

HB1186 Public Service Companies - Annual Report on

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB1186

Public Service Companies - Annual Report on Votes Cast at Meetings of Regional Transmission Organizations

Bill Sponsor: Delegate Charkoudian

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB1186 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

There have been many pieces of legislation passed and rules enacted to try to get governmental agencies in Maryland to be transparent. There are rules about meeting notifications and rules about releasing information on websites and other mediums. But transparency remains a problem.

The Public Service Commission (PSC) is a key regulatory agency that controls the buildout of fossil fuel infrastructure in the state. Given the fact that fossil fuels are killing us all and our planet, the state has moved decisively and strongly in the direction of phasing out fossil fuels. And yet there are members of the Public Service Commission who do not see the wisdom of phasing out fossil fuel infrastructure, and based on decisions made in the last year, are very much in favor of continuing to support the fossil fuel industry and build out even more fossil fuel infrastructure.

The bill will require the Public Service Commission to do two things –

- Provide transparency into the voting on projects bought before the PSC
- Provide the reasoning behind how the votes are in the best interest of the public that they serve

Passing this bill will provide much-needed transparency into the process, and hopefully through that transparency, ensure that the PSC is actually working in the best interests of the public.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

OPC Testimony HB1186 in the Senate - Favorable.pdf

Uploaded by: David Lapp

Position: FAV

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BILL NO.: House Bill 1186
Public Service Companies - Annual Report on Votes Cast
at Meetings of Regional Transmission Organizations

COMMITTEE: Education, Energy, and the Environment

HEARING DATE: March 28, 2023

SPONSOR: Delegate Charkoudian

POSITION: Favorable

The Office of People’s Counsel strongly supports House Bill 1186 for the transparency it would require of public service companies when making decisions that have significant ramifications for utility customers.

The bill requires public service companies to submit to the Public Service Commission an annual report “of any recorded vote cast by the public service company at a meeting of a regional transmission organization ... regardless of whether the vote is disclosed by the regional transmission organization; and [including] a brief description explaining how each vote cast by the public service company is in the interest of the public.”

Currently, certain high-level votes are disclosed by PJM Interconnection, LLC, the regional transmission organization for Maryland. There are numerous lower-level committees and task forces where transmission planning protocols and market rule changes are developed and where the votes are not disclosed. Requiring public service companies to report on “any recorded vote” would provide additional needed transparency for decisions that results in hundreds of millions of dollars that are paid for by utility customers.

OPC also supports the requirement for public service companies to explain “how each vote cast by the public service company is in the interest of the public.” Public service companies are provided with State-granted monopolies in order to perform

important public functions and are required to operate “in the interest of the public.”¹ At the same time, however, many public service companies are private companies with fiduciary obligations to earn profits for their investors. Unless effectively regulated, public service company votes at PJM can result in serious misalignments with the public interest. Requiring companies to explain “how each vote cast by the public service company is in the interest of the public” will help regulators assess whether the companies’ votes do, in fact, serve the public interest, and not just the companies’ private interests.

Recommendation: OPC requests a favorable Committee report on HB 1186.

¹ Public Utilities Article § 2-113(a) requires the Commission to “supervise and regulate the public service companies subject to the jurisdiction of the Commission to ... ensure their operation in the interest of the public.”

Testimony on Utility Transparency HB1186.pdf

Uploaded by: Debbie Cohn

Position: FAV

Committee: Education, Energy and the Environment
Testimony on: HB1186 – Public Service Companies – Annual Report on Votes Cast at Meetings of Regional Transmission Organizations
Organization: Individual
Submitting: Deborah Cohn, Bethesda 20817
Position: Favorable
Hearing Date: March 28, 2023

Dear Chair and Committee Members:

Thank you for accepting my testimony today in support of HB1186. HB1186 requires each public service company that is a member of a regional transmission organization (RTO), such as the PJM Interconnection (PJM), to submit an annual report to the Public Service Commission on votes cast by the public service company at a meeting of that RTO.

As an RTO, PJM operates competitive electric power markets and coordinates the movement of wholesale electricity, ensuring the safety and reliability of the electric grid in Maryland, the District of Columbia and 12 others states. It is the largest RTO in the country, serving 63 million customers. Members (only some of which have voting rights, and of which only a smaller subset are public utility companies subject to PSC jurisdiction) include electric generators, other suppliers, transmission owners, distributors and end-use customers.

HB1186 seeks transparency and accountability from public utility companies on their votes at PJM meetings, including lower-tier PJM committees. Votes by the PJM board, which set the grid operator’s policies and priorities, are already a matter of public record. This bill would make votes taken at PJM committee meetings by public utility companies that are subject to Maryland’s PSC jurisdiction a matter of public record as well.

While Maryland is trying significantly to reduce fossil fuel emissions. Interconnection of new emission free energy and battery storage projects to the PJM grid have been delayed, slowing our transition to reliable, low-cost emission free energy. We in Maryland have already experienced reliability constraints during a polar vortex and last December’s winter storm Elliott. You as a legislator, and the public as consumers have a right to know how the public utilities serving Maryland are voting in committees when they address transmission capacity, interconnection applications for zero emission energy generation and battery storage, and electricity pricing.

As a legislator, you are required to act “in the sunshine.” Your votes *and your deliberations at committee meetings* are public. HB1186 does not go that far. It does not require PJM meetings to be made public. Thus, it should neither encourage nor suppress wide-ranging creative ideation, heated discussion or group-think. It merely requires Maryland public utilities to disclose their votes both at board meetings *and at meetings of PJM committees*. You and we have a right to know how Maryland regulated public utility companies are voting on issues that impact Maryland.

For these reasons I encourage this Committee to issue a FAVORABLE report on HB1186.

Senate_Testimony.HB1186_Delegate Lorig Charkoudian

Uploaded by: Lorig Charkoudian

Position: FAV

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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB 1186- PUBLIC SERVICE COMPANIES- ANNUAL REPORT ON VOTES CAST AT
MEETINGS OF REGIONAL TRANSMISSION ORGANIZATIONS

TESTIMONY OF DELEGATE LORIG CHARKOUDIAN

MARCH 28, 2023

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee,

Maryland is one of 13 states and the District of Columbia that are members of the Regional Transmission Organization (RTO) known as PJM. PJM is the largest RTO in the US, serving over 63 million people and comprised of many utility companies and electricity generation facilities. It serves important functions such as ensuring grid reliability.

Currently, the MGA is laying the foundation for a clean energy transition that is thorough to support both federal and state net-zero targets and swift in order to avoid the worst impacts of climate change.

PJM is unknown to many; however, decisions made at PJM significantly affect our climate, Maryland's energy mix, and consumer utility rates. For example, PJM's decisions regarding the capacity market have kept fossil fuel generators running longer which has slowed down the transition to renewables and unnecessarily increased costs for rate-payers. Further, PJM's rules on interconnections have delayed the hook-up and development of new clean energy generating facilities. **PJM's decision making essentially has the ability to override our state's policies and can significantly hamper Maryland's clean energy goals because of its unilateral control of grid infrastructure.**

The purpose of this bill is to increase transparency and accountability of stakeholders at PJM. This bill will require that any electric utility that is a member of PJM disclose to the Maryland Public Service Commission any recorded vote they make within that organization, regardless if such disclosure is required by PJM itself. Specifically, this legislation will ensure that a utility's votes at PJM proceedings are in the public interest of Marylanders as is required by state law.

I respectfully request a favorable report on HB 1186.

HB1186_MDSierraClub_fav EEE 28March2023.pdf

Uploaded by: Mark Posner

Position: FAV



P.O. Box 278
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Committee: Education, Energy, and the Environment
**Testimony on: HB1186 “Public Service Companies – Annual Report on Votes Cast at Meetings
Regional Transmission Organizations”**
Position: Support
Hearing Date: March 28, 2023

The Maryland Chapter of the Sierra Club urges a favorable report on HB1186.

This bill will shine some needed light on the inner workings of Maryland’s electricity sector. Specifically, the bill will help illuminate the role that Maryland utilities play in a multistate, quasi-governmental electricity organization known as PJM Interconnection (PJM), which exerts significant control over the electricity sector, including decisions as to what new large electricity generation facilities are built in Maryland. The bill requires that Maryland utilities that belong to PJM annually disclose their recorded votes at PJM meetings during the preceding year by filing a report with the Public Service Commission (PSC). Currently, important votes are not disclosed. The reports filed with the PSC also will be required to include brief explanations of how the PJM votes served to advance the public interest.

The transparency provided by this bill will enable the General Assembly, the PSC, the Office of People’s Counsel, and Marylanders in general to better understand and track how Maryland utilities exercise their voting rights within PJM, and thus participate in key decisionmaking regarding Maryland’s electricity sector. This sunlight, in turn, will allow interested officials, organizations, and individuals to engage with the utilities regarding their participation in PJM proceedings, without restricting the discretion utilities exercise when casting their PJM votes.

PJM

PJM is one of several multistate and single-state organizations that regulate electricity grids within the United States. Stated broadly, PJM “coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia,” including Maryland.¹ This coordination involves several essential tasks, including decisions on what new large electricity generation facilities may interconnect with the electricity grid.²

As a result, PJM is a key gatekeeper governing Maryland’s efforts to significantly expand its home-grown, clean electricity generation, including (but not limited to) state support for building offshore wind turbines and utility-scale solar fields. These large generation facilities not only must receive state-level approval by the PSC (for facilities larger than two megawatts), but their ability to feed power into the electricity grid must be approved by PJM. Community solar and rooftop solar facilities do not require PJM approval.

¹ <https://www.pjm.com/about-pjm>.

² [https://en.wikipedia.org/wiki/Regional_transmission_organization_\(North_America\)](https://en.wikipedia.org/wiki/Regional_transmission_organization_(North_America)). PJM further influences what transmission facilities are built, electricity market rules that may help or hinder participation in markets by distributed energy resources, energy efficiency, and demand response, and the amount that consumers pay for electricity.

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.

PJM policies and procedures are regulated by the Federal Energy Regulatory Commission (FERC) and, within the FERC framework, PJM policies, procedures, and actions are decided upon by its members, who include utility companies and electricity generators. PJM procedures include several levels of member voting, and voting other than at the highest level is conducted by secret ballot. Consequently, it currently is difficult for those who are subject to, or affected by, these PJM votes to know how the individual PJM members are exercising their discretion.

The Huge PJM Bottleneck on Approving Interconnection of New, Clean Energy Facilities

For several reasons, PJM's process for approving interconnection of new electricity generation facilities substantially broke down in recent years, creating a huge bottleneck (and effectively a chokehold) on new clean energy generation throughout the PJM area, including Maryland. In May 2022, PJM told FERC that it had 2,700 projects sitting in line waiting for review and approval, which would provide more than 250 gigawatts of electricity, and that more than 95% of these projects were for wind, solar, battery storage, or a combination of wind or solar with storage.³ The approval delays have meant that the development of large clean energy projects has slowed to a crawl, and some clean energy projects have been abandoned.⁴

In June of last year, FERC approved new PJM review and approval procedures that are expected to speed up the process.⁵ Still, the backlog is not expected to be cleared until early 2026, and so PJM will not begin to consider new applications until then.⁶ Additional reforms may be proposed to PJM to further improve the review process.⁷

HB1186

As PJM continues to address its interconnection difficulties, and Maryland's clean energy efforts suffer due to PJM delays, it is important that Maryland's public officials, regulators, and residents know how Maryland utilities are casting their recorded votes at PJM meetings. Although PJM allows votes at lower levels to be cast in secret, Maryland's authority to regulate its utilities enables the State to require that these recorded votes be disclosed. This will allow interested officials, organizations, and individuals to engage with the utilities regarding their votes, while retaining utilities' authority to decide how these votes should be cast.

For these reasons, the Maryland Chapter of the Sierra Club urges a favorable report on HB1186.

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³ <https://www.utilitydive.com/news/ferc-pjm-interconnection-reform-plan-queue/637717/> (Utility Dive Brief on PJM interconnection reform).

⁴ <https://www.nytimes.com/2023/02/23/climate/renewable-energy-us-electrical-grid.html?searchResultPosition=1>.

⁵ <https://insidelines.pjm.com/ferc-approves-interconnection-process-reform-plan/>.

⁶ See fn. 3, Utility Dive Brief on PJM interconnection reform.

⁷ Id.

HB1186_IndivisibleHoCoMD_FAV_RichardDeutschmann.pd

Uploaded by: Richard Deutschmann

Position: FAV



HB1186 – Public Service Companies - Annual Report on Votes Cast at Meetings of Regional Transmission Organizations

Testimony before

Senate Education, Energy, and the Environment Committee

March 28, 2023

Position: Favorable

Mr. Chair, Mdm. Vice Chair and members of the committee, my name is Richard Deutschmann, and I represent the 750+ members of Indivisible Howard County. We are providing written testimony today in support of HB1186, to bring greater transparency to electric utility involvement with Regional Transmission Organizations. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We appreciate the leadership of Del. Charkoudian for sponsoring this important legislation.

The electric utility companies in Maryland – PEPCO, BG&E, First Energy & Delmarva Power, all belong to decision-making bodies within the largest of the Regional Transmission Organizations – the PJM. Decisions that are made at the PJM directly affect Maryland, our ratepayers, and our climate goals. Up to this point, these votes that are taken at the PJM are done behind closed doors, with no voting record of how these entities are influencing this body. As a result, fossil fuel power plants are operating for longer periods than may be necessary, and the development and interconnection of clean energy across the region has been slowed.

This bill will improve accountability and transparency, by requiring Maryland utilities to disclose every vote that they take at the PJM, to the Maryland Public Service Commission. This will ensure that our utilities are voting in the best interest of Marylanders, and will be held to greater account before our elected bodies if they are voting against our interests. This is an excellent bill, and will help to speed up our transition to clean energy across the region.

Thank you for your consideration of this important legislation.

We respectfully urge a favorable committee report.

Richard Deutschmann
Columbia, MD 21045

2023- HB 1186-PHI-OPP-Senate- 3.28.23 Final.pdf

Uploaded by: Anne Klase

Position: UNF



March 28, 2023

112 West Street
Annapolis, MD 21401

Oppose- House Bill 1186- Public Service Companies- Annual Report on Votes Cast at Meetings of Regional Transmission Organizations

Exelon respectfully opposes *House Bill 1186- Public Service Companies- Annual Report on Votes Cast at Meetings of Regional Transmission Organizations*. House Bill 1186 requires each public service company that is a member of a regional transmission organization to provide to the Maryland Public Service Commission (PSC) an annual report on votes cast by the public service company at any meeting of the regional transmission organization (RTO). The report includes all votes cast by the public service company, regardless of whether the vote is already disclosed by the RTO, as well as an explanation of how each vote cast by the public service company is in the interest of the public.

Exelon is a member of PJM Interconnection (PJM), the RTO that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia and is responsible for transmission planning to serve that region. PJM is exclusively regulated by the Federal Energy Regulatory Commission (FERC) through the Federal Power Act.

PJM holds regular meetings with stakeholders, which are integral to developing and refining PJM's rules, policies, and processes. Additionally, many different subcommittees and groups that are part of PJM's governance structure and help administer an open grid and transparent market hold 100's of meetings throughout the year. Meetings are open to the public and the press, with few exceptions and many votes are both formal and recorded. At some lower-level PJM stakeholder committee meetings, votes are not recorded because the structure is intentional to encourage consensus building and brainstorming. The stakeholders recognize the unique role of the stakeholder process in exploring, solving and negotiating regional solutions for the RTO and the wholesale power markets.

At the PJM Members Committee, which is the senior most standing committee and through which every major vote is taken, votes are recorded by company and are publicly available and published by PJM. It is **only** at the PJM Members Committee that votes are considered "final" which is why there is a detailed record of how all participating PJM Members voted on a matter.

In addition, the stakeholders understand the importance of transparency of the process to all those affected by it. The PJM Manual requires that all members acknowledge that documents, reports, slide shows, and other written material used are intended to be works in progress and to encourage dialogue, discussion, debate, and preferably, movement towards consensus. Therefore, these work products and discussion should be treated in the spirit to which they are intended, that is not as final or complete documents nor the final position or view of a participant. The current structure of voting accomplishes that goal and is, itself, in the public interest. (See PJM's Manual 34 Section 4.5)

Apart from that, however, House Bill 1186 is preempted by federal law. The rules governing PJM stakeholders' right to vote on PJM committee matters, including the disclosure of those votes and/or the reasoning underlying those votes, are matters that are within FERC's exclusive legal authority over PJM's operating rules and procedures. By requiring a public service company to explain how votes cast at PJM meetings on issues that are completely within the scope of federal jurisdiction are in the *State's* public interest, the bill attempts to regulate areas—the wholesale power market and oversight of regional transmission operators—that Congress has exclusively delegated to the federal government. House Bill 1186 interferes with and intrudes on FERC's exclusive legal authority.

Finally, the proposed statute change would impose a vague “public interest” standard on a private company's activities and votes regarding the interstate wholesale power market and transmission grid which spans multiple states. As a result, House Bill 1186 has the practical effect of impermissibly regulating interstate commerce in violation of the Dormant Commerce Clause. PJM, under the federal regulatory oversight of FERC, operates the regional transmission grid and wholesale power market, which are quintessential areas of interstate commerce. The Dormant Commerce Clause prohibits states from interfering with interstate commerce by interjecting one state's regulatory regime on otherwise interstate conduct. Public service companies vote at PJM on issues related to the interstate wholesale power market and related to their roles as transmission asset owners, not as distribution utilities, since PJM operates as a regional transmission organization. Requiring a company to demonstrate how each of its votes in PJM are in the interest of the public is an impermissible regulation of interstate commerce.

Exelon opposes House Bill 1186 as it is pre-empted by federal law and is in violation of the Dormant Commerce Clause. Not only are there legal implications with the proposed legislation, it is poor policy. This legislation, even were it lawful, has the ability to curb innovation and collaboration at a time when all hands should be on deck considering many novel ideas to help ensure our grid is safe, reliable and resistant to climate change. Exelon understands that some parties are interested in additional transparency beyond the substantial transparency already assured under current law and PJM procedures, however we believe there are other opportunities and options for sharing information and ideas. House Bill 1186 is unnecessary, administratively overburdensome and intrudes upon activity that is exclusively federally regulated. Exelon respectfully requests that the Committee issue an unfavorable committee report on House Bill 1186.

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