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PUBLIC SERVICE COMMISSION

February 27, 2024

Chair C.T. Wilson
Economic Matters Committee
Room 231 House Office Building
Annapolis, MD 21401

RE: **HB1393- Information - Electric System Planning - Scope and Funding**

Dear Chair Wilson and Committee Members:

During the 2022 Legislative session, the Maryland General Assembly passed the Climate Solutions Now Act of 2022 (SB0528), which requires the Public Service Commission (Commission) to establish distribution system planning regulations by July 1, 2025, among other things. HB1393 modifies the Public Utilities Article (PUA) §§7-801, 7-802, 7-803, and 7-804, Annotated Code of Maryland, which were all enacted under the Climate Solutions Now Act of 2022 predominantly pertaining to the goals and establishment of regulations of electric distribution system planning.

Most provisions within HB1393 are to make PUA §§7-801, 7-802, 7-803, and 7-804 more broadly applicable to “electric system planning” instead of specific to “electric distribution system planning.” The electric system planning processes encompassed by these revised sections appear to consider all aspects of the electric grid - distribution, transmission, and generation.

The Commission notes that modifying the intent of PUA §§ 7-801, 7-802, 7-803, and 7-804 to more broadly cover electric system planning, instead of electric distribution planning, and to adopt regulations or issue orders to implement specific policies for electric system planning may conflict with processes overseen by Federal Agencies. For example, the Federal Energy Regulatory Commission (FERC) has jurisdiction over electric transmission planning pursuant to the Federal Power Act, 16 U.S. Code § 824. The state cannot dictate electric transmission planning policies pursuant to Article VI, Paragraph 2 of the U.S. Constitution, commonly referred to as the Supremacy Clause, that establishes that federal law takes precedence over state laws, among other things. The State can attempt to coordinate electric system planning with the PJM Interconnection, which is the FERC designated transmission planner for Maryland, but the state cannot unilaterally set new transmission planning policies as contemplated by the revised requirement in §7-804 that requires that before July 1, 2025, the Commission shall adopt regulations or issue orders to implement specific policies for electric system planning.

In addition, the Commission notes that the scope of the Commission annual report due to the General Assembly under PUA §7-802 starting on December 1, 2024, is modified under HB1393 to now require information regarding projects designed to promote the goals of the section. Without further defining the scope of what is meant by “project”, it is possible that thousands of different electric utility projects in Maryland may affect the twelve specific policy goals identified in PUA §7-802. With this expansion of reporting requirements, the Committee may want to consider changing the initial Commission report requirement under PUA §7-802 to be deferred from December 1, 2024, until December 1, 2025, to allow sufficient time for the Commission to develop the process to identify and obtain this information from the utilities to satisfy this reporting requirement.

The additional requirement in PUA §7-804 to **require** investment in demand-side methods and technology to improve reliability and efficiency, including virtual power plants, is specific in favoring certain investment types. This specificity may not result in the most cost-effective outcome. Therefore, the Committee may want to consider changing the requirement to invest in demand-side methods and technology to improve reliability and efficiency, including virtual power plants to a requirement to **consider cost-effective investment** in demand-side methods and technology to improve reliability and efficiency, including virtual power plants.

Finally, HB1393 will require additional work that can be accommodated with existing resources at the Commission. However, the Commission is concerned with the achievability of issuing regulations in compliance with the July 1, 2025, deadline in PUA §7-804 due to the expanded scope in HB1393. The Commission has already issued orders and established a work group to develop regulations to enact PUA §7-804 as written today. Currently the work group is required to provide a final report on April 30, 2024, regarding Maryland electric distribution system planning practices, and then the work group will begin drafting regulations for approval of final regulations to be effective by July 1, 2025. As HB1393 modifies the intent and items to be covered by the regulations, the Commission believes that the existing July 1, 2025 deadline in PUA §7-804 needs to be extended by 6 - 12 months.

I appreciate the opportunity to provide informational testimony for HB1393. Please direct any questions you may have to Christina Ochoa, Director of Legislative Affairs, at christina.ochoa1@maryland.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frederick H. Hoover".

Frederick H. Hoover, Chair
Maryland Public Service Commission