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PUBLIC SERVICE COMMISSION

January 21, 2021

Chair Delores Kelley
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB0083 – INFORMATION – Utility Regulation – Consideration of Climate and Labor

Dear Chair Kelley and Committee Members:

Senate Bill 83 requires the Commission to consider the maintenance of fair and stable labor standards for affected workers and the protection of the global climate (*i.e.*, climate change) in the general supervision and regulation of public service companies. SB 83 further requires, before the Commission can take final action on an application for a Certificate of Public Convenience and Necessity (“CPCN”) that the Commission must first consider the proposed project’s effects on climate change. For power generating stations, the Commission would be required to consider the impacts of a project on greenhouse gas (“GHG”) emissions and the State’s GHG emissions reduction goals.

Climate Change Requirements

In regulating public service companies, the Commission currently considers the preservation of environmental quality pursuant to *Public Utilities Article* § 2–113(a)(2)(IV). SB 83 proposes to amend the PSC’s existing supervisory and regulatory power over public service companies by specifically adding “protection of the global climate” to the list of factors the Commission considers under its public interest standard. Currently, the Commission’s consideration of environmental quality includes promoting greenhouse gas reduction, energy conservation, energy efficiency (*i.e.*, EmPOWER Maryland), renewable energy, grid modernization, and reducing natural gas leaks through target infrastructure investments (*i.e.*, STRIDE). Where applicable, the Commission considers the State’s established climate *goals*, as demonstrated in the Commission’s January 2019 order approving the implementation of a statewide electric vehicle charging program.

The Maryland Department of the Environment (“MDE”) has a dedicated climate change program, which manages Maryland’s mitigation planning efforts and the

administration of GHG Programs, including Maryland's participation in the Regional Greenhouse Gas Initiative ("RGGI"). For each CPCN application, the Commission looks to the recommendations made by several state agencies, including MDE and the Maryland Department of Natural Resources' Power Plant Research Program ("PPRP"). The reviewing state agencies play indispensable roles as subject matter experts on behalf of the State in the Commission's CPCN proceeding. The Commission, as the deciding body, then evaluates the evidence and recommendations presented by the state agencies and the other parties when deciding whether a CPCN is in the public interest. The Commission gives "due consideration" to each factor listed under § 7-207(e), and the same would be true with the addition of climate change under SB 83. MDE is the State's expert authority on environmental and global climate issues, and it is appropriate that MDE and/or PPRP be the agencies to evaluate the impacts of a proposed CPCN facility on climate change and make appropriate recommendations. This proposed legislation requires MDE to include climate change effects in its CPCN recommendation (*see* page 2, lines 19-21).

To the extent that the addition of climate change considerations to *PUA* § 2-113 necessitates evidence in other proceedings (beyond CPCNs), input from state agencies with the relevant expertise may allow the Commission to make an informed decision. SB 83 does not require these agencies to participate in such proceedings, however. The Commission handles a variety of proceedings including energy supplier licenses, utility rate cases and mergers where other State agencies do routinely participate. For these types of proceedings, the Commission's Technical Staff would require additional resources and staff expertise to evaluate impacts on the State's GHG emissions reduction goals and specifically, "*the best available scientific information recognized by the Intergovernmental Panel on Climate Change*". Ultimately, Technical Staff would need to acquire specialized knowledge and expertise regarding climate change to provide the level of analysis needed to inform the Commission's decision-making pursuant to SB 83.

Fair and Stable Labor Standard Requirements

SB 83 also adds the consideration of labor standards to the Commission's general supervisory and regulatory power over public service companies. Specifically, the proposed legislation would require that the Commission assess utility compliance with "fair and stable labor standards" in all regulated activities to include ratemaking, CPCNs, mergers, enforcement, and other matters. In addition, SB 83 requires gas and electric companies to report labor information to the Commission annually for compilation into a report to the General Assembly.

This proposed requirement will likely require a rulemaking to develop standardized and meaningful reports. While the Maryland Department of Labor ("DOL") handles an array of labor and employment issues -- including enforcement of laws concerning wages and time off -- the Commission is not required or staffed to make decisions about labor standards. DOL does not participate in Commission proceedings. Accordingly, SB 83 would require additional staff resources at the Commission with expertise in labor standards to properly evaluate labor impacts and to implement the reporting requirements contained in the legislation.

Conclusion

The PSC lacks the necessary technical and scientific expertise to implement the labor standards and reporting requirements, and climate change consideration requirements, as envisioned in SB 83. To implement SB 83 without additional resources, the Commission would need to rely on the analyses and recommendations of other state agency experts, such as MDE, PPRP, and DOL on a regular basis. However, absent the provision of such assistance, the Commission will need to hire additional staff with the requisite specialized knowledge and/or expertise.

Thank you for your consideration of this information. Please contact Lisa Smith, Director of Legislative Affairs, at (410) 336-6288 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jason M. Stanek".

Jason M. Stanek
Chairman