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112 West Street
Annapolis, MD 21401

UNFAVORABLE - House Bill 1420 - Cybersecurity - Office of People's Counsel, Public Service Companies, Public Service Commission, and Maryland Cybersecurity Council

Potomac Electric Power Company (Pepco) and Delmarva Power & Light Company (Delmarva Power) respectfully oppose **House Bill 1420- Cybersecurity - Office of People's Counsel, Public Service Companies, Public Service Commission, and Maryland Cybersecurity Council**. This legislation requires the Office of People's Counsel (OPC) to hire at least one assistant people's counsel with cybersecurity expertise to advise the people's counsel on measures to improve oversight of cybersecurity practices of public service companies, consult with the office of security management on cybersecurity issues related to utility regulation, assist the OPC in monitoring the minimum-security standards and participate in briefings on cybersecurity practices. It also requires public service companies to engage with a third party to conduct assessments that analyze certain critical software. Finally, House Bill 1420 creates new definitions and expands on terms related to cyber security.

In the 2023 legislative session, the General Assembly enacted House Bill 969 - Critical Infrastructure Cybersecurity Act of 2023. The legislation added cyber security staff to the Maryland Public Service Commission (Commission) and requires them to establish minimum cyber security standards for public utilities. Specifically, the legislation: (1) requires the Commission to include one or more cybersecurity experts on its Staff to advise the Commission and perform certain duties; (2) requires the Commission to establish minimum cybersecurity standards and best practices for regulated entities and share cybersecurity related information/best practices with municipal electric utilities; (3) requires the Commission to conduct and submit an evaluation of the public service companies' assessments to Maryland Department of Information Technology ("DoIT") Office of Security Management and the Maryland Department of Emergency Management ("MDEM") and (4) requires public service companies to adopt and implement cybersecurity standards and conduct assessments, and report cyber security incidents.

Pepco and Delmarva Power are concerned that House Bill 1420 expands and potentially conflicts with the 2023 statute which is currently being implemented through a rulemaking process at the Commission. Since House Bill 969 was enacted into law, the Commission has been working with the Cybersecurity Reporting Work Group, a group established by the Commission in 2017 to work on a framework for future cybersecurity reporting. The group has met several times to discuss implementation but has not reached consensus on several issues raised by the public service companies, namely scope of proposed cybersecurity regulations, cybersecurity incident reporting, zero trust implementation, confidentiality and compliance and enforcement, among other things.

Pepco and Delmarva Power are concerned that, as written, House Bill 1420 includes definitions such as “zero-trust” and others that conflict with current statutes and regulations. Additionally, the definition of “critical software” is overly broad and changes the scope for assessments defined in the Critical Infrastructure Cybersecurity Act. Pepco and Delmarva Power support aligning the definitions and standards with an existing cybersecurity framework (NIST-CSF) and should be not prescriptive to avoid introducing operational and security issues for non-federally regulated assets. A zero-trust cybersecurity approach should be defined as a public utility company’s strategy to incorporate zero-trust concepts into its risk management program. Pepco and Delmarva Power respectfully ask that the process underway to adopt regulations for House Bill 969 be finalized before we consider additional legislation.

Finally, Pepco and Delmarva Power are concerned that this legislation inappropriately expands OPC’s statutory authority by giving OPC regulatory oversight over utility cybersecurity standards. OPC is a statutorily created advocacy agency, representing residential utility customers. Pepco and Delmarva Power believe it is inappropriate for one agency to be both an advocate and a regulator.

Pepco and Delmarva Power are committed to continuing to work with the bill sponsor and all stakeholders on the aforementioned concerns, but respectfully asks the Committee to issue an unfavorable report on House Bill 1420.

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