BEFORE THE NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

COMMENTS OF EARTHJUSTICE AND SIERRA CLUB ON THE MOTION OF THE COMMISSION TO ADDRESS INTERCONNECTION REFORMS FOR LARGE LOADS

May 13, 2026

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Introduction

These comments are submitted by Earthjustice and Sierra Club ("Commenters") in response to the Public Service Commission's ("PSC") February 12, 2026 Order Instituting Proceeding and Soliciting Comments ("Order") in relation to assessing and modernizing large load connections to the electric grid.

There are few, if any, historical precedents for the scale of energy-intensive demand – in such a short time, and in such large numbers – that currently faces the electricity sector. The shifting conditions and wide uncertainty bands in this market make planning exceptionally difficult, but if even the low end of these load estimates materializes, it will have profound impacts on decarbonization and energy affordability. Four hyperscale companies alone are planning for $650 billion in capital expenditure for data centers in 2026.[1] These comments, and the recommendations below, are provided to assist the PSC in charting a path forward for addressing large loads that advances the adoption of clean energy resources while also protecting ratepayers from rising costs.

Large load connections and the issues raised in the Order are undeniably complex, pressing, and increasingly controversial. At its core, this proceeding poses a critical *choice* for the PSC regarding the rapid growth of data centers and other large load connections in New York. How do we meet the growing challenge of maintaining electric system reliability and affordability, while meaningfully addressing climate change and local pollution, especially in already disproportionally impacted communities? With 11.9 GW of new large loads in the NYISO interconnection queue, if these facilities are supplied by incremental gas generation and operated around the clock, New York would be facing approximately 40 million metric tons of additional carbon dioxide emissions each year, an 11% increase in statewide GHG emissions that would erase nearly all of the progress that New York has made to reduce emissions since 1990.[2]

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[1] Lloyd Arnold, *AI Data Center Build Advances at Full Speed: Five Things to Know*, BloombergNEF (Mar. 24, 2026), https://about.bnef.com/insights/commodities/ai-data-center-build-advances-at-full-speed-five-things-to-know/.

[2] 11.9 GW * 8,760 hr/year * 0.06 tons CO2/MMBtu * 7 MMBtu/MWh * 0.91 metric tonnes/ton = 39,802,255 metric tons CO_2/year. The CO_2 emission rate is based on 2025 emissions data reported by New York gas plants to U.S. EPA and available from EPA's Clean Air Markets Program Database, campd.epa.gov. The gas plant efficiency is based on an efficient combined cycle gas plant. Data centers are presumed to operate round the clock. New York's 2023 gross

Data centers may also aggravate geographic disparities in New York's grid conditions. If current patterns persist, there is a serious risk that continued growth in data centers upstate – where lower-cost, clean energy is more plentiful – will create new barriers to delivering that energy to downstate communities who continue to shoulder the costs and pollution of fossil fuel plants.[3] And data centers' need for dispatchable capacity will manifest as massive spikes in pollution in new communities – as of 2024, diesel generator capacity at data centers alone has nearly tripled from 20 GW in 2018 to 55 GW in 2024.[4]

This cannot be New York's future. The Climate Leadership and Community Protection Act ("CLCPA") mandates transformative change in the fossil fuel-dominated electric sector in furtherance of the CLCPA's broader climate mandates. To achieve these requirements, the Legislature ordered all state agencies—including the PSC—to evaluate each permit, license, or other administrative decision through the lens of the CLCPA.[5] Additionally, agencies must also analyze the effects of decisions subject to the CLCPA to ensure that their decisions "shall not disproportionately burden disadvantaged communities. . . ."[6] and agencies must affirmatively "prioritize reductions of greenhouse gas emissions and co-pollutants" in such communities.[7] These requirements apply to this proceeding.[8] The CLCPA is not merely

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GHG emissions are 354 million metric tons, so 39,802,255 metric tons represents an 11.2% increase. NYS DEC, 2025 Statewide GHG Emissions Report: Summary Report, at v (2025). Since 1990, New York has reduced statewide GHG emissions by less than 15%. *Id.*

[3] See, e.g. Urban Green Council, NYC's Grid in Transition (Mar. 25, 2026) https://www.urbangreencouncil.org/nyc-grid-in-transition/.

[4] Catherine Casomar et al., Better Data Center Project, *Diesel Generators at Data Centers* 3 (Mar. 2026), https://betterdatacenterproject.com/wp-content/uploads/2026/03/Diesel-Generators-at-Data-Centers-Status-Impacts-and-Protective-Practices.pdf.

[5] Specifically, CLCPA Section 7(2) directs that: "In considering and issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts, all state agencies, offices, authorities, and divisions shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law."

[6] CLCPA § 7(3).

[7] *Id.* "Co-pollutants" are non-greenhouse gas air pollutants that are also produced by greenhouse gas emission sources. ECL § 75-0101(3).

[8] The Legislature intended that the requirements of the CLCPA sweep broadly, and indeed, the PSC has itself recognized that it is "the Legislature's intent that Section 7(2) of the CLCPA be broadly construed," and that "[t]he same analysis applies to Section 7(3) of the CLCPA. *See* Order Approving Joint Proposal, as Modified, and Imposing Additional Requirements at 69–70, NY PSC Case Nos. 19-G-0309, 19-G-0310, & 18-M-0270 (Aug. 12, 2021); *see also id.* at 70 ("Commission orders in rate cases fall within the ambit of Section 7(2)'s application to 'other administrative approvals,' notwithstanding the absence of a direct correlation to any item provided in the list of examples, as such list is preceded by the phrase 'including, but not limited to.'").

aspirational. To meet the CLCPA's deadlines for reducing greenhouse gases, all state agencies, including the PSC, will have to implement the law faithfully.

In implementing the Order, the PSC should assess all of the relevant questions, including those of a technical nature, with a focus on advancing the clean energy transition required by the CLCPA and protecting customers from the potential costs of serving new large loads. Our recommendations, upon which we elaborate below, are as follows:

- Treat data centers as a distinct customer class, separate from other large loads.
- Require early, adequate financial commitments to improve certainty of load forecasts
- Follow best practices for large load forecasting, including:
    - requiring utilities to develop and assign probability weights – backed by transparent assumptions and methodology – to different criteria used for evaluating load forecasts;
    - relying on scenario-based forecasting models with reasonable probabilities; and
    - requiring utilities to develop load forecasts with zero data center load to facilitate assessments of incremental impacts.
- Set a minimum total capacity threshold of 25 MW, and consider this in conjunction with a 75% load factor threshold.
- Set minimum contract term lengths to twenty years or more.
- Establish separate ramp-up periods of not more than five years that are also subject to minimum demand billing charges and exit fees.
- Minimum billing demand charges should be equal to at least 90% of large load customers' contracted capacity, applied to their maximum demand and on-peak demand.
- Establish a minimum 42-month notice period for early contract termination or capacity reduction.
- Establish exit fees and contract capacity reduction fees equal to the greater of (1) the difference between the costs placed into rates less the revenues received from the customers, or (2) the nominal value of the remaining minimum charge for the reduced capacity in excess of the 20% allowed for each year of the exit fee period.

- Establish upfront payment for minimum transmission demand charges.
- Limit eligible forms of collateral payment to (1) a performance bond from a third-party issuer with investment-grade credit metrics; (2) a surety bond; or (3) cash.
- Collateral requirements should be 50% of the total minimum monthly charges multiplied by the number of months remaining on the full contract term.
- Require upfront payment of an interconnection fee and upfront payment to cover study costs.
- Ensure that large load customers' portfolio of resources aligns with CLCPA targets through incremental new generation that is matched to the same hour and delivered in the same grid as the power consumed.
- Leverage tariffs to support investments in clean energy solutions such as efficiency, VPPs, and DERs, through e.g. a per kilowatt-hour surcharge.
- Strictly limit any incentives offered for flexibility or other grid services to zero-emission solutions, and prohibit incentives for reliance on back-up fossil fuel combustion.
- Ensure flexible connection arrangements are backed by strong assurances such as high penalties for non-compliance.
- Hold a technical conference to modify current cost allocation framework for large loads prior to their inclusion in a future rate case.
- Track all study, generation, transmission, and distribution costs attributable to service data centers and directly assign those costs to data center customers as a class pending updated cost allocation frameworks.
- Prohibit the use of confidential negotiated agreements with special contract rates for large load customers.
- Require the utilities to provide quarterly reports on large load customers with specific details about the requested load and expected upgrades.
- Require large loads to recycle and reuse waste heat.

Threshold Issues

In the Order, the Commission addressed itself to a number of issues raised by "large electric loads."[9] The Order, however, does not define what constitutes a "large load," and at various points groups together a diverse range of load types, including data centers, advanced manufacturing, cleantech, and industrial development.[10] Elsewhere in the Order, the Commission recognizes that "certain large electric load facilities, such as data centers, often do not provide the same economic development or job creation opportunities relative to other strategic industries."[11]

Commenters concur with the observation that large loads—which can strain New York's electric grid, deplete scarce water resources, increase local air pollution, and challenge its clean and zero emission energy goals—do not all provide the same economic value to the State. While the State must thoughtfully address cost and environmental issues associated with all large loads, a one-size-fits-all approach is not appropriate. Compared to advanced manufacturing and cleantech facilities, data centers and cryptocurrency mining facilities return relatively little value to the State. They also present distinct risks. Whereas a factory may invest in equipment intended to last many years, the server equipment utilized in data centers requires replacement every few years. With significant uncertainty regarding the size or sustainability of the data center industry, data centers present a heightened risk of stranded assets. These risks and uncertainties help explain why 28 of the 38 states that initially offered incentives to the data center industry have weighed legislation this year to end or shrink those benefits.[12]

Commenters recommend treating data centers as distinct from other forms of load growth such as the beneficial electrification of formerly fossil fuel end uses (elaborated in response to Question 3 of the Order).

[9] Order at 1.
[10] *See id.* at 1–2.
[11] *Id.* at 3.
[12] Jason Plautz & Jeffrey Tomich, *Data Centers Used to Be a Prize. States Are Having Second Thoughts*, E&E News (Apr. 30, 2026), https://www.politico.com/news/2026/05/02/data-centers-states-tax-incentives-00891184.

Response to Questions

1. How can large load demand be accurately forecasted and verified before being included in long-term load forecasts and system planning studies?

After nearly two decades of essentially flat electricity demand in New York, the State is forecasting significant, but uncertain, load growth over the coming years. Data centers have emerged as the largest driver of near-term electric load growth. As the Commission noted in its initiating order for this docket, as of February of this year, the NYISO queue included 11.9 GW of new load from large projects, including 8.3 GW that entered the queue in 2025. Even a fraction of this demand would be a profound change to New York's grid, but even more troubling is the significant uncertainty around what level will materialize, and at what pace. As explained by RMI, "[l]oad growth from data centers carries perhaps the highest forecast uncertainty of any relevant large end use today."[13]

There are at least five key reasons to proceed with caution before building out generation, transmission, and distribution infrastructure to support new forecasted data center load. As an initial matter, data center load projects for U.S. jurisdictions exceed the projected physical supply of global chip manufacturers, casting doubt on the viability of data center load projections. To operate the number of data centers announced in the United States between 2025 and 2030, London Economics International ("LEI") calculated that an improbable 90% of incremental global chip supply for that period would have to be directed to the U.S. market, despite the U.S. presently accounting for under 50% of global chip demand and other regions of the world expanding their demand for chips.[14]

Second, utility projections for data center growth suggest that these users will more than double the current energy consumption of the entire United States. A Sierra Club analysis of two dozen utilities found that collectively, over 700 GW of data center development had been

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[13] Jeffrey Sward et al., RMI, *Get a Load of This: Regulatory Solutions to Enable Better Forecasting of Large Loads* 20 (Feb. 2025), https://rmi.org/insight/get-a-load-of-this.

[14] London Econ. Int'l, *Uncertainty and Upward Bias Are Inherent in Data Center Electricity Demand Projections* 9 (July 2025), https://www.londoneconomics.com/wp-content/uploads/2025/07/LEI-Data-Center-Final-Report-07072025.pdf.

proposed to them.[15] That figure is separate and apart from proposed cryptocurrency mining load.[16] Concerningly, one-third of the data center capacity is proposed by developers that have few or no operational data centers, suggesting significant levels of load inflation in the projections of utilities and grid operators.[17]

Third, data center developers have incentives to submit multiple requests for service, and have been doing so.[18] Data centers have considerable flexibility about where to locate. The primary constraints are land availability, access to fiber capacity, water for cooling, adequate latency, and access to electricity.[19] Speed to market is a top priority, so developers often seek the ability to choose between sites.[20] In this environment, submitting multiple service requests presents a low-cost and low-risk strategy for data center developers.[21] It has been widely reported that data center developers are in fact submitting service requests to multiple utilities.[22] PJM has confirmed that data center companies "are pitching the same data centers in multiple different locations."[23] The CEO of a grid optimization software provider estimated that "[c]onservatively, you're seeing five to [ten] times more interconnection requests than data centers actually being built."[24]

Fourth, there is also evidence that local opposition is impacting data center buildout. Between May 2024 and March 2025, Data Center Watch documented 16 data center projects that

[15] Jeremy Fisher, *Fools Gold: When 700 Gigawatts of Data Centers Come Knocking*, Sierra Club (Aug. 8, 2025), https://www.sierraclub.org/articles/2025/08/fools-gold-when-700-gigawatts-data-centers-come-knocking.
[16] *Id.*
[17] *Id.*
[18] LEI Report, *supra* note 14, at 8.
[19] LEI Report at 10.
[20] *Id.* at 11.
[21] *Id.* at 12.
[22] *See, e.g.*, Bianca Gicobone, *Phantom Data Centers Are Flooding the Load Queue*, Latitude Media (Mar. 26, 2025), https://www.latitudemedia.com/news/phantom-data-centers-are-flooding-the-load-queue/.
[23] Comments of Public Interest Organizations at 17, FERC Dkt. No. EL25-49-000 (Apr. 23, 2025), https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250423-5243 (quoting Stephen Bennett, PJM Senior Manager of Government Services).
[24] Brian Martucci, *A Fraction of Proposed Data Centers Will Get Built. Utilities Are Wising Up*, Utility Dive (May 15, 2025), https://www.utilitydive.com/news/a-fraction-of-proposed-data-centers-will-get-built-utilities-are-wising-up/748214/.

were blocked or delayed in the face of local opposition.[25] That number rose to 48 projects by the end of 2025.[26]

Finally, utilities themselves have an incentive to over-forecast load. Utilities' incentive to provide optimistic projections about potential growth "is designed in part to grab investors' attention with the promise of new capital spending that will drive future profits."[27] An RMI retrospective analysis of utility load forecasts from 2006 to 2023 found that, on a five-year time horizon, the weighted average of utility load forecasts over-predicted peak demand by 8% and on a ten-year time horizon, the over-prediction of peak demand was 17%.[28] Challenges with accurately forecasting data center load in particular have been exacerbated by utilities declining to disclose facility-specific details (on the grounds that a data center's forecasted load is proprietary information), leading to potential double-counting.[29]

In light of these factors, the most critical way to improve forecasting is by ensuring the data centers have "skin in the game" before they are incorporated into load forecasts that have utility investments attached to them. Requiring adequate, early financial commitments is a crucial tool for providing concrete evidence that planners can use to scrutinize load forecasts and mitigate speculative or inflated load. Additional evidence that should be considered when evaluating load forecasts includes whether the potential new large customer has submitted permit applications, acquired necessary real estate, initiated construction, and entered contracts for electric service. These protections are necessary to protect ratepayers, as discussed below in response to Question 3.

Based on testimony of expert witnesses in similar large load tariff proceedings, Commenters suggest the PSC require utilities to use the following principles to evaluate data center load forecasts:

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[25] Data Center Watch, *$64 Billion of Data Center Projects Have Been Blocked or Delayed Amid Local Opposition* (Mar. 2025), https://www.datacenterwatch.org/report.
[26] Lydia DePillis, *Local Opposition Is Slowing A.I. Data Centers. Wall Street Has Noticed*, N.Y. Times (Mar. 26, 2026), https://www.nytimes.com/2026/03/26/business/economy/ai-data-centers-construction-local-opposition.html.
[27] Eliza Martin & Ari Peskoe, Harvard Law School, Environmental & Energy Law Program, *Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech's Power* 5 (Mar. 2025).
[28] Sward et al., *supra* note 13, at 15, Exhibit 5.
[29] Martin & Peskoe, *supra* note 27, at 5.

1) Develop probability weights based on evidence, data, and analysis, and submit together with material evidence demonstrating the data center inquiries' status;
2) Assign probability weights based on the specific details of each particular data center inquiry;
3) Provide a transparent methodology with transparent assumptions made available to the Commission and stakeholders;
4) Account for the difference in project likelihood between inquiries from real estate developers and inquiries from data center operators.[30]

Additionally, Commenters endorse several recommendations from RMI for improving forecasting in the face of this high degree of uncertainty. First, RMI recommends employing scenario-based or stochastic load forecasting methods.[31] Rather than relying on a single scenario or median scenario, RMI suggests using ranges and assigning reasonable probabilities to each scenario. Second, RMI suggests integrating end-use forecasting with econometric forecasting.[32] This includes developing bottom-up hourly load profiles for end uses that have not reached market saturation or do not yet correlate with macroeconomic indicators.[33]

We also encourage the Commission to require utilities to develop load forecasts with zero data center load, in order to facilitate assessments of the incremental costs imposed by these loads.

2. What innovative technology should be considered to improve interconnection cost estimates, reduce development time, and provide sensitivity analysis?

Commenters reserve the right to respond in reply comments in addition to those recommended in the prior section.

[30] Testimony of Elizabeth A. Stanton, Ph.D., at 55, Ky. PSC Case No. 2025-00045 (June 16, 2025), https://psc.ky.gov/pscecf/2025-00045/byron%40kyrc.org/06162025113221/2025-06-16-JI-testimony-EAS.pdf.
[31] Sward et al., *supra* note 13, at 23.
[32] *Id.*
[33] *Id.* at 24.

3. What requirements should be applied to large loads and/or data centers to maintain grid reliability, protect ratepayers, and meet New York's climate goals?

1. Tariff Eligibility and Data Centers as a Unique Class

The PSC should set a minimum total capacity threshold to determine eligibility. Commenters suggest that 25 MW is an appropriate initial threshold for delineating large loads for the purposes of this proceeding. A number of existing and proposed large load tariffs have used similar cutoffs.[34] Although some utilities have used higher size thresholds, these determinations should be carefully justified based on the unique characteristics of anticipated new load in New York. According to the NYISO Large Load Interconnection Queue, the State has received potential service requests from data center customers below 50 MW, including some proposals between 25 and 36 MW.[35] This threshold should be considered in conjunction with a high load factor threshold – e.g. 75% load factor – to focus on facilities with uniquely intense usage patterns while excluding traditional industrial customers.

Commenters recommend the PSC treat data centers, rather than large loads in general, as a unique rate class when allocating costs. As explained above, data centers impose both uniquely intense load profiles and behavior with profound reliability impacts,[36] and uniquely indeterminate demand ranges due to the market's uncertainty. These reasons, among others, led the Public Utilities Commission in Ohio to opt for a tariff specific to data centers larger than 25 MW over a more general large load tariff for all loads over 50 MW.[37] The Commission also rejected the argument that such a class was discriminatory in part because "the volume and highly intensive pattern of electric usage that distinguishes data center customers from other high

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[34] For example, Dominion and Rappahannock Electric Cooperative both created new rate subclasses with a 25 MW and 75% load factor eligibility threshold; AEP Ohio created a new rate subclass with a 25 MW cutoff for data centers; Portland General Electric created a new rate subclass with a 30 MW cutoff. *See* Direct Testimony of Ron Nelson at 59, tbl. 5, S.C. PSC Dkt. No. 2025-154-E (Sept. 16, 2025), https://dms.psc.sc.gov/Attachments/Matter/d4fd75ca-c998-4eaf-9732-a4000c41f10b (summarizing proposed and existing large load tariffs across utilities).

[35] NYISO, *Energy-Intensive Projects in NYISO's Interconnection Queue* (Aug 26, 2025) https://www.nyiso.com/-/energy-intensive-projects-in-nyiso-s-interconnection-queue.

[36] *See, e.g.*, Press Release, N. Am. Elec. Reliability Corp., NERC Issues Level 3 Alert, Reliability Guideline Focused on Large Load Challenges (May 4, 2026) https://www.nerc.com/newsroom/nerc-issues-level-3-alert-reliability-guideline-focused-on-large-load-challenges.

[37] *See Data Center Tariff*, AEP Ohio, https://www.aepohio.com/company/about/rates/data-center-tariff/ (last visited May 13, 2026).

intensive energy customers, like large manufacturers."[38] The Chelan County Public Utility District in Washington State similarly opted to create a unique rate schedule for data centers, reasoning that data centers, unlike other large commercial and industrial load customers, exhibit these characteristics:

> [H]igh energy use density, high load factor, need for more than routine alterations to the District's Electric Service Facilities in order to maintain safety, load that is portable and distributable, highly variable load growth or load reduction as an individual customer and/or in aggregate with similar customers in the District's service area, able to relocate quickly in response to short-term economic signals, high sensitivity to volatile commodity or asset prices, or part of an industry with potential to quickly become a large concentration of power demand in the District's service area.[39]

Distinguishing data centers from other large loads in tariffs reduces the risk of restricting other forms of beneficial electrification that help large energy users in the State meet New York's policy goals of reducing fossil fuel use and greenhouse gas emissions, while still protecting ratepayers from high-risk cost shifts.

2. <u>Minimum Contract Length</u>

Because the capital costs associated with interconnecting and serving new load are typically amortized over several decades, establishing a minimum contract period and exit policy helps to ensure that data centers do not avoid covering these costs by exiting the system earlier than expected. Commenters believe a twenty-year contract term is an appropriate floor to protect ratepayers from the significant cost shift risks posed by the potentially enormous size of utility investments needed to serve large load customers. Contracts shorter than the life of assets procured or built for large load consumers can result in serious cost shifting to other ratepayers. Power purchase agreements regularly range from fifteen to twenty-five years.[40] Accordingly, as of 2025, at least six large load tariffs have established minimum contract lengths of fifteen

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[38] Opinion and Order at 76–78, Ohio PUC Case No. 24-508-EL-ATA (July 9, 2025), https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=badab793-e041-4173-9b6d-436e51f80e5c.
[39] *See* Chelan Cnty. Pub. Util. Dist., Electric Rate Schedule 36 at 14, https://www.chelanpud.org/docs/default-source/default-document-library/rate-schedule-36-data-centersand-similar-loads.pdf (last visited May 12, 2026).
[40] *See, e.g.*, Kevin Pratt, *How to Assess if You Can Enter a Long-Term Power Purchase Agreement*, Pacifico Energy (Jul. 15, 2025) https://www.pacificoenergy.com/post/assess-if-you-can-enter-long-term-power-purchasing-agreement.

years.[41] Kentucky Power's large load tariff was recently approved with a twenty-year minimum contract term.[42] Critically, even a twenty-year minimum contract will not cover the full life of grid assets that are built or procured to meet large load customers' demand, which last for several decades.

3. Ramp-Up Period

Separate and in addition to the minimum contract length, the tariff should include a load ramp-up period of not more than five years. This ramp-up period covers the initial period when capacity is gradually added as the large load customer meets certain milestones, after which the full contract terms would commence. Large load customers should continue to have to pay minimum demand billing charges and exit fees in the event of early termination. These charges and fees can be scaled to match contract capacity during the ramp-up period. Exit fees during the ramp-up period ensure large load customers are committed to ongoing service and allow for adequate planning to terminate service.

This is critical to avoid early exits from developments just for data centers. Hyperscale companies are increasingly using novel financing arrangements that increase risk exposure for everyday ratepayers. In Louisiana, for example, Meta secured approval to build three new billion-dollar gas plants and related infrastructure based in part on a guarantee that ratepayers would be shielded from paying for the project.[43] But that same day, Meta sold off 80% of its ownership in a data center to a venture debt company, enabling Meta to depart from the from the project in as little as four years. Protections during the ramp-up period are essential for insulating ratepayers from project costs in the event that the trillion-dollar companies initiating them walk away.

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[41] Alyssa Perez et al., RMI, *Large Energy Users Want Power. Here's How to Protect Other Ratepayers from the Costs* (Nov. 7, 2025), https://rmi.org/large-energy-users-want-power-heres-how-to-protect-other-ratepayers-from-the-costs/.
[42] *See id.*
[43] Press Release, Earthjustice, Consumer Groups Alarmed as Louisiana PSC Declines to Take Up Probe into Meta Risky Financing Deal (Feb. 25, 2026), https://earthjustice.org/press/2026/consumer-groups-alarmed-as-louisiana-psc-declines-to-take-up-probe-into-meta-risky-financing-deal.

4. Minimum Billing Demand

Even if data centers remain interconnected for the duration of their contracts, they could underpay the grid costs that they incurred—and thus shift those costs to other customers—if the grid capacity they requested exceeds the amount that they actually use. To insulate other customers against this risk, existing and proposed large load tariffs have typically included minimum billing requirements, frequently in the form of a percentage of contracted demand. Large load customers should be required to pay a monthly minimum billing demand charge equal to at least 90% of their contracted capacity, applied to their maximum demand and on-peak demand. This ensures that the large load customers, rather than ratepayers at large, bear the risks of system costs created by their load and impacts. Kentucky Power's large load tariff provides precedent for this – charging the greater of either 90% of the customer's on-peak contract capacity, or their highest actual billing amount from the past eleven months.

Testimony filed in Consumer Energy's large load tariff case in Michigan further underscores the importance of 90% minimum billing demand combined with twenty-year contract terms. Expert witness Caroline Palmer calculated minimum generation revenues for the region's expected 2.65 GW of data center load under various tariff parameters. Consumers Energy's proposed fifteen-year contract and 80% minimum billing demand were estimated to be $3.5 billion lower than the installed capital costs of the incremental generation capacity.[44] Neither Consumers Energy nor the Data Center Coalition provided quantitative analysis to support shorter contract lengths or lower minimum billing demand charges. Notably, even with twenty-year contract term and 90% minimum billing demand, generation revenues were estimated to be $1.7 billion lower than the incremental generation capital costs.[45] Commenters therefore believe 90% minimum billing demand on a twenty-year contract should be the minimum required to protect other customers from unreasonable cost shift.

[44] Rebuttal Testimony and Exhibit of Caroline Palmer at 8, Mich. PSC Case No. U-21859 (Jul 9, 2025), https://mi-psc.my.site.com/s/filing/a00cs00000pjlobAAA/u218590118.
[45] *Id.* at 9.

5. Exit Fees and Contract Capacity Reductions

If large load customers seek to terminate or revise down their contract capacity, they must be subject to payment of an exit or capacity reduction fee that safeguards ratepayers from footing the bill for their costs. To adequately protect ratepayers, the exit fee should equal the value of the remaining minimum bill charge for the terminated or reduced capacity for the duration of the contract. The PSC should also establish a 42-month minimum notice period for early contract termination or capacity reduction. Indiana Michigan Power Company, Appalachian Power Company, and Wheeling Power Company all offer modeled capacity reduction restrictions and exit fee conditions, as well as minimum notice periods.[46]

The Pennsylvania Public Utilities Commission's model large load tariff – noting these established practices – recently ordered the following; capacity reductions of no more than 20% require at least 42 months' notice, capacity reductions of greater than 20% or terminations require 42 months' notice and payment of a capacity reduction or exit fee. The fee would equal the greater of (1) the difference between the costs placed into rates less the revenues received from the large load customers, or (2) the nominal value of the remaining minimum charge for the reduced capacity in excess of the 20% allowed for each year of the exit fee period.[47] Commenters support these minimum safeguards, with the added essential protection that requests to reduce contract capacity should be subject to review and approval by the Commission. This additional layer of review could help ensure that capacity reductions do not increase costs for other ratepayers.

6. Transmission and Distribution Costs

Large load tariffs must address transmission and distribution line extension and network upgrade costs. Very large customers in single locations, including data center customers, have significant transmission-level impacts that can trigger the need for transmission network upgrades and substation costs.[48] If utility line extension tariffs only assess the cost of additional investment in local facilities, they may fail to appropriately assign the upstream transmission

[46] *See* Tentative Order at 33, Pa. PUC Dkt. No. M-2025-3054271 (Nov. 6, 2025), https://www.puc.pa.gov/pcdocs/1901687.pdf.
[47] *Id.* at 33–35.
[48] Nelson Testimony, *supra* note 34, at 67.

system network upgrades or substation costs to the connecting customer.[49] An analysis by the Union of Concerned Scientists found that in 2024 alone, more than $4.3 billion in additional costs caused by local transmission upgrades for data centers were passed on to PJM customers.[50] Network transmission upgrades have historically been considered shared resources and the costs have been socialized.[51] But in the case of data centers, transmission system upgrades may be directly attributable to a single large customer in a single location and more difficult to repurpose should that customer exit the system.[52]

Utilities in other states are developing approaches to ensure that new data large loads cover the costs of associated transmission updates. In Oregon, for example, the Commission largely approved a Portland General Electric large load tariff that imposes a System Allocation Fee—an upfront payment of two years' worth of minimum transmission demand charges refundable over three years if the customer meets minimum demand levels—on customers over 30 MW.[53]

7. Collateral Requirements

Collateral requirements are minimum criteria that large load customers must meet to ensure they can cover the costs of electric service provision. These requirements help reduce stranded asset risks and can also play a role in firming up the speculative nature of load interconnection requests. Two key elements must be determined: acceptable collateral forms and appropriate collateral amounts.

The PSC should evaluate and define forms of acceptable collateral that stakeholders have agreed on in other venues. Recommended forms of collateral are (1) cash or (2) irrevocable letters of credit.

[49] *See id.* at 64–65.
[50] Mike Jacobs, Union of Concerned Scientists, *Connection Costs – Loophole Costs Customers Over $4 Billion to Connect Data Centers to Power Grid* (Sept. 2025), https://www.ucs.org/sites/default/files/2025-09/PJM%20Data%20Center%20Issue%20Brief%20-%20Sep%202025.pdf.
[51] Nelson Testimony at 67.
[52] *Id.*
[53] Order, App'x A at 8–9, Ore. PUC Dkt. No. UE 430 (Mar. 6, 2025), https://apps.puc.state.or.us/orders/2025ords/25-091.pdf.

These forms of collateral are preferable to corporate guarantees from a parent company or surety bonds, which have increasingly been clouded by novel financing arrangements leveraging venture debt.[54]

Additionally, collateral requirements must be sufficiently high to guard against speculative load interconnection requests, given the inherent economic incentives to duplicate requests. For example, the Michigan Public Service Commission recently approved a default collateral requirement for Consumers Energy of 50% of the total minimum monthly charges multiplied by the number of months remaining on the full contract term, to be recalculated annually.[55] Similarly, the Virginia State Corporation Commission approved Dominion's collateral requirement of $1.5 million/MW (with a reduction of up to 70% based on the customer's established credit), with 1/14th of the collateral released each year throughout the contract term.[56]

8. Initial Down Payments

In addition to collateral requirements, the Commission should require initial down payments to deter speculative load requests and cover initial costs. Commonwealth Edison in Illinois requires a deposit tied to a customer's maximum kilowatt delivered calculated as $1 million plus $500,000 for each whole 100 MW increment above 200 MW, where the customer must provide an acceptable letter of credit for any deposit amount exceeding $2 million.[57] Similarly, Texas's recently adopted Senate Bill 6 provides several provisions that help guard against speculative load requests and ensure initial costs are covered.[58] These include a non-refundable interconnection fee of $50,000/MW; requiring 100% of direct interconnection costs to be paid upfront (i.e., without use of credit); and a pre-requisite demonstration of financial assurance for interconnection studies along with substantial study fees.

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[54] *See, e.g.*, Matt Wirz, *Three AI Megadeals Are Breaking New Ground on Wall Street*, Wall St. J. (Nov. 11, 2025), https://www.wsj.com/tech/ai/three-ai-megadeals-are-breaking-new-ground-on-wall-street-896e0023.
[55] Order at 112, Mich. PSC Case No. U-21859 (Nov. 6, 2025), https://mi-psc.my.site.com/s/filing/a00cs00001C0rBNAAZ/u218590221.
[56] Final Order at 25, Va. State Corp. Comm'n Case No. PUR-2025-00058, (Nov. 25, 2025).
[57] Order at 20, 26, Ill. Com. Comm'n Dkt. Nos. 25-0677 & 25-0679 (Mar. 19, 2026).
[58] S.B. 6, 89th Leg., Reg. Sess. (Tx. 2025), https://capitol.texas.gov/tlodocs/89R/billtext/pdf/SB00006F.pdf.

9. Clean Energy and Climate Protections

The PSC should ensure that large load customers support, and at a minimum do not undermine, New York's Clean Energy Standard. Tariff terms should ensure the portfolio of resources used to serve each large load aligns with the clean energy criteria required by the CLCPA.[59] Moreover, to ensure the claimed use of renewable energy is actually meeting the demand caused by the large load, the renewable energy requirements should adhere to the principles of the "three pillars" for assuring clean energy use. These are that the renewable energy is incremental to existing generation, geographically deliverable to the same region of the grid, and matched in time to the same hour that the power is consumed. As discussed below, the PSC should carefully consider procedural or other incentives it can put in place to encourage large load applicants to effectively utilize CLCPA-compliant clean energy.

There is a growing body of research pointing to the feasibility and cost-effectiveness of meeting forecasted grid needs for data centers through combinations of clean energy solutions, such as efficiency, grid enhancing technologies, battery storage, virtual power plants ("VPPs") and distributed energy resources.[60] The PSC must leverage large load tariffs to ensure customers avail themselves of these solutions rather than expanding or extending reliance on fossil fuel combustion. The fact that renewable energy solutions are cheaper also means they do not pose the same level of stranded asset risk as a new gas plant with a thirty-year lifespan, have less impact on other ratepayers, have no volatile fuel costs, generate no air or climate pollution, and advance New York's compliance with the CLCPA. The PSC should also pursue tariff terms that provide support energy efficiency and the transition to renewable energy. For example, Oregon recently imposed a 1-cent per kilowatt-hour surcharge on very large data centers, with the

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[59] We also note that in November 2021, approximately 70% New York voters supported the Environmental Rights Amendment (Article I, Section 19) to the State Constitution ("ERA"), which guarantees New Yorkers the constitutional right to "clean air and water, and a healthful environment." As with the CLPCA, the PSC is also bound to comply with the ERA. The PSC must consider not only the massive greenhouse gas potential of large loads, but also the emission of other air pollutants, impacts on limited water resources, among other potential harms associated with such facilities.

[60] *See* Cora Wyent et al., Rewiring America, *Homegrown Energy: How Household Upgrades Can Meet 100 Percent of Data Center Demand Growth* (Sept. 2025), https://a-us.storyblok.com/f/1021068/x/7ea6f4dba0/homegrown-energy-report-rewiring-america-dec2025.pdf; Jesse Cohen et al., RMI, *How Virtual Power Plants Can Help the United States Win the AI Race* (Nov. 6, 2025), https://rmi.org/how-virtual-power-plants-can-help-the-united-states-win-the-ai-race/.

revenue directed to energy efficiency, repairs and local energy generation, which may include rooftop solar.[61]

4. What grid services such as load flexibility, demand response, on-site generation, energy storage, or alternative service be considered?

Flexibility has been touted as a way to reduce the impact that new data centers will have on the grid and as a reason their interconnection can be readily managed. Reducing peak demand from data centers is important, and flexibility could be an important element in reducing the threat that the data center boom currently poses to our clean energy and climate goals. But significant constraints are needed to ensure that promised or assumed flexibility is actually occurring and does not adversely impact communities by increasing pollution and reliability risks. This is especially so when promises of flexibility are used as a reason to get to the front of a large load interconnection queue.

As an initial matter, we note that any incentives for load flexibility or other grid services must be strictly limited to zero-emission solutions. The PSC has an obligation to ensure incentives for on-site generation or demand response do not perversely incentivize unjust and environmentally harmful use of fossil gas or diesel back-up generators.[62] As a practical matter, the vast majority of on-site generation used by data centers today to offset a portion or all of their grid reliance has relied on burning fossil fuels at the expense of our climate and communities living near these customers.[63] Continuation of this status quo with the PSC's endorsement or acquiescence would be inconsistent with CLCPA Sections 7(2) and (3) and the ERA.

Zero-emission load flexibility options, like on-site renewable energy and battery storage, virtual power plants, and novel forms of demand response in AI operations should be explored

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[61] *See* Order at 2, 13, Ore. PUC Case No. UM 2377 (May 7, 2026), https://apps.puc.state.or.us/orders/2026ords/26-154.pdf; Gosia Wozniacka, *Oregon Data Centers Must Pay More for Electricity, State Regulators Rule*, The Oregonian (May 8, 2026), https://www.oregonlive.com/business/2026/05/oregon-data-centers-must-pay-more-for-electricity-state-regulators-rule.html.
[62] *See* Catherine Casomar & John Bangsund, Better Data Center Project, *Diesel Generators at Data Centers: Status, Impacts, and Protective Practices* (Mar. 2026), https://betterdatacenterproject.com/wp-content/uploads/2026/03/Diesel-Generators-at-Data-Centers-Status-Impacts-and-Protective-Practices.pdf.
[63] Arcelia Martin, *Data Centers' Use of Diesel Generators for Backup Power Is Commonplace—and Problematic*, Inside Climate News (Nov. 12, 2025), https://insideclimatenews.org/news/12112025/data-center-diesel-generators-noise-pollution/.

and incentivized whenever possible. As discussed above, inflexibility and the need for around-the-clock power is a unique feature of most kinds of data centers. However, introducing even a small amount of load flexibility can dramatically reduce the capacity required to reliably serve data center load.

Load flexibility is a potentially valuable tool to mitigate the system costs of new data center additions. Avoiding or delaying these investments can reduce costs. However, for now, several recent studies are based on assumed levels of flexibility that are not necessarily technologically or economically likely without strong financial assurances or required curtailment. For example, one expert estimated that when data centers are down, it costs technology companies about $9,000 per minute.[64]

The Commission should explore flexible connections – backed by strong assurances and sufficient penalties for non-compliance – as an opportunity to mitigate the costs and risks of serving new data center loads. But Commenters stress that these agreements cannot be voluntary – they must rely on protections such as penalties for non-curtailment that are high enough to override the massive economic incentive data centers have to operate continuously and, as noted above, that any back-up generation used during those times are 100% zero emissions, in compliance with the CLCPA.

Not all data center load is equally flexible. Training AI models allows for greater flexibility than fielding AI queries, which must be run in real time. Some tech companies, but not all, can shift load to accommodate grid stress. A recent field demonstration from Arizona demonstrated the potential for cloud data centers to achieve reductions in peak demand.[65] Researchers used a software-based platform, Emerald Conductor, to transform a production AI cluster into a grid-responsive asset by dynamically scheduling jobs, modifying resource allocations for each job, and applying power-limiting techniques such as frequency scaling for

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[64] Laila Kearney, *Stressed US Grid Forcing Data Centers to Get More Flexible*, Reuters (Mar. 26, 2026) https://www.reuters.com/sustainability/boards-policy-regulation/ceraweek-stressed-us-grid-forcing-data-centers-get-more-flexible-2026-03-26/.
[65] Philip Colangelo et al., *Turning AI Data Centers into Grid-Interactive Assets: Results from a Field Demonstration in Phoenix, Arizona* (July 2025), https://arxiv.org/pdf/2507.00909.

graphics processing units. The trial achieved a 25% reduction in cluster power usage for three hours during peak grid events while maintaining AI quality of service guarantees.[66]

It is likely that utilities will need to develop new capabilities to enable flexible connections. These connections must be embedded into planning, operations, and customer contracts to be effective, and require a number of enabling actions.[67]

We recommend the Commission only encourage the pursuit of load flexibility and flexible interconnection programs if they are strictly limited to zero-emission solution sets. Incentivizing behind-the-meter gas and diesel combustion would result in shifting environmental burdens to nearby communities and the climate, violating New York's obligations to disadvantaged communities and its emissions goals under the CLCPA.

5. How should cost allocation be structured to ensure data centers or similar facilities bear the cost they impose on the electric system?

In Question 3 above, Commenters explained the minimum terms necessary to protect other ratepayers from risks in the event that projected data center load does not materialize. Equally important is for the Commission to protect other ratepayers from bearing costs if the data centers *do* materialize.

Data centers' claimed need for virtually continuous power at enormous levels means they are responsible both for large, incremental capital investments in generation, transmission, and distribution, and for a higher share of the utility's existing and planned grid infrastructure, to which they add significant wear and tear. Traditional cost allocation methods – such as the beneficiary-pays framework – are oriented toward system-wide, diffuse demand growth spread over many customers. These are unlikely to be adequate in the context where a small number of very large loads with 24/7 demand profiles are driving system costs. Specifically, data centers should not be able to avoid covering costs for upgrades that they are causing by pointing to minor system benefits shared by other ratepayers. Cost allocation for data centers should also account for the potential that data centers will drive deeper geographic disparity in New York's

[66] *Id.*
[67] *See* Nelson Testimony, *supra* note 34, at 78.

grid conditions. If current patterns persist, there is a serious risk that continued growth in data centers upstate – where lower-cost, clean energy is more plentiful – will create new barriers to delivering that energy to downstate communities who continue to shoulder the costs and pollution of fossil fuel plants.

We recommend the PSC hold a technical conference to determine what improvements or adjustments to the current beneficiary-pays framework, outside of and ideally prior to their inclusion in a future rate case. Until then, the most effective way to minimize the shifting of costs is for the Commission to ensure the tracking of all study, generation, transmission, and distribution costs attributable to serving the data center and then directly assign those to data center customers as a class.

6. How can the state ensure transparency in the large load interconnection process and information sharing?

Even low range estimates of data center load impacts suggest profound impacts to New York's grid. The opacity of the current large load interconnection process creates risks for utilities, customers, and other ratepayers alike.[68] It is essential that the Commission keep the public apprised, to the best of its ability, of what is coming down the pike and how potential impacts are being managed. At a minimum, commenters recommend the Commission prohibit the use of confidential negotiated agreements with special contract rates for large load customers. The Commission should also ensure broad stakeholder representation and participation in reviewing cost allocation frameworks and minimum terms.

Transmission and distribution system expenditures in particular require additional transparency. Utilities' local transmission planning offers limited scope of review and raises concerns among consumer advocates about unsupervised cost increases.[69] For FERC-approved

[68] *See* Ryan Quint et al., Elevate Energy Consulting, *Practical Guidance and Considerations for Large Load Interconnections* 27 (May 2025), https://gridlab.org/portfolio-item/practical-guidance-and-considerations-for-large-load-interconnections/.
[69] *See* Jacobs, *supra* note 50, at 3.

transmission costs, the PSC should ensure cost causation information is reported in rate-making proceedings.[70]

Finally, utilities should be required to provide at least quarterly reporting requirements regarding large load growth and related investments, to ensure transparency. Although a degree of confidentiality is necessary to protect confidential business interests, far more information can and should be shared transparently to enable effective oversight. Specifically, Commenters suggest quarterly reports include:

1) The number of current and prospective large load customers and the total load associated with those customers;
2) Load details for prospective large load customers, including estimated peak demand, energy requirements, load factor, date of inquiry, location, and industry and timing of load addition associated with each potential customer;
3) All investments made to serve large load customers, including generation, transmission, and distribution system investments;
4) A description of all new resources procured for large load customers;
5) All revenues collected by a large load customer and a comparison of those revenues to the costs of serving that customer;
6) Executed electric service agreements and transmission Letters of Agreement related to large load customers; and
7) Proof that the large load customer has purchased or leased the land where it is requesting service.

7. What interconnection rules should the Commission consider that would allow for leveraging of waste heat as part of thermal energy networks?

Reusing waste heat from large energy users such as data centers is a valuable strategy for decarbonizing industrial heat applications and powering thermal energy networks, which can in turn provide multiple public health, climate, economic development, energy efficiency, and peak-

[70] *Id.*; *see also, e.g.*, Gretchen Kershaw et al., Grid Strategies LLC, *Federal Transmission Pricing Volume 1: The Evolution of Current Policies and Practices* (May 2026), https://gridstrategiesllc.com/wp-content/uploads/GS_Federal-Transmission-Pricing-Vol-1.pdf.

demand shaving benefits. While data centers' around-the-clock operation provides a challenge for the electric grid, it can also make them attractive to offtakers who need reliable, consistent heat. Con Edison, for instance, is piloting a thermal energy network that carries waste heat from a data center to a heat pump plant for NYCHA housing complexes in Manhattan.

Ensuring any new data centers are set up to efficiently utilize their waste heat for socially optimal applications – either as part of a thermal energy network or for direct industrial decarbonization – should be a high priority for the Commission. Commenters suggest requiring data centers to plan for heat reuse on site where possible, which can reduce power demand by up to 30%.[71] Additionally, the Commission should consider requiring data centers and other large loads to implement heat transfer apparatuses in order to operate, similar to the code updates adopted by Plattsburgh, New York.[72] Finally, the Commission should require utilities to incorporate data center waste heat into long term gas planning and thermal energy network plans.

8. What additional measures should the Commission consider as part of this proceeding to ensure large load and data centers are not causing cost increases to all other ratepayers, or adversely impacting reliability or the achievement of Climate Leadership and Community Protection Act objectives?

In addition to the recommendations provided above, Commenters urge the PSC to carefully consider emerging issues related to large load impacts on reliability and environmental justice.

1. <u>Large Load-Specific Reliability Issues</u>

Recent reports on the performance and risks of data center loads underscore that these customers would layer on significant reliability challenges to New York's grid. Most notably, the North American Electric Reliability Corporation ("NERC") recently issued a Level 3 alert in response to observed customer-initiated behavior of large load customers.[73] NERC is among a

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[71] David Gardiner & Assocs., *Data Center Heat Reuse: The Opportunity for States* 4 (Sept 2025), https://www.dgardiner.com/data-center-heat-reuse-the-opportunity-for-states/.
[72] *See* City of Plattsburgh Code § 360-25(F); *Plattsburgh Cryptocurrency Regulations Unveiled*, The Sun (Oct. 12, 2018), https://suncommunitynews.com/news/67515/plattsburgh-cryptocurrency-regulations-unveiled/.
[73] NERC, NERC Issues Level 3 Alert, Reliability Guideline Focused on Large Load Challenges (May 4, 2026) https://www.nerc.com/newsroom/nerc-issues-level-3-alert-reliability-guideline-focused-on-large-load-challenges.

growing body of reliability and grid experts that have pointed to emerging and highly concerning trends from large loads. Because of their scale and other load characteristics, even routine disturbances from data centers can trigger profound impacts.[74] As these facilities proliferate across the country, the potential risks can go beyond localized grid effects to "amplify system-wide impacts when multiple facilities react in similar ways during major disturbance events."[75] Experts warn, based on observed load disturbances, that uncontrolled swings in frequency and voltage from these large loads – which may occur due to shifts in the AI training process – can cause significant damage to the grid and trigger disconnections and cascading outages.[76] Commenters urge the PSC to monitor the evolving research on large load disturbance events, and carefully consider performance requirements, protective penalties, and other mitigation measures that can protect reliability.

2. Local Pollution and Disproportionate Impacts

Commenters reiterate the profound challenge even low levels of large load materialization would present to meeting New York's statutory obligations under the CLCPA. Beyond the risks to delaying or backtracking progress on decarbonizing the grid, data center loads are accompanied by a buildout of behind-the-meter fossil fuel generation that is causing surging greenhouse gas and air pollution emissions.[77] Studies evaluating the health impacts of recent data center campuses have found that their enormous health damages fall unsurprisingly and disproportionately on low-income communities and communities of color.[78] Based on our recent review of the NYISO large load interconnection queue, there is a very real risk that clusters of requested projects could spike compounding pollution effects.[79] For example, there are 8 large load interconnection requests in Niagara County, and 10 in St. Lawrence County.[80] If these massive loads are backed by even modest capacity additions of gas or diesel generators,

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[74] Energy Sys. Integration Grp., *Large Load Disturbance Events* 1 (Mar. 2026), https://www.esig.energy/wp-content/uploads/2026/03/ESIG-Large-Loads-Disturbance-Events-report-2026.pdf.
[75] *Id.* at 1.
[76] *Id.* at 2.
[77] *See Diesel Generators at Data Centers*, *supra* note 4.
[78] *See, e.g.*, Press Release, S. Env't Law Ctr., Civil Rights Group Sues xAI for Illegal Pollution From Data Center Power Plant (Apr. 14, 2026), https://www.selc.org/press-release/civil-rights-group-sues-xai-for-illegal-pollution-from-data-center-power-plant/.
[79] *Diesel Generators at Data Centers*, *supra* note 4, at 9–13.
[80] NYISO, Interconnection Queue, https://www.nyiso.com/documents/20142/1407078/NYISO-Interconnection-Queue.xlsx.

they can create cumulative harms potentially in violation of New York's Cumulative Impact Law as well as Section 7(3) of the CLCPA, even if each site individually is able to obtain its necessary permits.[81]

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We look forward to working with the Commission, Staff, and other stakeholders to ensure New Yorkers' health, climate, resilience, and economic well-being are protected amidst this time of profound change in the electricity sector.

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[81] *The Environmental Justice Siting Law*, NYS DEC, https://dec.ny.gov/environmental-protection/environmental-justice/the-environmental-justice-siting-law. The permitting is becoming increasingly complex with evolving owner/operator/sub-tenancy arrangements.