H. R. 891

To direct the Secretary of Energy to carry out a grant program to improve the energy resilience, energy democracy, and security of communities, prioritizing environmental justice communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 9, 2023

Ms. Barragán (for herself, Ms. Clarke of New York, Mr. Huffman, Ms. Bush, Mr. Carson, Ms. Bonamici, Mr. Khanna, Mr. Espaillat, Mrs. Hayes, Mrs. Watson Coleman, Mr. Nadler, Ms. Norton, Ms. Pingree, Ms. Scanlon, Mr. Beyer, Mr. Schiff, Ms. Jayapal, Mr. Grijalva, Mr. Foster, Ms. Porter, Ms. Matsui, Mr. Casar, Mr. Cohen, Mr. Krishnamoorthi, Ms. Sánchez, Ms. Meng, Ms. Tokuda, Mr. Blumenauer, Mr. Carter of Louisiana, Ms. Velázquez, Ms. Tlaib, Mr. Tonko, Ms. Lee of California, Ms. Stansbury, Mr. Gallego, Mrs. McBath, Mr. Cleaver, Ms. McCollum, Mr. Meeks, Mr. Payne, Ms. Ocasio-Cortez, Mr. Moskowitz, Mr. Kim of New Jersey, and Mr. DeSaulnier) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To direct the Secretary of Energy to carry out a grant program to improve the energy resilience, energy democracy, and security of communities, prioritizing environmental justice communities, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Energy Resilient Communities Act”.

SEC. 2. CLEAN ENERGY MICROGRID GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program to provide grants to eligible entities.

(b) USE OF FUNDS.—An eligible entity may use a grant provided under the program established pursuant to subsection (a) to—

1. obtain technical assistance to—

(A) upgrade building codes and standards for resiliency to climate change hazards (including wildfires, flooding, sea level rise, landslides, drought, storms, temperature extremes, and other extreme weather events);

(B) develop a FEMA Hazard Mitigation Plan to identify and overcome known climate change hazards to critical community infrastructure; or

(C) conduct a needs assessment of prospective clean energy microgrid projects and, as applicable, design prospective clean energy microgrids, including assistance to address permitting and siting challenges, understand and facilitate financing options, and understand the
technical characteristics of clean energy microgrids;

(2) provide community outreach and collaborative planning with respect to a prospective project described in paragraph (3); or

(3) carry out a project to develop and construct—

(A) a clean energy microgrid that supports critical community infrastructure; or

(B) a clean energy microgrid for residences of medical baseline customers.

(c) PRIORITY.—

(1) IN GENERAL.—In providing grants under the program established pursuant to subsection (a), the Secretary of Energy shall give priority to an eligible entity that proposes to use a grant to obtain technical assistance described in subsection (b)(1), provide outreach described in subsection (b)(2), or carry out a project described in subsection (b)(3), that will benefit an environmental justice community.

(2) TECHNICAL ASSISTANCE AND COMMUNITY OUTREACH GRANTS.—After priority given under paragraph (1), in providing grants to obtain technical assistance described in subsection (b)(1) or
provide outreach described in subsection (b)(2), the Secretary of Energy shall give priority to an eligible entity proposing to obtain technical assistance or provide outreach that the Secretary of Energy determines will further the development of clean energy microgrids that are community-owned energy systems.

(3) **Clean Energy Microgrid Grants.**—After priority given under paragraph (1), in providing grants under the program established pursuant to subsection (a) for projects described in subsection (b)(3), the Secretary of Energy shall give priority to an eligible entity that—

(A) proposes to develop and construct a clean energy microgrid that, in comparison to other clean energy microgrids for which grants are sought under such program, will result in the greatest reduction—

(i) of greenhouse gas emissions;

(ii) of emissions of criteria air pollutants;

(iii) in public health disparities in communities experiencing a disproportionate level of air pollution; or
(iv) in the energy cost burden for communities;

(B) proposes to develop and construct a clean energy microgrid that is a community-owned energy system;

(C) proposes to develop and construct a clean energy microgrid that, in comparison to other clean energy microgrids for which grants are sought under such program, will provide the greatest amount of resiliency benefits to a jurisdiction in which the microgrid is located;

(D) proposes to develop and construct a clean energy microgrid that minimizes land use impacts by—

(i) siting sources of clean energy within the already-built environment, including over rooftops and parking lots;

(ii) siting sources of clean energy on existing brownfield sites or contaminated sites;

(iii) co-locating sources of clean energy on agricultural lands or over reservoirs; or

(iv) siting sources of clean energy on compatible lands;
(E) proposes to, in developing and constructing a clean energy microgrid, utilize or involve small businesses or nonprofits that primarily operate or are located within environmental justice communities, particularly those that are women-owned and operated or minority-owned and operated;

(F) has previously received a grant to obtain technical assistance under such program;

(G) imposes registered apprentice utilization requirements on projects, provided that such requirements comply with the apprentice to journey worker ratios established by the Department of Labor or the applicable State Apprenticeship Agency; or

(H) proposes to develop and construct a clean energy microgrid in an area designated nonattainment and classified as an Extreme Area or Severe Area for one or more criteria air pollutants.

(d) Educational Outreach Program.—

(1) In general.—Not later than 90 days after funds are made available to carry out this section, the Secretary of Energy shall develop and carry out an educational outreach program to inform eligible
entities about the program established pursuant to subsection (a).

(2) CONTRACTS.—The Secretary of Energy may enter into third-party contracts to implement the educational outreach program under paragraph (1). In entering into contracts pursuant to this paragraph, the Secretary shall prioritize entering into contracts with women-owned and operated or minority-owned and operated entities.

(3) PRIORITY.—The educational outreach program under paragraph (1) shall prioritize—

(A) providing information on the program established pursuant to subsection (a) to eligible entities that serve an environmental justice community and to environmental justice communities; and

(B) promoting public understanding of the community benefits of clean energy microgrids for critical community infrastructure.

(e) COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of technical assistance, outreach, or a project for which a grant is provided pursuant to the program established pur-
suant to subsection (a) shall not exceed 60 percent of such cost.

(2) **Environmental Justice Community.**—

The Federal share of the cost of technical assistance that is obtained for, outreach that is provided to, or a project that is carried out in, an environmental justice community, and for which a grant is provided pursuant to the program established pursuant to subsection (a) shall not exceed 90 percent of such cost.

(f) **Limitation on Amount.**—The amount of a grant provided to an eligible entity under this section to carry out a project described in subsection (b)(3) may not exceed $10,000,000.

(g) **Use of American Iron, Steel, and Manufactured Goods.**—

(1) No funds authorized under this section shall be made available with respect to a project unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(2) Paragraph (1) shall not apply in any case or category of cases in which the Secretary of Energy finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;
(B) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(C) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(3) If the Secretary of Energy receives a request for a waiver under this subsection, the Secretary shall make available to the public on an informal basis a copy of the request and information available to the Secretary concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Secretary shall make the request and accompanying information available by electronic means, including on the official public website of the Department of Energy.

(4) This subsection shall be applied in a manner consistent with the United States obligations under international agreements.

(h) PREVAILING WAGES.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work as-
sisted, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(i) PROJECT LABOR.—An eligible entity that uses a grant provided under this section to construct a clean energy microgrid shall ensure, to the greatest extent practicable, that any subgrantee of such eligible entity, and any subgrantee thereof, that carries out such construction employs at least 40 percent of laborers or mechanics for such construction that are individuals who—

(1) are domiciled, if the applicable construction area is—

(A) a major urban area, not further than 15 miles from such construction area; or

(B) not a major urban area, not further than 50 miles from such construction area;

(2) are displaced and unemployed energy workers;
(3) are members of the Armed Forces serving on active duty, separated from active duty, or retired from active duty;

(4) have been incarcerated or served time in a juvenile or adult detention or correctional facility, or been placed on probation, community supervision, or in a diversion scheme;

(5) have a disability;

(6) are homeless;

(7) are receiving public assistance;

(8) lack a general education diploma or high school diploma;

(9) are emancipated from the foster care system;

(10) reside or work in an environmental justice community; or

(11) are registered apprentices with fewer than 15 percent of the required graduating apprentice hours in a program.

(j) REPORTS.—The Secretary of Energy shall submit to Congress, and make available on the public website of the Department of Energy, an annual report on the program established pursuant to subsection (a) that includes, with respect to the previous year—

(1) the number of grants provided;
(2) the total dollar amount of all grants provided;

(3) a list of grant disbursements by State;

(4) for each grant provided—

   (A) a description of the technical assistance obtained, outreach provided, or project carried out with grants funds; and

   (B) whether the grant is provided to obtain technical assistance, provide outreach, or carry out a project with respect to an environmental justice community; and

(5) for each grant provided to carry out a clean energy microgrid project—

   (A) employment data for such project, including the number of jobs created and what percent of laborers and mechanics hired for such project meet the criteria under subsection (i);

   (B) the greenhouse gas and criteria air pollutant reduction impacts for such project;

   (C) the public health benefits from such project; and

   (D) the reduced energy cost burden from such project.

(k) FUNDING.—
(1) Authorization of Appropriations.—For each of fiscal years 2024 through 2033, there is authorized to be appropriated—

(A) $50,000,000 for grants for technical assistance described in subsection (b)(1) and outreach described in subsection (b)(2); and

(B) $1,500,000,000 for grants for projects described in subsection (b)(3).

(2) Community-Owned Energy Systems.—To the maximum extent practicable, not less than 10 percent of the amount appropriated under paragraph (1)(B) for any fiscal year shall be used to provide grants for projects to develop and construct clean energy microgrids that are community-owned energy systems.

(3) Administrative Expenses.—

(A) Technical Assistance and Outreach.—The Secretary may use not more than 2 percent of the amount appropriated for any fiscal year under paragraph (1)(A) for administrative expenses.

(B) Clean Energy Microgrid Projects.—The Secretary may use not more than 2 percent of the amount appropriated for any fiscal year under paragraph (1)(B) for ad-
ministrative expenses, including expenses for carrying out the educational outreach program under subsection (d).

(l) DEFINITIONS.—In this section:

(1) CLEAN ENERGY.—The term “clean energy” means electric energy generated from solar, wind, geothermal, existing hydropower, micro-hydropower, hydrokinetic, or hydrogen fuel cells.

(2) COMMUNITY OF COLOR.—The term “community of color” means a geographically distinct area in which the population of any of the following categories of individuals is higher than the average populations of that category for the State in which the community is located:

(A) Black.

(B) African American.

(C) Asian.

(D) Pacific Islander.

(E) Other non-White race.

(F) Non-White Hispanic.

(G) Latino.

(H) Linguistically isolated.

(3) COMMUNITY-OWNED ENERGY SYSTEM.—The term “community-owned energy system” means an energy system owned—
(A) by the local government where the system is located;

(B) by a nonprofit organization that is based in the local jurisdiction where the energy system is located;

(C) collectively, by community members; or

(D) by a worker-owned or community-owned for-profit entity.

(4) COMPATIBLE LAND.—The term “compatible land” means land that is at least 5 miles away from existing protected areas and within 3 miles of existing transmission infrastructure.

(5) CRITICAL COMMUNITY INFRASTRUCTURE.—The term “critical community infrastructure” means infrastructure that is necessary to providing vital community and individual functions, including—

(A) schools;

(B) town halls;

(C) public safety facilities;

(D) hospitals;

(E) health clinics;

(F) community centers;

(G) community nonprofit facilities providing essential services;

(H) libraries;
(I) grocery stores;

(J) emergency management facilities;

(K) water systems;

(L) homeless shelters;

(M) senior housing; and

(N) public or affordable housing.

(6) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a State, territory of the United States, or Tribal agency;

(B) a local government or political subdivision of a State, including a municipally owned electric utility and an agency, authority, corporation, or instrumentality of a State or Indian Tribe;

(C) an electric utility;

(D) a nonprofit organization; or

(E) a partnership between—

(i) a private entity, or a nonprofit organization, that owns critical community infrastructure; and

(ii) a State, territory of the United States, Tribal agency, or local government.

(7) ENVIRONMENTAL JUSTICE COMMUNITY.—

The term “environmental justice community” means
a community with significant representation of communities of color, low-income communities, or Tribal and indigenous communities, that experiences, or is at risk of experiencing, higher or more adverse human health or environmental effects.

(8) LOW-INCOME COMMUNITY.—The term “low-income community” means any census block group in which 30 percent or more of the population are individuals with an annual household income equal to, or less than, the greater of—

(A) an amount equal to 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development; and

(B) 200 percent of the Federal poverty line.

(9) MAJOR URBAN AREA.—The term “major urban area” means a metropolitan statistical area within the United States with an estimated population that is greater than or equal to 1,500,000.

(10) MEDICAL BASELINE CUSTOMER.—The term “medical baseline customer” means a customer of an electric utility with special energy needs due to a medical condition, including energy needs for—

(A) a motorized wheelchair;}
(B) a ventilator;
(C) a dialysis machine;
(D) an apnea monitor;
(E) an electrostatic nebulizer;
(F) a respirator;
(G) medication requiring refrigeration; and
(H) for a customer with a vulnerable respiratory system, an air cleaning system.

(11) MICROGRID.—The term “microgrid” means an interconnected system of loads and clean energy resources (including distributed energy resources, energy storage, demand response tools, and other management, forecasting, and analytical tools) which—

(A) is appropriately sized to meet the critical needs of its customers;
(B) is contained within a clearly defined electrical boundary and has the ability to operate as a single and controllable entity;
(C) has the ability to—
(i) connect to, disconnect from, or run in parallel with the applicable grid region;
or
(ii) be managed and isolated from the applicable grid region in order to withstand
larger disturbances and maintain the supply of electricity to a connected location;
(D) has no point of interconnection to the applicable grid region with a throughput capacity in excess of 20 megawatts; and
(E) can connect to one building or multiple interconnected buildings.

(12) MICRO-HYDROPOWER.—The term “micro-hydropower” means hydropower that produces no more than 100 kilowatts of electricity using the natural flow of water.

(13) PRODUCED IN THE UNITED STATES.—The term “produced in the United States” means, in the case of iron or steel, that all manufacturing processes, including the application of a coating, occur in the United States.

(14) REGISTERED APPRENTICE.—The term “registered apprentice” means a person in an apprenticeship program that is registered with, and approved by, the United States Department of Labor or a State Apprenticeship Agency in accordance with parts 29 and 30 of title 29, Code of Federal Regulations (as in effect on January 1, 2020).

(15) SMALL BUSINESS.—The term “small business” has the meaning given the term “small busi-
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(16) TRIBAL AND INDIGENOUS COMMUNITY.— The term “Tribal and indigenous community” means a population of people who are members of—

(A) a federally recognized Indian Tribe;

(B) a State-recognized Indian Tribe;

(C) an Alaska Native or Native Hawaiian community or organization; or

(D) any other community of indigenous people located in a State.

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