EARTHJUSTICE
BECAUSE THE EARTH NEEDS A GOOD LAWYER

December 22, 2025

Via Electronic Filing

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

Re: Interconnection and Tariffs for Large Load Customers; Docket No. M-2025-3054271

Dear Secretary Homsher,

Enclosed for filing in the above-referenced proceeding please find the Comments of the Sierra Club, Pennsylvania Stands Up, Vote Solar, Clean Air Council, POWER Interfaith, and Earthjustice. As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document via email. Should you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

*/s/ Caroline Weinberg*
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cc:
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of this electronically-filed document upon the parties, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated: December 22, 2025

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**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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|---|---|
| Interconnection and Tariffs for Large Load Customers | Docket No. M-2025-3054271 |

# COMMENTS OF SIERRA CLUB, PENNSYLVANIA STANDS UP, VOTE SOLAR, CLEAN AIR COUNCIL, POWER INTERFAITH, AND EARTHJUSTICE

## I. Introduction

Sierra Club, Pennsylvania Stands Up, Vote Solar, Clean Air Council, POWER Interfaith, and Earthjustice appreciate the opportunity to comment on the Commission's essential and timely Tentative Order. As organizations on the frontlines of energy inequalities in Pennsylvania, we know how important it is to ensure new large loads do not deepen existing affordability and pollution challenges.

The Commission has the ability to mitigate the substantial threat that existing customers will foot the bill for large load–related capacity and infrastructure investments from which they do not benefit. The Commission's Draft Model Tariff includes several provisions that are appropriately protective, and several that need to be revised in order to adequately protect customers. We look forward to working with the Commission as it finalizes the Model Tariff and ensures the safeguards within it are appropriately implemented throughout Pennsylvania.

## II. It is Appropriate and Beneficial to Many Stakeholders for the Commission to Finalize a Model Large Load Tariff

As we established in comments submitted previously to this docket, a large load tariff will benefit numerous stakeholders. It will offer large load customers increased clarity on costs associated with developing these sorts of projects in Pennsylvania, will allow Electric Distribution Companies ("EDCs") to add such customers more efficiently and with more certainty, and will establish some of the safeguards that are urgently needed to help protect ratepayers in all customer classes from stranded asset risk and cost shifting. It is important that

large load customers are required to adhere to transparent, consistent, and equitable standard tariff terms and not opt out of these protections ad hoc via special contracts with EDCs.[1]

Accordingly, the Commission must require that Pennsylvania EDCs seek and obtain approval for tariffs for new large load customers on the front end, before securing generation or investing in distribution infrastructure. The Commission does have the authority to require utilities' large load tariffs to contain specific protective terms as part of its plenary power to regulate public utilities in the public interest.[2] While the Commission has elected instead to issue a model tariff, it is important to bear in mind that this is already a compromise position and thus the protective mechanisms in the model tariff must be strengthened, not watered down.

## III. Portions of the Draft Model Tariff are Adequate and Should be Maintained in the Final Model Tariff

### *A. The Size Designation for Large Load Tariffs is Appropriate*

It is appropriate that the Commission has established an individual and an aggregate threshold to define large load customers, and it is appropriate to use the same definition of aggregation as that used in other service territories in the PJM region. The proposed definition of 50 MW individually or 100 MW in aggregate is appropriate. Making this threshold any higher would likely miss many data center facilities planned and already under construction in Pennsylvania.

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[1] *See* Direct Testimony of Benjamin Inskeep, Verified Petition of Indiana Michigan Power Company for Approval of Modifications to its Industrial Power Tariff I.P. at 22, Cause No. 46097 (Ind. Utility Reg. Comm'n Oct. 15, 2024), https://iurc.portal.in.gov/_entity/sharepointdocumentlocation/0c49aa8c-168b-ef11-ac21-001dd8067cf7/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=CN%2046097--%20CAC%20Exhibit%201--10-15-24FINAL_Redacted.pdf ("I also strongly agree with I&M's decision to serve new large load customers under a published tariff rather than through individually negotiated special contracts, which are often kept confidential. Such an approach is more transparent, administratively efficient, and fair to existing and potential new customers.").

[2] 66 Pa.C.S. § 501.

*B. The Collateral Requirements in the Model Tariff are Appropriate*

It is appropriate that the Commission has adopted the collateral requirements proposed by the Office of Consumer Advocate ("OCA") in the Draft Model Tariff. Without such financial guarantees, provisions to protect ratepayers from stranded costs are valueless. These material, up-front financial commitments from large load customers also reduce uncertainty in utility load forecasts, which is especially relevant considering mounting evidence that large load forecasts are overestimated in many jurisdictions.[3]

The Commission should also include a term in the Final Model Tariff, as suggested by OCA, that acknowledges the potential that a large load customer's financial condition can change. The Commission should incorporate the following language: "If the financial condition of the customer or guarantor changes (including ownership/structural changes) – or market conditions change – over the term of the contract, the Company may request updated information to reevaluate the customer and its collateral requirements, which may be adjusted accordingly."

*C. The Interconnection Studies and Public Interconnection Queue Portions of the Tariff are Appropriate*

The Draft Model Tariff appropriately includes provisions for interconnection studies and public posting of interconnection applications. Interconnection studies are vital to ensuring that the development of infrastructure to support large load customers is conducted in an efficient and effective manner to minimize overall costs. Conducting cluster studies is likewise useful to allow

[3] London Economics International LLC, Uncertainty and Upward Bias Are Inherent in Data Center Electricity Demand Projections (July 7, 2025), https://www.selc.org/wp-content/uploads/2025/07/LEI-Data-Center-Final-Report-07072025-2.pdf; Direct Testimony of Jeremy I. Fisher, PhD, Electronic Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates, Case No. 2025-00045 (Ky. Pub. Serv. Comm'n June 16, 2025), https://psc.ky.gov/pscecf/2025-00045/childerslaw81%40gmail.com/06162025052256/2025.6.16_Fisher_Testimony.pdf; Zachary Skidmore, *Data Center Dynamics, AEP Ohio Slashes Data Center Pipeline by More Than Half – Report*, Data Center Dynamics (Oct. 1, 2025), https://www.datacenterdynamics.com/en/news/aep-ohio-slashes-data-center-pipeline-by-more-than-half-report/.

EDCs, the Commission, and the public to evaluate infrastructure development in a holistic fashion. Similarly, the Draft Model Tariff's provisions ensuring that the "costs of these interconnection studies will not be recovered from other ratepayers"[4] is a critical element of ensuring that existing customers are not on the hook for planning triggered by potentially speculative interconnection requests by large load customers like data centers. In some jurisdictions, EDCs have adopted a tariff structure where a deposit is required for the costs of these sorts of interconnection studies, and the Commission should consider augmenting this provision of the Draft Model Tariff to include a similar deposit requirement.[5]

Additionally, requiring EDCs to "make available on [their] public website[s]" large load customer interconnection applications will generate an important public resource. Letting the public know what interconnection applications have been received will not only help identify the scope of potential demand, it will also help identify potential "double-counting" issues where proposed large load customers like data centers may be shopping around for interconnections among multiple EDCs in multiple locations.[6] As such, the Final Model Tariff should include requirements for timely posting of interconnection applications and impose uniform standards to facilitate comparison of data across EDC websites.

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[4] Tentative Order, Interconnection and Tariffs for Large Load Customers at PDF 55, Docket No. M-2025-3054271 (Pa. Pub. Util. Comm'n, Nov. 6, 2025) ("Draft Model Tarriff").

[5] *E.g.*, Commonwealth Edison Company, Supplemental Statement Re: Revised General Terms and Conditions, Ill. C. C. No. 10, 1st Rev. Sheet No. 151.3 (PDF 16) (Ill. Com. Comm'n June 23, 2025), https://icc.illinois.gov/downloads/public/filing/4/392856.pdf.

[6] *See, e.g.*, Jason Connell, Vice President, Planning, PJM Interconnection, LLC, Pre-Technical Conference Remarks 4, FERC Reliability Technical Conference, Docket No. AD25-8-000 (Oct. 17, 2025), "Duplicative [large load] requests are generally not being explicitly accounted for by Electric Distribution Companies and Load Serving Entities"; Constellation Energy Corp, Earnings Conference Call First Quarter 2025, slide 7 (May 6, 2025), https://investors.constellationenergy.com/static-files/639e4f87-3efd-4ef7-b215-b73d3594a6b9.

*D. The Exit Fee and Restrictions on Reduction of Contracted Capacity Portions of the Tariff are Appropriate*

It is appropriate that the Commission has adopted an Exit Fee and restrictions on reduction of contracted capacity provisions similar to those that have been adopted by Indiana Michigan Power, Appalachian Power Company, and Wheeling Power Company. These provisions are essential for ratepayer protections in cases where large load customer demand is lower than originally forecasted.

As these comments detail below, the Commission must lengthen the minimum contract term in the Final Model Tariff beyond five years. Reductions of contracted capacity should be prohibited during the first five years of the contract, but this prohibition should not depend on the total contract length.[7] The Exit Fee period should then be defined by the contract term or any agreed extensions, and it should not be capped at five years.[8]

The Commission has proposed that the Exit Fee be calculated as "the greater of (1) the difference between the cost of Network Improvements and Interconnection Facilities less the revenues received from the Large Load Customer, or (2) the nominal value of the remaining Minimum Charge for the terminated/reduced capacity in excess of the 20% allowed reduction for each year of the Exit Fee Period."[9] In order to ensure that the Exit Fee provides compensation for the costs incurred to serve a large load customer, the first proposed calculation methodology should include the cost of cleanup, site remediation, and/or land and investment repurposing,

[7] Draft Model Tariff at PDF 53. The Commission should revise the first paragraph to read, "A Large Load Customer is permitted, without payment of an exit fee or any penalty, to reduce its contract capacity after five years by up to 20% in total by providing an EDC at least 42 months written notice prior to the beginning of the PJM Delivery Year for which the reduction is sought."

[8] Draft Model Tariff at PDF 54. The Commission should revise the fourth paragraph to read, "The Exit Fee Period is defined as the Large Load Customer's then-remaining Initial Contract Term, or any agreed-upon extension. The Exit Fee Period will not be less than one year."

[9] Draft Model Tariff at PDF 53.

along with all study, planning, and administrative costs incurred by the utility, as part of the "cost of Network Improvements and Interconnection Facilities."

## IV. Portions of the Draft Model Tariff are Inadequate and Must be Improved in the Final Model Tariff

### *A. The Universal Service Cost Allocation Provision Must Be Revised in the Final Model Tariff*

It is appropriate that the Commission has proposed requiring that large load customers contribute to universal service funds, but the proposal within the Draft Model Tariff is not appropriate.[10] First, the Hardship Fund is not the appropriate vehicle, and this contribution should instead go towards more general universal service programs. Second, the minimum amount should not be contributed based on the large load customer's peak demand, but on actual electricity consumption via a volumetric fee in addition to a flat upfront fee.[11] The Commission provides no analytical basis for the contribution amounts established in the Draft Model Tariff.[12] In the absence of a rigorous and transparent cost causation analysis to determine an appropriate volumetric fee in the Final Model Tariff, the Commission should establish a volumetric fee similar to the charge for existing residential customers on a per energy unit basis. Using a volumetric formula will incentivize load flexibility, which reduces total system costs. Eliminating arbitrary tiers in the payment structure will prevent the gaming of facility design to remain under a threshold. This type of provision is appropriate to help compensate for some of the risks that large load customers add to the system. This charge must not supplant existing funds but should instead be used to expand programs to meet the ever-growing demand for rate assistance.

[10] Draft Model Tariff at PDF 57.
[11] Joint Comments of CAUSE-PA and TURN at 4, Docket No. M-2025-3054271 (June 6, 2025), https://www.puc.pa.gov/pcdocs/1882373.pdf.
[12] Draft Model Tariff at PDF 57.

Notably, the need for new revenues to meet increased universal service program needs is more urgent than ever in light of 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, Pennsylvania must correct its longstanding policy requiring the residential customer class to bear the entire weight of energy insecurity in Pennsylvania.

### *B. Large Load Customers Must Make Contribution in Aid of Construction ("CIAC") Contributions for all Infrastructure from Which They Benefit*

The distribution and transmission buildout caused by new large load customers must be fully allocated to that same customer absent clear, unequivocal, and transparent findings that other customers benefit from those upgrades. The large load customer should bear the burden of proof for this determination. In the case where it is determined that other customers do benefit, large load customers should not have to receive more than half of the total benefit from a given grid asset in order to trigger CIAC contributions, as is currently proposed in the Draft Model Tariff.[13] Instead, large load customers should make CIAC contributions proportional to the benefit they receive from that grid asset, even if they receive less than half of the total benefit of a given grid asset. This will ensure that the fundamental principle of cost causation is maintained. We look forward to working with the Commission to develop an appropriate methodology to identify and characterize the beneficiaries of grid assets. Additionally, a determination of CIAC contributions that relies on an anticipated usage level and associated revenue should contain a

[13] Draft Model Tariff at PDF 16.

provision requiring an alteration of assigned rates or an additional construction contribution in the event that anticipated usage levels do not materialize, or the project is terminated before completion. In no case should CIAC assets be rate-based.

For facilities that solely benefit the new large load, the Commission may consider directly assigning dedicated facilities costs to the customer without the opportunity to offset some or all of the upfront costs via a CIAC contract. Evergy Kansas recently updated its line extension policies to ensure large customers requesting line extensions are responsible for all costs associated with any dedicated facilities.[14] Specifically, Evergy updated its line extension policy to read, "for extensions of transmission or substation facilities, any Customer requesting service with substation or transmission facilities shall pay all costs associated with such extensions."[15] Customers requesting service must complete payment or arrange installment payments before construction can commence.

### *C. The Minimum Contract Term Must Be Lengthened in the Final Model Tariff*

The Commission must update the Minimum Contract Term to be at least 20 years. A Load Ramp Period is appropriate, and it is appropriate that the Draft Model Tariff caps this

[14] Direct Testimony Bradley Lutz at 56, Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Kansas Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs, Docket No. 25-EKME-315-TAR (Kan. Corp. Comm'n Feb. 11, 2025); Joint Motion for Approval of Unanimous Settlement Agreement and Amendment of the Procedural Schedule at 20, Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Kansas Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs, Docket No. 25-EKME-315-TAR (Kan. Corp. Comm'n Aug. 18, 2025); Order Approving Unanimous Settlement Agreement, Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Kansas Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs, Docket No. 25-EKME-315-TAR (Kan. Corp. Comm'n Nov. 5, 2025).

[15] These costs do not include any resulting Network Upgrade costs for facilities classified as transmission under the Southwest Power Pool Open Access Transmission Tariff. *See* Joint Motion for Approval of Unanimous Settlement Agreement and Amendment of the Procedural Schedule at 20, Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Kansas Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs, Docket No. 25-EKME-315-TAR (Kan. Corp. Comm'n Aug. 18, 2025).

period at five years.[16] It is appropriate that the Initial Contract Term commences after the Load Ramp Period ends.[17]

While the Commission claims that "a majority of tariffs in the United States for both large loads and data centers have minimum or maximum contract lengths of five years," data do not support this claim.[18] A recent review of large load tariffs across the country found that the average minimum contract length of tariffs written in 2024 or 2025 was 10.9 years.[19] These recent tariffs are most representative of the types of large loads being proposed in Pennsylvania. In their review, researchers also note that "the longest minimum contract terms (20 years) still fall short of most grid asset lifespans."[20] A minimum contract term that is shorter than the life of most assets built or procured to serve the customer risks cost shifting to other customers once the contract term is up if the load departs or decreases. The proposed minimum of five years does not get close to the lifespan of the grid assets that will be built to serve the data center and is clearly not sufficient.

*D. The Minimum Demand Charge Must Be Increased in the Final Model Tariff*

The Commission must update the Minimum Demand Charge to be 90% of the greater of either the contract capacity for the applicable time period or the highest previously established Monthly Billing Demand during the past 11 months. The proposed 80% Minimum Demand Charge is on the lower end of the range of other jurisdictions' minimum demand billing requirements.[21] The Kentucky Public Service Commission approved a 90% minimum monthly

[16] Draft Model Tariff at PDF 51.
[17] *Id.*
[18] Draft Model Tariff at PDF 21.
[19] Alyssa Perez, Sarah Wang & Lauren Shwisberg, *Large Energy Users Want Power. Here's How to Protect Other Ratepayers from the Costs*, Rocky Mountain Institute (Nov. 7, 2025), https://rmi.org/large-energy-users-want-power-heres-how-to-protect-other-ratepayers-from-the-costs/.
[20] *Id.*
[21] *Id.* ("The three most common ways large load tariffs to date are setting this minimum is with a **percent** of the customer contract capacity (often 75–90 percent), the customer's **historical peak**, or a **fixed floor.**")

billing demand for Kentucky Power's large load tariff.[22] AEP Ohio's data center tariff settlement sets a minimum billing demand of the greater of (1) 85% of the customer's highest previously established monthly demand during the past 11 months, or (2) a scaling percentage of the customer's contract capacity up to 85% of the total contract capacity.[23] These protections are essential to avoid a situation where large load customers are not contributing their fair share to system costs if they've overestimated how much power they need. While some amount of flexibility is appropriate, the size of these loads and thus the cost of the infrastructure necessary to support them means that a high level of financial security around those investments is appropriate. This charge should apply during the Load Ramp Period proportional to milestone capacity levels.

### *E. A Provision Should Be Added to the Model Tariff to Incentivize Investment in Grid Enhancing Technologies ("GETs") and Alternative Transmission Technologies ("ATTs")*

New large load customers must pay for the grid infrastructure to serve their own needs, and these customers should also be incentivized to work with EDCs to study upgrades to the grid that simultaneously benefit other customer classes. Targeted investments in GETs and ATTs can increase the amount of electricity that can serve data centers, while simultaneously increasing grid capacity for other customers. Provisions that incentivize this sort of investment should be

[22] Order, Electronic Tariff Filing of Kentucky Power Company to Revise its Industrial General Service Tariff, Case No. 2024-00305 (Ky. Pub. Serv. Comm'n Mar. 18, 2025), https://psc.ky.gov/pscscf/2024%20Cases/2024-00305/20250318_PSC_ORDER.pdf.

[23] Opinion and Order at 17, Application of Ohio Power Company for New Tariffs Related to Data Centers and Mobile Data Centers, Case No. 24-508-EL-ATA, (Oh. Pub. Utils. Comm'n July 9, 2025), https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A25G09B43531I00509. Specifically, the settlement provides that "[m]onthly billing demand would be no less than the greater of: a) 85-percent of the customer's highest previously established monthly billing demand during the past 11 months; or b) percentage of the customer's contract capacity according to the following schedule: for customers with 25,001 kW to 75,000 kW of total contract capacity: minimum demand is 15,000 kW plus 85 percent of any capacity above 25,000 kW; or with more than 75,000 kW of total contract capacity, minimum demand is 57,500 kW plus 100 percent of any capacity above 75,000 kW. However, the minimum demand cannot exceed 85 percent of the total contract capacity."

included in the Final Model Tariff, and the large load customers should be responsible for contributing to this cost proportional to their benefit, as discussed earlier in these comments. One example of how other utilities have prioritized this is that the Indiana Michigan Power Company ("I&M") tariff included a stipulation that I&M "conduct a study, with input from interested Settling Parties as to the scope of the study and with opportunities for stakeholder feedback, to evaluate the potential of grid enhancing technologies," which offer potential benefits to all customers.[24] The benefits of these technologies are especially important in this moment of load growth and uncertainty. We urge the Commission to creatively consider how provisions that incentivize this sort of investment can be leveraged to benefit communities in an equitable manner.

*F. The Portions of the Model Tariff that Relate to Interruptible Power Must Be Revised*

Demand-side management tools, including interruptible supply requirements that curtail supply during peak demand periods, can help reduce the systemwide costs imposed by new large loads. Demand flexibility terms have been incorporated into large load tariffs in several other jurisdictions and, when designed appropriately, can reduce peak conditions that increase prices for all customers.[25] Accordingly, incorporating interruptible power requirements into the Draft

[24] Order of the Commission at 44, Verified Petition of Indiana Michigan Power Company for Approval of Modifications to its Industrial Power Tariff – Tariff I.P., Cause No. 46097 (Ind. Util. Reg. Comm'n Feb. 19, 2025), https://iurc.portal.in.gov/_entity/sharepointdocumentlocation/2b48cf93-d9ee-ef11-be20-001dd80b8c52/bb9c6bbafd52-45ad-8e64-a444aef13c39?file=ord_46097_021925.pdf.

[25] Natalie Mims Frick & Long Lam, Large Loads: Interconnection, Tariff Designs and State Actions at 28–32, Presentation at the American Public Power Association Business and Finance Conference (Sept. 8, 2025), https://www.brattle.com/wp-content/uploads/2025/09/Large-Loads-Interconnection-Tariff-Designs-and-State-Actions.pdf; Christopher R. Knittel, Juan Ramon L. Senga & Shen Wang, *Flexible Data Centers and the Grid: Lower Costs, Higher Emissions?* (MIT Center for Energy and Environmental Policy Research, Working Paper No. CEEPR WP 2025-14, 2025), https://ceepr.mit.edu/wp-content/uploads/2025/07/MIT-CEEPR-WP-2025-14.pdf (in all scenarios studied, data center flexibility reduced costs, and in most cases also lowered emissions, by up to 40% in Texas, which has high renewable penetration).

Model Tariff is important. However, the provisions in the Draft Model Tariff are inadequate and should be improved.

First, the Draft Model Tariff merely states that "Contract Service for Interruptible Power *will be available* to Large Load Customers,"[26] rather than *requiring* such customers to accept interruptible power as a default. Some large load customers like data centers can shift operations across the web when need be, meaning that they can possibly respond effectively to peak load conditions.[27] Requiring new large load customers to take advantage of this flexibility when possible could help reduce the extent to which existing customers may otherwise be negatively impacted by the costs of serving data centers.[28]

Second, customers receiving interruptible service should have Automatic Load Control devices at their point of interconnection.[29] This will ensure that customers engaging in interruptible power contracts will actually not contribute to peak demand when interruption is necessary; otherwise, customers will be tempted to strategically game the system by accepting interruptible service on the front end but then deciding on the back end whether or not they want firm service.[30] The distribution and generation systems do not have the luxury of deferring decisions about system investments until the moment of peak demand, and large load customers like data centers should not have that luxury either.

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[26] Draft Model Tariff at PDF 55 (emphasis added).
[27] Varun Mehra & Raiden Hasegawa, *Supporting Power Grids with Demand Response at Google Data Centers*, Google Cloud: Blog (Oct. 3, 2023), https://cloud.google.com/blog/products/infrastructure/using-demand-response-to-reduce-data-center-power-consumption.
[28] As further explained in Section IV(G) below, to the extent that the Draft Model Tariff offers incentives for entering into contract service for interruptible power, such incentives should only be available for customers whose on-site generation and storage resources, if any, are zero-emission, so as to not inadvertently incentivize additional greenhouse gas emissions and local air pollution during peak demand.
[29] For these customers with Automatic Load Control devices, it may be appropriate to offer lower minimum demand charges, as long as the customer's on-site generation and storage resources, if any, are zero-emission, as discussed in Section IV(G).
[30] Eliza Martin & Ari Peskoe, Harvard Environmental & Energy Law Program, Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech's Power 19 (2025), https://eelp.law.harvard.edu/wp-content/uploads/2025/03/Harvard-ELI-Extracting-Profits-from-the-Public.pdf.

Third, if customers do not have service automatically interrupted, but instead can choose whether or not to curtail demand when called upon, the penalty for failing to comply with interruptible service contracts must be severe. The Draft Model Tariff states that for negotiated interruptible rates, "the penalty shall be equal to the difference between the interruptible rate charges paid and the charges that would have applied under the otherwise applicable firm (non-interruptible) rate, calculated for the entire contract term."[31] However, this does not provide an adequate incentive for large load customers to comply with service interruption directives from the EDCs, as the "penalty" is simply the money they would have paid for a firm contract. In other words, a new large load customer may strategically seek the lower rates of an interruptible contract, knowing the worst situation for them would be that they ultimately pay the firm rate if they decide, in the moment, to not comply with an interruption directive. Instead, the Final Model Tariff should specify that the penalty is some significant *multiple* of the difference between the rate charges under the interruptible versus firm rates over the contract term, and/or should include an adder calculated from the instant market price of capacity during the interruption directive period. That would help ensure that large load customers under interruptible contracts comply with interruption directives, thereby providing the certainty EDCs and the system as a whole need to adequately and accurately plan for the investments necessary to serve the load on the front end.

Finally, the failure of a large load customer to comply with an interruption directive should not result in the defaulting of that customer to a firm service contract. As noted above, managing demand can help avoid the costly investments systemwide, to the benefit of all customers; the goal should be to have as many large load customers participating in such

[31] Draft Model Tariff at PDF 56.

measures as possible. Penalties that ensure predictability and compliance with interruptible service requirements are thus a more effective mechanism for participation than returning large load customers to firm contracts, potentially long after the opportunity to prudently and efficiently plan and implement system upgrades has passed.

### *G. The Provision Regarding Onsite Generation Should Be Revised and Should Consider Environmental Cost Shifting*

The Draft Model Tariff states that "Large Load Customers bringing their own onsite generation and not using their full interconnection limit may be offered lower minimum demand charges and/or standby charges."[32] The Commission should not incentivize the unjust environmental cost shifting of both carbon pollution that contributes to climate change and localized air pollution onto the communities living near large load customers, and therefore it should limit this provision to apply only to large load customers that bring their own zero-emissions generation and storage. The Commission has a public interest mission that will not be met if it incentivizes large load customers to build fossil fuel–burning generation infrastructure that emits significant local air pollution, impacting the health of nearby communities, in moments of high grid demand. The Draft Model Tariff language should be updated to clarify that only zero-emissions onsite generation and storage resources would be eligible for the possible incentives described above.

### *H. The Commission Should Consider Additional Incentives for Large Load Customers to Invest in New, Time-Matched, Local Clean Energy Programs and Infrastructure*

Clean energy interventions can help offset the premature buildout of expensive polluting infrastructure by providing some of the most cost-effective means by which new demand can be absorbed by existing capacity and infrastructure. These resources are the cheapest form of power

[32] *Id.*

and thus do not have the same stranded asset risk as, for example, a new gas plant with a 30-year lifespan. Research by the Rocky Mountain Institute has shown that almost all of this coming decade's forecasted grid needs can be met through a combination of clean energy solutions, including efficiency, grid enhancing technologies, Virtual Power Plants ("VPPs") and Distributed Energy Resources ("DERs"), clean repowering, and by pairing large load facilities with clean generation near existing grid connection sites.[33] These interventions enable more innovative, resilient, and affordable solutions to our future load growth and grid needs. Large load customers should be incentivized to utilize these emerging and cost-effective tools.

Regulatory architecture for some of these clean energy interventions, such as VPPs, is still in development in Pennsylvania. In circumstances where regulations and formal programs are still in development, large load customers should demonstrate they have met industry standards for readiness. These readiness standards can include but are not limited to the ability and commitment to host DERs that can eventually participate in VPP programs and/or contract provisions for eventual participation in VPP and other clean energy programs.

## V. Conclusion

We appreciate the opportunity to share insights that may be helpful to the Commission and look forward to continued collaboration as the Commission finalizes and ensures EDCs' compliance with the protections detailed in the Final Model Tariff.

[33] Jesse Cohen, Tyler Fitch & Lauren Shwisberg, *Gas Turbine Supply Constraints Threaten Grid Reliability; More Affordable Near-Term Solutions Can Help*, Rocky Mountain Institute (June 18, 2025), https://rmi.org/gas-turbine-supply-constraints-threaten-grid-reliability-more-affordable-near-term-solutions-can-help/; Jesse Cohen, Lauren Shwisberg & Mark Dyson, *How Virtual Power Plants Can Help the United States Win the AI Race*, Rocky Mountain Institute (Nov. 6, 2025), https://rmi.org/how-virtual-power-plants-can-help-the-united-states-win-the-ai-race/.

Respectfully submitted,

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