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BILL NO.: House Bill 88
Public Utilities – Energy Distribution Planning and Required
Labor Standards

COMMITTEE: Economic Matters

HEARING DATE: February 3, 2022

SPONSOR: Delegate Charkoudian

POSITION: Support

The Office of People's Counsel wholeheartedly supports House Bill 88. HB 88 requires the Public Service Commission to hold a stakeholder-driven distribution planning proceeding and adopt by order or regulations electric system planning requirements. The legislation provides important backing from the General Assembly for long-term electric system planning. This planning is key to enhancing Maryland's electric system for the benefit of consumers and meeting the state's environmental goals. The bill also creates an important path for Maryland to access federal infrastructure funding to support its electric distribution system.

Background

As introduced on January 12, 2022, HB 88 sets forth state goals with respect to decarbonization, greenhouse gas reduction, renewable energy, equity, labor standards, and promoting cost-effective distribution system resiliency and reliability. The bill establishes a distribution system planning workgroup and identifies stakeholders for participation. The workgroup is charged with making distribution system recommendations that promote a range of state policies, ranging from decarbonization and resiliency to energy efficiency and non-wire alternatives. The bill facilitates public participation and transparency in both creating initial planning standards and through ongoing advice to the Commission on distribution system planning.

The bill directs the Commission to use workgroup input in adopting regulations for distribution planning and implementation by no later than January 1, 2024. The regulations must promote the same factors the workgroup is directed to consider, along with several additional considerations, including, among others, state greenhouse gas reduction goals, benefits that are not readily quantifiable, least regrets investments, and metrics for measuring benefits.

The bill further provides that in rate cases utilities bear the burden of showing compliance with the Commission's regulations by quantifying benefits using objective and verifiable standards. It directs the Commission and the Maryland Energy Administration to coordinate with utilities to access federal infrastructure funds for meeting state electric distribution system goals. And it establishes labor standards for utility projects that affect the electric system infrastructure.

Comments

1. Legislative action is needed to achieve the distribution system that serves Maryland's public policy goals and Maryland's consumers.

HB 88 establishes an important and needed framework for Maryland's efforts to modernize the state's electric distribution system in ways that advance state policies and the interests of its citizens. The electric distribution is at a critical juncture. The future of the electric system should look very different from the traditional system of the past, but recent electric utility multiyear plans show that in the coming years utilities are planning investments in wires and concrete similar to past investments.

The future distribution system must consider new and emerging technologies and be built knowing that technological change moves quickly. Unlike the existing system, which is built mostly to enable power to flow from large, centralized power plants to homes and businesses, it must be rethought to facilitate consumer demands for decentralized and innovative technologies, including:

- microgrids;
- localized solar;
- vehicle to grid charging;
- software to manage energy use—from EVs to household appliances;
- new billing systems;
- in-home displays;
- appliances that communicate to new meters; and
- other new technologies.

The distribution planning process must account for these and other—perhaps unforeseen—technologies, and it must account for all players in these new and emerging

markets, whether they be consumers, aggregators of demand services, builders of EV infrastructure, or any number of others. Stated otherwise, distribution system planning should not be utility-centric, but should focus on identifying products and services that advance state policy and meet the needs of consumers. The planning should then identify the products and services best provided by utility monopolies and those for which competition will lead to the best performance for consumers.

A fulsome distribution planning process also protects utility customers. Evaluating future system needs means anticipating how public policies and consumer desires will change over time and avoiding sinking costs into technologies that will become obsolete. Traditional utility-centric planning, on the other hand, often means capitulating to the utility's incentive to invest capital—and earn a return on that capital—even if the technology may become obsolete and other investments are needed down the road. Under current utility ratemaking policies, utility shareholders are rewarded by additional capital investments, which limits the desirability for utilities of long-term planning to reduce investment and avoid the risk of obsolescence. Utility customers, however, bear the cost of investments and bear risk for paying for obsolete investments.

The General Assembly's instructions in HB 88 will help ensure that distribution system planning meets the State's goals and benefits consumers. HB 88 sets forth important criteria for diverse stakeholder input, consideration of a spectrum of technologies, furtherance of state environmental policies, and the date-certain adoption of standards by which to evaluate utility plans going forward. Without legislative guidance, any of these goals will potentially be left aside.

2. The Commission's current proceeding does not obviate the need for legislative action.

The Commission's current distribution planning proceeding should not deter the General Assembly from enacting legislation to frame the planning process and the outcome. While OPC commends the Commission for initiating its ongoing distribution system planning proceeding, the endgame of the Commission's current process remains unclear. The scope of the proceeding, its goals, the outcome, and the timing remain ambiguous. For example, the Commission has not committed to establish by regulation or order any objective criteria for evaluating system planning. HB 88 would provide important guidance: guaranteeing stakeholder input over time, ensuring the planning is inclusive of alternative approaches, and establishing an unequivocal outcome—objective and verifiable standards that govern system planning and future investments.

One of the most important features of HB 88 is its mandate for the Commission to adopt regulations governing distribution planning processes and implementation no later than January 1, 2024. As noted, the Commission's current process will not necessarily result in requirements that govern distribution plans going forward. It could end without such requirements or go on perpetually. But specific requirements are critical for

successful planning. Further, each month and year that such requirements are not in place sets back Maryland climate policies and creates unnecessary risk for consumers. Indeed, HB 88's January 1, 2024, deadline is late, given that planning requirements are merely the *first* step toward actual changes in the distribution system. After the planning rules are set, utilities will have to develop and submit plans, which will then have to be adjudicated, before they are finally implemented. Thus, even after rules are set, years could pass before consumers realize any actual benefits. The requirement in HB 88 of regulations by a certain date will assist in providing benefits to consumers sooner than would otherwise occur.

3. HB 88 facilitates Maryland's access to federal funds to support its electric infrastructure.

Importantly, HB 88 also requires the Commission, MEA, and utilities to coordinate efforts to access federal infrastructure funding. Without this legislative mandate, Maryland may miss out on tens or even hundreds of millions of dollars in federal funds that can help the state create a distribution system responsive to public policy goals as well as consumer desires for innovative solutions to their energy needs. Indeed, without General Assembly action, utilities may resist cooperating to access federal funds because such funding may reduce earnings they could gain by making the same investments with customer funds.

Recommendation: OPC requests a favorable report on House Bill 88.