Via email to: secretary@dps.ny.gov

New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Re: Case 26-E-0045, Proceeding on Motion of the Commission to Address Interconnection Reforms for Large Loads

To the Commission:

We, the 24 undersigned organizations, write to convey our concerns regarding the current trajectory in the Draft Scope of Work for the General Environmental Impact Statement ("GEIS") and provide key measures to correct the course in the Final Scope of Work.

The speed and scale of AI data center development across the United States has few historic parallels. A single campus can consume the same amount of electricity as major cities, but can be constructed in a single year. Data center investments have now surpassed all historical booms, including the construction of the railroads during the Industrial Revolution. The buildout is fueling an appalling resurgence of fossil fuel generation - in the next four years, energy demand from AI data centers is expected to undo the last 15 years of emission reductions in the U.S. power sector.[1] Each one of these massive facilities drives profound local impacts to water resources, land use, ecosystem health, noise and quality of life. Accompanying this unrelenting buildout is a surge in opposition from Americans: as of August 2026, 75% opposed local data center development.[2]

Governor Hochul rightly recognized these risks when she issued Executive Order 62 ("EO") and sought to pause the development of many large-scale data centers. The Order directs the Department of Public Service ("DPS") "to assess the potential environmental impacts of the construction and operation of data centers in the State, including energy demand, water use and quality, air quality, disproportionate impacts on disadvantaged communities, and noise levels."

Yet the Draft Scoping Document ("Draft Scope") narrowly frames the review around interconnection reforms and cost-allocation standards, rather than taking a holistic view of data center development. It fails to clarify the role other expert agencies will play in evaluating fundamental questions of environmental impact, land use, and public health. It omits discussion for how it will evaluate compliance with the State's Climate and Environmental Justice laws. And it misses the opportunity to consider how to avoid the greatest possible harm by foreclosing an analysis of a scenario with no new hyperscale data center development.

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[1] Eric Roston et al., *New US Data Centers Projected to Emit More Carbon than All of Mexico*, Bloomberg (Oct. 28, 2026), https://www.bloomberg.com/news/articles/2026-10-28/us-data-center-buildout-risks-erasing-years-of-climate-progress?leadSource=uverify%20wall.

[2] Robinson Meyer, *Exclusive: 75% of Americans Now Oppose Local Data Center Developmen*t, Heatmap News (Aug. 19, 2026), https://heatmap.news/daily/data-center-opposition-poll-collapse.

These gaps undercut the clear intention of the Executive Order. To ensure the state thoroughly evaluates the potential impacts of data centers, and to effectively plan for the mitigation and avoidance of harm, it is vital that the Department revise the Draft scope to address the following:

1. **The Final Scope must be broadened to consider all data center impacts, not just interconnection reforms.**

Commenters are concerned that the Draft Scope's proposed action is narrowly focused on how interconnection reforms affect data centers, rather than a comprehensive assessment of the industry's impacts in the first instance. Such a narrow scope risks failing to robustly assess significant impacts that extend beyond or even have nothing to do with grid management policies.[3]

Instead, commenters urge DPS to re-define the proposed action broadly to evaluate the impacts from the data center industry as a whole, and evaluate promulgation of interconnection and cost allocations as part of the list of mitigation measures and in the alternatives analysis. The State took a largely similar approach when scoping the GEIS for the cryptocurrency mining industry, which was also primarily fossil-fueled.[4] In that context, the State described its proposed action broadly to evaluate the impacts of the industry as a whole, and then evaluated particular agency actions as part of its assessment of opportunities to avoid, minimize, or mitigate significant impacts. There is no legal basis, or sound policy reason, to do so differently here.

2. **The Final Scope must define the role for other involved agencies, including Department of Environmental Conservation and Department of Health.**

The Executive Order directs DPS to conduct the GEIS process in consultation with other relevant state agencies and authorities. Many of the most fundamental impacts from data center development - air pollution, water use and quality, land use change, noise, and toxic exposure - lie well outside the scope of interconnection reforms and inside the expertise of other state agencies such as the Department of Environmental Conservation and Department of Health.

However the current Draft Scope of Work does not describe these agencies' roles or what process will allow for their involvement. Commenters are concerned that a lack of clear and formal involvement from these agencies will produce an inadequate GEIS that is inconsistent with the EO, which implemented a state-wide moratorium and frames the GEIS as a necessary step under the State Environmental Quality Review Act ("SEQRA") to broadly address the environmental concerns associated with data centers, not merely impacts that may be addressed by DPS. The GEIS must holistically address issues that span the jurisdiction of all interested

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[3] As just one major example, this narrow scope could ignore significant impacts related to data centers that forego grid connection altogether - which is the case for more than a quarter of all proposed data center development constituting more than 90 GW of capacity, more than 80% of which is expected to be supplied by fossil fuels. *See* John Bandsund et al., Better Data Center Project and Earthjustice, *The AI Gas Rush: Risks and Implications of "Bring Your Own Power"* 4 (Oct. 2026), https://earthjustice.org/wp-content/uploads/2026/10/the-ai-gas-rush-risks-of-byop_full-report-with-cover.pdf.

[4] NYSDEC, Final Public Scoping Document for GEIS on Cryptocurrency Mining Operations that use Proof-of-Work Authentication Methods to Validate Blockchain Transactions 2 (Apr. 2024) ("Thus, the purpose of the GEIS is to broadly consider the impacts of the industry as described in the legislation and not a particular operation.").

agencies - in particular, the DEC, who at the very least would have a co-equal role in facility permitting, environmental regulations, and other measures to minimize harm from data centers. To address this, the Final Scope should deem DEC and DOH "involved agencies" under SEQRA and clearly define their roles.

3. **The Final Scope must include in its alternative analysis a scenario with no new data center expansion.**

The Final Scope should expand its alternatives analysis to bracket worst- and best-case scenarios for the environmental impacts of data centers. This means that in addition to the current "no action" alternative where data center development continues in New York with no incremental mitigation, the GEIS should evaluate an opposite "book-end" alternative where no new or expanded data centers are permitted in the State. The clear intention of the moratorium is to pause the adverse potential harms caused by data center development until these harms are fully understood and protections put in place to minimize their impacts. Examining an alternative that keeps the moratorium in place indefinitely is necessary to establish a baseline for the maximum potential to avoid adverse impacts. Again, the State has precedent for this approach from the Final Scope for the Cryptocurrency GEIS, which followed the same logical structure for its alternatives analysis.[5]

4. **The Final Scope must ensure compliance with the CLCPA and the EJ Siting Law.**

The Draft Scope states that it will address "whether and how the proposed action impacts the achievement of the [CLCPA] goals," but fails to provide any framework or information on how this analysis will be conducted. Advancing CLCPA and Environmental Justice ("EJ") Siting Law compliance should be a critical part of the GEIS, but the Draft Scope's limited references to the CLCPA frame it as mere consideration, rather than a legal mandate. The limited reference to CLCPA in the context of interconnection reforms is inadequate. The Final Scope must assess the severe impacts that data center construction and operation - especially when it is powered by fossil fuels and not connected to the grid - will have on the CLCPA's GHG reduction requirements and clean energy targets, as well as the significant cumulative impacts it is likely to have for environmental justice communities. These include both the direct and indirect impacts from behind-the-meter fossil generation powering data centers, and the indirect impacts that data center demand might have on diverting clean energy and prolonging reliance on fossil fuel generators in densely populated environmental justice communities in other parts of the state.

5. **The Final Scope must specify in greater detail robust interconnection reforms and cost allocation standards that fully protect ratepayers.**

The Draft Scope circumscribes the proposed action as the promulgation of interconnection and cost allocation reforms. But even this narrow scope fails to specify in any detail the reforms being considered. At most, the Commission addresses general principles or references types of policy mechanisms, but even there, it fails to explain the contours of how these policy mechanisms would be assessed and applied. This makes it impossible to understand the potential environmental impacts associated with each of the listed policy principles, because

[5] DEC, Final Public Scoping Document for GEIS on Cryptocurrency Mining Operations that use Proof-of-Work Authentication Methods to Validate Blockchain Transactions at 6 (Apr. 2024).

the impacts could vary substantially depending on basic design questions for each policy. For instance, will generation procurement requirements be limited to clean energy, or allow for fossil generation? Will modified tariffs and cost recovery rules create a new customer class that receives direct assignment of incremental costs, and if so, for which categories of cost? Will it include a share of embedded costs from existing grid infrastructure, and if so, how would that be calculated? Several parties have already submitted detailed comments to the Commission regarding these issues, and many states before New York have previously contended with these issues, but the Draft Scope raises more questions than answers. To adequately engage the public in the environmental review process, the Draft Scope should provide specific details related to the reformation of interconnection processes and cost allocation for large loads.

6. **The Final Scope should evaluate a mandatory data center permit, such as a Certificate of Completion.**

Depending on where and how new or expanded data centers are constructed, it may be possible for some data centers to evade any discretionary permitting by DEC, including some of the largest data centers in the state. Subjecting data centers to an appropriate degree of permitting is critical to ensuring that there are meaningful climate and environmental justice reviews as required by state laws. Mandatory permit reviews would ensure that the state has the opportunity to evaluate data centers' consistency with statewide greenhouse gas emission limits, consider justification and mitigation measures for the facilities and their energy consumption, and ensure that data centers do not cause disproportionate burdens and increase cumulative impacts in disadvantaged communities. The GEIS should consider establishing a uniform permitting process that would apply to all large data centers, new and existing. DEC could lead this process and include as permit consultants the New York State Department of Health ("DOH"), the Commission, and other relevant agencies. Creating a mandatory permit review would also ensure that the individual and cumulative impacts of data centers do not jeopardize water resources or sensitive habitats, and that waste disposal, noise, and other facility practices do not harm the environment or public health.

States that opened their doors for unchecked data center build out have since experienced tremendous buyer's remorse. It is critical to have a strong Scope of Work so that New York can learn from these experiences, not repeat them.

Thank you for your consideration of these comments.

Sincerely,

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