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June 6, 2025

VIA E-File

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: *En Banc* Hearing Concerning Interconnection and Tariffs for Large Load Customers; Docket No. M-2025-3054271

Joint Comments of CAUSE-PA and TURN

Dear Secretary Homsher:

Pursuant to the April 12, 2025 Secretarial Letter, please find the attached *Joint Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN)* for filing at the above referenced docket.

Respectfully Submitted,

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

En Banc Hearing Concerning Interconnection and Tariffs for Large Load Customers	: :	Docket No. M-2025-3054271

JOINT COMMENTS OF

THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA AND

THE TENANT UNION REPRESENTATIVE NETWORK

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INTRODUCTION

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)[1] and the Tenant Union Representative Network (TURN)[2] file the following Joint Comments in response to April 12, 2025 and May 15, 2025 Secretarial Letters establishing a public comment period following conclusion of the Public Utility Commission's April 24, 2025 *En Banc* hearing.

Hyperscale data center load has exploded onto the energy scene as technology firms seek unprecedented amounts of power to support artificial intelligence and other energy intensive operations. Unfortunately, as discussed further below, the costs associated with hyperscale users are already burdening Pennsylvania ratepayers through the build-out of new transmission and increased capacity prices to serve the unprecedented level of projected load growth.[3]

We strongly support the Commission's initiative to establish a model tariff for large load customers, and underscore the urgency of the issue and the critical need for the Commission to establish policies promoting "*radical transparency*" in the terms and conditions governing service to large load customers and to prevent cost-shifting.[4] While the Commission has explained that its goal with this proceeding is to establish policies that prevent *undue* burden or *unreasonable* cost-shifting from hyperscale users to residential customers, CAUSE-PA and TURN submit that there is no "due" burden for residential consumers to bear and that any cost-shifting from hyperscale users to Pennsylvania families would be patently unjust and unreasonable.

As we debate the best policies to undergird unprecedented expansion of our grid to meet the power needs of hyperscale users, and decide whether other customers should bear any associated costs, the Commission must keep at front of mind that there are hundreds of thousands of low income

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[1] CAUSE-PA is an unincorporated association of low-income Pennsylvanians from all corners of the state that advocates on behalf of its members to families of limited economic means across the state are able to connect and maintain safe and affordable water, electric, heating and telecommunication services to their home.

[2] TURN is a not-for-profit organization with moderate- and low-income tenant members. All of TURN's members are either customers of or dependent on service from the public utilities of this Commonwealth.

[3] There is broad consensus that the primary factor driving the recent PJM capacity market failures are the onslaught of new data centers and the projected growth in capacity needed to serve this unprecedented level of projected power usage. See Ethan Howland, Electricity Consumer Groups Urge FERC to Improve Load Forecasts, Utility Dive (June 4, 2025), https://www.utilitydive.com/news/electricity-consumer-groups-ferc-load-forecasts-data-centers/749754/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202025-06-04%20Utility%20Dive%20Newsletter%20%5Bissue:73759%5D&utm_term=Utility%20Dive.

[4] We strongly agree with Vice Chairman Kimberly Barrow that we need "radical transparency" to ensure data center and large load costs are not shifted to other consumers – now or in the future.

Pennsylvania families already facing acute energy insecurity – regularly foregoing food, medicine, and other basic needs to keep the lights on and their heating and cooling systems running.[5] Last year, more than 350,000 households experienced an involuntary termination of electricity or gas services to their home, and over 24,000 families entered winter without access to a safe heating source - driving a cascade of consequences for families and communities across the state.[6] The health and safety of Pennsylvania families must take priority over the needs of new hyperscale users in Pennsylvania.

It is incumbent on the Commission to ensure that the introduction of hyperscale load in Pennsylvania does not further exacerbate energy insecurity. This requires the Commission to establish strong, consumer-centered guidance to utilities for the creation of fair, transparent, detailed, and enforceable tariffs that prevent cost shifting and ensure hyperscale energy users pay *all* the costs to serve their unprecedented energy load.

Our comments at this docket are focused on the unique needs of low income Pennsylvanians, and our recommendations for how the Commission should approach regulation of hyperscale load growth to prevent cost-shifting and ensure all Pennsylvanians are able to access and maintain safe and affordable energy to power their homes. We reserve the right to offer additional recommendations in response to the comments of other parties.

1. **Require large load tariffs to include a volume-based systems benefits charge to support the expanded need for rate assistance through utility-run universal service programs.**

As noted, hyperscale data centers and other large load users are already driving higher costs for Pennsylvania consumers. It is widely recognized that the substantial increase in capacity prices,

[5] US EIA, Residential Energy Consumptions Survey, Table HC11.1 Household energy insecurity (2020), https://www.eia.gov/consumption/residential/data/2020/hc/pdf/HC%2011.1.pdf; Nat'l Energy Assistance Dir. Assoc. (NEADA), Center for Energy Poverty & Climate, Energy Hardship Report (April 2024), https://neada.org/wp-content/uploads/2024/04/neadahardshipreportAPR24.pdf; see also Columbia Univ. Ctr. on Global Energy Policy, Energy Insecurity in the United States, https://www.energypolicy.columbia.edu/publications/energy-insecurity-in-the-united-states/#:~:text=Energy%20insecurity%20(EI)is%20defined,Physical.

[6] Pa. PUC, Electric, Gas & Water Cold Weather Survey Results, https://www.puc.pa.gov/filing-resources/reports/electric-gas-water-cold-weather-survey-results/; Pa. PUC, Terminations and Reconnections: Year-to-Date December 2023 vs. Year-to-Date December 2024 (note that this data is no longer available on the PUC's website).

as well as transmission line build-out to serve hyperscale load in Pennsylvania and neighboring states, is driving higher consumer costs.

At the beginning of June, these high capacity prices drove a spike in default service prices across the state – with residential customers facing average rate increases between 5.1 to 40.1%.

Table 1: June 1, 2025 Increase in Price to Compare

	Dec 2024-May 2025	June 2025 – Nov 2025	Percentage Increase	Increase 500 kWh	Increase 2000 kWh
PECO	$ 0.0924	$ 0.1040	12.6%	$ 5.81	$ 23.22
PPL	$ 0.1077	$ 0.1249	16.0%	$ 8.60	$ 34.38
DLC	$ 0.1085	$ 0.1211	11.6%	$ 6.30	$ 25.20
MetEd	$ 0.1101	$ 0.1190	8.1%	$ 4.47	$ 17.86
Penelec	$ 0.1047	$ 0.1100	5.1%	$ 2.65	$ 10.58
Penn Power	$ 0.1117	$ 0.1186	6.2%	$ 3.44	$ 13.78
West Penn	$ 0.0948	$ 0.1032	8.8%	$ 4.18	$ 16.72
Smaller EDCs					
Citizens	$ 0.0870	$ 0.1142	31.3%	$ 13.61	$ 54.42
Pike	$ 0.1058	$ 0.1019	-3.6%	$ (1.91)	$ (7.66)
UGI Elec.	$ 0.1064	$ 0.1147	7.8%	$ 4.17	$ 16.68
Wellsboro	$ 0.0914	$ 0.1281	40.1%	$ 18.33	$ 73.30

While high capacity prices are not the sole factor driving this substantial increase in generation costs, they are the primary factor. The introduction of hyperscale data centers and other large load users is likewise the primary factor driving increased capacity prices. Thus, there is a clear line between the increased demand caused by hyperscalers and increased energy costs paid for by all consumers, including low income consumers.

On both the generation and distribution side, the costs associated with the introduction of hyperscale users on our grid will exacerbate already high rates of energy insecurity, increasing the need for assistance through utility-run and ratepayer supported universal service programs.

Currently, with limited exception, universal service costs are only allocated to the residential class.[7] While the Commission has explicitly recognized that the residential class is not "causing" energy poverty, it has not taken action to change its longstanding policy of assigning the costs of universal service programs solely to the residential customer class.[8] Most recently, in its 2019 Final Order amending its Formal Customer Assistance Program (CAP) Policy Statement, the Commission reviewed extensive comments on the issue of universal service cost recovery – ultimately concluding that "the Commission will no longer routinely exempt non-residential classes from universal service obligations."[9] The Commission noted that "there is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class."[10]

We urge the Commission to require that large load customers take responsibility for their direct and substantial impact on rates through imposition of a nonbypassable systems benefits charge, used to offset increasing universal service program costs. To help safeguard against stranded investments, and provide ongoing support to offset higher energy prices, we recommend the Commission require utilities to include both a flat upfront fee and an ongoing volumetric charge within their proposed large load tariffs. This charge must not supplant existing funds but should instead be used to support the expansion of programs needed to meet the ever-growing demand for rate assistance programs.

In Indiana Michigan Power's recent Industrial Power Tariff Settlement, the Indiana Regulatory Commission approved a flat annual fee of $500,000 over the first five years of service to support rate assistance and weatherization programs.[11] While this is an encouraging development, and recognizes the need to address impacts of data center growth on energy insecurity, it does not go far enough to ensure ongoing stabilization – nor is it sufficiently scaled to ensure that large load

[7] As a municipal authority, Philadelphia Gas Works has a longstanding policy – which predates PUC regulation – to recover universal service costs from all customer classes; however, only a small percentage of universal service costs are recovered from the non-residential customer classes.
[8] 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code 69.261-69.267, Docket No. M-2019-3012599, at 80-91 (order adopted Sept. 19, 2019, order entered Nov. 4, 2019).
[9] Id. at 91.
[10] Id. at 91.
[11] See Ethan Howland, Indiana Regulators Approve 'Large Load' Interconnection Rules, Utility Dive, (Feb. 20, 2025), https://www.utilitydive.com/news/indiana-iurc-large-load-interconnection-data-center-aep-amazon-google/740452/.

users are paying their fair share of the costs they cause. Pennsylvania's rate base is far more expansive than the rate base in one service territory within Indiana, and the contributions to support increased universal service needs must be scaled. We believe a flat upfront fee, coupled with an ongoing volumetric-based charge, would allow for a more dynamic and equitable assignment of costs based on relative size of the large user. While the specific amount of the fee and charge should be addressed in a rate proceeding, the Commission's model tariff should establish specific parameters – including expected rate design – to ensure consistency in application across the state.

Notably, the need for new revenues to meet increased universal service program needs is more urgent than ever in light of projected cuts to federal funding for basic needs programs – including the Low Income Home Energy Assistance Program, the Weatherization Assistance Program, and Social Services Block Grants that support Pennsylvania's network of Community Based Organizations that administer utility universal service programs to communities across the state. As federal support shrinks for these essential programs and services, it is more urgent than ever that Pennsylvania correct its longstanding policy requiring the residential customer class to bear the entire weight of energy insecurity in Pennsylvania.

2. Require all large load over certain thresholds and irrespective of the loadtype to be served via a tariff - not special contract.

In her directed questions issued on May 1, 2025, Vice Chairman Kimberly M. Barrow asks consumer advocates to recommend ways to "ensure tariff structures are transparent enough to allow meaningful public input on what constitutes fair cost allocation, especially when commercial contracts are confidential." This question followed her comment at the *en banc* hearing noting that there is a need for "radical transparency" in the terms and conditions of service to large load customers. We agree.

CAUSE-PA and TURN submit that, for starters, the Commission should not allow the use of special contract rates for large load customers[12] and instead should require all large load customers – irrespective of loadtype – to adhere to tariffed distribution rates. This will help promote fair and

[12] The Commission should determine whether it wants to impose a MW threshold for defining large load such that it is above what has reasonably been included in traditional industrial class of customers.

transparent rates for all large load users that can be appropriately assigned and allocated in a rate case.

Ratemaking – and the process of assigning and allocating costs and developing rates designed to recover those costs – is more art than science. There are a multitude of costs that are not easily assignable to one class or another and are instead allocated across classes utilizing methodologies, which can be very complex, to identify associated costs and allocate those costs across classes. The use of special contracts for individual users – shielded behind layers of confidentiality – can serve to conflate the metrics and methodologies used to calculate and allocate costs in a rate cases, making it exceedingly difficult and cost prohibitive to appropriately unwind.[13] As experts from Harvard University's Environmental and Energy Law Program explain, "When utilities use one metric in a rate case and another metric in a special contract proceeding, they could be causing spillover effects that harm ratepayers."[14]

Notably, the Commission's line of sight into potential conflicts of interest between a utility and a data center are not always clear, which underscores the need for the Commission to require uniform application of tariffed rates for large load customers. As an example, Blackstone – which now has a controlling interest in FirstEnergy – also owns and controls a number of hyperscale data centers.[15] Clear and transparent tariffed rates are critical to avoid the potential for unfair and anticompetitive rates that could shift unrecovered or under-recovered costs to other ratepayers.

Residential consumers cannot contract for special, confidential distribution rates with their utility on an individual basis, and neither should large hyperscale load customers. The rules of the road should be clear to all – eliminating opportunities for utilities to offer large incentives to load building data centers that will ultimately shift costs to burden other consumers.

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[13] Eliza Martin & Ari Peskoe, Harvard Law School Envtl & Energy Law Program, Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech's Power, at 11-12 (Mar. 2025).
[14] Id.
[15] See Testimony of Tyson Slocum, Energy Program Director, Public Citizen, before the Subcommittee on Economic Growth, Energy Policy & Regulatory Affairs of the House Committee on Oversight, Ensuring Artificial Intelligence & Power Needs Serve the Public Interest (April 1, 2025), https://oversight.house.gov/wp-content/uploads/2025/04/Slocum-Written-Testimony.pdf

3. **Adopt a rebuttable presumption that, absent actual and quantifiable evidence to the contrary, distribution system upgrades to support data center growth are solely for the benefit of the large user.**

In his March 27, 2025, Motion initiating this proceeding, Chairman Stephen M. DeFrank noted that the Commission "needs to ensure fair cost allocation for projects that do go forward, ensuring that costs attributable solely to one customer are not distributed to the rest of the rate base." This statement requires further definition to ensure utilities do not assign costs to residential customers for upgrades that would not otherwise be prioritized for further investment absent the introduction of large scale load.

While system upgrades necessary to support large load customers may drive ancillary benefits to other customer classes, the introduction of large load customers in a given region should not result in costs to other ratepayers to support an accelerated system upgrade before the upgrade is needed.

CAUSE-PA and TURN submit that the Commission should adopt a rebuttable presumption that distribution system upgrades needed to support data center growth are solely for the benefit of the large user. Absent actual, quantifiable evidence to the contrary showing that the upgrades were *necessary* for a purpose other than the introduction of a large load customer, a utility should not be permitted to assign costs to other rate classes based on generalized, ancillary, or theoretical benefits to other customer classes.

4. **Prohibit utilities from including contributions in aid of construction (CIAC) toward necessary systems upgrades in rate base.**

In her testimony at the *en banc* hearing, Kelly Gower, Vice President, Finance & Regulatory for FirstEnergy Pennsylvania argued that when large load customers fund work through CIAC, it "increases the amount of investment that the utilities must focus on projects that would not increase rate base, as compared to investment that is otherwise necessary to maintain the physical and financial health of the utility."[16] While not explicit in her written testimony, in her colloquy and

[16] Electricity Customer Alliance et al., Letter to FERC Chairman and Commissioners (May 30, 2025), https://static1.squarespace.com/static/61cb4ad27eb866577fe066fe/t/683dad0998acf67ccdbb63e2/1748872457167/Joint+Customer+Letter+to+FERC+re+Load+Forecasting+5.30.25.pdf

response to the questions of Commissioners during the *en banc* hearing, Ms. Gower was not clear about whether she was suggesting that a solution to this issue could be to permit utilities to earn a rate of return on CIAC paid by large load customers.

To the extent there is any ambiguity on this point, it is CAUSE-PA and TURN's position that the Commission should adhere to the long-standing practice that utilities cannot rate base for purposes of earning a return utility plant funded by CIAC. Simply put, utility plant that is built from funds that come from customers or governmental grants should not be included in the ratemaking ratebase of the utility for purposes of earning a return.

5. Require prospective large load customers to put up substantial collateral to be included in the utility's load forecast.

Load forecasts are surging, yet there is increasing uncertainty about the accuracy of those forecasts. Just last week, on May 30, 2025, the Electricity Customer Alliance, the Electricity Consumers Resource Council, the Industrial Energy Consumers of America, the Coalition of MISO Transmission Customers, the National Association of State Utility Consumer Advocates, and the PJM Industrial Customer Coalition filed a letter with FERC calling for "greater transparency and standardization in how forecasts are constructed and clearer lines of communication among state and federal regulators, transmission operators, generators, load serving entities, and customers as forecasts are adjusted."[17] The letter explains:

> Customers face significant reliability and cost risks when load growth forecasts and projections are uncertain and not transparent. Artificially low forecasts lead to insufficient infrastructure investment and resulting high costs and potential reliability problems, while artificially high forecasts risk overinvestment, unnecessary rate increases for already burdened customers, and stranded costs.[18]

The letter identifies that some best practice solutions could be implemented in the near term, including "*requirements that requests for large load additions to forecasts used in wholesale markets and planning processes demonstrate commercial viability or be commitment backed, similar to approaches already undertaken in some state retail tariffs*."[19] The letter also calls on FERC to "convene the states, industry, and customers to examine load forecasting practices, given

[17] Id.
[18] Id.
[19] Id.

the impact of these practices on matters in the jurisdiction of both the Commission and the states."[20]

CAUSE-PA and TURN agree with the recommendations in this letter to FERC and encourage the Commission to join this call for FERC to convene stakeholders to identify ways to improve communication across stakeholders at the federal, state, and local level. However, Pennsylvanians cannot afford to wait for a collaborative, multi-stakeholder process to conclude before making decisive policy changes to improve the accuracy of load forecasts at the state level. We therefore recommend that the Commission follow the approach of other states to require substantial collateral to be included in the load forecast. The level of required collateral should be tiered based on the size of the load and other explicit and quantifiable risk factors – being careful to safeguard against the introduction of bias or preferential treatment in the collateral assessment.

6. **Safeguard against stranded costs by adopting explicit minimum demand charges and early exit fees within the tariff and prohibit deviation from these terms in a side contract with the provider.**

In her directed questions, Vice Chairman Barrow asks consumer advocates to identify safeguards "to prevent cost-shifting from speculative or short-lived data center investments onto existing ratepayers." In addition to the recommendations outlined above, including imposition of a flat and volumetric system benefits charge and requiring substantial collateral for inclusion in utility load forecasts, the Commission should also adopt minimum demand charges and early exit fees. Consistent with our earlier comments, the Commission should include the minimum demand charges and early exit fees in the model large load tariff.

While we do not suggest a specific threshold for the minimum demand charge and early exit fees at this time, we encourage the Commission to be explicit within the model tariff. Statewide consistency is critical to avoid incentivizing utilities to set the thresholds too low in order to lure large load customers to their jurisdiction.

[20] Id.

7. **Require utilities to closely track and report on all costs associated with serving each large load customer, and explicitly prohibit the assignment of any portion of these costs to other customer classes.**

As noted above, cost allocation is not an exact science and it can be exceedingly difficult to determine with precision the level of costs to assign to each customer class. CAUSE-PA and TURN recommend that the Commission set forth explicit guidance requiring utilities to separately track and report on all costs associated with serving each large load customer. This would bring enhanced transparency and would help facilitate the proper allocation of costs in the context of a rate proceeding, when time and resources to thoroughly investigate each aspect of a utility's request is already substantially constrained. If utilities are required to explicitly track and report on all associated costs, it will help to conserve limited resources of the Commission and a range of stakeholders and improve the Commission's review.

CONCLUSION

CAUSE-PA and TURN are encouraged by the Commission's recent actions to more deeply understand the complex issues associated with the explosion hyperscale energy users, and we strongly support the creation of a model tariff designed to bring radical transparency to a murky landscape. We urge the Commission to take clear and decisive action on the recommendations outlined above. At each step of the way, and in every decision, rate affordability must be central to the Commission's decision making.

CAUSE-PA and TURN are grateful to the Commission for its time and attention to these critical matters, and we look forward to further engaging with the Commission on this important issue.

Respectfully submitted,

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