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112 West Street  
Annapolis, MD 21401

### **Letter of Information – House Bill 1532 – Continuing the Next Generation Energy Act**

Potomac Electric Power Company (Pepco), and Delmarva Power & Light Company (Delmarva Power) submit this letter of information for consideration for House Bill 1532. House Bill 1532 updates the 2025 Next Generation Energy Act, introducing several changes to Maryland's EmPOWER program, multi-year rate plan structure, and large-load rate structures. While there are some customer benefits to this legislation, Pepco and Delmarva Power remain concerned there are other provisions in the legislation that will have negative consequences for our customers.

#### **Banning forecasted test-years does not save customers money; it puts reliability, jobs, and the customer experience at risk**

House Bill 1532 prohibits the use of forecasted test years within a multi-year rate plan. A multi-year rate plan using forecasted/forward looking test-years allows the Public Service Commission (PSC) to set utility rates over several years using expected future costs, including inflation, system upgrades, and operating needs. The current use of multi-year rate plans with forecasted/forward-looking test years enables contemporaneous recovery model that provides essential transparency, financial stability, predictable rates, and the ability to make timely investments that deliver measurable benefits for customers.

House Bill 1532 requires utilities to rely only on historic test years when developing multiyear rate plans. Under current practice, utilities use historic information to establish a test year but then apply forward-looking forecasts to determine future revenue requirements. Currently under a multiyear rate filing, a historic test year serves as the baseline, followed by a bridge year that covers the period of litigation, and then rates are set for the following three years.

Additionally, House Bill 1532 has unintended consequences as it suggests multi-year rate plans themselves drive higher utility bills, without acknowledging that the primary factor behind recent customer bill increases has been higher wholesale energy supply costs, not distribution rates. Maryland is already ranked last in the US by investors for its regulatory environment, even with forecasted test year MYPs. The potential ban of the use of forecasted test years in distribution ratemaking in Maryland is bad policy that would hurt customers, needlessly tie the hands of regulators, ignore the realities of modern system investment needs, and negatively affect the financial stability of the utility. A ban is likely to result in higher, longer-term customer costs by increasing utility financing costs. Regulatory predictability is critical to maintaining strong credit metrics and reasonable access to capital. Removing the use of forecasted test years introduces additional earnings and cash-flow uncertainty, which can raise financing costs and ultimately increase the cost of service paid by customers.

The majority of states across the U.S. (including those with aggressive climate policies), as well as Canada and Great Britain, permit the use of forecasted test years as a valid ratemaking construct.

For example, Illinois, Maine, Minnesota, New York, Washington, and Vermont (as well as Ontario and British Columbia in the Canadian territories) have implemented rate plans that rely on a forecasted cost of service approach and include an accompanying reconciliation mechanism intended to smooth rate impacts for customers. Furthermore, Ohio and Indiana are both moving in the direction of forecasted multi-year rate plans. The Maryland Public Service Commission (PSC) has validated that forecasted test years can be just and reasonable by stating the following in Order No. 89226 in Case No. 9618, the proceeding where it investigated alternative rate plans or methodologies to establish new electric and gas base rates. “Accordingly, based on the record developed in this proceeding as well as Commission experience, the **Commission finds that a properly constructed multi-year rate plan based on a historic test year and allowing up to three future test years** can produce just and reasonable rates and can be implemented at this time, subject to developing the accommodating processes and procedures.”

### ***Downgraded credit rating increases costs for customers***

Since Pepco and PHI merged with Exelon, Pepco has protected and, where possible, strengthened its credit profile to minimize the cost of debt ultimately borne by customers. However, Pepco’s credit history demonstrates that unfavorable regulatory outcomes can and do result in rating pressure. Most notably, in 2006 Moody’s downgraded Pepco from Baa1 to Baa2, citing the regulatory environment in Maryland as one of the contributing factors. Similarly, in 2006, S&P lowered Pepco’s credit rating from BBB+ to BBB, citing its assessment that regulatory risk was increasing and that financial metrics, which were already weak for the rating category, were not expected to improve to levels consistent with a BBB+ rating in the foreseeable future, citing the regulatory environment as part of the rationale.

### ***Less proactive investment has real impact on customers and the economy***

Utilities without contemporaneous forward-looking recovery do not have a meaningful opportunity to earn their weighted average cost of capital and therefore must align their capital plans to maintain a strong balance sheet and attract capital. This has been affirmed through Moody’s reports received by both Pepco and Delmarva Power that note movement away from these current mechanisms will be credit negative events, leading to downgrades and higher overall borrowing costs to customers that would be tens of millions of dollars higher than they are today. Prohibiting the use of forward-looking test years, would unintentionally move Maryland backward at a time when the state needs regulatory tools that support affordability, safety, reliability, and grid modernization. Removing this tool introduces greater earnings and cash-flow uncertainty, which undermines regulatory predictability, one of the most important factors in maintaining strong credit metrics and affordable access to capital. That uncertainty increases financing costs, ultimately raising customer bills.

For the Exelon Utilities, this will mean reductions in the 100s of millions of dollars of investment capital that will have meaningful short- and long-term impacts both economically and in terms of the health of the electric and gas systems – all during a time when the system will be increasingly challenged to operate near peak load conditions.

Forecasted test years under MYPs allow for transparency and extensive intervention with the Commission, the OPC, and stakeholders focused on what work the utilities should be doing and at what pace the utility should be doing the work. For a MYP to be approved, it takes months of collaborating, review and hearings. This provides certainty for the investor community that is critical for utilities to maintain its workforce and contracted resources to meet infrastructure demands.

Developers rely extensively on utilities to perform necessary infrastructure work to meet their in-service date, so they maintain their financing to complete the project. If utilities cannot secure capital, we will be forced to be in a position where we respond on a reactionary basis to customer requests. Instead of having in-house labor and contracted resources readily available, we will have to go through a competitive bid process for each job. This will add months to the schedule and costs will be higher for developers for the requested work. This policy change is highly consequential and needs to be reconsidered.

### **Third Party Administration of EmPOWER**

House Bill 1532 requires the PSC to issue a request for information (RFI) on the use of a third-party, single-implementer program for the administration of the programs and services under the EmPOWER program and as soon as practicable after receiving the information requested in the RFI shall issue a request for proposals (RFP) for a third-party administrator for the programs and services.

Third-party administration introduces transition risk, uncertainty, and near-term cost increases without proven long-term savings or better performance. Shifting administration of significant portfolios will result in service disruptions, loss of institutional knowledge and key relationships built up over 17+ years. Transition costs are also real and immediate – new IT systems, contracts, participation agreements, data tracking systems, re-trainings, staff transitions – while any hypothetical savings are unproven.

EmPOWER utilities already operate under PSC oversight, evaluation, and cost-effectiveness review. EmPOWER programs are audited by an independent statewide evaluator to validate claimed savings and evaluated for cost effectiveness. As a regulated entity, utilities are uniquely accountable to the PSC in a way that no third-party would be. The utilities' results are further scrutinized by the PSC's independent evaluator. The resulting process is one of if not the most rigorous evaluation processes for these types of programs in the country. Not to mention as a State overall, utility-administered EmPOWER portfolios are cost effective.

Utility-administration allows programs to be designed and tailored specifically to the customers in that service territory, their housing stock, customer demographics, etc. Maryland is a diverse state and over-indexing on standardization can lead to solutions that do not work for customers. Local presence and trust in demand-side management (DSM) programs takes years to build up. Moreover, DSM programs are also designed to benefit the grid, which only the utilities are responsible for. Third-party administration would result in programs only focused on "hitting a number" rather than designing and implementing programs that provide wider customer and grid benefits.

Multiple studies have been performed to evaluate the four administration structures of DSM programs across the country: utility, state, third-party, and hybrid implementation. A 2019 study from the Brattle Group and a study released in January 2026 by Opinion Dynamics and The American Council for an Energy-Efficient Economy (ACEEE) both concluded that there are pros and cons to each administration model, and none is superior to the others across all dimensions. However, both studies agreed that if affordability is the primary issue at hand, moving to a statewide third-party implementor is not the best course of action as state and third-party implementation have higher transaction costs than utility run programs and the transition itself requires significant startup costs. Maryland's current administration model reflects many of the best practices that these studies recommend.

### **Reconciliation**

Pepco and Delmarva Power have significant concerns with the multi-year rate plan provisions included in House Bill 1532, which would:

1. Impose an asymmetrical, one-sided, reconciliation requirement where utilities are unable to recover for any cost variances, even for material items that are out of their control;
2. May allow for reconciliation to refund differences in a utilities' forecasted revenue requirement and its actual revenue requirement during the term of a multi-year rate plan.

Specifically, the bill establishes that the PSC may approve the use of a multiyear rate plan for distribution rates only if the plan does not include reconciliation that would "result in additional customer charges" or cost-sharing mechanism "that would result in additional customer charges above the approved revenue component used by the Commission to establish just and reasonable rates."

House Bill 1532 would bar utilities from proposing any mechanism that adjusts rates to reflect actual, prudently incurred costs, while still allowing mechanisms that only flow savings back to customers. This creates a one-sided, asymmetrical framework that denies utilities the ability to recover legitimate cost variances and fundamentally disrupts the regulatory balance needed to provide reliable service to customers and support long-term system investments. What is missing is any recognition of sound regulatory policy that aligns cost recovery with strong incentives for efficiency and cost control – approaches that drive long-term affordability and are central to Maryland's established energy policy priorities.

As written, the bill's one-sided reconciliation requirement would have significant unintended consequences for customers. By forcing utilities to return every dollar of savings while prohibiting recovery of legitimately incurred, unforeseen costs, the bill strips away operational flexibility needed to manage the system efficiently. This asymmetry would discourage utilities from pursuing cost-saving innovations, ultimately leading to higher long-term customer bills, not lower.

Even more concerning, a framework where utilities must absorb all the financial risk without the ability to recover prudent cost variances weakens their capacity to invest in critical customer improvements. Over time, customers would face more outages, slower service improvements or even degradation, and higher costs as necessary upgrades begin to accumulate.

Current law avoids this problem by prohibiting reconciliations altogether, ensuring fairness and stability. Creating a lopsided system where utilities shoulder all risk, but cannot benefit from cost-saving solutions would produce the opposite of what lawmakers intend – higher costs and worse outcomes for Maryland customers.

There are direct and meaningful benefits to customers when ratemaking policy provides the right incentives for utilities to reduce costs effectively and efficiently. Pepco and Delmarva Power consistently maintain that customers are the primary long-term beneficiaries when utilities are encouraged to pursue operational efficiencies. If the Committee would like to add additional language to the bill regarding reconciliations, Pepco and Delmarva Power recommend adding a cost containment performance mechanism which protects customers by ensuring that if the utility earns more than expected, the excess is shared back with customers. It also pressures the utility to control costs, increases transparency, and keeps rates more stable over time. Best of all, it aligns utility incentives with customer affordability interests while ensuring utilities continue prioritizing safety and reliability – rewarding efficiency instead of spending. It's not just good for customers; it's a regulatory tool that creates a win-win for cost containment and reliability.

### **RTO Membership Requirement**

In 2006, FERC issued Order No. 679 in response to the Energy Policy Act of 2005 (EPA 2005). EPA 2005 directed FERC to create an incentive structure for utilities that join transmission organizations (RTOs/ISOs), handing over control of their transmission assets. The purpose of this Congressional mandate was to promote participation in wholesale electricity markets and facilitate regional transmission planning activities to the benefit of customers.

This incentive policy has supported stability in RTO/ISO participation over nearly two decades, which in turn has historically yielded a wide range of consumer benefits, including optimization of the transmission system and reduced costs through improvements in technical and economic efficiency. Through various court cases and FERC decisions, the use of the RTO participation ROE adder has been limited to situations where membership in the RTO is *voluntary*.

Mandating RTO participation creates significant operational and financial risks, and locks customers into potentially costly structures. This is particularly concerning for Maryland, as its RTO, PJM, is experiencing unique affordability, reliability, and leadership challenges. PJM has no CEO and there is not yet a clear path to stable leadership and a stable regulatory environment. Additionally, PJM was declared by NERC as being 'high risk' for reliability events in the 2026-2030 timeframe.

Uncertainty in PJM's future is preventing investment in the PJM region. Lack of supply response will create resource adequacy and reliability challenges. While there are other RTOs, and this legislation does not specify that our customers have to be in PJM but rather in an RTO, there are no other practical options for de-regulated states such as Maryland. Additionally, Maryland's transmission assets sit almost entirely within the PJM footprint, with no direct connections to the other RTOs. Mandating participation in an RTO could present physical geographic challenges.

Our company has a long history of advocating for customers in the PJM stakeholder process and directly to PJM. This includes partnering with Governor Moore and three other governors in late 2025 to advocate for the extension of the capacity cap in order to save PJM customers over ten billion dollars. Requiring our participation would directly dilute our leverage to negotiate with PJM. Our company is an important voice for Maryland and Maryland customers in developing PJM policy and this legislation would remove a key bargaining chip – our ability to freely exit.

Short-term savings from eliminating the ROE adder reduces long-term flexibility. If RTO conditions worsen in the future and performance declines, customers could be harmed by an inability to exit. Maryland customers would continue to pay for out-of-state transmission projects that still receive the RTO adder and withdrawal fees would be borne by customers. Additionally, any requirement that utilities join or remain in PJM (or any RTO) as a matter of state law raises substantial federal jurisdiction, preemption, and litigation risk.

The RTO Participation Incentive compensates utilities for the risk of being a member of an RTO. Mandating RTO participation forces utilities to assume significant risks without matching control or compensation. These risks include loss of operational control, required RTO directed transmission builds, reduced decision-making authority while retaining maintenance obligations, and ongoing service obligations even as RTO requirements change. Maryland customers should not be tied to PJM. Voluntary participation ensures decisions stay aligned with customer interests, reliability needs, and long-term affordability.

Pepco and Delmarva Power look forward to continuing conversations with the bill sponsors on ways to refine House Bill 1532 in a way that balances the State's climate goals, the needs of Maryland communities and creates stability for utilities.