February 24, 2026

Support with Amendments – House Bill 897 Electricity Transmission and Distribution, Energy Storage, and Maryland Strategic Energy Investment Fund (Lower Bills and Local Power Act of 2026)

Potomac Electric Power Company (Pepco) and Delmarva Power & Light Company (Delmarva Power) support with amendments **House Bill 897 Electricity Transmission and Distribution, Energy Storage, and Maryland Strategic Energy Investment Fund (Lower Bills and Local Power Act of 2026)**. This bill requires an electric company, located in the state that owns or operates a transmission line above 69 kV to participate in a regional transmission organization (RTO) effectively tying Maryland customers to PJM. It also requires utilities to provide additional information in Certificate of Public Convenience and Necessity (CPCN) applications and directs utilities to prioritize grid enhancing technologies when expanding capacity.

Pepco and Delmarva Power respect the intent of the legislation as it reflects a commitment to assessing opportunities to lower energy costs and modernize Maryland's electric grid to meet the state's long-term economic, environmental, and reliability goals. These priorities are shared by utilities, customers, and stakeholders across Maryland.

While the companies support the overarching objectives of House Bill 897, it is necessary to refine certain provisions to ensure consistency with existing regulatory frameworks, prevent unintended cost impacts, and enable practical implementation. With this perspective in mind, Pepco and Delmarva Power offer the following concerns and recommended amendments for consideration:

- Remove the requirement to be a member of an RTO.
- Change the definition of high-performance conductors to align with the existing Federal Energy Regulatory Commission (FERC) definition, as it is already in practice by the industry.
- Exempt existing franchise agreements from the requirement to pay fair market value for State ROW access.

<u>Remove RTO Membership Requirement</u>

In 2006, FERC issued Order No. 679 in response to the Energy Policy Act of 2005 (EPAct 2005). EPAct 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. The incentive, often referred to as the RTO

Participation Incentive, is a clear statutory requirement intended to be available to utilities that join and remain in an RTO/ISO. 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. Thes risk include loss of operational control, required RTO directed transmission builds,

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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.

Replace definition of "High Performance Conductors" to align with FERC definition

House Bill 897 introduces a state-specific definition of high-performance conductors that differs from the Federal Energy Regulatory Commission (FERC) definition of "advanced conductors" already used in transmission planning and procurement nationwide. The industry currently operates under the FERC definition, and establishing a separate state definition could create confusion, increase administrative burden, and complicate implementation of grid modernization projects. As written, the bill would limit engineers' ability to choose the most cost-effective technical solutions when executing large-scale infrastructure projects.

It is recommended that the provision be revised to adopt the existing FERC definition for advanced conductors to ensure consistency with federal standards and current industry practice.

Exempt Existing Franchise Agreements

Several provisions in the legislation appear to conflict with Pepco and Delmarva Power's existing franchise rights. Specifically, the bill would require utilities to pay fair market value to occupy State highway rights-of-way and cover relocation costs even when our facilities were in place before state infrastructure. These requirements differ from the long-standing protections traditionally included in franchise agreements. The bill also creates new leasing and approval frameworks that could treat the utilities like a standard ROW tenant rather than a franchised utility with established access rights.

This provision runs counter to the bill's goal of lowering costs for ratepayers. Should this bill pass without retaining Pepco and Delmarva Power's franchise rights, this would increase the costs of constructing new facilities in State ROW.

Pepco and Delmarva Power look forward to continuing to work with the bill sponsor and Committee to address our concerns and proposed solutions as outlined in the recommended amendments.

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