STATE OF MARYLAND

PUBLIC SERVICE COMMISSION

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

RE: **SB 825 - Information - Public Safety - Critical Infrastructure Protection**

Dear Chair Feldman and Committee Members:

The Public Service Commission (the "Commission") appreciates the opportunity to provide this informational testimony for SB 825. This bill creates a new continuous mandate that the Commission Office of Cybersecurity determine threat levels to the State's critical infrastructure in coordination with the new Critical Infrastructure Protection Branch ("Branch"). This is an active endeavor that will likely require the routine, potentially daily or weekly, dissemination of intelligence and the sanitization of classified utility data for inter-agency application. Below, the Commission identifies potential impediments to effective implementation of this bill and solutions the Committee can consider.

The Commission has identified three areas where the requirements of SB 825 may conflict with or complicate existing mandates under the Critical infrastructure Cybersecurity Act of 2023. These are as follows:

1. Proposed § 14-1403(b)(5) directs the Branch to engage critical infrastructure providers on "voluntary cyber and physical assessments." Under current Public Utilities Article (PUA) § 5-306(c)(4), regulated utilities are legally required to engage a third party for mandatory assessments every two years. Furthermore, under PUA §2-108(d)(3)(v), the Commission is mandated to support public service companies with remediating vulnerabilities. This may create a "regulatory collision." A utility might undergo a voluntary assessment with the Branch that uses different standards than the mandatory Commission assessment, which could result in contradictory findings leading to legal challenges. To avoid this issue and prevent duplicative or contradictory findings, the bill could be amended to clarify that for regulated public service companies, the Commission remains the primary authority for assessments.

2. Proposed § 14-1404(c)(2) mandates that the Department of Information Technology (DoIT) provide up-to-date cybersecurity reporting standards to owners of critical infrastructure. This appears to conflict with PUA § 5-306(d)(2), which explicitly states that the State Chief Information Security Officer must establish these processes "in

consultation with the Commission." If DoIT issues new reporting standards to utilities under SB 825 without the Commission's consultation, they may conflict with the incident reporting criteria already established and enforced through COMAR. In order to preserve its statutory role and avoid conflict, the Commission requests that § 14-1404(c) include the phrase "in consultation with the Public Service Commission" regarding utilities.

3. Proposed § 14-1404(a)(2)(vi)(4) empowers the Branch to implement operational technology architecture monitoring. The Public Service Commission holds sensitive vulnerability data protected by strict confidentiality under COMAR 20.06.02.06. Sharing "architecture monitoring" data with a non-regulatory branch in the Maryland Coordination and Analysis Center (MCAC) requires a secure, legally vetted framework that does not currently exist, so this could violate existing regulations. This could be resolved if the bill specifically designates the Branch as an authorized recipient, subject to the same confidentiality constraints, or the Commission grants necessary authorization under COMAR 20.06.02.06.

The Commission also notes generally that its role involves oversight of infrastructure owned by utilities and coordination of the information related to that infrastructure. If the Commission detects a critical vulnerability, it would be the responsibility of the utility to resolve the vulnerability and report back to the Commission in a timely manner. The bill does not specify what enforcement options are available to compel compliance. Doing so would allow the Commission to ensure successful outcomes related to the directives of this legislation.

Please contact Niki Wiggins, Director of Legislative Affairs, at irene.wiggins3@maryland.gov if you have any questions related to this informational testimony.

Sincerely,

Kumar P. Barve
Chair, Maryland Public Service Commission