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Committee: Economic Matters

Testimony on: HB891 “Independent Study of the Public Service Commission (PSC Study Act of 2023)”

Position: Support

Hearing Date: March 9, 2023

The Maryland Chapter of the Sierra Club strongly supports HB891 and urges a favorable report. This legislation will require the Public Service Commission (PSC, “the Commission”) to contract with an independent entity to conduct a study of the staffing capacity, structural organization, processes, and strategic focus of the Commission. For the following reasons, we believe that this is an extremely valuable step and one that will benefit the PSC at a time when new Commissioners are taking office and an increasing number of important demands are being put upon the agency.

The PSC regulates electric and gas utilities and suppliers, telephone companies (land lines), certain water and sewer companies, passenger motor vehicle carriers for hire, taxicab companies (in Baltimore City and County, Charles County, Cumberland, and Hagerstown), and Chesapeake Bay pilot rates. Among this multiplicity of duties, the regulation of electric and gas utilities and suppliers has major impact in relation to adoption of clean energy sources and greenhouse gas reduction. The Commission’s oversight and decisions affect the investments of billions of dollars by entities that are themselves for-profit and whose institutional priorities may not fully coincide with the public interest. Their decisions also affect the economic lives of all of Maryland’s citizens, by determining present costs of essential energy and by permitting – or not – investment plans that create significant economic commitments in the future.

The energy sector and the PSC itself are emerging from a long era of centralized generation of energy (or provision of a commodity, in the case of gas) by a small number of large corporate entities, with uni-directional distribution to customers. That era is increasingly giving way to distributed generation of energy and to customers who both consume and produce energy (and maybe even aggregate their contributions into the wider marketplace).

The PSC is at the nexus of the decisions that need to be made as Maryland goes through this transition of our energy sector, and at the intersection of the major economic, technological, policy, and resource availability changes that are already happening. These forces and decisions, with the PSC in a key regulatory and oversight role, will determine how and how fast we can expand clean renewable energy, including wind, solar, and associated storage. They will determine how, and by whom, electric vehicle charging capacity can be developed. They will determine the rate at which we can transition homes and buildings from fossil fuels to clean energy. And they will determine whether utility investments are made that are not in the direction of this clean energy transition, and that might result in significant burdens of stranded asset costs that will fall upon ratepayers and possibly even taxpayers.

Founded in 1892, the Sierra Club is America’s oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

At the same time, we are undergoing another equally important transition in the energy sector: a focus on energy justice. The drive to close coal-fired power plants revealed the reality that the health-harming pollutant effects of these plants fell most heavily on low-income and minority communities. We have finally come to see the impact of high energy cost burdens, effects of differential billing, and underrepresentation in the decision-making process that these communities experience. And we know that we must undo these inequities. The PSC has acknowledged that this is an area in which it does not have much capacity.

We recognize that the PSC has informed the legislature in recent years of its constrained capacity and has very recently completed an internal assessment of key aspects of that capacity. Its December 22nd report focuses on important issues of unfilled staff positions, staff retention, and Human Resource management limitations stemming from new administrative arrangements.¹ These are valid and important findings, and we have separately testified in support of the PSC's requests for resources to fill empty positions and deal with some of these limitations.²

However, providing adequate numbers of staff is not likely to be enough. Managing the complex and difficult transitions of our energy sector also requires new competencies, new working relationships, and new perspectives by every public utility commission, including our PSC. The PSC's recent study notes that other states have modernized their comparable commissions to address the transition to clean energy.³ The study established by HB891 will help define these requirements.

The PSC is the venue at which many critical policies, programs, and targets established by the legislature itself are turned into reality. In that context, we have been concerned by the outcomes of several key mandates and concerns that have been sent to the Commission in recent times. These include:

- The so far incomplete movement to consider “protection of the global climate from continued short-term and long-term warming” and “achievement of the state’s climate commitments for reducing statewide greenhouse gas emissions” in the Commission’s supervision and regulation of public service companies, as required under 2021’s HB298/SB83 as enacted (now Public Utilities Article 7 2-113. 8 (a)).
- The long delay in implementing 2021’s HB397/SB31 (now Public Utilities Article Section 4-308(b)(1)), which requires 3rd party electricity suppliers to cap electricity cost at the Standard Offer Service level to households receiving Energy Assistance; regulations have only this year been drafted and not yet finalized, and will allow a large number of non-compliant contracts to continue.

¹ Public Service Commission of Maryland, Public Conference 57, Modernizing the Commission’s Staffing and Resources, Summary Report, Prepared for the Commission by the Public Conference 57 Work Group, Andrew Johnston and Amanda Best, Public Conference 57 Work Group Leaders, December 22, 2022 (“PSC Report”).

² Sierra Club Testimony before the Transportation and Environment Subcommittee (Appropriations Committee) on Budget Hearing – Public Service Commission (C90G00), February 27, 2023.

³ PSC Report, pp. 4-5.

- The PSC’s decision last year to allow utilities to apply for federal infrastructure grants without public or legislative input, despite the urging of legislature leaders to allow such input.⁴
- The lack of progress in implementing the provisions of Subtitle 8 of the Climate Solutions Now Act (Article II, Section 17(b) of the Maryland Constitution - Chapter 38, April 9, 2022) that establish state goals for consideration of greenhouse gas reduction, expansion of renewable energy, and prioritization of vulnerable communities in utilities’ Distribution System Planning Process.

Within this context of major sectoral transformation and incomplete progress, HB891 will provide a systematic organizational assessment of the PSC’s technical capacity, organization, internal processes, interaction with other state agencies, and resources, and provide recommendations on how they might be strengthened. It will help answer critical questions such as:

- What technical capabilities will the PSC need to deal with these new and rapidly changing technical areas and economic forces?
- Will doing so require changes in organization and structure?
- Because much of the new investment in clean renewable energy will be made by new private-sector entities large and small, how will their interests be represented in PSC processes?
- Is the current Working Group process effective in dealing with key issues?
- What role should consultants, and consultation with other state agencies, play in dealing with the complex issues facing the PSC?
- How can equity, and the effects of policy and regulatory decisions on underserved and vulnerable communities, be incorporated into the PSC’s decision-making processes?

By examining these and other important questions through input from PSC leaders, staff, and stakeholders, including regulated parties, public interest groups, and affected communities – and by identifying best practices used by other states’ public utility commissions – this study will provide valuable insights and recommendations for the Moore-Miller administration and PSC leadership itself.

Those findings and recommendations are intended to help Maryland and the Commission successfully address the important challenges we face in developing the carbon-free and equitable energy system that we must have.

We strongly support this forward-looking proposal and urge a favorable report.

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⁴ Inside Climate News, “A Controversial Ruling Puts Maryland’s Utility Companies in Charge of Billions in Federal Funds;” July 30, 2022.