



February 5, 2021

112 West Street
Annapolis, MD 21401

OPPOSE – Senate Bill 504
Discrimination in Employment – Use of Medical Cannabis - Prohibition

Potomac Electric Power Company (Pepco), Delmarva Power & Light Company (Delmarva Power), Baltimore Gas & Electric (BG&E), Constellation, and Exelon Generation (together as “Exelon”) oppose Senate Bill 504 as currently drafted. Senate Bill 504 would prohibit an employer, except under certain circumstances, from discriminating against an individual because of the individual’s receipt of a written certification for the use of medical cannabis or the individual’s positive drug test. The bill would establish that certain provisions prohibiting employment discrimination do not prohibit an employer from adopting policies and procedures that prohibit an employee from performing the employee’s duties while impaired by medical cannabis.

Exelon has concerns regarding the impact of this legislation given the highly regulated nature of our businesses and workforce and the potential conflicts that may arise under this legislation with existing federal rules and regulations. The exception crafted in this legislation allowing actions by a company *only* when failure to take the action “would violate federal law or regulations or cause the employer to lose a monetary or licensing–related benefit under federal law or regulations” is too narrow. As an example, our utility businesses are authorized, and in some instances required, to take certain actions with respect to cannabis use in connection with the federal Department of Transportation’s regulations pertaining to employees who use and maintain commercial drivers’ licenses as part of their employment. In the case of our generation assets, Exelon Generation is required at the Calvert Cliffs Nuclear Power Plant (CCNPP) to take certain actions relating to marijuana use pursuant to Nuclear Regulatory Commission (NRC) rules and regulations. In both cases, the requirement that we prove that a failure to take those actions would violate federal law or cause the loss of a monetary or licensing-related benefit is an impracticable standard. To address our concern on this subject, Exelon recommends the following language be added to the bill, replacing the current language at lines 10-12 and lines 30-32 on pg. 2:

“Unless the action is authorized by or is taken by the employer to comply with the requirements of federal, state or local law or regulations:”

Additionally, to ensure this legislation does not interfere with federal rules and regulations, we suggest the following addition as subsection (H) on pg. 3:

“Nothing in this Act shall be construed to interfere with any federal restrictions on employment including but not limited to the United States Department of Transportation regulations or the Nuclear Regulatory Commission regulations.”

Last, subsection (G) of SB 504 is too narrow as well. The authorization of policies that “prohibit an employee from performing the employee’s duties while impaired by medical cannabis” is limited in scope and could be broadened significantly to better reflect the need for employers to keep employees and, in our case, the general public safe. Illinois has adopted a number of provisions (*See* 410 ILCS 705/10-50 (a-h)) that may

be instructive here in establishing parameters for employer regulations related to the use of medical cannabis.

For the above reasons, Exelon respectfully requests an unfavorable vote on Senate Bill 504 as currently drafted.

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