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BILL NO.: House Bill 1339
Cybersecurity - Critical Infrastructure and Public Service
Companies (Critical Infrastructure Security Act of 2022)

COMMITTEE: Economic Matters Committee

HEARING DATE: March 3, 2022

SPONSOR: Delegate Kerr

POSITION: Favorable with an amendment

The Office of People's Counsel supports House Bill 1339 Cybersecurity - Critical Infrastructure and Public Service Companies (Critical Infrastructure Security Act of 2022) with an amendment.

Background

HB 1339 adds language on cybersecurity risks to the Public Service Commission's supervision of state public service companies. The bill requires the Commission to adopt regulations by the end of June 2023 covering cyber resiliency. The Commission is also required to employ staff for cybersecurity policy, strategy, auditing, and reporting.

HB 1339 requires public service companies (except telecommunications companies) to adopt cybersecurity best practices, including implementing "zero trust" principles. These practices include protection of personally identifiable information of customers, amending contracts with third party information and technology vendors, collecting and preserving data for cybersecurity analysis, and reporting cyber-security breaches to the Commission. The companies must also establish minimum security standards for information technology and devices and for encryption of data and personally identifiable information held by the public service companies.

Comments

Utility customers have a strong interest in cybersecurity. A disruption to critical energy grids would cause individual and economic harm and could lead to social and civil disruptions.

Cybersecurity threats are an increasing concern for both governments and the private sector. Recent ransomware attacks have affected large corporations, health care facilities, educational institutions and local governments. The state government was recently victim of a cybersecurity incident. Federal and state policymakers in conjunction with the public utility industry have taken steps to protect the critical energy networks and grids from cyber threats.

Cybersecurity may require significant utility spending that will be recovered in customer rates. Measures to protect the energy networks and grids from cyber threats requires public service companies to invest in personnel, expertise, and technology. The Commission is responsible for ensuring that public service company spending is prudent and efficient for the designated purpose, in this case for protecting the electric system from cyber threats.

Consistent with the General Assembly's approach in response to concerns over reliability and resiliency from weather and vegetation impacts, OPC suggests amending HB 1339 so that the cybersecurity practices required of the public service companies become part of Commission-approved regulations. We suggest the approach taken in the current statute with respect to reliability and resiliency. The statute includes a list of factors for Commission regulations. The Commission has adopted regulations and periodically reviews public service company compliance.

Adopting a similar approach for cybersecurity would have the Commission promulgate standards and practices to address cybersecurity concerns in regulations applicable to all public service companies. This process will ensure prudent and efficient expenditures by public service companies to enhance cybersecurity and cyber resiliency.

Without the amendment, HB 1399 could result in a divided process. The Commission would promulgate cybersecurity regulations while the public service companies would embark on best practices to meet the statutory requirements. This process could lead to different actions taken by individual companies. These expenditures and actions by the public service companies would then be subject to prudency reviews by the Commission and parties within the rate process to be included in rates.

Including the best practices and standards within the Commission's regulations would create a uniform and straightforward process to achieve the General Assembly's goal of enhanced cybersecurity of critical energy networks.

OPC has attached a draft amendment to HB 1399. We would be pleased to work with the sponsor and the Committee to amend the bill in line with our comments.

Recommendation: People's Counsel requests a favorable report as amended for HB 1339.

Amendment to HB 1339 offered by the Office of People's Counsel

On page 9, line 29 before the word EACH insert "UNDER REGULATIONS PROMULGATED BY THE COMMISSION"