

OPPOSE – House Bill 1393
HB1393 – Electric System Planning – Scope and Funding
Senate Education, Energy, and the Environment Committee
Thursday, March 21, 2024

Potomac Edison, a subsidiary of FirstEnergy Corp., serves approximately 285,000 customers in all or parts of seven Maryland counties (Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington). FirstEnergy is dedicated to safety, reliability, and operational excellence. Its ten electric distribution companies form one of the nation's largest investor-owned electric systems, serving customers in Ohio, Pennsylvania, New Jersey, New York, West Virginia, and Maryland.

Unfavorable

Potomac Edison / FirstEnergy opposes House Bill 1393 – *Electric System Planning – Scope and Funding*. HB-1393 proposes removing “distribution” from several sections added to the statute as part of the 2022 Climate Solutions Now Act. It also creates requirements for the Public Service Commission to issue rules for utilities to pursue federal funds and invest in demand-side reliability methods.

Potomac Edison / FirstEnergy requests an Unfavorable report on HB-1393 because of its over-reaching scope into interstate transmission planning, additional reporting requirements, and complicated financing rules.

Removing the word “distribution” throughout the text of this legislation suggests that “transmission planning” (as well as other assets not identified) could now be subject to state goals. This change is over-reaching, as the Public Service Commission is the agency that regulates the electric “distribution” system in Maryland, but it is the Federal Energy Regulatory Commission that has jurisdiction over electric “transmission system” planning per the Federal Power Act. Maryland 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. Transmission planning is accomplished on an interstate basis, and transmission lines are not constructed or operated with state boundaries or state goals in mind. Attempting to modify the intent of this legislation to broadly cover all electric system planning, instead of sticking to electric “distribution” planning, conflicts with processes already overseen by the Federal Agencies.

The bills requirement for utilities to utilize “least-cost debt” is particularly puzzling. Utilities finance operations through a combination of debt and equity, and it is the Public Service Commissions responsibility to determine appropriate rate recovery. It would not be in the state’s best interest to have separate debt issuances for specific projects, as this could create market risk if a utility became highly leveraged in debt. This legislation is taking a well-functioning, long-established financing approach and inserting uncertainty and additional risk for consumers in Maryland.

Lastly, and perhaps most compelling, the Public Service Commissions Distribution System Planning work group has been meeting for over a year working on what is already in statute, with a final report due to the Commission by April 30, 2024, and a requirement for Commission approval of final regulations by July 1, 2025. Adding “transmission planning” to their duties at this late stage is a distraction from their main focus and is not appropriate. **Potomac Edison / FirstEnergy respectfully request an Unfavorable report on HB-1393.**