

2024_HB1393_FAV_Written_Senate.docx.pdf

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Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB 1393: Electric System Planning - Scope and Funding

Position: FAV

March 21, 2024

Good afternoon, Mr. Chair, Madam Vice Chair, and members of the Senate Education, Energy, and the Environment Committee. I am Delegate Crosby, here to present to you HB 1393: Electric System Planning - Scope and Funding.

This bill will modify an existing requirement that the Public Service Commission submit an annual report. This report will be required to include the current status of projects designed to promote several extant goals, plus modifying a goal to provide additional capacity to accommodate increased distributed renewable electricity generation in connection with electric transmission and distribution system modernization.

The bill also states that the General Assembly strongly encourages electric companies to diligently pursue federal funds to meet our goals for the electric system, including funds made available under the Federal Inflation Reduction Act. It also requires the Maryland Energy Administration to identify funding sources that may be available to electric companies under the Federal Inflation Reduction Act. Companies will be required to report quarterly, and the Commission will be required to adopt regulations mandating that electric companies apply for funding, and in order to ensure that least-cost debt is used.

The regulations adopted will be required to provide consideration to the unique characteristics inherent to investor-owned electric companies, electric cooperatives, and municipal electric utilities. In addition, the Commission will have the authority to determine whether it is necessary to establish separate requirements for these three different types of electric utilities.

The Commission will also be required to adopt regulations mandating the investment in demand-side methods and technology to improve reliability and efficiency, including virtual power plants. Existing labor standards will also apply to projects that make use of Federal Inflation Reduction Act funds.

I would like to note that the MEA and OPC have offered what I consider to be a friendly amendment: On page 4, in line 25, after "**REQUIRE**" insert "**CONSIDERATION OF**", and in the same line, after "**IN**" insert "**OR PROCUREMENT OF COST EFFECTIVE**".

Thank you for your time and consideration of this bill. I respectfully request a favorable report.

HB 1393 CF - MoCo DEP - Fitzgerald_FAV (GA 24).pdf

Uploaded by: Garrett Fitzgerald

Position: FAV



Montgomery County

Office of Intergovernmental Relations

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HB 1393

DATE: March 21, 2024

SPONSOR: Delegate Crosby

ASSIGNED TO: Education, Energy, and the Environment Committee

CONTACT PERSON: Garrett Fitzgerald (garrett.fitzgerald@montgomerycountymd.gov)

POSITION: Favorable (Department of Environmental Protection)

Electric System Planning - Scope and Funding

The Maryland Public Service Commission (PSC) plays a critical role, in coordination with other agencies, utilities, and organizations such as PJM Interconnection (PJM), in helping to plan, evolve and maintain the electric system serving Maryland. The PSC plays a lead role in distribution system planning, while PJM plays a lead role in transmission system planning.

This legislation makes several adjustments within the Public Utilities Article to clarify State goals, encourage more integrated electric system planning, and ensure that Maryland utilities are pursuing federal funding to lower the cost of grid modernization to ratepayers.

First, the bill would clarify that the State's policy goals related to greenhouse gas reduction, renewable energy, reducing dependence on imported energy, and achieving system resiliency, efficiency, and reliability apply to the electric system broadly, not just the distribution portion of the electric system. This expanded goal definition would inform future planning and implementation reporting by the PSC to the General Assembly. This is a reasonable change that should encourage the PSC to reflect and report on transmission system impacts of decisions within its purview, with the caveat that the PSC is not responsible for transmission planning and will have limited information in this area.

The bill also directs the PSC and the Maryland Energy Administration to support electric companies in applying for federal funding to improve Maryland's electric system generally, not only in the context of distribution system projects.

The bill would also require the PSC to require investment in demand-side methods and technology to improve reliability and efficiency, including virtual power plants. These are important strategies that should be pursued alongside energy efficiency programs to support ongoing electric grid reliability and affordability for ratepayers.

We respectfully request that the Education, Energy, and the Environment Committee issue a favorable report on House Bill 1393.

2024- PHI- HB1393- FWA EEE.pdf

Uploaded by: Anne Klase

Position: FWA



March 21, 2024

112 West Street
Annapolis, MD 21401

Favorable with Amendments – House Bill 1393: Electric System Planning - Scope and Funding

Potomac Electric Power Company (Pepco) and Delmarva Power & Light Company (Delmarva Power) support with amendments **House Bill 1393 – Electric System Planning – Scope and Funding**. This legislation expands the information the Public Service Commission (PSC) must provide to the General Assembly regarding electric systems. The legislation also requires the PSC to require each electric company to report at least quarterly to the PSC and Maryland Energy Administration (MEA) information related to IIJA and IRA funds sought. Additionally, House Bill 1393 requires the PSC to adopt regulations or issue orders to require electric companies to apply for federal funding and other available funds in a timely manner and to ensure that least-cost debt is used. Lastly, by July 1, 2025 the PSC shall adopt regulations or issues orders to require investment in demand-side methods and technology to improve reliability and efficiency, including virtual power plants.

House Bill 1393 removes the word “distribution” from 7-801, 7-802, 7-803, and 7-804 of the Public Utilities Article, much of which was enacted under the Climate Solutions Now Act of 2022 and predominantly pertains to the goals and establishment of regulations of electric distribution system planning. Many of the changes are broadly applicable to electric system planning instead of specific electric distribution system planning. The change from electric distribution system information to electric system information will now include transmission data in the annual report that the PSC provides to the General Assembly on the current status of projects designed to promote the goals of the State. Pepco and Delmarva Power are concerned about the legal implications this change may present, as transmission assets are not regulated by the PSC and this change conflicts with processes overseen by Federal Agencies. Transmission planning is accomplished on a more regional basis, and transmission lines are not constructed or operated with state boundaries or state goals in mind. Pepco and Delmarva Power recommend removing the brackets around “distribution” throughout the bill be removed.

Additionally, House Bill 1393 requires the PSC to adopt regulations that state electric companies must apply for federal and other available funds in a timely manner and ensure that least-cost debt is used. Pepco and Delmarva Power recognize that IIJA is a once-in-a-generation \$1.2 trillion bipartisan infrastructure funding opportunity focused on building resilient infrastructure, accelerating an equitable, clean energy transition and creating good-paying jobs in communities. These projects have the potential to create opportunities across the value chain and ensure an equitable and sustainable

energy future, specifically in areas historically subject to disproportionate economic burden and negative effects of climate change. Pepco and Delmarva Power are committed to applying for funding to ensure a clean energy future is accessible to all communities. However, it should be noted that two-thirds of this funding is not eligible for utilities to apply for. Pepco and Delmarva Power are concerned that utilities would be required to apply for all federal funding no matter what the project specifications are, or whether we are actually eligible. While we understand it is critical to reduce financial impacts on our customers as affordability is always at the forefront of all our investment decisions, we also have the responsibility to ensure we are applying for projects that make sense for our customers. Pepco and Delmarva Power will continue to look for opportunities to partner with the state and local partners to maximize federal funding opportunities. Pepco and Delmarva Power believe the current statute related to applications for federal funding and submitting reports should remain unchanged.

In addition, Pepco and Delmarva Power utilize a combination of debt and equity financing to support projects. If a utility is highly leveraged in debt, this decreases the stability of the utility and the utility's financial health, all of which can lead to increased costs to finance operations. Accordingly, we believe the language in House Bill 1393 is too restrictive and does not reflect the reality of how we finance projects and should be removed.

Pepco and Delmarva Power are committed to working with the bill sponsor and all stakeholders on amendments and respectfully request a favorable report with the amendments suggested.

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HB1393 in the Senate OPC Testimony.pdf

Uploaded by: David Lapp

Position: FWA

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BILL NO.: House Bill 1393
Electric System Planning - Scope and Funding

COMMITTEE: Education, Energy, and the Environment Committee

HEARING DATE: March 21, 2024

SPONSOR: Delegate Crosby

POSITION: Favorable with amendments

The Office of People’s Counsel (“OPC”) supports House Bill 1393 with the amendment described below. HB 1393 makes several changes to broaden the scope of the electric system planning directed in subtitle 8 of the Public Utilities Article.

By requiring the Public Service Commission to adopt regulations or issue orders “that require electric companies to apply for federal and other available funds in a timely manner,” HB 1393 aims to force the State’s electric utilities to reduce the costs they incur—and ultimately seek to recover from ratepayers—to meet State policy goals. Given the abundance of federal funding currently available for energy projects, and the potential for ratepayer savings, OPC strongly supports this requirement.

HB 1393 also would require the Public Service Commission to adopt regulations or issue orders related to reliability and efficiency improvements, including virtual power plants. The measures that the bill seeks to promote could provide important benefits to utility customers by reducing energy consumption and, therefore, customer bills. We are concerned, however, with the language as drafted. Specifically, the language would require investments without explicit limitation or other language to protect against unmitigated spending. Demand-side methods will be vital for Maryland to reach its energy policy goals and should occur in ways that are consistent with customer needs. The investments must be cost-effective. To this end, OPC recommends an amendment to

section 7-804(2) to clarify that the regulations or order require *consideration* of either investments in *or procurement of* demand-side measures that are *cost-effective*.

REQUIRE CONSIDERATION OF INVESTMENT IN OR PROCUREMENT OF COST EFFECTIVE DEMAND-SIDE METHODS AND TECHNOLOGY TO IMPROVE RELIABILITY AND EFFICIENCY, INCLUDING VIRTUAL POWER PLANTS;

The addition of this amendment will protect ratepayers from unnecessary spending by ensuring that the utilities consider all—and only—cost-effective options.

Recommendation: OPC requests a favorable Committee report on HB1393 with the amendment described above.

BGE_EEE_SWA_House Bill 1393 – Electric System Plan

Uploaded by: Dytonia Reed

Position: FWA

Support with Amendment
Education, Energy, and the
Environment
3/21/2024

House Bill 1393 – Electric System Planning – Scope and Funding

Baltimore Gas and Electric Company (BGE) supports with amendments *House Bill 1393 – Electric System Planning – Scope and Funding*. House Bill 1393 alters the policy goals related to electric distribution system planning and requires electric companies to seek available federal funding for electric system enhancements, including newly mandated investment in demand-side methods and technologies.

BGE understands and supports the need for electric system upgrades and investments in innovative technologies to ensure reliable power for our 1.3 million electric customers. Obtaining grants and federal funding for these projects is critical to reducing the financial impacts to our customers as affordability is one of the many factors considered when making investment decisions at BGE. Since 2020, BGE has applied for and/or supported over \$320M in grant funding for projects across central Maryland to offset project costs and promote affordability, support State policy goals such as environmental stewardship, climate goals, and digital equity, and advance a more resilient clean energy grid of the future. Many of these opportunities are from programs found in the Infrastructure Investment and Jobs Act (IIJA).

As drafted, House Bill 1393 mandates that the Public Service Commission (PSC) adopt regulations or issue orders requiring electric companies to apply for federal and other available funds in a timely manner and to ensure that the least-cost debt is used. BGE believes this would require electric utilities to apply for funding from sources in the IIJA or the federal Inflation Reduction Act, even if the proposed project does not fall within the parameters of those Acts. It takes significant effort to develop grant proposals and having flexibility to be strategic about the opportunities an electric company pursues allows them to focus their efforts on sources they believe have a higher probability of success and reduces the financial impacts on their customers. Additionally, the provision directing the PSC to adopt regulations or issue orders to ensure “least-cost debt is used” is wholly unnecessary. One of the many issues considered by the Commission during a base rate proceeding is the cost of debt. As with all other costs examined in a rate case, the Commission ensures that only prudently incurred costs of debt can be recovered from ratepayers. As such, BGE requests an amendment restoring the PSC’s flexibility under current law to adopt regulations or issue orders, which aligns with the General Assembly’s intent of encouraging, “electric companies of the State to pursue diligently federal funds to meet the State’s policy goals for the electric distribution system.”

BGE, headquartered in Baltimore, is Maryland’s largest gas and electric utility, delivering power to more than 1.3 million electric customers and more than 700,000 natural gas customers in central Maryland. The company’s approximately 3,400 employees are committed to the safe and reliable delivery of gas and electricity, as well as enhanced energy management, conservation, environmental stewardship and community assistance. BGE is a subsidiary of Exelon Corporation (NYSE: EXC), the nation’s largest energy delivery company.

Charles Washington | Brittany Jones | Guy Andes | Dytonia Reed | 410.269.5281

While the Maryland electric distribution system is regulated by the PSC, the electric transmission system is an interstate system regulated by the Federal Energy Regulatory Commission (FERC). As drafted, House Bill 1393 seeks to grant the PSC the authority to adopt regulations and issue orders related to the implementation of policies for the planning of and improvements to the entire electric system and mandates investments in demand-side methods and technologies. BGE requests amendments to eliminate this investment mandate as it removes the PSC's discretion and authority to make decisions regarding electric utilities that are in the best interest of the State of Maryland and its residents; and specify these provisions only apply to the electric distribution system.

BGE will continue to seek funding opportunities from available federal, state and third-party sources for projects that help the State achieve their climate goals. We thank the committee for your consideration of the aforementioned amendments and request their adoption prior to issuing a favorable committee report.

BGE, headquartered in Baltimore, is Maryland's largest gas and electric utility, delivering power to more than 1.3 million electric customers and more than 700,000 natural gas customers in central Maryland. The company's approximately 3,400 employees are committed to the safe and reliable delivery of gas and electricity, as well as enhanced energy management, conservation, environmental stewardship and community assistance. BGE is a subsidiary of Exelon Corporation (NYSE: EXC), the nation's largest energy delivery company.

Charles Washington | Brittany Jones | Guy Andes | Dytonia Reed | 410.269.5281

HB1393 - FWA - Senate.pdf

Uploaded by: Landon Fahrig

Position: FWA



Maryland Energy Administration

TO: Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee
FROM: MEA
SUBJECT: HB 1393 - Electric System Planning - Scope and Funding
DATE: March 21, 2024

MEA Position: FAVORABLE WITH AMENDMENT

This bill requires that the Maryland Public Service Commission (PSC) consider both distribution and related transmission in its current distribution system planning proceedings, and also requires that utilities invest in demand-side management technology.

Coordinated distribution and transmission system planning is critical for a resilient grid of the future. Both types of infrastructure can be expensive to build and maintain and should be deployed strategically. This bill helps make sure that transmission is part of Maryland's ongoing distribution planning efforts, such as the Distribution System Planning Workgroup currently underway at the PSC. The goals of projects that are designed to promote the provision of additional capacity should accommodate increased distributed renewable electricity generation in connection with transmission and distribution system modernization. Though the transmission system is regulated at the federal level by the Federal Energy Regulatory Commission (FERC), the PSC has an important role to play in siting and permitting. With rising electricity demand, extreme weather events, and as new energy generation assets (such as solar and wind) come online or are retired (such as coal plants), both the transmission and distribution systems are undergoing intense periods of change.

The bill also requires, on p. 4, that electric companies invest in demand-side management methods. MEA is concerned about legislative dictates that may be used to override the PSC's prudence review, and thus may ultimately lead to increased ratepayer expense.

MEA suggests the following amendment, p. 4: line 25: REQUIRE CONSIDERATION OF INVESTMENT IN OR PROCUREMENT OF COST EFFECTIVE DEMAND-SIDE METHODS AND TECHNOLOGY TO IMPROVE RELIABILITY AND EFFICIENCY, INCLUDING VIRTUAL POWER PLANT

MEA urges the committee to issue a **favorable report as amended**. Our sincere thanks for your consideration of this testimony. For questions or additional information, please contact Joyce Lombardi at joyce.lombardi1@maryland.gov or 443.401.1081.

Senate Opposition Letter - HB1393.pdf

Uploaded by: Timothy Troxell

Position: UNF

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.**

HB1393_Information_PSC for Senate.pdf

Uploaded by: Frederick Hoover

Position: INFO

FREDERICK H. HOOVER, JR.
CHAIR

MICHAEL T. RICHARD
ANTHONY J. O'DONNELL
KUMAR P. BARVE
BONNIE A. SUCHMAN



PUBLIC SERVICE COMMISSION

March 20, 2024

Chair Brian Feldman
Education, Energy and the Environment Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401

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

Dear Chair Feldman 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,



Frederick H. Hoover, Chair
Maryland Public Service Commission