure Investment and Jobs Act (IIJA).\(^2\) In particular, the Commission is interested in learning about any plans that electric and gas utilities have for utilizing the opportunities and benefits provided by federal laws, including the IRA and IIJA. The IRA and IIJA present an unprecedented opportunity for utilities in Arkansas to mitigate rate and bill impacts as they expand energy efficiency improvements and transition to renewable power generation. Therefore, the Commission desires to provide a forum where jurisdictional utilities can share ideas for maximizing the benefits of the IRA and IIJA in their plans for providing utility service to Arkansas customers, including their integrated resource plans (IRPs), future resource acquisitions and requests for proposals, petitions for cost recovery through riders and rate cases, and energy efficiency programs. The Commission also desires to provide timely regulatory guidance to aid utilities as they revise their plans to consider the impacts of the IRA and IIJA. With this Order, the Commission launches an investigation into all energy issues related to the IRA and IIJA, and requests

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information from utilities and comments and recommendations from all interested stakeholders. The primary purpose of this proceeding is to gather information.

All jurisdictional electric and gas utilities are made Parties to this Docket and shall designate the individuals to be included on the Official Service List in compliance with Rule 3.04 of the Commission’s Rules of Practice and Procedure (RPPs) by a filing with the Secretary of the Commission by noon on January 10, 2024. The Secretary of the Commission is hereby directed to serve a copy of this Order on all jurisdictional electric and gas utilities.

**BACKGROUND**

On November 6, 2021, the IIJA was passed. The funding provided under the IIJA is intended to modernize our power grid; weatherize and upgrade homes, schools, businesses, and communities to make them cleaner and more affordable; and fund new programs to support the development, demonstration, and deployment of cutting-edge clean energy technologies.

On August 16, 2022, the IRA was signed into law. The IRA includes numerous provisions that will impact the energy industry in Arkansas. Some of these issues may

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come before the Commission for decisions, and some may be more related to programs administered by other state agencies.⁵

On April 4, 2023, the U.S. Department of the Treasury released guidance regarding Energy Community Bonus Credit Amounts under the IRA.⁶

**REQUEST FOR COMMENTS**

In their Initial Comments, electric and gas utilities should answer, to the extent applicable and/or possible at this time, the questions below. In Reply Comments, any Parties may respond to the information provided by utilities and include recommendations for actions that should be taken by the utilities and/or the Commission.

For all electric utilities:

1. As part of the U.S. Department of Energy’s Grid Resilience and Innovation Partnerships Program (GRIP), the Grid Innovation Program funding opportunity provides $5 billion for FY 22-26 to support projects that use innovative approaches to transmission, storage, and distribution infrastructure to enhance grid resilience and reliability.⁷ This program provides financial assistance to one or multiple states, tribes, local governments, and public utility commissions to collaborate with electric sector owners and operators. The Grid Deployment Office states that broad project applications are of interest including interregional transmission projects, investments that accelerate interconnection of clean energy generation, utilization of distribution

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grid assets to provide backup power and reduce transmission requirements.\(^8\) Please identify any proposals to contribute to the State’s Grid Innovation Program application.

2. Is your utility willing to contribute to a cost match (50\%) to support the State’s application for the Grid Innovation Program funding opportunity outlined above in Question 1 for projects located in your Utility’s service territory (e.g., transmission system upgrades or smart grids)? Please explain why or why not.

3. For utilities that answer no to Question 2, please explain why the Commission should allow cost recovery of projects that could have been eligible for federal funding under the Grid Innovation Program (e.g., transmission upgrades)?

For all electric and gas utilities:

4. Provide preliminary, pro-forma estimates of the effect of the IRA and IIJA on your company’s Arkansas jurisdictional revenue requirement and rates for the next ten years.

5. How does the IRA impact both short- and long-term planning, including but not limited to:

   a. Does the IRA impact any current, ongoing, or planned IRPs, and are any changes warranted?

   b. Does the IRA impact forecasting for distributed energy resources or electrification? If so, how does the company plan to handle increased interconnection volume?

   c. Are the impacts of the IRA fully incorporated into any ongoing resource procurements?

   d. Are there any non-wires alternatives under consideration that are likely to be eligible for IRA funding or tax credits?

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\(^8\) See [https://www.energy.gov/gdo/grid-innovation-program](https://www.energy.gov/gdo/grid-innovation-program).
6. How does your utility intend to maximize the benefits of the IRA for its customers and system, such as:
   a. Through investment in new or improved infrastructure?
   b. Through new or improved technologies that can benefit operations such as carbon capture or hydrogen?
   c. Through funding for methane monitoring and reduction technologies?
   d. Do you anticipate utilizing financing opportunities through the IRA and how will that money be deployed?
   e. Are there opportunities within the IRA to bolster physical and cyber security of your system?
   f. Do you anticipate any public or private partnerships to better access IRA benefits or implement programs enabled by the IRA?
   g. How do you anticipate the IRA will impact any current or future tax-equity partnerships?

7. What provisions in the IRA and/or IIJA will you be pursuing to stimulate transmission buildout? What about distribution buildout?

8. How will the IRA impact transportation electrification in your service territory, including both for your company and ratepayers? What, if any, barriers to deployment of electric vehicle charging equipment and infrastructure do you anticipate addressing with IRA funding?

9. Please provide the following information related to tax benefits from the IRA:
   a. Identify all tax benefits and credits, describe how they work, and what criteria are needed to qualify or maximize the benefits or credits.
   b. Quantify the benefits on a jurisdictional basis, and explain what assumptions were used.
c. Explain the company’s plan for capturing these benefits and passing the benefits to ratepayers.

d. Do you anticipate trading tax credits, how will the market work, and how will the benefits be returned to ratepayers?

10. Does the IRA require updates or changes to any existing utility plans or programs, or any existing Commission rules, to ensure that its benefits are maximized? Explain. Do any Arkansas laws, rules, or regulations adversely impact or inhibit your ability to access or utilize incentives or potential benefits created by the IRA? Explain. Could creation or modification of any Arkansas laws, rules, or regulations create additional opportunities to access benefits of the IRA? Explain.

11. What impact, if any, do you anticipate from IRA and IIJA funding on existing Commission programs, such as Conservation and Energy Efficiency Programs? How do the IRA’s Home Energy Rebate Programs align with the Commission’s Rules for Conservation and Energy Efficiency Programs (C&EE Rules)? Given that the IRA’s High Efficiency, Electric Home Rebate Program incentivizes electric to gas fuel switching, does the Commission need to make any revision to its C&EE Rules, which currently state that “fuel switching and load building programs not otherwise authorized under the Commission Rules and Regulations Governing Promotional Practices of Electric and Gas Utilities shall not be included as energy efficiency programs”? Likewise, given that the IRA’s Home Energy Performance-Based, Whole-House Rebates Program promises substantial cost-reducing benefits to utility customers, how will the

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10 IRA Section 50122.
11 C&EE Rules, Section 5 (D).
12 IRA Section 50121.
existing electric and gas utility EE programs and customer and utility shareholder incentives be affected, and how can the federal incentives and state EE programs be made complementary to the benefit of customers? To what extent have the utilities reached out to the administrators of the state agencies that are charged with implementation of these rebate programs and what have been the results of such outreach to date? What recommendations do the utilities have for increasing stakeholder engagement on these and other IRA and IIJA issues?

12. What role should the Commission take to enable utilities to maximize the beneficial opportunities created by the IRA and IIJA? How can the Commission best facilitate access to benefits created by the IRA and IIJA? Consider the following:

a. For Electric Utilities: Should the Commission consider revising its Resource Planning Guidelines for Electric Utilities to expressly encourage or require utilities to incorporate the IRA and IIJA into their planning processes? Explain.

b. Should the Commission require utilities to discuss how they plan to capture and maximize the benefits from the IRA and/or IIJA, and how the acts have impacted planning assumptions, in future resource acquisitions and requests for proposals in the planning phase, petitions for cost recovery through riders and rate cases, and IRPs? For example, should utilities be required to demonstrate that they have adequately evaluated applicable financing opportunities under the Energy Infrastructure Reinvestment category of the Title 17 Clean Energy Financing Program offered by the U.S. Department of Energy’s Loan Programs Office? Explain.

c. Should the Commission require utilities to draft their requests for proposals in a way that requires bidders to provide project proposals that identify the IRA benefits of a particular project (e.g., identify whether a particular generator facility is located in an energy community and eligible for the energy community bonus credit)? Explain.

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13. Please provide copies of any information (including SEC disclosure filings) provided to shareholders and other stakeholders related to the effects of the IRA and IIJA.

14. Should the Commission adopt any reporting requirements related to the IRA and IIJA? If so, what should the reports include and how often should they be filed? Explain.

15. What other federal laws or programs (if any), provide funding opportunities that the utilities are considering in addition to the IRA and IIJA?

16. Does your organization have a workforce development plan? How are you planning for any IRA funding received to enhance workforce development?

17. Does your utility plan to apply for GRIP grant funding available to eligible utilities, including the Grid Resilience Grants or Smart Grid Grants? Please explain why or why not.

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PROCEDURAL SCHEDULE

The Commission establishes the following procedural schedule to consider the issues outlined above:

Electric Utility Responses to Questions 1-3                January 10, 2024\textsuperscript{18}
Intervention Deadline\textsuperscript{19}                  January 29, 2024
Initial Comments\textsuperscript{20} by Utilities on Questions 4-17 February 15, 2024
Reply Comments by all Parties                            March 7, 2024
Surreply Comments by all Parties                          March 28, 2024

All filings shall be made by noon the day of the deadline. Further procedural filings and, if necessary, the setting of a hearing, will be addressed by subsequent order.

The Commission strongly encourages all Electric Utilities to provide productive responses to Questions 1-3 and support the State’s application for the Grid Innovation Program funding opportunity to support needed transmission system upgrades and increased resiliency in Arkansas.

\textsuperscript{18} The Commission notes that the expedited deadline for Questions 1-3 is based on the fact that concept papers are due by 5:00 p.m. ET on January 12, 2024, as the required first step in the application process for the State’s Grid Innovation application. In order for the State to have adequate time to incorporate the utilities’ responses to Questions 1-3 into the State’s concept paper, utilities need to provide responses at least a couple of days before the State’s deadline. See \url{https://www.energy.gov/gdo/grid-innovation-program}.

\textsuperscript{19} In light of the schedule set, the Commission finds good cause to shorten the normal intervention deadline.

\textsuperscript{20} The Parties may address legal issues in all rounds of the comments.
BY ORDER OF THE COMMISSION.

This 28th day of December, 2023.

Doyle Webb, Chairman

Justin Tate, Commissioner

Katie Anderson, Commissioner

Karen Shook, Secretary of the Commission

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or

Electronic mail using the email address of each party as indicated in the official docket file